

## AGENDA ITEM MEMO

**BOARD MEETING DATE:** April 6, 2023

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Ashley Harden, General Counsel

**FROM:** Alexis Lorick, Assistant General Counsel

**SUBJECT:** Authorizing the adoption of rules to 31 Texas Administrative Code (TAC) Ch. 353 and adoption of the notice of intent to review to be published in Texas Register.

### **ACTION REQUESTED**

Consider authorizing (1) the publication of a notice of adoption of rule review for 31 TAC Chapter 353, Subchapters B, D, E, F, and I; and (2) the publication of proposed adopted amendments 31 TAC § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and § 353.140.

### **BACKGROUND**

On January 19, 2023, the Board authorized the publication of a notice of intent to review Texas Water Development Board (TWDB) rules contained in 31 TAC Chapter 353, as well as proposed amendments to 31 TAC § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and § 353.140. This action requests authorization to publish notice adopting the Agency's rule review and adoption of proposed amendments to the aforementioned sections of the TAC following notice and comment in the *Texas Register*.

### **KEY ISSUES**

The TWDB is required pursuant to Texas Government Code (Tex. Gov't Code) § 2001.039 to review all existing rules every four years. After review, it must either re-adopt, re-adopt with amendments, or repeal existing rules.

The Office of General Counsel filed with *The Texas Register* a notice of intent to review certain subchapters in 31 TAC Chapter 353 and the proposed amendments to § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and § 353.140. These notices were published on February 2, 2023. No comments on either the review of 31 TAC Chapter 353, Subchapters B, D, E, F, and I, or the proposed amendments to § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and

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Jeff Walker, Executive Administrator

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§ 353.140 were received during the public comment period. The public comment period ended on March 6, 2023.

After review of the 31 TAC 353, Subchapters B, D, E, F, and I, the Office of General Counsel recommends re-adopting the rules in these subchapters without any changes as the reasons for the rules continue to exist. Chapter 353 contains TWDB rules related to general agency procedures and practices, including board meetings, employee leave pools, Historically Underutilized Businesses Program, rulemaking hearings, the agency's vehicle fleet, ethics issues related to donors and conflicts of interest, Texas Natural Resources Information System programs, collecting delinquent obligations, and enhanced contract monitoring. Many of these rules are required by general statutes applicable to all state agencies.

In addition, because no comments were received from the public related to the proposed amendments to § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and § 353.140, the Office of General Counsel recommends that these amendments as previously proposed be adopted. The Office of General Counsel requests authorization to publish a notice of adoption rule review and to publish amendments to rules in the *Texas Register* for 31 TAC Chapter 353.

#### **RECOMMENDATION**

The Executive Administrator recommends the publication of a notice in the *Texas Register* adopting the rule review of 31 TAC Chapter 353, Subchapters B, D, E, F, and I and the adoption of rulemaking to 31 TAC § 353.4, § 353.12, § 353.41, § 353.103, § 353.122, and Section 353.140.

#### Attachments:

Proposed notice of adoption of rule review to be filed with the *Texas Register*.

Proposed adoption of rulemaking to be filed with the *Texas Register*.

Texas Water Development Board

Title 31, Part 10, Chapter 353

The Texas Water Development Board (TWDB) files this notice of intent to review the rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 353, Subchapters B, D, E, F, and I.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years.

Notice of the review of the aforementioned subchapters was published on February 3, 2023, issue of the *Texas Register* (48 TexReg 525). TWDB received no comments during the comment period.

TWDB conducted its review in accordance with the requirements of the Texas Government Code, §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years. The TWDB considered whether the initial factual, legal, and policy reasons for adopting each rule in these subchapters continued to exist and determined that the original reasons for adopting these rules continue to exist and re-adopts these subchapters. This concludes TWDB's review of 31 TAC, Title 31, Part 10, Chapter 353, Subchapters B, D, E, F, and I.

The Texas Water Development Board (TWDB) adopts amendments to 31 Texas Administrative Code (TAC) §353.4, §353.12, §353.41, §353.103, §353.122, and §353.140. The proposal is adopted without changes as published in the February 3, 2023, issue of the *Texas Register* (48 TexReg 464).

## BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

These amendments are being made pursuant to the TWDB's periodic rule review of Chapter 353. In assessing the reasons for initially adopting the rules and assessing any necessary updates, the TWDB identified some necessary changes.

## SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

### SUBCHAPTER A. GENERAL PROVISIONS.

#### *§353.4. Public Participation.*

Section 353.4 is revised to conform with current agency practice. While the rule states that members of the public must sign a registration form at the Board Meeting, the agency currently allows members of the public to submit a form via email in anticipation of Board Meetings.

#### *§353.12. Applications Filing and Notice.*

Section 353.12 is revised to provide transparency to the public on applications received by the TWDB. While current rule requires publishing a list of certain applications received in the *Texas Register* each month, the TWDB adopts amendments to post the list on the agency's website instead. The statute requiring reporting of certain applications received does not require publication in the *Texas Register* and those individuals interested in TWDB applications are more likely to check the agency website than the *Texas Register*.

### SUBCHAPTER C. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM.

#### *§353.41. Adoption of Comptroller Rules.*

Section 353.41 is revised to update citations and cross references. The former General Services Commission duties and rules were transferred to the Comptroller of Public Accounts.

### SUBCHAPTER G. TEXAS NATURAL RESOURCES INFORMATION SYSTEM (TNRIS).

#### *§353.103. State Agency Geographic Information Standards.*

Section 353.103 is revised to update an outdated statutory reference and correct grammar.

### SUBCHAPTER H. COLLECTING DELINQUENT OBLIGATIONS.

#### *§353.122. Procedures For Collecting A Delinquent Obligation.*

Section 353.122 is revised to change an updated United States Postal Service term from "address service requested" to "address correction requested."

## SUBCHAPTER J. ENHANCED CONTRACT MONITORING.

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

Section 353.140 is revised to simplify the enhanced contract monitoring procedures that the TWDB uses for analyzing contracts. The simplified language will align more closely with statutory requirements for applicable types of contracts. The simplified list of attributes and risk factors to be considered by staff will aid staff in tailoring risk reviews to specific types of contracts. The key risk factors that apply to typical TWDB contracts will remain in the procedures.

### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS (Texas Government Code §2001.024(a)(4))

Ms. Rebecca Trevino, Chief Financial Officer, has determined that there will be no fiscal implications for state or local governments as a result of the adopted rulemaking. For the first five years these rules are in effect, there is no expected additional cost to state or local governments resulting from their administration.

These rules are not expected to result in reductions in costs to either state or local governments. There is no change in costs because the rules update non-substantive references and terminology or only impact internal agency procedures. These rules are not expected to have any impact on state or local revenues. The rules do not require any increase in expenditures for state or local governments as a result of administering these rules. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code, §2001.0045 to repeal a rule does not apply. Furthermore, the requirement in §2001.0045 does not apply because these rules are necessary to implement legislation.

The TWDB invites public comment regarding this fiscal note. Written comments on the fiscal note may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

### PUBLIC BENEFITS AND COSTS (Texas Government Code §2001.024(a)(5))

Ms. Rebecca Trevino also has determined that for each year of the first five years the adopted rulemaking is in effect, the public will benefit from the rulemaking as it simplifies and clarifies TWDB processes and updates outdated terminology and references. Ms. Rebecca Trevino also has determined that for each year of the first five years the adopted rulemaking is in effect, the rules will not impose an economic cost on persons required to comply with the rule as it generally only impacts internal TWDB procedures.

ECONOMIC AND LOCAL EMPLOYMENT IMPACT STATEMENT (Texas Government Code §§2001.022, 2006.002); REGULATORY FLEXIBILITY ANALYSIS (Texas Government Code §2006.002)

The TWDB has determined that a local employment impact statement is not required because the adopted rule does not adversely affect a local economy in a material way for the first five years that the adopted rule is in effect because it will impose no new requirements on local economies. The TWDB also has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of enforcing this rulemaking. The TWDB also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as adopted. Therefore, no regulatory flexibility analysis is necessary.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a “major environmental rule” as defined in the Administrative Procedure Act. A “major environmental rule” is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify and simplify internal TWDB procedures.

