

Section 2.36

Vendor Performance

TPASS administers a vendor performance program for use by all ordering entities per 34 Texas Administrative Code §[20.108](#)). TPASS also administers a Debarment Program (Texas Government Code § [2155.077](#)).

The Vendor Performance Program relies on participation by ordering entities to gather information on vendor performance. Ordering entities shall report vendor performance on purchases over \$25,000 from contracts administered by the TPASS or any other purchase over \$25,000 made through delegated authority granted by TPASS. Ordering entities are also encouraged to report vendor performance for purchases under \$25,000. Please provide supporting documentation for both. The Vendor Performance Form (VPF) is submitted electronically, by the agency, utilizing the TPASS Web Applications Portal. View the [Vendor Performance Form](#) instructions.

Purpose

- Identify vendors demonstrating exceptional performance.
- Aid purchasers in making a best value determination based on vendor past performance.
- Protect the state from vendors with unethical business practices.
- Identify vendors with repeated delivery and performance issues.
- Provide performance scores in four measurable categories for CMBL vendors.
- Track vendor performance for delegated and exempt purchases.

Operations

TPASS and state agencies or participating coops must document in writing any problems concerning a contractor's performance. Each entity reporting vendor performance is responsible for maintaining all invoices, records, and relevant documentation explaining why the goods or services were not satisfactory. Copies may be requested by the Vendor Performance Coordinator to assist in resolving complaints.

The following recommendations may be implemented by agencies for the maintenance of contract records related to vendor performance:

- Set up an electronic file for each contract administered. Include the following information:
 - Activity log related to the contract. Each time you speak with anyone about the contract, make a note of the date and the subject matter.
 - Copies of any complaints received from end users.
 - Copies of correspondence with the contractor relating to vendor performance issues.
- All letters about nonperformance should be sent by certified mail with copies to all concerned parties.
- Evaluate the contractor. Agencies are required to report vendor performance for purchases over \$25,000 and a Vendor Performance Form (VPF) filed within 30 days after completion of the contract (see Section 4.1 Forms).

Reporting Vendor Performance

When an entity first experiences a relatively minor problem or difficulty with a vendor, the entity will contact

the vendor directly and attempt to resolve the problem informally. Minor issues include failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. The vendor is required to reply to the complaint within three (3) working days. Ordering entities should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.

If the vendor resolves the issues satisfactorily, then the agency should file a Vendor Performance Form (VPF) with a satisfactory resolution code. If the vendor fails to respond satisfactorily, the agency will file a VPF with the appropriate unsatisfactory resolution code. The TPASS Vendor Performance Program tracks the complaint and documents the actions taken in the TPASS Vendor Performance Tracking System (VPTS). The [TPASS Contract Management Office](#) is available to work with the entity and the vendor to resolve significant issues. This documentation is used for future evaluations and awards to the vendor when vendor past performance has been listed in the solicitation as one of the "best value" criteria to be used in the awards process.

The steps in the reporting of vendor performance are:

A. Filing a VPF

- The entity completes a VPF containing all pertinent and available information and submits to TPASS by logging on to the [CPA Web Applications Portal](#). Agency [security coordinators](#) can provide user access to the Portal.
- To file a satisfactory report, use issue code 052 "Inspection – Receiving Agency" to reflect that an inspection was completed and either satisfactory resolution code 205 "Item met specification per inspection" or 208 "Service met specifications" as appropriate. TPASS commences the vendor tracking process once the agency has entered the performance report. TPASS and the ordering entity receive an e-mail copy of the VPF. The vendor address is pulled from the Centralized Master Bidders' List. Although the VPTS has a feature allowing for e-mail notification of the vendor, the agency must send the vendor a copy of the VPF via fax or postal mail to ensure that the vendor receives the report.

B. Defer complaint for fourteen (14) calendar days awaiting response from vendor:

1. If a vendor responds to the VPF contesting the facts in the report, the TPASS Vendor Performance Coordinator will investigate. The Vendor Performance Coordinator will request supporting documentation from the agency and the vendor as a part of any investigation.
2. If vendor fails to respond in the fourteen (14) calendar days, a letter from the TPASS Coordinator is sent via postal mail to the vendor asking for a response to the complaint, with a specific deadline set. If the vendor's response is received by that deadline, the Vendor Performance Coordinator will resolve the issue. If the vendor does not respond or there is a significant issue requiring further investigation, the TPASS Contract Management Office (TCMO) will work with both the vendor and entity to resolve. If necessary, TCMO will recommend a Correction Action Plan (CAP) or other contractual remedies to Legal. If approved, the CAP or other contractual remedies will be added to the contract in the form of an amendment to ensure compliance.

C. Upon final determination, the TPASS Vendor Performance Coordinator will complete the VPF and finalize the report in the Vendor Performance Tracking System.

Vendor Debarment

Debarment is an action taken by the Director of Procurement to exclude individuals or firms from contracting with ordering entities for particular types of goods or services for specified periods of time. Debarment does not

relieve the contractor of responsibility for existing obligations. The purpose of debarment is to protect the state from risks associated with awarding contracts to persons or firms having exhibited an inability or unwillingness to fulfill contractual requirements, and to protect state interests and the integrity of the state's procurement process by preventing individuals or firms who have displayed improper conduct from participating on state contracts for specified periods of time. TPASS maintains a [Debarred Vendor List](#) of those firms and individuals that have been debarred. Agencies shall not award state contracts or subcontracting opportunities to debarred vendors.

Vendor Performance Codes

DELIVERY ISSUES

(005) Late Delivery
(006) 1st Written notice issued for late delivery
(007) 2nd Written notice issued for late delivery
(008) Failure to deliver
(010) Delivery made at wrong destination

PERFORMANCE ISSUES

(014) Failure to identify shipments per contract terms	(051) Inspection - Requested (TPASS use only)	(113) Failure to comply with terms/conditions of contract including reverse auction documentation (Give details below)
(016) Short or overweight or count	(052) Inspection - Receiving Agency	(114) Failure to comply with requirements of HUB Subcontracting Plan (HSP) (Give details below)
(018) Vendor shipped incorrect merchandise	(083) Failure to meet specifications (Give details below)	(120) Failure to provide proof of insurance or maintain insurance
(020) Failure to replace damaged goods	(085) Poor product quality	(121) Failure to provide report(s)
(021) Slow replacement of damaged goods	(087) Failure to respond to letter, phone call, or email	(122) Misrepresentation of qualifications (Give details below)
(022) Failure to pick up incorrect shipment	(090) Poor customer service (Give details below)	(123) Falsification of/fraudulent submittals (Give details below)
(023) Improper product packaging	(091) Unauthorized substitution	(124) Failure of workforce to meet specifications
(024) Failure to follow palletizing instructions	(095) Failure to supply performance bond within required time	(125) Incorrect allocation of work (Give details below)
(038) Poor product performance	(100) Unsatisfactory installation	(126) Failure to respond to emergencies as required (Give details below)
(040) Failure to promptly notify TPASS/Agency/Co-op Member concerning manufacturer discontinuation of an item	(102) Service not performed within specifications	(127) Failure to close out project as specified
(042) Repair parts not available	(110) Incorrect invoices	(128) Certification not received on time
(050) Inspection - Random (TPASS use only)	(111) Failed inspection (TPASS-use only)	(129) Failure to comply with code of conduct as specified
		(130) Other (Give details below)

RESOLUTION CODES

Satisfactory Resolution Codes Does not negatively affect the score(s)	Unsatisfactory Resolution Codes Negatively affects the score(s)
(202) Complaint withdrawn (Give reason below)	(201) Late Delivery
((205) Item met specification via inspection	(206) Vendor failed to receive purchase order on time
(207) Delivery made after vendor was notified	(211) Damages Assessed
(208) Service met specifications	(213) Failure to pay assessed damages
(209) Performance corrected	(225) Shipment rejected (Give reason below)
(210) Material or item replaced	(228) Item canceled from contract (Vendor failure-vendor initiated)
(212) Equipment performance corrected	(229) Item canceled from contract (Vendor failure-state initiated)
(217) Performance bond received	(235) Entire contract canceled (Vendor fault)
(220) Invoice corrected	(237) Damages paid
(230) Item canceled from contract (No fault of vendor)	(253) Performance not corrected, TPASS action taken (TPASS use only - give reason below)
(234) Item/entire order canceled	(262) Order not complete (Give reason below)
(236) Entire contract canceled (No fault of vendor)	(263) Manufacturer fault (Give reason below)
(249) Order completed	(264) Resolved and documented (Vendor fault -give reason below)
(251) Correct shipment received	(265) Substitution not approved by awarding agency
(255) Substitution approved by awarding agency	(266) Item/entire order cancelled (Vendor fault)
(256) Insurance requirements received	(267) Delivery not corrected by vendor
(258) Certification received	(268) Hub Subcontracting plan rejected
(259) Resolved and documented (No fault of vendor - Give reason below)	(269) Failure to provide required documentation (vendor fault)
(260) Vendor failed to receive purchase order on time(Agency or postal fault)	(270) Vendor Failed to Respond to Complaint
(280) Green - No current issues - submit and print report (TPASS use only)	(281) – Yellow - Solution within division - give impact and detail explanation below (TPASS use only)
(299) Other (Give reason below)	(282) – Red Light - "Red" - Escalated outside of division - give impact and detail explanation below (TPASS use only)
	(298) Other (Give reason below)

EXCEPTIONAL PERFORMANCE

(301) Shipment made early upon agency/co-op member request
(303) Product upgrade substitution suggested and accepted at no additional cost to the agency
(305) Exceptional customer service response
(307) Exceptional service provided for return of products
(309) Provided technical/training/set-up assistance when not required
(311) Voluntary Price reduction for large order
(399) Vendor commended