

Texas Real Estate Commission

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Procurement Plan  
FY 2024



[procurement.plans@cpa.texas.gov](mailto:procurement.plans@cpa.texas.gov) by November 30, 2023

## **Section 1. General Information**

Agency Name: Texas Real Estate Commission  
Agency Number: 329

## **Section 2. Contact Information**

### **2.1 Financial Services Director**

Name: Ranada Williams  
Phone Number: 1-512-936-0102  
E-mail Address: [ranada.williams@trec.texas.gov](mailto:ranada.williams@trec.texas.gov)

### **2.2 Purchasing Manager Contact Information**

Name: Regina B. Durden  
Phone Number: 1-512-936-3190  
E-mail Address: [regina.durden@trec.texas.gov](mailto:regina.durden@trec.texas.gov)

## **Section 3. Purchasing Capacity Assessment**

- 3.1 Dollar value of agency delegated purchases for FY23: \$162,420.58
- 3.2 Number of purchasing FTEs: 4
- 3.3 Automated purchasing tools used by the agency (if applicable): CAPPS

## **Section 4. TREC Purchasing and Contract Management Procedures**

- 4.1 TREC Purchasing and Contract Management Procedures – Attachment A
- 4.2 Vendor Protest Procedures - Attachment A – Pages 51-54
- 4.3 Credit Card Procedures – Attachment A – Pages 39-43

## **Section 5. Audits – FY 23-24**

- 5.1 SAO audits of purchasing and contract management functions for FY23-FY24 - **NONE**
- 5.2 Comptroller post payment or procurement audits for FY23-FY24 – **NONE**

**Section 6. Certified Procurement Professionals**

6.1 Number of Certified Procurement Professionals

- Number of certified Purchasing FTEs: 3
- Number of certified contract management FTEs: 3

6.2 Name, title, and certification numbers

Certified Texas Contract Developer

Type	Name	Title	Certification Number
Purchasing	Regina B. Durden	Purchasing Manger	1900010526
Purchasing	Sandy Jones	Purchaser	1900016950
Purchasing	Kimberly Donnelly	Purchaser	1900026348
Purchasing	Keyarria Wilson	Purchaser	

Certified Texas Contract Manager

Type	Name	Title	Certification Number
Contract Management	Regina B. Durden	Purchasing Manger	1900014618
Contract Management	Sandy Jones	Sr. Purchaser/Contract Manager	1900016950
Contract Management	Kimberly Donnelly	Purchaser	1900026349

6.3 Training Projections for the Fiscal Year

- Number of seats needed for CTCD certification courses for FY24: 2
- Number of seats needed for CTCM certification courses for FY24: 0

**Section 7. Delegated Purchasing Assessment**

7.1 Proprietary Justifications – Delegation

- Justification - See Attachment B

7.2 Proprietary Justification – Signature Authority

Signature Authority: Chelsea Buchholtz - Executive Director & Commissioner  
 Delegated Authority Tony Slagle - Deputy Executive Director and Deputy Commissioner

7.3 Five delegated purchases anticipated to have the highest expenditure for commodities or services (excluding professional services) not available on an existing contract through CPA or DIR for FY24:

\*TREC anticipates that all purchases made for the agency will be through pre-established CPA or DIR contracts.

Delegated Purchase	Anticipated Value for FY24	Previous FY Value for same/similar purchase:	Name of current vendor:	Has the agency looked for the item on CPA or DIR contract? (Y/N)
*See note above				

# Attachment A

## TREC Purchasing and Contract Management Procedures –

- Vendor Protest Procedures Pages 51-54
- Credit Card Procedures Pages 39-43



Financial Services  
Purchasing Section

2024  
Contract Management Guide and Procedures Manual

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# Part 1. Introduction & General Requirements

## 1.1 Introduction

The Financial Services Division, Purchasing Section, developed this Purchasing and Contract Management Procedures Manual. This manual is designed to provide guidance for the Texas Real Estate Commission (TREC) purchasing staff when procuring good and services, managing agency contracts and receiving goods and accepting services in accordance with the Texas Comptroller Public Account's Contract Management Guide.

### 1.1.1 Purpose of the Manual

The primary purpose of this manual is to set forth clear, effective, and efficient purchasing and contract management procedures for TREC. By offering this standardized framework, our goal is to streamline processes, ensure transparency, and confirm that TREC's procurement activities align with the State of Texas procurement and contracting guidelines.

### 1.1.2 Continuous Updates

This manual is subject to change and updates. As new processes and procedures are established or existing ones are modified, this manual will be revised to reflect the most current and relevant information.

The TREC purchasing staff must familiarize themselves with the content of this manual and regularly consult it as a valuable resource in the fulfillment of their procurement responsibilities. A commitment to adhering to these procedures is essential in promoting a culture of excellence and accountability in procurement activities.

Contact the Purchasing Manager if there are any questions regarding any aspect of this manual. All input and feedback is welcomed as we strive for ongoing improvement and excellence.

## 1.2 Additional Resources

The Purchasing Section has developed additional resources to ensure accuracy and consistency when procuring goods and services for the agency. The Procurement Desk Procedures are located in the Procurement SharePoint Site, located at: [Procurement - Desk Procedures](#).

## 1.3 Public Information Requests.

Public Information Requests (PIR or Open Records Requests) must be submitted in writing. PIRs are time sensitive and must be addressed immediately. The Purchasing staff should notify the Purchasing Manager immediately when a PIR is received.

The agency has created a [public information request form](#). The form is encouraged but not required. For more information about Public Information requests, go to the following links:

TREC: <https://www.trec.texas.gov/public/request-public-information>

TALCB: <https://www.talcb.texas.gov/public/public-information-request>

All PIRs sent directly to a purchaser should be forwarded to the Public Information Officer (PIO). The purchaser should send the following note requesting the notice be sent directly to the agency's PIO office:

Sample Email:

“The Texas Public Information Act requires that public information requests be submitted via email or fax directed to the public information officer for the agency. Please direct your request to [public.information@trec.texas.gov](mailto:public.information@trec.texas.gov) or by fax to (512) 936-3798. The public information officer or the officer’s designee will respond to your request.”  
Thanks,

Purchaser Salutation

## 1.4 Executive Management Review and Approval

The Purchasing Team (PT) includes the Purchasers, the Inventory Specialist and Purchasing Management. The PT has the authority to sign all agency Purchase Orders (POs). All other documents must be reviewed and signed by Financial Services Director or Executive Management.

### 1.4.1 Review and Approval Process

Purchasers and the inventory specialist are required to obtain approval prior to issuing certain documents, purchases, contracts, and reports submitted outside of the agency. Purchasers should allow adequate time to route documents for approval or signature.

### 1.4.2 Document Routing System

Financial Services and Purchasing’s electronic document routing and signature system is [DocuSign](#).

### 1.4.3 Document examples: (included but not limited to):

- a. Vendor documents requiring signature
- b. Two-party contract document
- c. Government documents requiring agency signature

### 1.4.4 Signature Authority

This section defines the areas within the agency that have authority to review documents and sign documents.

- a. Purchasing
  - Purchase Orders
- b. Financial Services Director
  - Agency reports and certifications
- c. The Executive Director and specified designees
  - Two party agreements
  - Vendor quotes
  - Other vendor documents
  - Agency reports and certifications

### 1.4.5 Signature Routing

- a. All contracts requiring signature must be routed via DocuSign using one of the following templates.
  - Contract Routing Form – Agency Certification Document
  - Contract Routing Form – Formal Contract
  - Contract Routing Form – Vendor Documents

- b. To access DocuSign templates, go to the 3<sup>rd</sup> tab titled “Templates” within [DocuSign](#). If a customized template is needed, contact the Purchasing Manager.
- c. The vendor or other signee should sign the document before routing to the agency’s Executive Management. The Purchasing Manager, the Financial Services Director, and General Counsel must review before routing outside of the agency.

1.4.6 DocuSign Routing Roles

- a. Purchaser should
  - o confirm the signature order prior to sending or moving to the next step and
  - o insert the (1) date, (2) title, and (3) the initial or signature lines.
- b. “Allow to Edit” – the Purchasing Manager and Finance Director - Do not change. This feature requires action before the document can move forward.
- c. “Needs to View” – this is an FYI only setting and should not be used.
- d. “Needs to Sign” – The document approver and signee must sign to complete the document process.

**1.5 Authority to Process Purchase Orders**

Purchasers are required to obtain approval prior to issuing certain documents, purchases, contracts, and reports submitted outside of the agency. Purchasers should allow adequate time to route documents for approval or signature.

1.5.1 Approvals Chart

Level		Approval Threshold
Purchaser	Contract Manager	
I – III	I	\$1,000.00
IV- VII	II-IV	2,000.00

1.5.2 Proprietary Purchases

All proprietary and sole source purchases must be reviewed and approved by the purchasing manager prior to issuing the purchase order.

**1.6 Email Templates**

The Purchasing Team has established email templates that should be used when communicating with vendor and agency customers for purchasing, contract management, receiving and asset management.

The templates can be found at: [SharePoint Procurement Documents](#).

**1.7 Ethics and Professional Standards**

The TREC Financial Services, Purchasing Section functions as the guardian of responsible procurement for the agency, overseeing the acquisition of goods and services. The purchasing team is entrusted with the serious task of maintaining the agency's financial integrity by adhering to the highest ethical standards in every purchasing decision. Therefore, ethical conduct and integrity is of the utmost importance. Purchasers are obliged to guarantee fairness, honesty, and accountability, while also taking proactive measures to prevent both the appearance and reality of any conflicts of interest.

All purchasing staff is required to review, sign, and submit [Non-Disclosure and Conflict of Interest Certification.docx](#) each year.

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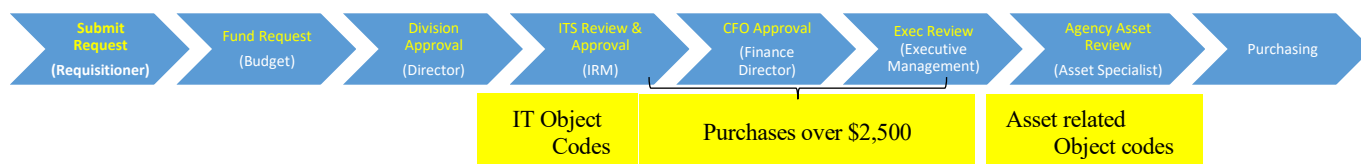
2.1 Overview

Texas Comptroller of Public Account's (CPA's) Statewide Procurement Division (SPD) is responsible for delegating purchasing authority to state agencies. While it is the duty of agencies to process orders and decide on awards, SPD establishes minimum requirements to ensure consistency. SPD maintains the authority to withdraw this delegation in cases where agencies fail to adhere to established procedures. Consequently, it is important that the purchasing staff follow agency purchasing procedures and the guidelines laid out in the [Texas Procurement and Contract Management Guide](#).

