

Revisions to the Texas Procurement and Contract

Management Guide (Version 1.3) based on 86th

Legislative Session

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**Revisions to the Texas Procurement and Contract Management Guide (Version 1.3)
based on 86th Legislative Session**

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Quality Assurance Team	Page 9	2054.158	SB 65 § 5
Needs Assessment	Page 12	---	GAA Art IX § 17.10(c)
Term Contracts	Page 19	---	GAA 18-19 provision not carried forward in GAA 20-21
DIR Cooperative Contracts Program	Page 34	---	GAA 18-19 provision not carried forward in GAA 20-21
Procurement Method – Professional Services	Pages 38-39*	2254.002	HB 2868 GAA Art IX § 6.20
Procurement Method – Legal Services	Page 41-42	2251.021 2254.110	SB 1370 § 1 HB 2826 §§ 8,9
Procurement Method – Texas Disaster Act of 1975	Page 44	---	SB 64 § 2 HB 7 § 1
Scope of Work	Page 51	---	GAA 18-19 provision not carried forward in GAA 20-21
Terms and Conditions	Pages 12, 56	---	GAA Art IX § 17.10(c)
Risk Mitigation Measures	Page 59*	---	GAA Art IX § 17.10(b)(9)
QAT – Review of Major Information Resources Projects	Page 65	2054.003, 305	SB 65 §§ 2, 12, 30(5) GAA Art IX § 9.02(c)(2)
QAT and LBB	Page 65	2157.007	HB 3875 § 2
Evaluation – Evaluation Committee Process	Pages 73-74*	2261.0525	SB 65 § 23
Evaluation Committee Recommendation	Page 77	2261.0525	SB 65 § 23
Contract Terms	Pages 82-83*	2261.204	SB 65 § 25

*Pre-Award Contract and Contract Amendment Notifications,
Reviews & Approvals by Oversight Agencies*

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Major Information Resources Project	Pages 84-85*	2054.1181.160, 304	SB 65 §§ 4, 7, 11
Notification of Proposed Assignment of Services Contract	Page 85	2262.056	SB 65 § 29
Notification of Contract Extension	Page 85	---	GAA Art IX § 17.10(e)

Pre-Award Contract and Contract Amendment Compliance Checks

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Agency Reviews and Approvals <ul style="list-style-type: none"> Agency Verification of Complete Procurement File Agency Verification of Vendor Assessment Process Agency Verification of VPTS Reporting Compliance Agency Verification of Contract Extension Compliance Agency Signature – Contracts with a Value Exceeding \$1M 	Pages 85-86*	2262.056 2261.0525 2155.089 --- 2261.254	<ul style="list-style-type: none"> SB 65 § 29 SB 65 § 23 SB 65 § 15 GAA Art IX § 17.10(e) SB 65 § 27
Agency Review of Required Disclosures <ul style="list-style-type: none"> TEC Disclosure of Interested Parties (Form 1295) 	Page 87*	2252.908 2252.908	SB 65 § 17 HB 1495 § 2
Vendor Compliance Verifications <ul style="list-style-type: none"> Boycott Israel Check 	Page 88*	2270.001 2252.201	HB 793 HB 4170 § 21.001(35)
Contract & Amendment Notifications <ul style="list-style-type: none"> Texas Register Notice of Award Major Information Resources Project Notification 	Page 89*	2254.029	SB 65 § 21, 22 GAA Art IX § 9.02(c)(3)
LBB Contract Reporting Chart	Page 90*	---	GAA Art IX § 7.04 GAA Art IX § 7.12(b)(2)(B) GAA Art IX § 7.12(b)(2)(A) GAA Art IX § 7.12(b)(1)
Contract Manager Responsibilities	Page 92-93*	2262.056	SB 65 § 29
Termination for Cause	Page 106*	552.371	SB 943 § 9
Termination for Non-Appropriations, Excess Obligations Prohibited	Page 107*	---	GAA Art IX § 6.03
Vendor Performance Reporting	Page 108*	2155.089	SB 65 § 15
Records Retention	Page 111*	441.1855	SB 65 § 1 GAA Art IX § 7.13

Appendix 3

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Prohibited Financial Interest in Certain Private Vendor Contracts	A.3 – Page 2	---	SB 65 § 26
Disclosure of Interested Parties – Texas Ethics Commission Form 1295	A.3 – Page 5	2252.908 2252.908	SB 65 § 17 HB 1495 § 2
Disclosure of Consulting Services Contract With a Form State Employee	A.3 – Page 6	2254.033	SB 65 § 30(7)

