ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.1

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1003). The rule will not be republished. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand or contract the applicability of an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment from February 20, 2026, through March 22, 2026 to receive input on the proposed action. No public comment was received on the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the action affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601951
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.1

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1004). The rule will not be republished. The purpose of the rule is to provide clarity and make other minor non-substantive revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new section will not expand nor contract an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment on the proposed section from February 20, 2026, through March 22, 2026. No comment was received and the rule is being adopted without changes.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601952
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.6

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.6, Historically Underutilized Businesses without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1005). The rule will not be re-

published. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because under §2001.0045(c)(1) this section does not apply to a rule that relates to state agency procurement.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the handling of Historically Underutilized Businesses (HUBs) in procurement.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand or contract the applicability of an existing regulation.

7. The repeal may affect the number of individuals subject to the rule's applicability, but that is correlated with the rules of the Comptroller which this rule is solely becoming compliant with.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal may create an economic effect on small or micro-businesses or rural communities, but that is correlated with the rules of the Comptroller which this rule is solely becoming compliant with.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed sections would be a rule that is compliant with the rules of the Comptroller. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment from February 20, 2026, through March 22, 2026, to receive input on the proposed action. No public comment was received on the repeal and the rule is being adopted without changes.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the action affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601954
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.6

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1006). The rule will not be republished. The purpose of the rule is to ensure that the rule is compliant with the new emergency rulemaking issued by the Comptroller of Public Accounts relating to Historically Underutilized Businesses (HUBs). The Comptroller's rule changes the HUB program to ensure it complies with the Texas Constitution and U.S. Constitution and reflects that the program will serve small businesses owned by service-disabled veterans (SDV), regardless of race, sex or ethnicity and will be referred to as Veteran Heroes United in Business, or VetHUB.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because under §2001.0045(c)(1) this section does not apply to a rule that relates to state agency procurement.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the handling of Historically Underutilized Businesses in the Department's procurements.

2. The new section does not require a change to the work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new section will not expand or contract the applicability of an existing regulation.

7. The new section may affect the number of individuals subject to the rule's applicability, but that is correlated with the rules of the Comptroller which this rule is solely becoming compliant with.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section- to the extent that the changes in the HUB Program may create an economic effect on small or micro-businesses or rural communities, that is not due to the Department's rule changes, but due to the Comptroller's changes, which the Department is complying with.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a rule compliant with the changes made by the Comptroller to the HUB Program. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment from February 20, 2026, through March 22, 2026, to receive input on the proposed action. No public comment was received and the rule is adopted without changes.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601956
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.16

The Texas Department of Housing and Community Affairs (the Department) adopts the amendment of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1007). The rule will not be republished. The rule is required to comply with Tex. Gov't Code Chapters 2263, 2270, and 2252 as it relates to the conduct applicable to financial advisors or service providers. The purpose of the amendment is to bring the rule into greater alignment with these Chapters and refer to the Comptroller's Texas Procurement and Contract Management Guide, Appendix 24.

Tex. Gov't Code §2001.0045(b) does not apply to the rule action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amended section would be in effect:

1. The amended section does not create or eliminate a government program but relates to the conduct applicable to financial advisors or service providers.

2. The amended section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The amended section does not require additional future legislative appropriations.

4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended section does not create a new regulation.

6. The amended section will not expand nor contract an existing regulation.

7. The amended section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amended section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amended section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amended section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amended section as to its possible effect on local economies and has determined that for the first five years the rule would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the amended section would be an updated and more compliant rule. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended section is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment on the proposed action from February 20, 2026, to March 22, 2026. No public comment was received and the rule is adopted without changes.

STATUTORY AUTHORITY. The amended section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amended section affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601949
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

10 TAC §1.19

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1009). The rule will not be republished. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand or contract the applicability of an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 20, 2026, through March 22, 2026, to receive input on the proposed repeal action. No public comment was received and the repeal is adopted without changes.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the action affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601957
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.19

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1010). The rule will not be republished. The purpose of the rule is to make revisions to clarify that reallocation may occur not only for contracted funds, but also for funds that are committed or obligated, and in the case of funds that have been awarded but the awarded entity has failed to execute a contract.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new section will not expand or contract an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be

an updated and clearer rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment from February 20, 2026, through March 22, 2026, to receive input on the proposed action. No public comment was received and the rule is adopted without changes.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601958
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.22

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department without changes to the text previously published in the February 20, 2026 issue of the *Texas Register* (51 TexReg 1011). The rule will not be republished. The purpose of the amended rule is to remove the requirement that fax information be updated.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amended section would be in effect:

1. The amended section does not create or eliminate a government program but relates to the requirement that any person or entities doing business with the Department must notify the Department of any change in contact information.

2. The amended section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The amended section does not require additional future legislative appropriations.

4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended section does not create a new regulation.

6. The amended section will not expand nor contract an existing regulation.

7. The amended section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amended section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amended section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amended section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amended section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended section is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment from February 20, 2026, through March 22, 2026, to receive input on the proposed action. No public comment was received and the amendments are adopted without changes.

STATUTORY AUTHORITY. The amended section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended section affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601950
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 27, 2026
Proposal publication date: February 20, 2026
For further information, please call: (512) 475-3959

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER O. UNBUNDLING AND MARKET POWER

DIVISION 2. INDEPENDENT ORGANIZATIONS

16 TAC §25.368

The Public Utility Commission of Texas (commission) adopts new 16 Texas Administrative Code (TAC) §25.368, relating to Commission Directives to ERCOT, with changes to the proposed text as published in the November 28, 2025 issue of the *Texas Register* (50 TexReg 7659). The rule will be republished. The new rule implements Public Utility Regulatory Act (PURA) §39.1514 as enacted by House Bill (HB) 1500 during the Texas 88th Regular Legislative Session. The new rule sets forth the framework for the commission to issue a directive that requires the Electric Reliability Council of Texas, Inc. (ERCOT) to take an official action. This section is adopted under Project Number 57883.

The commission received written comments on the proposed section from the City of Houston; ERCOT; Lower Colorado River Authority and LCRA Transmission Services Corporation (LCRA); Oncor Electric Delivery Company LLC (Oncor); Steering Committee of Cities Served by Oncor and Texas Coalition for Affordable Power (OCSC and TCAP); Texas Electric Cooperatives, Inc. (TEC); Texas Energy Association for Marketers (TEAM); Texas Industrial Energy Consumers (TIEC); Texas Public Power Association (TPPA); and Vistra Corporate Service Company (Vistra).

General Comments

Examples

The City of Houston recommended that commission staff, in coordination with ERCOT and market participants, clarify and provide examples of how the rule would apply in urgent or emergency situations, such as (1) instructions to ERCOT to direct transmission operators to implement, modify, or discontinue controlled outages intended to stabilize grid frequency; (2) instructions to ERCOT to modify procurement of ancillary services (e.g., voltage support or reserves) outside of normal protocol limits intended to maintain reliability; (3) instructions to ERCOT to apply or modify emergency-pricing protocols or suspend certain market mechanisms intended to prevent cascading outages; (4) instructions to ERCOT to override, modify, or suspend normal economic dispatch and commit additional generation units through Reliability Unit Commitment (RUC) intended to prevent system collapse; (5) instructions to ERCOT to prioritize power delivery to hospitals, water treatment facilities, and other facilities deemed by the commission to be critical during controlled outages; (6) instructions to ERCOT to issue immediate public alerts or coordination messages to market participants and state agencies; and (7) clarification regarding other instructions to ERCOT conceived by commission staff working in conjunction with ERCOT and impacted market participants.

Commission Response

The commission declines to adopt the City of Houston's recommendation to provide examples of how the adopted rule would apply in urgent or emergency situations because it is unnecessary. Adopted §25.368(f) addresses the processes and procedures that must be followed for the commission to issue a directive in an urgent or emergency situation in compliance with the requirements of PURA §39.1514(c). Additionally, the commission modifies the rule by adding a new paragraph to adopted subsection (f) that allows the commission to issued verbal directives in other emergency situations that meet the statutory standard of an imminent threat to public health, public safety, or the reliability of the power grid. While the commission agrees that use of verbal directives must be limited to extraordinary circumstances, the commission must have the flexibility to take emergency action when necessary to protect the public from unforeseen risks.

Discussion in an open meeting

TPPA recommended revising the proposed rule to explicitly state that neither the commission nor any individual commissioner may direct or instruct ERCOT to take any actions, official or otherwise, before discussion in an open meeting.

Commission Response

The commission declines to adopt TPPA's recommendation to explicitly state that neither the commission nor any individual commissioner may direct or instruct ERCOT to take any actions, official or otherwise, before discussion in an open meeting because the scope of this rulemaking proceeding is implementing PURA § 39.1514, which applies to the commission's statutory authority to direct ERCOT to perform official actions. Further, ERCOT and the commission are regulatory partners, and the effective regulation of the grid requires a wide array of interactions between the commissioners and ERCOT, some leading to legally binding requirements on ERCOT to act and others not. The commission generally only has legal authority to act by majority vote of a present quorum at an open meeting, so any communication made by an individual commissioner to ERCOT outside of an open meeting does not impose legal requirements on ERCOT to take official actions. However, adding explicit rule text prohibiting communications to ERCOT outside of the scope of this rule may cause future misunderstandings over the types of communications that are permissible between commissioners and ERCOT or create a chilling effect on collaboration.

Proposed §25.368(a) - Applicability

Proposed §25.368(a) states that the proposed rule applies to a directive, introduced by a commissioner and adopted by the commission, that requires ERCOT to take an official action, including an action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity. The proposed rule does not apply to a directive that the commission is statutorily required to issue, or an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT or commission staff.

The commission modifies the general structure of the rule by consolidating proposed subsections (a) and (b) into a single "purpose and applicability" section. The commission will address the specific provisions contained in this new subsection in context below.

Broader applicability

TIEC recommended modifying proposed §25.368(a) to cover all scenarios in which the commission directs ERCOT to take an official action by replacing "a directive" with "any directive" and adding "but not limited to" after "including."

TIEC and TPPA recommended modifying proposed §25.368(a) to remove the last sentence of proposed §25.368(a), which identifies directives that the proposed rule does not apply to because PURA §39.1514 does not provide for exceptions. Alternatively, TPPA recommended excluding rulemakings and other similar commission proceedings that will require ERCOT action from the requirements of the proposed rule.

Commission Response

The commission substantively addresses TIEC and TPPA's concerns with the new purpose and applicability subsection. Adopted §25.368(a) states that this section applies to a directive that requires ERCOT to take an official action and does not contain the exceptions for directives that the commission is statutorily required to issue or an order that the commission issues through a commission proceeding, including a review process. The commission does not modify the applicability language of the rule by replacing "a directive" with "any directive" as recommended by TIEC, because the use of "a" is more consistent with commission drafting practice in this context.

The commission also modifies the rule to include a provision clarifying that failure to issue a directive in accordance with this section does not invalidate an otherwise properly adopted rule or ERCOT protocol. Both the commission and ERCOT have statutorily grounded rulemaking processes that are transparent and allow for public participation. If a rule or protocol is properly adopted through one of these processes, the provisions of this rule should not be interpreted to invalidate such a rule or protocol. The intent of this rule is to ensure that impactful decisions make at ERCOT and the commission are fully transparent and include a meaningful public participation process, and the proper adoption of a rule or protocol fulfills this intent.

Directive introduced by a commissioner

TEAM, TIEC, and Vistra recommended modifying proposed §25.368(a) to remove "introduced by a commissioner" and to make conforming changes throughout the proposed rule because PURA §39.1514 is intended to apply to all commission directives to take an official action regardless of who introduces the directive. TIEC reasoned that the requirement that a directive be "introduced by a commissioner" implies that the commission could entertain and issue directives that instruct ERCOT to take "official action" without using the procedures described in PURA §39.1514 in situations where anyone other than a commissioner proposes the directive.

Commission Response

The commission adopts TEAM, TIEC, and Vistra's recommendation to remove "introduced by a commissioner" and to make conforming changes throughout the proposed rule. However, the commission notes that a valid exercise of its statutory authority necessarily requires the commission to take a vote and only actions adopted by a majority of the legal votes cast by a present quorum of the commission are legally binding. As such, one or more commissioner statements or opinions on a matter are not legally binding. The purpose of the struck language was to clarify that in a scenario in which one or more commissioners provide statements or opinions, those statements or opinions are not legally binding nor an action of the commission unless a majority of the present quorum of the commission follows the legal procedures required to exercise the commission's statutory authority. The commission removes the phrase "introduced by a commissioner" to address public comments that addressing such a distinction may inadvertently create a procedural loophole in which ERCOT staff or commission staff may introduce a commission directive for ERCOT to take an official action and thus avoid the requirements of PURA §39.1514 or the adopted rule. However, the commission modifies adopted §25.368(d) to clarify that a directive must be proposed by a commissioner, commission staff, or ERCOT staff.

Directives that are statutorily required

TEAM recommended modifying proposed §25.368(a) by adding that the rule does not apply to a directive that the commission is statutorily required to issue "if the applicable statutory requirement sets out a specific process for the commission to follow in issuing the directive." TEAM reasoned that this ensures that the rule appropriately provides for circumstances where the statute is silent as to process for a required directive by clarifying that the rule applies unless a different process is set out in the applicable statute.

Vistra recommended modifying proposed §25.368(a) to state that the proposed rule does not apply to a "clear and unambiguous" directive that the commission is statutorily required to issue. Vistra reasoned that the plain text of PURA §39.1514 does not exclude statutorily required directives from the commission to ERCOT from its scope, and, therefore, any such mandatory directives cannot be categorically excluded from the scope of the proposed rule. For instance, if a statute were to authorize and require the commission to direct ERCOT to implement and allocate costs of a new out-of-market demand response program but not offer instructions for allocation of the program's costs, the commission would need to either broadly direct ERCOT to implement and allocate costs for such a program in a manner consistent with the statutory directive (that is transferred through the commission's directive). Alternatively, Vistra recommended that the commission could provide further guidelines on such a directive via rulemaking or contested case.

Commission Response

The commission generally agrees with TEAM's observation that a statute will sometimes prescribe a specific process the commission should use to complete a particular statutory mandate. The commission modifies the rule by adding "(t)his section implements PURA § 39.1514" to the purpose and applicability section. This clarifies that this section is implementing a particular

statutory provision and is not intended to address the process the commission will follow in other contexts where a different statutory provision governs.

The other concerns expressed by commenters are substantively addressed by the adopted purpose and applicability section, which does not contain the proposed exemption for directives the commission is statutorily required to issue. The commission also adds §25.368(c)(5) to the rule, which establishes a process for issuing statutorily required directives. Specifically, the new paragraph specifies that a directive that the commission is statutorily required to issued may be issued by written order or memorandum at an open meeting. It further requires that a rulemaking or contested case must be used to issue a statutorily required directive that imposes a cost, fee, or significant operational obligation when the commission includes additional direction or requirements not included in the statutory language. This approach provides the right balance by ensuring that a statutorily required directive is always issued in written form, and that a directive that imposes a cost, fee, or significant operational obligation is given an appropriate level of process either at the commission or at ERCOT. This is appropriate because both the commission and ERCOT have statutorily supported processes that provide transparency and public input opportunities. If the commission intends to leave ERCOT with discretion over the implementation details of a statutorily required directive, there is no value gained by conducting a rulemaking at the commission prior to issuing it to ERCOT. In all scenarios, however, the public would have notice and an opportunity to comment on the proposed directive prior to its issuance by the commission. This will allow the public to recommend that the commission provide additional direction or requirements to directive the commission is statutorily required to issue before said directive is issued to ERCOT by written order or memo.

Review process

OCSC and TCAP recommended modifying proposed §25.368(a) to remove "including a review process" because the phrase is vague and open to interpretation. Specifically, OCSC and TCAP recommended modifying proposed §25.368(a) to state that the section does not apply to a directive that the commission is statutorily required to issue, or an order that the commission issues through contested case, rulemaking proceeding, or a defined process for review of ERCOT Protocol or Guide Revisions approved by the Board of the Independent Organization that is initiated by ERCOT staff or commission staff.

TEAM recommended modifying proposed §25.368(a) to remove "or an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT staff or commission staff." TEAM reasoned that excluding staff-initiated actions could create a structural loophole that could permit material directives, with material impacts to either cost or operational obligations, to bypass stakeholder engagement.

Vistra recommended modifying proposed §25.368(a) to state that the proposed rule does not apply to an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT staff or commission staff "pursuant to a statutory or rule requirement." Vistra noted that the plain text of PURA §39.1514 does not exclude statutorily required directives from the commission. However, it may be efficient and practical to exclude certain proceedings, such as those that directly flow from a statute or rule (e.g., a periodic review, such as the approval of the ERCOT budget and the System Administration Fee).

Commission Response

The commission adopts TEAM's recommendation to modify adopted §25.368(a) to remove "or an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT staff or commission staff" to conform the adopted rule language with the removal of "introduced by a commissioner" after references to "directive." This approach addresses OCSC and TCAP's concerns that "other review process" is vague and ambiguous by removing the phrase. This approach also renders it unnecessary to make the change recommended by Vistra to modify adopted §25.368(a) to state that the proposed rule does not apply to an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT staff or commission staff "pursuant to a statutory or rule requirement."

For clarity, however, the commission adds two provisions to the adopted purpose and applicability section. The commission adds that this section does not apply to the commission's approval, rejection, or remand with suggestion modifications of a new or revised ERCOT protocol under PURA § 39.151(g-6), and the commission adds that this section does not modify or void any ERCOT processes or operations. While not strictly necessary, these provisions address sources of common confusion expressed in the comments and stakeholder community over the intended scope of this rule.

Proposed §25.368(b) - Scope

Proposed §25.368(b) states that the proposed rule defines a directive, defines an official action, and establishes that a process must be followed for a commissioner to introduce and the commission to adopt a directive that requires ERCOT to take an official action.

TIEC recommended modifying proposed §25.368(b) to state that the proposed rule establishes what processes must be followed for a commissioner to introduce "or" the commission to adopt a directive that requires ERCOT to take an official action. TIEC reasoned that the use of "or" in this provision avoids any implication that the proposed rule is limited to situations where a commissioner introduces the directive.

Vistra recommended modifying proposed §25.368(b) to include the following: "The commission will not use a verbal directive to ERCOT to take an official action. The commission will only direct ERCOT to take an official action through a contested case, rulemaking, or a memorandum or written order adopted by a majority vote, as described in this section." Vistra reasoned that multiple sections of the proposed rule limit the rule's applicability and scope to only directives that are "introduced by a commissioner." However, PURA §39.1514 explicitly acknowledges the existence of "verbal directives." In light of other clarifying but potentially limiting provisions in the proposed rule, there could be a risk that the commission might provide verbal feedback or instructions to ERCOT that result in new or increased cost or significant operational burdens imposed outside of those bounds.

Commission Response

The commission declines to adopt TIEC's recommendation to modify adopted §25.368(b) to state that the adopted rule establishes what processes must be followed for a commissioner to introduce "or" the commission to adopt a directive that requires ERCOT to take an official action because it is unnecessary. The new purpose and applicability section does not contain the language upon which TIEC commented.

The commission declines to adopt Vistra's recommendation to modify adopted §25.368(b) to include the following: "The commission will not use a verbal directive to ERCOT to take an official action. The commission will only direct ERCOT to take an official action through a contested case, rulemaking, or a memorandum or written order adopted by a majority vote, as described in this section." PURA §39.1514 limits the circumstances in which the commission is authorized to issue a verbal directive for ERCOT to take an official action. Therefore, the recommended change is unnecessary. Moreover, a directive for ERCOT to take an official action that is not issued through a contested case, rulemaking, a memorandum, or written order adopted by a majority of legal votes of a present quorum of the commission is not a legally binding action taken by the commission.

Proposed §25.368(c)(1) - Definition for directive

Proposed §25.368(c)(1) defines a directive as an instruction, introduced by a commissioner and adopted by a majority vote of the commission, that requires ERCOT to take an official action.

OCSC and TCAP recommended modifying proposed §25.368(c)(1) to account for less formal directives by defining a directive as "an instruction introduced by a commissioner, whether issued informally or adopted by a majority vote of the commission, that requires ERCOT to take an official action." OCSC and TCAP reasoned that the commission has previously directed ERCOT to take official actions using a more informal manner than what is contemplated in the proposed rule. For example, on January 17, 2019, the commission directed ERCOT to make major changes to a wholesale price adder system known as the Operating Reserve Demand Curve (ORDC). In giving this directive, the commission did not follow any formal rulemaking or contested case process, nor did the commissioners take a formal vote or any other action compliant under the Administrative Procedure Act. To maintain consistency and align with its recommended definition of directive, OCSC and TCAP also recommended incorporating references to informal instructions throughout the proposed rule where references of "majority vote" appear.

Commission Response

The commission declines to adopt OCSC and TCAP's recommendation to modify adopted §25.368(c)(1) to account for less formal directives because a commission directive is necessarily a formal instruction issued by the commission requiring ERCOT to take an official action. To further clarify this intent, the commission simplifies the definition of directive to "an instruction that requires ERCOT to take official action." A less formal instruction is not an enforceable requirement and thus not a directive. However, explicitly defining the process of how the commission does issue legally-binding directives for ERCOT to take official action will serve to clarify that other communications between ERCOT and the commission are not legally binding.

Proposed §25.368(c)(2) - Definition for official action

Proposed §25.368(c)(2) defines an official action as an action that requires approval by the ERCOT Board of Directors and impacts either the wholesale market or the operation of the grid in the ERCOT region. An official action does not include conducting a study, contracting with a third-party to conduct a study, a verbal update to the commission, a report, or a notification.

Approval by ERCOT Board of Directors

Oncor recommended modifying proposed §25.368(a) and (c)(2) to clarify that the proposed rule applies to directives that do not require approval by the ERCOT Board of Directors to be implemented. Examples include instructing ERCOT to set prices pursuant to a wholesale pricing directive or to implement conservative operations such as increasing ERCOT's procurement of ancillary services.

OCSC and TCAP and Vistra recommended modifying proposed §25.368(c)(2) to remove reference to an action that requires approval by the ERCOT Board of Directors. OCSC and TCAP reasoned that some actions that could have significant impacts to the wholesale market or the operation of the ERCOT grid do not require the ERCOT Board of Directors' approval. As an example, Vistra noted that when the commission rejected Nodal Protocol Revision Request (NPRR) 1224 (relating to ERCOT Contingency Reserve Service (ECRS) manual deployment and triggers), ERCOT was directed verbally to implement certain criteria for manual release of ECRS reserves, which ERCOT has done despite no vote on that action from the ERCOT Board.

TPPA recommended modifying proposed §25.368(c)(2) to define an official action as "nondiscretionary action carried out by either the ERCOT Board or ERCOT staff that relates to the operation of the grid or market outcomes." TPPA reasoned that the proposed definition is too narrow and would exclude many of the most important decisions that ERCOT makes. For example, the decision to implement a conservative operating posture required no formal approval by the ERCOT Board of Directors.

TIEC recommended modifying proposed §25.368(c)(2) to define an official action as "an action that will require approval by the ERCOT Board of Directors, a committee that has been delegated authority to act on behalf of the ERCOT Board of Directors, or a corporate officer who has been delegated authority to act on behalf of the ERCOT Board of Directors." TIEC reasoned that this approach to the definition aligns with Black's Law Dictionary, which explains that when the word "official" is used as an adjective--like in the phrase "official action"--the term means "1. Of, relating to, or involving an office or position of trust or authority" or "2. Authorized or approved by a proper authority." Moreover, this corresponds with a plain reading of the term "official action" when applied to an organization, which is an action that is authorized or approved by or on behalf of the officials in charge of that organization.

Commission Response

The commission agrees with commenters that defining official action to require approval by the board is too narrow and would exclude significant actions that impact market participants and grid reliability. The commission modifies this portion of the definition of official action to state that an official action is an "act of ERCOT…carried out by the ERCOT Board of Directors, a committee that has been delegated authority to act on behalf of the ERCOT Board of Directors, or an ERCOT corporate officer acting in their official capacity." This modification recognizes that the ERCOT Board of Directors often delegates responsibilities to committees and that ERCOT corporate officers are responsible for carrying out many of the directive types that are listed in the rule, such as official actions taken in response to emergency situations. Further, the addition of "an act of ERCOT" is necessary to ensure that an action of a corporate officer is only considered an official action when the officer is acting in an institutional capacity.

Actions with specific impacts

OCSC and TCAP, TPPA, and Vistra recommended modifying proposed §25.368(c)(2) to include actions that impact the re-

tail market in the definition of official action. OCSC and TCAP and TPPA noted that ERCOT is also responsible for facilitating the deregulated retail market, including switches between retail electric providers. Vistra reasoned that the commission might, hypothetically, direct ERCOT to take an official action to suspend retail customer choice transactions--which would not directly impact the wholesale market or the operation of the grid but would most certainly create costs and operational burdens for ERCOT market participants. Therefore, impacts to the retail market or the operation of competitive retail customer choice should be included in the definition.

In contrast, TIEC recommended modifying proposed §25.368(c)(2) to remove "and impacts either the wholesale market or the operation of the grid in the ERCOT region" altogether. TIEC reasoned that the proposed definition of "official action" would leave room for ambiguity and dispute over whether an action "impacts either the wholesale market or the operation of the grid in the ERCOT region," as it is not immediately apparent how that is to be determined.

Commission Response

The commission adopts OCSC and TCAP, TPPA, and Vistra's recommendation to modify adopted §25.368(c)(2) to include an action that impacts the retail market in the definition of official action. While ERCOT primarily engages with the wholesale market, ERCOT does maintain important retail functions such as Texas SET and mass transitions of retail customers. The commission declines to adopt TIEC's recommendation to modify adopted §25.368(c)(2) to remove "and impacts either the wholesale market or the operation of the grid in the ERCOT region." The language that TIEC recommends removing provides additional transparency and clarity by emphasizing that the primary concern is ERCOT actions that impact market participants and the public. This intent is evident from the statute's focus on processes such as rulemakings, contested cases, and public comments, which are designed to address issues impacting the public. It is further reflected in the Texas Sunset Advisory Commission's PUC, ERCOT, and OPUC Staff Report (November 2022, 88th Legislative Session), which states "the state would benefit from a more clearly defined, fully transparent process when decisions that affect the entire electric industry and millions of Texans are made."

Statement of excluded actions

OCSC and TCAP recommended modifying proposed §25.368(c)(2) to limit the actions excluded from the definition of an official action to those involving a verbal update to the commission, a report, or a notification. OCSC and TCAP reasoned that it is important to include in the definition "conducting a study or contracting with a third-party to conduct a study" rather than to exclude those actions from the definition because studies could lead to new costs or fees, impose significant operational obligations, or involve an ERCOT protocol.

TPPA recommended modifying proposed §25.368(c)(2) to limit excluded actions to providing an update at a future open meeting. TPPA reasoned that the references relating to studies are too broad. For instance, several provisions of the recently enacted SB 6 require ERCOT to perform studies on large load interconnections and net metering arrangements. These studies will necessarily involve costs and fees that will be borne by the entity being studied, and ERCOT will be expected to recommend any necessary operational obligations to ensure grid reliability. A broad reading of proposed §25.368(c)(2) would allow the commission to direct ERCOT to verbally change how ERCOT conducts these studies, despite the provision of PURA §39.1514 that requires a contested case or rulemaking for any directive that will create or increase new or existing costs or fees or impose significant operational obligations.

TIEC recommended modifying proposed §25.368(c)(2) to remove the last sentence entirely. TIEC reasoned that it is unnecessary to specify that: "An official action does not include conducting a study, contracting with a third-party to conduct a study, a verbal update to the commission, a report, or a notification." These actions generally do not require a vote of the ERCOT Board of Directors, or for a committee or other officer to exercise delegated authority. To the extent that those actions do require a vote by the ERCOT Board of Directors, it makes sense to require the commission to follow the formal process if it wishes to direct ERCOT to make changes to those processes.

Commission Response

The commission declines to adopt OCSC and TCAP and TPPA's recommendation to modify adopted §25.368(c)(2) to more narrowly limit the excluded actions. The commission also declines to adopt TIEC's recommendation to modify adopted §25.368(c)(2) to remove the last sentence entirely. Conducting a study, contracting with a third-party to conduct a study, or providing a verbal update, a report, or a notification to the commission are examples of actions that primarily involve operations and communications between ERCOT and the commission, rather than actions that have a direct impact on market participants. It is not a study, for example, that impacts a market participant, but instead the policies for how the results of that study will be implemented. While the commission agrees that in many instances it is appropriate to involve stakeholder feedback in these contexts, which the commission frequently does, it is not because those are formal directives for ERCOT to take official action. However, the commission does agree that there are plausible scenarios in which a directive involving a study may also involve direct consequences for market participants. The commission modifies the rule to broaden the exception language to more generally state that an official action does not include an action that is informational or preparatory in nature. This more properly focuses the definition of official action on the impacts of the action on market participants.

To clarify this distinction, the commission modifies the definition of official action to include the more general statement that an official action does not include an action that is informational, analytical, or preparatory in nature.

Proposed §25.368(d) - Specific types of directives

Proposed §25.368(d) specifies different types of official action and the corresponding types of directives that can be used to require ERCOT to take those official actions.

Proposed §25.368(d) is adopted as §25.368(c), and the commission makes a number of consistency edits throughout this subsection. The commission removes language that is duplicative of language that is captured by defined terms and also modifies the section to refer to types of directives rather than types of official actions. This is consistent with the defined terms in this rule and statutory use of the phrase "types of directives."

The commission also modifies this subsection by adding language clarifying that the commission will determine which process to use to issue a proposed directive at the time the proposed directive is considered. If, at the time the commission

issues a directive, it is not clear whether it will impose a cost, fee, or operational obligation, the commission may issue that directive by written order or memorandum. Without this clarification, if it later became apparent that the directive will result in a cost or operational obligation, it would require the commission to start over and issue the directive again before ERCOT can finish implementing it. This is an administratively inefficient and absurd result that would not meaningfully improve transparency or participation opportunities for stakeholders, as they will have already had knowledge of the content of the directive and had opportunities to provide comments. This modification also recognizes that ERCOT has its own authority, rulemaking and otherwise, and that whether a commission directive will impose a cost, fee, or significant operational obligation may depend upon the manner in which ERCOT implements the directive. In such an instance, the commission may not know whether there will be such an impact at the time the directive is issued, because it is not the commission's directive that imposed the cost, fee, or significant operational obligation, but the implementation decision of ERCOT. This is also consistent with the statute's use of "will" rather than "may" when designating the types of directives the commission must issue by rulemaking or contested case- only those that will lead to the cost or obligation.

The commission further modifies the rule to require that any directives that are not covered by one of the paragraphs of this section must be issued by written order or memorandum. This closes a gap in the rule for ordinary directives that do not result in a cost, fee, or operational obligation.

Proposed §25.368(d)(1) - Official action that creates a new cost or fee

Proposed §25.368(d)(1) states that a directive, introduced by a commissioner, that requires ERCOT to take an official action that will create a new cost or fee must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. Proposed §25.368(d)(1) also states that an official action that creates a new cost or fee is one that results in: (A) the creation of new ancillary service; or (B) the creation of a new program that imposes a new cost on ERCOT wholesale market participants.

Vistra recommended modifying proposed §25.368(d)(1) to state that an official action that creates a new cost or fee "includes" one that results in (A) or (B), rather than stating that an official action that creates a new cost or fee "is" one that results in (A) or (B). Vistra reasoned that the use of "is" would result in the rule applying only to those delineated actions. It would be more efficient for the commission to use a more inclusive phrasing such that those same examples are clearly included, but not to the exclusion of other actions that could reasonably fall within the purpose and intent of PURA §39.1514.

TPPA recommended modifying proposed §25.368(d)(1) to include new costs or fees imposed by existing programs. ERCOT recommended modifying proposed §25.368(d)(1) to clarify what constitutes a "program" and to make conforming changes to proposed §25.368(d)(2)(C).

Commission Response

The commission declines to adopt Vistra's recommendation to modify adopted §25.368(c)(1) to state that an official action that creates a new cost or fee "includes" one that results in (A) or (B), rather than stating that an official action that creates a new cost or fee "is" one that results in (A) or (B). PURA §39.1514(b)(1) requires the commission, by rule, to specify the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order. The plain meaning of "specify" is to "identify clearly and definitely" or to "state a fact or requirement clearly and precisely." A non-exhaustive list is not definite or precise in that it necessarily invites subjectivity by requiring analysis on a case-by-case basis. If the Legislature had intended this outcome, it could have required a contested case or rulemaking to direct ERCOT to take an official action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity and required a memorandum or written order for all other directives to ERCOT to take an official action. Instead of taking this approach, the Legislature chose to require the commission to specify, by rule, the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order.

The commission substantively adopts TPPA's recommendation to modify adopted §25.368(c)(1) to include new costs or fees imposed by existing programs. The commission adopts ERCOT's recommendation to modify adopted §25.368(c)(1) to clarify what constitutes a "program." Accordingly, the commission replaces "program" with "reliability service."

Proposed §25.368(d)(2) - Official action that increases an existing cost or fee

Proposed §25.368(d)(2) states that a directive, introduced by a commissioner, that requires ERCOT to take an official action that will increase an existing cost or fee must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. Proposed §25.368(d)(2) also states that an official action that increases an existing cost or fee is one that results in: (A) a change in the amount of an existing ancillary service procured by ERCOT that is anticipated to result in a 25% or greater increase to the total annual cost of that ancillary service; (B) a change to an operating reserve demand curve or ancillary service demand curve that increases the offer floor or the offer cap of the demand curve by 25% or more; or (C) a change in the budget for a program that increases the costs to load serving entities by 25% or more.

Cost increases

LCRA recommended modifying proposed §25.368(d)(2)(B) to replace references to "increases" with "modifies" because a decrease in an existing cost or fee may also impact a market participant.

Commission Response

The commission declines to adopt LCRA's recommendation to modify adopted §25.368(c)(2)(B) to replace references to "increases" with "modifies" because PURA §39.1514 specifies that the requirement to conduct a contested case or rulemaking process applies to increases to existing costs or fees.

Exclusive v. non-exclusive list

TEC and TIEC recommended modifying proposed §25.368(d)(2) to make the list of official actions that increase an existing cost or fee non-exhaustive. TIEC reasoned that there is no statutory basis for the limitations in the proposed rule and the limitations undermine the Legislature's goals when passing HB 1500, which was to prohibit the commission from using verbal directives to direct ERCOT to take official actions, except in emergencies.

Commission Response

The commission declines to adopt TEC and TIEC's recommendation to modify adopted §25.368(c) to make the list of official

actions that increase an existing cost or fee non-exhaustive because PURA §39.1514(b)(1) requires the commission, by rule, to specify the types of directives that the commission may issue through a contested case, rulemaking, memorandum, or written order. As detailed above, an exhaustive list best aligns with the plain meaning of "specify".

Cost increase to ancillary service

Vistra recommended modifying proposed §25.38(d)(2)(A) to anchor the rule's threshold for applicability on changes to the quantities procured of an ancillary service instead of anchoring the rule's threshold for applicability on changes to the cost estimate of an ancillary service.

