

**A Review of Selected Entities for
Compliance with State Historically
Underutilized Business Requirements**

February 8, 1999

Members of the Legislative Audit Committee:

In fiscal year 1998, 13 of 14 entities reviewed for compliance with state Historically Underutilized Business (HUB) requirements demonstrated good-faith efforts to purchase goods and services from HUB vendors. This means that, while the 13 entities may not have met all statewide goals for money spent with HUBs, they made a reasonable effort to achieve the goals. Agencies are not penalized for not meeting the HUB goals. The 14 entities reviewed spent \$15,610,337 with HUB vendors (those recognized as being underutilized within six categories of expense) in fiscal year 1998, approximately a 12 percent HUB participation rate. Had the entities met all HUB goals, the overall participation rate would be been 21 percent. Nine of the 14 entities exceeded the statewide HUB participation goal in at least one expenditure category.

Texas Woman's University (University) did not demonstrate a good faith effort, so we referred it to the General Services Commission for assistance. The University reports that it has since taken steps to improve its HUB program. We will revisit the University in late fiscal year 1999. If the University does not improve its HUB program, the General Appropriations Act allows the Legislative Budget Board to revoke the University's delegated purchase authority in fiscal year 2000.

Attached you will find the following information:

- Overview of the State HUB Program
- HUB Performance at 14 Entities Reviewed in Fiscal Year 1998

Since fiscal year 1996, we have reviewed 51 state entities for compliance. Improvements were possible at many of them. At each entity, strengths and weaknesses are communicated directly to management.

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We will continue to coordinate with the General Services Commission to monitor the HUB program.

If you have any questions about this report, please contact Carol Noble, CISA, Audit Manager, at 479-4700.

Sincerely,

Lawrence F. Alwin, CPA
State Auditor

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Attachment

cc: Mr. Tom Treadway, Executive Director
General Services Commission
Executive Directors or Presidents of the
Agencies and Universities Included in this Report

Objective, Scope, and Methodology

The objective of the reviews was to determine whether the entity had made a good faith effort to implement state HUB requirements. The reviews were conducted in accordance with Chapter 321 of the Texas Government Code and Article IX, Section 124(8) of the 75th Legislature's General Appropriations Act.

Please see the attachment for the full text of our Objective, Scope, and Methodology.

An Overview of the State HUB Program

What is the HUB Program?

The Historically Underutilized Business (HUB) program is designed to encourage Texas State entities to procure goods and services from woman- and minority-owned businesses. The program is legislated in Chapter 2161 of the Texas Government Code.

Who administers the program?

The General Services Commission (Commission) administers the HUB program. The Commission is required to:

- Adopt rules to govern the program
- Certify that HUBs meet ownership criteria
- Identify opportunities for increasing HUB participation
- Assist state entities in meeting state HUB goals
- Assist HUBs regarding state procurement
- Maintain a directory of certified HUBs
- Issue semiannual and annual reports on entity HUB performance

The State Auditor's Office is required to periodically monitor state entities to ensure that they have made a good faith effort to implement the program. For information on our audit approach, see the Objective, Scope, and Methodology.

Who is a HUB?

In general, companies owned and managed by a member of one of the following groups are considering HUBs:

- American Indian
- Asian
- Black
- Hispanic
- Women

Vendors who wish to be considered HUBs must apply to the Commission for certification according to various criteria. After reaching a certain size, which varies by the type of expense, HUB vendors “graduate” from their HUB status and are no longer considered HUBs.

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How is HUB participation measured?

The Commission sets statewide goals and measures HUB participation according to six procurement categories, as shown in Table 1.