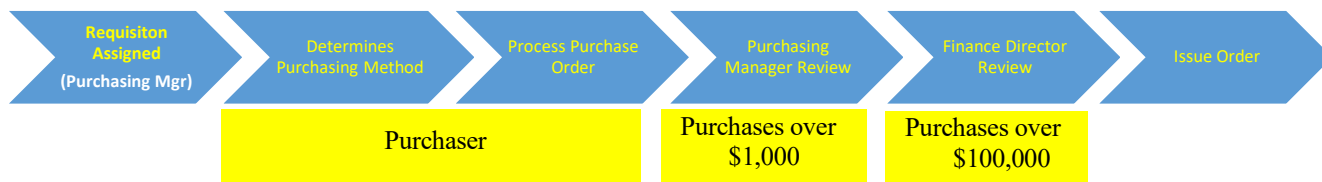
TREC introduced the CAPPS Financial System on September 1, 2020. CAPPS is a web-based eProcurement system that integrates various aspects of agency operations, including budget management, approval processes, procurement, account payables, and asset management.

The chart and process flow diagram displays the requisition flow from identifying the need and the submission of a requisition. The requisition then follows the requisition approval workflow which includes budget coding, division director approval, and executive management and IT approvals (when applicable). Once the requisition is approved, it is assigned to a purchaser and processed in accordance with the purchasing guidelines.

Requisition Workflow.



Purchase Order Approval Workflow

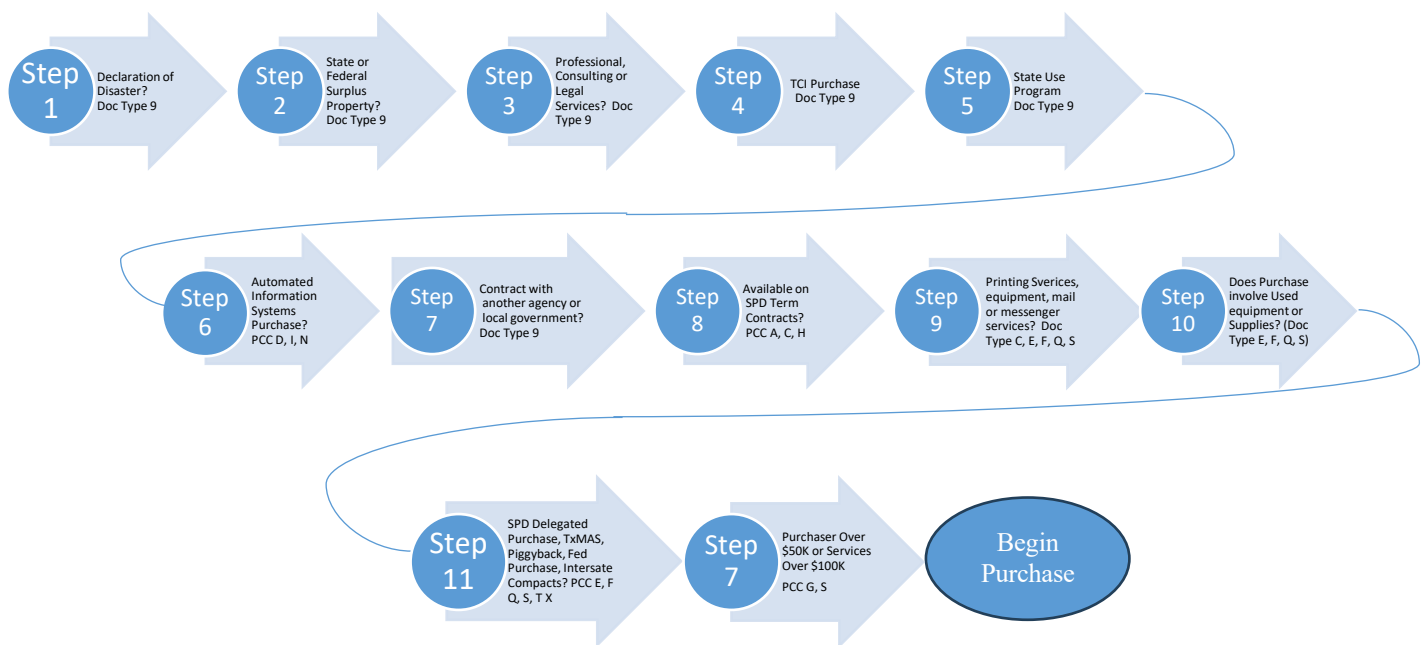


## 2.2 Procurement Determination

Purchaser must identify the appropriate procurement method, while considering relevant exclusions, exemptions, and other considerations. For certain procurements, SPD and DIR may delegate specific procurement authority to agencies. It is important that the purchaser select the proper procurement method as early in the process as possible. If the incorrect procurement method is selected, the purchase will not result in best value to the State and will most likely be more expensive and less efficient than if the correct method was used, and, in the worst case, may result in a void contract that must be re-solicited.

Purchasing should consider the following chart when selecting the appropriate Procurement Method. If the purchase does not fit the description, go to the next step until the appropriate method is determined.

SPD Non-Delegated Purchases	SPD Delegated Purchases	Automated Information Services	Other Purchases
<ul style="list-style-type: none"> <li>Set-a-side Programs                             <ul style="list-style-type: none"> <li>Texas Correctional Industries</li> <li>The Status Use Program</li> </ul> </li> <li>Term Contracts</li> <li>TxMAS</li> <li>Printing Services</li> </ul>	<ul style="list-style-type: none"> <li>Under \$10K</li> <li>Goods \$10K - \$50K</li> <li>Svcs \$10K - \$100K</li> <li>Direct Publications</li> <li>Internal Repair</li> <li>Emergency Purchases</li> <li>Proprietary Purchases</li> </ul>	<ul style="list-style-type: none"> <li>DIR Contracts</li> <li>DIR Exemptions</li> <li>RFO Procurement Methods</li> </ul>	<ul style="list-style-type: none"> <li>Professional Services</li> <li>Consulting Services</li> <li>Interagency Contracts</li> <li>Request for Qualifications</li> </ul>



## 2.3 Electronic Posting Requirements

The [Electronic State Business Daily \(ESBD\)](#), is managed by Comptroller's Statewide Procurement Department. It is the State's online directory listing procurement opportunities. TREC is required to post procurements with a contract value of more than \$25,000 to the ESBD, regardless of the source of funds to be used for the contract.

The contract value for posting to the ESBD means "the estimated dollar amount that an agency may be obligated to pay during the life of the contract and all executed and proposed amendments, extensions, and renewals."

The minimum ESBD posting requirements (see CPA contract management guide for full description of the requirements).

### 2.3.1 Fourteen (14) Calendar days

The entire solicitation package (including all parts, exhibits and attachments posted to the ESBD).

### 2.3.2 Twenty-one (21) Calendar days

If not posting the entire solicitation package to the ESBD, then a notice of the procurement must be posted and include all information necessary to make a successful bid, proposal, or other applicable expression of interest for the procurement contract, including at minimum:

1. a brief description of the goods or services to be procured and any applicable state product or service codes for the goods and services;
2. the last date on which responses will be accepted;
3. the estimated quantity of goods or services to be procured;
4. if applicable, the previous price paid by the agency for the same or similar goods or services;
5. the estimated date on which the goods or services to be procured will be needed; and
6. the name, business mailing address, business email address, and business telephone number of the state agency employee a person may contact to inquire about all necessary information related to making a response for the procurement contract.

## 2.4 Procurement Numbering Systems

### 2.4.1 Purchase Requisition Numbering

Requisition numbers are automatically assigned in the order they were entered in CAPPS. The numbering is sequential and continuous without regard to the fiscal year change.

### 2.4.2 Purchase Order Numbering

#### a. General Numbering

Purchase Orders start with the three-digit agency number, followed by the fiscal year, and four numbers (ex: 329-22-1234). The last four numbers in the purchase order will reset each fiscal year. The last four digits will be assigned according to the purchase type.

- 0000 – Numbering for all purchases except the following:
- 5000 – Interagency Purchases
- 6000 – Credit Card Purchases



b. Credit Card Purchase Order (PO) numbering

Credit card PO numbers are assigned by purchaser. For each fiscal year, PO numbers will be assigned to purchasers in the following number series:

Purchaser:	One-time CC Purchase	Contract Purchase
Sandy	FY-6100	xx-6101, 6102, etc.
Kim	FY-6300	xx-6301, 6302, etc.
<del>Retired No.</del>	<del>FY-6500</del>	<del>xx-6501, 6502, etc.</del>
Regina	FY-6700	xx-6701, 6702, etc.
Keyarria	FY-6800	xx-6801, 6802, etc.

Purchasing Number Series

1. Credit Card purchases that will not require a contract.

Purchases that are processed as a one-time credit card purchase will be added to the Purchaser's primary procurement card purchase order as a line-item purchase.

Example: Purchase a notebook made against the purchaser's credit card purchase order. The purchaser would add to the one-time credit card purchaser order number (22-6100) as a new line item.

2. Credit Card purchases that require a contract.

To work within the CAPPs restriction which only allow one contract to one PO, beginning in FY23, Purchasers should create a distinct purchase order number within their assigned Credit Card series, as specified above, for credit card purchase that involve a contract.

Example: An individual credit card PO number is assigned within the purchaser's cc number series for an order that requires a contract. The purchaser assigns PO number 22-6101 and contract number C22-6101 for a contract. This ensures that the contract is appropriately linked to the purchase order.

## 2.5 Solicitation Method Guide

The following should be used to determine the appropriate solicitation method when obtaining formal and informal bids or quotes.

Solicitation Document	Typical PCC Code	Examples	IT (DIR)	IT Non-DIR	Non-IT
Email	D, E, I, K	Spot purchase for goods or services	Under \$25K	Under \$5K	Under 10K
Pricing Request	D, F, I, K	IT hardware, software, and services	\$25K - \$100K	\$10K - \$25K	\$10K - \$25K
IFB	E, F, K, L, Q, S	Office equipment, services	----	-----	\$25K – 50K goods \$25K - \$100K Svcs
RFO	D, I	IT hardware, software & services, i.e., implementation svcs; IT hardware, software	\$50K - \$1M	\$10K - \$1M	-----
RFP	Q, S, Doc Type 9	Exam svcs	----	----	\$25K and over
RFQ	PCC S, Doc Type 9	Auditing svcs; Appraisal review	----	----	\$25K and over

## 2.6 How to Process a Requisition onto a PO.

Purchasers should use the following chart as a guide to process purchase requisitions and issue purchase orders.

