

# HUB Program: TAC Updates

Effective August 9, 2023



GLENN HEGAR, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS





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# Agenda

- Common Terms
- Background
- Amendments
- References



# Common Terms

## Abbreviations

- **HUB** = Historically Underutilized Business
  - **TAC** = Texas Administrative Code
  - **TGC** = Texas Government Code
  - **CPA** = Texas Comptroller of Public Accounts
  - **SBA** = Small Business Administration
  - **GFE** = Good Faith Effort
  - **HSP** = HUB Subcontracting Plan
  - **SOW** = Scope of Work
  - **PAR** = Progress Assessment Report
- **CMBL** = Centralized Master Bidders List
  - **M-P** = Mentor-Protégé
- ❖ **Subcontractor** = Contracted workers not employees



# Background



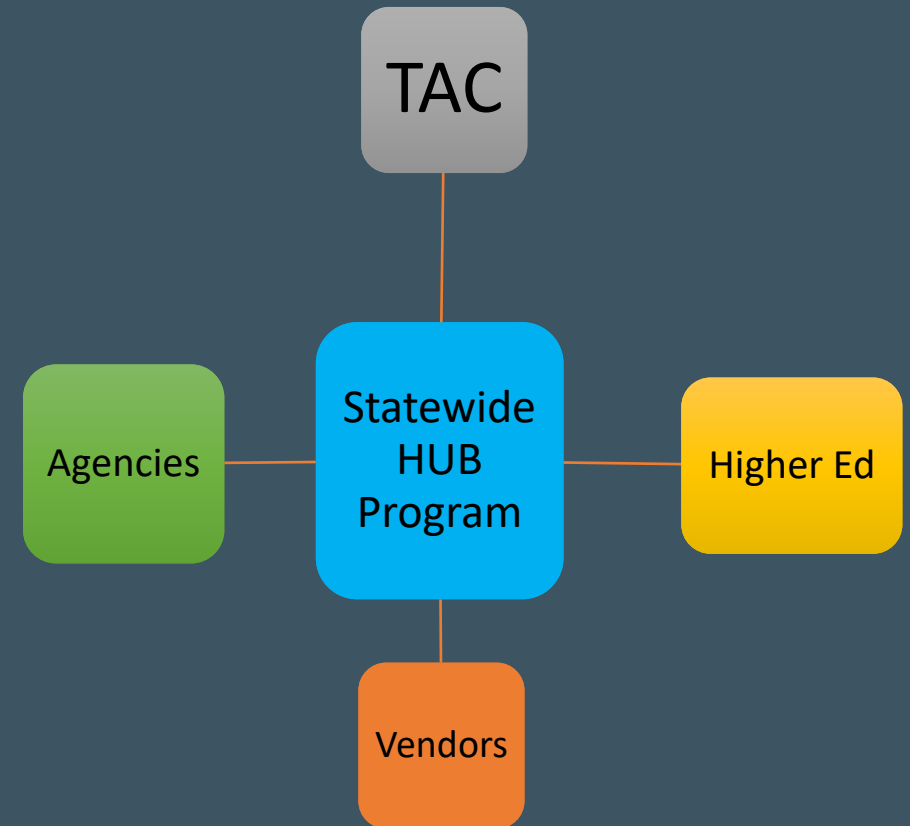
Texas Government Code (TGC §2161):  
Authorized CPA to administer Statewide  
HUB Program.

Texas Administrative Code (34 TAC §20):  
Established the rules for HUB Program.

HUB Program Coordinators:  
Biennial budget \$10 million  
- State agency &  
- Institution of higher education



# HUB Program Guidance:



# Amendments

- HUB Program updates filed with the Secretary of State



- Effective Date of TAC Updates: 8/9/23

# 34 TAC §20.281: Policy & Purpose



## Deletion:

- Chapter 20, Subchapter D, Division 1 reference.

