TEXAS PARKS & WILDLIFE

CONTRACT MANAGEMENT GUIDE

TABLE OF CONTENTS

Contents

INTRODUCTION AND PURPOSE OF THE CONTRACT MANAGEMENT GUIDE

The State has a longstanding interest in improving state agency procurement and contract management. Legislation led to the creation of the Contract Management Guide and the State Procurement Manual, maintained by the Comptroller of Public Accounts (CPA), and applicable to all state agencies. TPWD follows all state policies and procedures as outlined in these manuals as well as applicable rules and statutes.

Per Government Code Sec. 2261.256, TPWD created a Contract Management Handbook to be used by those employees that manage contract functions. However, within TPWD, many of the contract management functions are performed by different individuals within each of the offices, divisions and program areas. The employees who participate in these functions can have various titles and classifications other than "contract manager." Thus, this handbook is designed to provide a general overview of contract management for all the employees who participate in managing a contract.

The purpose of this handbook is to establish consistent contract management policies and procedures that must be followed by TPWD employees and to provide best practices to provide guidance for managing TPWD contracts.

This handbook provides a baseline for policies and procedures that support:

- Ethical standards of conduct for contracting staff;
- Contracting activities from planning to closeout;
- Contract management requirements and best practices;
- Risk assessment and issue resolution;
- Risk-based contract monitoring;
- Application of sanctions and remedies;
- Escalation of contract performance issues; and
- Contract termination and lessons learned.

TPWD Divisions can develop additional policies and procedures for implementing requirements, including requirements in this handbook, to best meet the organizational structure, program requirements and business needs.

Infrastructure Contract and Project Managers should refer to Infrastructure's internal procedures related to managing construction, professional, design, and engineering service contracts.

Applicability of this Contract Management Guide

This handbook applies to the management of contracts into which TPWD enters, including:

- Contracts for the Purchase of Goods or Services;
- Professional Services Contracts to include Consultant Contracts*;
- Construction Contracts*;
- Sole Source, Proprietary and Emergency Purchase Contracts;
- Purchase Orders;
- Statewide Term Contracts;
- Interagency Contracts;
- Inter-local Contracts;
- Memorandum of Agreement (MOA);
- Memorandum of Understanding (MOU);
- Cooperative or "Piggy Back" Contracts;
- Utility Contracts;
- Revenue Generating Contracts;
- Other Agreements that bind TPWD in any manner.

*Infrastructure and Division staff involved in managing Construction, Professional Services, Design, and Engineering Contracts should refer to Infrastructure contract management procedures for additional guidelines.

OVERVIEW OF CONTRACT MANAGEMENT

Contract Management Responsibilities

- Participate in Developing the Solicitation and Writing the Draft Statement of Work, Identifying Specifications and Deliverables to be required, Identify Needs unique to the contract that may require Special Terms and Conditions and other Contract Documents.
- Determe during the Solicitation Development if the Contractor's Compensation Structure is appropriate for the work.
- Serve as the Point of Contact for Disseminating Instructions regarding the Work to the Contractor.
- Receive and Responding to Communication between TPWD and the Contractor.
- Manage, Document and Ensure Appropriate Approval of Changes to the Contract.
- Manage State Property used in Contract Performance. e.g., computers, capital equipment, supplies, telephones, etc.
- Identify and resolve disputes with Contractor(s) in a timely manner.
- Implement a Quality Control/Assurance Process.
- Maintain-Appropriate Records.
- Document Significant Events.
- Monitor the Contractor's Progress and Performance to ensure goods and services conform to the contract requirements.
- Exercise State Remedies, as appropriate, when a Contractor's performance is deficient.
- Monitor the Budgeting and Accounting Process to ensure sufficient funds are available.
- Verify Accuracy of Invoices and Authorize Payments consistent with the contract terms.
- Perform Contract Closeout Process, ensuring the Contract File contains all necessary Contract Documentation, Formal Acceptance is documented, and Lessons Learned are documented.

Contract Management and Oversight Include Seven (7) General Processes

- Planning
- Monitoring Performance
- Change Management
- Payment Approval
- Dispute Resolution
- Records Management
- Contract Closeout

WHAT IS MY ROLE?

Contract Management refers to the entire contracting process from planning to closeout. This includes tracking tasks: monitoring vendor performance, invoice payment processing, negotiating amendments, assessing penalties, and updating contract data. At TPWD, the Procurement and Contracts Section Staff, Legal, Program Area and the Historically Underutilized Business (HUB) staff, if applicable, work together during the planning phase for a solicitation and/or contract development. Once the contract has been awarded, it is the responsibility of the Program Area in conjunction with the designated Contract Manager to administer the contract.

ROLES AND RESPONSIBILITIES

1. **Administrative Resources Purchasing and Contracting Department (AR P&C) and/or Infrastructure Contracting Department (Infra Contracting)**
   a. Facilitate and provide technical assistance on state procurement law, agency policies and procures, and contract options for the Agency;
   b. Work with Program Areas and Legal to create procurement documents such as solicitations and contracts;
   c. Create and maintain official procurement file (hard copy and/or TPWD Financial System);
   d. Process contract amendments and change requests;
   e. Review and approve change orders, work orders and task orders documentation (Construction Projects);
   f. Ensure Program Area provide vendor performance documentation (Contracts over $25,000);
   g. Enter vendor performance evaluations into Texas Comptroller of Public Accounts (CPA) portal in accordance with Texas Government Code (TGC) 2155. *Please note that Infrastructure Construction Contracts are exempt from this requirement per TGC 2166.003*;
   h. Coordinate Legal review and approval of contracts, insurance, and bonding requirements;
   i. Publish and report contract information to the public and state oversight agencies;
   j. Provide training on procurement requirements and contract management functions to the Agency;
   k. Work with Legal to determine risk factors during the solicitation process and appropriate methods to manage risk during the term of the contract;
   l. Provide guidance to Program Area during the solicitation process through contract close out.

2. **HUB**
    a. Review and approve identified, potential Historically Underutilized Business (HUB) subcontracting opportunities for contracts before solicitation;
    b. Attend Pre-Bid conferences and/or provide information for those in attendance to explain the HUB Subcontracting Plan (HSP) requirements and provide additional resources to assist in the HSP process.
    c. Review and approve HSP and HSP Amendments;
    d. Review and Track monthly Prime Assessment Reports (PAR);
    e. Complete Internal and External HUB reports and submission to Executive Management and CPA as required.
3. **Legal**
    a. Provide legal assistance on procurement laws and regulations to AR P&C, Infra Contracting and Program Areas;
    b. Assist in the review and approval of solicitation, contract and amendment templates and documents;
    c. Provide legal support for contract negotiations;
    d. Provide legal assistance for vendor performance concerns, including initiating remedies and defending disputes;
    e. Partner with AR P&C and Infra Contracting to review and approve insurance and bonding requirements;
    f. Partner with AR P&C and Infra Contracting to determine risk factors during the solicitation process and appropriate methods to manage risk during the term of the contract.
4. **Program Area**
    a. **Project Manager**
        i. Be knowledgeable and have understanding of the Contract(s);
        ii. Manage Contractors;
        iii. Manage the operational aspects of the contract;
        iv. Review invoices;
        v. Verify cost(s) are within approved budgets;
        vi. Request contract and budgetary amendments as necessary;
        vii. Request amendments to HSP when necessary;

viii. Complete contractor/vendor performance evaluations and submission to Division Contract Manager;

ix. Notify Division Contract Manager, AR P&C/Infra Contracting and Legal of performance issues and monitor corrective action plans;

x. Perform risk based routine and enhanced monitoring, as appropriate;

xi. Periodically perform risk assessments throughout the life of the contract;

b. Division Contract Manager

i) Be knowledgeable and have understanding of the Contract(s);

ii) Review and process~~es~~ invoices after approval of Project Manager;

iii) Verify costs are within approved budgets;

iv) Request contract and budgetary amendments to AR P&C or Infra Contracting;

v) Request amendments to HSP when necessary;

vi) Work with Program Manager to ensure contractor/vendor performance evaluations are completed and submitted to AR P&C or Infra Contracting;

vii) Notify Legal and AR P&C or Infra Contracting of performance issue(s) and monitor corrective action plans;

viii) Perform risk based routine and enhanced monitoring, as appropriate;

ix) Periodically perform risk assessments throughout the life of the contract;

x) Monitor funding;

xi) Monitor contract budget.

COMMUNICATION

Key factor to a successful contract is communication. It is essential, individuals engaged in contract management activities understand the provisions of the contract, have the ability to communicate contract obligations to all parties involved, and maintain control over the performance of the contract. Good contract management practices include ensuring that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and the financial interests of TPWD are protected.

Individuals engaged in contract management activities must have sufficient knowledge of contracting principles as it relates to their responsibilities in administering the contract. It is the Contractor's responsibility to perform and meet the requirements of the contract. To do so, Contractors sometimes need technical direction and approval from TPWD personnel. Individuals engaged in contract management activities must provide this technical direction and approval in a timely and effective manner established by each Program Area. All guidance provided to a Contractor must be within the scope of the contract. The individuals engaged in contract management activities must be careful to not impose additional requirements upon the Contractor or manage the Contractor's operations to the extent that the Contractor is relieved of their responsibility to perform. It is important to document all communication with your Contractor. If there are unresolved issues, please contact AR P&C, Infra Contracting, and/or Legal for guidance on working with the Contractor on a solution.

ETHICS AND STANDARDS OF CONDUCT

All TPWD employees must act in an ethical, impartial, transparent, and professional manner according to State and TPWD policy. State employees must uphold ethical values when carrying out their official duties. Because TPWD contracts use public funds, it is critical that all involved staff remain independent and free from the perception of impropriety. Any erosion of public trust or hint of impropriety is detrimental to the integrity of the purchasing and contracting process.

State law specifically prohibits employees who participate in the procurement process from having an interest in or receiving benefits from a contract or bid for a purchase of goods or services. Moreover, employees of agencies who perform purchasing functions under delegated authority shall adhere to the same ethical standards as the Comptroller's employees, and shall avoid all conflict of interest in their purchasing activities. TPWD's purchasing staff as well as Executive Management annually certify compliance with these provisions on a Conflict of Interest form, which is maintained by AR P&C.

To ensure the integrity of TPWD's procurement processes, TPWD employees who are involved in the development, award and management of contracts with private vendors must disclose any known or potential conflicts of interests. An employee may not work on a contract knowing that the employee, or member of the employee's immediate family, has an actual or potential financial interest in the contract, including but not limited to, prospective employment. The term "participate" includes, but is not limited to, decision making, approval, disapproval, recommendation, giving advice, investigation or similar action.

Additionally, state law prohibits contracts with private vendors for goods and services where certain agency officials have a financial interest. Accordingly, TPWD's Commissioners, Executive Director, General Counsel and Chief Procurement Officer will review and disclose any known financial interests with the agency's private vendors on an annual basis and/or as changes to financial interest may occur, to ensure that the agency does not contract with those vendors.

TPWD ETHICS POLICY AND EMPLOYEE CONDUCT

The purpose of the TPWD *Employee Ethics Policy* **HR-08-01** is to ensure that TPWD staff maintains the highest standards of conduct in the performance of their duties. All TPWD staff must be familiar with the ethics policy and comply with it.

