



Lawrence F. Alwin, CPA

An Audit Report on 19 Agencies' Compliance With Historically Underutilized Business Requirements

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August 31, 2001

Members of the Legislative Audit Committee:

None of the 19 agencies we reviewed for fiscal year 2000 fully complied with the revised historically underutilized business (HUB) requirements in Texas Administrative Code, Title 1, Part 5, Chapter 111, Section B, and Texas Government Code, Chapter 2161. In addition, the Health and Human Services Commission and the Texas Education Agency did not make a "good-faith effort" to comply with the HUB requirements, as evidenced by noncompliance in several categories within the code. Although the two agencies had significant noncompliance with the requirements, they did spend funds with HUB vendors. (See Appendix 2.) The revised HUB requirements became effective in fiscal year 2000. They require agencies to conduct additional procedures that encourage HUB participation. We assessed the agencies' compliance based on their implementation of HUB procedures, as required by statute, not on the agencies' ability to contract with a specific number, quota, or dollar amount of HUBs.

Notably, the Department of Insurance complied with nearly all of the requirements, and the Department of Criminal Justice was the only agency that fully implemented the mentor protégé program. HUB program statistics indicate that the 19 agencies we reviewed (10 surveyed and 9 audited) spent \$900 million in general procurement categories, of which 15.4 percent (\$139 million) was spent with HUB vendors.

The agencies did not comply in the following ways:

- Eighty-nine percent of audited agencies (8 of 9) reported inaccurate information to the State General Services Commission (Commission) due to mathematical errors and incomplete information. Additionally, some agencies over-reported the number contracts

awarded to HUBs because they misinterpreted the method of calculating this number. The attachment includes a modified definition from the Commission.

- Eighteen of the agencies did not fully comply with outreach requirements. Ninety-five percent (18 of 19) had not developed mentor protégé programs. Some agencies indicated that they could not plan and implement the program by fiscal year end but were in the process of developing programs. In addition, 42 percent (8 of 19) did not sponsor HUB forums.

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- Sixty-three percent of the agencies (12 of 19) did not fully comply with planning requirements. These agencies did not develop HUB rules and did not include all information in their strategic plans.

To improve HUB program compliance, agencies should obtain training for staff members who are responsible for implementing the HUB program and establish consistent data collection processes to ensure accuracy of data. The Commission has resources available to agencies to help them improve their HUB programs.

The attachment to this letter contains more information on the instances of noncompliance we identified. We appreciate the 19 agencies' cooperation with this project. We will continue to coordinate with the Commission in monitoring the HUB program. Please contact Valerie Hill, MBA, Audit Manager, at (512) 936-9500 if you have any questions.

Sincerely,

Lawrence F. Alwin, CPA
State Auditor

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Attachment

cc: State General Services Commission
Executive Directors of the Agencies Included in This Audit

Objectives, Scope, and Methodology

The objectives of this audit were to determine if the agencies were complying with HUB statutory requirements and to determine if the agencies were reporting complete and accurate data to the Commission. We reviewed HUB activities in four areas: planning, outreach, reporting, and subcontracting for fiscal year 2000 activities. Agencies were reviewed based on the Texas Administrative Code, Title 1, Part 5, Chapter 111, Section B, and Texas Government Code, Chapter 2161. During fiscal year 2000, the Commission revised the HUB rules based on Senate Bill 178, 76th Legislature. Revisions to the HUB rules went into effect at various times during fiscal year 2000. We only audited agency information for compliance after the effective dates of the new rules. Some agencies were assessed by survey only, and other agencies were assessed based on a survey and fieldwork. Where we conducted fieldwork, we reviewed documentation, conducted interviews, and tested the information we received. We also assessed each agency's "good-faith effort" to comply with the HUB statutes.

None of the Agencies Audited and Surveyed Were in Full Compliance With HUB Requirements

In fiscal year 2000, none of the 9 audited agencies or 10 surveyed agencies fully complied with the historically underutilized business (HUB) requirements in Texas

What is the HUB Program?