FMX – CAPPS Step by Step Instructions: [CPA - CAPPS Training - Link](#)

	Step	Description
1.	Review the Requisition	<ul style="list-style-type: none"> <li>Review the requisition workload.</li> <li>Identify requisition line item(s) to be processed.</li> </ul>
2.	Determine Procurement Method	Refer to <a href="#">Section 2.3 Procurement Determination</a> to verify the appropriate purchasing method.
3.	Process the Requisition	<ul style="list-style-type: none"> <li>Navigate to the specific category and type of purchase for specific processing information.</li> <li>Determine if goods or services available from a pre-established State Contract (SPD or DIR); confirm the quantity and UOM format.</li> <li>Determine if bidding is required               <ul style="list-style-type: none"> <li>If bidding is required, prepare an informal or formal solicitation.</li> <li>If not, obtain a quote or process as a delegated or non-delegated purchase.</li> </ul> </li> <li>Ensure that the requisition has adequate funding to process the order.</li> <li>If additional funds are required, contact the division to submit a requisition with the additional funds.</li> <li>Go to <a href="#">CAPPS Login</a>.</li> </ul>
4.	Determine if a contract is required	<ul style="list-style-type: none"> <li>A CAPPS contract should be established if the purchase is for:               <ul style="list-style-type: none"> <li>Services with an associated period of time (e.g., subscription, maintenance) or</li> <li>A blanket contract for goods or services.</li> </ul> </li> <li>Contracts are not required for training services or services less than one month or less than \$2,500.</li> </ul> <p>If a contract is required, contact the Requisitioner to determine the Contract Monitor.</p>
5.	Move the requisition line(s) to the purchase order	<ul style="list-style-type: none"> <li>Designate a vendor.</li> <li>Pull the line items into the purchase order.</li> <li>Update the line-item description to match the bid or SmartBuy order or solicitation description.</li> <li>Include vendor contact name, phone, and email.</li> <li>Designate the Appropriate PCC Code.</li> <li>Verify and update the class and item codes.</li> <li>Include agency contact or contract monitor, name, phone, and email.</li> <li>Add start and end date, if applicable.</li> <li>Ensure that quote and PO information, quantities, and dollars match.</li> </ul>
6.	Attach back-up documentation to the Purchase Order file in CAPPS	<p>Backup Documentation may include:</p> <ul style="list-style-type: none"> <li>Quotes</li> <li>Bids</li> <li>PCC Checklist</li> <li>Email correspondence</li> </ul>

	Step	Description
		<ul style="list-style-type: none"> <li>• Proprietary Justifications</li> <li>• Unauthorized Purchase Justifications</li> <li>• Other back-up verification documentation</li> </ul>
7.	Process PO	<ul style="list-style-type: none"> <li>• Attach TREC Terms and Conditions when applicable.</li> <li>• Notify the purchasing manager as appropriate (see Section 1.4 Purchasing Authority).</li> <li>• Upon approval, issue the PO.</li> </ul>
8.	Issue PO	<ul style="list-style-type: none"> <li>• Send the PO and appropriate backup documentation to the vendor.</li> <li>• Also include requisitioner and the vendor contact on the email notification.</li> <li>• If a contract number is assigned, send a notice to the contract monitor.</li> <li>• If a signed receiving report is required, include the Inventory Specialist.</li> <li>• Place a copy of the signed PO in the Purchase Order and in CAPPS.</li> </ul>

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When procuring goods and services through pre-established contracts, there are several methods that can be used. To ensure compliance with the statutory authority, rules, procedures, and processes outlined by the CPA's SPD and DIR, it is imperative to adhere to their specific guidelines. In the subsequent sections, we will outline the essential steps for procuring equipment, goods, or services through the SPD's non-delegated purchase methods.

### 3.1 Set-a-Side Programs

The Texas Legislature established special programs through WorkQuest and Texas Correctional Industries. Agencies are required to purchase certain goods and services through these programs.

#### 3.1.1 Texas Correctional Industries (TCI)

TCI is a division of the Texas Department of Criminal Justice (TDCJ), that manufactures goods and services primarily through offender labor, with a focus on making them available for purchase by Texas governmental entities. Most of these goods are accessible through Texas SmartBuy. In cases where the requested items are not listed on Texas SmartBuy, they can typically be found in the TCI Catalog. In these cases, the procurement process involves issuing a purchase order (PO) directly to TDCJ via email at [tcj@tdcj.texas.gov](mailto:tcj@tdcj.texas.gov), accompanied by the following notation: 'The award was made under the Prison Made Goods Act and is non-competitive.'

It is important to note that TREC/TALCB retains the discretion to decline procurement of a good or service from TCI under specific circumstances:

- When TCI grants a waiver.
- When the State Purchasing Director (SPD) determines that a good or service produced by TCI does not meet the agency's requirements.
- When SPD certifies that the same good or service can be obtained elsewhere at a lower price, provided that TCI has been given a final opportunity to negotiate on price by the agency."

#### 3.1.2 State Use Program Exception

"The Texas Workforce Commission (TWC) oversees the Texas State Use Program. These programs are effectively administered by WorkQuest, formerly known as TIBH Industries. It's important to note that only products and services approved by TWC are eligible for consideration as a set-aside purchase option on Texas SmartBuy for state agencies. Exceptions to utilizing the State Use program may occur in two specific situations:

- When a product or service provided or manufactured by WorkQuest does not meet the reasonable requirements of the agency.
- When the requisitions made cannot be reasonably fulfilled using products or services produced by individuals with disabilities."

### 3.1.3 How to Process WorkQuest or TCI Orders

PCC: A, C

**Statutory Reference:** [Texas Human Resources Code Chapter 122](#) and the Texas Correctional Industries governed by [Texas Government Code Chapter 497](#)

Purchasers are required to utilize the WorkQuest or Texas Correctional Industries (TCI) contracts before considering other purchasing methods. If the requested commodity or service is not available under either of these contracts, then and only then, should the purchase proceed under a different method.

Most WorkQuest and TCI products and services are available under state term contracts. To search the State Term Contract, go to [TexasSmartBuy](#).

#### WorkQuest or TCI Procedures

Who	What
Division	1. Recognize need and submits requisition.
Purchaser	2. Review the requisition requirements and determines if requested items are available on SmartBuy, WorkQuest or TCI.
	3. If available on Smartbuy, follows SmartBuy Procedures, go to Step 6.
	4. If not, <ul style="list-style-type: none"> <li>i. confirms that good or service is not TCI or WorkQuest</li> <li>ii. Obtains TCI waiver or report WorkQuest Exception.</li> </ul>
	5. Determine the appropriate procurement method.
	6. Process order in CAPPs.
	7. Issue PO to vendor and the ordering division.
	8. Saves all backup documentation with signed purchase order in CAPPs.

## 3.2 Term Contracts

The SPD establishes term contracts for the purchase or lease of goods and services. These term contracts are available through the Texas SmartBuy catalog and typically do not require a competitive bidding process. Therefore, TREC should not procure goods or services from the open market if they are available through a term contract, unless the required quantity falls below the minimum order quantity specified in the term contract. Purchasers should notify the purchasing manager if goods or services available through term contracts are not purchased.

### 3.2.1 SmartBuy

PCC: A, C, H, or X

SPD establishes statewide term contracts for goods and services commonly ordered by all agencies. The term or length of each contract may vary, depending on the commodity or service.

### 3.2.2 Types of Term Contracts

SPD establishes two basic types of term contracts:

- Automated Contracts are used to order goods and services available through SPD's on-line purchasing system.

- Managed Contracts must be processed manually due to the more specialized nature of the good or service.

### 3.2.3 Smart Buy Instructions

The SPD provides detailed information about how to use the SmartBuy system. For specific information about SmartBuy go to: <http://www.txsmartbuy.com/help>.

### 3.2.4 TREC Specific Requirements

When processing SmartBuy orders, the following must be taken into consideration:

- Purchasers cannot purchase items that are above their certification requirements.
- Each purchaser must acquire and utilize their unique login credentials.
- All SmartBuy orders should be consistently recorded in CAPPs as part of the process.

### 3.2.5 Automated Contracts

The agency processes automated contracts directly through an on-line connection with CPA. Commodity codes and quantities are entered onto an electronically transmitted purchase order.

The Procedure:

Who	What
Purchaser	1. Obtain or verify commodity codes from the SPD Term Contract.
	2. Confirm that all required options are listed (i.e., color, finish, accessories).
	3. Enter the order into CPA's on-line SmartBuy system – or pick up Requisitioner's shopping cart (see Requisitioner's instructions below).
	4. Print out and retain the initial copy of the order with the CAPPs PO in CAPPs.
	5. Complete PCC Checklist and attach in CAPPs.
	6. Prepare TREC PO to include the SmartBuy PO number and indicate "For Internal Tracking Purposes Only".
	7. Distribute purchase order copies to the ordering division.
	8. Save TREC PO in CAPPs.



### 3.2.6 Managed Contracts

Managed Contracts are processed manually by preparing and emailing a purchase order directly to the vendor. A copy of the purchase order must be forwarded to CPA for the purchase history file.

The Procedure:

Who	What
Purchaser	1. Obtain and verify commodity codes from the CPA Term Contract.
	2. Process TREC purchase order. Include agency contact or contract monitor, name, and phone on the PO. Add start and end date, if applicable.
	3. Complete PCC Checklist.
	4. Email the purchase order to the contract vendor. CC the requisition and contract monitor when applicable.
	5. Save PO in CAPPs.

### 3.3 TXMAS

The SPD established an alternative procurement method to use multiple award schedule contracts, which have been competitively awarded by the General Services Administration (GSA) of the federal government. Once the SPD grants authorization for the contract's use, it is made available on the SPD website.

Agencies are required to assess the availability of set-aside programs such as TCI and WorkQuest before using statewide term and TXMAS Contracts. In the case where multiple vendors within a TXMAS schedule offer similar products or services, a best value determination must be made. This determination involves collecting information or quotations from the TXMAS vendors offering the same or similar products or services. Note: TXMAS quotations are mandatory if the procurement exceeds a value of \$50,000. If the procurement's value exceeds \$25,000, the agency must post a procurement award notice on the state's electronic bulletin board.

The processing of a TXMAS order may take one of two forms: it can either be handled as an SPD automated order or as a Managed order, depending if the contract was established through the SPD.