Appendix 7

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Appendix 7		2054.160	SB 65 §§ 7, 20 GAA Art IX §§7.04(d), 7.12

Appendix 8

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Appendix 8		2054.160, 2262.056	SB 65 §§ 7, 29

Appendix 21

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Appendix 21		---	HB 1524 §§ 45-49, 51, 53-56

Appendix 22

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Assignment		2262.056	SB 65 § 29
Contracting Information Responsibilities		552.371	SB 943 § 9
Cybersecurity Training		2054.5192	HB 3834 § 3
Entities that Boycott Israel		2270.001, 2270.002	HB 793 HB 4170 § 21.001(35)
Excess Obligations Prohibited			GAA Art IX § 6.03
Human Trafficking Prohibition		2155.0061	SB 20 § 6.01

Appendix 23

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Abortion Funding Limitation		---	GAA Art IX § 6.25

Appendix 26

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
Appendix 26		2262.056	SB 65 § 29

Appendix 30

Texas Procurement and Contract Management Guide (TXPCMG) Topic	Location	Statute	Legislation
PCC D		---	GAA 18-19 provision not carried forward in GAA 20-21
PCC I		---	GAA 18-19 provision not carried forward in GAA 20-21

***Note: Text with an asterisk (*) indicates a page that has moved from previous v1.2**

Revisions to the Texas Procurement and Contract Management Guide (Version 1.3)
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Page	Text Updates
10	SPD will submit to the presiding officer of each house of the Legislature, by May 15 of each year, a report regarding the previous six-month period and, by November 15 of each year, a report on the preceding fiscal year.
33	Procurements made under the reverse auction procedure are subject to SPD’s delegation authority as well as the requirements applicable to ESBID posting and reviews by CAT and QAT.
37	<p>TEXAS.GOV SERVICES</p> <p>Texas.gov, the official website of the State of the Texas, provides portal and payment services for Texas state agencies and eligible local governmental organizations, enabling them to cost-effectively conduct online business with their customers. Texas.gov is one of DIR’s Shared Technology Services. The program provides services for more than 300 publicly-funded customers, including:</p> <ul style="list-style-type: none"> • Licenses & Permits • Utility, fee or fine payments • Vital Records • Driver license renewals, driver records, vehicle registration renewals and specialty license plates • The Texas Veterans Portal • Open Data Portal <p>Texas.gov leverages enterprise-wide services and infrastructure components to provide solutions that meet or exceed state mandated requirements regarding accessibility, security, privacy, and integration with certain CPA financial systems e.g., the Uniform Statewide Accounting System (USAS). Any Texas state agency or local government entity is eligible to use the Texas.gov contract by entering into an Interagency or Interlocal agreement, respectively with DIR.</p> <p>DATA CENTER SERVICES</p> <p>The Texas Data Center Services program (DCS) allows state and local governmental entities to outsource management of technology infrastructure services and receive the benefit of aggregated volume discounts by sharing technology services.</p> <p>DCS provides secure connectivity to select public and private clouds designed around government security and disaster recovery requirements, and flexible service tiers to meet differing needs and budgets. Joining the program allows customers to delegate infrastructure management while increasing focus on delivering direct, mission-related value to their business users and clients. Agencies that are mandated to participate in the DCS program cannot contract with other vendors for services for which DCS provides.</p> <p>As part of the Texas DCS program, customers enter into agreements with DIR to consume infrastructure services and benefit from the following program offerings:</p> <ul style="list-style-type: none"> • Secure public to private cloud connectivity • Uptime Institute Tier 2 Level equivalent state facilities • Disaster recovery and testing • FBI Criminal Justice Information Services (CJIS) minimum security, Texas State Auditor requirements, annual SOC 1/SOC 2 audits, and biannual IRS audit compliance • Automated server self-provisioning and service catalog • Bulk print/mail services • Governance model ensuring customer engagement • DIR contract management, oversight, and budgeting support <p>The monetary threshold requirements and SOW review and signature process associated with the DIR Cooperative Contracts Program do not apply to services procured through the DCS program under contracts signed by the contracted vendors.</p>
39	Additional requirements may apply to certain types of consulting services contracts.