The historically underutilized business (HUB) program encourages state entities to make state contracting opportunities available to businesses owned by women and minorities. The program was created in Texas Government Code, Chapter 2161, and is governed by rules in Texas Government Code, Part 5, Chapter 111, and Subchapter B.

Administrative Code (TAC), Chapter 111¹, and Texas Government Code, Chapter 2161, (see Table 1.) In addition, the Health and Human Services Commission and the Texas Education Agency did not make “good-faith efforts” to comply with the HUB requirements, as evidenced by noncompliance in several categories within the code (see text box below).

What Constitutes a “Good-Faith Effort”?

The State Auditor’s Office in consultation with the State General Services Commission (Commission) determined that an agency did not make a “good-faith effort” if it had noncompliance in at least three of the four basic HUB areas. The four areas are planning, outreach, reporting, and subcontracting. For fiscal year 2000, we are reporting noncompliance with the mentor protégé program requirement, but are not including it in the assessment of “good-faith effort.” The main reason is that this requirement had the latest effective date (June 2000), and there were indications that there was not enough time to officially design and implement the program in the last quarter of the fiscal year.

These requirements were revised in fiscal year 1999 and became effective in fiscal year 2000. Noncompliance with the requirements affects the accomplishment of the program mission “to promote the utilization of HUBs by all state agencies and report their utilization to the State Legislature.”

The State Auditor’s Office assessed compliance based on implementation of program procedures and not any agency’s ability to contract with HUBs in a specific quantity or quota. Regarding program statistics for fiscal year 2000, the 19 agencies spent \$900 million within procurement categories that are eligible for HUB participation. The agencies spent 15.4 percent (\$139 million) of that eligible amount with HUB vendors. (For additional program statistics, see Appendix 2.)

Table 1 on the next pages lists issues we identified. Blank cells in the table indicate that we did not find any instances of noncompliance for the agency in that area. The most common types of noncompliance were:

- Agencies reported inaccurate information to Commission.
- Agencies did not perform outreach by sponsoring forums and implementing mentor protégé programs.
- Agencies did not adopt the necessary HUB policies and procedures.

The Commission indicated that it plans to work with the agencies and plans to increase training opportunities for the agencies to assist them in improving their HUB programs.

The State Auditor’s Office made specific recommendations to the nine audited agencies in separate management letters. The agencies provided responses to the issues we identified. Appendix 3 contains summaries of the responses from the agencies we identified as not making “good-faith efforts.”

¹ The specific site is Texas Administrative Code, Title 1, Part 5, Chapter 111, Section B.

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Table 1

Results of Agency Compliance With HUB Requirements					
Compliance Requirement					
Agency and Agency No.	Planning	Outreach ^a	Reporting	Subcontracting	Did the Agency Make a "Good-Faith Effort"?
General Land Office (305)	No agency HUB rules formally adopted (Texas Government Code, Chapter 2161.003)			Did not obtain supporting documentation on subcontracting plan from a contractor (TAC, Chapter 111.14)	Yes
Department of Information Resources (313)	No agency HUB rules (Texas Government Code, Chapter 2161.003)		Under-reported number of bids submitted and number of contracts awarded (TAC, Chapter 111.16) No monthly reports (TAC, Chapter 111.16)		Yes
Department of Human Services (324)		HUB coordinator not equal to procurement director (TAC, Chapter 111.12).	Over-reported the amount of subcontractor payments (TAC, Chapter 111.16) Under-reported the number of bids submitted by HUBs (TAC, Chapter 111.16)		Yes
Rehabilitation Commission (330)	No specific HUB programs mentioned in the strategic plan (Texas Government Code, Chapter 2161.123)		Over-reported the number of bids submitted and the number of contracts awarded (TAC, Chapter 111.16)		Yes
^a None of the agencies had developed and implemented mentor protégé programs except the Department of Criminal Justice. The Department of Protective and Regulatory Services indicated that a mentor protégé relationship exists at the agency, but no program had been developed.					
^b Agency completed survey only. Agency was not audited.					
^c This agency's HUB activities are contracted to the Rehabilitation Commission.					
^d This agency's HUB activities are contracted to the Office of the Attorney General.					

