

Section 2.10

Delegated Purchase Procedure and Strategic Sourcing Principles

A **delegated purchase** is a procurement in which the authority to manage the competitive process is delegated to an agency by TPASS rule or by statutory exemption. The delegated purchase procedure does not apply to mandatory state use set-aside purchasing programs or requirements that can be satisfied by other purchasing methods specifically authorized by state statutes.

Reference *Section 2.4 Selecting the Procurement Method* to determine that your agency has the authority to use the Delegated Purchase Procedure and the [Training and Certification Requirements for Procurement Personnel](#) for certification requirements for making delegated purchases. Agencies are responsible for establishing internal policies and procedures for responding to delegated purchase complaints and protests. *Reference Section 1.3, Reports and Notifications* for information on agency procurement plans.

Strategic Sourcing Principles

If your agency has been granted the delegated authority to conduct a competitive procurement, you should follow the basic strategic sourcing techniques utilized by the TPASS and Strategic Sourcing divisions to determine best value. Strategic sourcing is a data-driven, analysis-rich methodology for developing optimal sourcing solutions within an agency's delegated authority.

1. **Know what you are buying:** Strategic sourcing emphasizes developing a detailed knowledge base for the commodity or service being sourced and the market, and leveraging this knowledge to achieve the best value. Spend information should be collected and analyzed to develop a complete and detailed understanding of your organization's purchasing behavior and requirements.

Agencies should look to collect spend information at the most granular level. Request invoice level payables information from existing contractors when possible. This information will in turn assist in leveraging your purchasing power in future best value determinations when utilizing the sealed competitive Invitation for Bid process and for negotiations when utilizing the sealed competitive Request for Proposal process.

2. **Consider the number of suppliers:** Agencies should take an enterprise approach when considering their purchasing strategy. Often the pool of suppliers an agency uses for similar commodities or services can be consolidated into a single small group of contractors through awarding by categories or groups of items. Consolidating your agency's spend can lead to more competitive pricing by providing greater incentive to prospective contractors and may also help reduce some of the administrative costs associated with contract management. Tighter supplier relationships can achieve even greater improvements in cost, quality, and delivery time.
3. **Leverage your purchasing volume:** Agencies should attempt to utilize fact-based evaluation techniques in order to secure the absolute best value from their vendors. These types of evaluation techniques can only be accomplished through diligent up-front work that includes cost benchmarking, detailed spend analysis of historical purchasing and awareness of market dynamics. Rather than just the purchase price, award decisions should consider total cost of ownership such as procurement, training, operating, maintenance, disposal and operational costs.

Procedure for Delegated Purchases

STEP	PROCEDURE
1	Verify that your agency has been delegated authority over the competitive process by TPASS or state statute. Follow the instructions in <i>Section 2.4 Selecting a Procurement Method</i> to make this determination.
2	Collect the following: <ul style="list-style-type: none"> • The detailed specification for the required product or SOW for the required service. <i>See Section 2.0 Identify Needs</i> for more information on specifications. • A reasonable estimate of the good or service purchase price based on a market survey, catalog price comparison or previous purchase. NOTE: the solicitation and award authority of an individual purchaser is limited to dollar amounts corresponding to his or her state purchasing certification. Refer to Training and Certification Requirements for Procurement Personnel for specific information.
3	If the estimated purchase price is \$5,000 or less, statute does not require a competitive process. Follow your agency's internal procedures and policies for procuring commodities or services in an amount of \$5,000 or less.

If the specification or SOW is for:

IF	Procurement Manual References
Printing	Section 2.16 (Printing & Copying Services)
Internal repair	Section 2.10 (Delegated Purchase Procedure and Strategic Sourcing Principles)
A service	Section 2.10
Perishable items	Section 2.10
A publication directly from the publisher	Section 2.47 (Purchase Category Codes)
Fuel, oil or grease	Section 2.10
A distributor purchase	Section 2.10

If the specification or SOW is not covered above, follow the procedure in **Commodity Delegated Purchases** below.