Commission Response

The commission declines to adopt Vistra's recommendation to modify adopted §25.368(c)(2)(A) to anchor the rule's threshold for applicability on changes to the quantities procured of an ancillary service instead of anchoring the rule's threshold for applicability on changes to the cost estimate of an ancillary service because the commission has modified the rule to remove the change thresholds from the rule.

Operating reserve demand curve (ORDC)

ERCOT recommended modifying proposed §25.368(d)(2)(B) to remove reference to the operating reserve demand curve (ORDC) because the ORDC is now an ancillary service demand curve (ASDC) due to implementation of Real-Time Co-optimization Plus Batteries on December 5, 2025.

Commission Response

The commission adopts ERCOT's recommendation to modify adopted §25.368(c)(2)(B) to remove reference to the ORDC.

Offer floor and offer cap

ERCOT, LCRA, and Vistra recommended modifying proposed §25.38(d)(2)(B) to remove references to "offer" floor and "offer" cap because ASDCs are not offers.

Commission Response

The commission adopts ERCOT, LCRA, and Vistra's recommendation to modify adopted §25.368(c)(2)(B) to remove references to "offer" floor and "offer" cap.

Percentage threshold

LCRA, OCSC and TCAP, TEAM, TEC, TIEC, and Vistra recommended modifying proposed §25.368(d)(2)(A) through (C) to remove the percentage thresholds because cost increases below 25% can also be substantial. TIEC reasoned that the impacts of a directive are fact-dependent, and the commission should make a determination related to whether a contested case or rulemaking is required based on the underlying situation. The approach taken in the proposed rule is too prescriptive and creates substantial opportunities for a future commission to sidestep the requirements of PURA §39.1514. For example, the commission could increase existing costs through verbal directives by issuing multiple verbal directives that are each estimated to increase costs or fees by less than the 25% threshold.

Vistra recommended modifying proposed §25.368(d)(2)(A) through (C) to replace the percentage threshold with a "substantial" threshold. Vistra noted that it is reasonable and practical for the commission to exercise some degree of discretion such that the state's resources are not inefficiently utilized to formally process relatively small changes, and there may be instances where a 25% threshold is a fair threshold to use in exercising that prudence. To avoid unintended consequences, Vistra recommended a more flexible but still meaningful "substantial increase" standard could be informed by the specific facts at hand.

TPPA recommended modifying proposed §25.368(d)(2)(A) through (C) to pair the percentage threshold with a dollar threshold to ensure that all sizeable increases are appropriately noticed.

Commission Response

The commission modifies the rule to remove the percentage thresholds for increases to costs or fees. This modification aligns the rule with the requirements of PURA § 39.1514, which does not contain percentage thresholds. This modification also substantively addresses the concerns expressed by commenters.

Load serving entities

Vistra recommended modifying proposed §25.368(d)(2)(C) to remove the reference to load serving entities because load serving entities are not the only market participants that may be subject to increased costs of a budget change. For example, at the December 18, 2025, commission staff requested guidance from the commission regarding the allocation of ancillary service and reliability services costs, including potential methodologies that could allocate costs to generators in addition to loads.

Commission Response

The commission adopts Vistra's recommendation to modify adopted §25.368(c)(2)(C) to remove the reference to load serving entities. However, the commission modifies adopted §25.368(c)(2)(C) to replace "load serving entities" with "market participants." Additionally, the commission modifies adopted §25.368(b) to add a definition for market participant. The commission defines market participant consistent with how the term is defined in §25.503, relating to Oversight of Wholesale Market Participants. This definition is appropriate, because it captures wholesale market participants and explicitly includes load serving entities, which in most instances are the entities that directly engages with consumers.

Proposed §25.368(d)(3) - Official action that imposes significant operational obligations

Proposed §25.368(d)(3) states that a directive, introduced by a commissioner, that requires ERCOT to take an official action that will impose significant operational obligations must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. Proposed §25.368(d)(3) also states that an official action that imposes significant operational obligations on an entity is one that is anticipated to result in increased commitments through the Reliability Unit Commitment process.

LCRA, Oncor, TEAM, and TPPA recommended modifying proposed §25.368(d)(3) to broaden what qualifies as a significant operational obligation beyond the Reliability Unit Commitment process. Specifically, TEAM recommended replacing "one that is" with "includes but is not limited to actions." LCRA recommended replacing "result in increased commitments through the Reliability Unit Commitment process" with "materially change operational procedures or associated operational costs." Similarly, TPPA recommended replacing the reference to Reliability Unit Commitment process with "any change that requires significant new or revised compliance obligations for a wholesale market

participant." Oncor recommended adding "changes to the ERCOT modeling requirements or changes to Ancillary Services."

Commission Response

The commission declines to adopt LCRA, Oncor, TEAM, and TPPA's recommendations to modify adopted §25.368(c)(3). Specifically, the commission declines to (1) replace "one that is" with "includes but is not limited to actions;" (2) replace "result in increased commitments through the Reliability Unit Commitment process" with "materially change operational procedures or associated operational costs;" (3) replace the reference to Reliability Unit Commitment process with "any change that requires significant new or revised compliance obligations for a wholesale market participant;" and (4) add "changes to the ERCOT modeling requirements or changes to Ancillary Services" because the changes are overly broad. Instead, the commission modifies adopted §25.368(c)(3) to add that an official action that imposes significant operational obligations on an entity is one that is anticipated to increase ERCOT's procurement of ancillary services. This change addresses the commenters' concerns that specifying only one type of qualifying circumstance is too narrow without introducing ambiguity through overly broad language or broadening the scope of the adopted rule beyond PURA §39.1514.

Proposed §25.368(d)(4) - Official action that involves an ERCOT protocol

Proposed §25.368(d)(4) states a directive, introduced by a commissioner, that requires ERCOT to take an official action that involves an ERCOT protocol must be issued through a written order or memorandum that is adopted by a majority vote of the commission in an open meeting. An official action that involves an ERCOT protocol is one that requires ERCOT to: (A) develop a new ERCOT protocol; (B) revise an existing ERCOT protocol; or (C) designate an ERCOT protocol revision with urgent status.

Oncor recommended modifying proposed §25.368(d)(4) to include an ERCOT Market Guide (including the ERCOT Planning Guide, the Nodal Operating Guide, and the Load Profiling Guide).

Oncor and TEAM recommended modifying proposed §25.368(d)(4) to make clarifications that align with the existing stakeholder-driven processes for ERCOT protocols. Specifically, Oncor recommended modifying proposed §25.368(d)(4)(C) to state "request that an ERCOT protocol revision be granted urgent status: and adding a new provision stating "designate an ERCOT protocol revision request as a Board Priority Revision Request." TEAM recommended adding the following "Following the commission's issuance of a directive in accordance with this section, the protocol shall be considered through the existing ERCOT process for protocol adoption and revision. Following a recommendation by the ERCOT board and commission staff to adopt a proposed new or revised protocol, the commission may approve, reject, or remand the proposal with proposed modifications by issuing a written order, consistent with PURA §39.151(g-6)."

Vistra recommended modifying proposed §25.368(d)(4) to reflect that the default process for any commission directive for ERCOT to take an official action is through a written order or memorandum and proposed §25.368(d)(1) through (3), which specifically require a contested case or rulemaking, are the exceptions. Additionally, Vistra recommended that proposed §25.368(d)(4)(A) through (C) are unnecessary and should be removed.

TIEC recommended adding a new provision that states "any other directive that requires ERCOT to take an official action must be issued through a written order or memorandum that is adopted by a majority vote of the commission at an open meeting."

Commission Response

The commission declines to adopt Oncor's recommendation to modify adopted §25.368(c)(4) to explicitly include "an ERCOT Market Guide (including the ERCOT Planning Guide, the Nodal Operating Guide, and the Load Profiling Guide)" because it is unnecessary. Section 25.5(47) (relating to Definitions) defines ERCOT protocols as the body of procedures developed by ERCOT to maintain the reliability of the regional electric network and account for the production and delivery of electricity among resources and market participants. This definition includes the ERCOT Market Guides and other binding documents of ERCOT.

The commission adopts Oncor's recommendation to modify adopted §25.368(c)(4) to state "request that an ERCOT protocol revision be granted urgent status" and to add a new provision stating "designate an ERCOT protocol revision request as a Board Priority Revision Request." The commission substantively adopts TEAM's recommendation to modify adopted §25.368(c)(4) to add "Following the commission's issuance of a directive in accordance with this section, the ERCOT protocol shall be considered through the applicable stakeholder process." The commission does not modify this section to address the commission's approval of an ERCOT protocol, because the necessary clarification was made in the adopted purpose and applicability section. This clarification aligns the adopted rule with the requirements of PURA §39.1514, and clarifies that the requirements of PURA §39.151 are separate and distinct, consistent with Aspire Power Ventures, LP v. Pub. Util. Council of Tex., Electric Reliability Council of Tex., Thomas Gleeson, Lori Cobos, Jimmy Glotfelty, Kathleen Jackson, and Courtney Hjaltman, No. 15-24-0018-CV (Tex. App.--Austin [15th Dist.] Mar. 26, 2026) (per curiam).

The commission agrees with Vistra and TIEC that in instances where there is not an expected cost, fee, or significant operational obligation involved, the process for directing ERCOT to take an official action related to an ERCOT protocol is through written order or memorandum adopted by the commission. The commission modifies the rule accordingly.

Proposed §25.368(e) - Commission consideration of a directive introduced by a commissioner

Proposed §25.368(e) states that at least two days before an open meeting that the commission will consider a directive introduced by a commissioner, the commissioner introducing the directive will file a memorandum introducing the directive and materials relevant to the discussion of the directive, as applicable.

OCSC and TCAP, TEC, TPPA, and Vistra recommended modifying proposed §25.368(e) to state that a commissioner will file a memorandum introducing a directive for the commission's consideration at least seven days before the open meeting instead of two days before the open meeting.

Vistra recommended modifying proposed §25.368(e) to apply to a proposed directive introduced by any person, not just a commissioner.

TIEC recommended modifying proposed §25.368(e) to state that every proposed directive to ERCOT will be filed in a single an-

nual project control number that is opened for that purpose, in addition to any control number relevant to the topic addressed by the proposed directive. A proposed directive must be filed at least nine days prior to the open meeting at which the commission will consider the directive. The proposed directives project number will be posted to the commission's open meeting agenda as required by law. Additionally, TIEC recommended that all materials relevant to the discussion of a proposed directive be filed at least seven days prior to the open meeting at which the commission will consider the directive. Any commissioner may file a memorandum related to a proposed directive no later than two days prior to the open meeting at which the commission will consider the directive. Finally, TIEC recommended that at least two days before an open meeting that the commission will consider a directive introduced by a commissioner, the commissioner introducing the directive will file a memorandum introducing the directive.

TPPA recommended modifying proposed §25.368(e) to allow two commissioners to jointly sponsor a proposed directive given that two commissioners acting together does not meet the quorum requirement.

OCSC and TCAP recommended modifying proposed §25.368(e) to add a statement that when considering a directive issued by a commissioner, the commission shall take into account the effects of the directive, including, but not limited to, its overall market and financial impacts.

Commission Response

The commission substantively adopts OCSC and TCAP, TEC, TPPA, and Vistra's recommendation to modify adopted §25.368(e) to state that a directive must be filed for the commission's consideration at least seven days before the open meeting instead of two days before the open meeting.

The commission declines to adopt Vistra's recommendation to modify adopted §25.368(e) to apply to a proposed directive introduced by any person, not just a commissioner. Commission directives are a part of the commission's general oversight of and regulatory relationship with ERCOT and are appropriately initiated by the commission or ERCOT. To clarify the adopted rule, the commission modifies adopted §25.368(d) to explicitly state that a directive must be proposed by a commissioner, commission staff, or ERCOT staff.

The commission declines to adopt TIEC's recommendation to modify adopted §25.368(e) to specify: (1) every proposed directive to ERCOT will be filed in a single annual project control number that is opened for that purpose, in addition to any control number relevant to the topic addressed by the proposed directive; (2) a proposed directive must be filed at least nine days prior to the open meeting at which the commission will consider the directive; (3) all materials relevant to the discussion of a proposed directive be filed at least seven days prior to the open meeting at which the commission will consider the directive; (4) any commissioner may file a memorandum related to a proposed directive no later than two days prior to the open meeting at which the commission will consider the directive; and (5) at least two days before an open meeting that the commission will consider a directive introduced by a commissioner, the commissioner introducing the directive will file a memorandum introducing the directive. The level of detail recommended by TIEC is overly prescriptive and may not be appropriate for every directive. However, the commission does agree that PURA § 39.1514 requires the rule to state that a proposed directive will be posted as an item on an open meeting agenda. The commission modifies the rule accordingly.

The commission declines to adopt TPPA's recommendation to modify adopted 25.368(e) to allow two commissioners to jointly sponsor a proposed directive because it is unnecessary. The Open Meetings Act, chapter 551 of the Texas Government Code, addresses quorums and it is not necessary to restate in the adopted rule. Further, a directive sponsored by two commissioners is sponsored by a commissioner. In this context, the general principle that the singular contains the plural applies.

The commission declines to adopt OCSC and TCAP's recommendation to modify adopted §25.368(e) to add a statement that when considering a directive issued by a commissioner, the commission shall take into account the effects of the directive, including, but not limited to, its overall market and financial impacts, because it is unnecessary. The commission disagrees that the proposed rule does not allow the commission to consider the long-term rate and market impact of official actions, as stated by OCSC and TCAP. The commission may consider any relevant issues when determining whether to issue a directive. The proposed provisions related to comments on the directive process were intended to clarity that the commission may ask for comments in multiple stages; first on the process, then on the substance. However, this language is unnecessary, as the commission already has the ability to ask for comments on process, so the commission modifies the rule to remove those provisions, for clarity.

Proposed §25.368(e)(2) - Written comment

Proposed §25.368(e)(2) states that, at the commission's discretion, the commission may request written comment from the public on a directive introduced by a commissioner. Written comments from the public related to the directive may be limited to the appropriate process for the commission to issue the directive.

OCSC and TCAP recommended modifying proposed §25.368(e)(2) to remove the statement that written comments from the public related to the directive may be limited to the appropriate process for the commission to issue the directive. Alternatively, OCSC and TCAP recommended modifying proposed §25.368(e)(2) to state that written comment from the public related to the directive may address matters including but not limited to the appropriate process for the commission to issue the directive.

Oncor recommended modifying proposed §25.368(e)(2) to state that the commission will request written comment from the public on a directive introduced by a commissioner and the appropriate process for issuing the directive, unless the commission determines that there is an urgent need for the directive and that there is insufficient time to receive and consider written comments from the public.

Commission Response

The commission modifies this subsection by adding a provision stating that a proposed directive will be included as an item on an open meeting agenda. This modification is required to align the rule with PURA § 39.1514(b)(2), which requires the rule to contain such a provision.

PURA §39.1514(b)(2) also requires that proposed commission directives be included as an item on a commission meeting agenda and requires the commission to allow members of the public an opportunity to comment on the agenda item. The

commission already allows the public an opportunity to comment on agenda items at open meetings. Moreover, adopted §25.368(d)(3) codifies this practice for purposes of implementing PURA §39.1514(b)(2).

The commission declines to adopt Oncor's recommendation to modify the adopted rule to state that the commission will request written comment from the public on a directive introduced by a commissioner and the appropriate process for issuing the directive, unless the commission determines that there is an urgent need for the directive and that there is insufficient time to receive and consider written comments from the public. Whether written comments are necessary and, if so, the appropriate timeline for receiving those comments is a determination that is best made on a case-by-case basis taking into consideration the particular directive being proposed. Some directives may clearly require a contested case or rulemaking and thus the opportunity for written comment would be in the context of the contested case or rulemaking proceeding, ensuring that the commission receives public comment before the directive is issued and thereby rendering additional written comment unnecessary. In other instances, the commission may wish to limit written comments to the appropriate process for issuing a directive before considering written comments on the substance of the directive. Therefore, the commission modifies adopted §25.368(e) to remove specific requirements relating to written comments.

The commission declines to modify the rule to remove the statement that written comments from the public related to the directive may be limited to the appropriate process for the commission to issue the directive as recommended by OCSC and TCAP's because the previously described edits render this recommendation moot.

Proposed §25.368(e)(3) - Initiation of the appropriate process to issue a directive

Proposed §25.368(e)(3) states that upon determination of the appropriate process to issue a directive, the commission may direct commission staff to initiate the appropriate process, as applicable.

Oncor recommended modifying proposed §25.368(e)(3) to add that the commission will consider public comments on a directive and the process for issuing the directive, and may revise the directive as needed.

Commission Response

The commission declines to adopt Oncor's recommendation to modify proposed §25.368(e)(3) to state that the commission will consider public comments on a directive and the process for issuing the directive and may revise the directive as needed because it is unnecessary. The commission already considers public comments in its existing processes and procedures as governed by the Texas Administrative Procedure Act, chapter 2001 of the Texas Government Code, and PURA. Moreover, the commission has the authority to revise a directive. The adopted rule need not expressly authorize the commission to take an action that the commission is already authorized to take.

Consistent with this reasoning, the commission modifies the rule by removing proposed §25.368(e)(3) entirely. The commission already has the authority to direct commission staff to initiate the appropriate process to issue a directive.

Proposed §25.368(f)(3) - ERCOT publication of a directive

Proposed §25.368(f)(3) states that upon receipt of the written copy of the directive, ERCOT must publicly publish the directive on its website and notify market participants of the directive.

Vistra recommended modifying proposed §25.368(f)(3) to state that upon both receipt of a verbal directive under proposed §25.368(f) and the written copy of the directive, ERCOT must publicly publish the directive on its website and notify market participants of the directive.

Commission Response

The commission declines to adopt Vistra's recommendation to modify adopted §25.368(e)(3) to state that upon both receipt of a verbal directive under adopted §25.368(e) and the written copy of the directive, ERCOT must publicly publish the directive on its website and notify market participants of the directive. PURA §39.1514(c) requires the commission to provide written documentation of a verbal directive to ERCOT not later than 72 hours after the urgent or emergency situation ends. This allows the commission and ERCOT to focus on addressing the urgent or emergency situation while also ensuring transparency to the public and stakeholders. Adopted §25.368(e)(3) provides an additional layer of transparency by requiring ERCOT to publicly publish the written directive on its website and notify market participants. Requiring ERCOT to publish a verbal directive during an urgent or emergency situation is redundant and unnecessary.

However, the commission modifies adopted §25.368(e) to clarify that a verbal directive in an urgent or emergency situation may be issued to an ERCOT corporate officer because it may not be feasible in an urgent or emergency situation for the ERCOT Board of Directors to convene and take the necessary action directed by the commission.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the following provisions of Public Utility Regulatory Act (PURA): §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which grants the commission complete oversight of ERCOT; and §39.1514, which requires the commission to adopt a rule specifying the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order, and the process for the commission to issue directives to ERCOT in an urgent or emergency situation.

Statutory Authority

The new rule is adopted under Public Utility Regulatory Act (PURA) §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which grants the commission complete oversight of ERCOT; §39.1514, which requires the commission to adopt a rule specifying the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order, and the process for the commission to issue directives to ERCOT in an urgent or emergency situation.

Cross Reference to Statutes: PURA §14.002; §39.151; and §39.1514.

§25.368. Commission Directives to ERCOT.

(a) Purpose and Applicability. This section implements PURA § 39.1514. This section applies to a directive that requires ERCOT to take an official action.

(1) This section does not apply to the commission's approval, rejection, or remand with suggested modifications of a new or revised ERCOT protocol under PURA § 39.151(g-6).

(2) This section does not modify or void any ERCOT processes or operations.

(3) Failure to issue a directive in accordance with this section does not invalidate an otherwise properly adopted rule or ERCOT protocol.

(b) Definitions. In this section, the following definitions apply unless the context indicates otherwise:

(1) Directive--An instruction that requires ERCOT to take an official action.

(2) Official action--An act of ERCOT that impacts the wholesale market, the retail market, or the operation of the grid in the ERCOT region carried out by the ERCOT Board of Directors, a committee that has been delegated authority to act on behalf of the ERCOT Board of Directors, or an ERCOT corporate officer acting in their official capacity. An official action does not include an action that is informational or preparatory in nature.

(3) Market participant--A market participant as that term is defined in §25.503 of this chapter (relating to Oversight of Wholesale Market Participants).

(c) Specific types of directives. The commission will determine through which process to issue a proposed directive at the time the proposed directive is considered. A directive that is not otherwise covered by this subsection may be issued by the commission by written order or memorandum unless otherwise prescribed by statute, as determined by the commission.

(1) Directive that creates a new cost or fee. A directive that will create a new cost or fee must be issued through a written order adopted by the commission in a contested case or rulemaking proceeding. A directive that creates a new cost or fee is one that results in:

(A) the creation of a new ancillary service;

(B) the creation of a new reliability service that imposes a new cost on market participants in the ERCOT wholesale market or retail market; or

(C) a new cost or fee associated with an existing reliability service and imposed on market participants in the ERCOT wholesale market or retail market.

(2) Directive that increases an existing cost or fee. A directive that will increase an existing cost or fee must be issued through a written order adopted by the commission in a contested case or rulemaking proceeding. A directive that increases an existing cost or fee is one that results in:

(A) a change in the amount of an existing ancillary service procured by ERCOT that is anticipated to result in an increase to the total annual cost of that ancillary service;

(B) a change to an ancillary service demand curve that increases the floor or the cap of the demand curve; or

(C) a change in the budget for a reliability service, that increases the costs to market participants.

(3) Directive that imposes significant operational obligations. A directive that will impose significant operational obligations must be issued through a written order adopted by the commission in a contested case or rulemaking proceeding. A directive that imposes significant operational obligations on an entity is one that is anticipated to:

(A) result in increased commitments through the Reliability Unit Commitment process; or

(B) increase ERCOT's procurement of ancillary services.

(4) Directive that involves an ERCOT protocol. A directive to which paragraphs (1)-(3) of this subsection do not apply that involves the development or revision of an ERCOT protocol, or that involves the designation of urgent or Board Priority status to an ERCOT protocol, must be issued through a written order or memorandum that is adopted by the commission. Following the commission's issuance of a directive in accordance with this subsection, the ERCOT protocol must be considered through the applicable ERCOT stakeholder process.

(5) Directive the commission is statutorily required to issue. Unless otherwise required, a directive the commission is statutorily required to issue may be issued by the commission by written order or memorandum, except that a directive the commission is statutorily required to issue must be issued by rulemaking or contested case if:

(A) the directive will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on a market participant; and

(B) the commission includes additional direction or requirements not included in the statutory language.

(d) Commission consideration of a directive.

(1) A directive must be proposed by a commissioner, commission staff, or ERCOT staff.

(2) A proposed directive will be included as an item on an open meeting agenda. At least seven days before an open meeting at which the commission will consider a directive, the directive and materials relevant to the discussion of the directive, as applicable, must be publicly filed.

(3) Before the commission considers a directive, members of the public will be provided an opportunity to comment on the directive.

(4) A directive that is issued by written order or memorandum must be adopted by majority vote of a quorum of the commission present at an open meeting.

(e) Urgent or emergency situation. Notwithstanding any other provision of this section, the commission may issue a directive verbally to require ERCOT to take an official action in an urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the power grid. A verbal directive may be issued in an emergency meeting under Chapter 551 of the Texas Government Code.

(1) An urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the grid is deemed to have occurred if one of the following circumstances is imminent or likely to occur within 24 hours:

(A) the Texas Department of Public Safety activates a power outage alert for the ERCOT region in accordance with Section 411.301 of the Texas Government Code;

(B) ERCOT declares an energy emergency alert level 3;

(C) ERCOT instructs transmission operators to reduce demand on the power grid through controlled outages;

(D) the frequency on the power grid falls below 59.8 Hz; or

(E) another urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the power grid.

(2) Not later than 72 hours after the urgent or emergency situation ends, the commission will serve a written copy of the directive on ERCOT's general counsel and publicly file a written copy of the directive on its website. The written copy of the directive must include the following information:

(A) the circumstances giving rise to the directive issued by the commission;

(B) the directive issued by the commission to ERCOT; and

(C) how the directive issued by the commission relates to the urgent or emergency situation.

(3) Upon receipt of the written copy of the directive, ERCOT must publicly publish the directive on its website and notify market participants of the directive.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601960
Katelyn Lewis
Projects Coordinator
Public Utility Commission of Texas
Effective date: May 27, 2026
Proposal publication date: November 28, 2025
For further information, please call: (512) 936-7044

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SUBCHAPTER S. WHOLESALE MARKETS

16 TAC §25.513

The Public Utility Commission of Texas (commission) adopts new 16 Texas Administrative Code (TAC) §25.513, relating to the Texas Energy Fund (TxEF) - Texas Backup Power Package Program. The commission adopts this rule with changes to the proposed rule as published in the January 2, 2026 issue of the *Texas Register* (51 TexReg 13). The rule will be republished. New §25.513 implements Public Utility Regulatory Act (PURA) §§34.0204, 34.0205, and 35.005(g), enacted as part of Senate Bill (SB) 2627 during the 88th Texas Legislature (R.S.). The new rule will establish procedures for applying for a grant or loan for design, procurement, installation, and operation of Texas Backup Power Packages (TBPPs), terms for an applicant to request a grant or loan, as well as conditions under which a TBPP loan may be forgiven. The adopted rule excludes TBPPs that source power from electric school bus batteries (ESBs) because this category of TBPP assets was expressly excluded from consideration in the notice related to the proposed rule. Excluding ESBs at the adoption stage is therefore consistent with that prior notice. Accordingly, the commission defers consideration of this provision to a future date. This rule is adopted in Project No. 59024.

The commission received comments on the proposed rule from Alison Silverstein Consulting (ASC), Bloom Energy (Bloom), Cardinal Bay, Inc., 4-K Housing (Cardinal Bay and 4-K Housing), City of Arlington, City of Houston, Critical Loop, Crusader Energy EPC LLC (Crusader), Fuel Cell & Hydrogen Energy Association (FCHEA), Generac Power Systems (Generac), Grid Resilience in Texas (GRIT), GTL Leasing, Highland Electric Fleets (Highland), Holistic Utility Solutions (HUS), Holt Group (HOLT), New Ventures Multi Services LLC (New Ventures), North Central Texas Council of Governments (NCTCOG), NRG Energy, Inc. (NRG), Oncor Electric Delivery Company LLC (Oncor), PowerSecure, Inc. (PowerSecure), Rise Energy & 518 Energy (Rise Energy), Schneider Electric, Sharper Energy Technologies (SET), Solar United Neighbors (SUN), Sol-Ark, Texas Advanced Energy Business Alliance (TAEBA), Texas Electric Cooperatives, Inc. (TEC), Texas Energy Poverty Research Institute (TEPRI), Texas Hydrogen Alliance, Texas Public Power Association (TPPA), Texas Solar + Storage Association (TSSA), TX Electric Vehicle Alliance (TEVA), and Vistra Corporate Service Company (Vistra).

Cardinal Bay and 4-K Housing each requested a public hearing along with their comments on the proposed rule. Both parties subsequently withdrew their respective hearing requests on March 10, 2026.

Questions for Public Comment

The commission invited interested parties to respond to the following questions related to implementation and administration of the TBPP Program.

Should the commission require TBPP awardees to contribute a dollar amount towards the total TBPP cost as a condition of the award of a loan or a grant (the "cost-share")? If yes, what is an appropriate cost-share amount for the applicant? Should the cost-share be expressed in nominal dollars, on a dollar-per-kilowatt basis, or some other metric?

Opposition to mandatory cost-share

PowerSecure, ASC, Generac, GRIT, Schneider Electric, and TAEBA opposed the requirement for TBPP awardees to provide a mandatory cost share because a cost share requirement may prevent equitable access to the TBPP funding by financially disadvantaged entities. HOLT also opposed a mandatory cost-share stating that a cost share requirement could further delay the implementation of the program and instead recommended that the commission encourage rather than require supplemental funding.

Conditional or tiered cost-share approaches

Schneider Electric, NCTCOG, HUS, TAEBA, and TSSA also opposed the cost sharing requirement, stating that the current program design already contemplates applicant financial responsibility through the 500 dollar per kW grant cap and loan forgiveness based on compliance and TBPP performance. NCTCOG explained that applicants will incur administrative costs associated with managing the loan portion of the project that could be considered 'in kind' contributions. These commenters, however, offered specific recommendations for cost share percentage if the commission considers including a cost-share component. HUS noted that if the loan is fully forgivable and covers the remaining material costs, a cost share would be reasonable and should not exceed over 20 percent of the total project cost. HUS stated that solar and battery energy storage system components may be eligible for federal investment tax credits of 30-40 percent, which could help offset a cost share on the non-grant portion.

TSSA recommended that, if the commission imposes a cost-sharing requirement, it should apply only to larger, for-profit applicants that can absorb additional financial commitments or alternatively allow such entities to propose voluntary cost sharing, that can be used as a scoring criterion. TEC, SUN, and TPPA supported applying cost sharing only for-profit entities while public and not-for-profit entities receive an exemption or reduced requirement. SUN recommended a ten percent cost-share for larger facilities owned by for-profit entities. TEC did not propose a specific cost share level and recommended a case-by-case approach that considers the ability of the applicant to pay and the type of facility. NCTCOG recommended a cost share capped at no more than 20 percent, tiered by applicant type so that for-profit entities contribute more. NCTCOG recommended including collecting the cost share as a retainer from the loan portion of the incentive. Crusader recommended a tiered cost-share structure with a 20-30 percent cost share on a dollar per kW basis for TBPP awardees to balance applicant commitment with program accessibility.

New Ventures recommended a flexible cost share model to ensure the program remains accessible to those who need it most. Generac also recommended a flexible cost share model where cost-sharing would be applied only when applicants pursue non-standard technologies that are not site-specific or necessary.

The City of Arlington urged the commission to maintain the lowest practicable cost-share requirement because a low match requirement aligns with the program's public interest purpose and legislative intent.

TEVA opposed the cost share requirement. TEVA, PowerSecure, and Generac emphasized that any cost-share requirement should not be dispositive.

Commission Response

The commission declines to impose a mandatory cost-share requirement as a condition of eligibility for a loan or grant under the TBPP program to keep the program accessible to different types of critical facilities. The commission notes that, for a given facility, certain TBPP project costs may not be covered, may exceed the applicable grant cap, fall outside eligible cost categories, or otherwise not qualify for a forgivable loan. In such circumstances, the awardee may be responsible to cover those costs.

The commission also declines to adopt a tiered, conditional, or applicant type based cost share framework. Maintaining a uniform approach without the required cost-share based on applicant type best balances administrative simplicity and program accessibility for all types of applicants.

What technical specifications, asset characteristics, and operational requirements are needed to implement TBPPs that source power from an electric school bus (ESB)?

ESBs as eligible backup power resources

Generac, SUN, and TAEBA urged the commission to include ESBs as eligible backup power resources for critical facilities under TBPP because these were considered eligible backup power sources in Senate Bill 2627. TAEBA commented that excluding ESBs risk leaving valuable resilience resources unused and is inconsistent with the statute's technology-inclusive approach. ESBs' dual-use capability of providing daily transportation service while also offering dispatchable energy storage capability during emergency conditions can improve cost-effectiveness without compromising reliability. TAEBA emphasized that ESB based TBPP, as mobile storage, can enhance resilience at schools and nearby critical facilities and should be allowed where these demonstrate functional equivalence to a stationary system. Both SUN and TAEBA proposed criteria for electric school bus-based eligibility, including defined availability during outages, standardized interconnection and protection equipment, clear contractual responsibility for operation and maintenance, clear dispatch authority, and verifiable deliverable backup power to the host critical facility.

TEVA noted that, compared to stationary battery storage, electric school buses offer additional benefits, including the ability to be repeatedly recharged offsite and redeployed to power critical infrastructure. TEVA further stated that ESBs have low or no costs to this program because they are paid for by school bonds or grants. TEVA recommended that the commission convene a working group focused on electric school buses and adopt final rules within 180 days to resolve open questions with stakeholder input.

TAEBA stated that if immediate inclusion is not feasible, the commission should adopt a defined pilot or phased pathway to ESB participation to preserve legislative intent while allowing the commission to gain operational experience.

Operational requirements

TEVA commented that a rigid requirement for 48-hour continuous discharge would unintentionally exclude electric school bus batteries. TEVA suggested the commission to accommodate ESBs through alternative compliance pathways that allow aggregation of rotating fleet to meet the 48-hour capability, recognizing rotating and rechargeable mobile resources as eligible backup assets, and distinguishing fixed stationary storage from mobile storage when evaluating duration requirements. This would preserve the program's reliability goals while avoiding the unintended exclusion of electric school buses from participation. SUN similarly flagged that a requirement for 48 hours of continuous operation without recharging may limit electric school buses to only smaller facilities. SUN recommended to further study and develop interconnection design to allow this energy storage option to work at a larger scale.

Highland stated that connecting electric school bus vehicles to building systems can operate almost identically to stationary backup systems and can leverage bus batteries typically over 200 kilowatt hours, making such systems well suited to support a 48-hour backup duration when properly sized and dispatched. Highland also provided an example for a ten kilowatt, 48-hour essential backup showing how ESBs and a small stationary battery can meet duration targets.

NCTCOG requested that any electric school bus-based participation include operational requirements that preserve student transportation and account for battery condition over time. NCTCOG urged that operational requirements explicitly ensure ESBs maintain sufficient battery capacity available for program events without compromising student transportation. NCTCOG recommended that technical specifications consider forecasted, fleet specific battery degradation over the five-year project life reflecting duty cycles, along with processes to ensure buses are recharged and available to serve student transportation after being used for a TBPP event.

Technical specifications, and Interconnection

TEVA stated that because TBPP requires immediate islanding from the power grid, the program does not need to prescribe technical specifications for electric school buses, and TEVA rec-

ommended that if the commission decides to prescribe specifications, it should use ISO 15118 20 specifications for vehicle to load.

Highland and Oncor in their comments addressed interconnection, operating configuration, and technical compliance for electric school bus vehicles to building projects. Oncor recommended that ESB projects be held to the same requirements as all other TBPP projects, including performance requirements, reporting obligations, limitations on exporting to the distribution grid, and limits on participation in the wholesale market. Oncor stated that if any parallel operation with the grid is permitted, then before the first deployment at the facility, a distributed generation interconnection agreement with the critical facility should be required so Oncor can specify and set parameters for safe and reliable interconnection and Oncor can study the specific critical facility requesting an electric school bus interconnection.

Commission Response

The commission notes the comments submitted by Generac, SUN, TAEBA, TEVA, Highland, NCTCOG, and Oncor regarding the use of ESBs as backup power resources, operational requirements, and consideration for potential ESB interconnection. The commission anticipates issuing a separate proposal for publication to address ESB participation in TBPP program and related requirements, with the intent of adopting amendments to the TBPP rule in a subsequent proceeding.

As discussed in the preamble above, the adopted rule excludes TBPPs that source power from ESBs because this category of TBPP assets was not included in the notice related to the proposed rule.

Should the rule accommodate any restrictions that would otherwise prohibit a public entity applicant from granting a secured interest in a TBPP facility that is financed with a loan?