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Results of Agency Compliance With HUB Requirements					
Compliance Requirement					
Agency and Agency No.	Planning	Outreach ^a	Reporting	Subcontracting	Did the Agency Make a "Good-Faith Effort"?
Texas Department of Economic Development (480)		Attended but did not sponsor HUB forums (TAC, Chapter 111.27)	Over-reported the number of contracts awarded (TAC, Chapter 111.16)		Yes
Health and Human Services Commission (529) ^c	No agency HUB Rules (Texas Government Code, Chapter 2161.003) No specific HUB programs mentioned in the strategic plan (Texas Government Code, Chapter 2161.123)	HUB Coordinator not in a responsive role that reports, communicates, and provides information to the agency's executive director (TAC, Chapter 111.26)	Reported inaccurate information in reports submitted to Commission (TAC, Chapter 111.16) Not adjusting information reported to include HUBs certified during the fiscal year (TAC, Chapter 111.16) No monthly reports (TAC, Chapter 111.16)		No
Department of Mental Health and Mental Retardation (655)			Under-reported the number of bids submitted and contracts awarded and over-reported the amount of non-treasury funds paid to subcontractors (TAC, Chapter 111.16)		Yes
Department of Criminal Justice (696)			Under-reported the non-treasury funds paid to subcontractors (TAC, Chapter 111.16)		Yes

^a None of the agencies had developed and implemented mentor protégé programs except the Department of Criminal Justice. The Department of Protective and Regulatory Services indicated that a mentor protégé relationship exists at the agency, but no program had been developed.

^b Agency completed survey only. Agency was not audited.

^c This agency's HUB activities are contracted to the Rehabilitation Commission.

^d This agency's HUB activities are contracted to the Office of the Attorney General.

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Results of Agency Compliance With HUB Requirements					
Compliance Requirement					
Agency and Agency No.	Planning	Outreach ^a	Reporting	Subcontracting	Did the Agency Make a "Good-Faith Effort"?
Texas Education Agency (701)	No Agency HUB Rules (Texas Government Code, Chapter 2161.003) No specific HUB programs mentioned in the Strategic Plan (Texas Government Code, Chapter 2161.123)	HUB Coordinator not in a responsive role that reports, communicates, and provides information to the agency's executive director (TAC, Chapter 111.26) Did not sponsor HUB forums (TAC, Chapter 111.27)	Over-reported the number of bids submitted, number of contracts awarded, and subcontractor payments (TAC, Chapter 111.16) No monthly Contractor Reports (TAC, Chapter 111.16)		No
Office of Court Administration (212) ^b		Unable to identify HUB Coordinator Job Responsibilities to comply with TAC, Chapter 111.26 Did not sponsor HUB forums (TAC, Chapter 111.27)		No process to determine if contractors are making a "good-faith effort" (TAC, Chapter 111.14)	Yes
Office of the Attorney General (302) ^b	No agency HUB rules (Texas Government Code, Chapter 2161.003)				Yes
Commission for the Blind (318) ^b	No agency HUB rules (Texas Government Code, Chapter 2161.003)	Did not sponsor HUB forums (TAC, Chapter 111.27)			Yes
^a None of the agencies had developed and implemented mentor protégé programs except the Department of Criminal Justice. The Department of Protective and Regulatory Services indicated that a mentor protégé relationship exists at the agency, but no program had been developed.					
^b Agency completed survey only. Agency was not audited.					
^c This agency's HUB activities are contracted to the Rehabilitation Commission.					
^d This agency's HUB activities are contracted to the Office of the Attorney General.					

