

**1. Title**

Use of Historically Underutilized Businesses

**2. Rule and Regulation**

- Sec. 1     Good Faith Effort. It is the policy of the Board of Regents to promote full and equal opportunity for all businesses to supply the goods and services needed to support mission, administrative, and logistical operations of the U. T. System. The U. T. System commits to a good faith effort to increase purchases from and contract awards to Historically Underutilized Business (HUB) firms consistent with the state's goals for HUB participation and overall economic development.
- Sec. 2     Establishment of Procedures. The U. T. System has a compelling interest to assure that procurement funds always are expended in an equal-business-opportunity context. To meet that obligation, the Board of Regents delegates to the Chancellor the responsibility for establishing and maintaining procurement systems and procedures that is nondiscriminatory with respect to race, color, religion, sex, or national origin. That obligation also encompasses procurement systems and procedures of business firms under contract with the U. T. System in order to preclude U. T. System institutions' passive participation in an unlawfully discriminatory marketplace. The Chancellor is also responsible for developing procedures to ensure that a good faith effort is made to meet the state's goals for HUB participation and overall economic development.
- Sec. 3     Adoption of Guidelines. The Board of Regents adopts the use of the guidelines and related rules of the Texas Building and Procurement Commission (TBPC) (1 *Texas Administrative Code* [Part 5 Chapters 111.11 – 111.28](#)).
- Sec. 4     Scope. This policy applies to acquisition of specified commodities, professional and other services, and construction services, by System Administration and institutions of the U. T. System, including auxiliary enterprises, regardless of funding source (treasury or non-treasury funds).

### 3. Definitions

*Historically Underutilized Business* – a business enterprise, with its principal place of business in Texas, that does not exceed specified size standards, that is formed for the purpose of making a profit, and meets one of the following categories:

- A corporation in which at least 51% of all classes of shares of stock or other equitable securities are owned by one or more persons from an economically disadvantaged group.
- A sole proprietorship that is 100% owned by a person from an economically disadvantaged group.
- A partnership in which at least 51% of the assets and interests in the partnership are owned by one or more persons from an economically disadvantaged group.
- A joint venture in which each entity in the joint venture is a historically underutilized business.
- A supplier contract between and historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.
- A business other than described in the bullets above, which is a legally recognized business organization under the laws of the State of Texas, provided that at least 51% of the assets and interest and 51% of any classes of stock and equitable securities are owned by one or more persons from an economically disadvantage group.

*Economically Disadvantaged Group* – include the following:

- Black Americans – includes persons having origins in any of the Black racial groups of Africa.
- Hispanic Americans – includes persons of Mexican, Puerto Rican, Cuban, Central or South Americans, or other Spanish or Portuguese culture or origin.
- Asian Pacific Americans – includes persons whose origins are in Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U. S. Trust Territories of the Pacific, and the Northern Marianas, and Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan or Nepal.
- Native Americans – includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

- American Women – includes all women of any ethnicity except American women specified in the bullets immediately above.

*Commodities* – materials, supplies, or equipment.

*Professional Services* – services procured under provisions of the *Texas Government Code* [Sections 2254.001 – 2254.005](#).

*Other Services* – all services, other than construction and professional services, including consulting services procured under provisions of *Texas Government Code* [Sections 2254.021 – 2254.040](#).

*Construction* – construction, improvement, maintenance, or repair of buildings, roads, highways, or grounds.

*Treasury Funds* – funds maintained in the State treasury and disbursed through the State Comptroller's Office for System Administration or an institution of the U. T. System.

*Non-Treasury Funds* – all funds of the U. T. System Administration or an institution that are not deposited in the State Treasury.

#### **4. Relevant Federal and State Statutes**

*Texas Administrative Code* [Part 5 Chapters 111.11 – 111.28](#) – Texas Building and Procurement Commission

*Texas Government Code* [Sections 2254.001 – 2254.005](#) – Professional and Consulting Services

*Texas Government Code* [Sections 2254.021 – 2254.040](#) – Consulting Services

#### **5. Relevant System Policies, Procedures, and Forms**

*Administrative Rule* [Series 22603](#) – Procedures for Ensuring a Good Faith Effort to Use HUB Firms

#### **6. Who Should Know**

Administrators  
HUB Coordinators  
Procurement Directors

**7. System Administration Office(s) Responsible for Rule**

Office of the Chancellor

**8. Dates Approved or Amended**

December 10, 2004

**9. Contact Information**

Questions or comments regarding this rule should be directed to:

- [bor@utsystem.edu](mailto:bor@utsystem.edu)