Even if the adopted rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather Texas Water Code §6.195 and Texas Government Code §§2001.039, 2107.002, 2161.003, and 2261.253. Therefore, this adopted rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this adopted rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to

clarify and simplify TWDB procedures. The adopted rule would substantially advance this stated purpose by updating outdated terminology and references and by clarifying agency practice and procedure related to general administrative functions.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this adopted rule because this is an action that is reasonably taken to fulfill obligations mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is a state agency in the executive branch that is required to adopt certain general state agency requirements in rule.

Nevertheless, the TWDB further evaluated this adopted rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this adopted rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule establishes internal agency practices without burdening or restricting or limiting the owner's right to property and reducing its value by 25% or more. Therefore, the adopted rule does not constitute a taking under Texas Government Code, Chapter 2007.

#### PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

No public comments were received during the comment period, which ended on March 6, 2023. No changes were made to the rulemaking as proposed.

#### STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §6.195 and Texas Government Code §2001.039, §2107.002, §2161.003, and §2261.253.

This rulemaking affects Water Code, Chapters 6 and 16 and Government Code, Chapters 2001, 2107, 2161, and 2261.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION.

PART 10. TEXAS WATER DEVELOPMENT BOARD.

CHAPTER 353. INTRODUCTORY PROVISIONS.

SUBCHAPTER A. GENERAL PROVISIONS.

§353.4. Public Participation.

(a) Board meetings, unless recessed into executive session pursuant to the Texas Open Meetings Act, shall be open to the public.

(b) Any person seeking to address the board concerning an item on the board's agenda posted with the secretary of state shall complete a registration form at or before the meeting. The board may administer oaths to those persons testifying before the board. When the board is required to accept or invites public comments at its meetings, the board will establish the order for presentation of argument or comments concerning items about which the public seeks to address the board. When necessary in order to prevent undue meeting length, the board may limit the number of times a person may testify, the time period for oral presentations, and the time period for raising questions. The board may limit or exclude cumulative or unduly repetitious presentations, and may require that one representative present the information and position of an entity or persons and entities that are closely aligned.

(c) A person desiring to file briefs, affidavits, information, or any written statements or documents relating to an agenda item shall submit the document no later than the date of the meeting, provided the board may grant additional time for submission. Since the board will take action on most agenda items at the scheduled meeting, persons seeking to file written information with the board should attempt to provide the information to the executive administrator as early as possible before the board meeting.

§353.12. Applications Filing and Notice.

At the time an application requiring action of the board is filed with the board and is administratively complete, the board shall give notice as follows.

(1) The executive administrator shall mail notice confirming the information in paragraph (3) of this section to any person who shall have previously informed the executive administrator in writing of an interest in said application.

(2) The executive administrator shall post the information contained in paragraph (3) of this section on the agency website.

(3) Notices under this section shall state:

(A) the identifying number given the application by the board;

(B) the name and address of the applicant;

(C) the date on which the application was submitted; and

(D) a brief summary of the information included in the application.

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The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §6.195 and Texas Government Code §2001.039, §2107.002, §2161.003, and §2261.253.

This rulemaking affects Water Code, Chapters 6 and 16 and Government Code, Chapters 2001, 2107, 2161, and 2261.

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#### SUBCHAPTER C. HISTORICALLY UNDERUTILIZED BUSINESSES PROGRAM.

##### §353.41. Adoption of Comptroller Rules.

The board adopts the current administrative rules adopted by the Texas Comptroller of Public Accounts regarding the Historically Underutilized Business Program. The Comptroller's rules can be found at Title 34, Part 1, Chapter 20, Subchapter D, Division 1.

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The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §6.195 and Texas Government Code §2001.039, §2107.002, §2161.003, and §2261.253.

This rulemaking affects Water Code, Chapters 6 and 16 and Government Code, Chapters 2001, 2107, 2161, and 2261.

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#### SUBCHAPTER G. TEXAS NATURAL RESOURCES INFORMATION SYSTEM (TNRIS).

##### §353.103. State Agency Geographic Information Standards.

(a) Applicability. All users and developers of geographic datasets and geographic information systems in state agencies must comply with the technical standards specified in this section. Activities conducted by a registered professional land surveyor while engaged in the practice of professional surveying, as defined in the Professional Land Surveying Practices Act (Texas Occupations Code, Chapter 1071) are exempt from these standards.