# 34 TAC §20.282: Definitions

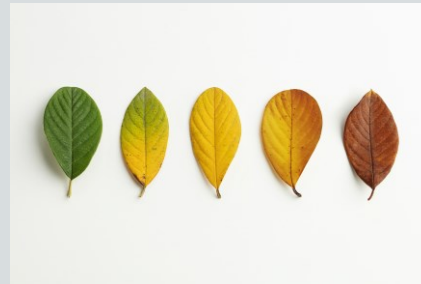
## Update and Reorder:

- Terms were revised for accuracy.



# 34 TAC §20.283: Certification – Evaluation of Active Participation in Management

## Consolidation:



- Previously contained in §20.292(c).

# 34 TAC §20.284: Statewide Annual HUB Utilization Goals

## Addition:

- Subsection (d): 2 optional measures
  - 1) Providing courtesy reviews of HSPs
  - 2) Offering HUB compliance training

# 34 TAC §20.285: Subcontracts

## Reorganization and Consolidation:

- Subsection (b) – alternative delivery methods (construction) for each response/part

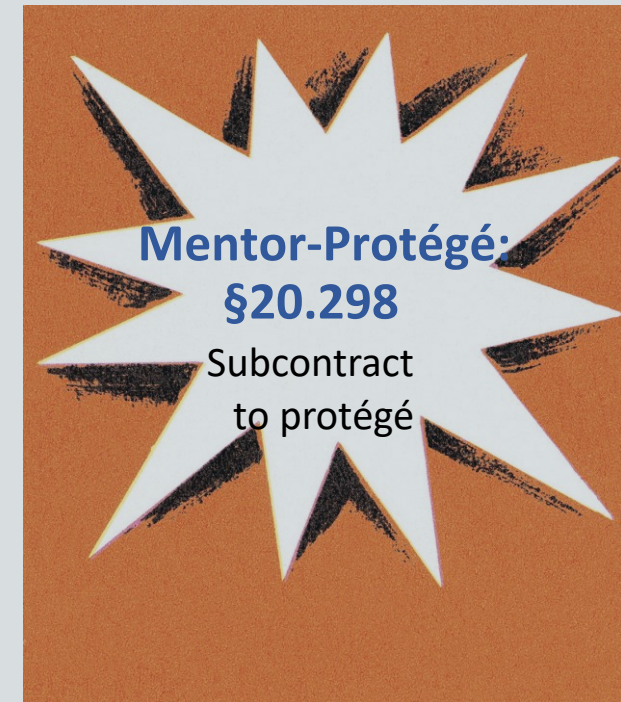


- **Minor deficiencies:**
    - Failure to sign/date Or
    - Failure to submit already-existing evidence
  - **Major deficiencies: Response deadline**
    - Not contacting minority/trade organizations Or
    - Not including a self performing justification
- Subsection (d) – 4 methods of GFE & deletion of existing contracts 5+ yrs.

# 34 TAC §20.285: Subcontracts Continued (1)

## Reorganization and Consolidation:

- Subsection (d) – 4 methods of GFE :
  - **Solicitation Method**
    - Two Trade organizations/Business Development Centers
    - Three HUBs who provide the type of work
    - [Deadline Specific]
    - Documentation must be provided
  - **Utilizing All HUBs Method**
    - Prime HUB vendors do Not Count
  - **Meeting or Exceeding the HUB Goal Method**
    - Prime HUB vendors do Not Count
    - Deletion of existing contracts 5+ years
  - **Self-Performing Method**
    - Statement indicating own equipment, supplies, materials, and employees.



# 34 TAC §20.285: Subcontracts Continued (2)

## Reorganization and Consolidation:

- Subsection (g) – Submit PAR with each invoice (vs monthly) & allow electronic submission *\*meeting formatting/requirements*

# 34 TAC §20.285: Subcontracts Continued (3)

## Reorganization and Consolidation:

- New subsection (h) – Monitoring HSP compliance:
  - Intervals corresponding to invoices
  - Determine HUB payments (meets or exceeds the HSP)
  - Utilizing only subcontractors named in the HSP

### Determine HSP compliance:

- Timely notice to the subcontractor (time & place)
- Facilitated access to resources needed.