Table 1

Statewide Goals Per HUB Expenditure Categories ¹			
Category	Unadjusted HUB Goal ²	Other HUB Goal ³	Adjusted HUB Goal ⁴
Heavy Construction	11.9%	5.3% (WO)	6.6% (BL, HI, AS, AI)
Building Construction	26.1%	1.0% (AS, AI)	25.1% (BL, HI, WO)
Special Trade Construction	57.2%	10.2% (AS, AI, WO)	47.0% (BL, HI)
Professional Services	20.0%	1.9% (AS, AI)	18.1% (BL, HI, WO)
Other Services	33.0%	N/A	33.0% (BL, HI, AS, AI, WO)
Commodity Purchasing	12.6%	1.1% (AS, AI)	11.5% (BL, HI, WO)
AI – American Indian AS – Asian Pacific American BL – Black American HI – Hispanic American WO – Women (all women excluding AI, AS, BL, and HI women)			

Source: General Services Commission's *Annual Historically Underutilized Business (HUB) Report for Fiscal Year 1998*

¹ The Commission excludes from HUB calculations: payments for claims and judgments, interfund transfers, interagency payments, investments, interest payments, principal payments, public assistance payments, rentals and leases, utilities, salaries, wages, benefits, travel, grants, scholarships, real estate purchases, rights of way, and bonds.

² The Unadjusted HUB Goal consists of all minority vendors in that category.

³ The Other HUB Goal consists of vendors considered to be less underutilized in that procurement category. For example, women vendors are not considered as underutilized in heavy construction as the other HUB vendor groups.

⁴ The Adjusted HUB Goal is the result of subtracting the "Other HUB Goal" from the "Unadjusted HUB Goal" column. The adjusted HUB goals are the main focus of statewide measurement efforts.

For HUB reporting purposes, treasury expenditures are captured through the Uniform Statewide Accounting System. Non-treasury expenditures and subcontracts are self-reported by state entities.

Section 2:

HUB Performance at 14 Entities Reviewed in Fiscal Year 1998

Table 2 summarizes information on the HUB performance of the 14 entities reviewed in fiscal year 1998. It provides a view of how successful the individual entities were in utilizing HUB vendors. The 14 entities spent approximately \$15.6 million on HUB goods and services. This represents a 12 percent HUB participation rate. If each entity had reached the adjusted state goal for all categories in which it had expenditures, combined HUB expenditures would have been \$13.9 million higher, or a total of \$29.5 million. This would equate to an overall HUB participation rate of 21 percent.

Table 2

HUB Performance					
Entity	% of Applicable Payments to Adjusted HUBs	Good-Faith Effort	Categories in which HUB Goal was Exceeded (Fiscal Year 98)	Total Applicable Expenditures (Fiscal Year 98)	Adjusted HUB Expenditures (Fiscal Year 98)
Department of Public Safety	12.9	✓	Professional Services Commodities	\$ 56,168,953	\$ 7,239,573
The University of Texas at San Antonio	10.7	✓	Commodities	22,099,096	2,367,796
The University of Texas - Pan American	13.6	✓	Commodities	14,654,861	1,987,301
Angelo State University	7.2	✓	None	14,540,009	1,046,748
Texas Woman's University	4.7	X	None	6,061,726	285,220
Preservation Board	16.2	✓	Other Services	5,513,507	892,681
Alcoholic Beverage Commission	18.8	✓	Building Construction Commodities	4,705,027	886,143
Higher Education Coordinating Board	19.7	✓	Commodities	2,531,801	499,083
School for the Deaf	11.4	✓	Professional Services	1,916,628	217,774
Board of Medical Examiners	4.0	✓	None	1,015,463	41,027
Board of Nurse Examiners	8.5	✓	Commodities	644,621	55,058
Juvenile Probation Commission	18.7	✓	Professional Services	437,141	81,855

HUB Performance					
Entity	% of Applicable Payments to Adjusted HUBs	Good-Faith Effort	Categories in which HUB Goal was Exceeded (Fiscal Year 98)	Total Applicable Expenditures (Fiscal Year 98)	Adjusted HUB Expenditures (Fiscal Year 98)
Securities Board	4.1	✓	None	144,328	5,859
Board of Barber Examiners	9.5	✓	None	44,390	4,219
Total	12.0%	13/14	9/14	\$ 130,477,551	\$ 15,610,337

Source: The information source for total and HUB expenditures was the General Services Commission's *Annual Historically Underutilized Business (HUB) Report for Fiscal Year 1998*. The data are unaudited. Detailed information is available on-line at http://www.gsc.state.tx.us/98_hub-gov_agy_rpt/hub_xxx_gov_rpt.p01, where xxx is an entity number.

