

1 **CHAPTER 800. GENERAL ADMINISTRATION**

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3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**

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7 **ON FEBRUARY 5, 2019**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE  
8 RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9  
10 Estimated date of publication in the *Texas Register*: **February 22, 2019**  
11 The rules will take effect: **February 25, 2019**

12  
13 The Texas Workforce Commission (TWC) adopts amendments to the following sections of  
14 Chapter 800, relating to General Administration, *without* changes, as published in the December  
15 14, 2018, issue of the *Texas Register* (43 TexReg 8050):

16  
17 Subchapter A. General Provisions, §800.2 and §800.3

18  
19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

21  
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

23 Chapter 800 is amended to align §800.3 with Texas Government Code §2161.002, as required by  
24 statute. Section 800.3 relates to TWC's provisions for helping historically underutilized businesses  
25 (HUBs) bid for competitive contracts.

26  
27 Pursuant to Government Code §2161.003, all state agencies are required to adopt the State  
28 Comptroller rules described in Texas Government Code §2161.002, relating to increasing agency  
29 contract awards to HUBs. Effective September 1, 2016, administration of vocational rehabilitation  
30 services was transferred from the Texas Department of Assistive and Rehabilitative Services  
31 (DARS) to TWC. To ensure continuity and avoid disruption of services to customers upon transfer,  
32 the administrative rules shared by all DARS programs were duplicated into Chapter 850 of this title,  
33 relating to Vocational Rehabilitation Services Administrative Rules and Procedures. Chapter 850 is  
34 being amended in a separate rulemaking to delete unneeded or outdated references and to move  
35 certain provisions to more appropriate locations. The amendment includes moving the definition of  
36 "HUB" to §800.2 and moving the language being repealed in §850.23, Adoption of Rules, to §800.3.

37  
38 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

39 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
40 therefore, are not discussed in the Explanation of Individual Provisions.)

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42 **SUBCHAPTER A. GENERAL PROVISIONS**

43 **TWC adopts the following amendments to Subchapter A:**  
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1 **§800.2. Definitions**

2 Section 800.2 is amended to add the definition of "Historically Underutilized Business" as it  
3 applies to §800.3. In addition, all citations to the superseded Workforce Investment Act (WIA)  
4 are updated to reflect the Workforce Innovation and Opportunity Act (WIOA)

5  
6 **§800.3. Historically Underutilized Businesses**

7 Section 800.3 is amended to remove an explanation of TWC's provisions for helping HUBs bid  
8 for competitive contracts. The section is replaced with wording previously in effect at Section  
9 850.23, incorporating TWC's formal adoption of the rules of the Texas Comptroller of Public  
10 Accounts, consistent with Texas Government Code §2161.002 relating to HUBs.

11  
12 No comments were received.

13  
14 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
15 within TWC's legal authority to adopt.

16  
17 The rules are adopted under Texas Government Code §2161.003 and Texas Labor Code  
18 §§301.0015 and 302.002(d), which provide TWC with the authority to adopt, amend, or repeal  
19 such rules as it deems necessary for the effective administration of TWC services and activities.

20  
21 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.  
22

1 **CHAPTER 800. GENERAL ADMINISTRATION**

2  
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5 **§800.2. Definitions.**

6  
7 The following words and terms, when used in this part, relating to the Texas Workforce  
8 Commission, shall have the following meanings, unless the context clearly indicates  
9 otherwise.

10  
11 (1) Adult Education and Literacy (AEL)--Academic instruction and education  
12 services below the postsecondary level that increase an individual's ability to:

13  
14 (A) read, write, and speak in English and perform mathematics or other  
15 activities necessary for the attainment of a secondary school diploma or  
16 its recognized equivalent ;

17  
18 (B) participate in job training and retraining programs or transition to  
19 postsecondary education and training; and

20  
21 (C) obtain and retain employment.

