

# SYSTEM REGULATIONS

## 25.06.01 System Implementation of HUB Policy Program

*November 2, 1998*

*Revised March 3, 2003*

*Supplements System Policy 25.06*

### 1. COMPLIANCE

The System will comply with ~~both "the letter and the spirit"~~ of System Policy 25.06 and with all applicable laws, regulations and executive orders related to Historically Underutilized Businesses (HUBs).

- 1.1 The System will make a good faith effort to assist HUBs in gaining equal access and equal opportunities to receive contract and subcontract awards for design and construction projects and for the purchase of supplies, materials, equipment and services, including those relating to the issuance of bonds, in accordance with the rules established by the Texas Building and Procurement Commission (TBPC)~~historically underutilized businesses to receive contract awards for the purchase of supplies, materials, equipment, and services, including those relating to the issuance of bonds.~~
- 1.2 The System will develop a written HUB ~~Advocacy~~ Program (~~HUBAP~~) to ~~carry out~~support these commitments.

### 2. DEFINITIONS

- 2.1 A "Historically underutilized business (HUB)" means an entity with its principal place of business in Texas that is:
  - 2.1.1 a business that has satisfied the requirements of the TBPC and has been granted certified status;
  - 2.1.2 a corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;
  - 2.1.23 a sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by a disadvantaged person;
  - 2.1.34 a partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;

- 2.1.45 a joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivisionsection; or
- 2.1.56 a supplier contract between a historically underutilized business as determined under another paragraph of this subdivisionsection and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.
- 2.2 If a HUB is both minority-owned and woman-owned, it is to be classified as minority-owned.
- 2.3 “Disadvantaged person” means a person who is economically disadvantaged because of the person’s identification as a member of a certain group, including Black Americans, Hispanic Americans, American women, Asian Pacific Americans, and Native Americans, ~~and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.~~
- 2.3.1 “Black Americans” include persons having origins in any of the Black racial groups of Africa.
- 2.3.2 “Hispanic Americans” include persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
- ~~2.3.3 “Women includes all women, regardless of ethnicity.~~
- 2.3.43 “Asian Pacific American” includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, the Northern Marianas, and Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan or Nepal.
- 2.3.4 "Native Americans" includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- 2.3.5 “American women includes all women, of any ethnicity except those specified in sections 2.3.1, 2.3.2, 2.3.3 and 2.3.4 above.
- 2.4 “Joint Venture” means a limited association of two or more persons or firms formed to carry out a single business enterprise for profit, for which purposes they combine their property, money, efforts, skills, and knowledge.
- 2.5 “Vendor” or “Contractor” means a supplier of commodities or services to a state agency under a purchase order contract or other contractan entity having any form of contractual agreement with the System.

2.6 "Treasury funds" are funds maintained in the state treasury and paid through the State Comptroller's Office.

2.7 "Non-treasury funds" are funds paid by a System component~~state agency~~ that are not treasury funds.

2.8 "HUB Coordinator" is an employee who holds a position equivalent to the procurement director or is the procurement director. The employee reports to the component CEO on HUB activities including, but not limited to, the component's good faith effort criteria, HUB reporting, contract administration, and marketing and outreach efforts for HUB participation.

2.9 "HUB Subcontracting Plan" is the written plans for the use of HUB subcontractors, which is required by a component in procurements with an expected value of \$100,000 or more which a potential contractor/vendor must prepare and return with their bid, proposal or offer.

### 3. COMPLIANCE WITH THE TEXAS A&M UNIVERSITY SYSTEM PROCUREMENT CODE

The Texas A&M University System Procurement Code (see System Regulation 25.99.02) requires that all purchases, except as specifically provided, be based on best value. Nothing in this regulation shall be construed to require otherwise.

### 34. ADMINISTRATIVE RESPONSIBILITY

#### 34.1 System HUB Coordinator

The Chancellor will appoint a System HUB Coordinator who will have the responsibility for administering the Texas Administrative Code (TAC) rules regulating HUB implementation. In addition, the System HUB Coordinator will:

- (1) monitor, ~~ing and~~ lending assistance, and coordinate to all programs dealing with HUBs; ~~The System HUB Coordinator will:~~
- (2) keep System administration and System components informed of latest developments in the area of HUB Program administrations;
- (3) update the System HUB ~~AP~~ Program as necessary and distribute to System components;
- (4) develop a HUB plan ~~formodels of internal~~ educational ~~inreach~~ and outreach activities for the use ~~byof the System components in developing component HUB programs~~ and its components;
- (5) serve as a liaison between the System and its components to share successful methods of increasing HUB participation ~~the participation of HUBs;~~

- ~~(5) serve as liaison between System components and System Management Information Services to ensure accuracy and timely availability of data;~~
- ~~(6) review, consolidate and transmit required reports prepared by System components;~~
- ~~(76) file required policy statements~~monitor and update System HUB Policy and Regulation;
- ~~(87)~~ determine the degree to which System goals and objectives have been attained and suggest ways to improve performance;
- ~~(98)~~ review, consolidate and transmit reports of System and component HUB activities and participation, except as provided in section 6.1(b), good faith efforts to the Chancellor, Board, or other state entity or state official; and
- ~~(10) compile reports for presentation to the Chancellor, Board, or any external agency; and~~ ~~(109)~~ identify areas that appear to require special attention or remedial action and assist components in obtaining needed information and/or in developing new HUB procedures or strategies.

