



## Legislation Text

---

**File #:** 23-0349, **Version:** 1

---

**Department:** Economic Equity and Opportunity

**Department Head/Elected Official:** Diana A Ramirez, Executive Director

**Regular or Supplemental RCA:** Supplemental RCA

**Type of Request:** Discussion Item

**Project ID** (if applicable):

**Vendor/Entity Legal Name** (if applicable):

**MWDBE Contracted Goal** (if applicable): N/A

**MWDBE Current Participation** (if applicable):

**Justification for 0% MWDBE Participation Goal:** N/A - Goal not applicable to request

### **Request Summary (Agenda Caption):**

Request by the Department of Economic Equity and Opportunity for discussion and possible action on replacement of the Guidelines and Criteria for Entering into 381 Agreements in Harris County approved on June 12, 2012 with a policy establishing a competitive grant program.

### **Background and Discussion:**

#### Current Program

On June 12, 2012, Commissioners Court adopted the "Guidelines and Criteria for Entering into 381 Agreements in Harris County" (Guidelines) (Attached). The Guidelines require a three-fourths majority vote of the full Commissioners Court for any variance to the Guidelines and did not include a sunset provision. When the Guidelines were approved, the program was embedded in the Community Services Department. It was subsequently moved to the Budget Management Department and finally to DEEO soon after the department was created.

The Guidelines established that economic development organizations (EDOs) with approved agreements with the County would provide the following activities:

1. Build the County tax base
2. Create new employment
3. Retain existing jobs
4. Create an economic climate conducive to development and growth of business investment and commerce
5. Enhance the quality of life for all citizens residing or working within the County
6. Create economic diversification to provide for stable and consistent growth
7. Promote the County as THE location of choice for new, expanding, and relocating businesses

8. Attract new businesses and developments to the County
9. Encourage expansion of existing industries and businesses in the County
10. Retain businesses currently located in the County.

EDOs could also provide the following services to Harris County under their agreements:

1. Develop and administer a program for state and local economic development
2. Stimulate, encourage, market, develop business location and commercial activity
3. Promote and advertise the County and its vicinity
4. Conduct a solicitation program to attract conventions, visitors, and businesses
5. Interact with other local EDOs and chambers of commerce
6. Interact with state agencies and the Texas Governor's Office, as appropriate
7. Conduct seminars, lectures, meetings, and public hearings
8. Facilitate business-specific tax incentive programs (tax abatements, historic sites)
9. Support creation and expansion of local foreign trade zone sites
10. Perform, compile, and disseminate economic, industry, workforce, and business data.

#### State Statute

Texas Local Government Code, Section 381.004, Community and Economic Development Programs (Attached), grants counties broad authority to develop and administer programs to stimulate business and commercial activity in the County. These activities include:

1. state or local economic development;
2. small or disadvantaged business development;
3. to stimulate, encourage, and develop business location and commercial activity in the county;
4. to promote or advertise the county and its vicinity or conduct a solicitation program to attract conventions, visitors, and businesses;
5. to improve the extent to which women and minority businesses are awarded county contracts;
6. to support comprehensive literacy programs for the benefit of county residents; or
7. for the encouragement, promotion, improvement, and application of the arts.

#### Other Economic Development Policies/Programs

As we seek your direction on the current 381 program, please note the following economic development tools and programs that Harris County uses or may use in the future.

*Tax Abatement Policy (DEEO) authorized under Tax Code Chapter 312* - This policy incentivizes increases in property development and value and the creation of new primary jobs in industries that bring investment from outside Harris County by providing an abatement of County property taxes for certain new eligible facilities (e.g., green industries, manufacturing, research, convergence technologies, etc.). The policy also incentivizes green building. This policy, currently expired, is being updated and will be brought to Court for review and approval later in January 2023.

*Texas Enterprise Zone Program (DEEO) authorized under Government Code Chapter 2303* - This program is a state program that encourages private investment and job creation in economically distressed areas of the state through a refund of state sales and use taxes. As part of this program, Harris County may nominate a

company in our jurisdiction for consideration by the State of Texas to receive an Enterprise Zone designation and become eligible to receive state sales and use tax refunds on qualified expenditures. The County's process to review requests and submit to Commissioners Court for consideration and possible action is similar to the Tax Abatement application review process.

*Foreign Trade Zone authorized under USC 81a-81u (DEEO)* - Authorized by the U.S. Congress in 1934, Foreign Trade Zones are used to help encourage activity and value-added at U.S. facilities in competition with foreign alternatives by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings. In Harris County, the Port of Houston authority is the grantee administering the FTZ 84. As part of the County's issuance of a Letter of Non-Objection to Designation and/or Activation of an FTZ site in Harris County, the County requires the requesting company to enter into an agreement for Payment in Lieu of Taxes (PILOT). This approach facilitates the County's international competitive advantage while safeguarding needed local revenues.