### 3.4 Change Orders

A Purchase Order Change Notice (POCN) is generated when a purchaser reviews a previously established order to make modifications. Purchasers may edit the purchase order details, such as quantity, delivery date, and shipping address in Texas SmartBuy. Both the Purchaser and the Contractor will receive an email containing a copy of the POCN.

## 3.5 Proprietary Purchases

A purchase is considered proprietary when the specifications or conditions of the intended purchase are unique to a single vendor, and no substitution of an equivalent product or service is available. The term 'proprietary' refers to a product or service with distinctive features or characteristics that are exclusive and not shared by competing or similar products or services. Proprietary purchases include products or services manufactured or provided under exclusive rights of ownership, including patents, copyrights, or trade secrets.

The Purchasing Section will work with the respective division to evaluate whether a purchase qualifies as proprietary since such purchases tend to limit competition.

A sole purchase with an estimated value exceeding \$10,000, requires a proprietary justification. Procurements below \$10,000, however, does not require a proprietary justification. Below, is a general overview of the various types of proprietary purchases and the standard steps involved in processing them.

### 3.5.1 Types of purchases

There are three types of purchases which should be considered:

1. Proprietary

A product or service that has a distinctive feature or characteristic which is not shared or provided by competing or similar goods or services. A proprietary purchase may be either sole source or competitive.

2. Sole Source

The specified good or service is only available from a single source.

Example: back issue of a magazine available only from the publisher; education conference available only from the conference sponsor.

3. Competitive

The specified good or service is available for purchase through more than one vendor. Example: software that is available through multiple resellers.

### 3.5.2 Proprietary Purchase Procedure

PCC: Varies

Who	What
Division	<ul style="list-style-type: none"> <li>• Recognizes the need for a purchase.</li> <li>• Determines if the purchase is proprietary or sole source.</li> <li>• Submits requisition to include:               <ol style="list-style-type: none"> <li>1) a proprietary justification included in the requisition comments,</li> <li>2) a quote, if applicable.</li> </ol> </li> </ul> <p><b>NOTE:</b> If the division requires assistance or clarification to determine if the good or service is proprietary, they should contact the Purchasing Section.</p>
Purchasing	<ul style="list-style-type: none"> <li>• Reviews requisition and proprietary justification.</li> <li>• Submits justification to the purchasing manager.</li> </ul>
Purchasing Manager	<ul style="list-style-type: none"> <li>• Reviews the proprietary justification,               <ol style="list-style-type: none"> <li>1) If approved go to the next step.</li> <li>2) If not approved, notify division, and discuss available options.</li> </ol> </li> </ul>
Purchaser	<ul style="list-style-type: none"> <li>• Processes the requisition.</li> <li>• If estimated value exceeds \$25,000 (goods) or \$100,000 (service), work with the division to:               <ol style="list-style-type: none"> <li>1) Develop specifications.</li> <li>2) Follow appropriate solicitation process.</li> <li>3) Verify the appropriate VID number.</li> <li>4) Include all other back-up verification documentation.</li> <li>5) Complete the PCC Checklist.</li> <li>6) Dispatch order and submit to vendor.</li> <li>7) Post the award on the ESBD, if the purchase exceeds \$25,000.</li> </ol> </li> <li>• If the order exceeds \$100,000 and a solicitation required, prepare contract file.</li> <li>• For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.</li> <li>• If additional funds are required, obtain a purchase requisition for the additional funds and issue a Purchase Order Change Notice (POCN).</li> <li>• Ensure that all backup documentation is saved with the purchase order in CAPPS.</li> </ul>

### 4.1 Introduction

A delegated purchase is a procurement process in which an agency is delegated the authority to oversee the competitive bidding process. This delegation is made in accordance with CPA rules or statutory exemptions. It's important to clarify that the delegated purchase procedure excludes mandatory state use set-aside purchasing programs and purchases that can be satisfied using other purchasing methods explicitly authorized by state statutes.

For details regarding the minimum requirements for delegated purchases, agencies can refer to the Comptroller of Public Accounts Procurement Manual, specifically Section 2.10, which covers Delegated Purchase Procedure and Strategic Sourcing Principles. These guidelines outline the specific steps and criteria agencies must adhere to when conducting delegated purchases in Texas. For the most current information and guidance, consult the latest version of the manual or any updates provided by the CPA.

### 4.2 Vendor Identification

To identify potential vendors, agencies can utilize a variety of resources, including:

1. **Centralized Master Bidders List:** This list serves as a comprehensive source of pre-qualified vendors, making it a valuable resource for procurement.
2. **HUB Directory:** The Historically Underutilized Business (HUB) Directory provides information on HUB-certified businesses, promoting diversity in procurement.
3. **Vendor Mailings or Catalogs:** Receiving mailings or catalogs from vendors can help agencies discover available products and services.
4. **Minority Development Centers:** These centers offer information and support for minority-owned businesses, often connecting agencies with suitable vendors.
5. **Chambers of Commerce:** Local Chambers of Commerce maintain lists of businesses within their communities, which can be a useful resource for identifying local vendors.
6. **Business Card File:** Maintaining a file of business cards acquired through networking or past interactions can be an effective way to reconnect with potential vendors.
7. **Local Sourcing:** Exploring local businesses and suppliers within the agency's immediate vicinity can support the local economy and reduce transportation costs.
8. **Internet:** Online platforms, industry-specific websites, and search engines can be valuable for researching and finding vendors.
9. **Recommendations from End Users:** Input from those within the agency who have experience with specific vendors can be a valuable source of information.

By utilizing these resources, the purchaser can effectively identify and engage with vendors that align with their procurement needs and goals.

### **4.3 Delegated Purchase Categories**

PCC E, F, G, Q, S, T

Delegated Purchases are categorized into four main types:

1. **Spot Purchases:** These are immediate and often one-time procurements of goods or services.
2. **Informal Bids:** Utilized for procurement needs that require some competitive bidding but are not as formal as the next category.
3. **Formal Bids for Goods or Services:** Formal competitive bidding processes are used for larger-scale purchases of goods or services.
4. **Delegated Purchases with Approval:** This category involves procurement that requires specific approvals beyond routine delegated authority. It excludes items subject to the IT Commodity Purchasing Procedure.

It's important to note that commodities available through term contracts can be processed as spot purchases if they fall below the specified spot option limit.

TREC is subject to audits to ensure compliance with CPA rules. Non-compliance may result in the withdrawal of delegated authority. TREC is responsible for all purchases made on its behalf and is held accountable for adherence to the established procurement procedures.

#### **4.3.1 Commodities**

A commodity purchase involves the procurement of supplies, materials, or equipment and does not include the purchase of real property or services. The Texas Comptroller of Public Accounts (CPA) has delegated to all state agencies the authority to procure commodities with an estimated purchase price not exceeding \$25,000.

For commodity purchases exceeding this amount, CPA review and approval is mandatory before the purchase can move forward.

#### **4.3.2 Services**

A service is defined as the provision of either skilled or unskilled labor, with the exception of professional services. Delegated purchases for services do not include professional services.

When procuring for services, it is important to provide the vendor with a clearly defined scope of the required services. Purchasers should not sign vendor maintenance agreements or other documents that include terms and conditions. These documents should be reviewed by the agency's General Counsel before being signed by the Executive Management.

## 4.4 Spot Purchases

PCC: E

A “Spot Purchase” is a purchase of goods or services from one vendor and does not require competitive bidding. Spot purchases cannot exceed \$10,000 and the good or service cannot be available through a pre-established state contract.

Purchasers should make a good faith effort to utilize Historically Underutilized Businesses (HUBs) who can provide the needed good or service at a reasonable price.

To identify vendors for procurements at this specified amount, purchasers should utilize Texas Centralized Master Bidders List (CMBL).

## 4.5 Informal Bids

PCC: F or Q

An informal bid is required for the purchase of goods or services with an estimated value ranging from \$10,000.01 to \$25,000. The informal bidding process should include a written request for pricing. Purchasers are encouraged to obtain responses from at least two Historically Underutilized Businesses (HUBs), when available, and make use of the Centralized Master Bidders List (CMBL).

1. Review the purchase requisition. Examine the Purchase Requisition received from the division.
2. Collect the specifications. Collect detailed specifications or scope of work for the required goods or services.
3. Determine the commodity codes. Identify the NIGP class and Item codes applicable to the procurement.
4. Conduct a vendor search. Utilize the "CMBL Only" search criteria along with the relevant NIGP class(es) and Item(s) to identify a minimum of three vendors within the appropriate county, city, or district that can supply the required goods or services. Among these, at least two should be Historically Underutilized Businesses (HUBs). If two HUB vendors cannot be located, document all reference sources used in the purchase file.
5. Supplement the vendor list, if necessary. Non-CMBL vendors, including HUBs, may be added to the final vendor list to enhance competition, but written approval from the agency's Executive Director is required. Also, make an effort to solicit a response from the vendor who last held the contract for the required goods or services, if applicable.
6. Print the Vendor List. Generate and print the CMBL vendor list, including the approved supplemented vendors. Add to the purchase order and CAPPs file.
7. Solicit Responses. Contact each vendor identified in the previous steps. Specify in the request that responses should remain firm for 30 days from the solicitation due date. Responses can be received through various methods, including in person, direct mail, or electronic mail.
8. Tabulate responses. Tabulate the responses and select the vendor that offers the best value to TREC. The tabulation should include the following information:
  - a. CMBL vendors contacted, including those supplemented.
  - b. Corresponding response amounts.
  - c. For HUBs, the ethnicity/gender of the Certified HUB.
  - d. Awarded vendor.

- e. Statement of reasons for non-awards.
  - f. Maintain a record of all responses.
  - g. Ensure that tabulations are available for public inspection and retain them for potential audit.
  - h. Print out CMBL details for the awarded vendor.
9. Process the Award. Process the award by issuing a Purchase Order (PO) and a Contract, when applicable, to the selected vendor.
  10. CAPPs Documentation:
    - In the CAPPs system, prepare and document the file with:
      - a. A copy of the Pricing Request or Invitation for Bid (IFB) sent out.
      - b. Bid list (with HUB vendors designated).
      - c. Vendor responses.
      - d. Tabulation form containing vendor contact name, address, and phone number.
      - e. Finalize the purchase order and contract, when applicable.
      - f. Ensure proprietary statement is approved and signed, when applicable.
      - g. Any other supporting verification documentation.
  11. Complete PCC Checklist.
  12. Distribution: Distribute copies of the purchase order to the ordering division and the contract monitor, if applicable.
  13. Save a copy of the PO in the file and on CAPPs.