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Results of Agency Compliance With HUB Requirements					
Compliance Requirement					
Agency and Agency No.	Planning	Outreach ^a	Reporting	Subcontracting	Did the Agency Make a "Good-Faith Effort"?
Adjutant General's Department (401) ^b		Unable to identify HUB Coordinator Job Responsibilities to comply with TAC, Chapter 111.26 Did not sponsor HUB forums (TAC, Chapter 111.27)	No monthly internal reports (TAC, Chapter 111.16)		Yes
Department of Insurance (454) ^b					Yes
Railroad Commission (455) ^b	No agency HUB rules (Texas Government Code, Chapter 2161.003)	Did not sponsor HUB forums (TAC, Chapter 111.27)			Yes
State Office of Risk Management (479) ^{b, d}	No agency HUB rules (Texas Government Code, Chapter 2161.003)				Yes
Protective and Regulatory Services (530) ^b	No specific HUB programs mentioned in the strategic plan (Texas Government Code, Chapter 2161.123)	Did not sponsor HUB forums (TAC, Chapter 111.27)			Yes
Sam Houston State University (753) ^b	No specific mission statement in strategic plan (Texas Government Code, Chapter 2161.123)				Yes

^a None of the agencies had developed and implemented mentor protégé programs except the Department of Criminal Justice. The Department of Protective and Regulatory Services indicated that a mentor protégé relationship exists at the agency, but no program had been developed.

^b Agency completed survey only. Agency was not audited.

^c This agency's HUB activities are contracted to the Rehabilitation Commission.

^d This agency's HUB activities are contracted to the Office of the Attorney General.

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Results of Agency Compliance With HUB Requirements					
Compliance Requirement					
Agency and Agency No.	Planning	Outreach ^a	Reporting	Subcontracting	Did the Agency Make a "Good-Faith Effort"?
Preservation Board (809) ^b	No specific mission statement in strategic plan (Texas Government Code, Chapter 2161.123) No specific HUB programs mentioned in the strategic plan (Texas Government Code, Chapter 2161.123) (3) No formally adopted HUB rules (Texas Government Code, Chapter 2161.003)	Did not sponsor HUB forums (TAC, Chapter 111.27)			Yes

^a None of the agencies had developed and implemented mentor protégé programs except the Department of Criminal Justice. The Department of Protective and Regulatory Services indicated that a mentor protégé relationship exists at the agency, but no program had been developed.

^b Agency completed survey only. Agency was not audited.

^c This agency's HUB activities are contracted to the Rehabilitation Commission.

^d This agency's HUB activities are contracted to the Office of the Attorney General.

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Section 2:

The Agencies Did Not Report Accurate HUB Information to the Commission

Eighty-nine percent of audited agencies (8 of 9) reported inaccurate information to the Commission due to mathematical errors and incomplete information. As a result, the agencies do not have reliable information to evaluate their HUB programs. (See Table 2 for a summary of the problems we identified.)

TAC, Chapter 111.16, and Texas Government Code, Chapter 2161.121(b), require agencies to report semi-annually to the Commission a variety of statistics that describe the agency's HUB activity. The Commission uses this information to compile statewide HUB statistics, which the Commission reports to the Legislature.

Table 2

Inaccurate HUB Information Reported to the Commission	
Agency	Reporting Errors
Department of Information Resources	Under-reported the number of HUB bids it received because it did not track them all. Under-reported the number of HUB contracts it awarded by 459.
Department of Human Services	Overstated the amount of subcontractor payments it made by \$700 for the sample of \$9,289 in payments tested. Understated the number of bids submitted by HUBs by 76.
Rehabilitation Commission	Estimated the number of bids submitted by HUBS. Over-reported the number of HUB contracts it awarded because the Rehabilitation Commission counted every purchase order as a contract and reported that there were 7,681. If each vendor is counted once, the number would be 248.
Texas Department of Economic Development	Over-reported the number of HUB contracts awarded by 7.
Health and Human Services Commission	Over-reported the number of HUB contracts awarded. Did not adjust HUB report to include HUBs certified during the fiscal year.
Department of Mental Health and Mental Retardation	Under-reported the number of HUB bids received by 510. Under-reported the number of HUB contracts awarded by 578. Over-reported the non-treasury funds paid to subcontractors by \$11,500 of the population of \$89,500 tested.
Department of Criminal Justice	Under-reported the funds spent for subcontracting by \$90,000 of the sample of \$426,154 tested.
Texas Education Agency	Over-reported the number of bids submitted, the number of contracts awarded, and the amount spent for subcontracting.

