

**PROJECT NO. 45273**

|                                      |          |                                  |
|--------------------------------------|----------|----------------------------------|
| <b>RULEMAKING PROCEEDING TO</b>      | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>ADD 16 TEXAS ADMINISTRATIVE</b>   | <b>§</b> |                                  |
| <b>CODE SUBCHAPTER E, §27.170 TO</b> | <b>§</b> | <b>OF TEXAS</b>                  |
| <b>ESTABLISH A PROCEDURE</b>         | <b>§</b> |                                  |
| <b>IDENTIFYING CONTRACTS THAT</b>    | <b>§</b> |                                  |
| <b>REQUIRE ENHANCED CONTRACT</b>     | <b>§</b> |                                  |
| <b>MONITORING</b>                    | <b>§</b> |                                  |

**PROPOSAL FOR PUBLICATION OF NEW §27.170  
AS APPROVED AT THE MARCH 24, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new Subchapter E. Enhanced Contract Monitoring, §27.170, relating to Enhanced Contract Monitoring Procedure. The proposed new section will establish a procedure identifying contracts that require enhanced contract monitoring pursuant to Texas Government Code §2261.253, which was added by Senate Bill 20 (84<sup>th</sup> Leg). Project Number 45273 is assigned to this proceeding.

Mr. Jay Stone, Program Administrator, Budget & Fiscal Oversight Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Jay Stone has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the higher level of monitoring associated with commission contracts that have a risk level of medium or high. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section.

Mr. Jay Stone has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed new section may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 14 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 45273.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2015), which provides the Public Utility Commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statute: Public Utility Regulatory Act §14.002.

### **Subchapter E. ENHANCED CONTRACT MONITORING**

#### **§27.170. Enhanced Contract Monitoring Procedure.**

- (a) The commission shall assess each contract to determine whether enhanced contract monitoring is necessary.
  - (1) The commission shall use the following factors to determine whether enhanced contract monitoring is necessary:
    - (A) the complexity of the services,
    - (B) the contract amount,
    - (C) whether the services or contractor are new or changed significantly,
    - (D) whether the project involved is a high profile project, and
    - (E) any other factors that may impact the project.
  - (2) Projects deemed medium or high risk shall 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 if performance measures are being met.
  - (1) Programmatic reports shall 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 and other documentation determined to assess progress by the agency towards meeting performance requirements.
- (c) The director of fiscal division shall notify agency executive staff of contracts needing enhanced monitoring through this process.
- (d) This process does not apply to interagency agreement, 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.

**ISSUED IN AUSTIN, TEXAS ON THE 24<sup>TH</sup> DAY OF MARCH 2016 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**