22  
23  
24 (2) Agency--The unit of state government established under Texas Labor Code  
25 Chapter 301 that is presided over by the Commission and administered by the  
26 executive director to operate the integrated workforce development system and  
27 administer the unemployment compensation insurance program in this state as  
28 established under the Texas Unemployment Compensation Act, Texas Labor  
29 Code, Title 4, Subtitle A, as amended. The definition of "Agency" shall apply  
30 to all uses of the term in rules contained in this part, unless otherwise defined,  
31 relating to the Texas Workforce Commission.

32  
33 (3) Allocation--The amount approved by the Commission for expenditures to a  
34 local workforce development area during a specified program year, according  
35 to specific state and federal requirements.

36  
37 (4) Board--A Local Workforce Development Board created pursuant to Texas  
38 Government Code §2308.253 and certified by the governor pursuant to Texas  
39 Government Code §2308.261. This includes such a Board when functioning as  
40 the Local Workforce Investment Board as described in the Workforce  
41 Innovation and Opportunity Act (WIOA) §107 (29 USC §3122) , including  
42 those functions required of a youth standing committee, as provided for under  
43 WIOA §107(i). The definition of Board shall apply to all uses of the term in  
44 the rules contained in this part, or unless otherwise defined, relating to the  
45 Texas Workforce Commission. Boards are subrecipients as defined in OMB  
46 Circular A-133.

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- (5) Child Care--Child care services funded through the Commission, which may include services funded under the Child Care and Development Fund, WIOA, and other funds available to the Commission or a Board to provide quality child care to assist families seeking to become independent from, or who are at risk of becoming dependent on, public assistance while parents are either working or participating in educational or training activities in accordance with state and federal statutes and regulations.
  - (6) Choices--The employment and training activities created under §31.0126 of the Texas Human Resources Code and funded under Temporary Assistance for Needy Families (TANF) (42 USC 601 et.seq.) to assist individuals who are receiving temporary cash assistance, transitioning off, or at risk of becoming dependent on temporary cash assistance or other public assistance in obtaining and retaining employment.
  - (7) Commission--The body of governance of the Texas Workforce Commission composed of three members appointed by the governor as established under Texas Labor Code §301.002 that includes one representative of labor, one representative of employers, and one representative of the public. The definition of Commission shall apply to all uses of the term in rules contained in this part, unless otherwise defined, relating to the Texas Workforce Commission.
  - (8) Formal Measures--Workforce development services performance measures adopted by the governor and developed and recommended through the Texas Workforce Investment Council (TWIC).
  - (9) Employment Service--A program to match qualified job seekers with employers through a statewide network of one-stop career centers. ( Wagner-Peyser Act of 1933 (Title 29 USC, Chapter 4B) as amended by WIOA (PL 113 - 128)).
  - (10) Executive Director--The individual appointed by the Commission to administer the daily operations of the Agency, which may include an individual delegated by the Executive Director to perform a specific function on behalf of the Executive Director.
  - (11) Historically Underutilized Business (HUB)--A business entity as defined in 34 TAC §20.282 that is certified by the State of Texas, has not exceeded the standards for size established by 34 TAC §20.294, and has established Texas as its principal place of business.
  - (12) Local Workforce Development Area (workforce area)--Workforce areas designated by the governor pursuant to Texas Government Code §2308.252

1 and functioning as a Local Workforce Investment Area, as provided for under  
2 WIOA §106 and §189(i)(1) (29 USC §3121 and §3249) .  
3

4 (13) One-Stop Service Delivery Network--A one-stop--based network under which  
5 entities responsible for administering separate workforce investment,  
6 educational, and other human resources programs and funding streams  
7 collaborate to create a seamless network of service delivery that shall enhance  
8 the availability of services through the use of all available access and  
9 coordination methods, including telephonic and electronic methods--also  
10 known as Texas Workforce Solutions.  
11

12 (14) Performance Measure--An expected performance outcome or result.  
13

14 (15) Performance Target--A contracted numerical value setting the acceptable and  
15 expected performance outcome or result to be achieved for a performance  
16 measure, including Core Outcome Formal Measures. Achievement between 95  
17 and 105 percent of the established target is considered meeting the target.  
18