The majority of these problems resulted in the Commission receiving inaccurate data to incorporate into the statewide HUB report. Many of these problems occurred because agencies did not have systems in place to gather and verify information before reporting it to the Commission. Agencies that receive information from regional offices are especially susceptible to reporting errors when no system has been

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developed. Agencies should develop processes to ensure that they consistently collect data from the regions and review the accuracy of consolidated data before submitting it to the Commission.

New Definition for Number of Contracts Awarded

Contracts reported to the Commission for the purpose of HUB reporting will be defined as purchases for goods or services that have gone through a competitive bidding process and been awarded. Agencies should not count purchase orders unless they have gone through a competitive bidding process.

For the purposes of reporting contracts, agencies should not report purchases that were made using the state procurement card. These purchases are not individual contracts for the purpose of HUB reporting. Individual requisitions against a blanket purchase order or against an IDQ should not be counted as individual contracts. Agency spot and emergency purchases, which would otherwise be competitively bid, should be reported as individual contracts.

New Reporting Requirement

Agencies will now be required to identify the total number of all contracts bid and subsequently awarded. The agencies will also identify the number of contracts reported that were awarded to certified HUBs.

Some agencies overstated the number of contracts they awarded to HUBs because the agencies included individual purchases rather than contracts awarded that were competitively bid. The Commission has modified the definition for the number of contracts awarded to help agencies calculate and report this information correctly. The Commission has also developed a new reporting requirement related to this information for fiscal year 2002. (See text box.)

Agencies should report the information on the contracts awarded using the new definitions and reporting requirements.

Section 3:

The Agencies Did Not Fully Comply With HUB Outreach Requirements

The agencies did not fully comply with HUB outreach requirements contained in TAC, Chapters 111.26 through 111.28. In order to develop successful HUB programs agencies must employ outreach strategies. The lack of compliance with outreach requirements may potentially affect the agencies' ability to achieve their HUB Utilization Goals. The agencies did not fully comply with the outreach requirements as follows:

- Ninety-five percent of agencies surveyed and audited (18 of 19) had not developed mentor protégé programs. (See text box on next page.) The objective of this program is to provide professional guidance and support to protégés to facilitate their development and growth as HUBs. The Department of Criminal Justice did develop and implement a mentor protégé program. Some agencies indicated that they were waiting for the Commission to develop its program before they developed their own. Agencies should develop mentor protégé programs to comply with TAC.
- Forty-two percent of agencies with appropriations over \$10 million (8 of 19) did not sponsor forums. Some of the agencies indicated that they had participated in HUB forums; however, TAC also requires agencies to sponsor forums. TAC defines a forum as "a collaborative effort between agencies and potential contractors/vendors to provide information and training regarding an agency's procurement opportunities." Agencies should host forums as required by TAC.

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- Twenty-six percent of the agencies (5 of 19) had problems with the requirements related to the HUB Coordinator position. Two agencies' HUB coordinators did not communicate with the agencies' executive directors about the HUB program. One agency did not place its HUB coordinator in a position that is equal in organizational level to its procurement director. One agency did not have a HUB coordinator job description, and another agency's job description did not define the responsibilities of a HUB coordinator clearly enough to ensure that the HUB coordinator could carry out the duties described in TAC, Chapter 111.26. Agencies should comply with TAC.

Overall HUB Outreach Requirements

According to TAC, Chapter 111, and Texas Government Code, Chapter 2161, there are basic outreach requirements.

- (1) Each agency with a biennial appropriation exceeding \$10 million shall participate in forums. The Commission and each agency that has a HUB Coordinator shall:
 - Design its own forum program and model the program, to the extent appropriate, after the format established by the Commission.
 - Sponsor presentations by HUBs at the agency.
 - Advertise the forums in appropriate trade publications to target HUBs.
 - Identify and invite HUBs to make marketing presentations on the types of goods and services they provide.
- (2) Each agency with a biennial appropriation exceeding \$10 million shall implement a mentor protégé program.
- (3) Each agency with a biennial appropriation exceeding \$10 million shall designate a staff member to serve as HUB Coordinator. The HUB Coordinator position must be equivalent to the Procurement Director and must be in a responsive role that reports, communicates, and provides information to the agency's Executive Director. The duties of the HUB Coordinator include but are not limited to:
 - Facilitating compliance with the agencies' "good-faith effort" criteria.
 - HUB reporting.
 - Contract administration.
 - Marketing and outreach efforts for HUB participation.

