

1 **CHAPTER 800. GENERAL ADMINISTRATION**

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3 ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS*  
4 *REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT  
5 IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS*  
6 *REGISTER*.

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8 The Texas Workforce Commission (Commission) adopts amendments, *without* changes,  
9 to the following sections of Chapter 800, relating to General Administration, as published  
10 in the November 17, 2006, issue of the *Texas Register* (31 TexReg 9445):

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12 Subchapter A, General Provisions, §§800.3, 800.5, 800.6, and 800.7

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14 PART I. PURPOSE, BACKGROUND, AND AUTHORITY  
15 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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18 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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20 The purpose of the adopted rule amendment is to implement Senate Bill (SB) 452,  
21 enacted by the 79th Texas Legislature, Regular Session (2005), which amends Texas  
22 Government Code, Chapter 552 by transferring all duties relating to the Public  
23 Information Act to the Office of the Attorney General (OAG).

24  
25 SB 452 streamlines the process of providing public information by housing all functions  
26 relating to the Public Information Act under one agency. OAG now responds to all  
27 questions about compliance with the Public Information Act. As a result, operations are  
28 more efficient and the public is better served.

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30 The purpose of the adopted rule amendment is also to conform the language of §800.6(f)  
31 regarding de minimis requests to reflect that charges are assessed when permissible under  
32 the Public Information Act. Specifically, charges will be assessed for materials, labor,  
33 and overhead when the request is fewer than 50 pages and the records are located in two  
34 or more separate buildings that are not physically connected to each other or are in a  
35 remote storage facility.

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38 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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40 **SUBCHAPTER A. GENERAL PROVISIONS**

41 **The Commission adopts the following amendments to Subchapter A:**

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43 **§800.3. Historically Underutilized Businesses**

44 Section 800.3(a) is modified to replace the General Services Commission with the Texas  
45 Building and Procurement Commission because of the agency's name change.

1 **§800.6. Charges for Copies of Public Records**

2 Section 800.6(a) is modified to replace the outdated reference to the General Services  
3 Commission with OAG rules (1 TAC, Chapter 70).

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5 Section 800.6(c) is modified to replace the outdated reference to the General Services  
6 Commission with OAG rules (1 TAC, Chapter 70).

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8 Section 800.6(f) is modified to align the rule regarding de minimis requests with Texas  
9 Government Code §552.261 et seq. to allow recoupment of the cost of handling open  
10 records requests that are under 50 pages. Specifically, the Public Information Act allows  
11 recoupment of charges for materials, labor, and overhead in situations where the  
12 requested records are located in two or more separate buildings that are not physically  
13 connected to each other or are in a remote storage facility.

14  
15 Currently, Chapter 800 waives charges for open records that are 50 pages or less.  
16 However, some open records requests result in the production of fewer than 50 pages yet  
17 require extensive staff time and resources to fulfill. While the Commission intends to  
18 recoup charges where the materials, labor, and overhead charges are applicable under the  
19 Public Information Act for requests under 50 pages, the Commission may waive or  
20 reduce charges in circumstances in which §552.267 of the Public Information Act apply.  
21 Section 552.267 provides that a governmental body shall provide a copy of public  
22 information without charge or at a reduced charge if the governmental body determines  
23 that waiver or reduction of the charge is in the public interest because providing the copy  
24 of the information primarily benefits the general public. In addition, §552.267 provides  
25 that if the cost to a governmental body of processing the collection of a charge for  
26 providing a copy of public information will exceed the amount of the charge, the  
27 governmental body may waive the charge. The Commission intends to apply these  
28 provisions when such circumstances arise.

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30 **§800.7. Agency Vehicles**

31 Section 800.7(a) is modified to replace the reference to the General Services Commission  
32 and Internet address with the Texas Building and Procurement Commission because of  
33 the agency's name change.

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35 Section 800.7(b)(3) is modified to replace the reference to the General Services  
36 Commission with the Texas Building and Procurement Commission because of the  
37 agency's name change.