Commodity Delegated Purchases

A commodity purchase is a procurement of supplies, materials, or equipment and does not include the purchase of real property or services. TPASS delegates to all state agencies the authority to purchase commodities whose estimated purchase price does not exceed \$25,000.

Commodity Delegated Purchase Procedure

Follow the **Open Market Informal Solicitation** process. See *Section 2.7 Open Market Purchases* for instructions.

Service Delegated Purchases

A **service** is defined as the furnishing of skilled or unskilled labor or professional work. Delegated purchases of services do not include:

- Professional and consulting services covered by the Professional Services Act as defined by Texas Government Code § 2254. See *Section 2.14 Professional and Consulting Services* for more information.
- Services of an employee of a state agency.
- Services of public utilities.

Service Delegated Purchase Procedure

If the estimated purchase price is:

Less than or equal to \$25,000	Use the Open Market Informal Solicitation Process (Section 2.7 <i>Open Market Purchases</i>)
Greater than \$25,000 and less than or equal to \$100,000	<ul style="list-style-type: none">• Develop the appropriate formal solicitation documents.• Post the solicitation notice and documentation to the ESD.• Notify all vendors listed on the CMBL in the appropriate NIGP Class/Item codes for the service and include all that could apply.
Greater than \$100,000 The authority is not automatically delegated	Requires a requisition for these services according to <i>Section 2.7 Open Market Purchases, TPASS Administered Open Market Purchase</i> . After review by TPASS (CATRAD) and the process is delegated to your agency: <ul style="list-style-type: none">• Include the letter with recommendations delegating procurement authority in your procurement file.• Make any changes as recommended in the delegation letter from TPASS (CATRAD) to the advertised specifications, terms, and conditions. Document the reason a change was not implemented.• Develop the appropriate formal solicitation documents.• Post the solicitation notice and documentation to the ESD.• Notify all vendors listed on the CMBL in the appropriate NIGP Class/Item codes for the service and include all codes that could apply

Perishable Goods Purchases (PCC L)

Perishable goods are goods that are subject to spoilage within a relatively short time. TPASS has delegated authority to state agencies to purchase perishable goods. Perishable goods include, but are not limited to:

Description	NIGP Class-Item
Eggs, Fresh	390-21
Fruits, Fresh	390-28
Ice	390-35
Ice, Dry	390-42
Meat: Cured, Fresh, Frozen	390-49
Poultry, Dressed, Fresh	390-63
Seafood, Fresh	390-70
Shellfish, Fresh	390-72
Tamales, Fresh	390-77
Tortillas, Fresh	375-60
Vegetables, Fresh	390-84

Perishable Goods Purchase Procedure

1. If the estimated purchase price is greater than \$25,000 go to Step 3.
2. Purchase the item using the Open Market Informal Solicitation Process. See *Section 2.7 Open Market Purchases* for more information on this process.
3. Post the solicitation notice and documentation to the ESBD.
4. Notify all vendors listed on the CMBL in the appropriate NIGP Class/Item codes for the commodity.

Direct Publication Purchases (PCC K)

Direct publications are publications only available from a single source. Any publication that could be purchased using a competitive process is not considered a direct publication. For example, publications available through subscription services are not direct publications.

- Examples of commodities or services only available Directly from the Publisher, not limited to Subscriptions
- Foreign publications
- Back issues of magazines, journals, and newspapers
- Publications produced by professional societies
- Audio, visual or audiovisual materials (films, audio presentations, etc.)
- Computer software and software maintenance
- Electronic data services (not to be confused with internet service providers such as Earthlink or America On-line, which are not direct publications)
- Collections of any of the foregoing items, including microfilm or microfiche copies of a collection:
 - Library of Congress cards.
 - Theses, dissertations, research findings and academic publications.