develop subcontracting plans. According to TAC, Chapter 111.14, contractors should have performed the following tasks:

- The contractor should have provided evidence that the contractor notified HUBs that the contractor intends to subcontract.
- The contractor should show that it gave the HUBs at least five days to respond to a bid for subcontracting.
- The contractor should have provided this information at the time of the bid proposal.
- The contractor should have provided written justification if a non-HUB was selected through a means other than a competitive bid process.

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- The contractor should have advertised subcontracting opportunities in general media, trade associations, or minority-focused media.
- The contractor should have encouraged subcontractors to become HUB certified.

Section 5:

The Agencies Did Not Fully Comply With HUB Planning Requirements

Sixty-three percent of the agencies (12 of 19) did not fully comply with the planning requirements in TAC, Chapter 111.15, and Texas Government Code, Chapters 2161.003 and 2161.123. The planning requirements should be the guiding factor in establishing and implementing a successful HUB program. Agencies should develop appropriate policies and procedures and adjust their strategic plans to comply with statute.

Overall HUB Planning Requirements

TAC, Chapter 111.15, and Texas Government Code, Chapters 2161.003 and 2161.123, identify three basic planning requirements. They are as follows:

- (1) The agency should formally adopt the Commission's HUB rules as its own or develop its own policies and procedures that reflect HUB rules.
- (2) The agency should include a detailed report identifying "good-faith effort" in its legislative appropriation request.
- (3) The agency should include in its strategic plan a written plan for increasing the agency's use of HUBs. The plan must include:
 - A policy or mission statement relating to increasing the use of HUBs by the agency.
 - Goals to be met by the agency in carrying out the policy and mission.
 - Specific programs to be conducted by the agency to meet the goals stated in the plan, including a specific program to encourage contractors to use HUBs as partners and subcontractors.

- Nine agencies did not formally adopt the Commission's HUB rules as their own or develop their own policies and procedures that reflect the HUB rules.
- Six agencies did not include a policy or mission statement in their strategic plan relating to increasing the use of HUBs or did not include specific programs to be conducted to meet the goals as stated in their strategic plan. This number (six) includes agencies that were noncompliant with both statutes.
- All of the legislative appropriation requests we reviewed were in compliance with the statutes.

The lack of planning could have contributed to these agencies' noncompliance with other areas of TAC or the Texas Government Code.

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Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine if the selected agencies:

- Complied with HUB statutory requirements.
- Reported complete and accurate data to the Commission.

Scope

For fiscal year 2000, the State Auditor's Office audited nine agencies' HUB activities in four compliance areas: planning, outreach, reporting, and subcontracting. We surveyed 10 agencies on their compliance with planning, outreach, and subcontracting requirements. Agencies were reviewed and surveyed based on the Texas Administrative Code, Chapter 111, and Texas Government Code, Chapter 2161. During fiscal year 2000, the Commission revised the HUB rules based on Senate Bill 178, 76th Legislature. Revisions to the HUB rules went into effect at various times during fiscal year 2000. We only audited agency information for compliance after the effective dates of the new rules.

We surveyed the following agencies:

- Office of the Attorney General
- Preservation Board
- Railroad Commission
- Commission for the Blind
- State Office of Risk Management
- Adjutant General's Department
- Department of Protective and Regulatory Services
- Office of Court Administration
- Sam Houston State University
- Department of Insurance

We audited the following agencies:

- Texas Department of Economic Development
- Department of Criminal Justice
- Department of Information Resources
- Department of Mental Health and Mental Retardation

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- Department of Human Services
- Texas Education Agency
- Health and Human Services Commission
- Rehabilitation Commission
- General Land Office

Methodology

The State Auditor's Office (Office) used the following procedures to review HUB compliance:

- Agencies were stratified into three tiers based on HUB expenditures. The Office performed a risk assessment on the three tiers based on factors identified to rank agencies by risk. We selected agencies from the first two tiers to audit.
- Based on the risk assessment, the Office asked 19 agencies to complete a survey. Additionally, the Office conducted fieldwork at nine of the agencies to verify compliance status.
- The Office did not verify the information provided by the surveyed agencies. We assessed and reviewed all information the agencies submitted to us to determine compliance with statutes.