To maintain transparency and compliance in the procurement process, ensure that the procedures are strictly followed.

## 4.6 Formal Solicitations

Delegated Purchase of Goods over \$25,000; Services over \$100,000

A formal solicitation is mandatory when the estimated value exceeds \$25,000 for goods and \$100,000 for services, whether by delegation from SPD (State Procurement Division) or statutory authority. Formal solicitations require issuing the solicitations to all vendors listed on the Centralized Master Bidders List (CMBL). Responses can be obtained using either the Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Offer (RFO) forms.

PCC: S

**Note:** Purchasers should not sign vendor maintenance agreements or other documents that include terms and conditions. These documents should be reviewed by the contract attorney before being signed by Executive Management.

### 4.6.1 Solicitation Methods

#### 1. Invitation for Bid (IFB)

An Invitation for Bid (IFB) is a formal invitation to vendors to submit responses for a specific commodity or service through a competitive bidding process. The primary focus of the IFB is pricing, and the award is based on selecting the lowest bid that meets the minimum criteria for the specifications/requirements or best value for the state. Negotiations are not permitted when utilizing the IFB procurement method.

## 2. Request for Proposals (RFP)

A Request for Proposal (RFP) is a competitive solicitation that allows for negotiations. RFP evaluations may be based on factors other than cost and are typically associated with contracts for services, although the use of RFPs is encouraged for commodities as well, they enable Best and Final Offer (BAFO) negotiations before the final award is made.

## 3. Request for Information. (RFI)

A request for information (RFI) is a document often distributed before initiating the RFP process. It is used to collect vendor information from multiple companies to generate a pool of prospects and generate a short list of candidates who meet the desired qualifications.

### 4.6.2 Formal Solicitation Procedures

1. Determine if purchase is an emergency.  
If yes, require emergency justification form and notify the Procurement Manager immediately.
2. Collect the detailed specifications or scope of work for the required good or service.
3. Develop a Procurement Plan.
4. Review risk and needs assessment provided by Division if purchase is \$100,000 or more.
5. Determine if the good or service is proprietary or sole source, if yes complete proprietary justification form.
6. Work with the division to develop the specifications or the statement of work to create the solicitation document.
7. Require division staff to review and sign non-disclosure form.
8. Determine if HUB subcontracting is a probability if purchase is \$100,000 or more.
9. Finalize solicitation document.
10. Establish an evaluation committee.
11. Determine if there will be a pre-bid conference.
12. Establish a solicitation timeline.
13. Using the CMBL Only search criteria and the applicable NIGP class(es) and Item(s) to locate all vendors who provide the required commodity or service and service the county, city, or highway district.
14. Print and save the CMBL.  
**NOTE:** If the procurement is a service purchase of more than \$100,000, do not limit the search to your highway district. Print the vendor list from the CMBL and include it in the procurement file.
15. With written approval from the Executive Director, non-CMBL vendors may be added to the final vendor list to enhance competition. If applicable, also attempt to solicit a response from the vendor who last held the contract for the required good or service.
16. Obtain HUB Subcontracting Plan determination documented.
17. Finalize solicitation document.
18. Determine if Comptroller's SPD review and approval is required.
  - Commodities exceeding \$25,000 or Services exceeding \$100,000 must be submitted to the Comptroller's State Purchasing Division (SPD) for review.
  - Commodities exceeding \$25,000 - submit an Open Market Requisition to SPD via email or through the CPA portal.



- Services over \$100,000 - submit a delegation request through the CPA portal.
- 19. Obtain SPD approval, if applicable.
- 20. Determine evaluation team and develop evaluation plan.
- 21. Require all evaluation team members to sign conflict of interest/non-disclosure forms.
- 22. Solicit a response for the required commodity or service from each vendor identified in the previous steps. If applicable, also attempt to solicit a response from the vendor that last held the contract for the required commodity or service. The acceptable methods for receiving responses to formal solicitations may include: (1) in person, (2) direct mail, or (3) electronic mail.
- 23. Post the solicitation information to the Electronic State Business Daily (ESBD) unless the purchase is specifically exempted under Texas Government Code §2155.083 for 14 (if posting the solicitation or 21 days (if posting a notice).
- 24. Collect bids and track Responses on a Bid Receipt Forms. Note the form must include the date/time stamped. No Responses should be accepted after the solicitation deadline.
- 25. Response due date and release of respondent information:
  - a. For the Invitation for Bid process, a public opening is typically conducted announcing the respondents and pricing. If a public opening is not in the best interest of the solicitation, the solicitation documentation should state that there will be no release of information until after award.
  - b. For the Requests for Proposal process, there should not be a public reading of the respondents in order to protect negotiations and to comply with statutory requirements. (Texas Government Code §§ 2156.123 – 2156.124).
- 26. Conduct Pre-bid conference, when applicable.
- 27. Collect the responses, purchasing to ensure all responses are date and time stamped.
- 28. Purchasing conducts an initial administrative review to verify responsiveness to the minimum requirements, including the HSP, when applicable.
- 29. Purchasing schedules evaluation team meeting to instruct the team and distribute responses.
- 30. The evaluation team will evaluate responses in accordance with the established evaluation criteria. Examples: conducting vendor reference checks and submitting scores to the Purchaser or the Evaluation Team Lead.
- 31. The Purchaser will consolidate all evaluation team scores on a combined bid tabulation form. With the recommended vendor for award or that provides best value to the TREC.
- 32. Review tabulation results with the evaluation team to determine recommended vendor for award.
- 33. Purchasing will maintain an electronic copy of all responses.
- 34. For contracts over \$1M, obtain the Ethic's Commission's Certificate of Interested Parties (Form 1295) submitted by the vendor.
- 35. Print out all back-up verification documentation (i.e., Vendor List, Debarred, SAMs, etc.) to verify good standing.
- 36. Prepare PCC Checklist.
- 37. Route contract if applicable.
- 38. Process the award through issuance of a PO.
- 39. Send PO to vendor.
- 40. Save PO in CAPPs.
- 41. Post Award on ESBD.
- 42. Submit contract to LBB, when applicable.
- 43. Prepare and attach the following to the CAPPs PO:
  - a. PCC Checklist.

- b. Copy of Pricing Request or IFB sent out.
- c. Bid opening date.
- d. Bid list (with HUB vendors designated).
- e. Vendors' original responses.
- f. Tabulation form including vendor contact name, address, and phone number.
- g. Purchase order.
- h. Proprietary statement, if needed.
- i. All back-up verification documentation.
- j. Schedule a contract management meeting.
- k. Place a copy of the PO in the PO file and CAPPs.

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## Part 5. Other Delegated Services

The SPD has delegated purchasing authority to agencies in the following categories of purchase:

- Emergency purchases
- Internal repair purchases
- Direct publications

### 5.1 Emergency Purchases

PCC: D, F, Q, S, T

An emergency purchase occurs when an unforeseen circumstance occurs that requires an immediate response to avert an actual or potential public threat or to avoid undue additional cost to the agency or the state. It is important to note that a lack of planning or the pending expiration of funds is not considered an acceptable justification for declaring an emergency. In cases involving a Declaration of Disaster by the Governor, the procedure will align with the CPA's Contract Management Guide.

The decision to declare an emergency purchase is the sole responsibility of TREC. If an emergency exists, a written determination must be included in the procurement file. A division requesting an emergency purchase must complete an emergency justification form and submit it to the Purchasing Section with the requisition. The emergency justification form must be approved by the Purchasing Manager and will be included in the procurement file.

All procurements conducted as emergencies should maintain competitiveness within the given circumstances. In situations where a solicitation is not posted to the Electronic State Business Daily (ESBD), the purchasing section should make a reasonable attempt to obtain at least three informal bids. Emergency purchases exceeding \$25,000 must be posted to the ESBD; however, the minimum time for posting the solicitation may be adjusted as necessary to address the emergency.

Emergency purchases are subject to CAT and QAT reviews and the period of service should not extend beyond the scope or duration of the emergency. In addition, emergency purchases of goods or services exceeding \$25,000 require TREC to provide a comprehensive written explanation of the emergency along with other required documentation to the Comptroller's Statewide Procurement Division (SPD).

#### 5.1.1 Emergency Purchase Procedure

Who	What
Division	<ul style="list-style-type: none"><li>• Completes the emergency justification.</li><li>• Submits a requisition.</li><li>• Contacts purchasing.</li></ul>
Purchasing Manager	<ul style="list-style-type: none"><li>• Reviews request for emergency justification.</li><li>• If approved, proceed to the next step.</li><li>• If not approved, process the order using regular purchasing processes.</li></ul>
Purchaser	<ul style="list-style-type: none"><li>• Determines if bids are required and selects the appropriate procurement method.</li><li>• Processes the order using the chosen procurement method.</li><li>• Completes the PCC Checklist</li><li>• Dispatches the order and submits it to the vendor.</li></ul>

- For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- Save all backup documentation with the purchase order in CAPPS.
- Post PO to LBB site (when applicable).

## 5.2 Internal Repair

An internal repair is a repair to state-owned equipment where the extent of the repair required cannot be reasonably defined prior to the actual repair. Typically, the full scope of the repair becomes evident only after the equipment is disassembled and examined. Internal repairs occur when unexpected, fundamental service outages. For example, the sudden failure of a building’s air conditioner may result in unanticipated repair to electrical circuitry, which would be considered an internal repair. Internal repairs should include both labor and necessary parts.

### 5.2.1 Internal Repair Procedure

PCC: E, F, Q, S

Who	What
Division	Recognizes need; determines requested service required; contacts Purchasing.
Purchasing	Determines if purchase meets internal repair requirements.
Division or Purchasing	Identifies potential vendor(s) and obtains estimate from vendor.
Division	Prepares a requisition; attach quote to the requisition and submit the requisition in CAPPS. NOTE: expedite order when required.
Purchaser	Processes the order; the following statements must be included on the purchase order: “Internal Repair”  “Note to vendor: Not-to-exceed (insert reasonable dollar limit) for repair services unless prior authorization is provided by the agency.”  Obtain appropriate VID number and verify with TREC Accounts Payables Section.
Purchaser	Completes PCC Checklist; Check ESBD, SAM and Debarred Vendor List and attaches all required documentation.
Purchaser	Dispatches order and submits to vendor.

- If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESBD.
- If the order is over \$100,000 and solicitation required, prepare contract file.
- For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- If additional funds required obtain a purchase requisition for the additional funds and issue a Purchase Order Change Notice (POCN). NOTE: Competitive award is not required for an internal repair.
- Save all backup documentation with purchase order in CAPPS.

