

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
Business and Finance Division
Contracts and Procurement Department

Contract Management Handbook

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PURPOSE

The purpose of this handbook is twofold. First, is to provide an overview of the contracting process and responsibilities of Texas Department of Criminal Justice (TDCJ) staff to ensure that the process is ethical, transparent, lawful and successful to fulfill the mission of the agency. Second, is to provide TDCJ staff with a tool to successfully navigate the contracting process. The handbook will refer staff to existing agency resources that are available through the TDCJ Intranet and the Internet. It is not intended to restate rules and processes found in the *State of Texas Procurement and Contract Management Guide* or agency policies, procedures or manuals.

(Note: Throughout this handbook the term “contract” is used. Contracts are used generally for complex service requirements such as offender healthcare, utilities, construction, correctional services, offender treatment services, information technology services, etc. A contract can also refer to a purchase order, which is used as the ordering, receiving and payment document for the majority of agency purchases such as commodities and simple services.)

PURCHASING ACCOUNTABILITY AND COMPLIANCE WITH STATE LAW

The TDCJ is committed to the ethical, transparent and lawful procurement of goods and services required by the agency. The following procedures, required by state law, provide for accountability and the prevention of fraud, waste and abuse in regard to the contractor selection process, contract provisions, inspection and acceptance, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts.

The Business and Finance Division, through the Contracts and Procurement Department, is responsible for the acquisition of goods and services required by the agency. Contracts and Procurement is charged with acquiring the right goods and services at the right time, at the right price in accordance with state law, rules, policy and sound business judgment. Agency requirements range from basic needs, such as food for offenders, to complex service contracts and construction projects.

The TDCJ adheres to:

- Texas statutes;
- Texas Administrative Code;
- *State of Texas Procurement and Contract Management Guide*;
- Texas Board of Criminal Justice (TBCJ) Board Policies;
- TDCJ Executive Directives;
- TDCJ Administrative Directives;
- *TDCJ Contract Management Handbook*;
- *TDCJ Requisitioner's Manual*;
- *ADPICS User's Manual*;
- *ADPICS for Business Managers and Wardens*;
- *ADPICS for Purchasers*;
- Contracts and Procurement Department Standard Operating Procedures; and
- Contracts and Procurement Department Administrative Memorandums.

Contracts and Procurement utilizes standard forms, standard terms and conditions, contract boilerplates and procurement checklists to maintain consistency and document compliance.

Agency purchases use standardized procurement checklists to manage purchases throughout the procurement process. Contracts and Procurement is also continually audited by the Department's Self-Assessment Auditor. In addition, Contracts and Procurement is randomly audited by the TDCJ Internal Audit Division, the Comptroller of Public Accounts (CPA) and the State Auditor's Office.

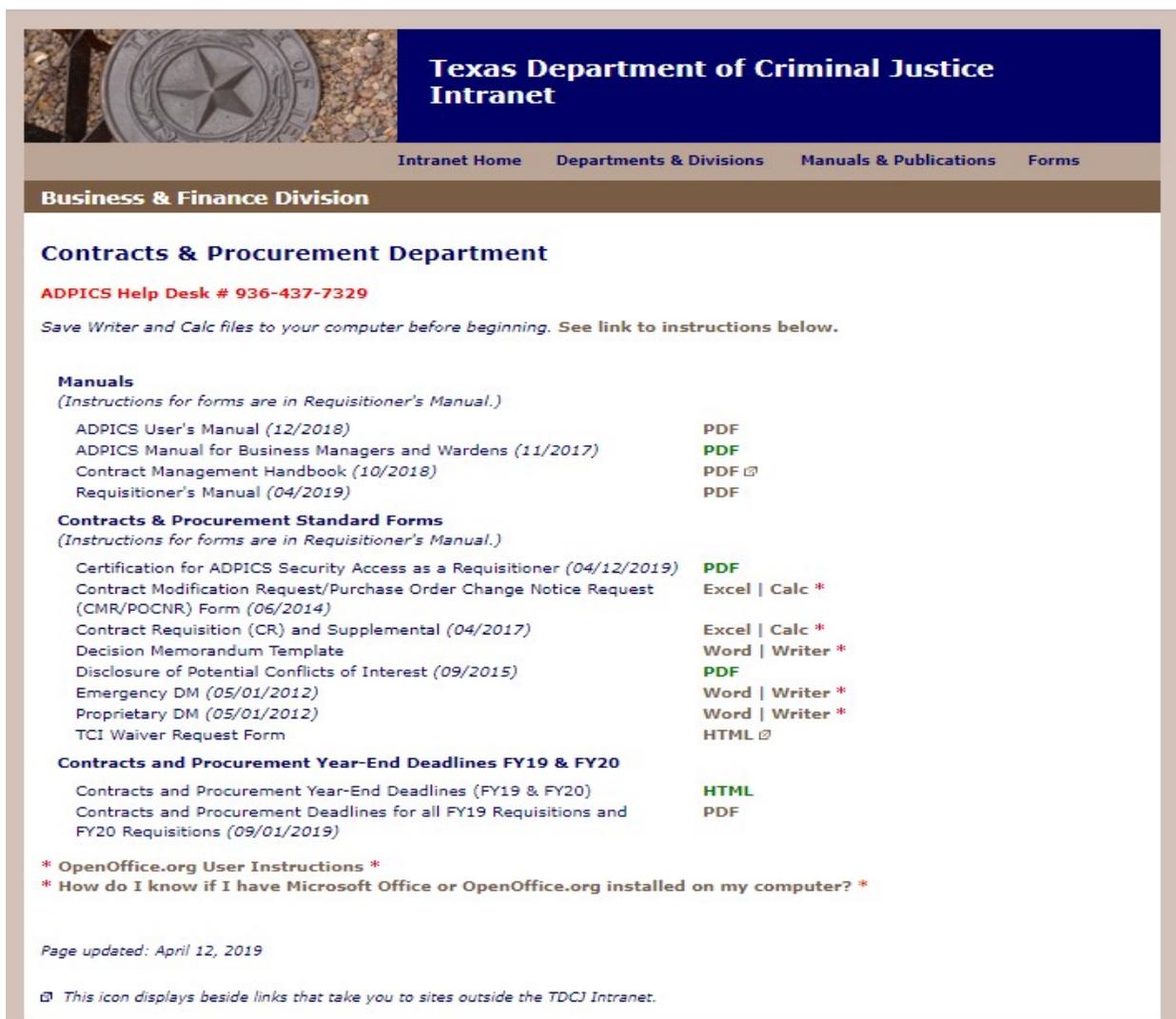
Contracts and Procurement purchasers and contract specialists are professionally certified in accordance with state law. The Comptroller of Public Accounts develops and provides the continuing education training required to maintain the professional certification. It is a requirement that all purchasing staff attend annual classes in Ethics Training and issues related to procurements involving Historically Underutilized Businesses.

The TDCJ has established approval processes for all purchase requisitions, purchase orders, contracts and any required change documents. Change documents receive the same level of approval as original procurement documents. The higher the dollar amount of the procurement document the more levels of review and approval are required extending all the way to the TBCJ as required by Board Policy (BP-01.01, Texas Board of Criminal Justice Responsibilities).

The TBCJ has delegated to the Executive Director authority to execute contracts \$1 million or greater. The Executive Director has delegated authority to execute contracts less than \$1 million to the Chief Financial Officer. See attachment A for the approval path matrix.