For the nine agencies where we conducted fieldwork, we performed the following tests to determine compliance with Texas Administrative Code, Chapter 111, and Texas Government Code, Chapter 2161:

- We reviewed strategic plans and legislative appropriations requests to ensure that the required information was included.
- We reviewed documentation and conducted interviews to determine:
 - Whether the agencies had adopted appropriate policies and procedures.
 - Whether the agencies were performing the necessary HUB outreach activities and whether they had developed mentor protégé programs.
 - Whether the HUB Coordinator position was operating as statute requires and whether the HUB Coordinator had appropriate resources and access to conduct the HUB program successfully.
- We reviewed and tested reports submitted to the Commission to verify the accuracy of the reports. We also tested a sample of the transactions that supported the reports.
- We reviewed all applicable contracts and subcontracts to verify that they were in compliance with HUB statutes.

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- We wrote findings on the agencies that did not comply with HUB requirements.

Other Information

The Office conducted audit fieldwork from April 2001 through June 2001. We performed this audit in accordance with generally accepted government auditing standards.

The following members of the State Auditor's staff performed the work:

- Verma L. Elliott, MBA (Project Manager)
- Courtney Ambres-Wade (Assistant Project Manager)
- Illeana Barboza, MBA
- Liz Clarke, MPAff.
- Thomas Crigger, MBA
- David Dowden
- Michael Geiringer, MS-HCA
- Courtney Harrison
- Babette Laibovitz, MPA
- Elizabeth A. Prado
- Stephanie Thayer, CPA
- Menza Webster
- Jennifer Wiederhold
- J. Scott Killingsworth, CIA, CGFM (Quality Control Reviewer)
- Whitney Hutson-Kutz, CPA (Quality Control Reviewer)
- Valerie Hill, MBA (Audit Manager)
- Deborah Kerr, Ph.D. (Director)

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Appendix 2:

Statistical Information

The following table shows the HUB goals achieved and the funds available and spent by the agencies reviewed in this audit.

Table 3

	Heavy Construction	Building Construction	Special Trade Construction	Professional Services	Other Services	Commodity Purchases	Funds Eligible to Be Spent With HUB Vendors ^a	Funds Spent With HUB Vendors
State Goal	11.90%	26.10%	57.20%	20.00%	33.00%	12.90%	—	—
State Actual	13.10%	11.30%	18.60%	17.30%	12.80%	13.30%	—	—
Adjutant General's Department	95.70%	33.10%	40.80%	66.80%	23.10%	0.929%	\$4,115,130	\$2,312,888
Department of Human Services	0.00%	0.00%	19.50%	0.00%	13.30%	36.50%	\$102,430,128	\$20,860,289
Department of Information Resources	0.00%	0.00%	0.00%	0.00%	4.15%	60.00%	\$50,524,670	\$24,003,332
General Land Office	0.00%	5.66%	1.31%	0.104%	29.60%	28.90%	\$36,822,468	\$3,604,245
Health and Human Services Commission	0.00%	0.00%	0.00%	0.00%	14.90%	3.33%	\$25,715,767	\$3,375,077
Department of Mental Health and Mental Retardation	0.00%	4.61%	7.16%	6.37%	10.60%	6.77%	\$114,654,383	\$8,595,273
Office of the Attorney General	0.00%	0.00%	1.25%	0.00%	27.00%	32.00%	\$39,958,790	\$11,380,670
Office of Court Administration	0.00%	0.00%	0.00%	0.00%	91.40%	57.30%	\$1,694,855	\$1,336,437
Department of Protective and Regulatory Services	0.00%	0.00%	1.15%	0.00%	5.01%	26.50%	\$27,158,978	\$3,284,411
Railroad Commission	0.00%	0.00%	0.00%	29.00%	10.20%	48.60%	\$12,552,133	\$2,174,163
Sam Houston State University	0.00%	2.86%	4.90%	19.50%	10.20%	19.00%	\$23,436,910	\$2,298,006
State Office of Risk Management	0.00%	0.00%	0.00%	0.00%	77.00%	50.80%	\$1,629,482	\$1,207,552
Preservation Board	0.00%	4.34%	9.76%	0.565%	40.30%	1.59%	\$37,593,027	\$2,067,151
Commission for the Blind	0.00%	0.00%	18.90%	36.10%	27.00%	24.40%	\$4,250,014	\$1,109,201
Department of Criminal Justice	0.00%	4.89%	45.60%	11.30%	18.00%	8.68%	\$289,749,861	\$27,987,954
Texas Department of Economic Development	0.00%	0.00%	0.00%	0.00%	12.30%	34.40%	\$16,357,460	\$2,082,535
Department of Insurance	0.00%	0.00%	0.00%	0.00%	7.47%	58.40%	\$4,571,848	\$1,421,254
Texas Education Agency	0.00%	0.00%	35.90%	0.59%	15.00%	40.30%	\$91,142,408	\$14,690,631
Rehabilitation Commission	0.00%	0.00%	7.78%	12.40%	14.30%	68.20%	\$16,022,845	\$5,658,567