- ✓ The entity achieved an acceptable level of effort in the judgment of the auditor.
- X The entity did not achieve an acceptable level of effort in the judgment of the auditor.

The remaining tables focus on each entity's expenditures to adjusted HUBs. They show how each entity attempted to reach state HUB goals, by procurement type and category of expense.

Table 3 shows how the 14 entities procured HUB goods and services, whether through the use of treasury funds, non-treasury funds, or subcontracts. Approximately 78 percent of adjusted HUB expenditures were from treasury funds; these are captured automatically by the statewide accounting system. In contrast, expenditures from local (non-treasury) funds and subcontracted amounts are self-reported by each entity. Our HUB reviews pay special attention to non-treasury and subcontracted amounts.

Table 3

Total Adjusted HUB Expenditures by Procurement Type					
Agency	Treasury	Non-Treasury	Subcontracts	Term Contracts ¹	Cumulative
Department of Public Safety	\$ 7,060,905	\$ 0	\$ 357,250	\$ 178,582	\$ 7,239,573
The University of Texas at San Antonio	498,261	1,809,836	76,181	16,484	2,367,794
University of Texas - Pan American	1,204,159	754,577	45,330	16,766	1,987,300
Angelo State University	627,755	446,540	0	27,547	1,046,748
Texas Woman's University	299,708	0	0	14,488	285,220
Preservation Board	591,320	45,015	256,900	554	892,681
Alcoholic Beverage Commission	881,316	0	9,851	5,023	886,144
Higher Education Coordinating Board	501,922	0	0	2,838	499,084
School for the Deaf	227,359	0	0	9,585	217,774
Board of Medical Examiners	46,066	0	0	5,039	41,027
Board of Nurse Examiners	81,401	0	0	26,343	55,058
Juvenile Probation Commission	82,099	0	0	244	81,855
Securities Board	6,695	0	0	835	5,860
Board of Barber Examiners	4,219	0	0	0	4,219
Total	\$ 12,113,185	\$ 3,055,968	\$ 745,512	\$304,328	\$ 15,610,337
Percent of Total Adjusted HUB Expenditures	77.6%	19.6%	4.8%	1.9%	100.0% ²

Source: General Services Commission's *Annual Historically Underutilized Business (HUB) Report for Fiscal Year 1998*

¹ Term contracts are contracts administered by the General Services Commission on the entity's behalf; they are subtracted from the entity's totals for treasury, non-treasury, and subcontracts to arrive at a cumulative amount.

² Percent does not total to 100 due to rounding

Table 4 shows HUB expenditures by five categories of expense. The numbers expressed in bold letters represent instances where the entity exceeded the state goal. For example, six entities exceeded the goal for Commodities, while no entities met the goals for special trade. In fact, as a group, the 14 entities exceeded the state goal for Commodities. It is useful to examine HUB expenditures by category of expense since this may indicate where an entity might improve its HUB performance.