Direct Publication Purchase Procedure

STEP	PROCEDURE
1	If the estimated purchase price is greater than \$25,000, post the solicitation notice and documentation to the ESBD.
2	Include a signed document in the procurement file containing the following declaration: " Not available from any other source. " Acceptable documents include but are not limited to: <ul style="list-style-type: none">• A signed memorandum with the above statement.• The signed PO with the above statement.
3	Purchase the publication directly from the sole vendor that publishes it.

Fuel, Oil, and Grease Purchases (PCC P)

Fuel, oil, and lubricants/grease purchases include gasoline, diesel fuel, kerosene, aviation fuels, transmission fluids, motor oil and other lubricants, liquefied petroleum gas (LPG), and compressed natural gas (CNG). These commodities may be purchased in either bulk or packaged form.

Lubricants

The solicitation and award of lubricants should be based on firm-fixed prices or a discount from a manufacturer's published list price.

Indexed Fuel Pricing

Because fuel prices fluctuate, agencies should construct bulk fuel solicitations using indexed pricing based on the contractor's terminal price. The **posted terminal price** is the contractor's cost per gallon for the fuel from the refiner's depot. The posted terminal price for a contract may be either:

- The contractor's actual cost, as shown on fuel receipts.
- A standard industry quote such as Oil Price Information Service (OPIS).
- Data Transmission Network (DTNrgy).
- A current index price from [The Federal Department of Energy, Energy Information Administration](#).

The **contractor's constant** is the difference between the posted terminal price per gallon and the selling price per gallon. The constant includes applicable taxes, environmental fees, freight charges, load fees, operational overhead, and contractor's profit margin. In your terms and conditions, prohibit contractors from changing the constant during the term of the contract. To get the actual cost of the fuel, add the contractor's constant price to the terminal price:

Example: \$1.10/gallon Posted Terminal Price

 + \$0.24/gallon Contractors Constant

 \$1.34/gallon Selling price

Fuel, Oil, and Grease Purchase Procedure

1. If the specification and requirement is for:

- a. **Service station point of sale transactions** (amounts of fuel, oil or grease required for continued operation of a motor vehicle such as pump-delivered gasoline, pump-delivered diesel fuel, and less than case lots of oil or other fluids), purchase using a [CCG Retail Fuel Card](#) issued through the current CCG contract. In USAS, code the payment as document type 9 and reference the current CCG contract number.
 - b. For bulk fuel, an open market solicitation or blanket purchase order should include the following information:
 - The term of the contract, including beginning and ending dates.
 - Estimated total quantities to be purchased during the contract term.
 - Estimated frequency and quantity for each delivery.
 - The delivery destination or destinations.
 - Storage capacity of the agency's tank or tanks
 - Any requirements for contractor-provided storage tanks.
 - A statement that the state is exempt from federal fuels excise tax.
2. For estimated annual purchases between \$5,000 and \$25,000, process the solicitation for the fuel using the Open Market Informal Solicitation Process. See *Section 2.7 Open Market Purchases, Open Market Informal Solicitation*.
 3. If estimated annual purchases are greater than \$25,000, develop and post the solicitation documentation to the ESBD.
 4. Notify all vendors from the CMBL listing utilizing the appropriate NIGP Class and Items, process and award using the appropriate formal competitive process.

Distributor Purchases (PCC M)

A **distributor purchase** is the purchase of repair parts for a unit of major equipment that is needed immediately, or a maintenance contract for laboratory/medical equipment.

Examples of major equipment include, but are not limited to, the following:

- Motor vehicles
- Farm tractors and equipment
- Road building machinery and equipment
- Heavy construction machinery and equipment
- Traffic signal lights or traffic signal controller equipment
- Intelligent Transportation Systems (ITS)
- Laboratory or medical equipment
- Industrial manufacturing machinery

Repair parts do not include complete components such as engines, transmissions, compressors, etc. Parts purchased on a distributor purchase order can only be purchased from a dealer or distributor of the unit being repaired. However, when a unit of equipment has a major component made by another manufacturer, such as a Ford truck using a Caterpillar engine, the component repair parts can be purchased from a dealer or distributor of the component being repaired. Verify that the installation of distributor parts will not void the equipment's warranty before proceeding with this type of procurement.

The following items are not distributor purchases:

- Parts available through TPASS Term Contract(s)

- Consumable items such as brake pads, air filters, etc.
- Labor of any kind.
- Non-Original Equipment Manufacturer (OEM) parts, i.e. after market items.
- Major component replacements.
- Parts for stock.
- Electrical parts for electric motors, electrical switch panel boards, or electrical accessories, etc.

Purchase Procedure for Distributor Purchases

1. If the distributor part is only available from one source, use the proprietary purchase method to purchase the part. See Section 2.15 Proprietary Purchases.
2. If the estimated purchase price is greater than \$25,000, use the formal competitive process, post the solicitation on the ESBD and process the award as appropriate.
3. If the estimated purchase price is greater than \$5,000 and up to \$25,000, purchase the item using the Open Market Informal Solicitation Process. See *Section 2.7 Open Market Purchases, Open Market Informal Solicitation*.
4. If multiple dealers are available, soliciting vendors and awarding through a formal competitive process is strongly encouraged.

Internal Repair Purchases

An internal repair is a repair to state-owned equipment that cannot be reasonably defined prior to the actual repair and the extent of the repair needed cannot be determined until the equipment is disassembled. Internal repairs are usually the result of an unexpected, basic service outage. For example, the unexpected failure of a building’s air conditioner may result in unanticipated repair to electrical circuitry, which would constitute an internal repair. Internal repairs must include labor and may include parts.

Internal Repair Purchase Procedure

STEP	PROCEDURE
1	Document your procurement as an "Internal Repair."
2	To limit agency liability, include the following on the purchase order: “Not to exceed {insert reasonable dollar limit} for repair services unless prior authorization is provided by the agency.”
3	If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESBD.
4	Competitive award is not required for an internal repair. Follow your agency’s procedures for procuring an internal repair.

**Summary of Minimum Requirements
for Delegated Purchases**

	Total Amount of Purchase Order	Commodity Purchases	Purchases of Services	Direct Publication Purchases	Perishable Goods Purchases	Distributor Purchases	Fuel, Oil and Grease Purchases	Emergency Purchases
	\$0.00 to \$5,000.00	Competitive Process Not Required PCC E	Competitive Process Not Required PCC E	Competitive Process Not Required PCC K	Competitive Process Not Required PCC L	Competitive Process Not Required PCC M	Competitive Process Not Required PCC P	Competitive Process Not Required PCC E
COMPETITIVE	\$5,000.01 to \$25,000.00	Open Market Informal Solicitation PCC F	Open Market Informal Solicitation PCC Q	Direct Publication Declaration with "Not Available from any other source" Documentation PCC K	Open Market Informal Solicitation PCC L	Open Market Informal Solicitation if Multiple Dealers Available PCC M	Open Market Informal Solicitation PCC P	Open Market Informal Solicitation PCC-Q
	\$25,000.01 to \$100,000.00	Non-delegated	Open Market Formal Solicitation PCC S	Direct Publication Declaration with "Not Available from any other source" Documentation PCC K	Open Market Formal Solicitation PCC L	Open Market Formal Solicitation Encouraged if Multiple Dealers Available PCC M	Open Market Formal Solicitation PCC P	Open Market Formal Solicitation When Possible PCC T
	Over \$100,000.00	Non-delegated	May or May Not be Delegated with CATRAD Review PCC S	Direct Publication Declaration with "Not Available from any other source" Documentation PCC K	Open Market Formal Solicitation PCC L	Open Market Formal Solicitation Encouraged if Multiple Dealers Available PCC M	Open Market Formal Solicitation PCC P	Open Market Formal Solicitation When Possible PCC T

Legal references:

Texas Government Code §§2155.083, 2155.131, 2155.321(3)
34 Texas Administrative Code 20.32, 20.41, 20.209