Page	Text Updates
89	In the event the action resulting from the ESBD posting is not a contract award, the agency must post notice of the non-award to the ESBD.
101	CPA encourages contractors to receive payment by direct deposit.
102	A participating agency may not sue a payment card nor reimburse an officer or employee who has used a payment card for nonstate business, consulting services, cash advances, a purchase requiring another agency’s approval, a purchase subject to a prepayment audit, or a purchase or payment prohibited by law.
105	Certain contract extensions may be subject to additional requirements such as those specified in <u>Agency Verification of Contract Extension Compliance</u> .
106	A Contract Developer should also seek legal counsel if a vendor requests that a termination for convenience clause be included in the contract.
108	<p>An agency must evaluate the contractor's performance based on the following:</p> <ul style="list-style-type: none"> • information prepared by the agency in planning the procurement that assessed the need for the purchase together with the specifications for the good or service and the criteria to evaluate the responses resulting in an award and contract; • compliance with the material terms of the contract; • ability to correct instances of contractual non-compliance; and • other evaluation criteria presented in the VPTS.
109	<p>The VPTS provides the state procurement community with a comprehensive tool for evaluating vendor performance to reduce future risk in the contract awarding process. Because a performance score can affect the contractor significantly in current and future procurement initiatives, the Contract Manager should consider all relevant information when evaluating performance.</p> <p>The VPTS permits agencies to submit comments as part of the vendor performance report. Although comments are typically used to explain performance related to low scores, an agency may submit comments in the VPTS regardless of the grade. All comments must be internally reviewed by agency staff prior to submission to the VPTS. If the score is an “A” or a “B,” the public-facing VPTS automatically displays the performance report without agency comments. An agency may contact SPD to request a copy of its comments retained by the VPTS.</p>

Revisions to the Texas Procurement and Contract Management Guide (Version 1.3) based on 86th Legislative Session- Appendix Updates

Appendix 8

Signed Conflict of Interest Disclosure Statement for Procurement and Contract Management Employees for PO > \$25,000 (TEX. GOV’T CODE § 2261.252).

Appendix 23

Recommended Clause	Sample Text (It is expected that the actual wording of a Recommended Clause may vary by agency and legal counsel will be consulted prior to use.)
Abortion Provider and Affiliate Transactions Prohibited	Respondent represents and warrants that the contract is not a taxpayer resource transaction prohibited by Section 2272.003 of the Texas Government Code and that payments made by Agency to Respondent and Respondent's receipt of appropriated funds under the contract are not prohibited by Article IX, Section 6.25 of the General Appropriations Act.

Version History of the Guide: Summary of Revisions

Date of Revisions	Version	Summary of Revisions
December 31, 2019	Version 1.3	<p>Non-substantive modifications (e.g., format adjustments, inclusion of hyperlinks, correction of typographical errors) throughout the Guide.</p> <p>Non-substantive clarifications to the following sections: Introduction, Professional Certification and Training Program, SPD, Quality Assurance Team, Historically Underutilized Business Program Reports, Cost Estimate, The State Use Program, Travel Services Contracts, Printing Services and In-House Copy Centers, Procurement Method – SPD Delegated Purchases – Overview, SPD Review and Delegation Process, Competitive Bidding (IFBs, Informal Bidding), RFO Procurement Method, Procurement Method – Interagency Cooperation Contracts (IACs), Request for Applications, Content – Overview, Content – Introduction, Payment and Pricing Terms, Electronic State Business Daily (ESBD), Administrative Review of Responses, Evaluation of Responses – Overview, Vendor Performance Tracking System Check, Evaluation Committee Recommendation, SAO Nepotism Disclosure Statement for Purchasing Personnel, SAM Check, Texas Register Notice of Award, Enhanced Contract and Performance Monitoring, Inspection, Testing, Acceptance – Overview, and Termination for Cause.</p> <p>Substantive revisions to the following sections: Procurement Method Identification Process, Emergency Purchases, Procurement Method – Reverse Auction Procedure, Procurement Method – Automated Information Systems, DIR Contracts, Texas.Gov Services, DIR Data Center Services, Procurement Method – Consulting Services, Internal Calendar of Events, HUB Subcontracting Plan Requirements, CAT – Review of Solicitations With a Value of \$5 Million or More, Centralized Master Bidders List, Solicitation – Receipt and Control of Responses, Oral Presentations, Negotiations – Overview, Major Information Resources Projects, Franchise Tax Check, ESBD Notice of Award, Purchase Order (PO), Payment Card, Assignment by Contractor and Contractor Name Change – Overview, Extensions and Renewals, Termination for Convenience, Vendor Performance Reporting, and Appendix Nos. 6, 7, 8, 22, and 23.</p>