The TDCJ employs the Advanced Purchasing and Inventory Control System (ADPICS) for the majority of goods and services purchased. The automated system manages every phase of the procurement cycle to include requisitioning, requisition approvals, purchaser assignment, vendor selection, bid processing, bid tabulation, awarding the purchase order, purchase order approval, receiving, invoicing and payment for the goods or services. The three ADPICS manuals referenced above provide training tools for current and new staff who are involved in the procurement process.

Complex service and construction contracts follow a non-automated requisitioning process (using the Contract Requisition form) that mirrors the same approval paths that automated requisitions and purchase orders require. Manuals, forms and instructions are found on the TDCJ Intranet under Contracts and Procurement.



Texas Department of Criminal Justice Intranet

[Intranet Home](#) [Departments & Divisions](#) [Manuals & Publications](#) [Forms](#)

Business & Finance Division

Contracts & Procurement Department

ADPICS Help Desk # 936-437-7329

Save Writer and Calc files to your computer before beginning. See link to instructions below.

Manuals
(Instructions for forms are in Requisitioner's Manual.)

ADPICS User's Manual (12/2018)	PDF
ADPICS Manual for Business Managers and Wardens (11/2017)	PDF
Contract Management Handbook (10/2018)	PDF 
Requisitioner's Manual (04/2019)	PDF

Contracts & Procurement Standard Forms
(Instructions for forms are in Requisitioner's Manual.)

Certification for ADPICS Security Access as a Requisitioner (04/12/2019)	PDF
Contract Modification Request/Purchase Order Change Notice Request (CMR/POCNR) Form (06/2014)	Excel Calc *
Contract Requisition (CR) and Supplemental (04/2017)	Excel Calc *
Decision Memorandum Template	Word Writer *
Disclosure of Potential Conflicts of Interest (09/2015)	PDF
Emergency DM (05/01/2012)	Word Writer *
Proprietary DM (05/01/2012)	Word Writer *
TC1 Waiver Request Form	HTML 

Contracts and Procurement Year-End Deadlines FY19 & FY20

Contracts and Procurement Year-End Deadlines (FY19 & FY20)	HTML
Contracts and Procurement Deadlines for all FY19 Requisitions and FY20 Requisitions (09/01/2019)	PDF

* OpenOffice.org User Instructions *
* How do I know if I have Microsoft Office or OpenOffice.org installed on my computer? *

Page updated: April 12, 2019

 This icon displays beside links that take you to sites outside the TDCJ Intranet.

DIVISION STAFF TRAINING

Note: Division staff who plan and submit requisitions, review and approve requisitions, inspect and accept goods and services, evaluate and score proposals, or manage and monitor contracts must be properly trained. Requisitions must be submitted with adequate specifications. Requisitions submitted with inadequate specifications slow down the entire procurement cycle – it takes longer for the operational divisions to get what they need and it takes longer for Contracts and Procurement to process the request. Requisitions with insufficient specifications will, in some cases, be rejected or cancelled to be resubmitted with sufficient specifications. With a focus on seeing that newly hired division staff are properly equipped to become proficient requisitioners, Contracts and Procurement is committed to providing goods and services throughout the agency in the shortest amount of time possible.

Contracts and Procurement provides the following outline as a recommended training program guide for Divisions. The training must incorporate the use of:

- *ADPICS User's Manual*;
- *ADPICS for Business Managers and Wardens*;
- *TDCJ Requisitioner's Manual*;
- *State of Texas Procurement and Contract Management Guide*, for those staff involved in complex service contracts;
- ADPICS classes provided by the Business and Finance Division, Contracts and Procurement;
- Year-End Deadlines;
- TDCJ Ethics Policy, ED-02.01; and
- *TDCJ Contract Management Handbook*.

Each division should establish specific procedures to provide a new employee the information and training necessary to perform their unique role in the procurement process.

ADPICS MANUALS

The vast majority of all purchases within the agency are processed through ADPICS. The training manuals listed above and described in more detail below provide step-by-step instructions for new users to learn how to use the system. Any new employee not already familiar with ADPICS must have the appropriate manual by their side when they are tasked with entering a requisition. Furthermore, no new employee will be granted security access to ADPICS until the employee's Warden or Department Director submits a Certification for ADPICS Security Access as a Requisitioner to Contracts and Procurement. The certification ensures that the new employee has read and is familiar with the ADPICS User's Manual, the Requisitioner's Manual, and ED-02.01, TDCJ Ethics Policy. The certification document is found on the TDCJ Intranet under Contracts and Procurement.

- The ***ADPICS User's Manual*** is a required read for all new requisitioners, while ***ADPICS for Business Managers and Wardens*** is geared toward staff in the approval paths and those overseeing the requisitioning process. Both of these manuals are found on the TDCJ Intranet under Contracts and Procurement.

Note: The ***ADPICS for Purchasers Manual*** is geared specifically toward Contracts and Procurement staff.

TDCJ REQUISITIONER'S MANUAL

This manual is vitally important for Division staff involved in requisitioning or any other part of the procurement function. It explains the complete procurement process and provides information on how to find commodity codes, budget information, estimated costs, when a Decision Memorandum is needed, etc. It explains what an Internal Repair is as well as what an Emergency and Proprietary Purchase is and what is required to successfully requisition each. It covers year-end deadlines, renewals and the unauthorized purchase. It explains what forms are required to request a change to a purchase order or a modification to a contract. This manual and all the necessary forms with instructions are found on the TDCJ Intranet under Contracts and Procurement.

STATE OF TEXAS PROCUREMENT AND CONTRACT MANAGEMENT GUIDE

This manual is geared toward Contracts and Procurement staff and non-Contracts and Procurement staff who are:

- Contract Sponsors (Division Directors, Department Heads, high level managers, etc.) of complex service contract requests;
- Responsible for assessing risk of the potential contract and developing methods to avoid, mitigate or accept the risk;
- Developing the statement of work for the potential contract which is a key part of any solicitation;
- Involved in the evaluation and award of complex services contracts; and
- Responsible for management and monitoring of complex service contracts.

The *State of Texas Procurement and Contract Management Guide* is located on the Texas Comptroller of Public Accounts (CPA) website under Purchasing.

ADPICS CLASSES

Classes are available in Huntsville to train new requisitioners or even experienced requisitioners who would like to know more about ADPICS. If it is feasible for your staff to travel to Huntsville, the class is highly recommended. See the ADPICS Newscreen for information on these classes.

Note: The ADPICS Newscreen comes up automatically when signing on to ADPICS. It contains useful information and updates regarding the procurement process. It also provides information about the ADPICS Help Desk that is always available to answer any questions users have and to help them solve any problems that arise while using ADPICS.

