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A Review of Agency Compliance with State Historically Underutilized Business Requirements

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Section 1:

Procedures at 17 Agencies Reviewed Demonstrated Good Faith Efforts to Comply With HUB Requirements

Although only 2 of the 17 agencies reviewed by the State Auditor's Office (Office) in fiscal year 1996 achieved the statewide target of spending 30 percent of applicable expenditures with historically underutilized businesses (HUBs) during fiscal year 1995, all 17 agencies demonstrated sufficient procedural good faith in their efforts to implement HUB programs.

Together these agencies accounted for approximately \$2.4 billion (out of \$5.6 billion statewide) on purchases or contracts subject to state HUB requirements.¹ Of the \$2.4 billion, the 17 agencies spent approximately \$472 million (out of \$889 million statewide) with HUBs. This represented a 19.7 percent HUB participation rate. (See Figure 1 for more detailed information on the HUB-related performance of these 17 agencies.)

Figure 1

Overview of Agency HUB Performance

Agency	Agency HUB Performance			Total HUB-Applicable Expenditures	HUB Expenditures
	Percentage of Applicable Expenditures Spent With HUBs	Good Faith Effort	Met 30 Percent HUB Goal (FY95)		
Department of Protective and Regulatory Services	43.69%	✓	✓	\$ 47,107,394	\$ 20,585,779
Office of State-Federal Relations	37.08%	✓	✓	240,222	89,095
General Land Office	27.64%	✓	✗	7,162,801	1,979,886
Children's Trust Fund of Texas Council	25.31%	✓	✗	167,628	42,435
Texas A&M University System	24.40%	✓	✗	99,664,303	24,326,852
Texas Department of Health	22.54%	✓	✗	130,207,241	29,360,528
Food and Fibers Commission	22.16%	✓	✗	5,280	1,170
Texas Department of Transportation	19.67%	✓	✗	1,897,110,702	373,335,052
Texas Workforce Commission (formerly the Texas Employment Commission)	14.11%	✓	✗	21,830,990	3,081,249

¹ HUB expenditures are monitored according to the Uniform Statewide Accounting System (USAS). Only certain USAS object codes considered to be under management's control are subject to HUB requirements.

Agency	Agency HUB Performance			Total HUB-Applicable Expenditures	HUB Expenditures
	Percentage of Applicable Expenditures Spent With HUBs	Good Faith Effort	Met 30 Percent HUB Goal (FY95)		
University of North Texas	12.27%	✓	✗	33,214,708	4,076,471
Natural Resource Conservation Commission	10.84%	✓	✗	64,689,560	7,014,373
Texas Education Agency	10.08%	✓	✗	32,035,489	3,232,332
Parks and Wildlife Department	8.91%	✓	✗	39,195,777	3,492,555
Teacher Retirement System	8.82%	✓	✗	8,431,230	743,876
Southwest Collegiate Institute for the Deaf	6.06%	✓	✗	414,168	25,107
Railroad Commission of Texas	4.77%	✓	✗	10,981,249	523,856
Soil and Water Conservation Board	4.09%	✓	✗	697,675	28,541
TOTALS	19.72%	17/17	2/17	\$ 2,393,156,417	\$ 471,939,157

✓ Agency achieved acceptable performance against stated criteria in judgement of auditor.

✗ Agency did not meet the 30 percent statewide HUB goal for fiscal year 1995. An agency may have valid reasons for failing to meet the state goal.

The source for total and HUB expenditures is the General Services Commission, *Annual Historically Underutilized Business Report for Fiscal Year 1995*.

In determining whether an agency made a good faith effort to improve HUB participation, the Office considered whether:

Planning: The agency included HUB policies, goals, and programs in its strategic plan (according to Texas Government Code, Section 2161.123(a-c)).

Results: Based on the total dollar amount of HUB-applicable expenditures and amounts awarded to HUBs, the agency met the State's 30 percent HUB goal. Also considered were agency processes for capturing and reporting HUB data, particularly for nontreasury and subcontracted expenditures.

Procedures and Processes: The agency complied with various requirements identified in the General Appropriations Act (section 111, paragraph 8), including designation of a HUB coordinator, development of HUB rules and procedures, use of the General Services Commission's (GSC) list and other sources to identify HUBs, and the presence of marketing and outreach efforts.

Reporting: The agency met state reporting requirements, including monthly information, annual progress reports, estimates of expected awards, and self-reported subcontracted and nontreasury expenditures.

We communicated strengths and weaknesses of individual agency HUB-related procedures directly to agency management. (See Figure 2 for examples of strengths and weaknesses.) In general, it appeared that smaller agencies were less likely to be aware of HUB requirements than were larger agencies and that HUB deficiencies were more likely to occur on transactions made outside centralized purchasing departments.

Figure 2

Observations About HUB-Related Procedures At Audited Agencies

Examples of Strengths	Examples of Weaknesses
<ul style="list-style-type: none"> Designating a HUB coordinator Addressing HUB goals in the agency's strategic plan Setting policies and procedures to increase HUB participation Attending GSC training on HUB requirements Establishing internal HUB advocacy Involving the internal audit department in evaluating agency progress Accessing GSC's on-line HUB list and using the Internet to locate qualified HUBs Holding open house presentations to attract and educate potential HUB vendors; other forms of marketing and outreach 	<ul style="list-style-type: none"> Noncompliance with some HUB reporting requirements, especially monthly reports and annual expected awards Inadequate methods for collecting and reporting HUB data, especially on subcontracts Inexperienced HUB coordinators; a lack of HUB knowledge outside purchasing departments Passive outreach; for example, furnishing a list of HUB providers to contractors only if requested to do so Use of outdated copies of GSC's qualified HUB list, so that eligible contractors are excluded from bid invitations and lack information on qualified subcontractors

Section 2:

Monitoring and Oversight of State's HUB Program Might Be Improved

The Texas Legislature might consider establishing a range of sanctions for agencies exhibiting poor HUB performance. Removal of the agency's delegated purchasing authority is currently the only sanction mentioned in rider. Sanctions might include increased monitoring by the General Services Commission, or requiring additional training, corrective plans, and reports.

Appendix:

Objective, Scope, and Methodology

In accordance with Chapter 321 of the Texas Government Code and Article IX, Section 111(9) of the 74th Texas Legislature's General Appropriations Act, the Texas State Auditor's Office (Office) has audited 17 agencies in fiscal year 1996 to determine whether they had made a good-faith effort to increase their purchases and contracts with historically-underutilized businesses (HUBs).

Agencies reviewed for compliance with HUB requirements were scheduled for management control audits of agencies and institutions of higher education during fiscal year 1996. In addition, the Office reviewed HUB compliance in one audit that focused on agency contracting practices and conducted six standalone HUB reviews, selected via a risk assessment process, during July and August 1996.

To ensure quality and consistency across the reviews, the Office developed a standard audit program based on the HUB law and related riders and rules, piloted the program, refined it, and distributed it to audit teams beginning in December 1995. Mainly, the audits looked at agency HUB performance from fiscal year 1995. Staff auditors were given fiscal year 1996 data as it became available.