87R7278 RDS-D

By:  J. Johnson of Harris H.B. No. 2938

A BILL TO BE ENTITLED

AN ACT

relating to state agency audits of a contractor's compliance with a historically underutilized business subcontracting plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Sections 2161.253(b) and (c), Government Code, are amended to read as follows:

(b)  To the extent that subcontracts are not contracted for as originally submitted in the historically underutilized business subcontracting plan, the contractor shall, not later than the 60th day before the date the contract between the contractor and the agency expires, report to the state agency all the circumstances that explain that fact and describe the good faith efforts made to find and subcontract with another historically underutilized business.

(c)  The state agency shall audit the contractor's compliance with the historically underutilized business subcontracting plan. In determining whether the contractor made the required good faith effort, the agency may not consider the success or failure of the contractor to subcontract with historically underutilized businesses in any specific quantity. The agency's determination is restricted to considering factors indicating good faith, including:

(1)  outreach by the contractor to businesses listed in the directory of certified historically underutilized businesses compiled by the comptroller under Section 2161.064;

(2)  proper identification of historically underutilized businesses as potential subcontractors; and

(3)  promotion of a fair and competitive bidding process for all potential subcontractors.

SECTION 2.  Section 2161.124, Government Code, is amended by adding Subsection (d) to read as follows:

(d)  A state agency shall include in the agency's report under this section any report the agency received from a contractor under Section 2161.253(b) during the year covered by the report.

SECTION 3.  This Act takes effect September 1, 2021.