



Texas Real Estate Commission

Contract Management Procedures

The Texas Real Estate Commission's (TREC) has established contract management procedures that are 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 with the intent to follow and use the best practices contained therein. These contract management procedures contain the requirements of Texas Senate Bill 20, 84th Legislature (2015-2016).

Conflict of Interest and Ethics

- 1) 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.
- 2) All purchasing staff and other staff involved in contract approval must sign a conflict of interest statement certification.
- 3) 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.
- 4) 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.
- 5) A state agency 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:

- 1) 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.
- 2) 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.

Steps in the Contract Process:

- 1) Identify Need:** The Purchaser will serve as the contract manager and consult with the requesting users to identify a clear understanding of the need. This may involve requesting additional details from the end users, asking for clarification, calling vendors or service providers (vendor), consulting with CPA Statewide Procurement Division (SPD) or Department of Information Resources (DIR), performing research or finding other state approved sources. Obtain a quote or verify a quote received from requesting department;
- 2) Submission of Purchase Requisition:** The requesting department must submit an approved Purchase Requisition in accordance to the memorandum from Douglas E. Oldmixon, "Delegation of Authority to Approve Purchases".
- 3) Plan the Procurement:** Planning the procurement is the first and very important step in Contract Management. The more planning, the less risk and better the solicitation will be to result in a solid contract that can be monitored and managed efficiently. The requesting department will consult with purchasing and legal as necessary, identifying needs and planning accordingly. The senior team members, General Counsel and Executive Director will be involved as deemed appropriate in the initial planning stages of a contract. This will avoid issues later in the process.
- 4) Perform risk assessment.** Once the required services are decided, the Purchaser consults with the requesting department and team members to determine the risk level for the agency and how to minimize risks through contract requirements. Based on the risk level, develop a detailed statement of work with written performance measures that minimizes risk. Contracts requiring enhanced monitoring will be identified during the risk assessment. Risk factors to be considered include, but are not limited to:
 - a) Type of purchase (competitive/non-competitive)
 - b) Payment type/structure
 - c) Dollar amount of the contract
 - d) Scope of goods/services being procured
 - e) Vendor Background and Experience
- 5) Identify Procurement Method:** Determine proper procurement method in compliance with the State of Texas Procurement Manual. Prepare competitive solicitation process when required following procedures set forth in the CPA Contract Management Guide and DIR's Statement of Work procedures.

A Statement of Work (SOW) is used in solicitations to minimize risk by describing in detail what parties are required to do. Including clearly defined performance measure and deliverables in the contract will minimize risk to the agency. The requesting department will assist in developing detailed statement of work, deliverables and performance measures.

6) Evaluation:

The Purchaser receives the responses and distributes them to the evaluation team members with an evaluation scoring matrix and a non-disclosure form. The Purchaser ensures that all Evaluation Team Members understand their responsibilities (refer to CMG).

The Evaluation Team meets to review responses. The team may decide to invite vendors to conduct a presentation and discuss their responses in further detail.

Negotiate with the vendors to find the best value based on best value standards;

Best and Final Offers may be requested from responsive vendors.

An agreement is reached with the other party on the terms of the contract. Certain standard legal terms are non-negotiable;

Purchasing tabulates total scores from the evaluation score sheets completed by each of the Evaluation Team Members.

In some situations, a second evaluation scoring matrix may be required. Purchasing prepares a Final Scoring Tabulation and recommends selection of the best vendor in accordance with state purchasing rules.

Best Value Standards

In determining the best value, the purchase price and whether the goods or services meet specifications are generally the most important considerations. When best value is a consideration other factors should be considered such as:

- a. Installation costs;
- b. Life cycle costs;
- c. Quality and reliability of goods and services;
- d. Delivery terms;
- e. Past vendor performance;
- f. Vendor's financial resources and ability to perform;
- g. Vendor's experience, capability or responsibility;
- h. Cost of training associated with a purchase; and
- i. Other factors relevant to determining the best value in the context of a particular purchase.

The best value standard used to determine the award of a contract will be documented on the purchase order or supporting documentation.

The purchaser will acknowledge in writing that the procurement is in compliance with the Contract Management Guide.

7) Award:

Select the best vendor in accordance with state purchasing rules.

Present recommendation of award to Commission if approval is required.

Notify vendor of award. Issue purchase order and/or contract to the awarded vendor.

8) Issuing a Contract:

For larger, complex purchases, in addition to a purchase order, it may be appropriate that a contract be written and signed by both parties. The contract is generally drafted by the General Counsel and reviewed by the Purchaser, the Executive Director and other appropriate team members as required for the procurement.

For contracts over \$14,000, a contract routing sheet is completed by the Purchaser and requires approval signatures from the Purchaser, Division Director, Chief Financial Officer, Information Resource Manager, General Counsel, Executive Director and other as required. This ensures all parties have reviewed and approved the contract. Attach all documents related to the purchase request including proposals, quotes, evaluation tabulation sheet, contract documents or agreements needing signature.

All contracts other than a purchase order are reviewed by the General Counsel and signed by the Executive Director binding the agency.

Contracts over \$1M must be signed by the Chair of the Texas Real Estate Commission or Texas Appraiser Licensing & Certification Board.

Two original contracts are sent to the vendor for review and signature. One original is retained by the vendor and one is retained by the agency in the Purchasing office. Electronic copies of the signed contracts are stored in the SSS and DD common drives.

9) Contract Management:

Generally, the Purchaser serves as the Contract Manager and is the designated agency staff that has primary responsibilities for the day to day management of contracts, including but not limited to:

- a) Monitoring vendor performance and fiscal, financial and record keeping requirements;
- b) Reporting vendor performance in the Comptroller's Vendor Performance Tracking System;
- c) Taking timely and appropriate action to resolve performance and compliance issues;
- d) Receiving, reviewing and approving deliverables;
- e) Documenting receipt of contract deliverables and communicating acceptance of these deliverables to the appropriate section;
- f) Processing contract modifications, such addendums, Purchase Order Change Notices, etc.
- g) Settling contract disputes;
- h) Recommending renewal or non-renewal of the contract;
- i) Handling contract termination and closeout; and

- j) Providing complete and accurate contract correspondence and documentation, and;
- k) Attending 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 department will:

- a) Apply specialized knowledge, skills, and techniques to support program activities;
- b) Administer and manage daily operations of required services established in contract;
- c) Manage and monitor performance as required in the contract. This may require involvement of the Purchaser should a dispute arise;
- d) Ensure vendor meets required performance objectives defined in the contract;
- e) Oversee delivery and receipt of services;
- f) Certify services were performed and deliverables met; and
- g) Approve invoice for payment, if applicable.

10) 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.

11) Records Retention of Contracts:

The following is the required retention policy for all purchase order and contract related documentation:

For contracts and purchase orders entered into after 9/1/2015, a state agency shall retain in its records each contract and related documents it enters into for a period of seven (7) years after contract expires, terminated, or is completed, after all issues have been resolved. Along with the contract, all solicitation documents shall also be retained.

For contracts and purchase orders entered into 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