YEAR-END DEADLINES

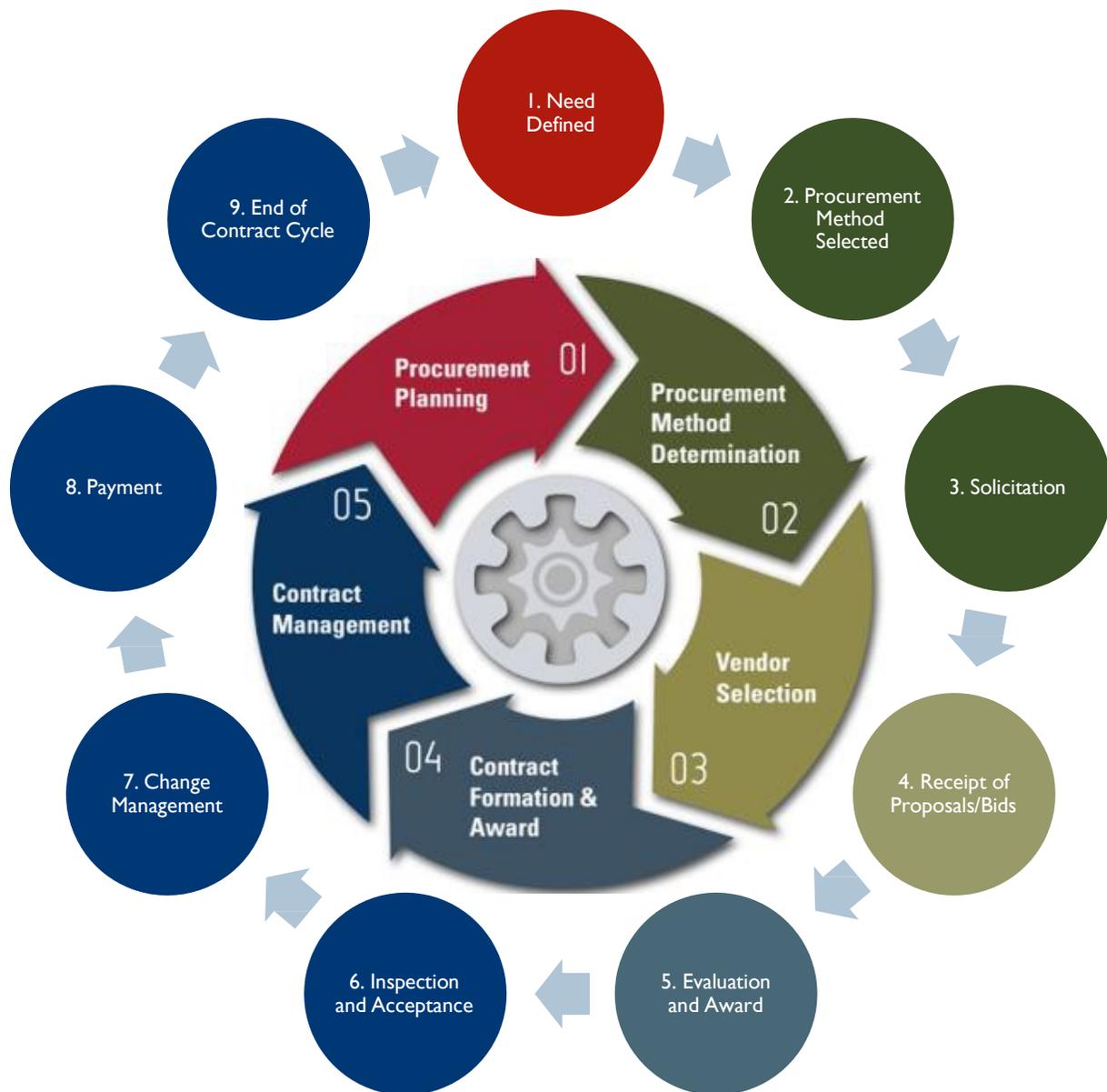
Each Fall, the Chief Financial Officer distributes the Year-End Deadlines which detail when requisitions for various goods and services have to be submitted. These deadlines must be adhered to because of procurement timelines both internally and at the CPA. These deadlines are critical and not meeting them can have an adverse effect on your Division's mission. Distribution is made to Division Directors, Division Business Managers, all users through mainframe email, and is posted on the ADPICS Newscreen and the TDCJ Intranet. The end of July is the last deadline for all current fiscal year requisitions; therefore, proper planning must be put into place to ensure that identifiable needs are requisitioned prior to that date. After that deadline no current fiscal year requisitions are accepted unless the division contacts the appropriate Contracts and Procurement Branch Manager and justifies the emergency nature of the request.

THE PROCUREMENT CYCLE

The State of Texas Procurement Cycle

The State of Texas Procurement Cycle outlines the process a purchaser uses to define, establish, and finalize a purchase that will satisfy end user needs. The following steps support Texas public purchasers in determining the methods, sources, and procedures for executing purchases in the best interest of the state.

Note: The Comptroller consolidated steps in the latest revision of the State of Texas Procurement and Contract Management Guide, going from nine down to five. See the inside circle. All nine steps in the outside circle are discussed in this handbook.



There are nine steps in the procurement cycle as summarized in this handbook. Each will be discussed in detail below.

1. NEED DEFINED

Each Division is required to identify goods and services needed to carry out the mission of the agency. The Division must submit a purchase requisition that includes a complete specification of the goods required or a complete statement of work (SOW) detailing the services needed. A specification is a description of a product or service a user seeks to procure along with a description of what a vendor must offer to be considered for an award. Specifications are the primary means of communication between an agency and a vendor. The SOW is a detailed description of what is required of the contractor to satisfactorily perform the requested service/work.

ADPICS REQUISITIONS

- Each Division has internal processes to determine what to purchase and how approval is granted and documented. The person responsible for creating the requisition must have a thorough knowledge of ADPICS. After the requisition is created and submitted for approval, higher levels of management within the Division review and either approve or deny the request. Upon approval by Division management justifying the need for the goods or services, the requisition then proceeds to the appropriate Division business manager and, based on the dollar amount, to Budget Department staff to determine if funds are available and to ensure the request is funded by the proper source. If funds are available for the purchase, the requisition continues through the approval path to Contracts and Procurement (once completely approved) to begin the procurement process.
- The processing time for a requisition to move through the entire approval path can be rather lengthy, not due to any shortcomings of ADPICS but due to the scrutiny given to certain purchases at various levels within the approval path. Using ADPICS to track the progress of a requisition is recommended if the need is urgent. The ADPICS manuals detail how to do this.
- The Division must provide a clear and concise specification for the goods required or a thorough SOW for the services required through the use of a manual or automated purchase requisition. **Providing an adequate specification or SOW is the most critical step in the procurement process.**
- Contracts and Procurement staff use their experience to review requisitions and ensure that the specification is adequate. Contracts and Procurement staff will also reach out to the requesting Division for clarification when needed, acknowledging that Division staff are the ultimate subject matter experts (SMEs). Divisions must have SMEs who can properly research and write clear and concise specifications for goods and services required. Inadequate requisitions may be rejected or cancelled by Contracts and Procurement.
 - If rejected in the automated approval path, the requisition goes electronically back to the initiator, who will make the necessary revisions and repost the requisition into the approval path. The requisition then must go through all the approval levels again.

- Inadequate requisitions that may be corrected with minimal clarification will be held in Contracts and Procurement for seven working days after the request for clarification is sent to the requesting Division. If no response has been received at the expiration of the seven working day period, the requisition will be cancelled.
- To begin the process of correcting the cancelled requisition, the initiator must copy the requisition, a simple key stroke in ADPICS, then make the required revisions and post it back into the approval path again.

CONTRACT REQUISITIONS

- A Division that considers entering into a complex service contract must be familiar with the directives outlined in the *State of Texas Procurement and Contract Management Guide* (pages 91-93) that detail the planning process and required risk analysis which must be performed for these complex service procurements. The risk analysis must be documented and forwarded to Contracts and Procurement to become part of the contract file. To aid in the risk analysis process, Contracts and Procurement has developed a guide, the *Accountability and Risk Analysis Policy and Procedures*, which can be found on the TDCJ Internet under Contracts and Procurement.
- The Division Director must appoint a Contract Manager, who will oversee the proposed contract and perform the following duties:
 - As part of the planning phase of the new contract, the Contract Manager must complete the risk analysis using the direction provided by the *State of Texas Procurement and Contract Management Guide* and the Risk Analysis Template and instructions (see Attachment B) provided by Contracts and Procurement.
 - The Contract Manager, upon determining the level of risk involved with the proposed contract, will develop and present to their Division Director the necessary risk avoidance and mitigation measures to be used for the proposed contract. This may include, but not be limited to, performance measures and sanctions, enhanced monitoring methods, and technical oversight.
 - As appropriate, these risk avoidance and mitigation measures and techniques will be incorporated into the solicitation.
 - No major solicitation will be released until the risk analysis has been completed and submitted to Contracts and Procurement.
 - After the contract is awarded, the Contract Manager must continue to assess risk based upon contract performance, delivery schedules, payment issues, or any other criteria critical to the successful completion of the contract deliverables.