### 5.3 Direct Publications

Publications and professional memberships may be procured directly from the publisher only in cases where they are not accessible through a set-aside program, CPA term contract, TXMAS contract, or through competitive bidding without specified dollar limits. It is essential to adhere to all State Procurement Division (SPD) guidelines when ordering direct publications. For direct publications exceeding \$25,000, purchasers are obligated to post the procurement on the Electronic State Business Daily for a minimum of 14 days.

#### 5.3.1 Direct Publication Declaration.

The following statement should be placed on POs for the Direct Publication purchases: “Direct Publication - Not available from any other source.”

#### 5.3.2 Direct Publication Examples

Examples of direct publications include, but are not limited to, the following:

1. foreign publications
2. out-of-print or rare publications
3. back issues of magazines, journals, and newspapers
4. publications produced by professional societies
5. audio, visual, or audiovisual materials (films, audio presentations, etc.)
6. computer software
7. collections of any of the foregoing items, and microfilm or microfiche copies of any of the foregoing items
8. Library of Congress cards

In order for computer software to be purchased as a direct publication, the procurement must satisfy the requirements of direct publication and be subject to an exemption or exclusion from state set aside programs and DIR procurement authority. Purchasers should determine the appropriate procurement method. Hardware and IT services may not be purchased as a direct publication. Procurements made under SPD’s delegation authority are subject to ESD posting requirements as well as the requirements applicable to CAT reviews and QAT reviews.

#### 5.3.3 Direct Publication Procedure

PCC: K; Doc Type: 2

Who	What
Purchaser	<ul style="list-style-type: none"> <li>• Reviews requisition and back up documentation.</li> <li>• Processes the requisition.               <ul style="list-style-type: none"> <li>- If estimated value is over \$25,000 (goods) or \$100,000 (service), work with the division to develop specifications; follow appropriate solicitation process.</li> </ul> </li> <li>• Obtain appropriate VID number.</li> <li>• Check ESD, SAM and Debarred Vendor List.</li> <li>• Completes the PCC Checklist.</li> <li>• Dispatches order and submit to vendor.</li> <li>• Saves and attaches PO to CAPPs.</li> </ul>

## 5.4 Statutorily Exempt

Specific goods and services are exempt from competitive bidding by statute. Exempt purchases require a legal cite which exempts it from competitive bidding be referenced on the purchase order. For additional statutorily exempt purchases go the Comptroller Contract Management Guide.

Certain goods and services are not within SPD purchasing authority, exempt from competitive bidding requirements, or are required by statute to be procured through a specific purchasing method. The agency's General Counsel must be consulted to determine whether if the purchase is statutorily exempt.

Exempt purchases are processed as Document Type 9 purchases and should have a blank or "0" PCC field. If not exempt by the General Appropriations Act, Texas Government Code § 2151 et seq., or other statute, the purchase must be competitively bid, or the purchase should satisfy the requirements of a proprietary sole source purchase and a proprietary purchase justification should be placed in the procurement file.

NOTE: Document Type 9 purchases are subject to Post-Payment Audit to verify whether the purchases are indeed exempt, and that the agency used the correct Document Type and Comptroller Object Codes.

PCC: None; Doc Type 9

- State Treasury Funds - Purchases made with funds other than general revenue appropriations and funds not held in the state treasury.
- Employee Payroll Exempt by Statute - Employee payroll and other employee salary related items, e.g., salary, FICA, Federal Income Tax, Health Insurance.
- Exempt by Statute - Commodities and services that are exempt from the procurement process by legal statute.

Description	Statutory Cite
Auxiliary enterprises	2155.141
Goods or services made or provided by blind or visually impaired persons and offered for sale to state agencies	2155.138
Consulting services or services of a consultant as defined in Texas Government Code § 2254.021 et seq. Must use 7239, 7240, or 7242 comptroller object codes to process expenditures.	2155.001
Leases of office space under the authority of the Texas Facilities Commission.	2167.002
Items required by statute to be purchased from a particular source	2155.132(F)(2)
Texas Department of Criminal Justice made goods	2155.065
Professional services & fees: services listed in Texas Government Code § 2254.001 et seq. must use 7253 or 7356 comptroller object codes to process expenditures.	2155.001
Purchases of products and services of workshops, organizations, or corporations whose primary purpose is training and employing individuals having an intellectual or a physical disability (WorkQuest set-aside contracts) if the agency performs the purchase at the WorkQuest store personally	2155.441
Services of an employee of a state agency	2155.001
Utilities (services of public utilities): natural gas, electric, water, sewage & garbage services, other services - cell phone or cable services not included	2155.001
Professional memberships	2113.104

## Part 6 Automated Information Systems

There are various methods that can be used to procure Automated Information Systems (AIS) procurements. All AIS purchases will either be processed through a pre-established DIR contract, or the agency will be required to obtain a waiver or use a blanket exemption, and purchase through the open market.

Department of Information (DIR) goods or services PCC: I

### 6.1 Types of DIR Contracts

The Department of Information Services (DIR) contracts include:

- Cooperative Contracts
- DBITs Contracts
- IT Staff Augmentation Contracts

### 6.2 DIR Thresholds

The purchaser must determine the appropriate method for procurement, starting with the determination of whether the requested hardware, software, or service is available through a DIR contract. Utilize the following criteria to decide how to obtain quotes: Link to [DIRProcurement ProfessionalsGuide](#).

Contract Value	# Of Vendors
Up to \$50,000	State Agencies may directly award a contract to DIR Cooperative Contracts vendor(s) or reseller(s) in the category to which the contract relates.
Over \$50,000 but not exceeding \$1 Million	State Agencies must submit a request for pricing to at least <b>three (3)</b> DIR vendors or resellers in the category to which the contract relates.
Over \$1 Million but not exceeding \$5 Million	State Agencies must submit a request for pricing to at least <b>six (6)</b> DIR vendors or resellers in the category to which the contract relates.
Over \$5 Million but not exceeding \$10 Million	State Agencies have the option to enter into a contract through the DIR Cooperative Contracts program. If using DIR contracts, state agencies must submit a request for pricing to at least six (6) DIR vendors or resellers in the category to which the contract relates.
Over \$10 Million	May not enter into a contract through the DIR cooperative contracts program to purchase a commodity item



### 6.3 Services

DIR offers contracts for the following services:

- a. IT Staffing Services
- b. Support Agreements
- c. Maintenance Agreements
- d. Hardware or Software Only Contracts

A statement of work must be established for purchases over \$50,000 and are for the following:

- a. Cloud Services
- b. Deliverables Based Information Technology Services (DBITS)
- c. Managed Services for Information Technology
- d. IT Security Services
- e. Comprehensive Web Development

### 6.4 DIR Guides and Templates

Guides	Templates
<ul style="list-style-type: none"><li>• <a href="#">DIR SOW Application User Guide</a></li><li>• <a href="#">DIR Portal Application User Guide</a></li></ul>	<ul style="list-style-type: none"><li>• <a href="#">DIR IT Staffing SOW Template</a></li><li>• <a href="#">DIR DBITS SOW Template</a></li><li>• <a href="#">DIR Cloud Services SOW Template</a></li><li>• <a href="#">DIR End-User IT Sourcing SOW Template</a></li></ul>

### 6.5 DIR Waiver

The Department of Information Resources (DIR) is responsible for establishing contracts on behalf of the State of Texas for the acquisition of information technology goods and services. If a specific information technology item or service is not accessible through these contracts, TREC seeks an exemption from DIR. This exemption allows TREC to proceed with the procurement using methods approved by the Comptroller of Public Accounts (CPA).

### 6.6 Non-Department of Information Services

PCC: D

If the requested equipment, good or service is not available under a DIR contract, purchasers may proceed with the delegated purchase process. However, before moving forward, the purchaser must follow the DIR Exemption process: [DIR Exemptions](#).

#### 6.6.1 Processing tips

If the purchase is under \$10,000 and not available through DIR, the purchase can be made with a non-DIR vendor without obtaining an exemption from DIR. The PO must reference the DIR blanket exemption and the PO file must include all back-up verification documentation and the PCC D checklist. NOTE: If multiple bids are obtained, a bid tabulation must be included in the PO file.

If the purchase is over \$10,000, the purchaser must submit an exemption request to DIR. The order cannot be processed until DIR issues an approved exemption request.

**6.7 Contracts Over \$1M**

- 6.7.1 The Ethic's Commission's Certificate of Interested Parties (Form 1295) must be obtained from the vendor.
- 6.7.2 Post contracts on LBB website.

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### 7.1 Introduction

The procurement card should be used in accordance with and in compliance with the State of Texas and TREC policy and procedures. Procurement card holders should use the procurement card when a purchase order is not accepted, or an expedited procurement process is required.

### 7.2 How to Obtain a Procurement Card

To obtain a procurement card:

- A procurement card application must be completed, signed by the employee's division director, and submitted to the TREC purchasing manager.
- Once the application is received and approved, the employee requesting the procurement card must undergo procurement card training.
- Successful completion of the training program is a prerequisite for card issuance.
- The purchasing manager will either issue the card to the cardholder in person or send it via express mail upon receipt.

Note: Procurement cards are exclusively issued to Purchasers in Financial Services.

### 7.3 Procurement Card Agreement

Every individual assigned a procurement card is required to sign an Acknowledgement of Receipt Form before activating the card. The completed form should be promptly returned to the purchasing manager.

### 7.4 Requirements

- Purchases made using the procurement card must be conducted exclusively by the cardholder.
- The cardholder bears responsibility for both the security of the procurement card and all transactions performed with it.
- The procurement card should be securely stored in a locked location at all times.
- The procurement card must be utilized solely for official state business.
- The cardholder is authorized to use the procurement card with any vendor or service provider that accepts it, is not on the restricted list, and is in good standing with the State of Texas.
- The procurement card may be used for in-store purchases, online transactions, mail, telephone, or fax orders.
- The cardholder may use the procurement card to purchase specific approved items and services as long as they fall below the established single transaction limit.
- The total amount spent in a given month should not exceed the credit limit assigned to the procurement card.
- The cardholder is responsible for reconciling the bank statement to ensure the accuracy of all charges.
- The procurement card should not be used to circumvent proper purchasing or payment procedures.

- The procurement card is strictly for official use and not intended for personal transactions.
- The procurement card must be returned to the program administrator before transfer or termination.

Note: Failure to adhere to TREC's procurement card guidelines may result in disciplinary action, including potential termination of employment.

## **7.5 Credit Limits**

All procurement cardholders are assigned a monthly spending limit. These limits may vary for each cardholder and will be determined and established by the State program administrator.