19 (16) Program Year--The twelve-month period applicable to the following as  
20 specified:  
21

22 (A) Child Care: October 1 - September 30;  
23

24 (B) Choices: October 1 - September 30;  
25

26 (C) Employment Service: October 1 - September 30;  
27

28 (D) Supplemental Nutrition Assistance Program Employment and Training:  
29 October 1 - September 30;  
30

31 (E) Workforce Innovation and Opportunity Act (WIOA) Vocational  
32 Rehabilitation: October 1 - September 30;  
33

34 (F) Trade Act services: October 1 - September 30;  
35

36 (G) WIOA Adult, Dislocated Worker, and Youth formula funds: July 1 - June  
37 30;  
38

39 (H) WIOA Alternative Funding for Statewide Activities: October 1 -  
40 September 30;  
41

42 (I) WIOA Alternative Funding for One-Stop Enhancements: October 1 -  
43 September 30; and  
44  
45  
46

1 (J) WIOA, Adult Education and Literacy: July 1 - June 30.  
2  
3

- 4 (17) Supplemental Nutrition Assistance Program Employment and Training (SNAP  
5 E&T)--A program to assist SNAP recipients to become self-supporting through  
6 participation in activities that include employment, job readiness, education,  
7 and training, activities authorized and engaged in as specified by federal  
8 statutes and regulations (7 USC §2011), and Chapter 813 of this title relating to  
9 Supplemental Nutrition Assistance Program Employment and Training.  
10
- 11 (18) TANF--Temporary Assistance for Needy Families, which may include  
12 temporary cash assistance and other temporary assistance for eligible  
13 individuals, as defined in the Personal Responsibility and Work Opportunity  
14 Reconciliation Act of 1996, as amended (7 USC §2011 et seq.) and the TANF  
15 statutes and regulations (42 USC §601 et seq.), 45 Code of Federal Regulations  
16 (CFR) Parts 260 - 265). TANF may also include the TANF State Program  
17 (TANF SP), relating to two-parent families, which is codified in Texas Human  
18 Resources Code, Chapter 34.  
19
- 20 (19) Trade Act Services--Programs authorized by the Trade Act of 1974, as  
21 amended (and 20 CFR Part 617) providing services to dislocated workers  
22 eligible for Trade benefits through Workforce Solutions Offices.  
23
- 24 (20) TWIC--Texas Workforce Investment Council, appointed by the governor  
25 pursuant to Texas Government Code §2308.052 and functioning as the State  
26 Workforce Investment Board, as provided for under WIOA §101(e) (29 USC  
27 3111(e). In addition, pursuant to WIOA §193(a)(5) (29 USC 3253(a)(5)),  
28 TWIC maintains the duties, responsibilities, powers, and limitations as  
29 provided in Texas Government Code §§2308.101 - 2308.105.  
30
- 31 (21) WIOA--Workforce Innovation and Opportunity Act--(PL 113 - 128, 29 USC  
32 §3101 et seq.). References to WIOA include references to WIOA formula-  
33 allocated funds unless specifically stated otherwise.  
34
- 35 (22) WIOA Formula-Allocated Funds--Funds allocated by formula to workforce  
36 areas for each of the following separate categories of services: WIOA adult,  
37 dislocated worker, and youth (excluding the secretary's and governor's reserve  
38 funds and rapid response funds).  
39
- 40 (23) Workforce Solutions Offices Partner--An entity that carries out a workforce  
41 investment, educational, or other human resources program or activity, and that  
42 participates in the operation of the One-Stop Service Delivery Network in a  
43 workforce area consistent with the terms of a memorandum of understanding  
44 entered into between the entity and the Board.  
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**§800.3. Historically Underutilized Businesses.**

In accordance with Texas Government Code §2161.003, the Agency adopts the rules of the Texas Comptroller of Public Accounts, Texas Procurement and Support Services at 34 TAC Chapter 20, Subchapter D, Division D, Historically Underutilized Businesses. These rules were promulgated by the Texas Comptroller of Public Accounts, as required under Texas Government Code §2161.002.