- Complex service requests will require the Division to work closely with Contracts and Procurement to develop either the Request for Proposal (RFP) or Request for Offer (RFO) (for automated information systems type purchases) and the Source Selection Plan (SSP) after the requisition has been approved and received in Contracts and Procurement. Both the RFP/RFO and the SSP will identify best value standards to be used to evaluate proposals. Weights will be assigned to the individual evaluation factors used to score the proposal. The SSP provides guidelines for the fair, ethical and impartial evaluation of responses to the RFP/RFO. The SSP describes the overall evaluation objectives, the organization and responsibilities of the parties involved, the evaluation and award process and the factors and criteria that will form the basis of the selection of the contractor(s). More detail is provided regarding the SSP in the Evaluation and Award section. Division staff must develop monitoring methods and tools to adequately monitor all contracts, including those that require enhanced contract monitoring. These monitoring methods and tools will be incorporated into the RFP/RFO, as applicable. Contracts and Procurement will assist the Division in this process as needed.
- The Division must evaluate each proposed contract to determine if the contract falls into one of the following categories, which require enhanced contract or performance monitoring:
 - Service contracts for the direct care of offenders or treatment programs provided to offenders;
 - Service contracts over \$1,000,000; or
 - Contracts that place a high level of risk on the agency, as determined by the above required risk analysis, regardless of the type of contract or dollar amount.
- The Division's contract manager and contract monitor must always be cognizant of any additional risk that may occur or becomes evident after the contract is awarded and recommend additional performance measures, monitoring tools or sanctions that may need to be added to the existing contract.
- If applicable, a Pre-Proposal Conference and/or site visit may be needed. A Pre-Proposal Conference allows potential contractors to be briefed on the requirements of the RFP/RFO and the HUB Subcontracting Plan. Contractors are allowed to tour the facility where services will be performed. Contractors have the opportunity to submit, in writing, any questions that they may have in regard to the solicitation. As the SMEs, Division staff will be required to respond in writing to answer any questions. The answers are provided to Contracts and Procurement and an amendment is issued and posted to the Electronic State Business Daily (ESBD). Division staff can have absolutely no contact with interested contractors during the solicitation process. This applies to any solicitation. Refer to Appendix C for more information regarding the TDCJ Vendor Communication policy.

PARTNERSHIPS

For some contracts, Divisions may be required to partner with other Division(s) when varied levels of expertise is required. For example, the Manufacturing, Agribusiness and Logistics Division may have to partner with the Facilities Division for a major factory renovation or when procuring structures that may have engineering requirements. The Private Facility Contract Monitoring/Oversight Division may have to partner with the Parole and Rehabilitation Programs divisions for substance abuse treatment services and with the Correctional Institutions Division for correctional facility services.

OPTION PERIODS

Divisions must be aware of and properly manage purchase orders and contracts that have option periods that can be exercised. These procurements must be evaluated to determine if the need exists to exercise an available option period. It is essential to examine each contract to determine if the contractor is meeting the requirements of the contract. If the decision is made to exercise an option period on a purchase order, a new requisition must be submitted. A Contract Modification Request must be submitted to exercise an option period for a contract. Once the current term of a purchase order or contract expires it can no longer be extended. Missing a year-end deadline or not realizing a purchase order or contract is expiring can cause unnecessary work for the Division and the Contracts and Procurement Department. It also stops the supply of needed goods or services. If goods or services continue to be received after a purchase order or contract has expired, it results in an unauthorized purchase.

UNAUTHORIZED PURCHASES

Divisions must work diligently to avoid unauthorized purchases. These are purchases made by Division staff who fail to follow proper purchasing procedures and, in some cases, avoid the procurement process all together. Most unauthorized purchases are unintentional and due to a lack of knowledge and training. Each of these unauthorized purchases requires significant administrative time to formally document and report the event. The Unauthorized Purchase Report is issued monthly to the Executive Director and each Division Director noting the unauthorized purchases that have occurred. Division Directors should determine the root cause of these violations and address them to prevent future occurrences.

CONFLICTS OF INTEREST

In accordance with Texas Government Code § 2261.252 and the TDCJ Ethics Policy, all Division staff involved in the procurement process must sign a Disclosure of Potential Conflicts of Interest form annually and disclose any conflicts to their management to be resolved. Staff who hold secondary jobs outside the agency should determine how that might be a potential conflict of interest in regard to the procurement process. Division Directors must identify staff directly involved in procurement or in contract management within their division and require the identified individuals to sign the form. This is to be done annually at the beginning of September each fiscal year.

Note: Every employee whose job requires them to enter requisitions or complete receiving reports in ADPICS as a clerical function of their job as well as employees who are making material decisions or have involvement that materially affects the procurement cycle of a purchase order or contract should submit a disclosure form. This includes, but is not limited to, involvement in: requirements identification, procurement evaluation, contract award, contract monitoring, change management, or decisions to renew. The Division Director is responsible for addressing affected employees.

Each division is responsible for maintaining copies of their Disclosure of Potential Conflicts of Interest forms and producing such forms upon request of an auditing entity. Original signed forms, any reported conflicts, and the supervisor's disposition of the matter must be forwarded to the Contracts and Procurement Department. Any disposition that is not concurred with by the Director of Contracts and Procurement will be forwarded to the Chief Financial Officer for a final decision.

2. PROCUREMENT METHOD SELECTED

Contracts and Procurement will determine the proper procurement method to be used, based upon the *State of Texas Procurement and Contract Management Guide*.

- The procurement method used is dictated by the commodity or service required and the estimated dollar amount of the procurement. Some methods take longer than others. Contracts and Procurement is aware of the need of the goods and services requisitioned and processes each procurement as quickly as possible. For Division staff, knowing the process required for a particular procurement can certainly help with the planning stages of a procurement. The *TDCJ Requisitioner's Manual* is an excellent resource to guide staff through this process.
- An item requisitioned that is on a State of Texas term contract may be ordered immediately after the requisition is received in Contracts and Procurement. No bidding is required; therefore, the process usually takes three to four days from receipt of an approved requisition.
- Goods and services estimated under \$5,000 do not require a competitive bid process, so dependent upon the purchaser's workload, should be processed within two to three weeks.
- Goods and services estimated greater than \$5,000 but less than \$25,000 must be competitively bid and take longer, at least three weeks to a month.
- Goods and services estimated greater than \$25,000 must be competitively bid and posted to the Electronic State Business Daily (ESBD) for a minimum of 14 days. If estimated at \$100,000 or more they also require a HUB Subcontracting Plan (HSP), lengthening the time required on the ESBD to 17 days. If the complete solicitation can't be posted on the ESBD and instead just a notice of the solicitation is posted it must remain on the ESBD for 21 days. Some solicitations, due to their complexity, must be posted on the ESBD for longer time periods to give vendors the necessary time to prepare their responses. Due to the many rules and procedures the purchasers must follow to lawfully carry out the procurement process, a procurement in this range could take 30-60 days.
- A complex service requisition will require an RFP/RFO to be issued and that process could take **from six to nine months**. The contract specialist must develop an Acquisition Plan, which is an estimated timeline of the complete procurement process from beginning to end and a Source Selection plan which details how a solicitation will be awarded based on best value to the agency.
- Requisitions that fall outside the delegated authority of the TDCJ must be sent to the CPA for processing (commodities greater than \$50,000 and services greater than \$100,000). Time for

this can vary greatly due to the completeness of the specifications and the CPA's current workload. Three to six months or more may be required to process these requisitions.