To modify procurement card limits, a cardholder maintenance form must be completed. The form requires approval from division management and should be submitted to the purchasing manager, who will then forward the request to the bank for processing.

## **7.6 Faxed, On-Line, Email, or Verbal Transactions**

Verbal, online, faxed, and email transactions must be carefully verified. Credit card purchases should be confirmed by contacting the vendor. The purchaser must ensure that the vendor accepts faxed, verbal, or email credit card transactions. After the transaction is completed, the purchaser must confirm that the credit card transaction was successfully processed and received by the vendor.

## **7.7 Requisition Submission Requirements**

**All procurement card transactions must be initiated through a purchase order before execution.** A requisition submitted by a division but not incorporated into a purchase order is considered an unauthorized purchase unless specifically approved in writing by the purchasing manager.

## **7.8 Purchase Order Assignments**

A unique purchase order number will be designated to each procurement card holder. To process a requisition, the transaction is added to the purchaser's procurement card purchase order. A new purchase order will be issued annually, with tracking managed by the procurement card holder through a transaction log.

## **7.9 Procurement Card Site.**

To review procurement card transactions, go to: <https://home.cards.citidirect.com/CommercialCard/login>

## **7.10 Procurement Transaction Verification**

Each procurement card transaction will be added to the purchase order with the following line-item details. The quantity and unit of measure should correspond with the purchase. For example: 3 @ \$5.00, resulting in an extension cost of \$15.00, and the credit card transaction will be \$15.00.

The procurement card holder is responsible for tracking all purchases in a transaction log for every billing cycle.

For each requisition added to the purchase order, appropriate backup documentation must be included, such as receipts, a purchase order checklist, and vendor check documents, among other relevant documents. Additionally, a warrant hold check must be printed and added to the file for all transactions exceeding \$500.

Note: The cardholder is required to obtain a receipt or confirmation for every transaction. The transaction log must be consistently maintained, reconciled, and submitted to accounts payable at the end of each billing cycle, along with the procurement card monthly statement.

#### 7.10.1 Transaction Log format

Purchaser Transaction logs can be found at:

<https://treotalcb.sharepoint.com/sites/Reports2/Credit%20Card%20Logs/Forms/AllItems.aspx>

#### 7.10.2 Procurement Card Statement Reconciliation

The procurement card holder must:

- Reconcile log with the statement.
- Confirm and/or update the transaction log.
- Attach all receipts to the PO online folder for each line item.
- Contact Accounts Payables if there is a discrepancy.

### 7.11 Sales and Use Tax

The cardholder is responsible for ensuring that sales and use tax are not included on the order.

### 7.12 Capital or Controlled Assets

The procurement card **should not be used to purchase capital or controlled items** unless approved in writing by the Director of Finance. If approved, the correct expenditure object code established for the type of assets being purchased must be used. The Texas Identification Number/Payee Identification Number/Vendor Identification (TIN/PIN/VID) of the selling vendor must be entered into USAS, rather than the TIN/PIN/VID of the state credit card issuer.

### 7.13 Cardholder Security

The cardholder is responsible for the security of the card. The procurement card should be treated with the same level of care as the cardholder would use with his/her own personal charge cards, even though the liability associated with the use of this card lies with the agency. The cardholder must guard the procurement card account number carefully, keeping it confidential at all times. It should not be posted in a work area or left in a conspicuous place. It should be kept in an accessible but secure location.

\* The procurement card is solely authorized for use by the cardholder whose name appears on the card and is to be used exclusively for official state business.

### 7.14 Prohibited Purchases

The card holder may use the card for items specifically identified on the PO. If the item or service is not specifically listed, the procurement card should not be used.

In addition, Per **Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter E, Section 5.57(g)**, a TREC cardholder may not use the card and may not reimburse an officer or employee for the use of a payment card for:

- Personal purchases or any other purchase not connected with official state business.

- Cash advances.
- Consulting Services.
- Goods or services that require prior approval of another state agency.
- Purchases subject to audit by the Texas Comptroller of Public Accounts.
- Purchases from vendor if payment to the vendor is prohibited by:
  - Government Code §403.055 or §2107.008
  - Education Code §57.48, or §57.482
  - Family Code §231.007
- Purchases that violate any provision of the General Appropriations Act regarding the occurrence of excess obligation provisions.
- Purchases of automotive fuel.

## 7.15 Liability Requirements

TREC may be liable for late payment fees and transactions charged to lost and stolen cards if lost or stolen cards are not reported immediately. The agency will have no liability for transactions that occur after notification of a card being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, the cardholder's liability is limited to a maximum of \$50 per card (up to \$100,000).

If a procurement card is lost or stolen, immediate notification of Citibank is essential by calling 1-800-248-4553. Inform the bank that the card in question is a Texas Real Estate Commission procurement card. Subsequently, notify the Procurement Card Administrator.

The bank will deactivate the old card and issue a new one to the program administrator. The cardholder will be notified by email upon the arrival of the new procurement card. TREC will have no liability for transactions that occur after notification of a card being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, TREC's liability is limited to a maximum of \$50 per card (up to \$100,000).

## 7.16 How to Handle Returns, Credits, and Disputed Charges

In the event of a return, credit, or dispute related to a purchased item, service, or other charge, all reasonable attempts should be made to resolve the issue directly with the supplier. Ensure that the account is properly credited for the return, credit, or disputed charge. Document all returned, credited, or disputed items in the Cardholder's Procurement Card Transaction Log.

Per the State Comptroller's rule, cardholders are not authorized to receive cash refunds for returned merchandise. All credits or refunds must be applied to the same cardholder account used for the original purchase.

- Returns: If a cardholder needs to return an item to a supplier, contact the supplier for return instructions. Note that some suppliers may charge restocking or handling fees for returns. Record all returns in the cardholder's transaction log.
- Credits: When a supplier accepts an item as a return, a credit for the returned item should appear on a future month's statement. Document all credits in the cardholder's transaction log.
- Disputed Charges: A cardholder may dispute a charge that appears incorrect or is not recognized as part of an authorized purchase. Initially, the cardholder should make a good-faith effort to settle the claim or dispute for purchases directly with the vendor. If an agreement cannot be reached with the vendor,

contact Citibank at 800-248-4553 and complete and submit a Citibank Cardholder Dispute Form to Citibank within 60 days of the statement date on which the disputed transaction was posted. Record all disputed items in the cardholder's transaction log. Disputes must be sent to Citibank within 60 days of the billing close date. The closing date for the previous billing cycle is on the 3rd of the next month. The Non-Travel Related Dispute form may be requested by the Citibank Chargeback Specialist and should only be completed upon their request.

**7.17 Reporting of Fraudulent Use of a Procurement Card**

- Financial Services, Director of Finance at 512-936-0102
- CitiBank Fraud Department 800-945-3114

**7.18 Employee Separation or Termination**

The procurement card must be returned to the program administrator upon the transfer, separation, or termination of employment. The program administrator should deactivate the card immediately upon notification of termination or separation.



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## Part 8. Contract Management

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The Texas Real Estate Commission (TREC) has established contract management procedures in compliance with the State of Texas Contract Management Guide (CMG), the State of Texas Procurement Manual and the Department of Information Resources (DIR) rules.

### 8.1 Conflict of Interest

By statute, any person involved in the development or approval of a contract that has an actual or potential conflict of interest must disclose it and must be removed from involvement in the contract process.

All purchasing staff and other staff involved in contract approval must sign a conflict-of-interest statement certification.

Each signatory in the workflow approval of a contract, by approving the contract, certifies that he or she:

- a. Has no interest in, or connection with, the contract.
- b. Has not accepted or received, and will not accept or receive, from a person or entity to whom the contract has been awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation, and
- c. Has disclosed any possible conflicts of interest to the Executive Director.

TREC staff that has knowledge of any conflict of interest by any staff involved in the procurement process that has previously not been disclosed must report it to the General Counsel and the Executive Director.

TREC may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:

- a. A member of the agency's governing body.
- b. The governing official, Executive Director, General Counsel, Chief Procurement Officer, or Procurement Director of the agency; or
- c. Family member related to an employee or official within the second degree by affinity or consanguinity.
- d. A state agency employee or official has a financial interest in a vendor if the employee or official: owns or controls, directly or indirectly, an ownership interest of at least one percent in the vendor, including the right to share in profits, proceeds, or capital gains; or awarding a contract to the vendor could result in a financial benefit to the employee or official. A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

## 8.2 Steps in the Contract Process

### 8.2.1 Identify Need

The Purchaser serves as the contract manager and collaborates with the requesting users to establish a clear understanding of the need. This may involve requesting additional details, seeking clarification, contacting vendors or service providers, consulting with the CPA Statewide Procurement Division (SPD) or Department of Information Resources (DIR), conducting research, or referring to state-approved sources. The Purchaser will then obtain a quote or verify a quote received from the requesting department.

### 8.2.2 Submission of Purchase Requisition

The requesting department must submit an approved Purchase Requisition in accordance with the Delegation of Authority memo issued by the Executive Director.

Effective planning is paramount in Contract Management. Extensive planning reduces risks and ensures that the solicitation process results in a robust contract that can be efficiently monitored and managed.

The requesting department will consult with the purchasing and legal departments as necessary, identify needs, and plan accordingly. Senior team members, General Counsel, and the Executive Director may be involved in the initial planning stages to prevent issues later in the process.

### 8.2.3 Perform Risk Assessment

After determining the required services, the Purchaser collaborates with the requesting department and team members to assess the agency's risk level and develop strategies to minimize risks through contract requirements.

Risk factors to be considered include, but are not limited to:

1. Type of purchase (competitive/non-competitive)
2. Payment type/structure
3. Dollar amount of the contract
4. Scope of goods/services being procured
5. Vendor background and experience

### 8.2.4 Identify Procurement Method

Determine the appropriate procurement method in compliance with the State of Texas Procurement and Contract Management Guide or DIR's Statement of Work procedures.

### 8.2.5 Prepare Solicitation Document.

The Purchaser should follow the steps as outlined in the Section 4.6, Solicitation Process. If the purchase is IT related, the purchaser should work with the division to develop a comprehensive Statement of Work (SOW).

#### 8.2.6 Negotiate/Best & Final Offer, when applicable.

The Purchaser and Evaluation team will:

- Negotiate with vendors to achieve the best value based on best value standards.
- Request Best and Final Offers from responsive vendors if necessary.
- Reach an agreement on the contract terms with the other party, keeping in mind that certain standard legal terms may not be negotiable.