Generac, GRIT, Crusader, HUS, NCTCOG, PowerSecure, TAEBA, and TEC recommended that the commission accommodate public entity applicants that are prohibited from granting a security interest in TBPP funded facilities financed with a loan. TAEBA recommended allowing alternative security arrangements or credit structures to enable public entities to participate. GRIT similarly recommended the commission provide an alternative compliance pathway for public entity applicants to participate, stating that without an accommodation the loan structure could exclude a significant portion of the public sector customer base that the program aims to support. Generac recommended that the commission allow flexible financing and credit arrangements for entities that are legally prohibited from pledging assets as collateral stating a rigid collateral requirement would prevent many public entities from participating in the program despite being among the highest priority critical facilities.

TEC supported a rule structure that accommodates financing restrictions on public entities and stated that cutting off participation by public entities would hamper participation by many communities, especially smaller rural communities, and frustrate legislative intent.

Alternative Financing Arrangement Recommendations

Crusader recommended that the commission provide an alternative loan compliance mechanism based on performance covenants and operational milestones rather than secured interests. Crusader recommended structuring loans as performance-based forgivable loans, similar to certain federal Department of Energy grant structures, with forgiveness tied to operational availability and reporting and repayment triggered only by a material breach. HUS similarly recommended modeling the TBPP program after low interest financing programs such as SECO Loan Star, TWDB's Drinking Water State Revolving Fund and Clean Water State Revolving Fund, and TxDOT's State Infrastructure Bank Loans, that evaluate the project's own ability to repay and overall entity financial health.

Schneider Electric recommended that the rule allow alternative financing arrangements, including energy-as-a-service models or similar third-party ownership models, particularly for applicants that lack the balance sheet capacity to finance projects through traditional ownership structures. These models often rely on secured interests in project assets to support financing and can reduce upfront costs for public entities, shift risks to service providers, and accelerate deployment.

TPPA noted that the TxEF statute was amended to address secured interests for governmental entities and recommended that the commission carry over those provisions to TBPP loans. TPPA also urged strong protections for taxpayer funds when a TBPP financed facility is sold, recommending that loan agreements require sale proceeds to fully reimburse the TxEF before any other creditors and that commission approval be required before any change of control.

PowerSecure recommended the rule must not preclude applicants that pursue third party financing from granting a security interest as allowed by law.

Commission Response

The commission notes the alternative financing arrangement recommendations by Crusader, Schneider, and HUS but declines to adopt those approaches because of substantive differences between those programs and the TBPP program.

The commission also declines to adopt TPPA's recommendation to carry over TxEF statutory provisions applicable to other TxEF funding programs related to accommodations for public entities that are prohibited to grant a secured interest in assets financed by a loan because those provisions apply solely to power generation assets financed with the TxEF loans under PURA §34.0104.

The commission, however, agrees with the commenters that the rule should accommodate a government entity's inability to grant a secured interest in a TBPP facility that is financed with a loan to improve program accessibility. Accordingly, the commission modifies the proposed rule subsection (h)(6)(B) [renumbered as (h)(5)(B) in the adopted rule] loan terms and agreements to clarify that the credit agreement will delineate required financial compliance documentation. The commission will require all participants to grant a secured interest in the assets funded by the TBPP grants and loans except government entities. The grant and credit agreements will also establish the awardee's and approved vendor's obligation to pay the commission the full grant and loan amount in the event of a default.

The commission agrees with TPPA that the rule must include protection for taxpayer funds when a facility with a TBPP is sold. Proposed rule subsection (i) already addresses this concern by requiring the awardee to return the award payment if the awardee discontinues providing critical services at the facility.

In response to PowerSecure, the commission clarifies that it must hold a first priority lien on the TBPP if the awardee, that is not a government entity, utilizes third-party financing for the

TBPP. These terms would be delineated in the credit agreement with the awardee.

General Comments

Economic cost clarification

Cardinal Bay and 4-K Housing requested clarity on the statement "there will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5)."

Commission Response

The commission states there is no probable economic cost to persons required to comply with the rule because no person or entity is legally required to comply. The rule establishes a voluntary funding program, and any costs associated with participation arise only if an entity chooses to apply for and accept TBPP financial assistance. The program conditions applicable to receiving optional financial assistance are contractual eligibility requirements, not regulatory compliance obligations. Accordingly, those conditions do not constitute economic costs imposed by the rule for purposes of Texas Government Code §2001.024(a)(5).

Revise references to TxEF administrator to TEF administrator

TPPA recommended revising all references to TxEF administrator in the proposed rule to TEF administrator to maintain consistency with existing rules related to other Texas Energy Fund programs, stating that inconsistent terminology could imply a different administering entity and create confusion.

Commission Response

The commission declines to revise references from TxEF administrator to TEF administrator. The commission has opted to use TxEF when referring to the Texas Energy Fund program and has revised online references and associated documentation to use "TxEF," including references to the TxEF administrator. The commission will continue to use "TxEF" to refer to the Texas Energy Fund in this and future rulemakings.

Define Service Regions for Program Administration

HOLT proposed defining service regions using Texas Division of Emergency Management (TDEM) boundaries for program administration. HOLT commented that this approach would help ensure vendors have the capacity to serve regions, including the ability to remotely monitor assets and provide onsite maintenance. Using service regions may identify any potential service shortages in any region or rural areas. Additionally, HOLT stated that this would help PUCT identify regions that remain underserved or require a higher level of TBPP support so that PUCT can take steps to mitigate that risk

Commission Response

The commission agrees with HOLT that clearly identifying service regions would help ensure vendors have the capability to serve regions and provide on-site maintenance. It can also help identify service shortages in areas. Accordingly, the commission adopts this recommendation and plans to use TDEM Disaster Districts as service regions for vendors.

Electric utility notification about TBPP installation and deployment of TBPP to curtail load

NCTCOG recommended requiring notification to the serving electric utility when a TBPP is installed and allowing the utility to request deployment of on-site backup generation to curtail load, which NCTCOG stated would be similar to demand response programs.

Commission Response

The commission clarifies that TBPP-funded facilities are intended solely to provide backup power to critical load at critical facilities during outages or emergency conditions. Consistent with statutory limitations, a TBPP-funded facility is prohibited from participating in the sale of energy or ancillary services. The commission further clarifies that TBPP-funded facilities must not engage in activities that require export of energy to the grid or use of the TBPP for demand reduction. Accordingly, the commission declines to adopt NCTCOG's recommendation to allow utilities to request deployment of TBPP on-site generation for load curtailment purposes. The commission, however, agrees with NCTCOG about notifying the serving electric utility upon installation of a TBPP and modifies the proposed subsection (k) to require the approved vendor to coordinate with the distribution service provider to facilitate safe operation for the TBPP and the distribution network.

Handling of confidential information

GRIT recommended that any information vendors or prospective vendors provide to the commission, a transmission and distribution service provider (TDSP), or Electric Reliability Council of Texas (ERCOT) under the rule be treated as confidential and not subject to disclosure under Texas Government Code Chapter 552.

Commission Response

The commission declines to modify the rule to classify information provided by approved vendors to TDSPs or ERCOT as confidential because PURA §34.0205(f) authorizes confidentiality protections only for information submitted to the commission but does not extend those protections to information provided to TDSPs or ERCOT.

Use of the term energy vs. electrical load

NCTCOG requested the commission clarify whether TBPP covers only electric load or all on site energy consumption, such as natural gas or propane, noting that the draft rule at times requests energy data, which could imply nonelectric fuels. NCTCOG recommended using electricity consistently if the intent is to address only electrical load, stating that the scope affects determinations of load served and eligibility requirements in subsection (b)(3)(A).

Commission Response

The commission clarifies that a TBPP covers only critical electric load and not facility energy and makes this change throughout the rule.

Proposed §25.513(b)(1) - Applicant Eligibility - Applicant and Critical Facility Eligibility

Proposed §25.513(b)(1) states that to be eligible for a grant or loan, an applicant must be the owner of a critical facility.

TPPA recommended that the commission revise proposed subsection (b)(1) and related provisions to clearly distinguish critical facility eligibility from applicant eligibility and to clarify who may apply for a TBPP loan or grant. TPPA requested renaming proposed subsection (b)(1) from Applicant Eligibility to Critical Facility Eligibility because TPPA asserted that subsection (b)(1) describes critical facility criteria. TPPA also asked the commission to add a separate, explicit list of applicant eligibility requirements

and to clearly state whether an applicant may be the critical facility, an approved vendor, or a third party.

TPPA notes that while the proposed section (f)(1) appears to establish a process by which an applicant is awarded eligibility, the rule does not describe a corresponding process by which a critical facility is awarded eligibility. TPPA notes that proposed subsection (b) sets forth eligibility requirements applicable to applicants and critical facilities, it is unclear whether the use of the term "eligible" preceding "applicant" and "critical facility" is merely intended to reference the requirements in subsection (b) or instead to denote approval through the eligibility determination process described in subsection (f)(1). If the term "eligible" is intended only to reference subsection (b), TPPA notes that its inclusion is unnecessary and potentially misleading. If the term "eligible" is intended to refer to the eligibility determination process in subsection (f)(1), TPPA requests that the rule clearly explain how a critical facility is evaluated and awarded eligibility, as no such process is currently described. In addition, TPPA requests further clarification regarding how applicant eligibility is determined under subsection (f)(1).

Commission Response

The commission agrees with TPPA that the rule should clearly distinguish applicant eligibility from critical facility eligibility. The commission also agrees with TPPA that proposed subsection (f)(1) does not clearly describe a corresponding process for determining critical facility eligibility. Accordingly, the commission modifies the proposed rule subsection (b)(1) to clarify that to be eligible for a TBPP grant or loan, both the applicant and the critical facility must meet the applicable eligibility requirements.

The amended rule separates applicant eligibility requirements under new subparagraph (b)(1)(A), titled "Applicant Eligibility". The revised rule structure accommodates multiple application scenarios, including those in which the applicant is the critical facility and those in which the applicant is a different entity. The commission further clarifies that an application may proceed only if both the applicant and the critical facility are eligible. Consistent, corresponding amendments are also made to proposed subsection (f).

Proposed §25.513(b)(1)(A) - Applicant Eligibility

Proposed §25.513(b)(1)(A) specifies that a critical facility may be owned by a corporation, municipality, county, district, or utility.

Expansion of types of critical facility owners

GRIT recommended broadening the applicant eligibility provision to allow a critical facility to be owned by a wider range of public, quasi-public, and private entities than currently specified in the proposed rule. GRIT recommended revising the rule to expressly provide that a critical facility may be owned by a legal entity, university, state agency, municipal utility district, water district, water control and improvement district, other special purpose district, or other authority of this state. GRIT explained that this change would better reflect the ownership of many critical facilities, such as academic or state-owned healthcare facilities, and would avoid unnecessary exclusions. GRIT further noted that explicitly including universities, state agencies, and other special purpose districts would ensure the program can reach a broader range of critical infrastructure owners.

PowerSecure similarly urged the commission not to artificially narrow applicant eligibility and recommended replacing the term corporation with the broader term legal entity. PowerSecure asserted that a business, whether organized as a corporation, partnership or limited liability company, should be eligible for award if it meets the requirements in the rule. PowerSecure also urged inclusion of additional public entities, including hospitals owned by university systems and critical water and wastewater treatment facilities owned by municipal utility districts, so the rule better serves TxEF reliability goals. PowerSecure stated that awarding funds to another state agency furthers the public interest, citing support for a Texas Division of Emergency Management site as an example. PowerSecure provided redlines consistent with its recommendations.

TEPRI recommended that the commission specifically include nonprofit organizations as eligible applicants. TEPRI stated that nonprofit organizations are substantial providers of essential services that communities rely on for health, safety, and well-being during outages.

Clarification of use of the term "utility"

ASC requested the commission to revise the rule language so that the phrase "a utility" applies to "a water or wastewater utility," arguing that water or wastewater utilities are the only utility class that own critical facilities under PURA §34.0202.

Commission Response

The commission agrees with GRIT, PowerSecure, and TEPRI that the proposed rule does not fully address all types of ownership or other legally authorized or contractual relationships between an applicant and a critical facility and that critical facilities may be owned by a wider range of public, quasi-public, and private entities than currently reflected in the proposed rule. The commission revises the rule language to enable any legal entity type that is authorized to operate in the state of Texas to participate in the TBPP program, provided all applicable eligibility criteria are met. The commission further clarifies that with the modification in the rule language, and deletion of rule text related to utility ownership, the revision to the "utility" applicant type requested by ASC is no longer necessary or applicable.

Proposed §25.513(b)(1)(C) - Applicant Eligibility - Eligible critical facility types

Proposed §25.513(b)(1)(C) lists the types of facilities that are eligible to participate in the TBPP program.

Expanding the list of eligible critical facilities

Critical Loop, PowerSecure, TEPRI, HOLT, GRIT, ASC, City of Houston, and Crusader recommended expanding the list of eligible critical facilities. Critical Loop recommended expanding the eligible applicant list to include pharmacies, long term care support facilities, data and information technology facilities supporting public safety, public transportation support centers, and correctional facilities, stating these facilities fit the proposed rule definition of an eligible facility and provided justification for how they meet the criteria.

GRIT suggested broadening the definition of a critical facility to include all shelters and relief and recovery centers identified by federal, state, and local governments.

PowerSecure asked the commission to refine subsections (b)(1)(C)(iii), (iv), and (vi) so it encompasses all critical facilities during events that jeopardize delivery of grid electricity, including emergency supplies distribution recovery centers and disaster shelters and recovery centers operated or identified by local, state, and federal governing bodies such as a municipality, TDEM, or FEMA.

TEPRI urged ensuring the critical facilities list is inclusive of community serving centers most likely to serve low to moderate income Texans and requested inclusion of community spaces in affordable housing communities that provide residents services for health, safety, and well-being during a power outage.

HOLT suggested all public and state critical facilities should be included for grants and loans.

The City of Houston requested that the commission expressly recognize that municipally owned operational and logistics facilities that directly support emergency response activities are eligible critical facilities when designated by the governing body of a political subdivision. The City stated that, under its Power Protection Initiative (PPI), operations centers, fleet and fueling facilities, public works staging and logistics sites, and emergency response coordination hubs are essential to continuity of emergency services and recovery and therefore should be recognized as eligible even when it does not serve the public directly.

Crusader requested that the commission explicitly include community resilience hubs, defined as the shared common area facility infrastructure of a master-planned residential community of 150 or more households, because HOA community centers and clubhouses are often used as emergency gathering and cooling, heating and communications spaces during outages Crusader states that the rule inadvertently disqualifies HOA community associations due to exclusions for for-profit entities that do not directly service public safety and human health and for private residences.

Non-exclusive list and flexibility in critical facility eligibility determination

ASC requested modifying the clause to read "Critical facility types may include" to avoid excluding facilities that provide "critical medical, public safety, and other valuable community services."

Schneider Electric similarly proposed that the list of eligible facility types serve as examples rather than an exclusive list to allow unconventional critical facilities to apply.

GRIT encouraged the commission provide implementation guidance that allows for discretion to maintain flexibility in how eligibility is applied because, in practice, some facilities provide essential community services but may not fit neatly into a single category as written.

Commission Response

The commission agrees with the commenters that the existing list of eligible critical facilities in the proposed rule does not fully reflect all types of facilities that may serve public safety, human health, and well-being during extended power outages. Rather than add specific critical facility types suggested by commenters, the commission revises clause (b)(1)(C)(vi) to include 'any other facility' that is identified as critical by the governing body of a political subdivision with applicable jurisdiction. This revision would provide greater flexibility and ensure that eligibility determinations can account for local conditions and operational realities that local government bodies are better positioned to identify.

Proposed §25.513(b)(1)(C)(i) - Applicant Eligibility - Water and wastewater facility eligibility

Proposed §25.513(b)(1)(C)(i) states that a hospital, ambulance dispatch facility, healthcare treatment facility, police station, fire station, or critical water or wastewater facility are eligible facility type.

HOLT and HUS requested clarification about eligibility of critical water and wastewater facilities. HUS noted that many utilities expressed interest in this program to provide backup power for water and wastewater treatment plants, pump stations, raw water intakes, lift stations, and other critical water and wastewater infrastructure. HUS asked the commission to confirm that these critical loads that are not buildings qualify as a critical water and wastewater facility.

Commission Response

The commission clarifies that an eligible critical water and wastewater facility would include equipment related to water and wastewater treatment.

Proposed §25.513(b)(1)(C)(iv) - Applicant Eligibility- Criteria for determining critical facilities' eligibility

Proposed §25.513(b)(1)(C)(iv) states that an evacuation route fuel station or a gas station or grocery store in an urban or rural area with limited access to essential supplies are eligible facility type.

HUS and NCTCOG recommended that the commission adopt a clearer, more prescriptive definition of "limited access." HUS and NCTCOG recommended using an objective definition based on the USDA Food Access Research Atlas. NCTCOG alternatively suggested giving specific metrics for applicants to use to determine if they operate an eligible critical facility.

NCTCOG requested that the commission clarify that "fuel station" includes all transportation fuels, including EV charging and alternative fuels, along evacuation routes.

PowerSecure recommended revising subsection (b)(1)(C)(iv) to include strategic distribution infrastructure to maintain flows of essential goods and services during extended events, such as fuel stations and grocery distribution infrastructure network. PowerSecure provided redlines consistent with its recommendations.

GRIT also supported including gas stations and grocery stores, along with their associated distribution infrastructure, as they are critical to ensuring the flow of essential goods and services to affected communities.

Commission Response

The commission declines to codify a single data source, because binding eligibility determinations to a specific dataset could limit the TxEF administrator's ability to consider more up-to-date or otherwise relevant data sources. The commission, however, modifies the proposed rule to add new subsection (e)(2)(A)(x) to identify examples of publicly available governmental resources that may be used by applicants to substantiate eligibility, including the Texas Department of Transportation's Statewide Planning Map identifying district hurricane evacuation routes and, as suggested by HUS and NCTCOG, the United States Department of Agriculture's Food Access Research Atlas identifying communities with limited access to groceries and other essential supplies. These examples are not intended to limit either the applicant's ability to use any available data set that more appropriately demonstrates its eligibility or TxEF administrator's consideration of other credible, relevant, and up-to-date sources of information.

The commission declines to define fuel types in rule text but clarifies that "fuel station" includes publicly accessible electric vehicle charging stations.

The commission also declines to include broader supply chain distribution network infrastructure under other eligibility provisions because that is unnecessary.

Proposed §25.513(b)(1)(C)(vi) - Applicant Eligibility- House of worship identification

Proposed §25.513(b)(1)(C)(vi) states that a food bank or gathering place, including a public school, public library, town hall or municipal building, or house of worship which is identified as critical by the presiding officer of the governing body of a political subdivision are eligible facility types.

TEPRI recommended that the commission either remove the requirement that a house of worship be identified as critical by the presiding officer of the governing body of a political subdivision or clarify the process by which a house of worship may obtain that designation and provide guidance to governing bodies to promote simplicity and consistency. TEPRI cited research that indicates neighborhood churches are often the easiest place for residents to reach by foot in case of emergency.

Commission Response

The commission declines to adopt TEPRI's recommendation to remove the requirement that a house of worship be identified as critical by the presiding officer of the governing body of a political subdivision. The additional step of requiring local government bodies to designate a facility critical to public health, safety, and well-being provides an appropriate mechanism to identify facilities, particularly in circumstances where multiple houses of worship or gathering places may offer similar services within the same jurisdiction.

Proposed §25.513(b)(1)(D) - Applicant Eligibility- Critical facility site control clarification

Proposed §25.513(b)(1)(D) states an applicant must control the site at which a TBPP may be installed, either through ownership or a lease of the property for the duration of the TBPP compliance and monitoring period.

Minimum site control term

ASC recommended specifying a minimum site control term, such as ten years, as many critical facility operators rent or lease their facilities. This will help manage expectations around how long site control is required.

Critical facility and site definition

NCTCOG asked for the addition of definitions for "critical facility" and "site," and clarity on whether "site" in subsection (b)(1)(D) refers to the facility itself or the land. NCTCOG also requested guidance on how ownership structures impact applicant responsibilities and eligibility.

Changes in assets and ownership

Cardinal Bay and 4-K Housing requested clarity on the allowance of asset sales during the compliance and monitoring period, on the implications of forfeiture or repayment obligations if ownership changes, and on the duration of the compliance and monitoring period.

Loss of site control

ASC requested clear direction on what happens to TBPP equipment if a host loses site control, goes bankrupt, or is otherwise unable to keep the TBPP in operation, including whether equipment reverts to the state or the vendor, whether it can be moved, and whether other legal consequences apply.

Commission Response

The commission accepts ASC's recommendation to specify a minimum site control term and accordingly modifies rule subsection (e)(1)(B)(viii).

The commission also modifies subsection (b)(1)(D) to clarify applicants must be authorized to install a TBPP on the land on which the critical facility is located and on the critical facility's buildings and equipment that are necessary to provide its critical service functions. Additionally, the commission modifies the subsection to clarify the applicant must also be authorized to operate the TBPP for the duration of the TBPP compliance and monitoring period.

The commission further clarifies that, if a critical facility sells the facility, loses control of the land, buildings, and equipment, files for bankruptcy, or is otherwise unable to continue operating the TBPP or is no longer providing critical services at the critical facility during the compliance and monitoring period, the commission may require the return of any grant funds disbursed or may determine that the loan is not forgivable. Responsibility for repayment will rest with the awardee or the approved vendor or both, as applicable, based on the nature of any default and awardee and vendor's respective obligations as described in the grant and credit agreement. Accordingly, the commission modifies subsections (i)(2)(B) and (i)(3) to codify these modifications to the adopted rule.

Third-party ownership models

HUS recommended that the commission clarify that only a real estate owner or lessee may apply for funding, noting that this eligibility limitation excludes third party ownership providers, including "as a service" providers and power purchase agreement providers, from directly obtaining funds. HUS also asked whether an owner or lessee that uses a third-party ownership arrangement may use TBPP grant or loan proceeds to buy down lease or power purchase agreement costs. HUS recommended clear rules and appropriate controls to prevent inflated pricing. HOLT asked for clarification as to whether third-party ownership structures are allowed.

Commission Response

The commission declines to modify the rule to allow third-party ownership structures as requested by HUS. The commission clarifies that participation in the TBPP is limited to the legal entity that has the authority to bind the critical facility and that otherwise satisfies all eligibility and compliance requirements of this rule.

Proposed §25.513(b)(2) - Vendor Eligibility- Clarification of approved vendor requirements and selection process

Proposed §25.513(b)(2) requires vendors seeking to participate in TBPP projects at eligible critical facilities to be selected through a commission-administered competitive solicitation process. The commission will maintain an approved vendor list and may remove vendors from the list whose TBPP projects fail to operate.

Approved vendor requirement

TPPA stated that requiring applicants to contract with an approved vendor to install a TBPP may overstep PURA §34.0205, which directs the commission to list approved vendors eligible to assist with the sale, installation, operation, and maintenance of a TBPP. TPPA interpreted "assist" in PURA as permissive rather than mandatory for all aspects of the work. TPPA further stated that critical facilities should be able to leverage preexisting ex-

pertise in procuring TBPPs. TPPA recommended that the commission replace a mandatory approved vendor list requirement with detailed performance requirements that apply regardless of who performs the work.

Commission Response

The commission disagrees with TPPA's comment that requiring applicants to contract with an approved vendor to install a TBPP oversteps PURA §34.0205. While PURA §34.0205 directs the commission to list vendors eligible to assist with the sale, installation, operation, and maintenance of a TBPP, the statute does not prohibit the commission from establishing program structures necessary to ensure safe, reliable, and compliant system deployment.

Alternative participation models

The City of Houston requested the use of standardized municipal design frameworks and core equipment components, subject to commission technical review and approval. The City of Houston requested flexibility for entities with existing competitively procured vendors and established standards, provided projects meet all technical, performance, and compliance requirements. The City of Houston stated that this approach would better accommodate facility-specific constraints under PPI while maintaining consistent design standards, control systems, switchgear architectures, and equipment families, reducing procurement delays, and supporting scalable municipal programs and better aligning the program with how public-sector infrastructure projects are delivered in practice.

Commission Response

The commission declines to permit applicants to bypass the approved vendor requirement, as suggested by the City of Houston. Requiring the use of an approved vendor to deliver a turnkey TBPP is necessary for faster implementation of the program. This approach preserves flexibility for vendors while ensuring a single point of accountability for each TBPP installation.

The commission explains that TBPPs are complex, multi component systems involving generation, battery storage, and photovoltaic panels. Allowing critical facilities to procure and assemble TBPP components through piecemeal procurement from multiple contractors would materially risk deployment of a compliant system as well as pose administrative challenges related to non-standard package prices.

The commission further clarifies that approved vendors may subcontract portions of the work as necessary, consistent with their contractual arrangements, but the approved vendor will remain fully responsible for overall system design, installation, operation, and performance.

Public vendor list

GRIT, NCTCOG and Cardinal Bay and 4-K Housing requested clarity on transparency around vendor participation.

NCTCOG recommended that the commission increase transparency around vendor participation by making the approved vendor list public. GRIT recommended maintaining a public list of approved vendors to ensure competition and preserve customer choice. NCTCOG also recommended publishing standardized vendor information with the approved vendor list so applicants can compare providers effectively to find the provider that best suits their needs.

Cardinal Bay and 4-K Housing asked the commission to clarify whether the vendor application process will be public, when the approved vendor list will be made public, and whether access to an approved vendor will be guaranteed.

Vendor solicitation

New Ventures requested transparent vendor selection timelines. Generac requested clarification on the timeline for establishing the vendor list, the criteria for evaluating vendor qualifications and reviewing applicants. Rise Energy similarly requested clarification on how a vendor can apply to be approved.

Vendor qualifications

The City of Houston, HOLT, New Ventures, GRIT, PowerSecure, and Critical Loop provided recommendations for selection criteria for the Approved Vendor list. ASC and HUS requested details about vendor selection process and timelines.

The City of Houston requested that the commission allow locally procured, competitively selected vendors. HOLT recommended requiring vendors with manufacturing, engineering, resources, and equipment to be Texas-based so that TBPP funding is spent within the state of Texas. New Ventures recommended that the Approved Vendor criteria explicitly require specialized qualifications for installers with experience in high capacity solar and energy storage systems, that vendor selection weigh local Texas experience and the ability to maintain systems over their life cycle, that the Approved Vendor selection process remain open to specialized local entities, and that the commission prioritize vendors with a demonstrated history of maintaining resilient infrastructure within the state of Texas.

Commission Response

The commission clarifies that vendors eligible to participate in the TBPP program will be selected by the commission through a competitive solicitation process that is conducted in accordance with applicable state procurement requirements. The solicitation process will be public, and information regarding the solicitation, evaluation criteria, and vendor selection will be made available, consistent with applicable law. The purpose of the competitive solicitation process is to establish baseline qualification standards and ensure vendor capability, not to limit participation to a fixed or capped number of vendors.

The commission will maintain and publish a list of approved vendors. The approved vendor list (AVL) will be made publicly available to promote transparency. Vendor qualifications, scope of services, and other relevant information will be evaluated as part of the solicitation process. The commission emphasizes that approval as a vendor does not constitute an endorsement of any specific product or service, nor does it guarantee the award of program funds.

The commission declines to codify detailed vendor lifecycle procedures in rule text, including transition assistance for facilities with existing vendor contracts, because such matters are more appropriately addressed through solicitation documents, contract terms, and program administration.

Vendor participation and collaboration

GRIT requested explicit rules allowing approved vendors to collaborate in delivering TBPP projects, as TBPPs are multi-technology and may require vendor partnerships. They also encouraged vendors to participate in multiple partnerships.

Generac requested clarity on how an omnichannel sales structure fits within the vendor application framework and how the process will accommodate this structure.

HOLT recommended that the commission not create a specific solicitation structure for equipment and project delivery vendors and instead maintain flexibility for vendors to partner together to offer full services or to be qualified to provide only a single service or equipment only.

ASC requested the commission to clarify whether only vendors with direct contractual relationships with critical facilities or all subcontractors must be on the approved vendor list.

NRG similarly recommended that the vendor selection process explicitly allow single service vendors to pre-qualify and make clear that joint full-service proposals are permitted but not required, stating this approach is consistent with PURA §34.0205(d) and would preserve flexibility and competitive pricing for critical loads by not forcing mandatory partnerships among vendors. NRG provided redlines consistent with its recommendations.

Commission Response

The commission explains that for approved TBPP projects, the commission will enter into a grant and credit agreement with the awardee and the prime approved vendor responsible for delivering a turn-key TBPP to the critical facility. The prime vendor will be selected by the commission through a competitive selection process. The prime vendor may engage sub-contractors through its own contractual arrangements. The prime vendor is required to be an approved vendor, but the sub-contractors are not required to be approved by the commission. The prime approved vendor would be responsible for the TBPP compliance and performance requirements and will have the obligation to pay the full grant amount and loan amount to the commission in the event of default attributed to the prime vendor. If a default is attributed to a critical facility awardee, however, the awardee will be obligated to repay the grant and loan amounts to the commission. If the commission determines that both the awardee and the approved vendor are jointly responsible for the default, the obligation to repay will be shared between them.

Vendor proposal requirements

ASC requested the commission require stronger customer protections for approved vendors, including minimum TBPP specifications and warranties and liabilities, standardized cost and package terms for alternative packages and financing options, and penalties and remedies for poor performance or abandonment. ASC also noted this information allows critical facilities to select between vendor proposals with greater confidence. ASC also requested a standard front page metrics format in all vendor proposals and TBPP applications covering TBPP size in nameplate and deliverable terms, components, capital costs per usable kW and per usable kWh, refueling and operations and maintenance costs per deliverable kWh for standby over a year and for 48-hour islanded operation, all in upfront costs, total ten year financing costs, and host ownership rights under complex financing.

Commission Response

The commission agrees with ASC that customer protections should be required from approved vendors, including minimum TBPP specifications and warranties and liabilities, standardized cost and package terms for alternative packages, and penalties and remedies for poor performance or abandonment. While the commission declines to codify details about warranties, liabilities, standardized cost and package terms in rule text, because such matters are more appropriately addressed through solicitation documents, contract terms, and program administration, the commission agrees to adopt ASC's recommendation about penalties for poor performance. Accordingly, the commission modifies proposed (h)(6)(B)(ii) [renumbered as adopted (h)(5)(B)(ii)], which delineates the awardee and vendor responsibilities, remedies, and procedures applicable to the vendor and obligation to pay in the event of the default caused by the AVL, and proposed (i)(2)(B), which delineates the AVL compliance requirements. The commission also revises the incorrect rule subsection numbering in the proposed rule from (h)(6)(B)(ii) to (h)(5)(B)(ii) in the adopted rule.

Vendor Assignments

Generac asked the commission to clarify how applicants will be matched with vendors, what recourse a vendor has if it cannot serve a matched applicant, and whether TBPP will require installation within a defined timeline once a match is made.

Cardinal Bay and 4-K Housing requested clarity on how the commission will monitor and manage access to approved vendors for eligible entities and what actions will be taken if an entity is unable to gain access to an approved vendor in a timely manner. Cardinal Bay and 4-K Housing further asked how the program will address situations where lack of access to an approved vendor affects the timeline requirement for project completion, asserting that no mitigation process, remedy, or escalation path is defined and that constrained or delayed vendor access could jeopardize timely installations.

Commission Response

The commission clarifies that the TxEF administrator will assign an approved vendor to an eligible critical facility based upon the needs of the critical facility, including the size of the TBPP required, the geographical location of the critical facility, and vendor capacity, qualifications and performance. The TxEF administrator will consider and accept reasonable requests from a critical facility or an approved vendor for assignment to a particular vendor or for reassignment when circumstances warrant and resources allow.

With respect to implementation timelines, the commission clarifies that project completion and installation timelines will be based upon the vendor's proposed TBPP project plan, which will be developed in consultation with the critical facility, and approved by the executive director or his or her designee. This plan will be memorialized in grant and credit agreements. This approach allows project timelines to account for project-specific factors.

Program implementation will be tracked through award administration, reporting requirements, monitoring, and oversight of awardee and approved vendors. The commission declines to establish a formal escalation or reassignment process in rule text, because flexibility to address access or timing issues through contractual provisions and program administration is more appropriate and effective.

Definition and enforcement of 'fail to operate'

TPPA and Vistra requested clarification regarding what the commission means by the phrase "fail to operate." Vistra recommended the rule define when a TBPP would be considered to have failed to operate to avoid ambiguity. Vistra recommended that the definition include not only technical nonperformance,

but also operational or commercial conduct inconsistent with the TBPP program. Vistra further recommended adding rule language to specify the types of failures that could result in removal from the approved vendor list and provided redlines consistent with its recommendations.

PowerSecure argued that the proposed rule's provision allowing removal of a vendor whose TBPPs "fail to operate" is overly broad and could unfairly penalize vendors for unavoidable or isolated incidents. PowerSecure emphasized that failures may result from force majeure events, mechanical issues, or actions by third parties beyond a vendor's control. PowerSecure requested that in instances where the failure to operate is caused by a bona fide event beyond the reasonable control of the vendor, the vendor should not be removed from the approved vendor list. PowerSecure also recommended the commission impose proportionate penalties on vendors who do not meet performance requirements rather than automatic removal, to avoid harsh consequences for minor or first-time violations. PowerSecure provided redlines consistent with its recommendations.

Commission Response

The commission modifies proposed (b)(2) to clarify that "fail to operate" means a failure to comply with applicable contractual requirements or established performance requirements. Performance requirements will be established in the vendor selection process.

The commission further explains that a failure to operate may serve as a basis for removal of a vendor from the approved vendor list. However, in determining whether removal is warranted, the executive director or his or her designee will consider the severity and frequency of the failure, the vendor's remediation efforts, the vendor's overall performance history, whether failures have been resolved, and whether failures resulted from circumstances beyond the vendor's reasonable control. The commission may be more likely to remove vendors with repeated TBPP failures and those that have not attempted to resolve the ongoing issues.

Proposed §25.513(b)(3)(A) - TBPP Eligibility

Proposed §25.513(b)(3)(A) describes the requirements to which a TBPP must adhere to be eligible.

ASC recommended that the commission revise the list of TBPP requirements to explicitly include the statutorily required specifications for interconnection, communications, controls, and cybersecurity consistent with PURA §34.0203(c)(2).

Commission Response

The commission declines to revise proposed subsection (b)(3)(A) to include detailed technical specifications and specifications related to communications, and controls in the rule text. As required by statute, the commission contracted with Patrick Engineering to develop recommendations for TBPP technical specifications, including specifications for communications and control systems consistent with PURA §34.0203(c)(2). Patrick Engineering's technical requirement recommendations may be incorporated, as appropriate, into the solicitation and related procurement materials used for vendor selection. The TBPP rule is not the appropriate vehicle for prescribing detailed technical specifications, which will instead be addressed through the vendor solicitation process.

Alternative TBPP eligibility pathways

The City of Houston requested that the commission establish an alternative eligibility pathway or waiver process for permanent natural gas backup generation systems serving critical facilities where extended outage coverage is achieved through continuous fuel supply than fuel storage. The City of Houston stated, based on its experience, that pipeline supplied natural gas systems can provide sustained operational capability, faster restoration readiness, and lower logistical risk than alternative systems, and that such systems can operate continuously for days or weeks during a disaster, unlike solar or battery systems, which can be limited by cloud cover, storage capacity, or weather conditions. The City of Houston asserted that hybrid solar and battery components can be impractical in some locations due to space, structural, or operational constraints.

Commission Response

The commission declines to modify the rule to provide a waiver process for permanent natural gas backup generation systems as proposed by the City of Houston. PURA §34.0204(5)(A) requires TBPPs to provide power sourced from a combination of natural gas or propane with photovoltaic panels and battery storage, as reflected in the rule.

Proposed §25.513(b)(3)(A)(i) - TBPP Eligibility- Behind-the-meter requirements

Proposed §25.513(b)(3)(A)(i) states that a TBPP must be connected behind-the-meter at an eligible critical facility.

TBPP serving multiple critical facilities

The City of Houston requested that the commission clarify that the behind-the-meter requirement may be satisfied by a locally owned and operated microgrid configuration in which a single generation system serves multiple city owned critical facilities under unified control and with islanding capability. The City of Houston asserted that this clarification would preserve the program intent that resources be behind the meter, dedicated to resilience, while also allowing future municipal designs that use a single, centrally controlled generation asset to support more than one critical facility operated by the same public entity. The City of Houston requested this flexibility to leave open the ability to deploy campus-style or locally owned microgrids that can improve efficiency, reliability, and operational coordination for closely related public safety and emergency response facilities avoiding unintentionally limiting resilient infrastructure designs to single-facility architectures, while maintaining the rule's core safeguards regarding behind-the-meter operation and non-participation in energy markets.

Physical co-location and limited to serving a single premise behind a single meter

Oncor supported the behind-the-meter requirement but recommended that the rule further require that TBPP components be physically located with and connected behind the meter at the eligible critical facility. Oncor recommended that a TBPP system be limited to serving one premise behind one meter, to prevent configurations with multiple interconnection points or switching arrangements that could allow selective or inconsistent interaction with the distribution system. Oncor provided redlines consistent with its recommendations.

Commission Response

The commission declines to adopt City of Houston's request to allow a single TBPP or generation system to serve multiple critical facilities under a shared or campus-style microgrid

configuration because the TBPP program is intended to support standalone, behind-the-meter backup power for an individual host critical facility, rather than to enable shared generation assets serving multiple facilities. Allowing multi-facility configurations would be inconsistent with the program's design, would complicate compliance and monitoring, and could increase the risk of grid interaction or operational complexity.

The commission agrees with Oncor's recommendations and modifies rule language to specify that all components of eligible TBPP facilities must be physically co-located and connected behind-the-meter at an eligible critical facility and be limited to serving a single critical facility behind a single meter to reduce risk for grid interaction and unnecessary complexity in accounting for energy produced or consumed.

Proposed §25.513(b)(3)(A)(iii) - TBPP Eligibility- Technology and controls

Proposed §25.513(b)(3)(A)(iii) requires an eligible TBPP to use interconnection technology and controls that enable immediate islanding from the power grid and stand-alone operation for the critical facility.

Technology used to enable island operation and instantaneous islanding

Both GRIT and Oncor requested clarification regarding the requirements for transition to islanded operation. GRIT requested clarification that "immediate islanding" is not intended to require instantaneous transfer in all cases, as doing so would materially affect battery energy storage system (BESS) sizing and project cost. Preserving flexibility in islanding approaches, consistent with subsection (k) of the draft rule, will allow customers to select solutions that meet their resilience needs while enabling program funding to support a broader set of critical facilities.

Oncor requested that the commission clarify that no amount of time should be allowed for parallel operation between the grid and a TBPP, meaning that critical facility should be disconnected from the grid and only then begin receiving power from the TBPP. Oncor stated that, if no parallel operation occurs, the critical facility would not meet the definition of onsite distributed generation and would not be subject to Oncor Distributed Generation process or require a Distributed Generation interconnection agreement. Oncor further stated that, if the commission determines a different level of transition to islanded operation is permissible, a Distributed Generation agreement would be needed for any TBPP that operates parallel with the grid for any length of time, and that clarity on parallel operation is necessary to determine whether any distribution service provider processes or requirements are triggered.

Oncor noted that the language requires TBPPs to use technology that enable immediate islanding from the grid and suggested adding language requiring that technology to be utilized each time the facility is providing power. Oncor provided redlines consistent with its recommendations.

Commission Response

The commission clarifies that the TBPP must operate in an island mode at all times. The critical facility may work with the approved vendor to select solutions that best balance critical facility's requirements for the amount of facility load that requires instantaneous islanding, because it may materially affect battery energy storage system (BESS) sizing and project cost.

The commission agrees with Oncor and clarifies that a critical facility must utilize technology and controls that enable immediate islanding from the power grid and stand-alone operation for the critical facility in each instance in which the TBPP provides power. Accordingly, the commission modifies clause (b)(3)(A)(iii).

Proposed §25.513(b)(3)(A)(v) - TBPP Eligibility - 2.5 Megawatt cap and package size

Proposed §25.513(b)(3)(A)(v) states that a TBPP be designed so that one or more TBPPs can be aggregated onsite to serve not more than 2.5 megawatts of load at the critical facility.

FCHEA, GRIT, and Bloom requested that the commission clarify that the 2.5-megawatt limit applies to the amount of project capacity eligible for grant or loan support, rather than to the total size of the installation, so that larger projects may remain eligible for support for up to the first 2.5 megawatts of capacity. These commenters stated that interpreting the limit as a hard cap on total project size would exclude critical facilities from participation. FCHEA and GRIT further stated that such an interpretation would reduce the effectiveness of the legislation and the program. FCHEA, GRIT, and Bloom cited hospitals, noting that facility load often is around or exceeds 5 megawatts, but that such facilities could still benefit from partial participation. Bloom also noted that a restrictive interpretation could exclude other key infrastructure, including water systems and emergency response centers. GRIT added that partial participation would allow facilities to right-size systems while still accessing program support.

Similarly, the City of Houston recommended a waiver or alternative eligibility pathway for projects serving large or campus-style facilities whose operational requirements exceed the current 2.5-megawatt onsite load limit. The City of Houston stated that certain public safety, emergency operations, and logistics facilities function as regional hubs with combined critical loads exceeding what is contemplated for smaller, single use facilities, and it asked the commission to allow higher capacity systems when justified by facility function, service footprint, and emergency response role, while maintaining all other safeguards.

New Ventures supported the proposed 2.5-megawatt load limit and the islanding requirements for TBPPs.

TEPRI recommended allowing greater site-specific flexibility in meeting TBPP installation and load requirements, including the ability to size photovoltaic and battery components above any minimum thresholds. TEPRI suggested that any increase in system cost beyond program requirements should be funded by non-TBPP sources, rather than TBPP grants or loans.

ASC requested that the rule state a limit on the maximum size, both nameplate and usable, of a TBPP relative to the host facility peak load to prevent vendors from oversizing for their own profit, wasting taxpayer funds, and reducing funds available for other facilities and communities.

Commission Response

The commission declines to adopt recommendations from FCHEA, GRIT, Bloom, and the City of Houston to interpret the 2.5MW limit as a funding cap rather than a cap on total TBPP capacity, or to establish waivers or alternative eligibility pathways for larger or campus-style facilities. The commission clarifies that an eligible critical facility may have a critical load in excess of 2.5 MW; however, the maximum size of a TBPP or an on-site aggregation of TBPPs serving a single critical facility is limited to 2.5 MW. The commission revises subsection

(b)(3)(A)(v) to include an explanation of what qualifies as critical load at a critical facility. The commission clarifies that allowing partial funding of larger installations or higher-capacity systems would introduce additional administrative complexity, complicate compliance verification, and increase the difficulty of monitoring system operation, islanding performance, and ongoing program requirements. Facilities seeking to support more than 2.5 MW of critical load would need to procure a separate and segregated backup system for the load in excess of 2.5 MW.

In response to ASC's comments, commission clarifies that TBPPs must be sized to serve a facility's critical load, with a maximum of the lesser of 100% of the facility's critical load or 2.5 MW. The critical load at the critical facility will be identified through an assessment performed by an approved vendor in coordination with the critical facility, which may include an analysis of historical load data to the extent practicable. The TxEF administrator will review the proposed TBPP size to confirm that it is consistent with the identified critical load and applicable program limits.

Proposed §25.513(b)(3)(A)(vi) - TBPP Eligibility- Hydrogen and alternative fuel eligibility

Proposed §25.513(b)(3)(A)(vi) states that a TBPP must provide power sourced from a combination of natural gas or propane with photovoltaic panels and battery storage.

FCHEA, GTL, SET, and Texas Hydrogen Alliance requested the rule recognize hydrogen as an eligible fuel or power source for the TBPP. FCHEA also urged the commission to recognize fuel cell systems, regardless of fuel type, as eligible generation technologies under both the grant component and the low interest loan component of the TxEF. Schneider Electric recommended expanding eligible fuel types to include alkanes, hydrogen, and ammonia because each fuel has associated advantages and disadvantages.

FCHEA requested that eligibility expressly include hydrogen used alone or blended with other fuels such as natural gas and used across fuel cells, gas turbines, reciprocating engines, and other generation technologies capable of using hydrogen, provided program requirements are met. FCHEA explained that hydrogen and fuel cell systems are well-suited to meet the program's goals, as these fuel cells are already deployed at some critical facilities. These cells can offer the same, or greater, resilience value as conventional generation, while avoiding air pollutant emissions and reducing diesel fuel dependency. FCHEA also highlighted the flexibility of hydrogen allows it to integrate seamlessly with existing gas infrastructure. GTL Leasing similarly supported expressly including hydrogen and stated that hydrogen with fuel cell technology is one of the few zero emission solutions that can meet and exceed the 48-hour threshold without the physical footprint or degradation issues associated with large battery banks, and GTL Leasing further stated that Texas produces more hydrogen than any other state so its inclusion would enhance grid resilience and support a Texas industry. SET requested that hydrogen be included as an eligible fuel source. Texas Hydrogen Alliance requested that hydrogen be included as an eligible power source along with natural gas and propane. GTL, Schneider Electric, SET, and Texas Hydrogen Alliance provided redlines consistent with their recommendations.

Commission Response

The commission declines to modify proposed subsection (b)(3)(A)(vi) to include hydrogen or fuel cell technologies as eligible fuel or power sources for the TBPPs recommended by FCHEA, GTL, SET, and Texas Hydrogen Alliance because the statute does not authorize inclusion of alternative fuel sources.

Proposed §25.513(b)(3)(A)(vii) - TBPP Eligibility - Battery energy storage systems and photovoltaic sizing requirements

Proposed §25.513(b)(3)(A)(vii) states that a TBPP must be able to produce energy from the battery storage component sufficient to serve the critical facility's monthly average peak demand for one hour and produce energy from photovoltaic panels sufficient to recharge the battery storage component within six hours.

Calculating monthly average peak demand

ASC requested more guidance on how to calculate "monthly average peak demand for one hour" including the appropriate lookback period whether that is the average of peak one-hour over the past 12 months, multiple years, or another calculation.

Rise Energy requested for technical criteria for determining the qualifying system size for the photovoltaic solar system, the battery assets, and generators to meet program requirements and be eligible for loan funding. Rise Energy also requested the commission to clarify whether eligibility or sizing is based on peak demand usage in certain months.

NCTCOG suggested a longer lookback period of at least 24 months to calculate monthly-average peak demand and reduce variability across applicants, and it questioned the basis for the one-hour and six-hour thresholds and encouraged performance objectives that allow design flexibility. NCTCOG recommended seeking vendor feedback on recharge assumptions.

Six-hour recharge conditions

Generac stated that different modeling assumptions, such as lowest production month or normalized annual conditions, could materially affect whether an array is deemed sufficient, and urged clear direction on modeling methodology, assumptions, and documentation standards to ensure consistency across applications.

GRIT asked for clarity on how the photovoltaic (PV) and BESS requirements apply over the operating life of equipment given degradation of PV and BESS, how the six-hour charging window should be interpreted, including whether it assumes typical or worst-case conditions, whether the limit is a minimum design standard vs. a performance requirement, and how wording such as "able to produce" versus "able to discharge" affects compliance. GRIT highlighted the different sizing configurations that could result from different assumptions around worst-case and best-case charging conditions, which may increase system size and cost, rendering them infeasible. GRIT proposed a more flexible approach, such as designing the requirement around average annual conditions, which would expand the program's reach and available funding. Additionally, they pointed to smaller facilities that may face space or architectural limitations for the required solar.

HUS suggested basing the recharge calculation on the average hourly kilowatt hour (kWh) output of a system in the lowest month of the year, as modeled in HelioScope or Aurora, or similar software, inclusive of actual site conditions, system components, and shading.

TEVA recommended expanding the PV recharge window.

Alternative sizing approaches

ASC recommended requiring only minimal percentages of battery storage and solar generation capacity relative to host peak load to support cross-component resilience without making TBPP designs fiscally or physically infeasible, and it cautioned that batteries to serve almost all of a facility's peak load and a six-hour PV recharge requirement could force an unreasonably large PV array and significantly raise costs.

NRG contended that sizing based on one hour of monthly average peak demand and recharging the BESS within six daylight hours would require oversized, high-cost systems that could exceed the $500 kW grant cap and require substantial on-site space, discouraging participation without being necessary to achieve statutory resiliency goals. Instead, NRG proposed sizing the BESS as bridge power, rather than primary, for generator startup using startup time with a multiplier and allowing solar to recharge the BESS over a longer same-day window to reduce cost and footprint. Sizing the BESS at the Patrick Engineering report level could consume the entire grant cap for the battery alone. This approach would not minimize costs, as required by statute, and is not necessary to meet the other aims of the statute. Furthermore, the space required for the Patrick Engineering report proposed sizing would be a limiting factor for critical facilities. Reducing the required size of the BESS to serve as a bridge and extending the recharge period for solar would result in less physical required real estate and significantly lower costs. NRG provided redlines consistent with their recommendations.

GRIT recommended allowing solar systems to be sized either to meet the six-hour BESS recharge target or to the maximum feasible size based on site specific constraints, whichever is less, to avoid disqualification based on space constraints and to support right sizing to operational needs while still meeting program intent. GRIT provided redlines consistent with their recommendations.

TEPRI requested clarifications that recognize additional operational modes for charging and using batteries, including offsetting on-site consumption and using software- and timeframe-based industry standards to define solar recharge assumptions, and it suggested tying recharge expectations to the portion of battery capacity needed to meet backup requirements rather than implying a fully charged battery in all circumstances.

Critical Loop alternatively recommended allowing batteries to charge from both on-site generation and the grid to lower costs, improve operational flexibility, and increase reliability during extended outages or poor weather. Critical Loop added that prohibiting grid charging increases reliance on larger solar arrays and battery capacity, raising costs without improving outcomes and that providing facilities with the ability to charge from the grid enhances resilience while supporting cost-effective system operation consistent with the program's objectives.

Need for design flexibility

Generac requested flexibility in PV sizing to account for site-specific conditions and performance variations across Texas, including solar irradiance, shading, roof geometry, available mounting surfaces, orientation, tilt limitations, and seasonal variability, noting that even optimal PV designs may be unable to meet the requirement due to physical constraints rather than design choices. Generac suggested allowing customer flexibility in sizing the BESS and solar as it will provide adequate resiliency based on specific needs, site circumstances, and any distribution utility technical considerations. Generac further stated that this flexibility will also allow the program budget to stretch further, reaching more facilities while still meeting customer resiliency needs.

PowerSecure recommended removing technical constraints that effectively force certain PV and BESS sizes, including specific recharge windows and PV footprint considerations, to avoid excluding worthy projects and maximize vendor flexibility to tailor designs to limited usable square footage. PowerSecure provided redlines consistent with their recommendations.

New Ventures supported design flexibility to account for local site limitations such as shading and roof geometries, and supported the use of smart load controllers to "right-size" battery systems for space-constrained facilities.

Crusader requested clarification as to whether subsection (b)(3)(A)(vi) requires the use of natural gas, photovoltaic generation, and battery storage together, or whether natural gas generation paired with battery storage, without photovoltaic panels, would satisfy the requirement. In the alternative, Crusader requested that the commission establish a compliance pathway for existing operational natural gas and storage systems at a reduced grant tier. Crusader stated that natural gas generation paired with battery storage can satisfy the 48 hour or greater requirement in subsection (b)(3)(A)(iv), that many existing HOA systems already use this configuration, and that requiring photovoltaic retrofits could add approximately $50,000 to $100,000 per site without materially improving 48-hour capability. Crusader also asserted that photovoltaic output during multi-day winter storms is often minimal and that natural gas serves as the primary resilience asset in such configurations.

HOLT recommended allowing vendors to offer a range of sizes, including modular configurations, to meet the continuous 48 hours requirement, stated that a single vendor need not provide each size described in the Patrick Engineering Final Report, and requested maximum system flexibility; HOLT argues this would maximize program participation and ensure cost-effectiveness of systems. HOLT also stated that requiring PV and BESS would add cost and engineering and therefore should be optional.

Performance based standards

Critical Loop and NRG stated the proposal is overly prescriptive and, in places, not well grounded in statute or engineering rationale, and they encouraged shifting toward performance-based objectives rather than fixed technical thresholds. Schneider Electric also stated that battery and photovoltaic requirements are overly prescriptive and recommended an outcome based or performance-based standard to allow for a wider range of projects. TBPPs should be assessed on their ability to operate independently from the grid, their backup capability, their availability, their duration, and overall operational reliability. Generac stated that the proposed rule embeds a specific engineering design in regulation rather than defining the resilience outcome the program seeks to achieve.

The City of Houston requested a focus on operational performance outcomes, including duration of outage coverage, automatic islanding, and ability to support continuous emergency operations rather than prescriptive technology combinations. The City of Houston stated that PPI experience shows that reliability and operational readiness are driven primarily by system design, fuel reliability, maintenance, and testing regimes rather than the inclusion of distributed generation or battery components.

SUN objected to draft language requiring battery storage sufficient to serve the facility monthly average peak demand for one hour and recharge the batteries from incorporated solar within six hours, suggesting that this is a limiting factor that is especially burdensome for smaller facilities and increases project costs. SUN proposed performance-based requirements centered on the ability to island from the grid and provide sufficient backup power. This allows flexibility in TBPP designs without being forced into one overall system configuration. Performance-based standards help facilities of various sizes with roof and land constraints to participate in the program and allow solar and battery to complement the onsite gas generator, without one technology configuration outweighing the other.

TAEBA requested replacing rigid battery and photovoltaic sizing formulas with performance based standards and stated that resilience should be defined by islanding capability, guaranteed runtime, deliverable backup capacity, availability, and operational reliability. It stated that the six-hour recharge requirement increases costs and that many critical facilities lack sufficient space to accommodate the photovoltaic capacity needed, with limited incremental resilience benefit relative to cost where space is available. This could cause projects to become financially or physically infeasible, reducing participation in the communities the program is intended to serve.

Bloom requested the commission to include 'baseload capable microgrids' as eligible systems and that eligibility should be defined by performance not operational role.

Recommend removal of sizing requirements

TSSA noted that the sizing requirements for the battery and solar undermine the cost-effectiveness requirement, the resiliency benefits, and injects ambiguity. TSSA noted that no explanation for the sizing of the battery storage and PV recharge is provided in the rule and how the calculations will work. These limitations make it more difficult for these resources to participate in the program and create different standards in the rule based on generation type, which is the opposite of a technology-neutral provision. TSSA argued that applications should be able to design the TBPP in a manner that best meets their needs, but that battery storage and solar resources should not be held to a higher standard than other components. Doing so may limit participation in the program from both facilities and vendors. Approved vendors would be best suited to help applicants determine the most optimal and cost-effective designs. TSSA provided redlines with their recommendation to remove the sizing requirement.

Critical Loop urged removal of both the one-hour monthly-average-peak battery requirement and the six-hour PV recharge requirement, arguing they are not specified in statute, are unclear on measurement, reporting, and enforcement, and lack a clear engineering or reliability rationale.

TSSA recommended deleting the proposed subsection, arguing it adds performance requirements not in PURA §34.0204 and creates a non-statutory, technology specific standard. The statute was crafted to allow maximum flexibility in design and to be technology-neutral while providing a few explicit requirements. TSSA argued that the commission does not have the discretion to add requirements to the eligibility criteria, as legislative language does not add the qualifier "including." TSSA noted that without a term for enlargement, such as "including," the statutory eligibility list may not be altered. TSSA recommended deleting subsection (b)(3)(A)(vii).

Commission Response

The commission agrees with commenters that prescriptive battery and photovoltaic sizing requirements in proposed subsection (b)(3)(A)(vii) may exclude otherwise viable projects, particularly for space constrained or smaller facilities, and may, in some cases, result in increased costs without a commensurate benefit in asset performance. Accordingly, the commission modifies the rule to remove subsection (b)(3)(A)(vii). Under the revised rule, approved vendors will work with eligible critical facilities to assess site specific conditions, operational requirements, and constraints. Approved vendors will recommend TBPP configurations that satisfy program requirements, including reliable islanded operation and multi day backup capability. This approach preserves flexibility, supports cost effective, and innovative designs that factor in site specific constraints, while maintaining the program's focus on meaningful resilience outcomes.

Proposed §25.513(b)(3)(B) - TBPP Eligibility and Proposed §25.513(d)(1)(E)- Funding Exclusions- Permitted TBPP Use and Prohibited Market Participation

Proposed §25.513(b)(3)(B) states that a TBPP must not be used by the owner or the facility operator for the wholesale or retail sale of energy, ancillary services, or other reliability services products. Proposed §25.513(d)(1)(E) states that grant or loan funds must not be used for a facility that uses the TBPP for wholesale or retail sale of energy, ancillary services, or other reliability services products.

Clarification about parties subject to the prohibition on market participation

TPPA requested clarification that the prohibition on wholesale or retail sales of energy, ancillary services, or other reliability products applies to all parties involved in the TBPP arrangement, not only the owner or operator. TPPA also provided redlines consistent with this clarification.

Commission Response

The commission declines to adopt TPPA's recommendation because it is unnecessary. The adopted rule's prohibition on wholesale or retail sales of electric energy, ancillary services, emergency response service, or other reliability services products in which the provider receives compensation in Texas applies to the TBPP itself and to its operation, regardless of which party owns, operates, installs, or otherwise participates in the TBPP arrangement.

Clarification about prohibition on energy sales and alignment with PURA

TAEBA requested clarification of the prohibition on sales and recommended removing "other reliability services," arguing PURA §34.0204(6) prohibits sales of energy or ancillary services and that using the statute's terminology would reduce ambiguity and provide clearer guidance.

NCTCOG interprets the rule language as prohibiting all exports to the grid, including solar buyback programs, but indicates this language could be made clearer.

PowerSecure opposed language stating a TBPP must not be used for wholesale or retail sale of energy, ancillary services, or "other reliability services products," arguing the statute bars sales of energy or ancillary services, not reliability services, citing PURA distinctions and suggested allowing certain reliability services to expand reliability benefits and utilization of program funds. Because the TBPP grant and loan may not cover the entire system cost, the ability for facilities to generate revenue

streams is important to achieve the goal of deploying backup power. PowerSecure provided redlines consistent with their recommendations.

TSSA recommended allowing TBPPs to provide operational benefits to the critical facility and, if additional megawatts are available, to provide public-benefit reliability services, arguing PURA §34.0204(6) does not expressly prohibit reliability services or on-site operational use. TSSA supported keeping a market-participation ban as taxpayer funds should primarily be used to ensure facilities can operate during a grid emergency. However, facilities should be able to provide support, TSSA argued, if the grid were experiencing an emergency. Additionally, flexibility could help facilities offset costs beyond the $500 kW cap while still meeting performance and availability requirements. TSSA provided redlines consistent with its recommendations.

GRIT recommended allowing participation in commission-approved reliability programs with safeguards, such as not compromising outage readiness or performance, plus oversight and reporting, and emphasized that revenue offsets could help fund package costs. GRIT also warned a blanket prohibition on reliability program participation could extend beyond statutory limits and unintentionally limit benefits as ERCOT offerings evolve.

Oncor agreed with the intention that TBPPs should be used for providing backup power for critical facilities rather than participating in wholesale markets. Oncor recommended revising the rule because "other reliability services products" is vague and requested adding a non-exhaustive list of prohibited wholesale-market participation examples such as ERCOT Emergency Response Service (ERS), registration as a Controllable Load Resource, participation in Aggregated Distributed Energy Resource (ADER) program, and demand response programs administered by retail electric providers or utilities. Oncor also provided redlines.

TBPP use for peak load reduction

NRG recommended clarifying that TBPPs may be used for non-commercial, non-emergency purposes like peak load reduction as long as there is no wholesale or retail sale of energy or ancillary services or other market participation and eligibility criteria remain intact. NRG argued this would reduce load measured by the critical facility and ultimately what is billed while not impeding immediate islanding or 48-hour emergency operation and would improve cost efficiency and support the statute's cost-minimization objective. If TBPPs were only to operate in grid emergencies, then TBPPs would rarely, if ever be used. NRG suggests allowing for use in circumstances outside of grid emergencies. NRG provided redlines consistent with its recommendations.

ASC asked the commission to consider specific scenarios about how TBPPs may be used beyond serving as a backup power source for a critical facility. Such scenarios included limited behind-the-meter peak shaving of up to 2 hours of the required 48-hour backup, with recharge to restore full 48-hour capability within 24 hours; limited behind-the-meter load reduction to participate in the ADER project or a Virtual Power Plant under the same constraint; and the ability for ERCOT to call on TBPPs to island during emergencies, with host consent and compensation at least covering fuel and operations or comparable to Load Acting as a Resource.

HUS requested clarification on whether the exclusion for sale of energy and reliability products also prohibits peak shaving or self-consumption. HUS stated that self-consumption simply reduces net export to the grid and is not a sale of energy but is an economic strategy.

Participation in solar buyback programs

HUS asked the commission to confirm whether solar buyback programs are allowed given potential unavoidable net exports when meeting the six-hour recharge requirement without curtailment.

TEPRI recommended allowing TBPPs to be used to offset on-site energy consumption and reduce facility electricity bills. TEPRI also recommended that TBPPs be allowed to participate in solar buyback programs.

Use of TBPP during non-emergency periods

City of Houston recommended allowing a limited and clearly defined exception for TBPP-funded generation or microgrid assets that are owned and controlled by a municipality to export electricity or participate in authorized market or interconnection programs during non-emergency periods solely for the purpose of offsetting operating and maintenance costs, provided that such operation does not interfere with the primary purpose of serving the critical facility. The City of Houston added that this narrowly tailored flexibility could support the long-term financial sustainability of publicly owned resilience infrastructure.

Critical Loop recommended explicitly permitting critical facilities to use backup power packages outside peak events and prolonged outages, arguing regular use improves financial feasibility, strengthens facility resilience, and improves the facility's electricity reliability. Critical Loop emphasized that allowing daily use of a power package would not require designing it primarily for routine operation, but would permit limited behind-the-meter use within operational guardrails and with minimal additional upgrades and stated that a package designed for 48-hour islanded operation can typically support such use through standard controls, and that this flexibility would require little added investment while significantly increasing overall value.

FCHEA requested clarification that TBPPs as microgrids can provide day-to-day operational value, so long as they also meet resilience requirements in SB 2627. FCHEA noted that it is common for local generation resources to supply a portion of a facility's baseload power when grid power is available and that it would be unusual to require TBPPs to only operate during grid outages. In practice, most critical facilities seeking to deploy microgrids intend to use some or all of their components daily to enhance reliability, power quality, and operational resilience. Allowing baseload use would provide certainty to market participants and critical facility operators.

Crusader requested that the commission recognize distributed generation resources (DGRs) as a priority technology category for TBPP funding, particularly for community-scale critical infrastructure. Crusader argued that DGRs offer long-duration backup capability with effectively unlimited runtime when fuel supply is available, can be deployed within approximately 90 to 180 days, and can scale within the program's 2.5-MW-per-site limit. Crusader further asserted that these resources may participate in ERCOT energy and ancillary services markets, including ERS, which it contends would allow cost recovery, support routine testing, and improve maintenance practices. According to Crusader, prioritizing DGRs would better align the program with statutory goals by providing dispatchable, extended-duration backup power well beyond the 48-hour mini-

mum requirement while remaining within program size limits and offering dual-use economic value through market participation.

Prohibition on non-emergency operation

Vistra supported the proposed rule's general prohibition on non-emergency operation as consistent with PURA §34.0204(6), warning non-essential preemptive deployment reduces available backup duration and creates ERCOT reliability risk. Vistra also supported explicit prohibitions on wholesale and retail sales of energy, ancillary services, or other reliability services products to prevent TBPPs from distorting markets or interfering with price formation and long-term reliability objectives. Vistra cautioned against the manual, discretionary "storm anticipation" operating models described in the Patrick Engineering Report. If any anticipatory operation were allowed through a revision to the current rule language, it should be ERCOT-coordinated and explicitly accounted for in the Real-Time-On-Line Reliability Deployment Price Adder to mitigate out of market distortions and preserve price formation signals.

Commission Response

The commission clarifies that PURA §34.0201 requires that a TBPP functions exclusively as a standalone, behind-the-meter backup power resource for its host critical facility. Accordingly, TBPPs must be designed to operate only in an islanded mode and must not export power to the electric grid.

The commission declines requests from TAEBA, PowerSecure, TSSA, and GRIT to narrow the prohibition by removing references to "other reliability services" or to allow participation in commission-approved or ERCOT- or other ISO-administered reliability programs. The commission concludes that the prohibition on an owner or operator of a critical facility from using an installed TBPP for the sale of energy or ancillary services under PURA §34.0204(6) plus the definition of a TBPP as a power source that can be used for islanding of facilities critical for public health, safety, and well-being under §§34.0201-.0202 mean that TBPPs must not participate in activities other than serving the critical facility during reliability or adequacy events.

The commission agrees with Vistra's comments regarding a general prohibition on non-emergency operation. The commission clarifies that TBPPs are not permitted to participate in wholesale or retail electric energy markets; participate in ERCOT or another ISO's ancillary service, ERS programs, or other reliability services; the Aggregated Distributed Energy Resource (ADER) program; solar buyback, or peak load reduction program that results in grid interaction; or participate in any demand response program, including as a Controllable Load Resource, administered by an ISO, retail electric provider, electric utility, or other entity. The commission modifies the rule subsections (b)(3) and (d)(1) to add language recommended by Oncor to ensure that TBPPs cannot be operated in a manner that introduces grid interaction or undermines their dedicated backup function.

The commission declines to adopt recommendations from NRG, ASC, Critical Loop, FCHEA, the City of Houston, Crusader, to allow TBPPs to operate during non-emergency periods for peak shaving, baseload support, revenue generation, or cost recovery. While the limited non-emergency operation could improve cost efficiency or maintenance, it would erode the TBPP's availability and reliability during actual outage events and also create broader ISO reliability risks and unintended market impacts.

Participation in Load Shed

TEC recommended the commission consider whether critical facilities with a TBPP could be eligible for load shed when feasible, because those facilities would be able to maintain service during an outage. TEC stated that its member systems withhold critical facilities from load shed where feasible and that the commission has prioritized loads essential to the electricity supply chain.

Commission Response

The commission notes TEC's recommendation to consider the potential eligibility of critical facilities with a TBPP for load shed. The commission will consider the potential benefits and adverse impacts, if any, of acting on this recommendation and may take up the issue in a future proceeding, as appropriate.

Proposed §25.513(c) - TBPP Funding- Cost categories funded by grant-versus-loan

Proposed §25.513(c) states that a TBPP may be funded in whole or in part by a grant, loan, or a combination of both.

NCTCOG requested clarity on whether an applicant may use grant funding for items listed under loans if total project cost is at or below 500 dollars per kWh, citing uncertainty about the interaction between subsections (c)(1)(C) and (c)(2).

Cardinal Bay and 4-K Housing requested that the commission fully explain the difference between a grant and a loan and clarify whether an applicant will need to use or apply for both a grant and a loan to fully implement the requirements.

Commission Response

The commission modifies section (c) to remove references to specific categories of project costs and clarify which broad cost categories may be funded by a grant and those that may be funded by a loan consistent with PURA Chapter 34. Costs eligible for grant funding include design, procurement, installation and operating costs, whereas only costs related to procurement or operations are eligible for loan funding.

In response to NCTCOG, the commission clarifies that all eligible TBPP project costs may be funded through a grant, or a combination of both a grant and loan, subject to the eligible cost categories and applicable statutory and program caps. An applicant may use grant funding to cover any portion of total eligible project costs, up to the grant cap of $500 per kilowatt, regardless of whether those costs could otherwise be financed through a loan.

In response to Cardinal Bay and 4-K Housing, the commission further clarifies that applicants are not required to apply for both a grant and a loan to implement a TBPP project. Depending upon total project costs, an applicant may apply to fund a project entirely with a grant or a combination of both a grant and a loan. Because grant funding is limited to a maximum of $500 per kilowatt, applicants may desire to seek both grant and loan funding if the grant funding is not sufficient to cover the applicant's total, eligible project costs.

Proposed §§25.513(c), 25.513(c)(1), 25.513(c)(1)(A), §25.513(c)(1)(B)(iii), 25.513(c)(2)(A)(ii), 25.513(c)(2)(B)- TBPP Funding - Eligible project costs, equipment, and vendor requirements

Proposed §25.513(c) states that a TBPP may be funded in whole or in part by a grant, loan, or a combination of both. Proposed §25.513(c)(1) describes the cost categories that may be funded by grants . Proposed §25.513(c)(1)(A) states that eligible design costs include costs for site specific plans, drawings, and stud-

ies. Proposed §25.513(c)(1)(B)(iii) states that costs for standard site preparation inputs, including foundations and pads are eligible to be funded by grants. Proposed §25.513(c)(2)(A)(ii) states that loan funds may be used for costs for equipment, such as the generator, battery storage system, photovoltaic modules and inverters, switchgear, controllers, and associated hardware. Proposed §25.513(c)(2)(B) states that loan funds may be used for operating costs, which include costs for operations and routine preventative maintenance, and warrantied repair services during the compliance period.

Expanding eligible costs list

HOLT recommended including application costs, which consist of feasibility, pre-engineering, and design costs, to be included in the total cost of the project for reimbursement.

TEVA requested explicit inclusion of inverters and switchgears as an eligible cost category for which grant funds may be used for.

NCTCOG asked whether the listed operating costs are exhaustive or examples. NCTCOG recommended that the commission clarify each list of eligible costs by adding "including, but not limited to" before examples because many reasonable costs are not enumerated.

The City of Houston asked the commission to allow limited, safety driven electrical and switchgear upgrades necessary to safely and code-compliantly interconnect permanent backup generation at existing critical facilities, explaining that many legacy facilities require modest service entrance, panel, transfer switch, or switchgear upgrades to integrate generators and enable reliable islanded operation. The City of Houston requested clarification that such essential upgrades are eligible when directly required for the installation and operation of a backup power system and not only when tied to segregation of critical circuits so that older or complex municipal facilities are not excluded.

ASC requested that grant or loan costs explicitly include both fuel storage facilities and associated physical and electronic monitoring protection measures for the facilities and the TBPP installation, given that one of the program requirements is on-site fuel supply.

NCTCOG also requested clarification as to whether non-warranty repairs are eligible, and whether operating costs are only reimbursable when incurred by same approved TBPP vendor who installed the TBPP or if any approved vendor may complete the eligible operations work.

Commission Response

The commission modifies subsection (c) to clarify that grant funds may be used to fund the eligible design, procurement, installation, and operating costs for TBPP assets, and loan funds may be used for procurement and operating costs for TBPP assets, subject to applicable statutory and program caps.

The commission declines to include costs categories requested by HOLT, TEVA, ASC, and City of Houston into the rule because detailed guidelines and information about specific costs that may be eligible for grant or loan funding will be available on the TxEF Online and the TxEF FAQs webpage during application phase.

The commission further clarifies that not all TBPP costs are eligible for funding. Costs that are unrelated to TBPP functionality, constitute general facility upgrades, or are otherwise identified in the funding exclusions subsection (d) may not be funded through TBPP grants or loans and must be borne by the applicant.

Application preparation and pre-award costs

HUS requested confirmation that costs for feasibility analyses completed to prepare the application may be reimbursed by the grant as part of the initial design costs if the application is approved. TPPA sought clarification on timing and documentation for approved design costs, including whether design costs can be paid in advance or only reimbursed after the applicant incurs the costs, and TPPA asked how that approach would apply when an applicant ultimately does not submit a request for TBPP funding.

Commission Response

The Texas Energy Fund will not reimburse for or otherwise fund feasibility analyses, the costs to prepare an application, or the costs of applications that are ultimately not submitted. Such costs are borne by the applicant and are considered applicant risk. Details regarding the recovery of administrative and project delivery costs associated with project scoping that are not covered by loans or grants, but may be paid by the commission, will be addressed during the vendor solicitation. The TxEF administrator will provide guidance on these matters in the vendor solicitation documents.

Fuel cells

Texas Hydrogen Alliance recommended that the commission revise the loans section to include fuel cells as approved equipment. Texas Hydrogen Alliance stated that hydrogen paired with fuel cells can provide long duration storage, resilience benefits, and fuel flexibility, and that fuel cell technology has been used for decades and is increasingly adopted as a power source as infrastructure expands. Texas Hydrogen Alliance provided redlines consistent with its recommendation.

Commission Response

The commission declines to modify the proposed rule to include fuel cells as approved equipment that is eligible to be funded by TBPP loans as recommended by Texas Hydrogen Alliance because the statute does not authorize inclusion of alternative fuel sources.

Proposed §25.513(d)(1)(A) - Funding Exclusions- Commercial energy system definition

Proposed §25.513(d)(1)(A) states that grant or loans funds must not be used for a facility that is a commercial energy system, a private school, or a for-profit entity that does not directly service public safety and human health.

PowerSecure stated that the lack of a definition for "commercial energy system" presents potential ambiguity and it provided redlines consistent with its recommendations. TEPRI asked the commission to clarify whether the exclusion is intended to refer to commercial sized systems that could be installed in qualifying critical facilities, or instead to refer to ownership, and TEPRI stated that clarity is needed to avoid inadvertently disqualifying appropriately sized systems serving eligible critical facilities. TSSA noted that "commercial energy system" is undefined and suggested it be defined as an energy that participates in the energy and ancillary services market.

Commission Response

The commission agrees with TSSA's and PowerSecure's recommendations to define a commercial energy system and modifies subsection (d)(1)(A) accordingly.

Proposed §25.513(d)(1)(B) - Funding Exclusions- Communal housing for at-risk populations

Proposed §25.513(d)(1)(B) states that grant or loans funds must not be used for a private residence.

ASC requested explicit inclusion of communal or group housing for at risk populations, including senior citizens and foster children.

Commission Response

The commission declines to modify the rule to explicitly include communal or group housing for at-risk populations, as requested by ASC because an owner of a residence that serves critical community health, safety, and well-being functions can seek a designation from the governing body under subsection (b)(1)(C)(vi). The private residence exclusion expressed in subsection (d)(1)(B) is intended to clearly eliminate facilities that do not serve community needs. PURA §34.0202 establishes the purpose of the TBPP program as supporting backup power for critical facilities on which communities rely for health, safety, and well-being, rather than expanding eligibility based on resident characteristics or housing type alone.

Proposed §25.513(d)(1)(D) and §25.513(d)(2)(B) - Funding Exclusions - Existing backup power compliance

Proposed §25.513(d)(1)(D) states that grant or loans funds must not be used for a facility that installs a source of backup power that does not follow the design and use standards of a TBPP. Proposed §25.513(d)(2)(B) states that grant or loans funds must not be used for project costs that are for integrating existing backup power equipment into a TBPP installation, unless it aligns with vendor's TBPP design and the vendor offers the same warranties and performance guarantees as for a comparable TBPP of entirely new backup equipment.

Existing backup compliance requirements

TSSA recommended revising the rule language to clearly state that TBPP funding applies only to backup power systems that meet the rule requirements. TSSA stated that, as written, the rule could bar a facility from receiving a grant or loan for a compliant TBPP if the facility also has, or plans to install, another backup power system that does not meet TBPP design and use standards. TSSA stated the intent is to ensure funding is used only for backup power systems that meet TBPP requirements, not to disqualify facilities that have other non-compliant backup systems on site. TSSA provided redlines consistent with its recommendations.

Vistra requested added clarity to ensure that when a facility with existing backup generation or additional backup generation adds a TBPP, none of the backup power equipment at that site is used for wholesale or retail sales of energy, ancillary services, or other reliability services products. Vistra stated that compliance monitoring would be impractical if output from multiple on-site backup systems must be distinguished and that "commingling" could mask prohibited TBPP operations. Vistra further recommended that compliance with TBPP prohibitions for other backup power at the same facility be a condition of eligibility for TBPP grants and loans. The practical way to monitor is to require all backup at the facility to comply with the least common denominator. Vistra provided redlines consistent with its recommendations.

Commission Response

The commission disagrees with TSSA's assertion that the proposed rule could disqualify a critical facility from receiving TBPP funding solely because the facility has, or plans to install, another backup power system that does not meet TBPP design and use standards. TBPP requirements apply only to backup power systems funded through grants or loans under the TBPP program and not to other existing or future backup power equipment at a critical facility that is not funded by the TBPP program.

To ensure effective compliance monitoring, the commission modifies subsection (d)(2)(B) to remove references to integrating existing backup power equipment into a TBPP installation. As revised, the rule states that project costs for integrating existing backup power equipment into TBPP installation are excluded from funding. The commission clarifies that any existing backup power equipment at a critical facility must be fully segregated from the TBPP, and the TBPP must function as a distinct system that independently complies with all applicable program requirements. This approach simplifies compliance oversight, avoids ambiguity regarding system performance and operation, and ensures that TBPP obligations can be clearly attributed to the funded system.

The commission also declines Vistra's recommendation to require all backup power equipment at a critical facility to comply with TBPP prohibitions as a condition of eligibility. Such an approach would impose an unnecessary and disproportionate eligibility penalty on critical facilities that already have existing backup power systems, many of which may have been installed to meet separate safety, reliability, or regulatory requirements. The commission will not extend TBPP compliance obligations beyond the scope of systems funded by the program.

New §§25.513(d)(1)(F), 25.513(d)(1)(G), and 25.513(d)(1)(H) - Funding exclusions

New §25.513(d)(1)(F) provides that grant or loan funds may not be used for a facility that is a controllable load resource. New §25.513(d)(1)(G) provides that grant or loan funds may not be used for a facility that participates in the commission administered aggregated distributed energy resource (ADER) program or a demand response program administered by a retail electric provider or an electric utility.

Commission Response

The commission modifies the rule to add new subsections (d)(1)(F), (d)(1)(G), and (d)(1)(H) which establish funding exclusions for TBPP. These exclusions specify that TBPPs cannot be operated as a controllable load resource, or participate in ADER programs, or any demand response program, or be used for demand reduction. These prohibitions ensure that a TBPP is not used in a manner that introduces grid interaction. Allowing an owner of a critical facility with an installed TBPP to use the TBPP for any type of grid interaction contradicts the explicit statutory framework that TBPPs are intended to provide backup power capable of islanding a critical facility during an emergency and that energy or power from a TBPP must not be sold.

Using existing equipment and integrating partial TBPP components

ASC requested expanding subsection (d)(1)(D) to address whether, and under which circumstances if any, existing photovoltaic, battery, or backup generation equipment can be incorporated into a new TBPP installation without being charged as a cost in the new TBPP procurement.

PowerSecure recommended that the commission revise and clarify certain funding exclusions in subsection (d)(2). PowerSecure stated that subsection (d)(2)(B) is broad and requested that the rule allow integration of existing backup equipment when the equipment can meet program terms. PowerSecure provided redlines consistent with its recommendations.

GRIT and HUS requested clarification on applicant eligibility and evaluation requirements when a facility already has one or more TBPP components installed. GRIT asked whether such a facility may satisfy program requirements by adding the remaining required TBPP components, and how the commission would evaluate that type of application.

HUS asked whether a facility with an existing backup generator can qualify by adding solar and battery components to convert the facility into a microgrid, including whether the existing generator would be acceptable if it is covered by a warranty equivalent to a new unit. HUS also asked whether the project would remain eligible if the existing backup power equipment is replaced.

Commission Response

The commission declines to allow a critical facility to integrate existing backup generator, battery or PV equipment with newly procured TBPP components because combining equipment with different ages, conditions, and warranties with new TBPP equipment will complicate compliance verification, and performance accountability. To provide clarity to applicants, the commission modifies subsection (d)(2)(B) to remove references to integrating existing backup power equipment into a TBPP installation as explained above. As revised, the rule states that project costs for integrating existing backup power equipment into TBPP installation are excluded from funding. The commission clarifies that any existing backup power equipment at a critical facility must be fully segregated from the TBPP, and the TBPP must function as a distinct system that independently complies with all applicable program requirements. This approach simplifies compliance oversight, avoids ambiguity regarding system performance and operation, and ensures that TBPP obligations can be clearly attributed to the funded system.

Proposed §25.513(d)(2)(C) - Funding Exclusions- Electrical and building upgrades

Proposed §25.513(d)(2)(C) states that grant or loans funds must not be used for project costs that are for building or electrical upgrades to a critical facility, except for the purpose of segregating critical circuits.

Eligible structural improvements

ASC stated that potential installation costs for electrical upgrades needed to connect the TBPP to the facility and roof upgrades needed to accommodate TBPP photovoltaic panels should be recategorized as eligible, rather than presumed ineligible expenses, because TBPP grants are intended to cover installation costs. Critical Loop similarly advocated removing the exclusion of building and electrical upgrades from eligible costs, arguing that the exclusion creates a barrier for under-resourced facilities and that most projects require electrical work and roof or structural improvements to accommodate photovoltaic systems. NCTCOG asked the commission to clarify the rule because it could be read to exclude necessary building upgrades such as roof improvements to support safe photovoltaic installation, and it recommended making such upgrades eligible under a grant or loan to facilitate TBPP deployment.

Commission Response

The commission clarifies that building or electrical upgrades necessary to segregate critical circuits are expressly allowed by the rule. The commission declines to expand eligibility to include general building or structural upgrades, such as roof upgrades or broader structural improvements undertaken to accommodate photovoltaic installations. The TBPP program is intended to fund the design, procurement, and installation of backup power assets, not to subsidize general facility capital improvements that would otherwise be the responsibility of the critical facility owner.

Proposed §25.513(d)(2)(E) - Funding Exclusions- Enhanced system features

Proposed §25.513(d)(2)(E) states that grant or loans funds must not be used for project costs that are associated with any enhanced system features outside the standard TBPP offering from an approved vendor.

HUS asked whether the program would fund costs above the minimum required to achieve a six-hour recharge if a facility oversizes a solar system to enable faster recharge, whether any system size limits apply.

PowerSecure cautioned that subsection (d)(2)(E) could unintentionally block technology upgrades outside the standard TBPP offering from an approved vendor, and it requested clarification of subsection (d)(2)(E) so vendors can improve service without requiring the commission to track each vendor standard offerings list.

Commission Response

The commission clarifies that grant or loan funds may be used only to finance a standard TBPP configuration as offered by an approved vendor and necessary to meet minimum program requirements. The costs of any enhanced system features, including oversized photovoltaic systems, accelerated battery recharge capability, additional functionality, or technology upgrades beyond the standard TBPP offering, are the responsibility of the applicant.

Proposed §25.513(e) - Application Requirement and Process-Application Process for Multi-facility and Multi-site Projects

Proposed §25.513(e) describes the application requirements and process.

Standardized application format

HUS asked the commission to confirm whether applications will be submitted through an online portal, whether the commission will provide a standardized template or format or instead require each critical facility to create its own format to meet the stated requirements, and what financial information a critical facility must provide for credit review. NCTCOG similarly recommended that the commission develop a standardized application template.

Commission Response

TBPP grant and loan applications will be submitted via the TxEF Portal, an online application and program management system used by the TxEF administrator to administer all TxEF grants and loans. The TxEF Portal will serve as the central resource for TBPP applicants to submit applications, upload materials, track awards, and for vendors to submit project information and reports. Information on how to submit a TBPP application within the TxEF Portal will be posted on TxEF Online prior to the TBPP application launch.

Multiple facilities in single application

TPPA sought clarification on application structure, specifically whether an application is limited to a single TBPP proposal per critical facility or whether multiple TBPPs proposed for a single critical facility at one site may be included in a single application. TPPA requested confirmation that, if a single critical facility intends to install multiple TBPPs at the same location, only one application would be required.

NCTCOG recommended allowing a single application that includes multiple critical facilities, stating it will minimize unnecessary repetition of information for entities who own several critical facilities. City of Arlington recommended allowing a single consolidated application per applicant entity that may include multiple critical facilities, with each facility evaluated independently, and stated that this approach would reduce administrative burden for cities, counties, and regional entities while preserving the commission's ability to prioritize individual projects and improving program efficiency without compromising competitive evaluation.

Generac recommended that the rule be simplified for accommodating multi-site applications. A single master application and consolidated spreadsheet could reduce onerous efforts for an applicant wanting to submit for dozens of sites. New Ventures recommended a simplified application process for multi-site projects, like city-wide initiatives.

The City of Houston also recommended allowing and encouraging coordinated portfolio-based deployment approaches when local governments implement multiple backup projects across multiple facilities. The City of Houston requested clarification that, even if each application must include only one critical facility project, multiple related projects may be implemented and evaluated under a coordinated or programmatic approach, reflecting how municipal infrastructure is planned, procured, and delivered in practice, and enabling accelerated delivery, O&M efficiencies, and reduced overall implementation risk.

Cardinal Bay and 4-K Housing requested clarity on whether an owner must submit all projects at the same time and how project priority ranking would function. Cardinal Bay and 4-K Housing also expressed concern about whether submitting multiple applications may limit an applicant's ability to receive multiple grants or loans or penalize applicants.

Commission Response

The commission clarifies that an applicant may submit one or more applications for an award under this section, but each application must include only one critical facility project.

The commission declines recommendations from Generac, New Ventures, NCTCOG, the City of Arlington, and the City of Houston to allow a single application to cover multiple critical facilities. Each critical facility presents site-specific conditions, including load characteristics, physical constraints, installation complexity, and operational considerations, that must be evaluated for each facility. Requiring a separate application for each critical facility ensures consistent evaluation, and clear prioritization. The TxEF administrator will however, develop administrative processes, where feasible, to streamline submission for applicants applying for multiple facilities.

In response to Cardinal Bay and 4-K Housing, the commission clarifies that applicants are not required to submit all projects at the same time, and submitting multiple applications will not penalize an applicant's eligibility for multiple grants or loans. Each application will be evaluated on its own merits and evaluated in accordance with program criteria.

Grant vs. loan application

TPPA requested clarification on whether an applicant seeking both a loan and a grant for one facility requires two separate applications or only one.

Commission Response

An applicant seeking both loan and grant funding for a single critical facility will only need to submit one application via the TxEF Portal. The commission will prescribe the form and manner of the application, and additional details will be made available through TxEF Online prior to the application phase.

Proposed §25.513(e)(1)(A) - Applicant Information- Eligibility of third parties to prepare and submit applications

Proposed §25.513(e)(1)(A) states that a corporate sponsor or the most senior parent corporation or owner entity may apply on behalf of a subsidiary applicant and an application for a TBPP with multiple owners must be submitted by the highest level of the entity with managing authority over the critical facility.

Applications submitted on behalf of critical facilities

ASC requested that the applicant selected TBPP vendor be allowed to act as the applicant agent in preparing the application, reasoning that many qualifying critical facilities are small and thinly staffed. NRG recommended clarifying that unaffiliated entities, such as an approved vendor, may prepare applications, as critical facilities may lack technical expertise or personnel time. NRG further stated that if a third party would own or operate the TBPP, it could make sense for that party to assist with the application on behalf of the critical facility, since they would be overseeing the installation of the TBPP at that site. NRG provided redlines accordingly.

TPPA recommended explicitly permitting distribution service providers that are authorized to own generation to apply on behalf of private critical facilities in their service territories, asserting that distribution service providers are better positioned to identify vulnerabilities, navigate funding opportunities, and manage ongoing operational and reporting obligations that nonenergy entities may find burdensome.

Cardinal Bay and 4-K Housing sought clarity on whether a community manager listed by the Texas Department of Health and Human Services for an assisted living facility may submit an application or whether the application must be submitted by the owner.

Commission Response

The commission clarifies that proposed subsection (e)(1)(A) addresses the application structure and identifies who may submit an application on behalf of a critical facility. Under the rule, an applicant must be the corporate sponsor, the most senior parent corporation, or the owner entity with managing authority over the critical facility, and an application for a TBPP involving multiple owners must be submitted by the highest-level entity that has managing authority over the facility. Consistent with this framework, the commission clarifies that, while third parties including consultants, community managers, or other unaffiliated entities may assist in preparing application materials, the application itself must be submitted by the entity identified in subsection (e)(1)(A) that has legal authority to act for and bind the critical

facility. The rule does not permit unaffiliated entities, such as a distribution service provider, to be applicants.

The commission further clarifies, in response to ASC's comment, that the TBPP application will be submitted in two parts. In the first part, applicants will submit information required under rule subsections (e)(1) and (e)(2). The TxEF administrator will evaluate this application information to determine applicant and critical facility eligibility. If the applicant and critical facility are determined to be eligible by the executive director or his or her designee, an approved vendor will be assigned to the critical facility to develop the TBPP project in coordination with the applicant and critical facility. In the second part, the approved vendor assigned to the critical facility will submit the required project information for that critical facility to the commission. The TxEF administrator will evaluate the projects submitted and make a recommendation as to whether an award should be made. The Executive Director or his or her designee will make the final award determination. The commission modifies proposed rule subsection (e)(3) to broadly clarify this two-step application process.

Proposed §25.513(e)(1)(B)(v) - Applicant Information- Applicant's financial capability

Proposed §25.513(e)(1)(B)(v) describes that applicants must include information to demonstrate good financial standing with relevant financial institutions as part of their application.

PowerSecure proposed requiring applicants to provide information regarding their creditworthiness, suggesting the commission allow TxEF loan-style evidence, e.g., financial statements and parent guarantees, so the commission can evaluate the applicant ability to repay. PowerSecure provided redlines consistent with its recommendation.

Commission Response

The commission clarifies that information about documentation that can be submitted to demonstrate creditworthiness will be available on the TxEF Online prior to the TBPP application phase.

Proposed §25.513(e)(1)(B)(vi) - Applicant Information- TBPP performance requirements

Proposed §25.513(e)(1)(B)(vi) describes that applicants must agree to adhere to TBPP performance requirements as part of their application.

ASC requested that subsection (e)(1)(B)(vi) contain a specific list of TBPP performance requirements that both the applicant and the selected vendor must acknowledge.

Commission Response

The commission declines to revise subsection (e)(1)(B)(vi) to include a separate enumerated list of TBPP performance requirements. The commission clarifies that TBPP performance requirements are set forth in the rule, in subsection (b)(3), which establishes TBPP eligibility and design requirements detailing how the asset must function; in subsection (h) within the executed grant and credit agreements which would delineate respective responsibilities of the awardee and the approved vendor, establish performance milestones, performance metrics, targets, deliverables, cure periods, remedies, and the procedures applicable to the awardee and the approved vendor; and in subsection (i), which describes compliance and monitoring obligations over the life of the project.

Proposed §25.513(e)(1)(B)(viii) - Applicant Information- Required Site Control Documentation

Proposed §25.513(e)(1)(B)(viii) describes that applicants must provide information demonstrating site control at which a TBPP may be installed for a duration at least as long as the compliance and monitoring period as a part of their application.

Cardinal Bay and 4-K Housing sought clarity on documentation for the application, including what specific information is required showing control for the duration of the compliance and monitoring period and whether an affidavit or other legal documentation will be required as a part of the application.

Commission Response

The commission revises section (e)(1)(B)(viii) to clarify that each application must include a proof of title or other information showing control over the critical facility for at least 6 years. The commission further clarifies that TxEF Online will offer additional details related to the information an applicant will be required to provide prior to the TBPP application phase.

Proposed §25.513(e)(1)(B)(ix) - Applicant Information- Applicant authority to operate the TBPP

Proposed §25.513(e)(1)(B)(ix) describes that applicant must attest that they are authorized to operate the TBPP at the critical facility

PowerSecure requested revising the rule to require applicants to attest that they are authorized to own and locate the project and have or plan to acquire permits, while recognizing some facilities are not equipped to operate sophisticated systems. PowerSecure provided redlines consistent with its recommendation.

Commission Response

The commission declines to modify the proposed rule as recommended by PowerSource because the applicant must have the authority to apply for, install, and operate a TBPP at the critical facility. The approved vendor assigned to the critical facility will facilitate ongoing maintenance and operation of the TBPP throughout the compliance and monitoring period, which alleviates the concerns raised by PowerSource in its comments.

Proposed §25.513(e)(1)(B)(x) - Applicant Information- Grant justification for TBPP funds

Proposed §25.513(e)(1)(B)(x) describes that applicants must provide a justification for seeking loan funds for a TBPP.

PowerSecure suggested that the rule require justification for seeking grants and loan funds, not just loans. PowerSecure provided redlines consistent with its recommendation.

Commission Response

The commission agrees with PowerSecure's suggestion and modifies the rule to require justification for seeking program funds.

Proposed §25.513(e)(2)(A) - Critical Facility Information - Alternative governmental attestation for qualifying facilities

Proposed §25.513(e)(2)(A) describes the required critical facility information to be submitted as

ASC requested allowing a letter from a senior local governmental executive to attest to a facility's community health, safety, and wellbeing role when the facility purpose is not explicitly listed elsewhere.

Commission Response

The commission declines to modify the rule as requested. The commission has revised subsection (b)(1)(C)(vi) to include facilities that can be identified as critical by the governing body of a political subdivision with applicable jurisdiction, as eligible under the program. This revision provides an appropriate and sufficient mechanism for recognizing facilities that serve essential community health, safety, and well-being functions, without the need to create an additional attestation process within the application requirements.

Proposed §25.513(e)(2)(A)(ix) - Critical Facility Information-Electricity demand data period

Proposed §25.513(e)(2)(A)(ix) describes the required information around the average daily energy consumption and maximum daily demand an applicant must provide in their application.

HUS recommended aligning the application data request with eligibility by requesting critical facility monthly average peak demand for one-hour battery energy storage system sizing rather than maximum daily demand measured in kilowatts, because interval data may be hard to obtain and the recommended data is typically available on monthly utility bills.

NCTCOG recommended using at least a two year look back for the average daily energy and maximum daily demand calculations in subsection (e)(2)(A)(ix).

ASC stated that subsection (e)(2)(A)(ix) could be satisfied with a year of utility bills, and that once the commission defines "monthly average peak demand for one hour," subsection (e)(2)(A)(ix) should be where the calculation figures are documented.

Commission Response

The commission revises the rule to remove subsection (b)(3)(A)(vii) to remove the eligibility requirements that a TBPP be able to produce electric energy from the battery storage component sufficient to serve the critical facility's monthly average peak demand for one hour and to recharge the battery storage component within six hours using photovoltaic panels. Because these requirements have been removed from the rule, the related application-stage data specifications are no longer tied to determining compliance with those sizing and recharge standards.

Accordingly, the comments from HUS, NCTCOG, and ASC regarding alignment of application demand data with the former battery and photovoltaic sizing requirements are no longer applicable.

The commission, however, revises subsection (e)(2)(A)(ix) to clarify how an applicant must calculate average daily electric usage, maximum daily demand, and maximum critical load to support evaluation of the appropriate TBPP size for a critical facility.

Proposed §25.513(e)(2)(B)(i) - Backup Power Information - Existing backup power system information

Proposed §25.513(e)(2)(B)(i) describes the required information about any existing backup power systems that an applicant must provide.

TPPA recommended clarifying that information in subsection (e)(2)(B)(i) regarding any existing backup power systems should be specific to the location for which the TBPP is being proposed. TPPA recommended redlines relating to this information.

Commission Response

The commission declines TPPA's recommendation because the requested clarification is unnecessary. There is no reason why the commission would require an applicant to provide information related to backup power systems at a location other than the proposed critical facility.

Proposed §25.513(e)(2)(B)(ii) - Backup Power Information- Justification for requested TBPP size

Proposed §25.513(e)(2)(B)(ii) describes the required information about a facility's required backup power capacity and requested TBPP size that an applicant must provide in their application.

Sizing justification

PowerSecure suggested the application require justification for sizing of each TBPP component and detail on the critical facility's unique energy needs or attributes, to support evaluation of whether the proposed package matches facility requirements. PowerSecure provided redlines consistent with its recommendations.

Commission Response

While the commission declines to accept the redlines provided by PowerSource, the commission does agree with PowerSecure's general recommendation. As a result, the commission modifies subsection (e)(2)(B)(ii) to now require applicants to provide justification for the facility's required backup power capacity and the requested TBPP size, including an explanation of how the proposed capacity and size are based on the critical facility's critical load.

Technical information from vendors

NCTCOG recommended moving subsection (e)(2)(B)(ii) to subsection (e)(3)(A) because applicants may need approved-vendor assistance to provide that detail.

Commission Response

The commission declines to modify the rule as recommended by NCTCOG. The TBPP application will be submitted in two parts. In the first part, applicants will submit the information required under rule subsection (e)(2). The TxEF administrator will evaluate this information to assess the requested TBPP size, which will be used for vendor matching. Following the vendor assignment to a critical facility, an approved vendor will coordinate with the critical facility to develop the appropriate TBPP project size and other required project details.

Proposed §25.513(e)(3) - Project Information -Vendor to submit project information

Proposed §25.513(e)(3) describes the specific project information a vendor must submit in the application.

Vendor information preparation

ASC recommended requiring vendors to prepare proposals that include all information required by subsections (e)(3)(A) and (e)(3)(B) in a semi-standardized format with a summary, so an applicant can submit the vendor proposal rather than rewriting or extracting required information. ASC suggested the commission work out format details through a post-rule workshop among facility representatives and vendors.

Vendor budgeting responsibilities

ASC requested that the commission require submission of the full vendor TBPP proposal so the commission can verify

compliance. ASC also asked the commission to clarify how the program should address situations where the vendor underestimates or overestimates final costs, including who covers any shortfalls, whether vendors should include contingency allowances, and whether any unused contingency amounts must be refunded to TxEF or to the applicant upon completion.

Commission Response

The commission clarifies that the project information required under subsections (e)(3)(A) and (e)(3)(B) will be developed by the approved vendor in coordination with the applicant and the critical facility. This project information includes the proposed project scope, estimated costs, and implementation schedule.

Under the application process established by the rule, the approved vendor must obtain the applicant's approval of the vendor quotation before submission. The TxEF administrator will review change orders which may be submitted by the vendor and awardee to ensure cost eligibility and reasonableness. Any changes to budget determined ineligible by the TxEF administrator must be funded by the vendor or the awardee.

Proposed §25.513(e)(3)(B)(iv) - Project Information - Operations and maintenance plan requirements

Proposed §25.513(e)(3)(B)(iv) describes that the project work plan submitted in the application must include an operation and maintenance plan.

ASC requested that the operations and maintenance plan explicitly include refueling for the generator and how the battery will be charged. ASC requested that the commission require an applicant attestation to perform a vendor specified set of annual maintenance, testing, and refueling activities for at least ten years after turning on. ASC also asked the commission to consider specifying the maximum reasonable expected lifetime, such as 15 to 20 years, to manage expectations, and to clarify whether any proceeds from the sale of components at end of life may be retained by the owner or must be repaid to the state.

Commission Response

The commission declines ASC's request to extend or further specify the duration of the operations and maintenance plan beyond the period established in the rule. The commission clarifies that the TBPP compliance and monitoring period is set at up to five years, and the operations and maintenance plan required under subsection (e)(3)(B)(iv) applies during that period.

Establishing a compliance and monitoring period of up to five years supports administrative efficiency, and consistent program implementation. Requiring operations and maintenance obligations beyond the compliance period such as a ten-year attestation would extend program oversight beyond the timeframe contemplated by the rule and introduce unnecessary complexity and enforcement challenges.

Using a maximum of five years for a compliance & monitoring period allows for a risk-based approach to strengthen oversight and focus on performance of TBPPs while ensuring service to the community. Limiting the compliance period to a five-year maximum reduces administrative cost, burden of extended oversight on vendors, and allows a timely transfer of the asset to the critical facility.

Proposed §25.513(f) - Application Review- Application timeline

Proposed §25.513(f) specifies the processes for reviewing and approving a TBPP application.

HUS asked the commission to provide the expected timeline for when applications will open. Generac requested clarification around the expected timeline for the applicant review process. HUS and Generac requested information about application evaluation and approval processes.

Cardinal Bay and 4-K Housing requested additional clarity on application due dates and whether applicants will be informed of where the applicant falls in the order of receipt by the TxEF administrator. They also requested additional clarity on how and when communication of application approval will be transmitted.

Commission Response

The commission anticipates that the TBPP applications will open later in 2026, and complete application guidance will be published on TxEF Online before the application opens.

Proposed §25.513(f)(1) - Applicant Approval- Application process

Proposed §25.513(f)(1) describes an applicant approval process.

Two-step application process

GRIT recommended that the commission retain a two-step application process to give applicants and vendors certainty before undertaking more resource-intensive pre-project activities. GRIT also suggested establishing defined timelines and submission windows for these submissions and TxEF administrator review to support administrative efficiency and consistent evaluation.

TPPA stated that subsection (f)(1)(C) implies a two-step process consisting of approval of an initial application followed by a TBPP project application, but that the rule does not specify content requirements for the second application. TPPA requested that the final rule should clearly indicate what is required as part of each application, ensuring that the application requirements are tailored to determine what is necessary to process that application.

NCTCOG recommended revising the Applicant Approval stage to exclude information that may require project design work, vendor assistance, or technical detail more germane to TBPP design, and to reserve those design level details for the Project Approval stage so the initial determination focuses on facility eligibility.

Single-stage application review

ASC recommended deleting the initial applicant eligibility approval provision and instead addressing applicant qualification as the first step when processing the full application, arguing the initial approval is unnecessary and overly bureaucratic unless it is a very fast pro forma screen. ASC stated initial approval is not needed to protect vendors or commission resources because a facility that cannot find a vendor would not apply.

Commission Response

The commission agrees with GRIT that retaining the proposed two-step application process is appropriate and beneficial for the TBPP program. Separating applicant and critical facility eligibility determination from the more resource-intensive TBPP project proposal review provides applicants and vendors greater certainty before undertaking detailed design, costing, and implementation planning, and supports efficient program administration.

In response to TPPA and NCTCOG, the commission clarifies that the rule establishes two distinct review steps with different information requirements. The first step focuses on applicant and critical facility eligibility review, as set forth in subsection (f)(1), and is intended to determine threshold eligibility before vendor assignment and project development. The second step involves submission and review of the TBPP project application, which includes design-level, technical, cost, and schedule information developed in coordination with an approved vendor. The commission confirms that design-specific and vendor-dependent details are appropriately set as part of the second step, and no revisions are needed to further narrow the eligibility stage requirements. The commission notes that a TBPP award will only be made after evaluation of the project details submitted in the second step in the application process.

The commission disagrees with ASC's recommendation to consolidate the process into a single-stage application. The initial eligibility determination will serve an important function in conserving applicant, vendor, and commission resources by ensuring that only eligible applicants and critical facilities proceed to the project development phase. This structure also facilitates orderly vendor assignment and consistent evaluation.

Proposed §25.513(f)(1)(A) - Applicant Approval- Application Review

Proposed §25.513(f)(1)(A) states that the TxEF administrator will review applications in the order in which they are received.

PowerSecure recommended that the commission review applications in batches on a predetermined schedule rather than using a first come first served review sequence, stating that continuous first come first served review creates flawed incentives and prevents side by side comparisons of competing projects, such as multiple fuel and grocery projects in one area. PowerSecure proposed rule language to implement batching and noted that the TxEF administrator may need additional time if there is an initial surge in applications. PowerSecure provided redlines consistent with its recommendations.

NCTCOG recommended that the commission select projects through a competitive, merit-based process rather than reviewing applications on a first come, first served basis. NCTCOG also proposed that if first come, first served is retained, the commission should publish clear screening thresholds for the proposed subsection (f)(2)(A) criteria.

Commission Response

The commission disagrees with the recommendations from PowerSecure and NCTCOG to replace the first-come, first-served review process with batch or competitive review. Reviewing applications in the order received, as provided in subsection (f)(1)(A), best supports timely application processing, administrative efficiency, and predictable program implementation. In addition, the rule does not establish an application close date; applications will be accepted and reviewed on a rolling basis until available program funds are fully allocated.

Proposed §25.513(f)(2) - Project Approval - Project approval process

Proposed §25.513(f)(2) states how projects will be reviewed and approved.

PowerSecure recommended including a process in which the vendors and the applicant can engage with the commission if their application is "approved with modifications" to ensure those modifications are technically and commercially feasible.

Commission Response

The commission disagrees with PowerSecure's recommendation to add a formal process where the vendors and the applicant can engage with the commission when a project is approved with modifications. The proposed review and approval framework already provides sufficient flexibility to address modifications while maintaining efficient program administration.

Proposed §25.513(f)(2)(A) and §25.513(f)(2)(A)(i) - Project Approval- Application evaluation criteria and project costs

Proposed §25.513(f)(2)(A) describes the evaluation criteria that will be used for each proposed TBPP project. Proposed §25.513(f)(2)(A)(i) states a proposed TBPP project will be evaluated based on the project cost.

ASC recommended that the commission evaluate TBPP applications on a pass-fail basis and approve an application if the applicant and project meet basic TBPP qualifications and funds are available. ASC stated that the commission should not deny an otherwise qualifying application until the commission has articulated guidelines and criteria for weighting and selecting among TBPP applications. ASC requested clarification on whether the administrator verifies project validity, whether the administrator sets maximum acceptable cost and timeline thresholds, and whether applications will be ranked by cost and timeline, and ASC cautioned that ranking by cost and timeline alone would discriminate against smaller projects.

Given the volume of critical facilities, HOLT requested transparency around how projects are ranked prior to accepting applications.

The City of Arlington recommended that the rule provide greater specificity and clear articulation on selection criteria, including facility criticality, public safety impact, geographic distribution, and applicant capacity. The City of Arlington stated that this will improve application quality, reduce ambiguity in the review process, and promote transparency and consistency in funding decisions, supporting equitable statewide implementation.

Cardinal Bay and 4-K Housing asked whether project cost will impact project approval, and if so, what will be the threshold for project cost. They also requested clarity around a threshold for the timeline for TBPP installation and commissioning.

Commission Response

The commission declines to revise the rule to include additional detail regarding scoring criteria, weighting, or project selection thresholds. Subsection (f)(2)(A) identifies the evaluation factors the TxEF administrator will consider when reviewing proposed TBPP projects, including project cost, but the rule does not establish a ranking or pass-fail scoring framework.

The commission clarifies that the TBPP program will not be structured to rank one applicant against another based on cost, timeline, or other comparative criteria. Rather, proposed projects will be evaluated for consistency with program requirements, applicant and critical facility eligibility, and overall reasonableness, including whether the proposed project cost and scope are appropriate given the critical facility's needs and the TBPP design.

In response to ASC, HOLT, the City of Arlington, Cardinal Bay, and 4-K Housing, the commission declines to prescribe specific

cost thresholds, or timeline limits in rule text. Rule subsection (f)(2)(A)(iii), however, provides a broad basis on how the commission will evaluate benefit and impact of TBPP projects.

Proposed §25.513(f)(2)(A)(iii) - Project Approval- Evaluating project benefits and impact

Proposed §25.513(f)(2)(A)(iii) states a proposed TBPP project will be evaluated based on the TBPP's expected benefits and impact.

Expanded benefits

ASC recommended revising the rule to insert the phrase "but not limited to" so that communities can describe additional benefits beyond the commission's listed benefits. ASC also recommended stating that awards will not be ranked solely by the magnitude of benefits claimed, with the stated purpose of protecting small communities and small facilities.

Scale of population served

The City of Houston recommended that the commission clarify and strengthen the evaluation criteria to explicitly account for the scale of population served and a facility's regional emergency response role when assessing project benefits and impacts. The City of Houston acknowledged that the proposed rule references population, facility type, and geography, but it requested an express, distinct consideration for facilities with regional operational responsibility and large service footprints to ensure appropriate prioritization.

Intent for geography served

NCTCOG recommended that the commission explain the evaluation intent for geography served in subsection (f)(2)(A)(iii), including whether the factor is intended to support areas of greatest risk for grid interruptions, minimal access to certain types of critical facilities, or geographic distribution.

Addressing geographic redundancy

TEC supported the proposed metrics for reviewing TBPP applications and recommended adding a geographic proximity and redundancy factor so awards are not concentrated among nearby facilities serving the same purpose, thereby spreading benefits statewide and ensuring rural communities are not disadvantaged when limited funds go to multiple similar suburban facilities. TEC provided additional rule language consistent with its recommendation.

Commission Response

The commission clarifies that subsection (f)(2)(A)(iii) is intended to provide a non-exclusive and flexible framework for evaluating the expected benefits and impacts of a proposed TBPP project. The commission declines to modify the rule as recommended by ASC because the proposed rule uses the phrase "such as", indicating that the listed factors are examples. The evaluation will consider the overall reasonableness and relevance of the benefits in light of the critical facility's function and community role, without disadvantaging smaller facilities or communities.

The commission declines to enumerate separate or weighted sub-criteria based on scale of population served and facility's regional emergency response role because such specificity would unnecessarily constrain the TxEF administrator's ability to account for diverse facility roles and site-specific circumstances.

In response to NCTCOG and TEC, the commission explains that the geographic-impact factor is intended to allow consideration of where and whom the project benefits, including geographic distribution and community need.

Proposed §25.513(f)(2)(A)(v) - Project Approval- Existing backup power capabilities

Proposed §25.513(f)(2)(A)(v) states a proposed TBPP project will be evaluated based on the critical facility's current backup power capabilities.

ASC requested that the commission explain the relevance of requiring applicants to provide information on current backup power capability, asking whether the information is for informational purposes only, for integration into TBPP, to defer awards where generators already exist, or whether the request is unnecessary.

Commission Response

The commission clarifies that information regarding a critical facility's existing backup power capabilities is necessary to evaluate the appropriate size of the requested TBPP. This information will enable the TxEF administrator to assess the facility's current resilience posture, understand the portion of critical load already supported by existing resources, and determine whether the proposed TBPP capacity is reasonable and appropriately tailored to the facility's backup power needs.

Proposed §25.513(f)(2)(A)(vi) - Project Approval- Priority Level

Proposed §25.513(f)(2)(A)(vi) states a proposed TBPP project will be evaluated based on the applicant's stated priority level for the facility, if the applicant has applied for more than one critical facility.

Cardinal Bay and 4-K Housing asked for clarification as to whether approval will be limited due to the applicant's stated priority level for the facility, implying an applicant may be penalized for multiple applications.

Commission Response

The commission removes proposed subsection (f)(2)(A)(vi) because evaluating projects based on an applicant's stated priority level would create a conflict with the evaluation framework, that requires that applications be reviewed and considered in the order in which they are received.

In response to Cardinal Bay and 4-K Housing, the commission clarifies that an applicant will not be penalized for submitting multiple applications for different critical facilities. Each TBPP project is reviewed independently based on eligibility and program requirements, without regard to any stated internal priority among an applicant's facilities.

Proposed §25.513(f)(2)(A)(vii) - Project Approval- Creditworthiness

Proposed §25.513(f)(2)(A)(vii) states a proposed TBPP project will be evaluated based on the creditworthiness of the applicant to determine eligibility for a loan.

NCTCOG recommended that the commission expand the project scoring criteria by listing credit worthiness factors in subsection (f)(2)(A)(vii) and adding a cost per kilowatt hour metric to compare cost benefit across different project sizes.

Commission Response

The commission declines NCTCOG's recommendation to expand subsection (f)(2)(A)(vi) [renumbered] to enumerate specific creditworthiness factors or to add a cost-per-kilowatt-hour met-

ric. The commission clarifies that creditworthiness will be evaluated solely to determine eligibility for loan financing, consistent with standard lending practices, and not as a comparative scoring or ranking criterion among TBPP projects

Proposed §25.513(g) - Award Amount- Grant and loan award

Proposed §25.513(g) provides information about a grant or a loan award amount.

HUS asked the commission to confirm that a critical facility may receive both a grant and a loan and that they are not mutually exclusive, citing PURA §34.0205's use of the phrase "grant" or "loan." Cardinal Bay and 4-K Housing asked whether loan funding is available for project plans that exceed the $500 per kW cap.

GRIT recommended that the commission provide clear parameters for the forgivable loan structure, including expectations for loan sizing and whether the program is intended to enable full or partial funding of eligible TBPP packages, and stated that predictable expectations are needed for an applicant to evaluate whether participation is financially viable.

TPPA recommended that the commission revise the rule to clarify that submission of an application by an eligible applicant does not guarantee approval of a grant or loan, to avoid false expectations and to reflect competitive selection or limited funding. TPPA provided redlines consistent with its recommendation.

Commission Response

The commission clarifies that a critical facility may receive a grant, or a combination of both a grant and loan under the TBPP program. This approach is consistent with PURA §34.0205, which authorizes the commission to provide financial assistance in the form of a grant or loan, subject to applicable caps and program requirements.

In response to GRIT, the commission explains that loan sizing and any forgivable loan terms will be established through award agreements and program administration as reflected in the revised rule text under subsection (h).

In response to TPPA, the commission agrees that submission of an application does not guarantee approval of a grant or loan. However, the commission declines to add additional language to subsection (g) and clarifies that application approval and award amounts will be determined through the review process described in the rule and through program administration.

Proposed §25.513(g)(1) - Award Amount- Fund availability

Proposed §25.513(g)(1) states the amount of the award will be determined by the executive director or his or her designee based on availability of program funds and evaluation of the applicant and project by the TxEF administrator.

HUS asked how availability of program funds can be a review factor if applications are reviewed as received, noting that initial applicants appear much more likely to receive full funding than later applicants. Cardinal Bay and 4-K Housing questioned whether funding approval will be provided on a first-come first-served basis.

Commission Response

The commission clarifies that award amounts under subsection (g)(1) will be determined in part based on the availability of program funds at the time a project is evaluated. Because applications will be reviewed and processed in the order in which they are received, awards will be available only to the extent that funds remain available.

Proposed §25.513(g)(2) - Award Amount - $500 per Kilowatt grant award cap

Proposed §25.513(g)(2) states a grant award may not exceed $500 per kilowatt.

TAEBA asked the commission to specify that the $500 per kilowatt cap applies to the deliverable backup power capacity that the TBPP can provide to the critical facility during an outage, rather than charger capacity, inverter nameplate rating, battery energy storage in kWh, or other component specifications, stating that this approach aligns the cap with the program resilience mission and supports consistent and transparent application across projects.

HUS also requested that the commission define the kilowatt basis used for the $500 per kW grant cap, such as whether it is based on average monthly peak demand, the size of the largest piece of backup power equipment, or the combined size of all three TBPP components. HUS further stated that the loan amount is not defined and asked for clarity on whether the balance of all procurement and O&M costs may be funded through the loan and would be fully forgiven over the course of the performance period, meaning projects would be no cost to the critical facility assuming eligible costs stay under the limit.

Cardinal Bay and 4-K Housing separately asked the commission to clarify if the approved contractor is required to ensure that the project does not exceed $500 per kilowatt.

Commission Response

The commission clarifies that the $500 per kilowatt grant cap applies to the TBPP's deliverable backup power capacity available to serve the critical facility during an outage. Tying the cap to deliverable backup capacity appropriately aligns the grant limitation and provides a consistent basis for application across different technology configurations.

With respect to loan funding, the commission clarifies in response to HUS that eligible project costs that exceed the $500 per kilowatt grant cap may be financed through a loan, subject to loan eligibility and program requirements. Loan amounts, repayment terms, and any specific forgiveness provisions will be established through award agreements and program administration. Loan funding may cover eligible procurement and operating costs, but loan forgiveness is not presumed and will depend on compliance with applicable compliance and monitoring requirements.

In response to Cardinal Bay and 4-K Housing, the commission clarifies that responsibility for ensuring compliance with the $500 per kilowatt grant cap rests with the applicant, in coordination with the approved vendor and subject to review by the TxEF administrator and approval by the executive director or his or her designee.

Proposed §25.513(h)(2) - Funding Structure and Terms - Cost recovery

Proposed §25.513(h)(2) states that any costs funded by a grant or loan under this section must not be collected from customers or constituents of the critical facility.

ASC requested the commission revise the subsection to make clear whether the intent of the provision is to prevent over-recovery or double-charging.

Commission Response

The commission agrees with ASC's recommendation and revises the subsection to add clarifying language.

Recovery of Indirect costs

The City of Arlington encouraged the commission to expressly authorize reasonable indirect cost recovery as an eligible project expense, citing unavoidable administrative and compliance costs such as procurement, reporting, monitoring, and interdepartmental coordination. The City of Arlington stated that allowing indirect cost recovery would reduce barriers to participation and help ensure that municipalities and nonprofits with limited administrative capacity are not disproportionately disadvantaged, consistent with the program public interest purpose and implementation realities.

Commission Response

The commission declines to adopt City of Arlington's recommendation to authorize recovery of indirect cost through TBPP program funds. The commission clarifies that the program does not require applicants to provide a cost share as a condition of receiving funding. Administrative and compliance-related expenses are excluded so that program funds can be directed toward project-related costs associated with installation and operation, allowing more critical facilities to benefit from the program. For these reasons, indirect administrative and compliance costs are not eligible project expenses under the program.

Proposed §25.513(h)(3) and §25.513(h)(4)(D) - Funding Structure and Terms- Breach of executed award agreements

Proposed §25.513(h)(3) states an uncured breach of the executed award agreement will be grounds for the TxEF administrator to determine that an applicant is ineligible to obtain any future payments or forgiveness under this section. Proposed §25.513(h)(4)(D) states the commission will withhold or require the return of payments for costs that are found ineligible or if an awardee fails to comply with the requirements described in §25.513(i).

Breach definition, notice, cure, and ability to contest

TPPA recommended that the commission define what constitutes a breach, define a notice requirement to the awardee once a breach is identified, provide a cure period, and establish a process for an awardee to contest an alleged breach.

TPPA requested clarity on whether the failures described in subsections (h)(4)(D) and (h)(6)(A)(ii) constitute breaches under subsection (h)(3). TPPA stated that, if those provisions are distinct from subsection (h)(3) breaches, any noncompliance determination under subsections (h)(4)(D) or (h)(6)(A)(ii) should include the same safeguards of notice, cure, and an opportunity to contest. TPPA asserted that subsection (h)(6)(A)(ii) imposes immediate consequences without acknowledging the cure period in subsection (h)(3), and TPPA also observed that subsection (h)(4)(D) references subsection (i) rather than the executed award agreement that TPPA stated governs breaches under subsection (h)(3). TPPA further stated that, depending on how the commission defines breach and related terms, denial of future payments and repayment of funds may be reasonable, but TPPA cautioned against leaving breach or noncompliance determinations solely to the TxEF administrator without procedural protections. TPPA notes that the proposed rule does not describe the mechanism or process by which the commission would require the return of ineligible funds or if an awardee fails to comply with the requirements described in subsection (i) of this section (h)(4)(D). TPPA recommended clarifying the clawback process, including timing, notice, and repayment steps.

Commission Response

In response to TPPA's comments, the commission clarifies that failures described in proposed subsections (h)(4)(D) and (h)(6)(A)(ii) constitute breaches under subsection (h)(3). The commission, however, revises the following rule subsections to provide clarity. Subsection (h)(4)(D) is modified to specify requirements with which the awardee and the approved vendor must comply; adopted subsection (h)(5)(A)(ii) is renumbered and revised to add information about a cure period; and adopted subsection (h)(5)(B)(ii)(I) is modified to add language about cure periods, awardee and vendor roles and responsibilities, performance milestones, and obligations to pay the full loan amount in the event of a default. The commission clarifies that the notice, cure periods, and repayment obligations will be set forth in the executed grant award and credit agreements, thereby providing the procedural protections TPPA requested without duplicating contract level detail in rule text.

Proposed §25.513(h)(4)(B) - Funding Terms for Grants -Vendor Payments

Proposed §25.513(h)(4)(B) states grant funds will be paid directly to an approved vendor as a reimbursement payment upon submission of required documentation in accordance with the grant agreement.

PowerSecure recommended that the commission provide more detailed and standardized funding structure and terms so applicants understand what to provide under subsection (h)(4)(B) and the expected performance under subsection (h)(6)(A)(ii). PowerSecure also identified an internal renumbering issue and suggested that subsection (h)(6) be renumbered as subsection (h)(5). PowerSecure further requested clarification whether failure to satisfy any loan forgiveness requirement would make the entire loan due or only the outstanding portion. PowerSecure provided redlines consistent with its recommendation.

HOLT recommended an earned payout for each year of participation within the award agreement and stated that the current financial structure does not allow for recovery of the ongoing costs needed to ensure reliability.

Commission Response

The commission revises subsection (h)(4)(B) to clarify that grant funds will be paid directly to an approved vendor as a reimbursement payment, contingent upon the vendor's submission of required documentation substantiating achievement of TBPP installation milestones in accordance with the grant agreement.

The commission agrees with PowerSecure's recommendation to renumber proposed subsection (h)(6) as adopted subsection (h)(5) and modifies the rule accordingly.

The commission modifies adopted subsection (h)(5)(A)(ii) to clarify the terms and operation of loan forgiveness. As modified, the rule clarifies that failure to satisfy any loan-forgiveness requirement, following the expiration of any applicable cure period set forth in the credit agreement, will result in the full loan amount, plus any accrued interest, becoming immediately due and payable, as detailed in the credit agreement. The detailed terms for loan forgiveness will be provided in the credit agreement.

TPPA noted that PURA does not limit grant funding to vendor reimbursement costs, nor does it explicitly require the use of a vendor. TPPA recommended that if subsection (h)(4)(B) is retained, funding may need to be provided upfront or in installment payments needed to complete a TBPP before a vendor is retained and the rule should recognize that costs for activities not performed by an approved vendor may still be eligible for reimbursement to the applicant.

Commission Response

The commission notes TPPA's comment that the PURA does not restrict grant funds solely to vendor reimbursement and does not explicitly require the use of a vendor. However, the TBPP program is designed to be delivered through approved vendors in order to ensure consistent technical standards, effective oversight, and accountability for project implementation. To reflect this program structure, the commission has modified subsection §25.513(h)(4)(B) to more clearly tie grant disbursement to verified project progress and the completion of defined milestones by the vendor.

Proposed §25.513(h)(6)(A)(ii) - Funding Structure and Terms for Loans- Loan forgiveness

Proposed §25.513(h)(6)(A)(ii) states that up to 100 percent of the loan funds are forgivable, if the awardee meets the performance expectations delineated in the loan agreement. Loans will be forgiven on a prorated basis based on the duration of performance during the compliance period, and failure to meet any requirements for loan forgiveness will result in the full loan amount plus any accrued interest becoming immediately due and payable.

Loan forgiveness

HUS asked the commission to confirm whether up to 100 percent loan forgiveness is guaranteed if the critical facility meets the performance expectations in the loan agreement or whether forgiveness is discretionary, to clarify the forgiveness schedule, and to specify whether loan forgiveness applies to interest or only principal.

New Ventures asked that performance metrics for loan forgiveness be clearly defined.

Generac similarly requested detail on how loan forgiveness will be administered for applicants' planning purposes before submitting an application. Generac further requested clarification or inclusion of how any prorated forgiveness schedule will be structured, including whether forgiveness will occur in equal annual increments or another format; clear performance expectations, whether in rule or in standard-form loan covenants, including definitions of outage availability, how it will be measured, appropriate maintenance and testing protocols, reporting obligations, corrective actions, cure periods for noncompliance, and the events that trigger repayment versus forgiveness; confirmation that, if a performance issue occurs, the applicant and vendor will have an opportunity to cure the issue within a defined period before any financial consequence is imposed; and explicit force majeure provisions to ensure applicants are not penalized for events outside their reasonable control.

Events outside applicant control and force majeure events

TAEBA recommended that any loan forgiveness provisions explicitly account for events outside applicant control, including extreme weather, fuel supply disruptions, utility interconnection delays, and vendor performance failures, so that the program rewards good faith compliance and system availability rather than penalizing applicants for risks the applicant cannot manage.

GRIT supported performance-based accountability but recommended that minimum performance expectations be defined in the rule or in the standard form loan covenant. GRIT said these standards should include definitions of outage availability and how it is measured, appropriate maintenance and testing protocols, reporting obligations, cure periods for noncompliance, and the events that trigger loan repayment. GRIT also suggested including explicit force majeure provisions so that an applicant is not penalized for events outside its reasonable control.

Loan repayment process

ASC requested that the commission clarify loan disbursement timing and repayment mechanics, warning that long repayment periods can make it harder for financially weak but valuable facilities to carry total cost streams. ASC requested clarity on whether repayment begins immediately, how forgiveness is timed relative to the loan term, and whether additional criteria apply to forgiveness. ASC also asked whether amounts repaid are returned with interest if the loan is later forgiven, and whether a loan or grant amount can be increased with documentation, or canceled, within no more than nine months of award if project costs prove insufficient.

Interest rate

ASC asked whether the stated interest rate, federal funds rate plus one percent, for unforgiven loans applies to all TBPP loans upon issuance or only after a loan forgiveness decision is made. ASC also requested that the commission allow additional options if an approved loan is insufficient to cover procurement and operating costs or an approved grant is insufficient to cover installation, permitting, and other costs, including allowing the awardee and vendors to increase the loan or grant amount with full documentation of cost and cause of delay, within no more than nine months of award, or alternatively allowing the awardee to yield or cancel the award.

Commission Response

The commission clarifies that adopted subsection (h)(5)(A)(ii) establishes a performance-based, prorated loan forgiveness framework, under which up to 100 percent of loan funds may be forgiven if performance expectations set forth in the credit agreement are met during the compliance period. Loan forgiveness is not automatic but is earned based on documented performance over time.

The commission revises and reorganizes the rule to provide additional clarity. Renumbered and revised subsection (h)(5)(A)(ii) now further specifies that failure to meet loan-forgiveness requirements, after expiration of any applicable cure period, will result in the full outstanding loan balance plus accrued interest becoming due and payable, as detailed in the executed credit agreement.

In response to HUS and ASC, the commission clarifies that loan forgiveness applies to the loan principal and any associated interest, as provided in the credit agreement. In response to New Ventures, Generac, GRIT and TAEBA, the commission clarifies that revisions to the rule refer to repayment obligations, timing, forgiveness schedules, and any adjustments or reconciliation without providing details because these issues are addressed in the credit agreements.

In response to TAEBA and GRIT regarding force majeure and events outside an applicant's control, the commission clarifies that credit agreements include force majeure and cure provisions, ensuring that applicants are not penalized for events beyond their reasonable control when acting in good faith.

In response to ASC's comment about interest rate and loan amount adjustments, the commission clarifies that the interest rate equal to the effective federal funds rate plus one percent applies only to any portion of a TBPP loan that remains unforgiven, and not to loan funds that are ultimately forgiven. As provided in the rule, interest accrues only on the unforgiven balance, if any, consistent with the performance-based forgiveness structure and as further detailed in the credit agreement. The commission further clarifies that loan and grant award amounts are not subject to post-award adjustments, but these award agreements may address cancellation or modification scenarios consistent with program administration.

Proposed §25.513(i) - Compliance and Monitoring Period- Market Participation Restrictions

Proposed §25.513(i) describes the compliance and monitoring period.

Leniency of first instance of performance failure

NRG supported compliance monitoring but stated that immediate forfeiture of grant funds or loss of loan forgiveness after the first instance of performance failure is too harsh and could deter participation. NRG recommended requiring the applicant to submit a compliance plan after a failure, with forfeiture or loss of loan forgiveness considered only if the plan is not followed and a subsequent failure occurs, and NRG further recommended that failures solely due to safety, force majeure, or permits not count against the TBPP. NRG provided redlines consistent with its recommendations.

Commission Response

The commission agrees with NRG's comments and revises the adopted rule subsections (h)(4)(D) and (h)(5)(B)(ii) to expressly incorporate cure periods and remedies for noncompliance in the grant and credit agreements.

Extension of TBPP requirements after compliance period

Vistra recommended that the commission revise the TBPP rule to prevent TBPP-funded assets from being repurposed for market participation immediately after loan forgiveness or the end of the compliance and monitoring period, particularly if the facility is sold or if it loses critical status. Vistra viewed provisions in PURA §34.0203, PURA §34.0204(6) and PURA §34.0205(e)(1) and (2) as containing no time limited exception to the prohibition on market use, and therefore stated that the prohibitions should apply beyond the compliance period. Vistra recommended a ten-year compliance period and recommended extending the operational prohibitions through the useful life of TBPP funded equipment, requiring that these obligations transfer with the asset upon any sale or transfer, and requiring commission approval of any sale of TBPP funded equipment. Vistra also suggested establishing a streamlined TBPP registration and periodic renewal framework to support long term tracking and enforcement and stated that this framework could also establish and maintain the approved vendor list under PURA §34.0205(d).

Commission Response

The commission agrees that the useful life of TBPP assets may extend well beyond the compliance and monitoring period. However, the commission declines to extend the compliance period or impose operational prohibitions for the full useful life of the equipment. The commission selects a compliance and monitoring period of up to five years because it allows for a risk-based approach to strengthen oversight and focus on performance of TBPPs while ensuring service to the community. Limiting the compliance period to a five-year maximum reduces administrative cost, burden of extended oversight on vendors, and allows a timely transfer of the asset to the critical facility.

Proposed §25.513(i)(1) - Compliance and Monitoring Period-Performance requirements during compliance period

Proposed §25.513(i)(1) states that each project will be subject to a compliance period of up to five years, based on the cost of the TBPP, which will be stated in the award agreement and any specific project milestones which are stated in the award agreement will apply during this period.

Compliance period standardization

Cardinal Bay and 4-K Housing stated that undefined terms and durations create compliance risk and potential repayment exposure, including if ownership changes during the monitoring period, and requested clarity on how the compliance period duration will be determined and whether project cost will be associated with a given time period. PowerSecure asked the commission to standardize the compliance period in subsection (i)(1) or list clear standards so applicants and vendors have notice. PowerSecure provided redlines consistent with its recommendations.

Compliance period activities

TPPA recommended that the compliance period cover the full construction and installation period plus a significant period after the TBPP becomes operational, if grants or loans are paid out before a TBPP is fully operational. TPPA requested clarification on whether the five-year compliance period runs from application approval or from when the TBPP is constructed and capable of energization.

Commission Response

The commission declines to revise subsection (i)(1) to standardize the compliance period. The commission clarifies that the compliance period is the timeframe during which a TBPP project is subject to performance, monitoring, and enforcement obligations and that the specific duration, up to five years, will be established in the award agreement based on size of the grant and loan awarded for each project. In response to TPPA, the commission clarifies that the compliance and monitoring period begins upon project completion and commissioning, as would be defined in the award agreement.

Proposed §25.513(i)(2)(B) - Compliance and Monitoring Period-TBPP program fund clawback

Proposed §25.513(i)(2)(B) states that the failure of the TBPP to be available to operate during an outage event may result in the commission demanding the return of a grant payment or determining that a loan payment is unforgivable.

PowerSecure cautioned that the provision in subsection (i)(2)(B) allowing clawback when a TBPP fails to be available to operate could be inequitable. PowerSecure recommended the commission include a standard similar to §25.503(f) to excuse compliance for failures beyond the reasonable control of the owner. PowerSecure requested clarification on whether a grant clawback would apply to the vendor or the applicant so parties can

allocate risk appropriately. PowerSecure provided redlines consistent with its recommendations.

Commission Response

The commission clarifies that a failure to operate may serve as a basis for removal of a vendor from the approved vendor list. However, in determining whether removal is warranted, the executive director or his or her designee may consider whether failures resulted from circumstances beyond the vendor's reasonable control. Vendors with repeated TBPP failures with no attempt to resolve them would more likely be removed.

The commission further clarifies that responsibility for repayment will rest with the awardee or the approved vendor, or both as applicable, based on the awardee and vendor's respective obligations as described in the grant and credit agreement. If the default is attributed to the vendor, the commission will require repayment of the grant or loan funds from the vendor. If the commission determines that both the awardee and the approved vendor are jointly responsible for the default, the obligation to repay will be shared between them.

Additionally, the commission clarifies that the grant or credit agreement will specify breach and repayment terms and will incorporate default and cure provisions. The commission revises subsection (i)(2)(B) to clarify this process.

Proposed §25.513(i)(4) - Compliance and Monitoring Period-Reporting requirements

Proposed §25.513(i)(4) describes vendor and critical facility reporting requirements.

Standardized reporting requirements

PowerSecure recommended that the commission standardize vendor reporting under §25.513(i)(4) to benefit vendors that serve multiple applicants, and PowerSecure further recommended that the commission treat all vendor submitted information as confidential

under PURA §34.0205(f).

Commission Response

The commission declines to modify the rule to include standardized vendor reporting templates because it is unnecessary. The TxEF administrator may develop administrative processes, where feasible, to streamline an applicant's or vendor's administrative and compliance obligations.

Commission reporting requirements

ASC requested that the commission report annually on TBPP application processing, TxEF funds committed, award recipients by Texas region and critical facility type, actual TBPP operations over the prior year, and measures taken to improve the program costs, effectiveness, and speed in dispersing funds and getting TBPPs built.

Commission Response

The commission declines ASC's recommendation that the commission provide annual reports on TBPP application processing because the commission already follows the statutory reporting requirements under Texas Government Code §403.0245(b). The commission staff will, however, provide relevant updates to the public, as necessary, through TxEF Online.

Proposed §25.513(i)(4)(B) - Compliance and Monitoring Period - After-action reports and compliance testing requirements

Proposed §25.513(i)(4)(B) describes critical facility reporting requirements.

TPPA recommended requiring an after-action report only when the critical facility was affected by the outage and the TBPP was used, and TPPA also recommended replacing the phrase "distribution system outage" with the broader phrase "outage" to capture transmission level events and ERCOT system load shedding. TPPA provided redlines consistent with their recommendations. TEVA suggested that the commission should require reporting of the cost of maintaining power in any after action.

Additionally, TPPA recommended that the commission adopt robust compliance requirements to verify that TBPP equipment functions as expected, including random testing and mandatory testing, rather than relying only on awardee affidavits.

Commission Response

The commission declines TPPA's recommendation because the proposed rule already includes after-action reporting as part of the critical facility's responsibilities. The commission further declines to revise the rule text to replace the phrase "distribution system outage" with the broader term "outage" to include transmission-level events, because TBPP assets are expected to operate within the distribution system.

The commission disagrees with TEVA's suggestion to require critical facilities to report the cost of maintaining power because it is unrelated to the purpose of the TBPP program or the Texas Energy Fund in general.

The commission agrees with TPPA that robust compliance requirements are necessary to ensure that TBPP equipment functions as expected. The commission clarifies that the TxEF administrator will monitor compliance through a combination of awardee attestations and oversight of vendor-reported operational status, as approved vendors will also be responsible for compliance and monitoring of TBPP assets during the compliance and monitoring period.

Proposed §25.513(k) - Relationship to Distribution Service Provider Network - Utility coordination and interconnection

Proposed §25.513(k) states an applicant requesting to install a TBPP at a critical facility in a manner that involves interactivity with the distribution network must coordinate with the appropriate distribution service provider to facilitate safe operation for the TBPP and the distribution network and that the distribution service provider must expedite a request from a customer with a commission-approved TBPP application.

Parallel operation implications

Oncor stated that the term interactivity with the distribution network is unclear and could be interpreted to mean different things. Oncor said that if the commission intends a TBPP not to operate in parallel with the distribution grid for any amount of time, there would be no interactivity with the distribution network. Oncor further said that if the commission intends to permit a transition to islanded operation such that a TBPP could operate in parallel to the grid for a discrete period of time, the commission should replace interactivity with parallel operation. Oncor also explained that if parallel operation is allowed, it could affect the critical facility, including the introduction of demand billing for smaller customers, new rate classes, required facility upgrades, and application of terms and conditions that could regulate charging and export behavior.

Oncor recommended requiring the applicant to ensure that its vendor contacts or require that the vendor contact the appropriate distribution service provider (DSP) so that the DSP can determine whether the TBPP is being designed in the appropriate manner to prevent any parallel operation. Oncor provided redlines consistent with its recommendations.

Commission Response

The commission clarifies that TBPPs are intended to operate in an islanded mode and interconnection with the grid is not allowed. Therefore, the interactivity contemplated by subsection (k) is limited to coordination necessary to ensure safe disconnection and isolation from the grid.

The commission agrees with Oncor that coordination with the DSP is necessary to ensure safe installation and operation of a TBPP. Therefore, the commission modifies subsection (k) to require the approved vendor to coordinate with the DSP and to comply with the DSP's applicable processes and requirements related to TBPP installations. As revised, the rule also requires the DSP to make available its relevant processes and requirements related to TBPPs through a request form or checklist, or similar documentation to facilitate efficient coordination with vendors.

Utility and distribution service provider engagement

ASC requested expanding subsection §25.513(k) to require electric utilities to regularly recognize all TBPPs in circuit segmentation and resiliency plans and in outage management operational plans, and to modify those plans to reduce impacts of critical facility protection on utility's other customers and circuits.

Commission Response

The commission declines ASC's recommendation to require utilities to integrate TBPPs into circuit segmentation, resiliency planning, or outage management plans because TBPPs are facility-specific backup resources and are not intended to function as distribution-system assets or planning inputs as per the current TBPP program design.

Schneider recommended integrating the capabilities of Advanced Distribution Management Systems (ADMS) and Distributed Energy Resource Management Systems (DERMS). It emphasized that ADMS/DERMS ensures behind-the-meter TBPP systems don't operate as "blind spots" and allows utilities to confidently coordinate switching, outage response, and resilience planning across the distribution grid. Schneider also noted ADMS/DERMS platforms bridge the gap between TBPPs and grid operations and situational awareness.

Commission Response

The commission declines Schneider's recommendation to require integration of TBPP assets with ADMS or DERMS because not all DSPs are capable of deploying ADMS/DERMS systems or controlling circuits or assets using these systems.

The commission agrees, however, that performance monitoring of TBPP assets is important to ensure operational readiness, reliability, and compliance during the compliance and monitoring period. The commission encourages approved vendors to configure appropriate performance-monitoring tools within TBPP systems, such as remote monitoring capabilities, consistent with program requirements and award agreements.

Expedited interconnection procedures

PowerSecure asked whether the commission will propose detailed procedures to expedite TBPP interconnection in a separate rule and, if the commission does not, it recommended that the commission include concrete requirements for distribution service providers within this rule to comply with PURA §35.05(g).

Limitation of authority

TEC stated that PURA §41.055 reserves control over distribution system access terms to a cooperative board and asserted that the proposed rule violates the rights reserved for a cooperative's board of directors to determine terms of access to a distribution network by requiring distribution service providers to expedite interconnection requests. TEC contended that this exceeds commission authority because PURA §35.005(g) addresses expedited interconnection for transmission service rather than distribution service. TEC provided edits to the rule language consistent with its recommendation.

Commission Response

The commission disagrees with TEC that PURA §35.005(g) expresses distinction between distribution-level and transmission-level interconnection. However, the PURA provision does limit expedited procedures to "electric utility interconnection." Accordingly, the commission revises subsection (k) to reflect that the requirement to expedite a TBPP interconnection request only applies to those distribution service providers that are also electric utilities. As adopted, the requirement to expedite an interconnection request will not apply to electric cooperatives. The commission further clarifies in the rule text that a DSP that is an electric utility is required to expedite an interconnection request for a TBPP asset only if the commission explicitly authorized the TBPP to be interconnected to the electric grid. In response to PowerSecure's comment, the commission clarifies that at this time, TBPPs are not authorized to interconnect with the grid.

This new rule is adopted under the following provisions of PURA §34.0204, which authorizes the commission to use money in the Texas Energy Fund without further appropriation to provide a grant or loan for a TBPP; §34.0205, which authorizes the commission to establish procedures for the application for and award of a grant or loan; §35.005(g), which authorizes the commission to adopt procedures to expedite an electric utility interconnection request for a TBPP; and §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction

Cross reference to Statute: Public Utility Regulatory Act §§ 34.0204, 34.0205, 35.005(g), and 14.002.

§25.513. Texas Backup Power Package Program.

(a) Purpose. The purpose of this section is to implement Public Utility Regulatory Act (PURA) §§34.0204, 34.0205, and 35.005(g), and establish requirements and terms to provide grants and loans for funding Texas Backup Power Packages (TBPPs).

(b) Eligibility.

(1) Applicant and critical facility eligibility. To be eligible for a grant or loan under this section, both the applicant and the critical facility must meet the following eligibility conditions.

(A) Applicant eligibility. To be eligible for a grant or loan under this section, an applicant must be:

(i) a legal entity authorized to operate in the state of Texas that is not and whose principals are not debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from

participation in a contract by any Texas state agency or federal agency; and

(ii) either be an owner of a critical facility or be a legal entity with sufficient control over the critical facility to enter into a grant or credit agreement for the period of performance specified in the applicable agreements, which may be up to five years after TBPP commissioning.

(B) Critical facility eligibility. To be eligible for a grant or loan under this section, a critical facility must be a facility located in the state of Texas that provides essential services upon which a community relies on for health, safety, and well-being.

(C) A critical facility must be one of the following facility types:

(i) a hospital, ambulance dispatch facility, healthcare treatment facility, police station, fire station, or critical water or wastewater facility;

(ii) a medical facility or facility providing hospice, nursing, assisted living, or end-stage renal disease treatment and dialysis;

(iii) a community heating or cooling center, storm shelter, or homeless shelter;

(iv) an evacuation route fuel station or a gas station or grocery store in an urban or rural area with limited access to essential supplies;

(v) a communications facility that serves 911 call centers and radio and television emergency alert systems; or

(vi) any other facility, such as a food bank, gathering place, public school, public library, town hall or municipal building, or house of worship, which is identified as critical by the governing body of a political subdivision with applicable jurisdiction.

(D) The applicant must be authorized to install a TBPP on the land on which the critical facility is located and on the critical facility's buildings and equipment that are necessary to provide its critical service functions. The applicant must also be authorized to operate the TBPP for the duration of the TBPP compliance and monitoring period.

(2) Vendor eligibility. To be eligible to participate in a TBPP project at an eligible critical facility, a vendor must be selected by the commission through a competitive solicitation process. The commission will maintain an approved vendor list. Approved vendors that fail to comply with contractual terms or fail to meet performance requirements may be removed from the approved vendor list.

(3) TBPP eligibility. To receive a grant or loan under this section, an applicant must coordinate with an approved vendor to install a TBPP that meets the following requirements:

(A) The TBPP must:

(i) be installed such that all components are physically co-located with and connected behind-the-meter at an eligible critical facility and be limited to serving a single critical facility behind a single meter;

(ii) be engineered to minimize operation costs;

(iii) use interconnection technology and controls that enable islanding from the power grid and stand-alone operation for the critical facility, and that prevent the sale of electric energy, ancillary services, emergency response service, or other reliability service in Texas. The critical facility must utilize such technology and controls in each instance in which the TBPP provides power;

(iv) be capable of operating for at least 48 continuous hours without refueling or connecting to a separate power source;

(v) be designed so that one or more TBPPs can be aggregated onsite to serve not more than 2.5 megawatts of critical load at the critical facility. Critical load is the portion of electrical load at a critical facility that is necessary to support essential health, safety, and human needs, including life-safety systems, medical care and treatment, emergency communications, potable water and sanitation systems, and other functions necessary to maintain the health, safety, and basic well-being of occupants or clients during an emergency or power outage;

(vi) provide power sourced from a combination of natural gas or propane with photovoltaic panels and battery storage; and

(vii) prioritize power sourced from natural gas when it is available on site.

(B) The TBPP must not be used by the owner or the facility operator for the wholesale or retail sale of electric energy, ancillary services, emergency response service, or other reliability service in which the provider receives compensation in Texas.

(c) TBPP funding. A TBPP may be funded in whole or in part by a grant or a combination of both a grant and a loan.

(1) Grants. Grant funds may be used for any costs that are reasonable and necessary including the design, procurement, installation, and operating costs to facilitate the ownership and operation of the TBPP that are not expressly excluded under subsection (d) of this section.

(2) Loans. Loan funds may only be used for the following cost categories:

(A) Procurement. Eligible costs under this category include:

(i) costs for material and equipment delivery, and temporary storage and staging;

(ii) costs for equipment, such as the generator, battery storage system, photovoltaic modules and inverters, switchgear, controllers, and associated hardware; and

(iii) any other costs necessary to procure a TBPP that are not expressly excluded under subsection (d) of this section.

(B) Operating costs. Eligible operating costs include costs for operations and routine preventative maintenance, and warrantied repair services during the compliance period.

(d) Funding exclusions. Grant or loan funds received under this section must not be used for:

(1) A facility that:

(A) is a commercial energy system that participates in the electric energy or ancillary services markets, emergency response service, or other reliability service for compensation in Texas; a private school; or a for-profit entity that does not directly serve public safety and human health;

(B) is a private residence;

(C) operates under a land lease agreement that expires prior to the end of the project compliance period or that does not have the lessor's written consent to install a TBPP;

(D) installs a source of backup power that does not follow the design and use standards of a TBPP;

(E) uses the TBPP for the wholesale or retail sale of electric energy, ancillary services, emergency response service, or other reliability service in which the provider receives compensation in Texas;

(F) uses the TBPP as a controllable load resource;

(G) uses the TBPP to participate in an aggregated distributed energy resource (ADER) program or a demand response program administered by a retail electric provider, municipally owned utility, electric cooperative, or an electric utility; or

(H) uses the TBPP for demand reduction.

(2) Project costs that are:

(A) not included in a quotation provided by an approved vendor;

(B) for integrating existing backup power equipment into a TBPP installation;

(C) for building or electrical upgrades to a critical facility, except for the purpose of segregating critical circuits;

(D) related to segregating existing backup power equipment;

(E) associated with any enhanced system features outside the standard TBPP offering from an approved vendor;

(F) for the exclusive benefit of the critical facility or its owner;

(G) associated with operating costs incurred by the critical facility that are not directly required by the TBPP; or

(H) refueling costs or additional operations and maintenance costs outside the service agreement with the approved vendor.

(e) Application requirements. An application must be submitted by an applicant in the form and manner prescribed by the commission. An applicant may submit one or more applications for an award under this section. Each application must only contain one critical facility project. An application must contain the information required by this subsection. An applicant may withdraw an application at any time while under review. An applicant may submit an application for a critical facility after a prior application for the same critical facility has been rejected, if there are material changes to the application information.

(1) Applicant information.

(A) A corporate sponsor or the most senior parent corporation or owner entity may submit an application on behalf of a subsidiary applicant. An application for a TBPP with multiple owners must be submitted by the highest level of the entity with managing authority over the critical facility (e.g., owner with controlling interest, managing partner, or cooperative).

(B) Each application must include information about the applicant, including:

(i) the applicant's legal name;

(ii) the applicant's form of organization;

(iii) the applicant's relationship to the critical facility in the proposed project;

(iv) the applicant's primary contact name and title, mailing address, business telephone number, business e-mail address, and web address;

(v) information showing that the applicant is in good financial standing with relevant financial institutions, is meeting all compliance requirements, and that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in a contract by any Texas state agency or federal agency;

(vi) the applicant's agreement to adhere to TBPP performance requirements;

(vii) a description of the applicant's past grant and loan management and administration experience, if applicable;

(viii) proof of title or information showing control over the critical facility site at which a TBPP will be installed for a duration of at least six years;

(ix) an attestation by an authorized officer of the applicant that the applicant is authorized to apply for and operate the TBPP at the critical facility;

(x) the applicant's justification for seeking program funds to cover a portion of TBPP costs; and

(xi) documentation and evidence that the applicant has sufficient resources to support the TBPP through the compliance period, including those resources required to pay for any necessary but otherwise ineligible facility or project costs.

(2) Critical facility information. For the critical facility for which an applicant is seeking a TBPP, the application must include:

(A) Critical facility information, including:

(i) the facility's name;

(ii) the facility type as enumerated under (b)(1)(C) of this section;

(iii) the facility's physical address and mailing address;

(iv) the facility's owners including the ultimate parent company or holding company of the critical facility;

(v) the key personnel associated with TBPP project operation;

(vi) a description of activities that the critical facility undertakes to support community health, safety, and well-being;

(vii) a description of the facility's community impact, including the service area and the quantity and type of population served;

(viii) a statement describing the manner in which a TBPP installation will enhance the community impact of the critical facility;

(ix) average daily electric energy consumption measured in kilowatt-hours; maximum daily electric demand measured in kilowatts; and the facility's maximum daily critical load measured in kilowatts; each calculated over a twelve-month period;

(x) if the facility type is described under (b)(1)(C)(iv) of this section, documentation demonstrating that the critical facility is directly adjacent to, or immediately serving traffic on, designated evacuation corridors in the State; or documentation demonstrating that a grocery store is located in a geographic area that has limited access to essential supplies. In substantiating eligi-

bility under this subparagraph, a critical facility may use publicly available governmental resources, including the Texas Department of Transportation's Statewide Planning Map identifying district hurricane evacuation routes, and the United States Department of Agriculture's Food Access Research Atlas, or equivalent tools identifying communities with limited access to groceries and other essential supplies; and

(xi) if the facility type is described under (b)(1)(C)(vi) of this section, documentation from the applicable governmental body identifying the facility as critical.

(B) Backup power information, including:

(i) information related to any existing backup power system, including a description of the type of technology used and the system's rated maximum capacity; and

(ii) the facility's required backup power capacity, requested TBPP size, and justification for capacity and size based on the critical facility's critical load.

(3) Project information. For the critical facility for which an applicant is seeking a TBPP, the application must include all project information required by this subsection. Following the executive director or his or her designee's determination of applicant and critical facility eligibility and assignment of an approved vendor to the critical facility, the approved vendor must coordinate with the applicant and the critical facility to prepare and submit the required project information. An eligible applicant and critical facility must provide all relevant information to the approved vendor to satisfy the requirements of this subsection.

(A) Project information, including:

(i) package configuration and technical specifications;

(ii) the total TBPP project budget;

(iii) the respective portions of the project budget to be funded through a grant and loan;

(iv) the respective portions of the project budget by site preparation, package costs, installation, and maintenance;

(v) any ineligible costs that the applicant will fund separately; and

(vi) the vendor quotation and an indication of applicant approval of the quotation.

(B) A project work plan, including:

(i) a proposed project scope and installation schedule;

(ii) information demonstrating the feasibility of the project, including documentation establishing that the TBPP can be installed at the critical facility;

(iii) documentation that all permissions, approvals, and permits required by applicable laws and regulations have been obtained, or a detailed plan for obtaining all required permissions, approvals, and permits; and

(iv) an operation and maintenance plan.

(4) Information submitted to the commission at any time for the purpose of enabling the executive director or his or her designee to make a determination on the award of a grant or loan under Texas Utilities Code, Chapter 34, Subchapter B, as part of the application process is confidential and not subject to disclosure under Chapter 552, Government Code.

(5) If an application has been previously rejected, information explaining material changes to this application relative to the previous application.

(6) The TxEF administrator may request additional information associated with the items in this subsection if necessary to evaluate any project.

(f) Application review.

(1) Applicant and critical facility eligibility review . An applicant and critical facility must be approved as eligible and obtain notice of eligibility before submitting a TBPP project proposal under paragraph (e)(3) of this subsection.

(A) The TxEF administrator will review applications in the order in which they are received.

(B) The TxEF administrator will evaluate applicant and critical facility eligibility in accordance with subsection (b)(1) of this section.

(C) The executive director or his or her designee will determine applicant eligibility and will provide notice that an eligible applicant is authorized to coordinate with an approved vendor for the purpose of submitting a TBPP project application to the commission.

(2) Project approval. The executive director or his or her designee will approve, deny, or approve with modifications an application submitted by an eligible applicant for each TBPP project based on the screening and evaluation criteria outlined in this subsection.

(A) Each proposed TBPP project will be evaluated based on the following:

(i) the project cost;

(ii) the timeline for TBPP installation and commissioning, together with other applicant, critical facility and project information provided in the application;

(iii) the TBPP's expected benefits and impact. While evaluating benefits and impact, the executive director or his or her designee will consider factors such as the applicant's facility type and the criticality of services offered, the number of people served by the facility, the facility's ability to address regional needs, and the diversity of geography served by the critical facility in relation to other selected applicants;

(iv) the applicant's resources to implement the project and comply with compliance and performance requirements;

(v) the critical facility's current backup power capabilities; and

(vi) the creditworthiness of the applicant based on the amount of the loan requested.

(B) The TxEF administrator may request additional information associated with the items in this subsection if necessary to evaluate any project.

(g) Award amount. Eligible applicants may receive a grant or a combination of a grant and loan towards eligible costs in accordance with subsection (c) of this section.

(1) The amount of the grant and loan award will be determined by the executive director or his or her designee based on availability of program funds and evaluation of the applicant, critical facility, and project by the TxEF administrator.

(2) A grant award may not exceed $500 per kilowatt.

(3) A loan award will be structured as a forgivable loan consistent with subsection (h)(5) of this section.

(h) Funding structure and terms.

(1) To receive an award payment under this section, an applicant must enter into an award agreement or agreements in the form and manner specified by the TxEF administrator.

(2) Any TBPP costs funded by a grant or loan under this section must not be collected from customers or constituents of the critical facility.

(3) An uncured breach of the executed award agreement will be grounds for the executive director or his or her designee to determine that an applicant is ineligible to obtain any future payments or forgiveness under this section.

(4) Funding terms for grants.

(A) Payment terms for a project will be specified in the corresponding grant agreement executed by the awardee, the vendor, and the executive director or his or her designee on behalf of the commission. An awardee and vendor must comply with all terms and conditions applicable to each party, as described in the grant agreement, including all reporting requirements, and all federal or state statutes, rules, regulations, or guidance applicable to the grant award to be eligible for grant fund disbursement.

(B) Grant funds will be paid directly to an approved vendor as a reimbursement payment upon the vendor's submission of required documentation substantiating achievement of TBPP installation milestones in accordance with the grant agreement.

(C) All other costs required for project completion must be financed by the awardee or awarded through a loan under this section.

(D) The commission will withhold or require the return of payments for costs that are found ineligible or if an awardee or an approved vendor fails to comply with the requirements described in subsection (i) of this section and an executed grant agreement. The grant agreement will delineate the respective responsibilities of the awardee and the approved vendor, establish performance milestones, performance metrics, targets, deliverables, cure periods, remedies, and the procedures applicable to the awardee's and approved vendor's obligation to pay the commission the grant amount in the event of a default.

(5) Funding structure and terms for loans.

(A) Loan structure. An approved loan will have the following characteristics:

(i) Loan term. The loan will have a term of 1 to 5 years, which will be contingent upon the size of the loan, attributes of the critical facility, and financial capabilities of the applicant.

(ii) Forgivability. Up to 100 percent of the loan funds are forgivable, if an awardee and approved vendor meet the performance expectations delineated in the credit agreement. Loans will be forgiven on a prorated basis based on the duration of performance during the compliance period. Failure to meet any requirements for loan forgiveness and after the close of any applicable cure period described in the credit agreement, the full loan amount plus any accrued interest will become immediately due and payable.

(iii) Loan interest rate. Unforgiven loan amounts will bear an interest rate equal to the effective federal funds rate published on the date an award agreement is executed plus one percent.

(B) Loan terms and agreements.

(i) Loan funds will be paid directly to an approved vendor as a reimbursement payment upon the vendor's submission of required documentation substantiating achievement of TBPP installation milestones in accordance with the credit agreement.

(ii) Each awardee must enter into one or more award agreements with the commission and approved vendor. Such agreements must include the following:

(I) a credit agreement, which is the primary award agreement among an awardee, an approved vendor, and the executive director, or his or her designee, acting on behalf of the commission, will govern the terms and conditions under which the commission will loan funds under this section. The credit agreement will delineate the respective responsibilities of the awardee and the approved vendor, establish performance milestones, performance metrics, targets, deliverables, cure periods, remedies, and the procedures applicable to the awardee's and approved vendor's obligation to pay the commission the full loan amount in the event of a default; and

(II) for an awardee that is not a governmental entity, a pledge of a secured interest in the TBPP in favor of the commission for the term of the credit agreement.

(i) Compliance and monitoring period.

(1) Each project will be subject to a compliance period of up to 5 years. The duration of the compliance period will be determined based on the size of the grant or loan awarded. Any specific project milestones and performance requirements which are stated in the award agreements will apply during this period.

(2) During the compliance and monitoring period, the TBPP must be available to operate during any period of time when the critical facility experiences a power outage.

(A) An awardee must ensure the routine maintenance and testing of the TBPP. Such maintenance and testing must be performed under contract by an approved vendor.

(B) If the TBPP fails to be available to operate during an outage event, the commission may require the return of any grant funds disbursed or may determine that all or a portion of a loan is not forgivable. Responsibility for repayment will be with the awardee or the approved vendor or both, as applicable, based on the nature of any default and awardee's and vendor's respective obligations as described in the award agreements.

(3) An awardee must continue to provide critical services at the critical facility during the compliance period. Change in status as a critical facility during the compliance period may result in a breach of the award agreement, requiring the return of an award payment or termination of the award agreement.

(4) Reporting requirements.

(A) Vendor reporting. An approved vendor must annually file with the commission a report in accordance with the grant and loan reporting requirements as described in the grant and credit agreements.

(B) Critical facility reporting. Each awardee must annually submit to the commission a report containing an attestation that the TBPP was maintained in good working condition and was available to provide backup power during the compliance period; and that the awardee continued to provide critical services at the critical facility during the compliance period. Each awardee must also submit an after-action report with the commission that contains details of the TBPP performance in the event of a distribution system outage lasting more than 12 consecutive hours.

(j) No contested case or appeal. An application for a grant or loan under this section is not a contested case. A commission decision on a grant or loan award is not subject to a motion for rehearing or appeal under the commission's procedural rules.

(k) Relationship to distribution service provider network. An applicant requesting to install a TBPP at a critical facility that involves interactivity with the distribution network must have its vendor selected in accordance with subsection (b)(2) of this section to coordinate with the appropriate distribution service provider (DSP) to facilitate safe operation for the TBPP and the distribution network. The vendor must comply with the DSP's applicable processes and requirements for safe operation of the network. The DSP must provide a list of its processes and requirements in the form of a request form, checklist, or similar documentation to the vendor. A DSP that is an electric utility must expedite an interconnection request for a commission-approved TBPP project, provided that the commission has explicitly authorized the TBPP to be interconnected to the electric grid.

(l) Expiration. This section expires September 1, 2050.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601961
Katelyn Lewis
Projects Coordinator
Public Utility Commission of Texas
Effective date: May 27, 2026
Proposal publication date: January 2, 2026
For further information, please call: (512) 936-7044

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 108. PROFESSIONAL CONDUCT
SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY

22 TAC §108.2

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.2, pertaining to fair dealing. The amendment pertains to the sale, design, and manufacture of orthodontic devices as set out in House Bill 4070 of the 89th Texas Legislature, Regular Session (2025), and codified at Section 431.024 of the Health and Safety Code. The bill seeks to protect patients from unsafe practices by establishing requirements for a person selling an orthodontic device or providing a service related to the design or manufacture of such a device to patients in Texas. The amendment also includes grammatical changes. The amendment is adopted without changes to the proposed text as published in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2179) and will not be republished.

The American Association of Orthodontists (AAO) and the Texas Association of Orthodontists (TAO) submitted a written comment in support of the rule as proposed. They provide that the amendment appropriately reinforces patient protections by ensuring that patients are not required to agree to a specific orthodontic device as a condition of receiving an examination.

Board response: No changes were made to the proposal as a result of the comment.

The Texas Academy of General Dentistry (TAGD) submitted a written comment in support of the rule as proposed to implement the provisions of House Bill 4070 regarding orthodontic devices.

Board response: No changes were made to the proposal as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and under Health and Safety Code §431.024.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601964
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: May 28, 2026
Proposal publication date: April 3, 2026
For further information, please call: (737) 363-2333

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22 TAC §108.7

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.7, pertaining to the minimum standard of care. The amendment pertains to the sale, design, and manufacture of orthodontic devices as set out in House Bill 4070 of the 89th Texas Legislature, Regular Session (2025), and codified at Section 431.024 of the Health and Safety Code. The bill seeks to protect patients from unsafe practices by establishing requirements for a person selling an orthodontic device or providing a service related to the design or manufacture of such a device to patients in Texas, including requiring an in-person examination. The amendment is adopted without changes to the proposed text as published in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2180) and will not be republished.

The American Association of Orthodontists (AAO) and the Texas Association of Orthodontists (TAO) submitted a written comment in support of the rule as proposed. They provide that the addition of subsection (17) effectively ties compliance with Section 431.024 to enforceable standards of care, ensuring that the statutory requirements are meaningfully integrated into the Board's disciplinary framework.

Board response: No changes were made to the proposal as a result of the comment.

The Texas Academy of General Dentistry (TAGD) submitted a written comment in support of the rule as proposed to implement the provisions of House Bill 4070 regarding orthodontic devices.

Board response: No changes were made to the proposal as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and under Health and Safety Code §431.024.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601965
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: May 28, 2026
Proposal publication date: April 3, 2026
For further information, please call: (737) 363-2333

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22 TAC §108.8

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.8, pertaining to the records of the dentist. The amendment pertains to the sale, design, and manufacture of orthodontic devices as set out in House Bill 4070 of the 89th Texas Legislature, Regular Session (2025), and codified at Section 431.024 of the Health and Safety Code. The bill seeks to protect patients from unsafe practices by establishing requirements for a person selling an orthodontic device or providing a service related to the design or manufacture of such a device to patients in Texas. The amendment also corrects a grammatical error. The amendment is adopted without changes to the proposed text as published in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2181) and will not be republished.

The American Association of Orthodontists (AAO) and the Texas Association of Orthodontists (TAO) submitted a written comment in support of the rule as proposed. They provide that the amendment to subsection (d) provides clear and practical documentation requirements, including patient acknowledgment of counseling and appropriate record retention, which will support both compliance and enforcement.

Board response: No changes were made to the proposal as a result of the comment.

The Texas Academy of General Dentistry (TAGD) submitted a written comment in support of the rule as proposed. While they understand that the requirement in §108.8(d)(2) to retain records for at least seven years is taken directly from House Bill 4070 and would require legislative action beyond the Board's control to amend, they would support efforts to align this provision with the five-year retention requirement for other records.

Board response: No changes were made to the proposal as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and under Health and Safety Code §431.024.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601966
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: May 28, 2026
Proposal publication date: April 3, 2026
For further information, please call: (737) 363-2333

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CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.12

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §114.12, pertaining to continuing education for registered dental assistant (RDA) certificate holders. The adopted amendment will allow RDAs to complete their continuing education hours, including clinical hours, through Board-approved self-study, interactive computer courses, or lecture courses. The Board has required clinical hours to be completed through a live course; however, allowing clinical hours to be completed through self-paced or online formats will improve accessibility, efficiency, and affordability while maintaining educational quality. The amendment is adopted without changes to the proposed text as published in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2183) and will not be republished.

Alyssa Russell, RDA, submitted a written comment in opposition of the rule as proposed. She states that requiring a live continuing education course gives her the opportunity to perform hands-on training, ask questions, learn new skills or regulatory requirements, and learn from others who are taking the same course.

Board response: The proposal gives RDAs the option to take their clinical continuing education hours through either an online format or a live format. No changes were made to the proposal as a result of the comment.

The Texas Dental Assistants Association (TDAA) submitted a written comment in opposition of the rule as proposed. TDAA is concerned that other than live continuing education on specific topics could jeopardize patient care. Many of the skills required of the dental assistant are focused on the educated and trained dental assistant and should only require hands-on learning. TDAA provides that live continuing education allows for immediate feedback from the instructor and, in smaller groups, individualized instruction, which also gives participants an opportunity to share learning experiences with each other. TDAA is also aware that, in some instances, the individual may be distracted while taking an online course, fail to finish the course, and possibly retain little, if any, of the instruction offered. TDAA also provides that dentists who invest in live staff professional development is a key activity that helps avoid burnout and staff turnover.

Board response: The proposal gives RDAs the option to take their clinical continuing education hours through either an online format or a live format. No changes were made to the proposal as a result of the comment.

The Texas Academy of General Dentistry (TAGD) submitted a written comment in support of the rule as proposed. TAGD provides that allowing RDAs more flexibility in how they take continuing education hours will improve accessibility, efficiency, and affordability while maintaining educational quality and supporting stronger dental teams.

Board response: No changes were made to the proposal as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601967
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: May 28, 2026
Proposal publication date: April 3, 2026
For further information, please call: (737) 363-2333

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CHAPTER 115. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL HYGIENE

22 TAC §115.20

The State Board of Dental Examiners (Board) adopts this repeal of 22 TAC §115.20, concerning the dental hygiene advisory committee. The adopted rule repeal implements Senate Bill 313 of the 85th Texas Legislature, Regular Session (2017). The bill repealed Subchapter B, Chapter 262 of the Texas Occupations Code, which pertained to the dental hygiene advisory committee. The Board no longer uses the committee. This repeal is adopted with no changes to the proposed text as published in the April 3, 2026 issue of the *Texas Register* (51 TexReg 2184), and will not be republished.

No comments were received regarding adoption of this rule repeal.

This repeal is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601968
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: May 28, 2026
Proposal publication date: April 3, 2026
For further information, please call: (737) 363-2333

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PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

22 TAC §§537.20, 537.22, 537.28, 537.30 - 537.32, 537.37, 537.43, 537.46, 537.68

The Texas Real Estate Commission (TREC) adopts amendments to §537.20, Standard Contract Form TREC No. 9-17, Unimproved Property Contract; §537.22, Standard Contract Form TREC No. 11-8, Addendum for "Back-Up" Contract; §537.28, Standard Contract Form TREC No. 20-18, One to Four Family Residential Contract (Resale); §537.30, Standard Contract Form TREC No. 23-19, New Home Contract (Incomplete Construction); §537.31, Standard Contract Form TREC No. 24-19, New Home Contract (Completed Construction); §537.32, Standard Contract Form TREC No. 25-16, Farm and Ranch Contract; §537.37, Standard Contract Form TREC No. 30-17, Residential Condominium Contract (Resale); §537.43, Standard Contract Form TREC No. 36-10, Addendum for Property Subject to Mandatory Membership in a Property Owners Association; §537.46, Standard Contract Form TREC No. 39-10, Amendment to Contract; and §537.68, Standard Contract Form TREC No. 61-0, Water Notice: Seller's Disclosure about Groundwater and Surface Water Rights (NEW), in Chapter 537, Professional Agreements and Standard Contracts, with non-substantive changes to some of the forms adopted by reference under these rules (described below), as well as a non-substantive change to the title of rule §537.68, as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 1252). The rule text for §§537.20, 537.22, 537.28, 537.30 - 537.32, 537.37, 537.43, and 537.46 will not be republished. The rule text for §537.68 will be republished. The revised forms adopted by reference are available through the Commission's website at www.trec.texas.gov.

Each of the rules correspond to contract forms adopted by reference. Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contracts for the sale of real property. These forms are drafted and recommended for adoption by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor. The Texas Real Estate Broker-Lawyer Committee recommended revisions to the contract forms adopted by reference under the amendments.

The term "generators" has been added to Paragraph 2B, Improvements, to reflect the increased prevalence of generators on properties.

In Paragraph 5A(2), a definition of "Legal Holiday" has been added to provide better clarity. The term is also capitalized in the *Addendum for "Back-Up" Contract*.

In Paragraph 5 and the receipt page, as well as in the *Amendment to Contract* and the *Addendum for "Back-Up" Contract*, the terms "option fee," "earnest money," and "contract", as applicable, are now in lower case because they are not considered defined terms.

A change is made to the seller's disclosure notice reference in Paragraph 7B for consistency in terminology.

In the Commission's recent Special-Purpose Review by the Sunset Advisory Commission, Sunset directed the Commission to add language to contract forms to provide prospective buyers with relevant information on groundwater and surface water rights associated with a property. To that end, a new Paragraph 7(I) has been added to the contract forms (not including the *Residential Condominium Contract (Resale)*) and a new *Seller's Disclosure About Groundwater and Surface Water Rights* has been created.

In light of changes to industry practices surrounding compensation, Paragraph 12 has been reworded and reorganized and a new Paragraph 12B has been added related to brokerage compensation. The *Amendment to Contract* form has been updated to align with these changes and Paragraph 8B has also been removed. Additionally, the disclosure at the bottom of Page 10 related to compensation between brokers has been removed to help eliminate confusion.

The title of Paragraph 20 has been amended to "Governmental Requirements" from "Federal Requirements" and language has been added to Paragraph 20B, which requires the parties to provide information needed by the escrow agent for any governmental reporting requirements.

Paragraph 21 (Notices) was amended to clarify the acceptable delivery methods and that notices are effective when sent to a party or that party's agent. The revised paragraph also provides more options for buyer, seller, and agent contact information.

To streamline and improve usability, the committee recommended that all addenda and notices be incorporated into Paragraph 22 and reorganized into clearly labeled categories: Financial, Leases, Additional Tests and Reports, Statutory Disclosures and Notices, and Other. Several references requiring addenda to be attached were removed from Paragraph 6, and one subsection,- Paragraph 6(E)(12)- was struck entirely to reduce redundancy.

The Broker Information page (now retitled "Broker Contact Information") has been further reorganized with updated formatting and terminology to better reflect industry practice.

The terms "Listing Broker" and "Other Broker" have been replaced with the terms "Seller's Broker" and "Buyer's Broker" in the contracts.

Paragraph H of the *Addendum for "Back-Up" Contract* is also revised to change the timing of the Amended Effective Date to the date the Seller delivers the notice of termination instead of the date the Buyer receives it.

The *Addendum for Property Subject to Mandatory Membership in a Property Owners Association* has been modified in Paragraph A(2) so that the buyer is not obligated to provide subdivision information to a seller under that provision. Clarifying language is also added to Paragraph C to address any conflicts that may arise. The term "Effective Date" is also capitalized in the form.

75 comments were received in total on all of the proposed changes to the contract forms.

Two comments were generally in support of the proposed changes. One comment raised concerns about the inclusion of "generators" in Paragraph 2B. Two commenters were in support of the inclusion of a definition of "legal holiday," with one cautioning that using a statutory citation may be more confusing and suggesting that the committee spell out the holidays. One commenter did not like the current seller's disclosure language in some of the contract forms. The committee discussed, but declined to make changes.

One commenter was against the proposed removal of language referencing a separate addendum in Paragraphs 6E(4), (7), and (9). The committee explained that the language was removed to avoid redundancy with the proposed language in Paragraph 22.

Regarding Paragraph 12, seven comments were generally against the proposed changes. 17 comments (some from the same commenter) stated that the change was confusing with six suggesting the language should be modeled after the Texas Realtors' Commercial Contract and one suggesting that language be added to clarify whether the amount will be reduced because of language in the listing agreement. Three commenters wanted the language in the paragraph to be reordered. Four commenters did not see the utility of the language in Paragraph 12B(2), which allows a buyer to contribute to compensation owed by a seller. One commenter liked the changes, but requested that the paragraphs be reordered and the language further stress that it will not change the parties' obligations to pay. The committee discussed, but noted that these issues were previously considered and declined to make any changes as a result of these comments. Four comments specifically noted the Farm and Ranch Contract and asked for changes to the paragraph in light of the ratification and payment language in that contract, with one wanting the other contracts to be modeled after the Farm and Ranch Contract. The committee discussed and decided to change the language in the Broker's Fee section of the *Farm and Ranch Contract* to read "DO NOT SIGN IF THERE IS A SEPARATE AGREEMENT FOR PAYMENT OF BROKERS' FEES OR IF CONTRIBUTIONS ARE TO BE PAID UNDER PARAGRAPH 12B(1) OR (2)." Two commenters requested that 12(B) not be restricted to only checking one box (either the percentage or flat fee box) as compensation might include a percentage and a bonus reflected as a flat fee. The committee declined to make this change, stating that less common situation could be accommodated with the current proposed language.

Regarding Paragraph 7(I), one comment (submitted on behalf of several entities, including two groundwater conservation districts and one water authority) was generally in support of the proposed language. Five commenters found the language to be confusing, with one mentioning confusion between the notice in this paragraph and other notices in the contract. The committee discussed and decided to remove the words "Water Notice:" from the title of the new form (now titled "Seller's Disclosure About Groundwater and Surface Water Rights"), as well as the defined term in the paragraph itself for clarity from "(Water Notice)" to "(Seller's Water Disclosure)". One commenter expressed confusion over where to disclose certain information previously disclosed on Paragraph 6. The committee pointed out that that language had moved to Paragraph 22. One commenter was gen-

erally against this language and the accompanying form absent a statutory change and also questioned the inclusion of the language in the *Residential Condominium Contract (Resale)*. The committee agreed that the language should be removed from the condominium contract. This commenter also recommended that the language be reordered and reworded in this paragraph to make the provision less confusing. The committee discussed and decided to alter the language in Paragraph 7I(3) to read "Seller is not required to deliver" instead of "Seller will not deliver."

Regarding the *Seller's Disclosure About Groundwater and Surface Water Rights*, one comment (submitted on behalf of several entities, including two groundwater conservation districts and one water authority) was generally in support of the new form. Another commenter was generally in support of the form, but suggested the form contain instructions related to the incompleteness of state records and that the Commission should address the transfer of wells. One commenter had a question about use of the form in an underground water conservation district. Seven commenters found the form to be confusing and four expressed concerns about sellers being able to complete this form. The committee discussed, but declined to make changes at this time. One commenter suggested clarifying changes to terminology, including specifying that Paragraph 2B(4) of the form should include the term "if applicable." The committee discussed these comments, and as a result, the committee decided to modify the language to read "Identify any registrations" from "Identify the registrations" in Paragraph 2B(4).

Regarding Paragraph 20(B), one commenter was concerned with the obligation that the buyer pays any associated charges. The committee discussed. In light of a recent court order setting aside the new rules from the Financial Crimes Enforcement Network or FinCEN, the committee modified the title of paragraph 20 (to Governmental Requirements), modified the parenthetical to remove reference to FinCEN specifically, and removed the language creating the obligation that the buyer pay the associated charges.

Regarding Paragraph 21, one commenter was generally in support of the changes. One commenter thought the language in Paragraph 21 was redundant One commenter suggested that there should be two lines for phone numbers in Paragraph 21. Another commenter suggested that the language be revised to add "or their agent" to further clarify that notices can be sent from one agent to another and be effective under this paragraph. The committee agreed with these latter two suggestions.

Regarding Paragraph 22, three commenters asked for additional forms to be added to the list of forms. The committee declined to do so as the requested forms were not Commission forms. Another commenter found the changes to be confusing. Finally, another commenter generally liked the concept of the revised paragraph, but thought the order should be alphabetical and had concerns with the addition of the language formerly found in Paragraph 6E(12) being incorporated here. The committee discussed, but made no changes as a result of these comments. The typographical error was correct in this paragraph in the *Residential Condominium Contract (Resale)*.

Regarding the Broker Information page, one commenter wanted the designated broker to be listed. Another commenter expressed concern about the reformatting of the page stating that the revision was more difficult to read. One commenter expressed concern about the intermediary section and the inability to list different assumed names. The committee discussed and decided to retitle the section as "Broker Contact Information" and bold certain terms for improved readability.

Regarding the *Addendum for "Back-Up" Contract*, one commenter liked the change in Paragraph H, but questioned the consistency of the terminology used. Another comment requested that an optional section be added creating a "floating" closing date. The committee made no changes to the language at this time, but decided to look at the issue of consistent terminology more globally at a future meeting.

Regarding the *Addendum for Property Subject to Mandatory Membership in a Property Owners Association*, one commenter was concerned there would be confusion with the term "actual receipt," had recommendations for Paragraphs B and D, and was generally in support of the additional clarifying language in Paragraph C. The committee discussed but made no change as a result of this comment.

Regarding the *Amendment to Contract*, two comments were received. One commenter suggested clarifying language be added to Paragraphs 1 and 7. The other commenter was generally against the proposed change to Paragraph 5. The committee discussed but made no changes at this time as a result of these comments, but will discuss the suggestion to Paragraph 6 at a later meeting. The term "option fee" is now in lower case on the form for consistency with other contract form changes.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted under Texas Occupations Code, §1101.155, which authorizes the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the Commission.