- There are no arbitrary decisions made regarding the method used to procure goods or services. Decisions are based on the good or service being requested and the estimated dollar amount.
- Natural or Man-Made Disasters: When a disaster occurs or the occurrence or threat of a disaster is imminent, the Governor may, by executive order or proclamation, declare a state of disaster. The Governor may suspend enforcement of statutes and administrative rules regarding contracting or procurement that would impede any agency's emergency response that is necessary to protect life or property threatened by a declared disaster. A purchase made under a disaster must clearly relate to the disaster, conform to the directives of the disaster declaration, and occur within the timeframe specified in the disaster declaration. In the event of a declared disaster the Contracts and Procurement Department will do everything necessary to provide the goods and services the agency requires either through expedited purchasing using ADPICS or through manual processes in the event of system failure due to the disaster.

Note: Major Information Resources projects require additional oversight by the Quality Assurance Team. See Attachment E for more information.

3. SOLICITATION

Contracts and Procurement will determine the proper solicitation method to be used, based upon the *State of Texas Procurement and Contract Management Guide*. The solicitation documents include:

- Request for Quotes (RFQ)
- Invitation for Bids (IFB)
- Request for Offers (RFO)
- Request for Proposals (RFP)
- Request for Qualifications (RFQ)
- Request for Information (RFI)

Note: During the solicitation phase of the procurement cycle Division staff cannot have any contact (phone, email, text, mail, social media, in person, etc.) with a potential vendor. Bids are compromised when a vendor contacts Division staff and seeks additional information or shows up at the proposed worksite and views things that other vendors did not have an opportunity to see. Any time one vendor obtains a perceived advantage over another vendor due to information provided or a worksite viewed then the solicitation is compromised. The only contact with a vendor by the agency is through the purchaser or contract specialist overseeing the procurement. Procurements compromised in such a manner are cancelled and re-solicited unless a solution to re-level the playing field is available. When vendors have questions, they ask the purchaser/contract specialist who contacts the Division to provide an answer. The answer is then provided to all interested vendors by the purchaser/contract specialist through an amendment to the solicitation. If Division staff are contacted by a vendor during the solicitation phase, they should immediately refer them to the purchaser/contract specialist and provide no additional information. The TDCJ

has established a vendor communication policy that addresses these requirements. See Attachment C for more information regarding this policy.

4. RECEIPT OF PROPOSALS/BIDS

Contracts and Procurement will receive and securely and confidentially handle proposals and bids in accordance with the *State of Texas Procurement and Contract Management Guide*. Bids or proposals must be received on or before the date and time listed on the solicitation. Late bids or proposals cannot be accepted.

5. EVALUATION AND AWARD

- Bidders or Offerors have their qualifications, as required by the solicitation, verified. Not meeting the qualifications exempts the bid or proposal from further consideration.
- If the solicitation required a HSP, the plan is reviewed by the HUB Department to ensure that the HSP meets all the requirements. If the HSP is rejected by the HUB Department, the bid or proposal is removed from further consideration.
- In cases where the award is based simply on low bid meeting specifications, Contracts and Procurement will make that determination.
- In cases where complex specifications are involved, Contracts and Procurement will partner with the requesting Division to have their SME confirm that the low bidder meets specifications.
- In order to make an award, the purchase price of the good or service must be within 10% of the estimated cost entered on the requisition. This is another important reason why an estimated cost must be as accurate as possible. The only exception to the rule is if the 10% overage is less than \$100.00, in which case the award can be made without any additional approval. When a 10% overage occurs, Contracts and Procurement does not have authority to spend the extra dollars for the purchase until everyone who originally approved the requisition approves the overage. The purchaser/contract specialist must send an email to the Division staff member who initiated the requisition with instructions to either approve or deny the additional expenditure of the Division's funds. If approved, the staff member must forward the email showing their approval of the overage to the next person in the original approval path of the requisition and each person approves the overage and forwards to the next person until everyone has approved. The end result is an email string clearly showing all the approvals of everyone in the original approval path. Per the instructions, the last person forwards the email to the purchaser/contract specialist to complete the cycle. To view the original approval path of a requisition, type in the requisition number, and press enter at the 9230 screen in ADPICS. For major service contracts using a non-automated Contract Requisition, the signatures of the approvers are at the bottom of the form. Note that in the ADPICS 9230 screen, the last name in the listing is the Contracts and Procurement staffer that assigned the requisition to the purchaser/contract specialist. This person is not in the approval path and the email string should not be sent to this person.

- For complex service contracts requiring a Source Selection Plan, the Division must provide team members for the Technical and Cost Teams to evaluate and score proposals. Working independently of each other, the teams score the proposals and then integrate the scores to determine which contractors fall within the competitive range. The teams then make a recommendation to negotiate with the contractors in the competitive range to the Source Selection Authority Board (SSAB), which is made up of Division Director(s) (stake holder), the Deputy Chief Financial Officer, and the Director of Contracts and Procurement. Upon approval by the SSAB, team members prepare questions and discussion points to be used in the negotiations. Negotiations are led by the Contracts and Procurement Department Contract Specialist, with participation by the Technical and Cost Team Chairpersons. At the conclusion of the negotiations, a Best and Final Offer (BAFO) is requested from all contractors participating in the negotiations. Once the BAFOs are received, the Technical and Cost Teams evaluate and score them in accordance with the SSP. After the final scores have been integrated, teams make a final recommendation of award based on the scores to the SSAB. The SSAB will make the final determination of who to award the contract based upon all the information presented.

6. INSPECTION AND ACCEPTANCE

Once received, the goods or services must be inspected by the Division to determine acceptance or rejection. The *TDCJ Requisitioner's Manual* provides direction on how to properly inspect and receive goods. Requisitioning and receiving goods and services must be separate functions at the unit level and/or department/division level. Segregation of duties is a key internal control intended to minimize the occurrence of errors or fraud by ensuring that no employee has the ability to both perpetrate and conceal errors or fraud in the normal course of their duties. The employee who generates the requisition or blanket purchase order release and the employee who generates the receiving report must be different individuals. This is a very important step in the procurement cycle. The Division must ensure that the successful vendor who was awarded the purchase order or contract delivers what was procured (right item, right size, right unit of measure, right price). The commodity must be exactly what was ordered and any service provided must meet all the requirements of the statement of work. The Division must also ensure that the billing method determined by the contract or purchase order was followed. An example would be a discount from list price purchase. The Division must ensure that the proper price was used and that the proper discount was taken for each item ordered.

- For complex service contracts, the Division must appoint contract managers and contract monitors to ensure that the services contracted for are being performed in the manner required by the contract. These contract managers and monitors ensure that the performance measures and enhanced monitoring tools accomplish the purpose for which they were established. Contract managers and monitors also determine when monetary assessments are warranted based upon the terms of the contract.
- Contract managers and monitors must:
 - Read the entire contract and have a thorough knowledge of what is required and what the contract deliverables are;
 - Know the starting and ending dates of the contract including any available option or renewal periods; and
 - Know the payment terms and the Not to Exceed Amount of the contract. A contractor is not allowed to exceed the Not to Exceed Amount unless and until the contract is modified to increase the Not to Exceed Amount.