Table 4

Adjusted HUB Expenditures by Category of Expense ¹										
Category	Building Construction		Special Trade		Professional Services		Other Services		Commodities	
Adjusted HUB Goal	25.10%		47%		18.10%		33%		11.50%	
	HUB \$	HUB %	HUB \$	HUB %	HUB \$	HUB %	HUB \$	HUB %	HUB \$	HUB %
Department of Public Safety	\$ 902,710	15.30%	\$ 322,903	26.40%	\$ 117,813	59.10%	\$ 1,000,159	5.79%	\$ 4,895,988	15.40%
University of Texas at San Antonio	1,386	0.36	1,795	0.05	-	-	542,369	7.47	1,822,246	16.40
University of Texas - Pan American	6,476	0.29	240,767	19.30	16,875	13.70	109,664	6.62	1,613,519	17.20
Angelo State University	11,693	0.46	59,192	4.88	87,669	10.90	133,139	4.45	755,055	10.80
Texas Woman's University	-	-	18,822	2.74	-	-	20,741	1.66	245,657	5.98
Preservation Board	-	-	111,900	20.40	182,262	8.17	493,071	40.10	105,448	6.99
Alcoholic Beverage Commission	164,140	100.00	-	-	-	-	199,031	24.40	522,972	14.00
Higher Education Coordinating Board	-	-	-	-	-	-	162,194	13.70	336,889	30.50
School for the Deaf	-	-	-	-	36,992	33.20	84,235	14.90	96,547	2.07
Medical Examiner's Board	-	-	-	-	-	-	25,713	9.34	15,314	2.07
Nurse Examiner's Board	-	-	-	-	-	-	37,547	6.81	17,511	19.20
Juvenile Probation Commission	-	-	-	-	40,820	80.30	38,720	21.40	2,315	1.12
Securities Board	-	-	-	-	-	-	2,186	2.70	3,673	7.09
Board of Barber Examiners	-	-	-	-	-	-	4,219	12.40	-	-
TOTAL	\$1,086,405	9.6%	\$ 755,379	9.0%	\$ 482,431	12.9%	2,852,988	8.1%	\$ 10,433,134	14.5%

Source: General Services Commission's Annual Historically Underutilized Business (HUB) Report for Fiscal Year 1998

¹ Because none of the entities spent money on heavy construction in fiscal year 1998, we did not include a category for heavy construction in Table 4.

Objective, Scope, and Methodology

This is the State Auditor's Office's third report on entity compliance with state HUB requirements. The entities audited for compliance with HUB requirements were those scheduled for management control audits during fiscal years 1996 through 1998. The management control audits were conducted in accordance with government audit standards.

The objective of the reviews was to determine whether the entity had made a good faith effort to implement state HUB requirements. The reviews were conducted in accordance with Chapter 321 of the Texas Government Code and Article IX, Section 124 (8), of the General Appropriations Act, 75th Legislature.

In addition to published HUB results, the auditors considered the following in determining whether the entity demonstrated good faith:

- Did the entity include HUB policies, goals, and programs in its strategic plan (Government Code, Section 2161.123[a-c])?
- Did the entity designate a HUB coordinator who attended HUB training seminars and attempted to locate potential HUB vendors?
- Did purchasers use the Commission's list and other sources to identify HUBs, and did they provide contractors with a referenced list of certified HUBs for subcontracting?
- Did the HUB coordinators instruct buyers on HUB requirements to have bond and insurance requirements that would reasonably permit more than one business to perform the work? Did the HUB coordinator also instruct buyers about HUB requirements to ensure that specifications, terms, and conditions reflect the entity's actual requirements (Government Code, Section 111[8])?
- Did the entity meet state reporting requirements, including estimates of expected HUB vendor awards, monthly information, annual progress reports, and self-reported subcontracted and non-treasury expenditures (Government Code, Section 2161.122[a-d])?

As further support for demonstrating a good-faith effort, entities may submit a supplemental letter including documentation as prescribed by the Commission (Government Code, Section 111.13). Examples of good-faith efforts could be:

- Identifying the percentage of contracts awarded to women and/or minority-owned businesses that are not certified as HUBs
- Demonstrating that a different goal was appropriate given the entity's mix of purchases

- Demonstrating that a different goal was appropriate given the particular qualifications required by an entity for its contracts
- Demonstrating that a different goal was appropriate given that graduated HUBs (HUBs that have outgrown their disadvantaged status) cannot be counted toward the goal

There may be valid reasons why an entity might be considered to have made a good faith effort if the entity did not attain a statewide goal, including:

- Not all expenditures within a given object or category of expense are subject to management's control.
- Fewer HUB firms may be available for certain specialized or local expenditures.
- Some entities have continued to use "graduated" HUB vendors.