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41 **No comments were received.**

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43 The Agency hereby certifies that the proposal has been reviewed by legal counsel and  
44 found to be within the Agency's legal authority to adopt.

1 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which  
2 provide the Texas Workforce Commission with the authority to adopt, amend, or repeal  
3 such rules as it deems necessary for the effective administration of Agency services and  
4 activities.

5

6 The rules affect Texas Government Code, Chapters 552, 2161, and 2171.

7

1 **Chapter 800. GENERAL ADMINISTRATION**

2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 **§800.3. Historically Underutilized Businesses**

- 4 (a) The Commission is committed to assisting Historically Underutilized Businesses  
5 (HUBs) as defined in Texas Government Code §2161.001, Definitions, in their  
6 efforts to participate in contracts to be awarded by the Commission. This includes  
7 assisting HUBs to meet or exceed the procurement utilization goals set forth in the  
8 Texas Administrative Code at 1 TAC Chapter 111 (relating to Executive  
9 Administration Division) incorporated herein by reference. Chapter 111 was  
10 promulgated by the Texas Building and Procurement Commission and sets out the  
11 State's Historically Underutilized Business Certification Program.
- 12 (b) The Commission shall take positive steps to inform HUBs of opportunities to  
13 provide identified state services that it determines may better be provided through  
14 a competitive process.

15 **§800.5. Commission Professional Development Program**

- 16 (a) Scope and Purpose. The Commission provides training opportunities to enhance  
17 job skills and to retain a well qualified, trained, professional workforce dedicated  
18 to the Commission's mission. The Professional Development Program training  
19 includes instruction, teaching, or other education received by a state employee that  
20 is not normally received by other state employees and that is designed to enhance  
21 the ability of the employee to perform the employee's job. This section establishes  
22 eligibility and related requirements for employee participation in the  
23 Commission's Professional Development Program.
- 24 (b) Eligibility. The executive director or the executive director's designee will  
25 determine an employee's eligibility for the professional development program.  
26 Factors to be considered include, but are not limited to:
- 27 (1) an employee's job performance;
  - 28 (2) a recommendation from the employee's supervisor;
  - 29 (3) the relationship of the training to the employee's position; and
  - 30 (4) any other factor deemed relevant by the executive director or his designee.
- 31 (c) Restitution from Employees for Training Costs. The employee training is  
32 conditional upon all of the following:
- 33 (1) The employee shall attend and satisfactorily complete the training, including  
34 passing tests or other types of performance measures where required.
  - 35 (2) At the discretion of the executive director or the executive director's designee,  
36 the employee shall complete and file with the Commission prior to the  
37 commencement of the training, on forms prescribed by the Commission, an  
38 employee training agreement that sets forth the terms and conditions of the  
39 training assistance, including a provision for working for the Agency for a  
40 prescribed period of time or paying back the amount of the assistance.

- 1 (3) For any training paid for by the Commission, where the employee does not  
2 perform the employee's regular duties for three or more months due to the  
3 training, the employee shall:
- 4 (A) work for the agency following the training for at least one month for  
5 each month of the training period, prorated as appropriate; or
  - 6 (B) pay the Commission for all costs associated with the training that were  
7 paid before, during, or after the training, including any amounts of the  
8 employee's salary that were paid and that were not accounted for as paid  
9 vacation or compensation leave.