- For contracts with a value exceeding \$5 million, submit vendor performance at least once each year during the contract term and at each key milestone during the term of the contract. The contract may not be extended until after the vendor performance has been reported. See Attachment D for vendor performance scoring guidelines.
- If a vendor is required to self-report work accomplished, the reports must be verified by the Division.

7. CHANGE MANAGEMENT

Various circumstances can lead to the need for a change to a purchase order or a contract.

- The Division, in coordination with Contracts and Procurement, will determine what changes are allowed by the terms and conditions of the particular purchase order or contract.
- When the required change is identified and allowed by the terms and conditions, the **Contract Modification Request/Purchase Order Change Notice Request (CMR/POCNR) form** found on the TDCJ Intranet under Contracts and Procurement will be completed to initiate the change and receive the necessary review and approval of the changes by the authorities that approved the original procurement documents. Complete instructions are included with the form.
- The official change documents are the **Contract Modification** (for contracts) and the **Purchase Order Change Notice** (for purchase orders). These forms are generated by the purchaser or contract specialist after having received the fully executed (meaning all required signatures have been received) CMR/POCNR form. These documents are then sent through the approval process that the original contract or purchase order received.
- If a change in a dollar amount crosses an approval path threshold, additional (next level) review and approval is required.

8. PAYMENT

Accounts Payable is ultimately responsible for the payment to vendors. However, as part of the planning process of any contract, the Division must determine the most practical method to pay for the goods or services being requested. This information becomes a part of the solicitation.

- Payment is completed when the three way match occurs in ADPICS. The purchase order matches the receiving report (completed after inspection and acceptance occurs) and both of these match the invoice received from the vendor. When this occurs, a voucher is then automatically generated in ADPICS. Accounts Payable then reviews the voucher for accuracy and posts it to be paid in the Uniform Statewide Accounting System (USAS).
- For complex service contracts, the Division receiving the services must verify the invoices received to ensure that the work billed was actually performed. If monetary assessments are warranted,

they will be documented and deducted from the invoice. These approved invoices are then forwarded to Accounts Payable for final payment.

- The Division responsible for monitoring the contract makes the determination as to whether or not to assess payment withholdings based upon the terms and conditions of the individual contract.

9. END OF CONTRACT CYCLE

Closing out a contract requires collaboration between the Division and Contracts and Procurement. The Division verifies that all goods have been delivered or all services have been received and that there are no outstanding payments due. The Division also reports vendor performance to Contracts and Procurement for all purchase orders or contracts greater than \$25,000. Contracts and Procurement then enters a Vendor Performance Report for these contracts into the CPA Vendor Performance Tracking System. See Attachment D for vendor performance scoring guidelines. The purchase order or contract is officially closed by Contracts and Procurement after all necessary documentation is received from the requesting Division and the vendor. The contract or purchase order is then archived in accordance with the agency records retention schedule (currently seven years).

Approval Path Matrix for Purchase Requisitions (*Manual and Automated*)

Requisition Amount	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
	Division Director or designee (highest department review)	Budget Analyst	Budget Director	Deputy Chief Financial Officer	Chief Financial Officer	TBCJ*
Less than \$5,000	X					
Equal to \$5,000 but less than \$100,000	X	X				
Equal to \$100,000 but less than \$500,000	X	X	X			
Equal to \$500,000 but less than \$1,000,000	X	X	X	X		
Equal to \$1,000,000 or greater	X	X	X	X	X	X

*Texas Board of Criminal Justice

Approval Path Matrix for Contracts, Modifications, Purchase Orders and POCNs
(*Manual and Automated*)**

Order Amount	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
	Branch Managers	Deputy Director, Contracts & Procurement	Director, Contracts & Procurement	Deputy Chief Financial Officer	Chief Financial Officer	Executive Director
All orders for \$10,000 but less than \$100,000	X					
All orders equal to \$100,000 but less than \$1,000,000	X	X	X	X	X	
All orders \$1,000,000 or greater	X	X	X	X	X	X

**Purchase Order Change Notice

Modifications or POCNs that cause a contract or purchase order to cross a threshold will be reviewed and approved by the higher authority.

In the event a designated approver is absent, the highest-level approval is all that is required. For example, the Deputy Chief Financial Officer (DCFO) is out of the office, the Chief Financial Officer will sign in the DCFO's place as well as their own and execute the document.

Effective 5/19/2020

ATTACHMENT B

RISK ANALYSIS TEMPLATE

Attachment B

Requisition No: _____*Contract Name:* _____

Instructions: Risk factors are indicators used to determine the risk of the contract objectives not being met. Below are some general risk factors common to most contracts. The range is a three (3) point scale used to rate the level of risk for each risk factor. Three (3) is high risk, two (2) is medium risk and one (1) is low risk. Rate each risk factor and place the value in the score column. Risk factors 1-9 apply to all contracts. For Information Technology (IT) contracts only, include risk factors 10-12. If a risk factor is not applicable to the contract place "NA" in the score column. Add the scores for all of the risk factors to get a Total Risk Assessment Score. Use the Total Risk Assessment Score Scale below to determine the overall level of risk associated with the contract.

Range	Risk Factors – Commodity, Services and IT Contracts	Score
	1. Total Contract Price: What is the estimated price for the anticipated base period of the contract?	
1	\$0 - \$250,000	
2	> \$250,000 to \$500,000	
3	> \$500,000	
	2. Total Contract Duration: What is the anticipated overall potential contract period (base year plus option years)?	
1	One to two years	
2	Three to four years	
3	> Four years	
	3. Criticality of Deliverables: Which delivery best describes your contract?	
1	Deliverable timing is important but not critical.	
2	Deliverable timing is critical.	
3	Deliverable timing is critical and must take priority over other contracts.	
	4. Contract Failure Impact: Which of the following best describes the users impacted by a contract failure?	
1	Low risk optional use contract with no legal mandate.	
2	Failure will impact end-user department operations only.	
3	Failure will have an agency wide impact, violate state and/or federal mandates or result in the loss of substantial funds.	

ATTACHMENT B

RISK ANALYSIS TEMPLATE		Attachment B
1 2 3	<p>5. Locations Impacted: Which of the following best describes the locations affected by this contract?</p> <p>Contract will be implemented in or hosted from a single location.</p> <p>Contract will be implemented across multiple agency sites.</p> <p>Contract will be implemented statewide.</p>	
1 2 3	<p>6. Availability of Resources for Contract Management: Which of the following best describes the resource requirements of this project?</p> <p>Adequate staffing is readily available to manage and support the contract, including subject matter experts.</p> <p>Temporary staffing is needed to supplement end-user staff to manage and/or support the contract.</p> <p>Full-time consultants or temporary staffing is needed to manage and/or support the contract.</p>	
1 2 3	<p>7. Complexity of Contract: Which best describes the contract's complexity?</p> <p>Simple commodity or service with clear specifications.</p> <p>Complex requirements involving internal subject matter experts.</p> <p>Very complex.</p>	
1 2 3	<p>8. Business Process Impact: Level of impact to end user's business process?</p> <p>Business processes from a single division within an agency will be impacted.</p> <p>Business processes from an entire agency will be impacted.</p> <p>Business process change is statewide.</p>	
1 2 3	<p>9. End User's Training Needs: Indicate the appropriate training requirements for this contract?</p> <p>End-user only training required.</p> <p>Systems and end-users require training and support that can be conducted by in-house trainers.</p> <p>Systems and end-users require training and support by the vendor or an outside trainer.</p>	
RISK ASSESSMENT SCORE FOR FACTORS 1-9		

