

PROJECT NO. 52805

REVIEW OF 16 TAC §27.170

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER ADOPTING AMENDMENTS TO 16 TAC §27.170
AS APPROVED AT THE JANUARY 27, 2022 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §27.170. The commission adopts this rule with changes to the proposed rules as published in the December 17, 2021 issue of the *Texas Register* (46 TexReg 8418). This rule amendment clarifies the procedure for identifying contracts that require enhanced contract monitoring under Texas Government Code §2261.253.

Substantive changes include amended §25.170(a)(1), which simplifies and revises the factors the commission is required to consider in determining whether enhanced contract monitoring is necessary to better align with the requirements of §2261.253 and those of Chapter 2261 of the Texas Government Code, specifically §2261.051, §2261.052, §2261.0525, §2261.202, and §2261.256. Amended §25.170(a)(2) is modified to clearly refer to the factors listed under paragraph (a). Amended §25.170(c) more clearly indicates the responsible party for enhanced contract monitoring. Lastly, numerous clerical changes are made in the proposed rule for clarity.

No parties filed comments or requested a hearing for this rulemaking.

The amended rule is adopted under PURA §14.002, which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction. The amended rule is also adopted under Texas Government Code

§2261.253, which requires each state agency to establish a procedure, by rule, to identify each contract that requires enhanced contract monitoring.

Cross Reference to Statute: Public Utility Regulatory Act §14.002 and Texas Government Code §2261.253.

§27.170. Enhanced Contract Monitoring Procedure.

- (a) The commission will assess each contract to determine whether enhanced contract monitoring is necessary.
 - (1) The commission will use the following factors to determine whether enhanced contract monitoring is necessary:
 - (A) vendor performance history;
 - (B) the contract amount;
 - (C) contract length;
 - (D) impact on agency goals; and
 - (E) any other factors that may impact the agency.
 - (2) Projects deemed medium or high-risk based on the factors under paragraph (1) of this subsection will be co-monitored by contract and program staff and may involve additional team members such as legal, fiscal, and auditing staff members.

- (b) If a contract is determined to need enhanced monitoring, the commission will require the vendor to provide specific programmatic information on a scheduled basis to determine whether performance measures are being met.
 - (1) Programmatic reports must include information related to the performance measures in the contract, as well as any other deliverables.
 - (2) Enhanced monitoring may also include site visits, additional meetings with the vendor's staff or other documentation relevant to assess progress toward meeting performance requirements.

- (c) The director of the fiscal division must notify the agency governing board of contracts requiring enhanced monitoring through this process

- (d) This process does not apply to an interagency agreement, an interlocal agreement, a memorandum of understanding with another state agency, or a contract for which there is not a cost.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s legal authority to adopt. It is therefore ordered by the Public Utility Commission of Texas that §27.170, relating to Enhanced Contract Monitoring, is hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the _____ day of January 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER