

TITLE 40                    SOCIAL SERVICES AND ASSISTANCE  
PART 19                    DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES  
CHAPTER 732            CONTRACTED SERVICES  
SUBCHAPTER B    ENHANCED CONTRACT MONITORING  
40 TAC §732.201

The Department of Family and Protective Services (DFPS), proposes new §732.201 in Title 40, Texas Administrative Code (TAC), Chapter 732, relating to Contracted Services, new Subchapter B, Enhanced Contract Monitoring.

#### BACKGROUND AND PURPOSE

The purpose of this rulemaking, as provided for in Texas Government Code (TGC) §2261.253(c), is that each state agency is required to establish and publish a procedure to identify contracts that require enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or officer who governs the agency. DFPS has implemented the requirements in TGC §2261.253(c) and has published enhanced contracting monitoring requirements in its Contract Handbook; however, this rule is required to be published in the Texas Administrative Code.

#### SECTION-BY-SECTION SUMMARY

Proposed new §732.201 establishes a procedure that DFPS must identify contracts that require enhanced contract or performance monitoring, and these contracts will be monitored in accordance with DFPS' policies and procedures.

#### FISCAL NOTE

David Kinsey, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the new section will be in effect, there will not be fiscal implications to state or local governments.

#### GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the proposed new rule will be in effect:

- (1) the proposed new rule will not create a government program;
- (2) implementation of the proposed new rule will not affect the number of employee positions;

(3) implementation of the proposed new rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the proposed new rule will not affect fees paid to the agency;

(5) the proposed new rule will not create a new regulation;

(6) the proposed new rule will not expand, limit, or repeal an existing regulation;

(7) the proposed new rule will increase the number of contractors subject to the rule;  
and

(8) the proposed new rule will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Mr. Kinsey has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The proposed new rule does not apply to small or micro-businesses, or rural communities.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

The proposed new rule will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by DFPS.

#### PUBLIC BENEFIT

Tiffany Roper, former General Counsel of DFPS, has determined that for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of this enhanced contract monitoring rule is greater contract monitoring for identified high risk contracts.

#### REGULATORY ANALYSIS

DFPS has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225.

#### TAKINGS IMPACT ASSESSMENT

DFPS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

## PUBLIC COMMENT

Electronic comments and questions may be submitted to [RULES@dfps.state.tx.us](mailto:RULES@dfps.state.tx.us). Written comments on the proposal may be submitted to the Texas Register Liaison, Legal Services 21R13, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication of this proposal in the Texas Register.

## STATUTORY AUTHORITY

The new section is proposed under Human Resources Code (HRC) §40.027, which provides that the DFPS Commissioner shall adopt rules for the operation and provision of services by the agency.

The proposed new section implements Texas Government Code §2261.253.

No other statutes, articles, or codes are affected by the proposed rule.

### §732.201. Enhanced Contract Monitoring.

(a) Pursuant to Texas Government Code §2261.253, DFPS will identify contracts that require enhanced monitoring.

(b) Contracts will be monitored in accordance with DFPS' policies and procedures.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 22, 2021

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Vicki Kozikoujeklan

General Counsel

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Earliest possible date of adoption: September 5, 2021

For further information, please call: (512) 438-3083