The Purchaser will

- Compile and total scores from the evaluation score sheets completed by each Evaluation Team Member.  
In some situations, a second evaluation scoring matrix may be required.
- Prepares the final scoring tabulation and presents scores to the evaluation team.
- Finalize the Evaluation Team's best vendor recommendation in accordance with state purchasing rules.

#### 8.2.7 Best Value Standards

In determining the best value, the Purchaser will work with the Evaluation Team to prioritize factors like:

- purchase price
- adherence to specifications
- installation costs
- life cycle costs
- quality and reliability of goods and services
- delivery terms
- past vendor performance
- vendor's financial resources and ability to perform
- vendor's experience
- capability or responsibility
- cost of training
- other factors relevant to the specific purchase

Depending on the contract value, the Purchaser will document the best value standard used for awarding the contract on the purchase order or supporting documentation. Next, the Purchaser will acknowledge in writing that the procurement complies with the State of Texas Procurement and Contract Management Guide.

#### 8.2.8 Award

The Evaluation team will:

- Select the best vendor in accordance with state purchasing rules.
- Present the award recommendation to the Commission if approval is required.
- Notify the vendor of the award and issue a purchase order and/or contract to the awarded vendor.

### 8.3 Issuing a Contract

For larger, complex purchases, a contract may be appropriate in addition to a purchase order. The contract is usually drafted by the General Counsel and reviewed by the Financial Services Director, the Purchaser, the Executive Director, and other necessary team members.

### 8.4 Contract Management

The Purchasing Section will manage the overall contract requirements and is responsible for the day-to-day management of contracts, including:

1. Monitor vendor performance and fiscal, financial, and record keep requirements.
2. Report vendor performance in the Comptroller's Vendor Performance Tracking System.
3. Work with Contract Monitors to resolve performance and compliance issues.
4. Work with divisions to ensure that deliverables are received, reviewed and approved.
5. Document receipt of contract deliverables and communicate acceptance of these deliverables to the appropriate section.
6. Process contract modifications, addendums, Purchase Order Change Notices, etc.
7. Settle contract disputes.
8. Recommend renewal or non-renewal of the contract.
9. Handle contract termination and closeout.
10. Maintain complete and accurate contract correspondence and documentation.
11. Attend contract management continuing education to maintain certification as a Certified Texas Contract Manager (CTCM).

For specialized contracts, after a contract has been awarded, the requesting division designates a Contract Monitor who will:

1. Apply specialized knowledge, skills, and techniques to support program activities.
2. Administer and manage daily operations of required services established in contract.
3. Manage and monitor performance as required in the contract. This may require involvement of the Purchaser should a dispute arise.
4. Ensure vendor meets required performance objectives defined in the contract.
5. Oversee delivery and receipt of services.
6. Certify services were performed and deliverables met.
7. Review invoice to confirm acceptance of services, when applicable.

### 8.5 Vendor Performance

After a contract has been completed or terminated, information about that vendor's performance shall be entered into the Comptroller's Vendor Performance Tracking System (VPTS); and as a part of the closeout process for all purchases over \$25,000, vendor performance information both positive and negative shall be entered into the VPTS.

### 8.6 Records Retention of Contracts

For contracts and purchase orders entered into after 9/1/2015, TREC must retain in its records each contract and related documents for a period of seven (7) years after contract expires, is terminated, or is completed, and after all issues have been resolved. This includes all solicitation documentation.

For contracts and purchase orders entered prior to 9/1/2015, the records retention period is four (4) years.

Authority:

Texas Government Code, Title 10, Subtitle F, Chapter 2262 – Statewide Contract Management

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**TITLE 22, PART 23, CHAPTER 534 GENERAL ADMINISTRATION**

Adopted to be effective March 16, 2021, 46 TexReg 1642;

Amended to be effective May 25, 2022, 47 TexReg 3053

(NEW) **§534.7. Vendor Protest Procedures**



(a) The purpose of this section is to provide a procedure for vendors to protest purchases made by the Commission and the Board. Protests of purchases made by the TFC on behalf of the Agency are addressed in 1 TAC Chapter 111, Subchapter C (relating to Complaints and Dispute Resolution). Protests of purchases made by DIR on behalf of the Agency are addressed in 1 TAC Chapter 201, §201.1 (relating to Procedures for Vendor Protests and the Negotiation and Mediation of Certain Contract Disputes and Bid Submission, Opening and Tabulation Procedures). Protests of purchases made by the Statewide Procurement Division of the Comptroller on behalf of the Agency are addressed in 34 TAC Chapter 20, Subchapter F, Division 3 (relating to Protests and Appeals). The rules of TFC, DIR, and the Comptroller are in the Texas Administrative Code, which is on the Internet website of the Office of the Secretary of State, Texas Register Division at: [www.sos.state.tx.us/tac/index.shtml](http://www.sos.state.tx.us/tac/index.shtml).

(b) Any actual or prospective bidder, offeror, or contractor who believes they are aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the Agency. Such protests must be in writing and received in the office of the Chief Financial Officer within ten working days after such aggrieved person knows, or should have known, of the occurrence of the action which is protested. Formal protests must conform to the requirements set forth in subsection (c) of this section. Copies of the protest must be mailed or delivered by the protesting party to all vendors who have submitted bids or proposals for the contract involved.

(c) A formal protest must be sworn and contain:

- (1) a specific identification of the statutory provision(s) that the action complained of is alleged to have violated;
- (2) a specific description of each act alleged to have violated the statutory provision(s) identified in paragraph (1) of this subsection;
- (3) a precise statement of the relevant facts;
- (4) an identification of the issue or issues to be resolved;
- (5) argument and authorities in support of the protest; and
- (6) a statement that copies of the protest have been mailed or delivered to other identifiable interested parties.

(d) The Chief Financial Officer shall have the authority, prior to appeal to the Executive Director or the Executive Director's designee, to settle and resolve the dispute concerning the solicitation or award of a contract. The Chief Financial Officer may solicit written responses to the protest from other interested parties.

(e) If the protest is not resolved by mutual agreement, the Chief Financial Officer will issue a written determination on the protest.

- (1) If the Chief Financial Officer determines that no violation of rules or statutes has occurred, the Chief Financial Officer shall so inform the protesting party and interested parties by letter which sets forth the reasons for the determination.
- (2) If the Chief Financial Officer determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the Chief Financial Officer shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action.

(3) If the Chief Financial Officer determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Chief Financial Officer shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action. Such remedial action may include, but is not limited to, declaring the purchase void, reversing the award, and re-advertising the purchase using revised specifications.

(f) The Chief Financial Officer's determination on a protest may be appealed by an interested party to the Executive Director or the Executive Director's designee. An appeal of the Chief Financial Officer's determination must be in writing and must be received in the office of the Executive Director or the Executive Director's designee no later than ten working days after the date of the Chief Financial Officer's determination. The appeal shall be limited to review of the Chief Financial Officer's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties and must contain an affidavit that such copies have been provided.

(g) The general counsel shall review the protest, the Chief Financial Officer's determination, and the appeal and prepare a written opinion with recommendation to the Executive Director or the Executive Director's designee. The Executive Director or the Executive Director's designee may, in their discretion, refer the matter to the Commission at a regularly scheduled open meeting or issue a final written determination.

(h) When a protest has been appealed to the Executive Director or the Executive Director's designee under subsection (f) of this section and has been referred to the relevant Commission or Board by the Executive Director or the Executive Director's designee under subsection (g) of this section, the following requirements shall apply:

(1) Copies of the appeal, responses of interested parties, if any, and the general counsel's recommendation shall be mailed to the Commission members and interested parties.

Copies of the general counsel's recommendation and responses of interested parties shall be mailed to the appealing party.

(2) All interested parties who wish to make an oral presentation at the Commission's open meeting are requested to notify the office of general counsel at least two working days in advance of the open meeting.

(3) The Commission may consider oral presentations and written documents presented by staff, the appealing party, and interested parties. The chair of the Commission shall set the order and amount of time allowed for presentations.

(4) The Commission's determination of the appeal shall be by duly adopted resolution reflected in the minutes of the open meeting and shall be final.

(i) Unless good cause for delay is shown or the Executive Director or the Executive Director's designee determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

(j) In the event of a timely protest or appeal under this section, a protestor or appellant may request in writing that the Agency not proceed further with the solicitation or with the award

of the contract. In support of the request, the protestor or appellant is required to show why a stay is necessary and that harm to the Agency will not result from the stay. If the Executive Director determines that it is in the interest of the Agency not to proceed with the contract, the Executive Director may make such a determination in writing and partially or fully suspend contract activity.

(k) A decision issued either by the Commission in open meeting, or in writing by the Executive Director or the Executive Director's designee, shall constitute the final administrative action of the Agency.

# Attachment B

Delegation of Authority to Approve Purchases Memo

- Proprietary Purchase Approval



## *Protecting Texans' Dreams*

### TREC Commissioners

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Chair

Bob Leonard  
Vice Chair

TJ Turner  
Secretary

Jason Hartgraves

Jan Fite Miller

Barbara Russell

Rayito Stephens

DeLora Wilkinson

Micheal Williams

Douglas E. Oldmixon  
Executive Director

**TO:** Director of Staff & Support Services, and Agency Purchasers

**FROM:** Chelsea Buchholtz, Executive Director/Commissioner

**RE:** Delegation of Authority to Approve Purchases

**DATE:** April 7, 2020

This is to confirm that authority is hereby delegated to the following deputies and division directors to approve purchases up to the indicated amounts. This remains in effect until amended or revoked, provided the position description can be reasonably determined to be equivalent to the position named below. The Director of Staff & Support Services/Chief Financial Officer (CFO), or Accounting Manager in the absence of the CFO, will continue to certify the availability of funds for each requisition.

Deputy Executive Director/Deputy Commissioner = unlimited when acting for the absent Executive Director/Commissioner; otherwise \$5,000

Division Director, or Acting Director if currently unfilled = \$2,500

In addition, the CFO or Accounting Manager has the authority to replenish the following accounts:

Postage = not to exceed \$5,000 per order

Routinely stocked supplies = not to exceed \$2,500 per order

Proprietary, emergency purchases and memberships require written approval by the Executive Director/Commissioner, or Deputy Executive Director/Deputy Commissioner in absence of the Executive Director/Commissioner.

cc: Tony Slagle, Vanessa E. Burgess, Steve Rapp, Troy Beaulieu, Mark Moore, Jennifer Wheeler, Denise Sample, Robert Hood, Priscilla Piphos, Melissa Huerta, Sandy Jones, Mary Beth Hanna, Ron Hunter



### TALCB Board Members

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