ETHICS RULES FOR AGENCY STAFF INVOLVED IN CONTRACTING

All TPWD agency staff involved in procurement and contracting activities must act in the best interest of the state and avoid any activity that could potentially impair their ability to carry out their duties with independence and objectivity. Failing to abide by these rules or to disclose a potential conflict of interest could result in dismissal.

STATE EMPLOYEE CONFLICT OF INTEREST

TPWD staff may not accept anything, regardless of value, from contractors or prospective contractors. A contractor or potential contractor must not offer, give, or agree to give an employee anything of value. The solicitation or acceptance of a benefit from a person or entity that a state employee knows is interested in, or may become interested in, a contract, purchase, or payment, is also prohibited.

As required by TGC Section 572.069, state employees are prohibited from accepting employment from a person or entity for two years after leaving employment with the state, if the employee participated on behalf of the agency in a procurement or contract negotiation involving that person or entity.

CONTRACTOR CONFLICT OF INTEREST

Statute prohibits agencies from entering into employment, professional services, or consulting services contracts with former or retired employees before the first anniversary of the last date on which the individual was employed by the agency.

TPWD contract terms and conditions must contain provisions related to organizational conflicts of interest, restrictions on recruitment of state employees, and kick-backs, such as:

Respondents must:

- Disclose any current, former, or proposed employees who are current or former employees of the state;
- Disclose proposed personnel who are related to current or former employees of the state;
- Warrant that providing services will not constitute an actual or potential conflict of interest nor reasonably create the appearance of impropriety; and
- Warrant that they have not given, nor intend to give, any gift or thing of value to employees participating in the solicitation.

TPWD AND CONTRACTOR RELATIONSHIP

While TPWD employees and contract managers must fulfill their responsibilities, contractors must in turn fulfill their contractual obligations. Maintaining cooperative relationships with contractors is important to successful contracting outcomes. However, TPWD employees must maintain an ethical arms-length business relationship with contactors.

REPORTING ETHICAL VIOLATIONS

The AR P&C, Infra Contracting, and Legal are available to consult and assist with any ethical issues or concerns at any time during the procurement or management of the contract.

All TPWD staff have a duty to report any potential ethics or standard of conduct violations to the Director of Human Resources. A contract manager has an obligation to remain vigilant for signs of potential violations of ethics rules, policies, and standards of conduct. A contract manager must use the following options for reporting and investigating known, alleged, or suspected fraud or other illegal activities in the Agency.

- TPWD employees shall report any potential or known ethical or standard of conduct violations to their immediate supervisor. Contact may be verbal or written and may be made by anyone having knowledge.
- The supervisor must report all allegations to the Human Resources Department for a preliminary review and determination as to the necessity for proceeding with an investigation of the reported fraud or illegal activity.
- The Human Resources Department may consult with General Counsel, Internal Affairs and any other agency staff as appropriate for advice and assistance.

PLANNING

Planning is important to a successful contract. A successful contract is one where the contract is satisfactorily performed and the responsibilities of all parties are completed by the end of the contract. That success starts with the initial plan for the contract and a draft statement of work.

The initial statement of work is a clear description of the goods and services that TPWD will require the Contractor to deliver, the acceptability standards for those goods and services, the delivery dates, and the cost of those goods and services. The statement of work ultimately becomes the roadmap for managing the awarded contract. Thus, the individual(s) that will be responsible for managing the contract are important partners in the development of a good statement of work. By participating in planning, the individual(s) responsible for managing a contract know and understand the contract provisions, can communicate those contract obligations to the Contractor and maintain appropriate oversight and control over the contract performance.

STATEMENT OF WORK (SOW)

Statement of Work (SOW) is a detailed description of what is required of the Contractor to satisfactorily perform the work. The success or failure of a contract can usually be linked to the adequacy of the planning, analysis and thoroughness of the statement of work. Time spent planning, analyzing, and drafting the SOW will result in saving time, resources, money and will improve the quality of the goods or services provided.

An important tool in effective contract management is a clearly written and sufficiently detailed statement of work. The statement of work (SOW) is the detailed description of what the agency is purchasing and what the contractor is required to provide in order to satisfactorily perform the work.

General Considerations

It is recommended that the statement of work**:**

- Be designed to secure the best value for the state;
- Be clearly defined;
- Be contractually sound;

- Be unbiased and non-prejudiced toward respondents;
- Encourage innovative solutions to the requirements described, if appropriate; and,
- Allow for free and open competition to the maximum extent reasonably possible.

Organization of the Statement of Work

The statement of work and all deliverables should include:

- A clear description of the work.
- An unambiguous standard for performance.
- A method/process to monitor progress on delivery of the good/service.
- A delivery date for the work
- Explicit test conditions, method or procedure to verify that the deliverable meets the performance standard.
- A method or process to monitor and/or ensure quality in the deliverable.
- An acceptance process for each deliverable.
- A compensation structure that is consistent with the type and value of work performed.
- A contractual remedy, if appropriate.

The statement of work should provide a clear and thorough description of the goods or services to be provided. In certain types of procurements, it may be critical to describe the existing business processes. If the existing business process will change as a result of the procurement, then also describe what the business process will be after the procurement objectives are completed.

Elements of the Statement of Work

The following elements of a statement of work will help ensure you get the most value from the SOW:

- Elements of a Deliverable
- Contract Term
- Historically Underutilized Business (HUB) Requirements
- Payment Types
- Define the Agency's Role
- Quantity
- Quality
- Established Standards
- Contractor Qualifications
- Bonding Requirements
- Evaluation Criteria
- Best Value Considerations
- Proposal Submission Requirements
- Monitoring
- Reporting

- Inspection and Testing
- Financial Acceptance and required documentation
- Open to allow maximum competition

Additional Things to Consider When Writing the SOW

Listed below are additional issues to consider when writing the statement of work:

- Licenses or permits required
- Use of state agency equipment
- Storage space for Contractor materials/supplies
- Intellectual property/copyright issues
- Subcontractor requirements
- Insurance requirements
- Conflict of interests/organizational restrictions

The statement of work answers who, what, when, where, why and how. If those questions are answered, it is a reasonable assumption that the SOW is complete.

TYPES OF SOLICITATIONS AND CONTRACTS

Solicitation:

A solicitation is a document requesting submittal of bids or proposals for goods or services in accordance with the advertised specifications. When state entities have goods or services contract opportunities over $25, 000.00, they must advertise the solicitation on the Electronic State Business Daily (ESBD). For more information on the solicitation process, please review the CPA's Contract Management Guide.

It is important to determine the procurement method as it will be a major factor in the planning process. For example, the procurement lead time for an Invitation for Bid and a Request for Proposal differ significantly. The different types of solicitations are listed below:

Invitation for Bids (IFB)

The IFB uses the competitive sealed bid method. This method is used when the requirements are clearly defined, negotiations are not necessary and price is the major determining factor for selection. Best value considerations can also be used with the IFB method. This method shall be used when lots of competition exists, and the product or service is available from more than one source.

Advantage: Award process is simpler, and award is made to the lowest responsive, responsible bidder meeting the bid qualifications. This provides the best value to the state.

Disadvantage: Defined specifications may be difficult to develop and does not encourage innovative solutions.

Planning/Management: When developing the IFB solicitation document, think about the following:

- What are the minimum qualifications or criteria for the vendor, i.e. number of years of experience or experience with this type of work in the past?
- Are there any other best value or preferences that would be used in the solicitation?
- Are there any deliverables? What is the format of the deliverable?
- How do you want to be invoiced for the work?
- How are you going to monitor your contract or purchase order?
- What performance measures will be used in the contract or purchase order to know if the contract or purchase order was successful?

Request for Information (RFI)

Requests for Information are used primarily as a planning tool. The RFI is an optional method that may be used to gather information in order to prepare a complete and accurate solicitation document when the agency does not have the necessary information needed. RFI's are used to identify industry standards, best practices, potential performance measures, cost or price structures, or to generally ascertain the level of interest of prospective respondents. A preliminary solicitation document which provides an initial description of the program objectives and specifications usually accompanies an RFI for review by potential respondents. TPWD may use the information derived from the responses to finalize their solicitation document. However, TPWD is not required to incorporate the comments or suggestions made by the respondents to the RFI, but the hope is that the respondents to the RFI will provide useful information in the development of a new solicitation. Use this method when there is insufficient information to write specifications for any procurement method.

Advantages: Provides information to prepare a complete bid or proposal document that allows the business community to have input into the agency's solicitation document based on current industry practices and market factors and informs the agency of any potential problems early in the procurement.

Disadvantages: Lengthens the procurement process because a contract cannot be awarded from an RFI.

Planning/Management: When creating an RFI, think about the following:

What is the final result of the project?

Do you want a software program that produces a particular report with certain criteria?
Do you want a contract in place that allows your program area to meet a Legislative requirement?

What information do you want to gather?

Pricing
Technical Approach
Interest

Request for Offer (RFO)

Generally used for IT Commodity Purchases exempt from the DIR's Cooperative (Co-op) Contracts program. The process is generally the same as the RFP process. Request for Offer purchases include the purchase of automated information systems and are covered under Texas Administrative Code (TAC), Title 34, §20.391. Use when factors other than price are evaluated. When negotiations are desired and/or vendor is expected to provide innovative ideas.

Advantages: Allows factors other than price to be considered, allows for customized proposals suggesting different approaches to the same business need and allows for negotiation in order to obtain the best value to the state.

Disadvantages: Lead times for procurement are much greater. Evaluations are more complex and subjective

Planning/Management: An RFO has an inherent higher risk than most solicitations. When creating an RFO, think about the following:

What is the final result of the project?

Do you want a software program that produces a particular report?
What information must be used to obtain the final product?

Can the project be done in phases?

What are the acceptance criteria?

What is the change management process?

What is the communication plan?

Are there reporting requirements?

Are there any deliverables?

What is the format of the deliverables?

How do you want to be invoiced for the work?

How are you going to monitor your contract's performance?

What are the performance measures to be used during the contract to know if the contract was successful?

Request for Proposal (RFP)

Used when competitive sealed bidding (IFB) is not practicable or advantageous. Generally this is when factors other than price are to be considered. One of the key differences between an IFB and an RFP is that negotiations are allowed in an RFP and not allowed in the IFB. Discussions are allowed with the respondents and best and final offers may be solicited, unless otherwise exempted. Agencies may need to submit their RFPs to CPA for review prior to solicitation which would add additional time in the procurement process. Use when factors other than price are evaluated or when negotiations are desired and/or vendor is expected to provide innovative ideas.

Advantages: Allows factors other than price to be considered, allows for customized proposals suggesting different approaches to the same business need and allows for negotiations in order to obtain the best value for the state.

Disadvantages: Lead times for procurement are much greater. Evaluations are more complex and subjective.

Planning/Management: When creating an RFP, think about the following:

What is your change management process?

What is your communication plan?

Are there reporting requirements?

Are there any deliverables?

What is the format of the deliverable?

How do you want to be invoiced for the work?

And how do you know what has been invoiced, has met acceptance and performance criteria?

Do you need a special condition for adding like and similar work?

How are you going to monitor your contract performance?

What are the performance measures that are going to be used in the contract to know if the contract was a success?

What are the risks in this contract and how can you mitigate them?

Request for Qualifications (RFQ)

Generally used only by Infra Contracting for Professional Services, to include but not limited to, Architect, Land Surveyor, and Professional Engineer, wherein the respondents are evaluated based solely on their qualifications. Price is not considered until after selection is made based on qualifications. Professional Services are covered under TGC§2254. Use when selection is made solely on the skills and qualifications of the Firm.

Advantages: Emphasizes the competency of the proposed Contractors.

Disadvantages: Contractor is selected before a price is negotiated.

Planning/Management: When creating an RFQ, think about the following:

What documentation do you need to evaluate to know if the company is well qualified?

Financial Statement

Key Personnel Resumes

Copies of licenses or certificates

References

Past Performance/representative projects

Proprietary Contract

Proprietary product or service is one that is manufactured or offered under exclusive rights of ownership, including right under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic that is not shared or provided by competing or similar products or services. A sole source product or service is available through only one source or vendor.

A justification for a proprietary purchase signed by the Purchasing Director is required when an agency needs to purchase a non-state contract item costing $5,000 or more and the specification limits consideration to one manufacturer, one product that may be available from many sources, or one service provider.

Proprietary products or services are not exempt from the competitive bid process. Normal purchasing rules apply.

Emergency Contract

Emergencies occur as the result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises in which compliance with normal procurement practice is impracticable or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to the state. Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies should be made as competitive as possible under the circumstances. If an emergency exists, a written determination of the basis for the emergency and for the selection of a particular vendor shall be included in the procurement file in accordance with this section. Emergency purchases of goods or services should not exceed the scope or duration of the emergency. If this type of situation arises, a justification for emergency purchase must be submitted to the appropriate Division Director and signed by the Purchasing Director. Refer to CPA's Procurement Manual, Section 2.12 and TPWD Purchasing and Contracting Policy BF-07-02.

Blanket Contract

TPWD uses blanket contracts frequently. They are a good tool if you will be doing a lot of the tasks with the same Contractor over a long period of time. A Blanket contract commits the Contractor to TPWD without obligating any funds until a purchase order or amendment to add an individual project is issued. Under a blanket contract, work cannot begin (except for development of a work plan in response to the request for quote for an individual project) until a Notice to Proceed (NTP), Purchase Order, or Amendment to add the individual project to the contract has been issued.

Post-Award Conference

Once the contract has been awarded, it is recommended that the contract manager schedule a post award conference. A post award conference is a meeting of the TPWD and the Contractor's contract and project managers who are responsible for administering the contract to help plan the execution of the contract. The list of individuals may include the contract administrator, the project manager(s), key personnel, individuals who create or submit invoices, administrative staff. The conference serves as an excellent tool to review expectations, affirm communication plans, and resolve any potential misunderstandings early on.

Not every contract requires a formal in-person post award conference. For less complex, low risk, low-dollar value contracts, a telephone call to the Contractor may be sufficient. During the telephone conversation, TPWD should review the major points of the contract with the Contractor (e.g.; amount of contract, major performance milestones, deliverables, reports, meetings) and time and place of delivery.

Factors used to determine the need for a post award conference include:

- Type of contract
- Level of risk associated with the contract
- Contract value and complexity
- Length of contract, period of performance and/or delivery requirements
- Procurement history of the supplies or services required and expertise of the Contractor
- Urgency of delivery schedule
- TPWD's prior experience with the Contractor
- Any special or unusual contract requirements
- Any special or unusual payment requirements

POST AWARD CONFERENCE AGENDA:

The purpose of this meeting is to review and explain contract requirements, confirm deliverables and dates, and other important details for successful performance under the contract. The post award conference is not an opportunity to renegotiate the contract. A typical post award conference agenda may include the following:

1. **Introduction**: Introduce all participants and identify TPWD and Contractor key personnel.

2. **Scope:** Discuss the scope of the contract (i.e., what TPWD is buying). Although this may seem overly simplistic, a total and complete meeting of the minds on this point will avoid problems during the life of the contract.

3. **Terms:** Summarize contract terms and conditions, particularly any special contract provisions. This can avoid any misunderstandings later on, and allows the Contractor to gain a better understanding of the terms prior to beginning work.

4. **Requirements and Deliverables:** Discuss the expected deliverables and schedule, the quality and acceptance standards, and reporting requirements of the contract.

5. **Administration:** Applicable contract management procedures, including contract monitoring and progress measurement should be discussed.

6. **Rights:** The rights and duties of both parties and the Contractor performance evaluation procedures should be reviewed. TPWD should explain that Contractor will be evaluated on their performance both during and at the conclusion of the contract and that such information may be considered in the selection of future contracts.

7. **Potential Obstacles:** Potential contract problem areas and possible solutions should be addressed. Any issues or contract areas that TPWD believes may lead to a problem later on, or may be subject to differing interpretations, should be discussed.

8. **Payment:** Invoicing requirements and payment procedures should be reviewed and clarified, especially if the payment will be made according to milestones achieved by the Contractor.

9. **Authority:** The roles and responsibilities of the parties' contract managers, contract administrators, project managers, key personnel leads, and any other key staff should be identified. TPWD personnel should explain the limits of their authority and obtain the same information regarding Contractor personnel.

After the conference, the TPWD contract manager shall prepare a summary of the meeting for the contract file which details the topics covered. The summary shall include areas requiring resolution, a list of participants, and in particular, those individuals assigned responsibilities for further action and the due dates for those actions. Copies of the meeting summary shall be distributed to all conference participants.

MAJOR SOLICITATION/CONTRACT REQUIREMENTS

Senate Bill 20, 84th Legislature R.S. (2015), enacted several new provisions related to state agency contracting. Specifically New Government Code §2261.254 addresses requirements related to contracts that exceed one million dollars; §2261.255 address requirements related to solicitations with an expected value of $5 million or greater; and §2261.256 which addresses Accountability and Risk Analysis Procedures.

CONTRACTS EXCEEDING $1 MILLION:

In accordance with Government Code §2261.254, the TPWD Executive Director shall sign all contracts and/or amendments with a value of one million dollars or more. This includes competitive solicitations as well as two party contracts.

The AR Purchaser or Infrastructure Contract Manager is responsible for completing *The Major Contract Approval Form* and submitting it along with a copy of the contract and the *Nepotism/Disclosure Statement* for review and signature by appropriate Division Directors, Deputy Executive Director, and Legal before forwarding for the Executive Director's review and approval. By signing the Major *Contract Approval Form* all parties involved in the contract are certifying they have completed the *Nepotism/Disclosure Statement* and have no financial interest in the contracting entity.

The contracting division (AR or Infrastructure) will be responsible for ensuring *The Major Contract Approval Form* and supporting documentation is attached to the PO in the agency financial system and a hard copy is kept in the contract file.

SOLICITATIONS FOR PROJECTS EXPECTING TO EXCEED $5 MILLION:

Government Code §2261.255 requires the AR P&C Director and/or Infrastructure Contract Branch Manager (1) verify in writing that the solicitation and purchasing methods and Contractor selection process comply with state law and agency policy; and (2) submit to the TPWD Commission information on any potential issue that may arise in the solicitation, purchasing, or contractor solicitation process.

The Major Contract Solicitation Form along with a memo outlining potential issues from the contracting division's Procurement Director (AR or Infra) will be forwarded to the General Counsel and Executive Office for approval. Either the TPWD Executive Director or General Counsel will notify the Commission of the upcoming projects and potential risks electronically.

The contracting division (AR or Infrastructure) will be responsible for ensuring *The Major Contract Solicitation Form* potential risks and supporting documentation is submitted to the Commissioners prior to advertising the solicitation. This documentation shall be attached to the PO in the agency financial system and a hard copy is kept in the contract file.

RISK ASSESSMENT AND MONITORING PERFORMANCE

Government Code §2261.256 requires each state agency to develop and comply with a purchasing accountability and risk analysis procedure. To meet this requirement the Texas Parks and Wildlife Commission adopted §51.61. Enhanced Contract Monitoring as published in the February 19, 2016 issue of the *Texas Register.*

RISK ASSESSMENT

TPWD must evaluate contracts for the level of risk they present to the State. The purpose of risk assessment is to:

- Strengthen contract management activities in order to mitigate risk;
- Help identify the potential for fraud and abuse;
- Prioritize contract monitoring; and
- Determine TPWD's highest risk contracts.

TPWD CONTRACT RISK ASSESSMENT TOOL:

The *TPWD Contract Risk Assessment Tool* is required for:

All contracts, including Interagency and Interlocal, with a value of $1,000,000 or more.

The contract manager may also determine that a lower dollar contract may be rated as "high risk" due to unique circumstances of a particular solicitation. An example would be a contract that includes health and safety risks of the contractor, Agency employees and/or general public and environmental risks.

Contract Risk assessments are NOT required for:

- Contracts that have a value less than $1,000,000;
- State Term and TXMAS Contracts;
- Memorandums of Understanding or Agreement that have no monetary value;
- Emergency Contracts when time does not allow for an Initial Contract Risk Assessment however, a contract risk assessment and if necessary, contract risk management plan shall be established after contract award.

A contract risk assessment using the *TPWD Contract Risk Assessment Tool* should be conducted before a solicitation is advertised to make a determination about the level, type and amount of management, oversight and resources required to plan and implement the contract from beginning to end. As the risk associated with a particular procurement increases, the level and degree of executive management's sponsorship, participation and oversight should be increased by a corresponding level. A high risk contract such as an outsourcing project or software development procurements should involve significant executive management sponsorship, participation and oversight. A low risk contract, such as routine purchases of goods or services does not typically require the participation or sponsorship of agency executive management.

By assessing risk and allocating resources to monitor accordingly, TPWD can more effectively focus limited resources on contracts that pose the highest risk to the State. A risk-based approach does not mean lower risk contracts are not monitored; rather more complex or higher risk contracts may receive more frequent or in-depth monitoring.

CONTRACT RISK MANAGEMENT PLAN:

Upon award of a contract for a solicitation that was identified as high risk using the *TPWD Contract Risk Assessment Tool*, the contract manager working with the Core Project Team and project sponsors shall establish a Contract Risk Management Plan.

This Contract Risk Management Plan defines how risks associated with the contract will be identified, analyzed, and managed. It outlines how contract risk management activities will be performed, recorded, and monitored throughout the lifecycle of the contract and provides templates and practices for recording and prioritizing risks by the Risk Manager and/or Risk Management Team.

Risk must be assessed on an ongoing basis in order to identify and account for changes that require an adjustment in the prioritization of contract monitoring activities.

Roles and Responsibilities:

Role	Responsibilities
Core Project Team	The Core Project Team is responsible for identifying the contract risks, the dependencies of the risk within the project, the context and consequence of the risk. They are also responsible for determining the impact, timing, and priority of the risk as well as formulating the contract risk statements.
Risk Manager or Project Manager (PM)	The Risk Manager or PM is a member of the Core Project Team. The Risk Manager or PM determines if the Contract Risk is unique, identifies risk interdependencies across contracts, and verifies if risk is internal or external to project. During the life of the contract, they continually monitor the project for potential risks.
Contract Manager	Coordinates Contract Risk Management and Reporting requirements with the Project Manager, Core Project Team, Procurement Staff, and Legal, as appropriate. The Contract Manager is responsible for ensuring all relevant parties are kept apprised of contract risks and notified immediately if additional monitoring or intervention is needed to reduce or eliminate a risk.
Risk Owner(s)	The risk owner determines which contract risks require mitigation and contingency plans; he/she generates the risk mitigation and contingency strategies. The risk owner is responsible for monitoring and controlling and providing updates to the Contract Manager concerning the status of the risk throughout the contract lifecycle. The risk owner can be a member of the project team.
Other Key Stakeholders	The other stakeholders assist in identifying and determining the context, consequence, impact, timing, and priority of the risk.