ATTACHMENT B

RISK ANALYSIS TEMPLATE		Attachment B
Range	Complete Factors 10-12 for Information Technology Contracts Only	Score
	10. Software Technology Customization: What level of customization is required for this solution?	
1	All requirements can be satisfied with mature or Commercial Off-The-Shelf (COTS) products.	
2	The requirement may be partially customized and partially COTS.	
3	Fully customized solution.	
	11. Impact on Existing Application or Infrastructure: Which of the following best describes the impact on existing infrastructure for this contract?	
1	Maintenance.	
2	Product is an enhancement or replacement to the existing application or infrastructure.	
3	Product is new and impacts other existing applications or infrastructure.	
	12. Interface Connectivity: Which of the following best describes the interface connectivity of the proposed system?	
1	Not applicable or existing without new interfaces.	
2	The new system will interface with 1-4 existing applications.	
3	The new system will interface with 5 or more applications.	
	IT RISK ASSESSMENT SCORE FOR FACTORS 10-12	
	TOTAL RISK ASSESSMENT SCORE FOR ALL FACTORS	

Total Risk Assessment Score Scale: Commodities and Services

Score 1-9 = Low Risk

Score 10-18 = Medium Risk

Score 19-27 = High Risk

Total Risk Assessment Score Scale: Information Technology

Score 1-12 = Low Risk

Score 13-24 = Medium Risk

Score 25-36 = High Risk

ATTACHMENT C**TDCJ Vendor Communication Policy**

Communication between TDCJ requisitioners, Contracts and Procurement staff and vendors is imperative and encouraged. If used effectively, communication with industry representatives is a vital resource for requisitioners and Contracts and Procurement staff. Steps must be taken, however, to maintain a fair opportunity to compete for all vendors and avoid any appearance of favoritism. TDCJ personnel must be mindful that one-on-one communications with vendors occurring prior to contract award are subject to enhanced scrutiny due to the importance of maintaining a “level playing field” among all eligible vendors during competitive procurements. If there is any doubt about appropriate communications with vendors, consult with TDCJ Contracts and Procurement management or TDCJ legal counsel.

Fact Gathering

Texas law authorizes the exchange of information between an agency and a vendor related to future solicitations. Vendors are often experts in their respective fields and can offer insight on potential purchases, such as current trends, industry practices, and available products or solutions. The procurement team (requisitioners, Contracts and Procurement staff) should develop a plan to obtain any needed vendor input, which may include issuance of a Request for Information (RFI), attendance at vendor fairs, Technology Review Team (TRT) presentations or directly contacting industry leaders or vendors listed under the applicable commodity code on the Centralized Master Bidders List (CMBL). The result of these interactions may lead to increased competition, a more detailed and up-to-date description of technical requirements or scope of work, accurate cost estimates, and ultimately better value for the State. However, requisitioners and Contracts and Procurement staff must never tailor specifications to benefit a particular vendor, as this limits competition. Care should be taken to avoid the appearance of favoritism toward certain vendors in the fact-gathering process and when possible, the procurement team will avoid consulting exclusively with the incumbents or a small number of vendors, which could give the appearance of favoritism.

Drafting the Solicitation

When all fact gathering is completed and the actual solicitation-drafting process has begun, vendor communication must cease to ensure the integrity of the procurement. Requisitioners and Contracts and Procurement staff may use relevant information gathered from the vendor community when drafting specifications. Finally, if a vendor is compensated by the TDCJ for its assistance in drafting specifications or scope of work for a solicitation, the vendor will not be eligible to bid on the resulting contract.

During the Solicitation

Once the solicitation is issued, communications between Contracts and Procurement staff and vendors shall follow the procedure outlined in the solicitation. This includes designating specific Contracts and Procurement staff for receipt of vendor questions about the solicitation or questions asked at pre-bid/offer/proposal conferences. When issuing an applicable solicitation, the TDCJ includes a Q&A process, as that will be the only time where the agency can benefit from vendors’ input on the solicitation and make any necessary corrections to the solicitation through the addendum process. Failure of the agency to allow for vendor input during a Q&A process may result in higher costs to the TDCJ if the specifications are unclear prompting vendors to bid high to cover unforeseen costs, or a non-award requires a supplemental solicitation.

If any information related to the procurement such as evaluation methods or any additional information relevant to the procurement is provided to any vendor, that information will be released to the public without delay through an amendment to the solicitation. This includes information shared at pre-bid/offer/proposal conferences attended by some but not all potential vendors.

The TDCJ offers assistance with HUB subcontracting plans. Such assistance is made available from a designated person, specifically the TDCJ’s HUB coordinator, who is not an evaluation committee member, and it is offered and provided to all vendors equally. The TDCJ allows assistance with HUB plans during the entire posting period.

ATTACHMENT C

To ensure a level playing field, all contact between vendors and end users or evaluators shall be avoided during the solicitation posting period. If end users or evaluators fail to abide by the guidelines regarding vendor communications posted in the agency solicitation, the solicitation may be compromised. If compromised the solicitation will be cancelled. If a vendor fails to abide by the guidelines regarding vendor communication posted in the agency solicitation, the vendor's proposal may be subject to disqualification.

Evaluation and Negotiation

Allowable vendor-Contracts and Procurement staff interactions between the response due date and contract award include:

- clarification of a respondent's ability to meet the solicitation requirements;
- negotiations, as appropriate based on the procurement method, including request for best and final offer (BAFO); and
- the exchange of information as necessary to facilitate a potential contract award.

Evaluation and vendor selection will be based on response documents formally submitted by each vendor, not other communications. If one vendor is provided an opportunity to clarify its response, similarly situated vendors shall receive the same opportunity.

Reference: [Texas Government Code, Section 418.004\(1\)](#)
Texas Government Code, Section 2155.090(b)
Texas Government Code, Section 2155.004
The State of Texas Procurement and Contract Management Guide

ATTACHMENT D

Vendor Performance

The Comptroller of Public Accounts (CPA) administers a vendor performance program, the Vendor Performance Tracking System (VPTS), for use by all ordering entities. The Vendor Performance and Debarment Program relies heavily on the ordering entity's participation in gathering information on vendor performance. Vendor performance can be recognized by order administration, receiving, inspection of quality and performance, and in the payment process. It is incumbent upon everyone involved in the procurement cycle to report both poor and exceptional performance to the Contracts and Procurement Department who, in turn, will report to the CPA to accomplish the intent of the program. For more information, refer to pages 106 -108 in *The State of Texas Procurement and Contract Management Guide*, located at: <https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>.

The Texas Department of Criminal Justice (TDCJ) may report vendor performance on all purchases regardless of the dollar amount. Contract specialists/purchasers are required to submit vendor performance for all purchases over \$25,000 and are encouraged to report on any purchases under \$25,000.

If the value of the contract exceeds \$5 million, vendor performance must be reported at least once each year during the term of the contract and at each key milestone during the term of the contract, such as when the user department administers sanctions. The contract may not be extended until after the vendor performance has been reported.