### Fails to comply with HSP:

- ❖ Contractor notified of deficiencies
- ❖ Given an opportunity to submit explanation / documentation
- ❖ Must be rectified by next reporting period
- ❖ Vendor Performance Reporting (§20.509).

# 34 TAC §20.285: Subcontracts Continued (4)

## Reorganization and Consolidation:

- New subsection (i) – Amending the HSP
  - Submit an amended HSP **prior** to starting new work/subcontractors
  - Failure to comply may be deemed a breach of the contract
  - State agency may approve requested HSP changes by amending the contract
  - Reasons for amendment recorded in contract file.
  - Expansion of the SOW (change order or contract amendment, including a renewal *that expands the scope of work*):
    - Determine if additional subcontracting opportunities exist &
    - Require amended HSP by contractor to be reviewed.

# 34 TAC §20.286: State Agency Planning Responsibilities

## Update:

- Revised subsection (a) – Goal of TGC, Chapter 2161, Subchapter D: Increase HUB utilization by state agencies.
- Revised subsection (c) – Agency's legislative appropriation request must demonstrate compliance with HUBs.



# 34 TAC §20.287: State Agency Reporting Requirements

## Additions:

- Descriptive title to each subsection
- New clause to subsection (g)
  - Business certified as a HUB for at least 1 day, all payments (to that business) qualify as HUB expenditures



## Removal:

- Subsection (h):
  - Restated reporting requirements in §20.285.

# 34 TAC §20.288: Certification Process

## Addition:

- Subsection (a) – HUB applications must be submitted via online system.

## Revisions:

- Subsection (c) – Applicant to provide evidence of Texas residency (Driver's license, etc.)
- Subsection (e) – A business may be denied HUB certification due to poor record of performance on state contracts.

# 34 TAC §20.289: Protests

## Updates:

- HUB may protest denial of certification via online certification system.
- Final decision of Division Director of CPA.

# 34 TAC §20.290: Recertification

## Revision:

- References the online HUB certification system
  - Only accepted method for recertifications.



# 34 TAC §20.291: Revocation

## Revision:

- HUBs seeking to avoid revocation of HUB status, shall submit documentation in the online HUB certification system.

## Removal:

- Appeals process (repeated in §20.289).

# 34 TAC §20.292: Certification & Compliance Reviews

## Update:

- Distinguishing of certification reviews (applicants) & compliance reviews (certified HUBs)
- Specifies methods of reviews:
  - Desk reviews
  - Virtual reviews
  - In-person reviews
  - & onsite reviews.
- Subsection (d) - HUB certification may be denied or revoked after certification or compliance review.

# 34 TAC §20.293: HUB Certification Directory

## Updates:

- Now Titled Historically Underutilized Business Directory
- Free online database of current HUB certified vendors.



# 34 TAC §20.294: Graduation Procedures

## Revisions:

- Title to each subsection
- Subsection (a) - Size of an entity (including affiliate businesses) defined by the SBA rules,
  - Included entities that own a HUB or HUB applicant
  - Exceed size standards (in combination with its affiliates) = denied certification or recertification
  - HUBs found to exceed the size standards via compliance review will graduate from the HUB program.
- Subsection (c)(3) application submitted by a successor in interest of a HUB graduate treated as a reapplication by the graduated HUB.
- Deletion: TPASS (SPD) director to extend a mentor's HUB status after it exceeds the size standards.



# 34 TAC §20.298: Mentor-Protégé (M-P) Program

## Revision:

- Stated purpose of the M-P program in subsection (a):
  - Foster long-term relationships between experienced contractors & HUBs
  - Increase the ability of HUBs to obtain & perform contracts / subcontracts.

Each state agency with a biennial appropriation that exceeds \$10 million shall implement the Mentor-Protégé Program.

- Mandatory consideration of factors in subsection (b):
  - Needs of protégé businesses to be mentored;
  - Availability of mentors
  - State agency's staff and other resources.
- Addition of registration on CMBL (prerequisite) as a mentor.

TexasAdministrativeCode(TAC):Title34,Part1,Chapter20,Sub-chapter D, Division 1

Texas Government Code (TGC): Chapter 2161

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