CONTRACT MONITORING

All TPWD contracts must be monitored to verify that the contractor is performing effectively and efficiently in accordance with contract terms and conditions. Contract monitoring includes planned, ongoing, periodic, or unscheduled activities that measure and ensure compliance with the terms, conditions, acquisition, service delivery, and related requirements of a contract. Contract monitoring is the systematic review of a contractor's records, deliverables, and activities to ensure compliance with the terms and conditions of the contract.

The goal of contract monitoring is to ensure delivery of quality goods and/or services, and protect the financial interest of the State by:

- Determining compliance with the terms and conditions of the contract, including applicable state and federal regulations;
- Providing feedback and technical assistance to prevent non-compliance;
- Appropriately responding to non-compliance issues;
- Evaluating system and process controls to ensure reliable validation of service deliverables; and
- Assessing and evaluating progress towards successful completion of performance requirements and outcomes.

Contract monitoring activities can be conducted in a variety of ways, as long as they are objective, address contract complexity, value, and risk and are documented in the contract record.

Some common monitoring areas are:

- Invoices
- Deliverables
- Contractor Performance
- Close-out Documentation

Invoices

In addition to agency standard forms, each Program Area should develop an invoice review and approval procedure that includes the solicitation and/or contract document. Samples of program specific procedures are included in Appendix 3.

Deliverables

For the deliverables identified in your contract, you will want to monitor the deliverable due dates, the configuration or formatting of the deliverable, and the established frequency, quantity, and quality of the deliverable.

Was your deliverable complete? Did the deliverable meet the established acceptance criteria?

Contractor Performance

An established communication plan will help ensure a successful contract. Following the communication plan allows both parties to maintain current awareness of whether the Contractor is on schedule with meeting the deliverables. The Contractor's ability to follow that plan is part of their performance. Do not wait until the end of a contract term before addressing any unresolved issues. AR P&C, Infra Contracting and Legal are available to assist when the Contractor's performance is not meeting expectations. The Program Area will complete a vendor performance evaluation at renewal of a contract as well as at the end of the contract. Some Program Areas conduct interim vendor performance evaluations as a means of enhanced contract monitoring.

MONITORING METHODS

Desk Review:

Typically these are reviews of reports submitted by the Contractor to TPWD. Examples of the types of review are as follows:

- Compare the actual performance against the contract requirements. Is the Contractor performing in accordance with the contract requirements?
- Compare actual expenditures to the approved budget. Is the Contractor following their approved budget plan?
- Compare the current period to prior periods. Are there any unexplained trends? Is the Contractor performing work significantly different from the last period or the last year?
- Compare what the current Contractor is doing in comparison with other Contractors performing similar work.

- Compare the relationships between key components of the report such as:

  The cost per unit of service or the percentage of the fees charged to the program;

  The change in variable costs compared to the units of service provided; and

  Reported salaries match staffing plan.

Documentation of your findings are maintained in the Program Area contract or project files. Where needed, address corrective actions with your management and the Contractor.

Expenditure Document Review:

These are reviews of Contractor invoices and expenditure draw requests to determine if the rates and services are the same as allowed by the contract. Determine if the supporting documents such as cost reports, third party receipts for expenses, detailed client information, etc. adequately support the request for payment. If the Contractor consistently provides incorrect invoices and/or the supporting document is insufficient to support the request, then additional monitoring such as an on-site visit may be necessary.

Site Visit:

Site visits are typically scheduled visits to the Contractor's place of business. They are based on risk assessment and can cover a broad range of contract compliance or specific performance issues.

Examples of some typical reasons for considering a site visit include, but are not limited to:

- Contractor is responsible for administering funds from two sources and one source has noted serious problems with the way the Contractor used the funds.
- Other Contractors have experienced problems in a specific area and there is an indication that this Contractor might be experiencing the same problem.
- Inconsistencies in the expenditure draw requests are identified and clarification from source documents is necessary.
- Contractor has provided a corrective action plan for a problem, but the agency is not certain that the proposed solution is being adhered to or will resolve the problem.
- A Contractor's employee files a complaint about wages.

Documentation of your findings and site visit report should be maintained in the Program Area's contract/project files and reported in accordance with internal procedures.

Using Monitoring Review Results:

Measures that may follow monitoring reviews and site visits may include:

- Developing and implementing corrective actions plans
- Identifying common problem areas that might require a revised communication plan or training
- Actions to improve future contracts.

The goal of these measures is to bring the Contractor back into compliance with the contract requirements. Follow up is essential as the problem will not correct itself simply by identifying it and including it in the monitoring report.

Monitoring results should also be used to improve the contract requirements for future contracts. If there are unnecessary restrictions or insufficient controls, this is the time to make a note of the recommended changes so future contracts can incorporate the changes.

Enhanced Monitoring

Enhanced monitoring is an increased level of monitoring, which may include, but is not limited to: scheduled or more frequent Contractor meetings, increased reviews or site visits, and specific documentation requirements. Enhanced monitoring is designed to assess the Contractor's progress toward and ability to successfully complete the contract.

Criteria for Enhanced Monitoring

Some contracts inherently call for enhanced monitoring due to the type of work that is being performed. These types of contracts could include, but are not limited to:

- Time and material contracts
- Emergency response contracts
- Information technology contracts
- Federally funded contracts
- Umbrella contracts where the risk lies within each of the work orders associated with the contract

Enhanced monitoring may be required from the outset when there are high risk factors, such as:

- The contract's initial value is $1,000,000.00 or more, or otherwise defined as a "major contract"

- Risk factors such as inexperienced contract or project managers within TPWD or the Contractor
- New work that TPWD has not purchased via a contract before
- The Contractor is new to the industry and/or to TPWD
- TPWD is outsourcing a program or function to a contractor

Enhanced monitoring may be triggered by:

- Requests to modify the work, schedule or costs
- Past performance history under a similar contract
- Recurring performance issues with current Contractor
- Budget issues, such as progress payment invoice was higher than expected
- Wage compliance issues

Different Ways to Perform Enhanced Monitoring

Enhanced contract monitoring may include:

- A more detailed communication plan with the Contractor with a formal escalation procedure to address issues
- Additional documentation requirements with invoices, such as labor costs or specifying certain receipts for expenses like equipment or travel
- Review of the Contractor's procedures for complying with HUB requirements
- More frequent reporting of work initiated, progress and completed
- More frequent desk reviews or site visits
- Detailed training or refresher training on procedures
- Real time reporting of work initiated and completed to assist with verifying later submitted invoices
- Sending the contract or project manager to be onsite while work is being performed to observe adherence to contract terms and Contractor's procedures.

VENDOR/CONTRACTOR PERFORMANCE EVALUATIONS

AR P&C is responsible for reviewing and submitting vendor performance information to the Comptroller of Public Accounts' (CPA) Vendor Performance Tracking System (VPTS) on behalf of TPWD. VPTS reporting is required at contract closeout or termination for all state agency contracts with a total value of $25,000 or more. However, when there are critical performance issues, VPTS reporting is required for all state agency contracts, including those that are less than $25,000. In accordance with TGC 2166 Infrastructure managed Construction projects are exempt from the VPTS requirement. However, they are encouraged to monitor and document vendor performance internally.

The contract manager shall submit the vendor performance report to AR P&C within 45 days of the closeout or termination of all applicable contracts or when there are critical performance issues during the term of a contract. The VPTS report and supporting documentation must be maintained in the contract file. By statute, the CPA must track and evaluate vendor performance based on information reported by state agencies. State agencies must consider performance information and contractor ratings contained in the VPTS when determining whether or not to award a contract to a particular contractor.

The CPA can bar a contractor from participating in state contracts if the contractor has had more than two contracts terminated by the state for unsatisfactory performance during the preceding three years. Vendors have the opportunity to protest unfavorable performance. For more information, see: CPA VPTS webpage.

Payment Approval

ARE WE RECEIVING WHAT WE PAID FOR?

The costs incurred by the contractor should be in accordance with the contract rate schedule. Invoices should be reviewed to ensure that the contractor's billing coincides with the contract's progress. This requires that the contractor's progress be measurable. Just because the Contractor incurred a cost and/or submitted an invoice is not a sufficient indicator of the Contractor's progress or that the charges should be paid.

Invoices must be approved by Program Area staff prior to payment. Payments must be made in accordance with the Texas Prompt Payment Act, which requires that correct invoices be paid within 30 days from the date the correct invoice was received or the services/goods received, whichever is later. When monitoring invoices, make sure the invoice is the format described in the contract. Also, verify you are receiving the invoices by the due dates outlined in the contract.

The invoice should be reviewed to ensure:

- The contractor is billing only for goods or services received by the agency
- The goods or services have been inspected and accepted
- The invoice is correct and complies with the pricing, terms, and conditions of the contract
- The total payments do not exceed the contract limits

UNDERSTANDING PAYMENT TERMS AND RATES

If you have been tasked to track, approve, or process invoices for a contract, it is important that you read the contract to understand:

- The frequency of when the Contractor will be invoicing TPWD
- How will Contractor invoice TPWD
- What format should the invoice be submitted
- What supporting documents are required
- Was the invoice received in a timely manner?
- What are the pay rates
- What are the pay items and deliverables

- What is the acceptance criteria for pay items and deliverables
- Who is responsible for approving pay items and deliverables
- What is the policy on changes to the contract terms
- If a pay item is eligible for payment
- Is there a process for disputing an invoice outlined in the contract

HOW TO READ THE INVOICE

When you receive an invoice, it will be important that you compare what TPWD is being invoiced against the deliverables and tasks that are outlined in the contract. If it is a deliverable or a report, was the deliverable or report approved and accepted? Do you have documentation stating that the deliverable or report was approved and accepted? Do the charges on the invoice match the pay rates listed in the contract?

If you have an issue with a contract or questions about a line item, be sure to know who you should go to for clarification. Be sure that you and the Contractor understand the procedure for disputing an invoice. This should be a topic at your post award conference meeting where you and the Contractor both agree to the invoicing process.

BUDGET

In addition to monitoring invoice pay items and pay rates, it is also important that when approving an invoice, you are also monitoring the contract budget. This is especially important if you are responsible for processing progress payments.

If the contractor or project manager believes that the requested payment exceeds the contractor's progress, an explanation should be requested from the contractor prior to approval of the invoice. Payment should be withheld pending TPWD's contract or project manager's satisfaction with the contractor's progress. For example, if the Contract is invoicing you on 50% of the total project, check to make sure you have received 50% of the deliverables. Does the project timeline and project budget match to the amount that is being invoiced? Are appropriate retainages being withheld?

CHANGE MANAGEMENT

Throughout the term of the contract it may become necessary to make changes to the contract. These changes can be minor, administrative changes such as a change of address, or they can be substantial changes that affect the price and delivery. The terms and conditions in the original contract set forth the criteria under which a contract manager may exercise a right to modify the contract.

Failure to manage and control changes can result in an unintentional modification to the scope of work, extension of the schedule, increase in the contract cost, circumvention of management controls and diminished contractor accountability.

An effective change management process includes but is not limited to:

- Formal, written approval of all changes prior to the change taking place. Do not verbally authorize the vendor to begin working on a change before the formal process is fully analyzed, documented and approved in writing.
- Document who will be approving changes. This process should be discussed and documented at the post-award conference.
- Evaluation of the impact of each change to the contracting objective, the corresponding deliverable and/or products, the schedule, cost, and increase in program area budget resulting from the change, impact to work in progress/completed work, standards, and acceptance criteria.
- Documentation of all changes, no matter how small. Do not allow any informal undocumented change to be implemented.
- Establishment of a single point of contact to recommend or authorize any change. This is usually a contract manger or project manager.
- Documented approval or disapproval for all changes. For approved changes, documented impact to the scope of work through a contract amendment or purchase order change notice, whichever is applicable

ADMINISTRATIVE CHANGES:

These are changes that are within the scope of the contract and do not affect or alter the rights of the parties. These may also include notices of contract interpretations or clarifications. These changes may be executed via a unilateral amendment, if stated in the original contract.

Examples of administrative changes include:

- Changes in billing instructions or address;
- Corrections of typographical errors not affecting the substance of the contract;
- Changes as permitted by the specific contract language;
- Changes in agency personnel assigned to the contract.

SUBSTANTIVE CHANGES:

These are contractual changes that affect the rights of both parties. Such changes generally require bilateral amendments (agreement by both parties).

Examples of substantive changes include:

- Change in the price of the contract
- Change in the delivery schedule
- Change in the quantity
- Change in or nature of deliverables (i.e. the specifications)
- Change of key personnel
- Change of any terms and conditions

CONTRACT CHANGES AND SOLICITATIONS:

Whether or not a contract may be changed, depends upon certain principles. State law requires a competitive process in most situations. The specific method of competition depends upon the type of goods or services needed. If competitively solicited, the resulting contract must be consistent with what was asked for during the competition. This information is contained in the solicitation document. Inconsistency with the solicitation document can violate the competitive process requirements and possibly render the solicitation and/or any awarded contracts as null and void.

If a change is needed to a contract, the change has to be within the scope, or range, of what was provided in the solicitation. A significant change in the scope of services would not be allowed because the change was not subsequently subject to fair competition.

A proposed change which alters the solicitation specifications after receipt of responses denies an opportunity for others to participate in the solicitation. Therefore, any contract amendments are required to be within the scope of the original contract and the competitive process underlying the original contract.

Dispute Resolution

UNDERSTANDING DISPUTE RESOLUTION

Effective dispute resolution is essential to successful contract management. The goal of any dispute resolution process is to resolve problems at the lowest level and as promptly as possible to keep the contract on a successful path. Many concerns can be resolved with good communication and informal tools. Formal contract remedies may be enforced when disputes cannot be resolved. Termination is the last resort in resolving contract disputes. A contract termination is a failure by BOTH parties to a contract.

DISPUTE RESOLUTION PROCESS

- Identify the concern. Gather information to clarify the issues.
- Specify the contract requirement or term that supports the concern
- Notify the Contractor of the issues in accordance with the established communication plan.
- Request a response from the Contractor. Be specific about the type of response that may be needed (either action or correspondence) and set a reasonable deadline.

You may need to communicate several times or use different methods to fully identify the issue and fully inform the Contractor. You may progress through phone calls, emails, formal demand letters and in-person meetings to escalate both attention and importance to the issue. It is important to note that as you escalate an issue with the contractor, that you also escalate the issue through the management chain of both TPWD and the Contractor's company. In addition, it is important to notify TPWD Legal and AR P&C Director or Infrastructure Contracting Branch Manager of the unresolved issues.

CONTRACT RECORDS RENTENTION

In accordance with the TGC Section 441.1855, all awarded contract documents must be retained for a minimum of seven years after a contract is complete (expired, terminated, or otherwise closed) or the last action related to the contract is resolved, whichever is later.

The CPA Contract Management Guide has specified certain records to be maintained as procurement records. AR P&C and/or Infra Contracting is responsible for creating and maintaining the official procurement file for TPWD. The program areas are also responsible for maintaining certain records for contracts managed by the Program Area.

The following procurement records are located in the AR P&C or Infra Contracting as well as an electronic copy saved to the TPWD Financial System:

- Executed contract and all amendments and change requests
- The solicitation document and list of Contractor submittal requirements
- The Contractor’s responses and evaluation determinations
- Best and final offer correspondence and responses
- Ethics related forms such as the Non-Disclosure and Nepotism forms
- work order requests, work plans and work order notice to proceed, if applicable
- all notices to proceed, to stop work, or to correct deficiencies
- Correspondence and corrective action plans that were issued to the vendor
- Vendor performance evaluations, along with any correspondence and corrective action plans that were issued to the vendor

The following will be found in the Contract File:

- A copy of all specifications, drawings or manuals incorporated into the contract by reference
- A list of all information furnished to the Contractor, or copies thereof
- A schedule of compliance review, if applicable
- all Contractor invoices, including backup documentation required to be submitted for Contractor payment or progress payment, and any other supporting documentation
  - Some invoices will be maintained in Accounts Payable and are not kept in the contract file

- A copy of all general correspondence related to the contract
- The hard copy or electronic originals of all Contractor data or report submittals
- A copy of all routine reports required by the contract such as progress reports, pricing schedules, approval requests, and inspection reports

TPWD Divisions can develop additional procedures for managing contracts, reviewing and approving invoices, and monitoring contractor performance to best meet their organizational structure, program requirements, and business needs. These procedures should also include how the division will retain their contract files in accordance with the agency's Records Retention Schedule.

Consult with legal and TPWD agency records retention personnel for detailed retention requirements.

CONTRACT CLOSEOUT

The contract close-out process is usually a simple but detailed administrative procedure. The purpose is to verify that both parties to the contract have fulfilled their contractual obligations and there are no responsibilities remaining. In addition, contract close-out is the time to assess the success of the contract and determine if there are any lessons learned for future contracting.

A contract is ready for close out when:

- All deliverables, including reports have been delivered and accepted by the agency. Individuals engaged in contract management activities should compare actual performance against performance measures, goals and objectives to determine whether all required work has been completed.
- All monitoring issues have been resolved.
- All property inventory and ownership issues are resolved including disposition of any equipment or licenses purchased under the contract.
- Final acceptance from the Project/Contract Manager has been received (if applicable).

CONTRACT CLOSEOUT PROCESS

Step 1: Close-out Letter -Process Initiation

When a contract ends, the Program Area initiates the close-out process by issuing a Close-out Letter to the contractor. A sample letter can be found in the Appendix. However, an email from the TPWD project/contract manager will be sufficient. The Close-out letter notifies the vendor that the contract is complete; all deliverables have been received and requests the final invoice.

Step 2: Vendor Performance Form (34 TAC §20.108)

The Comptroller's Office (CPA) is responsible for statewide contracting. Tracking vendor performance is one of the main functions to ensure best value on state contracts. Tracking good and bad vendor performance enables all state agencies to gauge a vendor's ability to handle contract/POs being awarded. Use of the system for all contracts and purchase orders over $25,000 is mandatory pursuant to 34 TAC §20.108. It is also encouraged to submit reports for contracts under $25,000 if there were issues with the contract or if a vendor provides exceptional service.

It is the TPWD project/contract manager's responsibility to complete the form and send it to AR P&C. The completed form must be returned to AR P&C before a contract is renewed and within 45 days from the end date or termination of the contract.

Step 3: Unencumber balance of funds

Program Area and Accounts Payable receive/processes final invoice from vendor. Program Area unencumbers remaining budget

APPENDIX

Appendix 1: DEFINITIONS

COMMON TERMS DEFINED:

Addendum: An addition, change, or supplement to a solicitation document issued prior to the opening date.

Advertise: To make a public announcement of the intention to purchase goods or services.

Amendment: Written addition or change to a contract. See Change Order and Modification

Appropriation: Legislative authorization to expend public funds for a specific purpose.

Assignment: Transfer of contractual rights from one party to another party. This will require an amendment to the Agreement.

Attestation Letter: Letter required by Article IX, Section 7.12, General Appropriations Act for the 2016-17 biennium for contracts valued at $10 million or more or $1 million or more if not competitively awarded.

Best Value: Factors to be considered in determining lowest overall cost and value in making certain purchases. Ref. Texas Government Code, Section 2155.074 (Non-Information Technology Related) and Texas Government Code, Section 2157.003 (Information Technology Related).

Bid: An offer to contract with the state, submitted in response to a bid invitation. Bids are usually non-negotiable.

Bid Opening: The public opening of bids, in which the names of the bidders responding to a bid solicitation and prices of the bidders are publicly read and recorded. See Proposal Opening.

Bid Tabulation: The recording of bids and bid data submitted in response to a solicitation. The bid tabulation is used for comparison, analysis and record keeping.

Bidder: An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees and representatives. See Offeror

Bidders List: A list of potential Contractors who have expressed an interest in doing business with the State of Texas. See Centralized Master Bidders List.

Biennium (State of Texas): A period of 24 consecutive months, beginning on September 1 of each odd numbered year in which the Texas Legislature appropriates funds. Example: September 1, 2015 through August 31, 2017.

BIS: The TPWD Automated System is the automated financial system that is used to manage requisitions, purchase orders, receiving, asset information, payables, budget and GL.

Business days: Any day other than a Saturday, a Sunday, or a day on which State offices are authorized or obligated by law or executive order to be closed.

Centralized Master Bidders List (CMBL): The CMBL is a list maintained by the Texas Comptroller of Public Accounts (CPA) containing the names and addresses of prospective bidders and catalog information systems vendors.

Change Order: A written addition or change to a contract.

Class and item: The classification system from the NIGP Commodity Book that identifies items and services. (State of Texas Contract Management Guide, Glossary of Purchasing Terms)

Consultant: A person that provides or proposes to provide a consulting service.

Consulting Services: Practice of studying and advising a state agency in a manner not involving the traditional employer/employee relationship per Texas Government Code, Section 2254.021 (See Major Consulting Services Contract).

Contract: A written agreement where a Contractor provides goods or services and the agency pays for such goods and services in accordance with the established price, terms and conditions.

Contract Advisory Team (CAT): A team created to assist agencies in improving contract management practices. CAT reviews contracts of $10 million or more. The team consists of six members, one from each of the following offices:

- Health and Human Services Commission;
- Comptroller of Public Accounts (CPA);
- Department of Information Resources;
- Texas Facilities Commission (TFC);
- Office of the Governor; and
- One member from a small state agency per §2262.102 Government Code[xliv].

Contract audit: An independent assessment of a contractor's compliance with financial and performance contract provisions performed in accordance with applicable auditing standards.

Contract Manager: A person who is: 1) employed by a state agency, 2) has significant contract management duties for the state agency as determined by the agency in consultation with the Texas Comptroller of Public Accounts referenced in Texas Government Code, Section 2155.078, and the Commission's rule 113.

Contract period: The period of time beginning with the commencement date or effective date of a contract and ending when the contract expires in accordance with its terms or when it has been terminated. The contract period includes any exercised renewal and extension periods.

Contract record: The complete set of information for a contract, any hard-copy or electronic files, and any contract information contained in other systems. The terms contract record and contract file are used interchangeably throughout this handbook.

Contractor: A business entity or individual that has a contract to provide goods or services to the State of Texas. Used interchangeably with the term "vendor".