(b) Implementation guidance. Pursuant to Water Code §16.021(c), the GIO provides guidance to the Executive Administrator of the Texas Water Development Board and to the Department of Information Resources (the department). The guidance provided by the GIO to the department relates to technology standards developed by the department for geographic datasets pursuant to Water Code §16.021(e)(4).

(c) Geographic Information Standards.

(1) Geographic dataset acquisition and development.

(A) Standard. An agency planning to acquire, develop, or enhance a geographic dataset that may correspond to an HPIDS dataset shall coordinate such activity with the GIO to determine potential use of the HPIDS master contract.

(B) Procurement of public domain geographic datasets. An agency that procures a copy of a federal or other public domain geographic dataset shall make the dataset available to the Texas Natural Resources Information System (TNRIS). TNRIS will make these datasets available to other agencies, institutions of higher education, and to the public.

(2) Geographic dataset exchange: Data format. An agency that originates or adds data content to a non-proprietary geographic dataset and distributes the dataset to another state agency, institution of higher education, or the public must make the dataset available in at least one digital format that is recognized by the most commonly used geographic information systems. This requirement does not preclude the agency from offering the dataset in other data formats. The GIO provides guidance on acceptable formats for data exchange.

(3) Geographic dataset documentation.

(A) Preparation. An agency shall prepare documentation for each geographic dataset that it both:

(i) originates and/or adds data content to; and

(ii) distributes as a standard product to another state agency, institution of higher education, or the public.

(B) Statement of Purpose. Documentation must include a statement of the purpose or intended use of the dataset and a disclaimer warning against unintended uses of the dataset. If an agency is aware of specific inappropriate uses of the dataset that some users may be inclined to make, the dataset disclaimer must specifically warn against those uses.

(C) Format. This documentation must be in a geospatial metadata format specified by the GIO.

(D) Delivery. In responding to a request for a geographic dataset, an agency shall provide the requestor a copy of the documentation.

(4) GIS map product disclaimer. Any map product, in paper or electronic format, produced using geographic information system technology and intended for official use and/or distribution outside the agency, must include a disclaimer statement advising against inappropriate use. If the nature of the map product is such that a user could incorrectly consider it to be a survey product, the disclaimer must clearly state that the map is not a survey product.

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The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §6.195 and Texas Government Code §2001.039, §2107.002, §2161.003, and §2261.253.

This rulemaking affects Water Code, Chapters 6 and 16 and Government Code, Chapters 2001, 2107, 2161, and 2261.

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#### SUBCHAPTER H. COLLECTING DELINQUENT OBLIGATIONS.

##### §353.122. Procedures For Collecting A Delinquent Obligation.

(a) When an obligation has been determined to be delinquent, pursuant to §353.121 of this title (relating to Procedures For Establishing A Delinquent Obligation), the board shall take the following steps.

- (1) Verify the debtor's address and telephone number, to the extent possible.
- (2) Use the comptroller of public account's "Warrant Hold" procedures to prevent payment to a delinquent debtor.
- (3) Within 30 days of the obligation being determined to be delinquent, send the debtor a demand letter for the full amount of the obligation.
- (4) If the debtor does not respond to the demand letter, send a second demand letter no sooner than 30 days but not more than 60 days after the first demand letter was mailed.
- (5) Verify that the obligation is not legally uncollectible or uncollectible as a practical matter.

(A) In cases of bankruptcy, the board shall prepare and timely file a proof of claim, when appropriate, in the bankruptcy case of each debtor. Copies of all such proofs of claims filed shall be sent to the attorney general. The board shall maintain records of notices of bankruptcy filings, dismissals, and discharge orders to enable it to ascertain whether the collection of the claim is subject to automatic stay provisions or whether the debt has been discharged.

(B) If the obligation is subject to an applicable limitation provision that would prevent suit as a matter of law, the obligation will not be referred to the attorney general unless circumstances indicate the limitations provision has been tolled or is otherwise inapplicable.