The following procedures have been established for reporting vendor performance, verifying vendor performance prior to award, and retaining documentation in purchase order or contract file. *It is very important that user departments within the agency and Accounts Payable personnel communicate with the Contracts and Procurement Department regarding vendor performance.*

Within 20 days of contract completion or termination, the receiving/user department and/or Accounts Payable, as applicable, will report vendor performance associated with a specific contract/purchase order over \$25,000 to the Contracts and Procurement Department. Types of poor performance may include late delivery, delivery to the wrong address, overage, shortage, poor quality, unauthorized substitution, invoicing error, etc. Types of exceptional performance may include upgraded quality, shipments made early at the agency's request, outstanding customer service, etc. Notification to the contract specialist or purchaser may be sent via email, fax, mail, or truck mail and must include the TDCJ purchase order number, the CPA purchase order number (if the procurement is a CPA order), and an explanation of vendor performance. Documentation to support claims of poor performance must be included.

Within 30 days of contract completion or termination, the contract specialist/purchaser receiving notification of vendor performance will substantiate the validity of the information. Procurements awarded using the best value standard will be assessed as to whether the vendor satisfied that standard. If the user department fails to report vendor performance within the 30-day period, the contract specialist/purchaser will proceed with the vendor performance reporting as though the vendor performed as expected.

The contract specialist/purchaser will take steps to resolve vendor performance issues by contacting the vendor to request resolution. If the vendor fails to correct the problem in a reasonable amount of time, the vendor performance report will reflect the failure to obtain resolution.

ATTACHMENT D

A Vendor Scoring Guide is provided by the CPA in *The State of Texas Procurement and Contract Management Guide*, page 107. Vendor performance grades ranging from A – F are used when entering information into the VPTS based on whether the vendor met contract requirements or specifications and pricing requirements. General guidelines are as follows:

- A = Excellent performance (score equivalent of 100) – Given to vendors who met best value criteria and fully complied with all contract material terms with complete or substantial customer satisfaction.
- B = Good performance (score equivalent of 85) – Given to vendors who met best value criteria and fully complied with all material terms, or promptly remedied any minor instance of non-compliance with those terms, with substantial or adequate customer satisfaction.
- C = Satisfactory performance (score equivalent of 70) – Given to vendors who met best value criteria and substantially remedied a majority of those instances of non-compliance with the material terms of the contract with adequate customer satisfaction.
- D = Unsatisfactory performance (score equivalent of 65) – Given to vendors who did not meet best value criteria or were in substantial non-compliance with material contract terms with the requirements of the contract and failed to remedy a majority of those instances of non-compliance.
- F = Extremely unsatisfactory performance (score equivalent of 50) – Given to vendors who did not meet best value criteria, were in substantial non-compliance with the material contract terms and failed to remedy a majority of those instances of non-compliance or displayed conduct that would be cause for debarment such as fraud, material misrepresentation, or contract breach.

Authority: Billy Sanders, Director, Contracts and Procurement

Reference: Texas Government Code 2155.0755
Texas Government Code, 2155.089
Texas Government Code, Title 10, Subtitle D, Section 2155.07
Texas Government Code, Section 2262.055
Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter C, Rule 20.108
The State of Texas Procurement and Contract Management Guide

ATTACHMENT E

Review of Major Information Resources Projects by the Quality Assurance Team (QAT)

In 2019, the 86th Legislature added requirements for oversight of major information resources projects. Additional monitoring of contracts will be performed by the Quality Assurance Team (QAT), a team of representatives selected by the comptroller, the LBB, the State Auditor, and the DIR, who provide review and oversight of information technology projects. Effective September 1, 2019, the following procedures are to be followed in addition to existing procurement procedures for major information resources projects.

A *Major Information Resources Project* (MIRP) is an information resources technology project designated as such by the legislature in the General Appropriations Act (GAA), or identified in a state agency's biennial operating plan with development costs exceeding \$5 million and:

- (a) requiring one year or longer to reach operations status;
- (b) involving more than one state agency, or;
- (c) substantially altering work methods of state agency personnel or delivery of services to clients.

A contract subject to review by the QAT that is at least 10 percent over budget or at least 10 percent behind schedule may not be amended unless the agency conducts and submits to the QAT a cost-benefit analysis regarding cancelling or continuing the project.

If the QAT requests any verification and validation or quality assurance report on a MIRP, the agency must provide the information within 10 days of receiving the request. The QAT may request any information necessary to determine a project's potential risk.

For MIRPs exceeding \$10 million, the agency is required to submit a draft copy of the contract with proposed terms to the QAT prior to the start of negotiations. The QAT may provide recommendations pertaining to the draft copy of the contract. Upon conclusion of negotiations, the final negotiated copy of the contract must be submitted to the QAT for review, and the QAT shall either provide recommendations for the final negotiated copy or waive review. The agency shall comply with the recommendation or submit to the QAT a written explanation regarding why the recommendation is not applicable to the contract. The final negotiated copy must not be sent to the vendor for the purpose of execution prior to the receipt of the QAT recommendations or waiver.

If the total value of an amended contract will exceed the initial contract value by 10 percent or more, or if the amendment requires the contractor to provide consultative services, technical expertise, or other assistance in defining project scope or deliverables, the agency must notify the following entities before amending the contract: the governor, lieutenant governor, the speaker of the House of Representatives, the presiding officer of the standing committee of appropriations; and the QAT. The agency shall provide the QAT justification for the amendment.

Reference: Texas Government Code 2054
The State of Texas Procurement and Contract Management Guide

ATTACHMENT F

Use of Outside Professional Services and Private Consultants

The information below describes guidelines established by the TDCJ for the use of outside professional services and private consultants. All such contracts shall abide by the provisions stated in law and agency policy.

Procedures: Subchapter A, Chapter 2254, Texas Government Code outlines the responsibilities of the agency when contracting for certain professional services. Subchapter B outlines responsibilities of the agency when contracting for consulting services. Some of the most important points with respect to the agency contracting for consulting services are covered below; however, this summary should not replace a complete reading of the law by those departments considering contracting outside consultant services.

Exemptions: Consulting services provided by certain professionals are exempt from the requirements of Subchapter B. Such professionals included, but are not limited to, registered engineers, registered architects, registered landscape architects, registered nurses, certified public accountants, land surveyors, certified real estate appraisers, private legal counsel, investment counselors, actuaries, optometrists, surgeons, physicians and other medical or dental service providers. Procurement of services from these providers shall be in accordance with Subchapter A, which requires selection on the basis of demonstrated competence. However, procurement and payment of outside professional services and private consultants pursuant to the Texas Code of Criminal Procedure are not affected by Chapter 2254.

Selection of Consultants: The agency may use private consultant services only when there is substantial need for the service and the agency cannot adequately perform the services through the use of its own personnel or by contracting with other state agencies. Information on Consultant Contract Guidelines can be found at: <https://gov.texas.gov/organization/bpp>.

For contracts expected to exceed \$50,000:

- A. Notice of intent to employ a consultant shall be given to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning and Policy before contracting with a consultant. Before awarding the contract, the agency shall obtain a finding of fact that the services are necessary from the Office of Budget, Planning and policy.
- B. Notice of intent to employ an outside consultant shall also be posted on the Electronic State Business Daily (ESBD) at least thirty (30) days prior to the awarding of the contract. Details of the contract to be offered and the solicitation shall be posted with the notice per Section 2254.029, Texas Government Code.
- C. A written notice shall be provided to the LBB within thirty (30) days of contract award to an outside consultant.
- D. A notice of award shall also be posted on the ESBD within twenty (20) days of contract award to an outside consultant.

Details of all requirements for notification, selection and other relevant information concerning private consultants and outside professional services are found in Chapter 2254, Texas Government Code.

Reference: Texas Government Code 2254