*Putting Assets to Work (DEEO)* - Under a grant with the Government Finance Officers' Association (GFOA), DEEO will be presenting to Commissioners Court in spring 2023, an asset map of all County-owned real estate assets with market valuation ranges and a governance structure report. The report and map will provide a road map for Court consideration that identifies those parcels that can be redeveloped to:

- ✓ create a stream of revenue (via ground leases, concessions/fee sharing, etc.) to support County programs;
- ✓ provide community benefits for the community surrounding the project (e.g., affordable housing, small business incubation space, below market office space for nonprofits, etc.); or
- ✓ provide a combination of both.

*Tax Increment Reinvestment Zone Program (CSD) authorized under Tax Code Chapter 311* - This policy authorizes the County to finance the development or redevelopment of transportation and other infrastructure in unproductive, underdeveloped, or blighted areas by using a certain increment of County property tax to pay for those public improvements. This policy is also being revised and updated and will be brought to Court for review and approval later in 2023.

*Public Improvement Districts (N/A) authorized under Local Government Code Chapter 372* - The PID statute allows owners of taxable real property to file a petition with a municipality or county to create an improvement district. The district may issue debt to fund improvements to the property within the district (e.g., landscaping, construction of sidewalks, streets, pedestrian malls, off-street parking facilities, water, wastewater, or drainage facilities, establishment of parks, etc.) that is secured by an assessment against the property owner(s).

#### A New Program

Chapter 381 of the Texas Local Government Code, specifically Section 381.004(h), allows for the issuance of grants by a county for the purposes of supporting local economic development initiatives. Successfully transitioning the County's current economic development organization agreement program, as authorized by Chapter 381 of the Texas Local Government Code, to a grant program may yield the benefit of narrowing the program's scope to focus on a handful of discrete outcomes. To do otherwise, given the expected size of funding available, will likely result in diffused and difficult to ascertain outcomes. We will instead continue to rely on outputs (e.g., number

of economic development events held, number of participants, number of meetings with companies considering relocation to Harris County, etc.) to measure success.

A cursory review of Texas counties' use of Chapter 381 authority indicates that the statute is used in several different ways. Some counties establish policies, guidelines, and criteria to evaluate applications received on a rolling basis for "incentive" consideration. The incentive can take the form of a property tax rebate after certain performance metrics are received, a grant from General Fund or other funding sources, or reimbursement of a per worker amount for specialized training, to name a few.

For example, Travis County used Chapter 381's grant-making authority to fund nonprofit agencies to work with historically undercounted populations during the 2020 Census count. Similarly, Harris County recently used Chapter 381 authority to fund public art installations.

The recommendations that follow would not preclude Commissioners Court from using its Chapter 381 authority for other authorized uses; the recommendations would only apply to one specific program established pursuant to the provisions of Chapter 381 and managed by DEEO.

If Commissioners Court directs DEEO to prepare a grant program, DEEO will need guidance on the scope and outcomes it wishes the program to foster as well as guidance from the County Attorney's Office on the use of a grant award process with an annual call for applications rather than a guidelines process that is open for application submittal on an ongoing basis. Such process may include the use of established evaluation criteria and an evaluation committee, a similar process used for other types of grants administered by the County (e.g., ARPA, CDBG, etc.).

Ideally, the grant program could be aligned with the County's and DEEO's existing goals and objectives. One of Harris County's eight Commissioners Court-approved goal areas aligns with Chapter 381: Economic Opportunity:

*County Goal - Economic Opportunity*

Harris County will promote an inclusive and resilient local economy by working aggressively to remain competitive over time and expand opportunities for workers, small businesses, and community-driven investments, while addressing historical and current economic inequities in doing so.

One priority outcome of three identified under the Economic Opportunity goal aligns almost perfectly with two activities allowed under Chapter 381:

- ✓ Develop small or disadvantaged businesses
- ✓ Improve the extent to which women and minority businesses are awarded county contracts

**Priority Outcome:** Promote the growth of small businesses and M/WBE businesses

**Target:** Harris County will Increase revenues for small and micro businesses and increase % of County procurement dollars awarded to M/WBEs

Chapter 381 Program/Policy Options

There are many options DEEO can offer Commissioners Court. Below are a handful that DEEO proposes as starting points for discussion.

***Option 1 - Steady State, with a New Name***

Continue funding the program under the 2012 Guidelines for FY 2023, but rename the program so that it is clear that this is one program established pursuant to the authority provided by Chapter 381, and that it is not the only County program that may utilize such authority.