Corrective action plan: Specific steps to be taken by a contractor to resolve identified deficiencies and to address concerns that the contracting agency has regarding the contractor's compliance with contract terms or other applicable laws, regulations, and policies. The corrective action plan may also focus on improving contractor performance (as it relates to service delivery, reporting, or financial stability).

Cost allocation: The process of identifying, accumulating, and distributing allowable costs that are allocable to one or more than one cost objective. The cost allocation plan identifies the allocation methodology used for distributing costs to cost objectives in proportion to the benefit received. Cost allocation plans are consistent across funding sources and uniform for the business entity.

Cost plus incentives contract – A contract in which the contractor is reimbursed at cost, but provides incentives to fulfill contract obligations at less than the maximum amount. Although many types of incentives exist, the contract typically contains both a maximum total contract budget to perform the statement of work and a formula that specifies how cost savings will be distributed. The statement of work must be specific enough so that both parties will know when all contract goals have been met. This is another example of a performance based contract as it provides the contractor with an incentive to manage the contract effectively while achieving performance expectations at the lowest cost.

Cost reimbursement contract: A basis of payment in which the contractor is reimbursed for allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed without the approval of the contracting officer.

Desk review: A review of a contractor's service delivery or business operations that takes place away from the contractor's administrative or service delivery sites, using materials collected by or submitted by the contractor. The scope of the review is at the discretion of the contracting agency.

Electronic State Business Daily (ESBD): The electronic marketplace where State of Texas bid opportunities over $25,000 are posted

Emergency: A purchase made when unforeseen and/or a sudden unexpected occurrence creates a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Extension: The continuation of the contract period beyond the contract period specified in the procurement or contract document and processed as an amendment.

Federal award: Federal financial assistance that a non-federal entity receives directly from a federal awarding agency. (2 CFR §200.38)

Fee-for-Service contract: Payment is made based upon an established fee per defined unit of service.

Financial audit: An independent audit to establish the reliability of an entity's financial information by determining whether the information is presented fairly in accordance with recognized criteria and performed in accordance with applicable auditing standards. Financial audits performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) also provide users information regarding the entity's internal controls and compliance with laws, regulations and provisions of contracts and grant agreements as they relate to financial transactions, systems and processes.

Fiscal monitoring: A review of a contractor's financial operations which may include a review of internal controls for program funds in accordance with state and federal requirements, an examination of principles, laws and regulations, and a determination of whether costs are reasonable and necessary to achieve program objectives. This activity is typically conducted by staff involved in program operations.

Fiscal year (State of Texas): A period of 12 consecutive months, beginning September 1 of each year and ending August 31 of the next year.

Fixed price contract: A type of payment that provides for a firm price that cannot be increased during the term of the contract or any subsequent renewal periods. Payments are not affected by contractor actual costs. A contract of this type may include an escalation clause allowing increases in the price in accordance with predetermined timeframes and conditions.

Fixed price incentive contract: A basis of payment that provides for adjusting profit and establishing a final contract price by application of a formula based on the relationship of total final negotiated cost to total target cost. The final price is subject to a price ceiling, negotiated at the outset.

Grant: An award of assistance, including cooperative agreements, in the form of money, equipment, supplies, or other resources paid or furnished by the state or federal government to an eligible grantee to carry out a program in accordance with the terms of the grant award and all applicable state and federal laws, rules, and regulations.

Historically Underutilized Business (HUB): A business in which the owner has a proportionate interest and demonstrates active participation in the control, operation, and management of the business and is a member of a recognized economically disadvantaged group such as Black Americans, Hispanic Americans, women, Asian Pacific Americans, Native Americans, and veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as defined by 38 U.S.C. Section 101(16) as defined by Government Code Chapter 2161.001.

Indirect cost: Costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect cost allocation is one method of cost allocation.

Invitation for Bids (IFB): Procurement process used when the requirements are clearly defined, negotiations are not necessary and price is the major determining factor for selection. The IFB uses the competitive sealed bid method.

Lifecycle costing: A procurement technique which considers operating, maintenance, acquisition price, and other costs of ownership in the award of contracts to ensure that the item acquired will result in the lowest total ownership cost during the time the item's function is required.

Liquidated damages: A specified contract provision which entitles the state to demand a set monetary amount determined to be a fair and equitable repayment to the state for the loss of service due to the vendor's failure to meet the contract requirements.

Local government: A county, municipality, school district, special district, junior college district, or other legally constituted political subdivision of the state.

Major Consulting Services Contract: A consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed $15,000.

Major Contract: A contract that has a value of at least one (1) million dollars during the original term of the contract, not including any renewal periods.

Memorandum of Agreement (MOA) or Memorandum of Understanding (MOU): A written document that represents the agreement of the parties regarding the subject matter of the document; it does not usually involve transfer of funds in exchange for services, but may document transfer of funds required by statute. Because the underlying agreement may or may not be legally binding and enforceable, the agreement may or may not constitute a contract. It is generally considered a less formal way of evidencing an agreement and is ordinarily used in state government only between or among state agencies or other government entities.

Modification: Written addition or change to a professional services contract.

Monitoring: A systematic review of a contractor's records, business processes, deliverables, and activities to ensure compliance with the terms and conditions of the contract. Monitoring includes planned, ongoing, periodic, or unscheduled activities. The goal of contract monitoring is to protect the health and safety of clients that receive services, ensure delivery of quality goods and services, and protect the financial interest of the State.

Monitoring plan: Documents the monitoring activities required for individual contracts and tracks the status and progress of monitoring requirements.

Negotiations: A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the "dealings conducted between two or more parties for the purpose of reaching an understanding."

Offeror: An entity submitting a proposal in response to a solicitation. (See Bidder or Respondent)

Onsite review: A review of a contractor's service delivery or business operations that takes place at administrative or service delivery sites and may include observation of service delivery. The scope of the review is at the discretion of the contracting agency.

Opening Date: The day and time, after submission of proposals, when sealed bid responses are opened.

Payment Bond: A bond executed in connection with a contract which secures the payment requirements of the contractor.

Performance Bond: A surety bond which provides assurance of a bidder's performance of a certain contract. The amount for the performance bond shall be based on the bidder's annual level of potential monetary volume in the state purchasing program. Acceptable forms of bonds are those described in the definition for "bid deposit."

Posted Date: The date a procurement document is made available to the public.

Procurement Staff: Purchasing and Contract Managers within the Administrative Resources and Infrastructure division of Texas Parks and Wildlife Department.

Professional Services: Services directly related to professional practices as defined by the Professional Services Procurement Act (Government Code, Section 2254.002) or services authorized by rule by the Department of State Health Services pursuant to Health and Safety Code, Section 12.0121**.** These include services within the scope of the practice of: accounting; architecture; optometry; medicine; land surveying; and professional engineering. Services provided by professionals outside the scope of their profession, e.g., management consulting services provided by accounting firms, are not considered professional services.

Proposal: An executed offer submitted by a respondent in response to a Request for Proposals (RFP) and intended to be used as a basis to negotiate a contract award.

Proposal Opening: The public opening of proposals, in which the names of the respondents to a solicitation are publicly read and recorded. No prices are divulged at a proposal opening as these types of solicitations are subject to negotiation.

Proprietary: Products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services as defined in Texas Government Code, Section 2155.067.

Purchase order (PO): A purchase contract issued to a vendor, indicating types, quantities, and agreed to prices for products or services the seller will provide to the agency, and referencing the terms and conditions that govern the purchase.

Recipient: A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include sub-recipients. (2 CFR §200.86) or receives a state award directly from a state awarding agency to carry out a state program. (UGMS §200.87.00)

Renewal: When an existing contract is renewed for an additional time period in accordance with the terms and conditions of the original contract.

Retention period: The period during which records must be kept before they may be disposed of, usually expressed in years or contingent upon an event, such as end of calendar year. The retention period for procurement and contract related documents set in this *Contract Management Handbook* may differ from general document retention periods set in TPWD agency policy.

Request for Information (RFI): A general invitation to contractors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

Request for Offer (RFO): A solicitation for automated information systems (which may include a request for hardware, software and other information technology goods and services) requesting the submittal of an offer in response to the required scope of services, including a cost proposal. Negotiations are allowed between a proposer and the issuing agency.

Request for Proposal (RFP): A solicitation requesting submittal of a proposal in response to the required scope of services and usually includes some form of a cost proposal. The RFP process allows for negotiations between a proposer and the issuing agency.

Request for Qualifications (RFQ): A solicitation document requesting submittal of qualifications or specialized expertise in response to the scope of services required. No pricing is solicited with an RFQ.

Request for Quote (RFQ): An informal solicitation document requesting pricing on small dollar purchases.

Responsive: The respondent has complied with all material aspects of the solicitation document, including submission of all required documents.

Respondent: An entity submitting a proposal in response to a solicitation. (See Bidder or Offeror).

Responsible: The respondent has the capability to fully perform and deliver in accordance with the contract requirements. The agency may include past performance, financial capabilities and business management as criteria for determining if a bidder or proposer is capable of satisfying the contract requirements.

Requisition: Purchase request entered into BIS that uses an electronic workflow process to approve the amount and budget to encumber the funds and route for purchase order processing and issuance.

Risk assessment: The ongoing process of identifying and determining the risk that a contract poses to the State. TPWD uses the Risk Assessment Tool to assess a variety of factors that indicate potential risk to TPWD contracts and prioritize contract monitoring activities accordingly to prevent and mitigate risk.

Root cause analysis: A technique that helps staff to answer the question of why the problem occurred in the first place. A root cause analysis helps to determine what happened, why it happened, and how to reduce the chance that the problem will happen again.

Scope of work: See statement of work.

Service: The furnishing of labor by a contractor which may not include the delivery of a tangible end product. In some cases, services and goods may be combined such as film processing. In these instances, agencies determine whether labor or goods is the primary factor. In the case of film processing, the labor to process the film is the primary factor, therefore film processing is considered a service.

Signal audit: An audit which includes both the entity's financial statements and the federal awards in accordance with OMB Circular A-133 which sets forth standards for obtaining consistency and uniformity among federal agencies for the audits of states, local governments and non-profit organizations expending federal funds.

Solicitation: A document requesting submittal of bids or proposals for goods or services in accordance with the advertised specifications.

Specification: Any description of the physical or functional characteristics or of the nature of supplies or service to be purchased. It may include a description of any requirements for inspecting, testing, or preparing supplies or services for delivery.

State award: The state financial assistance that recipients receive directly from state awarding agencies. (UGMS §200.90.02)

Statement of Work (SOW): The detailed description of what the agency is purchasing and what the contractor is required to provide in order to satisfactorily perform the work.

Subcontract: A written agreement between the original contractor and a third party to provide all or a specified part of the work or materials required in the original contract.

Subrecipient: A non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

Surety: A person or entity providing a bond to a contractor to indemnify the State against all direct and consequential damages suffered by failure of the contractor to perform the contract and to pay all lawful claims of subcontractors, materials suppliers and laborers as applicable.

Term Contract: A Contract that addresses the estimated requirements for a number of agencies for supplies or services that are used repeatedly or in significant quantities over a period of time. Agencies place orders directly with term contract vendors for the quantity needed.

Unallowable costs: Costs that are expressly unallowable under applicable state and federal laws and regulations or under the terms and conditions of the contract, or that are unreasonable or unnecessary.

