

By: J. Johnson of Harris

H.B. No. 2938

A BILL TO BE ENTITLED

1 AN ACT
2 relating to state agency audits of a contractor's compliance with a
3 historically underutilized business subcontracting plan.

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

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

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

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

23 (1) outreach by the contractor to businesses listed in
24 the directory of certified historically underutilized businesses

1 compiled by the comptroller under Section 2161.064;

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

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

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

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

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