^a Funds eligible are those funds spent in general procurement categories identified by the Commission.

Notes: Where 0 percent is noted, the category is, in most cases, not applicable to the agency.

Source: The Commission's fiscal year 2000 HUB report (unaudited data)

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Summary Responses²

The following are summaries of the responses submitted by the agencies that did not make “good-faith efforts.” The State Auditor’s Office in consultation with the General Services Commission determined that an agency did not make a “good-faith effort” if it was noncompliant in at least three of the four basic HUB areas. The four areas are planning, outreach, reporting, and subcontracting.

Texas Government Code, Chapter 2161, Subsection (e), gives the State Auditor’s Office the following guidance:

In conducting an audit of an agency’s compliance with this section or an agency’s making of a good faith effort to implement the plan adopted under this section, the state auditor shall not consider the success or failure of the agency to contract with historically underutilized businesses in any specific quantity. The state auditor’s review shall be restricted to the agency’s procedural compliance with Subsection (d).

Summary of Texas Education Agency Response:

TEA believes it has been making a good faith effort based on its fiscal performance during this period, awarding HUB vendors 16 percent (\$14.6 million of \$91 million) of its total expenditures. The overall State of Texas average was 13.3 percent. TEA also exceeded the state average in three of four individual procurement categories. The agency is resolved to comply with all aspects of the HUB program. To this end, it incorporated monthly reporting procedures and sponsorship of an Economic Opportunity Forum into the program for fiscal year 2001. These were two areas cited as deficient in 2000. TEA will incorporate all other SAO recommendations into its HUB program at the earliest opportunity.

Summary of Health and Human Services Commissions Response:

The Commission agrees with and appreciates most of the State Auditor’s findings. The Commission has prepared corrective action to address these issues, which will be coordinated with the Texas Rehabilitation Commission and the Commission’s designated HUB Coordinator. The Commission strongly disagrees with the State Auditor’s finding concerning the establishment of the HUB Coordinator position. The Commission believes the State Auditor’s finding implies requirements that are not expressed either in the law or in governing administrative rules.

State Auditor’s Follow-Up Comment:

We respectfully disagree with the Commission’s interpretation of the HUB requirements codified in TAC, Chapter 111.26. We believe these requirements contemplate a significant degree of communication between the executive head of an

² Full summary responses are included in the management letter for the specific agency.

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agency and the HUB Coordinator. While conceding that the requirements leave it to an agency's discretion to determine the manner in which the communication is to take place, we found little evidence to suggest that communication occurred between the Commissioner and the HUB Coordinator during the audit period.

The Commission, which promulgated the HUB requirements, has advised us that our interpretation of the rule in question is reasonable.

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