Unit price: The price for a good or service in accordance with the unit of measure provided in the solicitation, (e.g., price per ton, per labor hour, or per foot).

Vendor: A business entity or individual that has a contract to provide goods or services to the State of Texas. Used interchangeably with the term "Contractor."

Appendix 2: Recommended Standard Operating Procedures for Contract Management within the Program Areas

- Routing process
- Invoice Review Process
- Record Keeping
- Auditing of contract deliverables and performance measures
- How to perform desk reviews and/or site visits
- Fiscal Monitoring
- Training
- Basic Procurement Outline
- Authority and Responsibility Designations
- Cost\Price Analysis
- Funding Change\Approval – i.e. the Grant Manager and Contract Manager may want to be on the signature for any funding changes internally that do not require an amendment

Appendix 3: Check List for the Monitoring Contracts

Planning For Monitoring Check List

This check list has been created to help contract/project managers ensure they have included all the necessary monitoring criteria in their solicitation and/or contract.

Have you included or outlined the following:

- A Communication Plan, including an escalation plan for disputes
- An invoice procedure that includes the following information:
  - Format
  - Frequency
  - Necessary supporting documents
- The roles and responsibilities for both TPWD and the Contractor
- The performance measures
- A deliverable/reporting process that includes the following:
  - Format
  - Due dates
  - Frequency
  - Acceptance criteria
- Standards for monitoring practices
- Enhanced monitoring practices and why they would be necessary
- A close-out process
- The final acceptance criteria of all contractual obligations
- A contractor evaluation process

Appendix 4: EXAMPLE OF INVOICE PROCESSING PROCEDURES

INVOICE REVIEW PROCESS

Texas Prompt Payment Act establishes when payments are due. The law states that payments for goods and services are due within 30 days after the goods are provided, the services completed, or a correct invoice is received, whichever is later. As such, it is imperative that invoices are processed in a timely manner to avoid interest from being accrued.

Project Manager:

1. Receive invoice package (hard copy or via email)
    a. Invoice may be sent to the Project Manager by the Contract Manager or the Vendor
    b. Project Manager shall complete the review within 10 calendar days after receipt.
2. Record date received
3. Review the invoice and supporting documentation
    a. Verify expenses add up correctly and are within the approved budget
    b. Ensure expenses are allowable
        i. Personnel/Salary
        ii. Travel: use of state rates; expense information should include costs for: meals, lodging, transportation, purpose, location of travel
        iii. Supplies: list out items purchased and number purchased when applicable
        iv. Equipment, Subcontracts: receipts attached, updated equipment inventory
        v. Fringe and Indirect charges are considered
    c. Verify deliverables are received and approved for the applicable period
    d. Confirm if this is the final invoice to be submitted for Fiscal Year and/or Contract period.
4. Sign Invoice and Send invoice to appropriate division staff for entry into TPWD financial system

Contract Manager:

1. Receive invoice
    a. Verify contract or agreement requirements
    b. Verify invoice approved by Project Manager, cumulative and contract balance for accuracy.
    c. Review all invoice documents
        i. Ensure invoice documentation is complete and numbers add up
            1. Supporting documents match invoice
            2. Contract budget matches
            3. Receipts for equipment and contractual expenses
    d. If deficiencies are found, see *Invoice Deficiencies* below.
    e. Once invoice review is complete and no deficiencies are found process the invoice in the TPWD financial system.
    f. Send invoice to Federal Grants to document match, if applicable

INVOICE DEFICIENCIES

1. Project Manager: When the Project Manager identifies deficiencies the following shall occur:
    a. Communicate the issue(s) identified for correction by email to the Contract Manager
    b. Provide necessary language for the Contract Manager to include in the rejection notice
    c. Itemize the information needed. (for example: the deliverables for scope of work, task 2, have not been received)
2. Contract Manager: When the Contract Manager identifies deficiencies the following shall occur:
    a. Before calling the contractor to address deficiencies or request additional information or documentation, coordinate with the Project Manager to discuss the invoice review and possible rejection
    b. The invoice review shall be complete before contacting the contractor to avoid multiple calls

3. Invoice Rejection:

   After coordinated review by Contract Manager and Project Manager, the invoice will be rejected as follows:

   - Contract Manager:

     Will consolidate all review comments

     Contact contractor by telephone to address the deficiencies or request additional information

     Follow up the conversation with an email to reiterate requested items.

     - The email shall be sent to the Contractor and a copy to the Project Manager
     - The Contract Manager shall request the Contractor provide a complete response by required due date

     Place rejected invoice in the contract file along with a copy of the correct invoice when completed.

     Coordinate with Project Manager for final updates and approval.

Appendix 5 – TPWD Assessment Tool

TPWD Contract Risk Assessment Tool

Requisition No.:

Project Name:

Instructions: For all projects, rate project factors 1-13. For Information Technology projects only, add project factors 14-16. Enter the appropriate number for the project factor range that applies to the project.

RANGE	FACTORS FOR COMMODITY, SERVICES AND IT PROJECTS	SCORE
	1. Total Contract Price: What is the estimated price for the anticipated base period of the contract?	
0	< $100,000	
1	Low Contract Price < $500,000	
2	Moderate Contract Price - Between $500 - $1 Million	
3	Important Contract Price - Between $1 Million and $5 Million	
4	High Contract Price - > $5 Million	
	Agency comment:	
	2. Total Contract Duration: What is the anticipated overall contract period (base year plus renewal options)	
0	< One year	
1	One to two years	
2	Two to five years	
4	Greater than five years	
	Agency comment:	
	3. Funding Source	
0	State Funds/No Grants	
1	Revenue Generating Contract	
2	Multiple Funding Sources/No Grants	
4	1 Fund or Multiple Funds Involving Grants	
	Agency comment:	
	4. User Involvement: How many end users do you anticipate for this contract:	
0	One division	
1	Multiple divisions	
2	Agency wide	
4	Multiple agencies or General Public Involvement	

	Agency comment:	
	5. Criticality of Deliverables: Which of the following best describes the delivery requirements for the project?	
0	No urgency in deliverable timing	
1	Deliverable timing is important, but not critical	
3	Deliverable timing is critical	
4	Deliverable timing is critical and must take priority over all other projects.	
	Agency comment:	
	6. Contract Failure Impact: Which of the following best describes the users impacted by a contract failure?	
0	Low risk optional use contract with no legal mandate	
1	Failure will impact internal department operations only	
3	Failure will impact internal and external users	
4	Failure would have a statewide impact, violate state and or federal mandates or result in the loss of substantial funds.	
	Agency comment:	
	7. Locations Impacted: Which of the following best describes the locations affected by this contract?	
0	Contract will be implemented in or hosted from a single location	
2	Contract will be implemented across multiple agency sites	
4	Contract will be implemented statewide	
	Agency comment:	
	8. Availability of Resources for Contract Management: Which of the following best describe the resource requirements of this contract?	
0	Not applicable	
1	Adequate staffing is readily available to manage and support the contract, including Subject Matter Experts	
3	Temporary staffing is needed to supplement end-user staff to manage and/or support the contract.	
4	Full-time consultants or temporary staffing is needed to manage and/or support the contract.	
	Agency comment:	
	9. Complexity of Project: Which of the following best describes the complexity of this contract?	
0	Simple commodity or service with clear specifications	
2	Complex requirements involving **internal** expertise	
4	Very complex requirements involving **external** technical experts/evaluators/legal review	
	Agency comment:	

	10. Health and/or Safety Risk: Level of impact to health or safety of TPWD employees and/or General Public?	
0	Not applicable	
1	Low Risk	
3	Moderate Risk	
4	High Risk that could result in health or safety risk to public and TPWD employees	
	Agency comment:	
	11. Business Process Impact: Level of impact to end user's business process?	
0	Not applicable	
1	Business processes from a single business unit within an agency will be impacted	
2	Business processes from an entire division will be impacted	
3	Business processes from multiple divisions will be impacted	
4	Business process change is agency wide	
	Agency comment:	
	12. What are the risks associated with the payment methodology?	
0	Firm fixed: Paid as Quoted	
1	Time and Materials: Some Monitoring and Validation	
3	Cost Plus: Extensive Monitoring and Validation	
4	Construction Manager at Risk: Extensive	
	Agency comment:	
	13. End Users' Training Needs: Indicate the appropriate training requirements for this project?	
0	No training required	
1	End-user only training required	
3	Systems and end-users require training and support that be conducted by in-house trainers	
4	Systems and end-users requires training and support by the vendor or an outside trainer	
	Agency comment:	
	RISK ASSESSMENT SCORE FOR FACTORS 1-13	
RANGE	**COMPLETE FACTORS 11-13 FOR INFORMATION TECHNOLOGY PROJECTS ONLY**	
	14. Software Technology Customization: What level of customization is required for this solution?	
0	N/A or All requirements can be satisfied with mature or Commercial Off-The-Shelf (COTS) products/services	
2	The requirement may be partially customized and partially COTS	
4	Fully customized solution	
	Agency comment:	

	15. Impact on Existing Application or Infrastructure: Which of the following best describes the impact on existing infrastructure for this project?	
0	Maintenance	
2	Product/Service is an **enhancement** to the existing application or infrastructure	
3	Product/Service is a **replacement** of the existing application or infrastructure	
4	Product/Service is **new** and impact other existing applications or infrastructure	
	Agency comment:	
	16. Interface Connectivity: Which of the following best describes the interface connectivity of the proposed system?	
0	Not applicable or existing without new interfaces	
2	The new system will interface with 1-4 existing applications	
4	The new system will interface with 5 or more applications	
	Agency comment:	
	IT RISK ASSESSMENT SCORE FOR FACTORS 14-16	
	TOTAL RISK ASSESSMENT SCORE	
	Risk Assessment Report Score: Commodities, Services, Construction	
Score	**0-30 = Low Risk**	
Score	**31-40 = Moderate Risk**	
Score	**41 + = High Risk**	
	Risk Assessment Report Score: Information Technology	
Score	**0-30 = Low Risk**	
Score	**31-49 = Moderate Risk**	
Score	**50 + = High Risk**	

Risk Assessment Performed by: Employee Name, Title, Date

Appendix 6 – TPWD Risk Management Plan Template

TPWD CONTRACT RISK MANAGEMENT PLAN

<PROJECT NAME>

Version Number: 1.0

Version Date: <mm/dd/yyyy>

Notes to the Author

[This document is a template of a Risk Management Plan document for a contract. The template includes instructions to the author, boilerplate text, and fields that should be replaced with the values specific to the contract.

- *Blue italicized text enclosed in square brackets ([text]) provides instructions to the document author, or describes the intent, assumptions and context for content included in this document.*
- *Blue italicized text enclosed in angle brackets (<text>) indicates a field that should be replaced with information specific to a particular contract.*
- *Text and tables in black are provided as boilerplate examples of wording and formats that may be used or modified as appropriate to a specific contract. These are offered only as suggestions to assist in developing contract documents; they are not mandatory formats.*

When using this template, the following steps are recommended:

1. *Replace all text enclosed in angle brackets (e.g., <Project Name>) with the correct field document values. These angle brackets appear in both the body of the document and in headers and footers.*
2. *Modify boilerplate text as appropriate for the specific contract.*
3. *To add any new sections to the document, ensure that the appropriate header and body text styles are maintained. Styles used for the Section Headings are Heading 1, Heading 2 and Heading 3. Style used for boilerplate text is Body Text.*
4. *To update the Table of Contents, right-click on it and select "Update field" and choose the option - "Update entire table".*
5. *Before submission of the first draft of this document, delete this instruction section "Notes to the Author" and all instructions to the author throughout the entire document.*

VERSION HISTORY

[Provide information on how the development and distribution of the Contract Risk Management Plan will be controlled and tracked. Use the table below to provide the version number, the author implementing the version, the date of the version, the name of the person approving the version, the date that particular version was approved, and a brief description of the reason for creating the revised version.]