(C) If a corporation has been dissolved, has been liquidated under Chapter 7 of the United States Bankruptcy Code, or has forfeited its corporate privileges or charter, or, in the case of a foreign corporation, had its certificate of authority revoked, the obligation shall be referred to

the attorney general unless circumstances indicate the account is clearly uncollectible. These circumstances shall be documented in the appropriate account file.

(D) If the debtor is an individual and is located out-of-state, or outside the United States, the matter shall not be referred to the attorney general unless a determination is made that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of board funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified. The board shall consult with the attorney general in making such determinations.

(E) If the debtor is deceased, the board shall file a claim in each probate proceeding administering the decedent's estate. If such probate proceeding has concluded and there are no remaining assets of the decedent available for distribution, the delinquent obligation shall be classified as uncollectible and not referred to the attorney general. If probate administration is pending or if none has been opened, any referral to the attorney general shall include an explanation of any circumstances indicating that the decedent has assets available to apply towards satisfying the obligation.

(6) If the debtor does not respond to the second demand letter within 30 days of it being mailed, and if the debt is not determined to be legally uncollectible or uncollectible as a practical matter, the board shall report the uncollected and delinquent obligation to the attorney general for further collection efforts. However, delinquent obligations upon which a bond or other security is held shall be referred to the attorney general no later than 60 days after becoming delinquent. If the principal has filed for relief under federal bankruptcy laws, the account shall be referred to the attorney general immediately upon notice or as soon as the board knows of the filing.

(b) Demand letters sent by the board shall include a statement, where practical, that the debt, if not paid, will be referred to the Texas attorney general's office. The demand letters shall be mailed in envelopes bearing the notation "address correction\_requested" in conformity with the current regulations and policies of the United States Postal Service. If an address correction is provided by the United States Postal Service, the affected demand letter shall be resent to the address provided.

(c) Where permitted by state law, the board shall file a lien securing an obligation in the appropriate records of the county where the debtor's principal place of business or, where appropriate, the debtor's residence is located or in such county as may be required by law. The lien shall be filed as soon as the obligation becomes delinquent or as soon as is practicable. If the delinquent obligation is referred to the attorney general in accordance with this section, the lien may not be released unless the board receives written approval from the attorney general or if the delinquent obligation is paid in full.

(d) Where practicable, the board shall maintain individual collection histories of each account in order to document attempted contacts with the debtor, the substance of the communications with the debtor, efforts to locate the debtor and assets, and other information pertinent to collection of the delinquent account.

(e) The procedures of this section do not apply to:

(1) bonds or other debt obligations held by the board as evidence of debt incurred through the board's financial assistance programs for which collection remedies are provided by the debt vehicle or by law; or

(2) any debt for which a collection process is already determined by law.

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The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §6.195 and Texas Government Code §2001.039, §2107.002, §2161.003, and §2261.253.

This rulemaking affects Water Code, Chapters 6 and 16 and Government Code, Chapters 2001, 2107, 2161, and 2261.

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#### SUBCHAPTER J. ENHANCED CONTRACT MONITORING.

##### §353.140. Enhanced Contract Monitoring Procedure.

(a) In accordance with Government Code §§2261.253(c) and 2261.256, contract managers will perform risk analyses for goods and services contracts to determine whether enhanced contract and performance monitoring is necessary. The following attributes will be considered, as applicable:

(1) risk of fraud, waste, or abuse;

(2) cost, duration, and scope of the contract;

(3) responsibilities and accountability of agency and vendor staff;

(4) vendor experience and past performance;

(5) data security protocols; and

(6) legislative or statutory requirements, potential impact on agency operations or programs, and external stakeholder impacts.

(b) Any contract rated high risk will receive enhanced contract monitoring to be performed by the contract manager. Enhanced contract monitoring may include the following actions, as applicable:

- (1) weekly or monthly progress reports;
- (2) documented controlled correspondence;
- (3) regular site visits;
- (4) project team meetings; and/or
- (5) documentation of corrective actions.

(c) Contract and performance monitoring activities will be documented and reported to the board on a quarterly basis. The Procurement Director, in working with the contract manager, will notify the board of any serious issue or risk identified with respect to a contract subject to enhanced monitoring.

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