

Subchapter C. PERFORMANCE AND CONTRACT MANAGEMENT

40 TAC §800.83

The Texas Workforce Commission (Commission) proposes new Subchapter C, Performance and Contract Management, §800.83, Performance Review and Assistance.

Background. The Commission is charged with ensuring accountability of Boards and subrecipients of the Agency. Boards are charged with the oversight and management of the services and activities of the One-Stop Service Delivery Network. Specifically, Board and Commission goals reflect WIA goals: streamlining services; empowering individuals; universal access; increased accountability; strong role for Boards and the private sector; and state and local flexibility. These goals also reflect the four principles of Texas' vision: limited and efficient state government; local control; personal responsibility; and support for strong families.

Texas Government Code Chapter 2308, Texas Labor Code Title 4 and WIA have imposed on Boards a number of duties and responsibilities for the administration of Commission-funded activities, including maintaining adequate fiscal systems, complying with the uniform rules for administration of grants and agreements, meeting the contract performance measures, and complying with all applicable state and federal statutes and regulations. The Commission is responsible for oversight of Boards' and subrecipients' activities and for identifying difficulties in meeting contract performance levels or complying with applicable statutes and regulations.

The proposed rules emphasize the partnership between the Commission and Boards in assuring compliance with federal and state requirements through performance reviews, technical assistance, and contract oversight and monitoring. The purpose of performance review and assistance and performance improvement plans is to assist the Boards in meeting and exceeding their performance goals as well as correcting deficiencies and meeting statutory, regulatory and contract responsibilities. If performance review and assistance, including a performance improvement plan and initial corrective actions do not produce anticipated results, the Commission will consider the sanction actions described in this subchapter to ensure that services continue to be available in the workforce areas and that there is no interruption of services. The new sanctions rules complement the new subchapter on Performance Review and Assistance, which focuses on helping Boards and subrecipients of the Agency avoid sanctions.

Subsection C, Reallocation of Funds, is repealed in this issue of the Texas Register and new Subchapter C, Performance and Contract Management is added and intended to begin in §800.81.

New §800.83 is added relating to performance review and assistance. The purpose of the rules are more specifically to:

- (1) ensure successful service delivery outcomes and provide accountability through technical assistance and contract management;
- (2) provide successful interventions to assist Boards and subrecipients of the Agency in their mission to increase employment or reemployment opportunities for participants as well as provide quality applicants for Texas employers;
- (3) describe the Agency's purpose and intent in addressing Board and subrecipient of the Agency performance and assistance needs; and
- (4) provide for additional Board outreach activities to allow the Board members and employees to become more proficient in the administration and operation of Board activities.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rule;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule;

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rule; and

There are no anticipated economic costs to persons required to comply with the rule.

Mr. Townsend has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rule because small businesses are not regulated or required to do anything by the rule.

James Barnes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of the proposed rule.

Barbara Cigainero, Director of Workforce and Development, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to provide information and set forth requirements regarding the performance review and assistance activities of the Commission and Boards. Comments on the proposal may be submitted to John Moore, Texas Workforce Commission Building, 101 East 15th Street, Room 608, Austin, Texas 78778, (512) 463-3041. Comments may also be submitted via fax to (512) 463-1426 or e-mailed to: John.Moore@twc.state.tx.us. Comments must be received by the Agency within 30 days from the date of the publication in the *Texas Register* .

For information about the Commission please visit our web page at www.texasworkforce.org.

The new rule is proposed under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The rule affects Texas Labor Code, Chapter 302, and Texas Human Resources Code, Chapters 31 and 44.

§800.83. Performance Review and Assistance.

(a) Intent. The intent of the Commission is to define the role of performance review and assistance provided by the Agency. The role of performance review and assistance is to ensure successful service delivery outcomes and provide accountability through technical assistance and contract management.

(b) Goal. The goal of the Commission is to provide successful interventions to increase employment or reemployment opportunities for participants as well as providing quality applicants for Texas employers.

(c) Purpose. The Agency offers a sequence of interventions including basic technical assistance, contract management, and development of a Performance Improvement Plan.

(d) Boards and Subrecipients of the Agency. Boards and their contractors and subrecipients of the Agency shall ensure cooperation and compliance with the Agency's performance review and assistance activities and services.

(e) Failure to cooperate and comply with the Agency's performance review and assistance activities and services, including the Performance Improvement Plan, may subject a Board or a subrecipient of the Agency to the assignment of a sanction status and penalty.

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.

Filed with the Office of the Secretary of State, on June 15, 2001.

TRD-200103401

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Texas Workforce Commission

Earliest possible date of adoption: July 29, 2001

For further information, please call: (512) 463-2573