### 34.2 Component HUB Coordinators~~Representatives~~

The CEO of each System component will appoint a HUB ~~representative~~Coordinator who will have responsibility for ~~implementing all programs dealing with HUB activities for that component. The HUB Representative for each component will:~~ administering the TAC rules regulating HUB implementation for that component. In addition, the component HUB Coordinator will:

- ~~(1) coordinate the development of the component HUB program~~and communicate these actions to System administration through the System HUB Coordinator;
- ~~(2)~~ identify areas requiring special attention in the component HUB program and recommend action;
- ~~(3)~~ provide training to the component employees;
- ~~(4)~~ report results to the CEO on a regular basis;
- ~~(5)~~ report performance to the System database;
- ~~(3)~~ administer record-keeping systems that will measure the effectiveness of this program and report the progress on goals to the System HUB Coordinator;
- ~~(4)~~ coordinate the completion and filing of all reports required by law through the System HUB Coordinator;

- ~~(5) report good faith efforts of the component to the System HUB Coordinator;~~
- (66) serve as liaison between the System component and the System HUB Coordinator; and
- ~~(7) review the use of subcontracting plans for procurements.~~
- ~~(7) keep administrators of the System component informed of the latest developments in the area of HUBs.~~

#### 45. ~~SYSTEM COMPONENT~~-HUB PROGRAM

In addition to the TAC rules, the System ~~In order to implement the System HUB~~APHUB Program, the component HUB program shall include, to the greatest extent possible, good faith efforts to:

- (1) ensure that the Texas HUB Certification Electronic Database provided by the ~~TBPC~~General Services Commission (the Commission) is accessible to all employees and encourage use of the directory in procurement activities;
- ~~(2) identify and assist potential HUB applicants in obtaining state certification through the Commission;~~
- (32) distribute procurement policies and procedures to HUBs in an effective process so as to encourage participation of those businesses;
- (43) develop and participate in educational outreach activities, such as:
  - (a) publishing ~~a brochure~~materials expressly designed to convey information to HUBs about the component's procurement process; and
  - ~~(b) staging periodic trade fairs for HUBs to demonstrate their products and services for potential buyers;~~
  - (eb) actively participating in the local Chamber of Commerce and/or economic development programs that promote business opportunity fairs for HUBs; and
  - ~~(d) periodically staging an "open house" of the applicable central purchasing department;~~
- (54) develop and/or participate in internal educational ~~inreach~~ activities, such as:
  - (a) a formal procurement training program for all professional purchasing staff that incorporates improvement of business skills and encourages HUB opportunities and participation~~incorporating into the formal training program of the professional buying staff a training program designed to improve their business skills which will encourage HUB participation;~~ and

~~(b) including requisitioning department representatives in the organization and participation of trade fairs for HUBs and of the central purchasing department's "open house" for HUBs; and~~

(e**b**) developing and distributing information related to HUBs for use in departmental purchases not being processed through the central purchasing department;

(~~5~~**6**) examine bid specifications to ensure that HUBs have access and equal opportunity for all procurement, contracting activities, and physical plant projects ~~are not placed needlessly at a competitive disadvantage;~~

(~~6~~**7**) participate in programs that consolidate information about upcoming contracting opportunities and allow potential bidders to review those ~~discover upcoming~~ opportunities; and

~~(8) make available to all potential bidders information relating to previously successful bids (to the extent such information is public under the Public Information Act);~~

~~(7) develop a System web page to support and encourage HUB participation.~~

~~(9) actively encourage potential contractors to use HUB subcontractors through wording in bid and proposal documents and through information given at pre-bid conferences, meetings and "open houses;" and~~

~~(10) disseminate the HUBAP to all appropriate personnel in the System component entity.~~

## ~~5. COMPLIANCE WITH STATE LAW~~

~~Current state law requires that all purchases, except as specifically provided, be based whenever possible on competitive bids. Nothing in this policy shall be construed to require otherwise.~~

## 6. REPORTING REQUIREMENTS

~~6.1 A copy of this policy and the System HUBAP will be included in the System strategic plan as required by Texas Government Code, Sec. 2161.123.~~

6.~~2~~**1** The ~~General Services TBPC Act~~ requires is required to prepare that a consolidated report ~~be issued by the Commission~~ based, in part, on information provided by each ~~state agency~~ System component. In accordance with this requirement, each component will:

(a) continuously maintain, and compile monthly, information relating to use of HUBs by the component ~~its use~~ and ~~the use of HUBs by~~ each operating division of the component, including information regarding subcontractors and suppliers; and

