

1 **Policy Concept**
2 **Ch. 854, Business Enterprises of Texas**
3 **Rule Project #2021-01-854 - BET RSA Updates**

4 **Introduction and Background**

5 On May 21, 2019, the Texas Workforce Commission (TWC) adopted rules in 40 TAC Chapter 854,
6 relating to the Business Enterprises of Texas (BET).

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8 On May 23, 2019, TWC submitted revised BET Program rules to the Rehabilitation Services
9 Administration (RSA) for approval. The Randolph Sheppard Act (20 United States Code §107) requires
10 rules governing the BET Program first be reviewed and approved by RSA before becoming effective.
11 The federally mandated BET Elected Committee of Managers (ECM) agreed with the revisions and
12 communicated its support to RSA via email on May 24, 2019. The revised program rules included
13 changes requested by the ECM and conforming changes to incorporate the BET rules into TWC
14 administrative rules in 40 TAC Part 20 following transfer of the program to TWC from legacy Texas
15 Department of Assistive and Rehabilitative Services.

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17 The BET Program rules adopted by TWC went into effect on September 1, 2019; however, RSA had not
18 returned approval of the rules by that date.

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20 On April 22, 2020, RSA responded to TWC's May 2019 submission, offering comments, questions, and
21 required changes related to the revised BET Program rules. The required changes included provisions
22 that were not revised by TWC in the 2019 submission and that were previously approved by RSA. The
23 information presented by RSA was supplied to the ECM.

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25 TWC sought clarification from RSA about the specific adjustments required to obtain approval of the
26 revised rules as submitted. Upon gaining a better understanding of the requirements and making
27 adjustments to comply, RSA approved the revised rules on November 16, 2020. The ECM was notified
28 that RSA approved the rules with some required adjustments.

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30 **Purpose for the Proposed Rule**

31 The purpose for this proposed rule is to amend the BET Program rules in Chapter 854 to incorporate the
32 changes that were approved by RSA.

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34 **Rule Revisions Required by Federal Regulation or State Statute**

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36 **Issue #1: Revisions to BET Program Rules to Incorporate Rules Approved by RSA**

37 The BET Program rules in Chapter 854 are not the rules approved by RSA in November 2020. The rules
38 in Chapter 854 require amendments to incorporate the revisions approved by RSA and bring the BET
39 Program rules into compliance with the Randolph Sheppard Act. Some of the revisions approved by
40 RSA include the addition of definitions for "Agency" and "VRD director"; addition of the option to
41 communicate through email; revision of the requirement that applicants, licensees, and managers be
42 residents of Texas to instead require that those individuals be physically present in Texas; and
43 clarification that the ECM will actively participate in setting price ranges charged in facilities.

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45 **Other Rule Revisions**

46 None.
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1 **PC Decision Point**

- 2 Staff seeks direction on amending Chapter 854 to incorporate relevant revisions as required by RSA and
3 approved in November 2020.