

Amend CSHB 3560 (house committee printing) as follows:

(1) On page 53, line 4, between "contracts," and "leases", insert "memoranda of understanding,".

(2) Strike page 10, line 26 through page 11, line 1, and substitute the following:

Sec. 2161.0012. AUTHORITY TO ADOPT RULES. (a) The comptroller may adopt rules to efficiently and effectively administer this chapter.

(b) The comptroller shall follow the procedures prescribed by Subchapter B, Chapter 2001, when adopting a new rule or a change to an existing rule that relates to historically underutilized businesses.

(3) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 2161.061, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A local government or a nonprofit organization that certifies historically underutilized businesses under Subsection (c) or that conducts a certification program described by and approved under Subsection (b) shall make available to the public an online searchable database containing information about historically underutilized businesses, minority business enterprises, women's business enterprises, and disadvantaged business enterprises certified by the local government or nonprofit organization, including:

- (1) the name of the business;
- (2) the contact person or owner of the business;
- (3) the address and telephone number of the business;
- (4) the type or category of business, including relevant capabilities of the business and the North American Industry Classification System codes for the business; and
- (5) the expiration date of the business's certification.

SECTION \_\_\_\_\_. Sections 2161.123(d) and (e), Government Code, are amended to read as follows:

(d) The commission and the state auditor shall cooperate to develop procedures providing for random periodic monitoring of

state agency compliance with this section. The state auditor shall report to the commission a state agency that is not complying with this section. In determining whether a state agency is making a good faith effort to comply, the state auditor shall consider whether the agency:

(1) has adopted rules under Section 2161.003;

(2) has used the commission's directory under Section 2161.064 and other resources to identify historically underutilized businesses that are able and available to contract with the agency;

(3) made good faith, timely efforts to contact identified historically underutilized businesses regarding contracting opportunities; ~~and~~

(4) conducted its procurement program in accordance with the good faith effort methodology set out in commission rules; and

(5) established goals for contracting with historically underutilized businesses in each procurement category based on:

(A) scheduled fiscal year expenditures; and

(B) the availability of historically underutilized businesses in each category as determined by rules adopted under Section 2161.002.

(e) In conducting an audit of an agency's compliance with this section or an agency's making of a good faith effort to implement the plan adopted under this section, the state auditor shall ~~[not]~~ consider the success or failure of the agency to contract with historically underutilized businesses in accordance with the agency's goals described by Subsection (d)(5) ~~[in any specific quantity. The state auditor's review shall be restricted to the agency's procedural compliance with Subsection (d)].~~

SECTION \_\_\_\_\_. Section 2161.127, Government Code, is amended to read as follows:

Sec. 2161.127. LEGISLATIVE APPROPRIATIONS REQUESTS. (a) Each state agency must include as part of its legislative appropriations request a detailed report for consideration by the budget committees of the legislature that shows the extent to which

the agency complied with this chapter and rules of the commission adopted under this chapter during the two calendar years preceding the calendar year in which the request is submitted. To the extent the state agency did not comply, the report must demonstrate the reasons for that fact. The extent to which a state agency complies with this chapter and rules of the commission adopted under this chapter is considered a performance measure for purposes of the appropriations process.

(b) The report under Subsection (a) must include:

(1) the agency's goals established under Section 2161.123(d)(5) for contracting with historically underutilized businesses during the two calendar years preceding the calendar year in which the request is submitted;

(2) a statement regarding whether the goals established under Section 2161.123(d)(5) were met during the two calendar years preceding the calendar year in which the request is submitted; and

(3) if the goals established under Section 2161.123(d)(5) were not met during the two calendar years preceding the calendar year in which the request is submitted:

(A) a statement of the percentage by which the agency's actual use of historically underutilized businesses deviated from the agency's goals; and

(B) an explanation of why the goals were not met.