§537.68. Standard Contract Form TREC No. 61-0, Seller's Disclosure about Groundwater and Surface Water Rights.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 61-0 approved by the Commission in 2026 for mandatory use to provide information regarding groundwater and surface water rights associated with the property.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601969
Abby Lee
General Counsel
Texas Real Estate Commission
Effective date: July 1, 2026
Proposal publication date: February 27, 2026
For further information, please call: (512) 936-3057

22 TAC §§537.62, 537.63, 537.69

The Texas Real Estate Commission (TREC) adopts amendments to §537.62, Standard Contract Form TREC No. 55-0,

Seller's Disclosure Notice; §537.63, Standard Contract Form TREC No. OP-L, Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law; and §535.69, Standard Contract Form TREC No. 62-0, Seller's Notice to Buyer of Removal of Contingency Under Addendum for "Back-Up" Contract (NEW), in Chapter 537, Professional Agreements and Standard Contracts, with non-substantive changes to some of the forms adopted by reference under these rules (described below, as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 1252). The rule text will not be republished. The revised forms adopted by reference are available through the Commission's website at www.trec.texas.gov.

Each of the rules correspond to contract forms adopted by reference. Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contracts for the sale of real property. These forms are drafted and recommended for adoption by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor. The Texas Real Estate Broker-Lawyer Committee recommended revisions to the contract forms adopted by reference under the amendments.

In the Commission's recent Special-Purpose Review by the Sunset Advisory Commission, Sunset directed, as part of that review, that the TREC Seller's Disclosure Notice be updated to: (i) provide a prospective buyer with information on whether the property is presently covered by insurance, including windstorm insurance, and whether the current seller has been unable to insure their property for any reason; (ii) inform a prospective buyer if there is a private road on or adjoining the property that the prospective buyer would be financially responsible for maintaining; (iii) provide a prospective buyer with information on the existence of aboveground storage tanks on the property that are more than 500 gallons and have stored petroleum products or other chemicals; and (iv) tell a prospective buyer whether their property is located in a conservation easement. The Seller's Disclosure Notice is updated to reflect those directives.

The terms "Listing Broker" and "Other Broker" have been replaced with the terms "Seller's Broker" and "Buyer's Broker" in the *Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law*.

A new *Seller's Notice to Buyer of Removal of Contingency under Addendum for "Back-Up" Contract* has been drafted, which may be used in conjunction with the *Addendum for "Back-Up" Contract*.

75 comments were received in total on all of the proposed contract form changes.

Two comments were generally in support of the proposed changes. Regarding the *Seller's Disclosure Notice*, six comments were received. Three commenters were generally in support of the proposed changes, with one requesting an additional disclosure related to changes that might impact the property. One commenter requested additional disclosures related to the HVAC system, while another commenter requested additional disclosures related to CO_2 disclosures. The committee discussed and declined to make changes, noting that it is generally the policy of the committee to mirror the requirements of Texas Property Code §5.008. One commenter was generally against the proposed changes, citing concerns about the Commission promulgating a notice that goes beyond the minimum requirements of Texas Property Code §5.008 and suggested that clarifying language be added to the footer of the form, advising that the form now contains more than the minimum statutory requirements. The committee discussed and declined to make changes at this time.

Regarding the *Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law*, one comment was received and requested that clarifying changes be made throughout this form. The committee discussed, but declined to make changes at this time. The committee will consider changes at a future meeting.

Regarding the new *Seller's Notice to Buyer of Removal of Contingency Under Addendum for "Back-Up" Contract*, five commenters were generally in support of the form, with one commenter asking a question regarding the uniformity of the headers on the forms (the committee noted they would review this issue at a future meeting). One commenter requested the title of the form be changed. The committee discussed and made no changes as a result of these comments.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted under Texas Occupations Code, §1101.155, which authorizes the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the Commission.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 8, 2026.

TRD-202601970
Abby Lee
General Counsel
Texas Real Estate Commission
Effective date: May 28, 2026
Proposal publication date: February 27, 2026
For further information, please call: (512) 936-3057

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER G. SHERIFF IMMIGRATION LAW ENFORCEMENT GRANT PROGRAM

34 TAC §§16.550 - 16.556

The Comptroller of Public Accounts adopts new §16.550, concerning definitions; §16.551, concerning applications; §16.552,

concerning comptroller review; §16.553, concerning grant agreement; §16.554, concerning authorized uses of grant funds; §16.555, concerning reporting and compliance; and §16.556, concerning fiscal year 2026 application period, with a non-substantive change to the proposed text as published in the January 30, 2026, issue of the *Texas Register* (51 TexReg 531) to correct a typographical error in §16.554(a)(8)(A). The rules will be republished. These new sections will be located in 34 TAC Chapter 16, new Subchapter G, Sheriff Immigration Law Enforcement Grant Program.

Section 16.550 provides definitions.

Section 16.551 describes the application process.

Section 16.552 describes comptroller review.

Section 16.553 describes the requirements for grant agreements.

Section 16.554 describes the authorized uses of grant funds and limitations on uses of grant funds.

Section 16.555 describes reporting requirements and available remedies for noncompliance.

Section 16.556 describes the Fiscal Year 2026 application period.

The comptroller received one comment seeking clarification on various aspects of the program from the Hidalgo County Sheriff's Office ("HCSO"). HCSO did not suggest changes to the proposed rules.

HCSO asks whether warrant officers must be fully commissioned deputy sheriffs and TCOLE-licensed peace officers in order to qualify for program participation and compensation reimbursement. The comptroller notes that the rules do not specify minimum licensing requirements for persons performing duties under an immigration law enforcement agreement or otherwise participating in the program. However, §16.555(c) requires compliance with applicable state and federal law. The program will require licensure only to the extent required by applicable state and federal law. Because the rules sufficiently address the issue, no changes are made in response to the question.

HCSO asks whether warrant officers must be assigned exclusively to immigration enforcement duties, or whether partial assignments will be allowed. HCSO further asks, if partial assignments are allowed, what method of time allocation and documentation will be considered sufficient for reimbursement eligibility. The comptroller notes that the rules do not impose such a requirement unless required through §16.555(c). Because specific documentation requirements could vary based on relevant facts, the rules are not the appropriate forum to provide this level of detail. Generally, §16.555 requires grant recipients to "certify compliance and provide detailed information" regarding grant fund expenditures and any additional supporting documentation the comptroller requests to substantiate compliance with the grant agreement and other program requirements. No changes are made in response to the question.

HCSO asks whether the program allows reimbursement for total compensation costs associated with warrant officers, including base salary, overtime, benefits, and any specialty or certification pay related to immigration enforcement duties. Because §16.554(d) sufficiently addresses this question, no change is needed to the rules in response.

HCSO asks what level of documentation will be required to demonstrate that compensated hours are directly tied to duties performed under the immigration enforcement agreement, and what records will be considered sufficient during an audit review. Because specific documentation requirements could vary based on relevant facts, the rules are not the appropriate forum to provide this level of detail. The comptroller anticipates requiring payroll documentation that is line-itemed as grant funds for expenses not reimbursed by the federal government, but may adjust the requirements or request additional information as needed. No changes are made in response to this question.

HCSO asks whether supervisory oversight and administrative support directly assigned to the warrant officer unit may be classified as direct costs, or whether these must be applied toward the 5.0% indirect cost cap. Because §16.554(a)(8) sufficiently addresses this question, no change is needed to the rules in response.

The new sections are adopted under Government Code, §753.104, which requires the comptroller to adopt rules to implement a new grant program to assist sheriffs participating in immigration law enforcement agreements.

The new sections implement Government Code, §753.104.

§16.550. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Applicant--A sheriff of a county that operates a jail or contracts with a private vendor to operate a jail who applies for a grant.

(2) Biennium--A two-year period that runs from September 1 of an odd-numbered year through August 31 of the next odd-numbered year.

(3) Deputy sheriff--A person appointed as deputy sheriff pursuant to Local Government Code, §85.003.

(4) Equipment--This term includes any tangible or nontangible item necessary to perform duties required under an immigration law enforcement agreement including safety equipment, computers, firearms, vehicles and software. This term does not include office supplies such as pens, paper, and office furniture.

(5) Fiscal year--The twelve consecutive calendar months when an applicant tracks its finances for budget and accounting purposes.

(6) Grant--A grant awarded under Government Code, Chapter 753, Subchapter C, to a sheriff who has entered into an immigration law enforcement agreement.

(7) Grant agreement--An agreement between the comptroller and a grant recipient that governs the terms of a grant.

(8) Grant reporting costs--Costs related to generating and delivering reports required under this subchapter.

(9) Grant recipient--A sheriff who receives a grant under this subchapter.

(10) Immigration law enforcement agreement--An agreement described in Government Code, § 753.001 and §753.051.

(11) Reporting costs--Costs related to generating and delivering reports required under the immigration law enforcement agreement.

(12) Sheriff--A person elected or appointed as the county sheriff who is responsible for carrying out the duties of the office described in Local Government Code, Chapters 85, 291 and 351.

§16.551. Application.

(a) In order to receive a grant award payment under this subchapter, an applicant must timely submit a completed application.

(b) An applicant must submit the application electronically on a website established by the comptroller for that purpose. The application must include all information the comptroller deems necessary to make an award determination, including:

(1) a copy of the immigration law enforcement agreement; and

(2) a copy of a resolution from the county commissioner's court wherein the commissioners court pledges to not reduce the amount of funds provided or appropriated to the sheriff's office in response to the sheriff's receipt of grant funds under this subchapter.

(c) A sheriff is eligible to apply for a grant if the sheriff has entered into an immigration law enforcement agreement and is eligible for the grant amount as described under Government Code, §753.103.

(d) The comptroller accepts only one application per applicant within a biennium.

(e) The sheriff must electronically sign the application and certify that all information in the application is true and correct.

§16.552. Comptroller Review.

(a) The comptroller shall review the application for completeness. The comptroller may require the applicant to submit any additional information deemed necessary to make an award determination. The applicant must submit the required information within 14 calendar days of its request by the comptroller.

(b) The comptroller may reject an application for any of the following reasons:

(1) an applicant has not timely met, to the comptroller's satisfaction, the eligibility and application requirements;

(2) an applicant failed to timely comply with the comptroller's request for information under subsection (a) of this section; or

(3) the application submitted is incomplete or does not otherwise comply with this subchapter as determined by the comptroller.

§16.553. Grant Agreement.

(a) Funding of grant agreements is contingent on the comptroller receiving sufficient legislative appropriations, without which the comptroller may be unable to execute a grant agreement. Determinations regarding grant award payment amounts will depend on the amount of funding available at the time the application is approved and could result in partial or no funding awarded.

(b) The comptroller shall notify the grant recipient of the grant award amount and provide a grant agreement for signature within 30 days of that notification.

(c) Award and funding decisions are made in the comptroller's sole discretion and are not appealable or subject to protest.

(d) A grant agreement must require the comptroller to disburse funds as soon as practicable and must require funds to be expended during the grant period. Funds subject to a binding encumbrance may be considered expended if the grant recipient is legally obligated to expend the funds under a binding contract to purchase allowable goods or services. For example, anticipated contracts, contracts under negotiation, and the earmarking or budgeting of funds for a specified purpose are not binding encumbrances.

(e) Grant award payments are subject to Government Code, §§ 403.055, 403.0551 and 753.103. The most recent federal decennial census will determine the population used for the funding tiers.

(f) The sheriff must electronically sign the grant agreement.

§16.554. Authorized uses of Grant Funds.

(a) Grant funds may only be used for the following:

(1) compensation for persons performing duties under the immigration law enforcement agreement;

(2) reporting costs, which are limited to three percent of the total grant amount;

(3) grant reporting costs, which are limited to three percent of the total grant amount;

(4) equipment and related services for peace officers and other persons related to the immigration law enforcement agreement, including the cost of repairing equipment that was not purchased using grant funds;

(5) attendance by a person at any training or other event required under the immigration law enforcement agreement;

(6) costs to the county for confining inmates under the authority granted under the immigration law enforcement agreement;

(7) overtime pay for persons employed at the sheriff's office who, during periods of training required by the immigration law enforcement agreement, perform the duties of persons obtaining that training;

(8) indirect costs, as described in the Texas Grant Management Standards, which:

(A) are limited to five percent of the total grant amount; and

(B) exclude costs for business functions of the office, including software, trainings, and licenses; and

(9) pre-award costs expended on or after the effective date of the immigration law enforcement agreement and prior to the effective date of the grant agreement.

(b) Grant funds may not be used for:

(1) reporting costs in excess of three percent of the total grant amount;

(2) grant reporting costs in excess of three percent of the total grant amount;

(3) indirect costs, as described in the Texas Grant Management Standards, in excess of five percent of the total grant amount and indirect costs for business functions of the office including software, trainings, and licenses;

(4) costs associated with participating in the immigration law enforcement agreement for which the grantee may be reimbursed by the federal government; and

(5) costs incurred prior to the effective date of the immigration law enforcement agreement.

(c) Grant funds may only be used for the state purpose of assisting sheriffs participating in immigration law enforcement agreements.

(d) For compensation for persons performing duties under the agreement as described by subsection (a)(1) of this section, the costs associated with providing compensation include:

(1) the salary amount as indicated on the county's budget submitted under section 16.555 (Reporting and Compliance) of this subchapter; and

(2) any additional compensation costs legally permissible and allowable by county policy, including overtime pay.

(e) Funds must be expended within the term of the grant agreement.

§16.555. Reporting and Compliance.

(a) A grant recipient must submit a compliance report using the comptroller's electronic form each fiscal year as required by the grant agreement. The report must certify compliance and provide detailed information on the expenditure of grant funds.

(b) The comptroller may request supporting documentation regarding expenditures and any other information required to substantiate that the grant recipient complied with the grant agreement and this subchapter. The grant recipient must submit the documentation within 14 calendar days of the request.

(c) Grant recipients must comply with:

(1) the grant agreement terms and conditions;

(2) Government Code, Chapter 753, Subchapter C requirements, as applicable; and

(3) all state and federal statutes, rules, regulations, and guidance applicable to the grant award, including this subchapter.

(d) If the comptroller finds that a grant recipient has failed to comply with any requirement described in subsection (c) of this section, the comptroller may:

(1) require the grant recipient to cure the failure to comply to the comptroller's satisfaction;

(2) require the grant recipient to return some or all of the grant;

(3) withhold funds from the current grant or future grants awarded to grant recipient until the deficiency is corrected;

(4) disallow all or part of the cost of the activity or purchase that does not comply;

(5) terminate the grant agreement in whole or in part;

(6) bar the grant recipient from future consideration for grants under this subchapter; or

(7) exercise any other legal remedies available at law.

(e) The grant recipient or an official of the county who is authorized to bind the county must electronically sign the compliance report and certify that all information in the compliance report is true and correct.

§16.556. Fiscal Year 2026.

(a) Notwithstanding anything to the contrary in this subchapter, the first application period for all applicants in Fiscal Year 2026 will consist of a thirty-day period beginning on the later of January 1, 2026 or the date the application is first made available.

(b) For grants awarded during Fiscal Year 2026, funds may be used to reimburse costs incurred on or after October 1, 2025, provided the costs were incurred on or after the effective date of the immigration law enforcement agreement. Any pre-award costs, corresponding receipts, invoices or other related information must be submitted with the application.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601989
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Effective date: May 31, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-2220

CHAPTER 20. STATEWIDE PROCUREMENT AND SUPPORT SERVICES

SUBCHAPTER C. PROCUREMENT METHODS AND CONTRACT FORMATION

DIVISION 3. SPECIAL CONTRACTING METHODS

34 TAC §20.231

The Comptroller of Public Accounts adopts amendments to §20.231, concerning multiple awards contracts procedure, without changes to the proposed text as published in the February 6, 2026, issue of the *Texas Register* (51 TexReg 703). The rule will not be republished. The comptroller amends §20.231 to implement Government Code, Chapter 2156, Subchapter E, added by House Bill 4748, 89th Legislature, 2025, effective September 1, 2025. The comptroller amends the title of §20.231 to match the title of the new subchapter, "Multiple Award Purchasing Procedure."

The comptroller amends subsection (a) to align with Government Code, Chapter 2156, Subchapter E. The term "multiple award contract procedure" is replaced with "multiple award purchasing procedure," which is the term used in Government Code, Chapter 2156, Subchapter E. The phrase "in the best interest of the state" is replaced with "necessary to ensure adequate delivery, service, or product compatibility," which is the legal standard used in Government Code, §2156.202. The term "bidder" is replaced with "anticipated respondent," to reflect that Government Code, §2156.204 allows the multiple award purchasing procedure to be used in conjunction with an invitation for bids, request for proposals, or request for offers. Subsection (a), as amended, allows an agency to consider any relevant facts in its determination of whether multiple awards are necessary in accordance with Government Code, §2156.202. It specifies that the need to maintain a continuous supply of essential items is one fact that supports the use of the multiple award purchasing procedure.

The comptroller amends subsection (b) to require that a solicitation disclose the agency's intent to issue multiple awards to and identify the agency's criteria for selection of respondents to award. This amendment implements Government Code,

§2156.203, which requires disclosure of intent and criteria for multiple awards in each solicitation for a multiple award contract.

The comptroller amends subsection (c) to allow multiple awards on invitations for bids, requests for proposals, and requests for offers. Government Code, §2156.204 explicitly allows the multiple award purchasing procedure to be used in conjunction with each of these methods. Subsection (c) as amended, no longer addresses documentation of the basis for determining awards. That subject is covered in new subsection (d).

The comptroller adds subsection (d) to provide that each awardee must provide or be capable of providing the best value to the state, in accordance with the applicable statutory standards. This implements Government Code, §2156.204(b). Because of that best value requirement, subsection (d) further provides that agencies shall not award contracts based on minimum qualifications that do not establish best value. Finally, subsection (d) requires agencies to create and retain documentation of their compliance with the best value requirement for multiple contract awards.

The comptroller adds subsection (e) to address small orders under multiple award contracts. Subsection (e) states that agencies must document that such orders obtain best value for the state. However, the amended rule does not require an agency to document the best value determination for each small order. Instead, it is sufficient to document a best value ordering procedure. This subsection achieves compliance with Government Code, §2156.205, while reducing administrative burdens consistent with the policy of Government Code, §2155.132(e)(1).

The comptroller adds subsection (f) to address large orders under multiple award contracts. Subsection (f) states that an agency shall evaluate each contemplated order to determine whether it provides the best value to the state and document its determination in the contract file. This subsection implements Government Code, §2156.205.

The comptroller adds subsection (g) to describe one method of determining best value when ordering under multiple award contracts. Subsection (g) states that an agency may conduct secondary competition under a multiple award contract by notifying qualified contractors of the scope of work to be ordered, and inviting them to submit proposals. Subsection (g) gives agencies discretion to order from the contractor that offers the best value, or to cancel the secondary competition. This subsection implements Government Code, §2156.205, and provides flexibility for agencies to respond to emergent facts and circumstances, such as changes to their budgets or priorities.

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Government Code, §2156.0012 (Authority to Adopt Rules), which provides the comptroller with the authority to adopt rules to efficiently and effectively administer Government Code, Chapter 2156 (Purchasing Methods).

The amendments implement Government Code Chapter 2156, Subchapter E, added by House Bill 4748, 89th Legislature, 2025, effective September 1, 2025.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 6, 2026.

TRD-202601929
Don Neal
General Counsel, Operations and Support Legal Services
Comptroller of Public Accounts
Effective date: May 26, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 7. TEXAS COMMISSION ON LAW ENFORCEMENT

CHAPTER 211. ADMINISTRATION

37 TAC §211.1

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §211.1, Definitions, without changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1573). The rule will not be republished.

This adopted amended rule conforms with the addition of Texas Government Code §411.3735 made by House Bill 33 (89R) by adding a nearly identical definition for public information officer. The adopted amended rule also defines administrative duty pay status, which allows an agency to temporarily restrict a licensee's authority to act under an appointment without having to separate the licensee. This pay status will provide flexibility to agencies in handling situations involving their licensees.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. Two public comments were received.

Public Comment No. 1 from the Edinburg Police Department: Commenter asked, for licensees placed on administrative duty status, if they are still required to complete continuing education and if they should be counted as active for training cycle compliance. Commenter also asked how this status should be reflected in TCLEDDS reporting.

Commission Response: Yes, licensees placed on administrative duty status are required to complete all continuing education requirements and are considered active for the purposes of all license requirements, including training. Their license status will show as active and their pay status will show as administrative duty.

Public Comment No. 2 from the Houston Police Department: Commenter asked where in the Administrative Code or Commission rules does the administrative duty term exist to warrant this definition. Commenter also asked which relieved of duty statuses does the administrative duty pay status impact and what is the timeframe for updating the pay status.

Commission Response: The term does not currently exist in other locations within the Commission's rules. As to the other two questions, these have not been decided yet as these would be addressed by future rule amendments and not by the definition itself.

The amended rule is adopted pursuant to Texas Government Code §411.3735, Certification and Continuing Education

Required for Certain Public Information Officers, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Government Code §411.3735 defines public information officer. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701.

The amended rule as adopted affects or implements Texas Government Code §411.3735, Certification and Continuing Education Required for Certain Public Information Officers, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601984
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

37 TAC §211.30

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §211.30, Chief Administrator Responsibilities for Misdemeanor Waivers, with non-substantive changes to the proposed text as published in the January 9, 2026 issue of the *Texas Register* (51 TexReg 200). The rule will be republished.

This adopted amended rule allows chief administrators to request a waiver of the minimum standards for enrollment or initial licensure in 37 Texas Administrative Code §217.1 for individuals that have been convicted or placed on community supervision for a disqualifying Class C misdemeanor offense. It also clarifies and streamlines the process for the Commission to approve or deny a waiver request, which allows the Executive Director to approve or deny a waiver request and allows a chief administrator to appeal a denied waiver request to the Commissioners.

The public comment period began on January 9, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. One public comment from the Panhandle Regional Law Enforcement Academy was received in support of adoption of the amended rule as proposed.

The amended rule is adopted pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The amended rule as adopted affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

§211.30. Chief Administrator Responsibilities for Misdemeanor Waivers.

(a) A chief administrator may request the executive director to consider an individual for a waiver of the minimum standards for enrollment or initial licensure regarding an otherwise disqualifying misdemeanor conviction or placement on community supervision.

(b) A chief administrator is eligible to apply for a waiver five years after the date of the individual's conviction or placement on community supervision.

(c) The request must include:

(1) a complete description of the following mitigating factors:

(A) the applicant's history of compliance with the terms of community supervision;

(B) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;

(C) the applicant's employment record;

(D) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;

(E) the required mental state of the disposition offense;

(F) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;

(G) the type and amount of restitution made by the applicant;

(H) the applicant's prior community service;

(I) the applicant's present value to the community;

(J) the applicant's post-arrest accomplishments;

(K) the applicant's age at the time of arrest; and

(L) the applicant's prior military history;

(2) all court and community supervision documents;

(3) the applicant's statement;

(4) all offense reports;

(5) victim(s) statement(s), if applicable;

(6) letters of recommendation;

(7) statement(s) of how the public or community would benefit;

(8) chief administrator's written statement of intent to hire the applicant as a full time employee;

(9) the applicant's personal history statement; and

(10) the agency's background investigation report of the applicant.

(d) Commission staff will review the request and notify the chief administrator if the request is incomplete. The chief administrator must provide any missing documents before the request can be considered complete.

(e) The Executive Director may approve or deny a completed waiver request. If approved, the Executive Director will present the waiver request to the commissioners for ratification at the next public

meeting. If denied, the chief administrator may appeal to the commissioners for consideration at a public meeting.

(f) The chief administrator will be notified of the meeting date and must be present to present the request to the commissioners. The applicant must be present at the meeting to answer questions about the request. Staff will present a report on the review process.

(g) If granted, a waiver is issued in the name of the applicant chief administrator, belongs to the sponsoring agency, is nontransferable without approval, and is without effect upon the subject's separation from the sponsoring agency. If separated and in the event of subsequent prospective law enforcement employment, a person may seek another waiver through the prospective hiring agency's chief administrator.

(h) The effective date of this section is June 1, 2026.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601990
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: January 9, 2026
For further information, please call: (512) 936-7700

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CHAPTER 217. ENROLLMENT, LICENSING, APPOINTMENT, AND SEPARATION

37 TAC §217.1

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §217.1, Minimum Standards for Enrollment and Initial Licensure, with no changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1577). The rule will not be republished.

This adopted amended rule conforms with the amendment to Texas Occupations Code §55.004 made by Senate Bill 1818 (89R). The adopted amended rule allows military service members, military veterans, and military spouses to obtain a provisional license while applying for a Commission license. The applicants would have to either hold a current license issued by another state that is similar in scope to a Commission license and be in good standing with the other state's licensing authority or have held a Commission license that went inactive within the five years preceding the date of application. The provisional license is effective for up to 180 days.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. No public comments were received regarding adoption of the amended rule as proposed.

The amended rule is adopted pursuant to Texas Occupations Code §55.004, Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §55.004 establishes a process for military service members, military veterans, and military spouses to obtain a provisional license while applying for licensure. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The amended rule as adopted affects or implements Texas Occupations Code §55.004, Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601991
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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CHAPTER 219. PRELICENSING, REACTIVATION, TESTS, AND ENDORSEMENTS

37 TAC §219.11

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §219.11, Reactivation of a License, with no changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1580). The rule will not be republished.

This adopted amended rule clarifies the existing requirement that the reactivation prerequisites are determined by the number of years since the licensee's last full-time service appointment.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. No public comments were received regarding adoption of the amended rule as proposed.

The amended rule is adopted pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.316, Reactivation of a Peace Officer License, and Texas Occupations Code §1701.3161, Reactivation of a Peace Officer License: Retired Peace Officers. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.316 requires the Commission to adopt rules establishing requirements for the reactivation of a peace officer's license. Texas Occupations Code §1701.3161 requires the Commission to adopt rules establishing requirements for the reactivation of a retired peace officer's license.

The amended rule as adopted affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.316, Reactivation of a Peace Officer License, and Texas Occupations Code §1701.3161, Reactivation of a Peace Officer License: Retired Peace Officers. No other code, article, or statute is affected by this proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601992
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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CHAPTER 221. PROFICIENCY CERTIFICATES

37 TAC §221.1

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §221.1, Proficiency Certificate Requirements, with no changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1582). The rule will not be republished.

This adopted amended rule conforms with the additions of Texas Government Code §§411.3735 and 418.333 made by House Bill 33 (89R). The adopted amended rule exempts applicants for the public information officer certificate from needing a license or appointment to obtain the certificate. This will allow individuals that are not licensed by the Commission to obtain the certificate.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. No public comments were received regarding adoption of the amended rule as proposed.

The amended rule is adopted pursuant to Texas Government Code §411.3735, Certification and Continuing Education Required for Certain Public Information Officers, Texas Government Code §418.333, Certification and Continuing Education, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Government Code §411.3735 requires certain agencies to have a public information officer who has or obtains the public information officer certificate. Texas Government Code §418.333 requires an applicant for a public information officer certification to complete minimum education and training requirements for initial certification and to complete continuing education to maintain the certificate. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701.

The amended rule as adopted affects or implements Texas Government Code §411.3735, Certification and Continuing Education Required for Certain Public Information Officers, Texas Government Code §418.333, Certification and Continuing Education, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601995
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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37 TAC §221.12

The Texas Commission on Law Enforcement (Commission) adopts new 37 Texas Administrative Code §221.12, Mental Health Telecommunicator Proficiency, without changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1583). The rule will not be republished.

The adopted new rule establishes a mental health proficiency certificate for telecommunicators. This proficiency certificate is similar in function to the mental health officer proficiency certificate for peace officers, county jailers, and justices of the peace from 37 Texas Administrative Code §221.11, Mental Health Officer Proficiency. This optional certificate will provide telecommunicators with relevant mental health training to better perform their job duties and responsibilities.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. One public comment from the Meadows Mental Health Policy Institute was received in support of adoption of the new rule as proposed.

The new rule is adopted pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The new rule as adopted affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601996

Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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37 TAC §221.33

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §221.33, Standardized Field Sobriety Testing Instructor Proficiency, with no changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1584). The rule will not be republished.

The adopted amended rule updates the rule to the current requirements and terminology for obtaining and requalifying for a standardized field sobriety testing instructor proficiency certificate. It also clarifies the requirements for requalifying for the certificate and that an individual is required to have the certificate in order to instruct the SFST Practitioner BPOC Course, the SFST Practitioner Course, the SFST Practitioner Refresher Course, the SFST Instructor Refresher Course, or the SFST Instructor Course.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. No public comments were received regarding adoption of the amended rule as proposed.

The amended rule is adopted pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The amended rule as adopted affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601997
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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37 TAC §221.48

The Texas Commission on Law Enforcement (Commission) adopts new 37 Texas Administrative Code §221.48, Public Information Officer Certificate, with changes to the proposed text as published in the March 13, 2026 issue of the *Texas Register* (51 TexReg 1585). The rule will be republished.

This adopted new rule conforms with the addition of Texas Government Code §418.333 made by House Bill 33 (89R). The adopted new rule establishes the requirements for obtaining and maintaining a public information officer certificate. This includes successful completion of an initial course to obtain the certificate and annual continuing education hours required by the Texas Division of Emergency Management (TDEM) to maintain the certificate. If the certificate becomes invalid due to failure to complete the required continuing education hours, the holder may renew the certificate by completing all outstanding continuing education hours. In consultation with TDEM, minor changes were made to subsections (c) and (d) of the proposed rule to accurately reflect TDEM's role and operations regarding continuing education, which will be more lenient and provide more options for certificate holders than what was initially proposed.

The public comment period began on March 13, 2026, and ended on April 16, 2026, at the conclusion of the public meeting of the Commission. Four public comments were received.

Public Comment No. 1 from the Falls County Constable Precinct 1: Commenter is opposed to the requirement of needing the certificate and having to renew the certificate every year.

Commission Response: These requirements are imposed by the additions of Texas Government Code §§411.3735 and 418.333 as made by House Bill 33 (89R).

Public Comment No. 2 from the Rockport Police Department: Commenter is opposed to the requirement of having to renew the certificate every year and suggests aligning the renewal with other current Commission certificates.

Commission Response: This requirement is imposed by the additions of Texas Government Code §§411.3735 and 418.333 as made by House Bill 33 (89R).

Public Comment No. 3 from the Eastland County Constable Precinct 2: Commenter is opposed to the requirement of having to renew the certificate every year and suggests making the certificate valid for life or aligning the renewal with the four-year training cycle.

Commission Response: This requirement is imposed by the additions of Texas Government Code §§411.3735 and 418.333 as made by House Bill 33 (89R).

Public Comment No. 4 from the Houston Christian University Police Department: Commenter is opposed to the requirement of having to renew the certificate every year and suggests aligning the renewal with the two-year training unit.

Commission Response: This requirement is imposed by the additions of Texas Government Code §§411.3735 and 418.333 as made by House Bill 33 (89R).

The new rule is adopted pursuant to Texas Government Code §418.333, Certification and Continuing Education, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Government Code §418.333 requires an applicant for a public information officer certification to complete minimum education and training requirements for initial certification and to complete continuing education to maintain the certificate. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701.

The new rule as adopted affects or implements Texas Government Code §418.333, Certification and Continuing Education, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

§221.48. Public Information Officer Certificate.

(a) To obtain a public information officer (PIO) certificate, an applicant must:

(1) successfully complete an initial PIO course approved by the commission; and

(2) report completion of this course to the commission.

(b) A certificate is valid for one year from issuance.

(c) To keep the certificate valid, the holder must successfully complete the PIO continuing education hours required by the Texas Division of Emergency Management prior to each anniversary of the issuance of the certificate.

(d) If the certificate becomes invalid, a holder may renew the certificate by completing all outstanding continuing education hours.

(e) The effective date of this section is June 1, 2026.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 11, 2026.

TRD-202601998
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Effective date: June 1, 2026
Proposal publication date: March 13, 2026
For further information, please call: (512) 936-7700

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PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 429. FIRE INSPECTOR AND PLAN EXAMINER

SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.203

The Texas Commission on Fire Protection (Commission) adopts an amendment to 37 TAC §429.203, concerning Minimum Standards for Plan Examiner I Certification, with changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7532). The rule will be republished.

Changes were made to §429.203(3)(B) and (C) to remove the word "approved," which was inadvertently included in the proposed text. The remainder of the rule is adopted as proposed.

JUSTIFICATION FOR RULE ACTION

The Commission adopts this amendment to strengthen the prerequisites for Plan Examiner I Certification. By requiring applicants to first hold Basic Fire Inspector Certification, the Commission ensures that individuals performing plan examination duties possess foundational knowledge of fire code enforcement and inspection practices before advancing to plan examination responsibilities. The amendment also standardizes the capitalization of the word "Commission" throughout the section to conform to the agency's current drafting conventions.

HOW THE RULE WILL FUNCTION

As amended, §429.203 adds Basic Fire Inspector Certification as a prerequisite to obtaining Plan Examiner I Certification. In all other respects, the pathways to Plan Examiner I Certification--through accredited documentation from the International Fire Service Accreditation Congress or the National Board on Fire Service Professional Qualifications, through a Commission-approved training program, or through an equivalent certificate from the State Firemen's and Fire Marshals' Association of Texas--remain unchanged.

SUMMARY OF COMMENTS

No comments were received regarding adoption of this amendment.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code, §419.008, which grants the Texas Commission on Fire Protection the authority to adopt rules necessary to carry out the Commission's powers and duties. No other statutes, articles, or codes are affected by this adoption.

§429.203. Minimum Standards for Plan Examiner I Certification.

In order to be certified as a Plan Examiner I, an individual must:

(1) hold certification as a Basic Inspector; and

(2) possess valid documentation as a Plan Examiner I from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements-General); or

(3) complete a Commission-approved Plan Examiner I training program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved training program shall consist of one of the following:

(A) completion of the Commission-approved Plan Examiner I Curriculum, as specified in the Commission's Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the Commission for evaluation and found to meet the minimum requirements as listed in the Commission-approved Plan Examiner I Curriculum as specified in the Commission's Certification Curriculum Manual; or

(C) documentation of the receipt of a Plan Examiner I certificate issued by the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a Commission-approved Plan Examiner I curriculum.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 6, 2026.

TRD-202601928
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: May 26, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 936-3812

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 5. TEXAS VETERANS LAND BOARD

CHAPTER 175. GENERAL RULES OF THE VETERANS LAND BOARD

SUBCHAPTER A. GENERAL RULES OF CONTRACT FOR DEED AND FINANCING FOR LAND

40 TAC §175.3, §175.4

The Texas Veterans Land Board ("Board") adopts amendments to Texas Administrative Code, Title 40, Part 5, Chapter 175, Subchapter A, §175.3, concerning Land Selection, and §175.4, concerning Land Description. At its special called meeting on April 28, 2026 the Board unanimously approved the adoption of these amendments. They are adopted without changes to the proposed text as published in the *Texas Register* on March 6, 2026 (51 TexReg 1372).

The amendments update the rules' provisions and facilitate transactions under the Board's Veterans Land Program (Program).

No public comments were received on the proposed amendments.

The amendments are adopted under Section 161.063 of the Texas Natural Resources Code, which allows the Board to adopt rules it considers necessary to ensure the integrity of the Program. The Code affected by this proposal is Chapter 161 of the Texas Natural Resources Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 7, 2026.

TRD-202601939
Jennifer Jones
Chief Clerk And Deputy Land Commissioner
Texas Veterans Land Board
Effective date: May 27, 2026
Proposal publication date: March 6, 2026
For further information, please call: (512) 475-1859

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