10 **§800.6. Charges for Copies of Public Records.**

- 11 (a) General Procedure. Except as otherwise specified in this chapter, the Commission  
12 hereby adopts by reference the definitions, methods, procedures, and charges for  
13 copies of public records required under the Office of the Attorney General rules (1  
14 TAC, Chapter 70), as may be amended.
- 15 (b) Methods of Making Requests. Requests may be submitted in writing to the  
16 following mailing address: Officer for Public Information, Texas Workforce  
17 Commission, 101 East 15th Street, Austin, Texas 78778-0001. Requests also may  
18 be submitted by e-mail or facsimile to designated e-mail and facsimile locations.
- 19 (c) Standard Fees. The Commission may establish a standard fee for the handling of  
20 certain types of repetitive requests when the costs of responding to such requests  
21 are substantially similar in most cases. The standard fee will be the average costs  
22 of handling that type of request. The average cost is calculated using the  
23 personnel, resource, and overhead charges set forth in the Office of the Attorney  
24 General rules (1 TAC, Chapter 70) governing charges for copies of public records  
25 and will be based upon a survey of a representative sample of requests.
- 26 (d) Adjustments for Actual Cost. In the event that the actual costs of responding to a  
27 given request are significantly lower or higher than the standard fee charged for  
28 that type of request, actual costs will be charged in lieu of the standard fee.
- 29 (e) Program-Related Requests. No charge will be assessed to an individual or an  
30 employing unit for copies of records pertaining to that individual or employing  
31 unit when the provision of records is deemed by the Commission to be reasonably  
32 required for the proper administration of the Texas Unemployment Compensation  
33 Act, found at the Texas Labor Code, Title 4, Subtitle A.
- 34 (f) De Minimis Requests. No charge will be assessed to any individual or entity for  
35 providing copies of records in response to a request for public information under  
36 Texas Government Code, Chapter 552 when the total records provided in response  
37 to all requests made by that same individual or entity in any given 30-day period  
38 consist of fewer than 50 pages of readily available, standard-size pages maintained  
39 as paper documents, except that charges for materials, labor, and overhead may be  
40 assessed if the records are located in two or more separate buildings that are not  
41 physically connected to each other or are in a remote storage facility.
- 42 (g) Requests by Other Governmental Entities. Notwithstanding any other provision in  
43 this section, provision of information to other governmental agencies for purposes  
44 other than the administration of the Texas Unemployment Compensation Act will

1 be made only on a cost reimbursable basis, with all costs being calculated in  
2 accordance with OMB Circular A-87, as required by federal law at 20 Code of  
3 Federal Regulations §603 *et seq.* Charges to other governmental entities can only  
4 be waived when the request is of an isolated or infrequent nature and when the  
5 costs of responding to a particular request are negligible.

- 6 (h) Certified Records. In addition to the fees the Commission may charge for  
7 providing copies of records, the Commission shall charge a fee of \$5.00 for  
8 preparation of a certification instrument which may be attached to one or more  
9 pages of records covered by the certification instrument.

10 **§800.7. Agency Vehicles.**

- 11 (a) Purpose and Intent. The purpose of this rule is to implement the provisions of  
12 Texas Government Code § 2171.1045. The intent of the Commission is to ensure  
13 that the use and management of vehicles by the Agency is consistent with the  
14 State Vehicle Fleet Management Plan (Plan) as adopted by the Office of Vehicle  
15 Fleet Management of the Texas Building and Procurement Commission. The Plan  
16 may be viewed on the Internet at <http://www.tbpc.state.tx.us/fleet>, or a copy may  
17 be requested from the Agency.
- 18 (b) The Commission adopts by reference and shall implement the provisions  
19 contained in the Plan as referenced in subsection (a) of this section including the  
20 following general provisions on use of vehicles by the Agency.
- 21 (1) Vehicles, with the exception of vehicles assigned to field employees, are  
22 assigned to the Agency motor pool and may be available for checkout.
- 23 (2) The Agency may assign a vehicle to an individual administrative or executive  
24 employee on a regular or everyday basis only if there is a documented finding  
25 that the assignment is critical to the needs and mission of the Agency.
- 26 (3) The Agency will work with the Texas Building and Procurement Commission  
27 to identify, apply for, and if possible, utilize any waiver or exemption  
28 provisions where the recognition of conditions specific to the Agency would  
29 further the general purpose of fiscal efficiency and good business practices.

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