Version Number	Implemented By	Revision Date	Approved By	Approval Date	Description of Change
1.0	*<Author name>*	*<mm/dd/yyyy>*	*<name>*	*<mm/dd/yy>*	*<description of change>*

TABLE OF CONTENTS

INTRODUCTION

1.1 PURPOSE OF THE CONTRACT RISK MANAGEMENT PLAN

A risk is an event or condition that, if it occurs, could have a positive or negative effect on a project's objectives. Contract Risk Management is the process of identifying, assessing, responding to, monitoring and controlling, and reporting risks. This Contract Risk Management Plan defines how risks associated with the *<Project Name>* contract will be identified, analyzed, and managed. It outlines how contract risk management activities will be performed, recorded, and monitored throughout the lifecycle of the contract and provides templates and practices for recording and prioritizing risks by the Risk Manager and/or Risk Management Team. Contract Risk Management Procedure

2.1 PROCESS

The Contract Manager working with the project team and project sponsors will ensure that contract risks are actively identified, analyzed, and managed throughout the life of the contract. Risks will be identified as early as possible so as to minimize their impact. The steps for accomplishing this are outlined in the following sections. The Contract Manager will serve as the Contract Risk Manager for this project.

2.2 ROLES AND RESPONSIBILITIES

Role	Responsibilities
Core Project Team	The Core Project Team is responsible for identifying the contract risks, the dependencies of the risk within the project, the context and consequence of the risk. They are also responsible for determining the impact, timing, and priority of the risk as well as formulating the contract risk statements.
Risk Manager or Project Manager (PM)	The Risk Manager or PM is a member of the Core Project Team. The Risk Manager or PM determines if the Contract Risk is unique, identifies risk interdependencies across contracts, and verifies if risk is internal or external to project. During the life of the contract, they continually monitor the project for potential risks.
Contract Manager	Coordinates Contract Risk Management and Reporting requirements with the Project Manager, Core Project Team, Procurement Staff, and Legal, as appropriate. The Contract Manager is responsible for ensuring all relevant parties are kept apprised of contract risks and notified immediately if additional monitoring or intervention is needed to reduce or eliminate a risk.

Risk Owner(s)	The risk owner determines which contract risks require mitigation and contingency plans; he/she generates the risk mitigation and contingency strategies. The risk owner is responsible for monitoring and controlling and providing updates to the Contract Manger concerning the status of the risk throughout the contract lifecycle. The risk owner can be a member of the project team.
Other Key Stakeholders	The other stakeholders assist in identifying and determining the context, consequence, impact, timing, and priority of the risk.

2.3 CONTRACT RISK IDENTIFICATION

Contract Risk identification will involve the project team, appropriate stakeholders, and will include an evaluation of environmental factors, organizational culture and the project management plan including the project scope, schedule, cost, or quality. Careful attention will be given to the project deliverables, assumptions, constraints, cost/effort estimates, resource plan, and other key project documents.

2.3.1 Methods for Contract Risk Identification

The following methods will be used to assist in the identification of risks:

- Brainstorming
- Interviewing
- SWOT (Strengths, Weaknesses, Opportunities and Threats)
- Diagramming
- Etc.

2.4 CONTRACT RISK ANALYSIS

All contract risks identified will be assessed to identify the range of possible outcomes. Contract risks will be prioritized by their level of potential impact to the project.

2.4.1 Qualitative Contract Risk Analysis

The impact of occurrence for each identified risk will be assessed by the contract manager, with input from the project team using the following approach:

Impact

- **High** – Risk that has the potential to greatly impact project cost, project schedule or performance
- **Medium** – Risk that has the potential to slightly impact project cost, project schedule or performance
- **Low** – Risk that has relatively little impact on cost, schedule or performance

2.5 CONTRACT RISK RESPONSE PLANNING

Each major contract risk (those determined to be a High or Medium Impact) will be assigned to a risk owner for monitoring and controlling purposes to ensure that the risk will be appropriately monitored.

For each major contract risk, one of the following approaches will be selected to address it:

- **Avoid** – Eliminate the threat or condition or to protect the project objectives from its impact by eliminating the cause
- **Mitigate** – Identify ways to reduce the probability or the impact of the risk
- **Accept** – Nothing will be done
- **Contingency** –Define actions to be taken in response to risks
- **Transfer** – Shift the consequence of a risk to a third party together with ownership of the response by making another party responsible for the risk (buy insurance, outsourcing, etc.)

For each risk that will be mitigated, the project team will identify ways to prevent the risk from occurring or reduce its impact or probability of occurring. This may include prototyping, adding tasks to the project schedule, adding resources, etc. Any secondary risks that result from risk mitigation response will be documented and follow the risk management protocol as the primary risks.

For each major risk that is to be mitigated or that is accepted, a course of action will be outlined in the event that the risk does materialize in order to minimize its impact.

2.6 CONTRACT RISK MONITORING, CONTROLLING, AND REPORTING

The level of risk on a contract will be tracked, monitored and controlled and reported throughout the contract lifecycle.

Contact Risks will be assigned a risk owner(s) who will track, monitor and control and report on the status and effectiveness of each risk response action to the Risk Management Team.

All project change requests will be analyzed for their possible impact to the project risks.

As Contract Risk Events occur, the list will be re-prioritized during reviews and the contract risk management plan will reflect any and all changes to the risk lists including secondary and residual risks.

For all contracts determined to be high risk an Executive Contract Board will be established. The board will consist of executive representatives from the appropriate divisions and legal. The Executive Contract Board will be notified of important changes to contract risk status as they are identified and summarized at regular board meetings.

The Contract Manager will:

- Review, reevaluate, and modify the probability and impact for each contract risk item as needed and no less than quarterly.
- Analyze any new contract risks that are identified and add these items to the risk list (or risk database).
- Ensure contract risks that have been identified are assigned a Risk Owner and are monitored and controlled.
- Ensure Contract Risk activities are recorded on the Contract Risk Management Log *<full network path location>*.
- Escalate issues/ problems to management

The Risk Owner will:

- Help develop the contract risk response and risk trigger and carry out the execution of the contract risk response, if a risk event occurs.
- Participate in the review, re-evaluation, and modification of the probability and impact for each contract risk item.
- Identify and participate in the analysis of any new contract risks that occur.
- Escalate issues/problems to the Contract Manager that,
    - Significantly impact the contract or trigger another risk event to occur.
    - Require action prior to the next review
    - Contract Risk strategy is not effective or productive causing the need to execute the contingency plan.

2.7 RISK MONITORING PLAN – ENHANCED MONITORING DETERMINATION

If at any time during the contract risk assessment process or during each phase of the contract, enhanced monitoring may need to occur for those contracts considered High dollar value and High risk. An enhanced monitoring determination will be made using the following criteria:

- Past performance
- Number of violations of provisions and escalations
- Type of Contract
- Value of Contract
- Subject matter – New area vs historical experience
- Number of constituents served
- Key staff turnover (contractor)
- Audit findings
- Results of Site Visits, Desk Reviews or 3rd party reviews
- Vendor experience and history
- Time schedules
- Complexity
- Amendments and/or change orders
- Other factors

Enhanced monitoring techniques or actions may include:

- Monitoring more frequently or more in-depth reviews
- Increased Communication between TPWD & Vendor
- Invoke termination or penalty clauses
- Require independent or 3rd party reviews
- Reporting to Executive Contract Board

2.8 CONTRACT RISK MANAGEMENT LOG

A Contract Risk Management Log will be generated, incorporated into this Contract Risk Management Plan as an attachment and will be stored electronically in the contract file located at <file location>.

The Contract Risk Management Log shall track the following:

- Current Status of Risk
  - Open – This risk is currently open but is not yet an issue
  - Closed – The Risk is no longer considered an active contract or project threat and can be closed with or without resolution
- Risk Impact – The potential impact of the risk if it did become an issue.
  - High: Risk that has the potential to greatly impact project cost, project schedule or performance.
  - Medium: Risk that has the potential to slightly impact project cost, project schedule or performance.
  - Low: Risk that has relatively little impact on cost, schedule or performance.
- Probability of Occurrence – The estimated probability that the risk will at some point become an issue.
- Risk Description
- Project Impact – Description of the potential project impact as a result of the risk
- Trigger – The triggers that would indicate the requirement to execute contingency plan.
- Risk Response Strategy – Preferred Risk Response Strategy
  - Acceptance
  - Avoidance
  - Contingency
  - Mitigation
  - Transfer
- Response Strategy – An appropriate response strategy to prevent the risk from becoming an issue.
- Contingency Plan – Description of the risk contingency plan.

Closing a Contract Risk

A contract risk will be considered closed when it meets the following criteria:

- Risk is no longer valid
- Risk event has occurred
- Risk is no longer considered a risk
- Risk closure at the direction of the Contract Manager, Project Manager, and/or Risk Owner and approved by the Executive Contract Board.

Contract Risk Management Plan Approval

The undersigned acknowledge that they have reviewed the ***<Project Name>*** **Contract Risk Management Plan** and agree with the information presented within this document. Changes to this Contract **Risk Management Plan** will be coordinated with, and approved by, the undersigned, or their designated representatives.

[List the individuals whose signatures are desired. Examples of such individuals are Division Director, Project Manager, Contract Manager and any appropriate stakeholders. Add additional lines for signature as necessary.]

Signature: ______________________________ Date: ____________

Print Name: ______________________________

Title: ______________________________

Signature: ______________________________ Date: ____________

Print Name: ______________________________

Title: ______________________________

Signature: ______________________________ Date: ____________

Print Name: ______________________________

Title: ______________________________

ATTACHMENT A - RISK MONITORING PLAN

Based on Identified High Risk Areas Contract Administration Efforts will be focused in the following areas:

Risk Owner	Contract Risk to be Monitored	Enhanced Monitoring Plan

ATTACHMENT A - RISK MONITORING PLAN – example *TPWD State park business system*

Based on Identified High Risk Areas Contract Administration Efforts will be focused in the following areas:

Risk Owner	Contract Risk to be Monitored	Enhanced Monitoring Plan
Project Manager (PM) – John Smith	Vendor Performance	Enhanced Project Monitoring: Quarterly progress reports required from Contractor and PM will perform site visits to monitor status of project.
PM – John Smith Contract Manager (CM) – Jenn Jones	Compliance with financial provisions and delivery schedules	PM will sign off on all invoices before payment to ensure services being billed were completed in accordance with terms of the contract.
PM – John Smith CM – Jenn Jones	Project Schedule – New System must be live no later than 1/1/2017	Enhanced Project Monitoring; Liquidated Damages – assessment of daily penalties if vendor is unable to meet project schedule
IT Project Manager – Lori Williams	Technology Integrity and Reliability	Monitoring – Site Visits, Desk Reviews, System Testing before implementation, 3rd party reviews