Direct DEEO to proceed under the 2012 Guidelines in FY 2024 and beyond, pending budget availability.

*Pros* Provides programmatic certainty to EDOs with prior agreements.

The County receives the broadest set of activities from the EDOs.

*Cons* If Court cannot fund all the agreements, then Court must determine which EDOs to fund.

The program continues to be outputs-based and not outcomes-based.

***Option 2a - Grant-based, Broad, with a New Name***

Continue funding the program under the 2012 Guidelines for FY 2023 based on budget availability, but rename the program so that it is clear that this is one program established pursuant to the authority provided by Chapter 381, and that it is not the only County program that may utilize such authority.

Direct DEEO to work with the County Attorney's Office and area economic development stakeholders to draft a grant award program for implementation in FY 2024 that retains a broad set of eligible activities.

*Pros* The County receives the broadest set of activities from the EDOs.

*Cons* The program does not fully leverage the limited funding to meet the County's Priority Outcome.

Crafting fair and equitable evaluation criteria for a grant program will be difficult with such a broad array of eligible activities.

***Option 2b - Grant-based, Aligned/Focused, with a New Name***

Continue funding the program under the 2012 Guidelines for FY 2023 based on budget availability, but rename the program so that it is clear that this is one program established pursuant to the authority provided by Chapter 381, and that it is not the only County program that may utilize such authority.

Direct DEEO to work with the County Attorney's Office and area economic development stakeholders to draft a grant award program for implementation in FY 2024 that limits eligible activities to those that align with the County's Priority Outcome and Target. [Court may decide to broaden this focus to include other eligible activities.]

*Pros* The County receives a focused set of activities that align with the County's Priority Outcome and Target.

The program is restructured to be output and outcomes based.

The program fully leverages limited funds in furtherance of the M/WBE Program and Small Business Assistance Programs currently funded by the General Fund and ARPA (and other priorities that may be identified by Court and in accordance with Chapter 381 requirements).

*Cons* The resulting agreements would be narrow in scope, outputs and outcomes would be required, and preclude the use of broader scope of work currently funded.

***Option 3 - No longer fund the Chapter 381 program***

**Recommendation:**

DEEO recommends approval of Option 2b to more closely align with the County’s priority outcomes. If approved, DEEO will work with the County Attorney’s Office, the DEEO Executive Committee comprised of staff from the Court offices, and economic development stakeholders on developing the new policy. DEEO anticipates the policy will identify an interdepartmental evaluation committee that can score applications against criteria established in the policy with the recommendations brought to Court for review and approval. The policy can be brought to Court for review and approval in approximately 90 days.

An annual call for applications for this program would be subject to funding availability. DEEO proposes to submit a budget request as part of the County’s annual budget process that will be prioritized with any other DEEO budget requests and countywide budget needs.

This recommendation would not impact the Commissioners Court’s ability to fund other projects and programs that utilize Chapter 381 authority.

**Expected Impact:**

Please see the pros and cons listed for the various options above for expected impacts.

**Alternative Options:**

Alternatives are listed above.

**Alignment with Goal(s):**

- Justice and Safety
- Economic Opportunity
- Housing
- Public Health
- Transportation
- Flooding
- Environment
- Governance and Customer Service

**Prior Court Action (if any):**

Date	Agenda Item #	Action Taken

**Location:**

Address (if applicable):

Precinct(s): Choose an item.

Fiscal and Personnel Summary			
Service Name	Chapter 381 Economic Development Agreements		
	FY 23	FY 24	Next 3 FYs

<b>Incremental Expenditures (do NOT write values in thousands or millions)</b>			
Labor Expenditures	\$	\$	\$
Non-Labor Expenditures	\$	\$	\$
<b>Total Incremental Expenditures</b>	\$	\$	\$
<b>Funding Sources (do NOT write values in thousands or millions)</b>			
Existing Budget			
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
<b>Total Current Budget</b>	\$	\$	\$
Additional Budget Requested			
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
<b>Total Additional Budget Requested</b>	\$	\$	\$
<b>Total Funding Sources</b>	\$	\$	\$
<b>Personnel</b> (Fill out section only if requesting new PCNs)			
Current Position Count for Service	-	-	-
Additional Positions Requested	-	-	-
<b>Total Personnel</b>	-	-	-

**Anticipated Court Date:** January 10, 2023

**Anticipated Implementation Date (if different from Court date):** FY 2024

**Emergency/Disaster Recovery Note:** Not an emergency, disaster, or COVID-19 related item

**Contact(s) name, title, department:** Judit Haracsek, Director, Economic Development, DEEO

**Attachments** (if applicable):

Guidelines and Criteria for Entering into 381 Agreements in Harris County

Local Government Code, Chapter 381