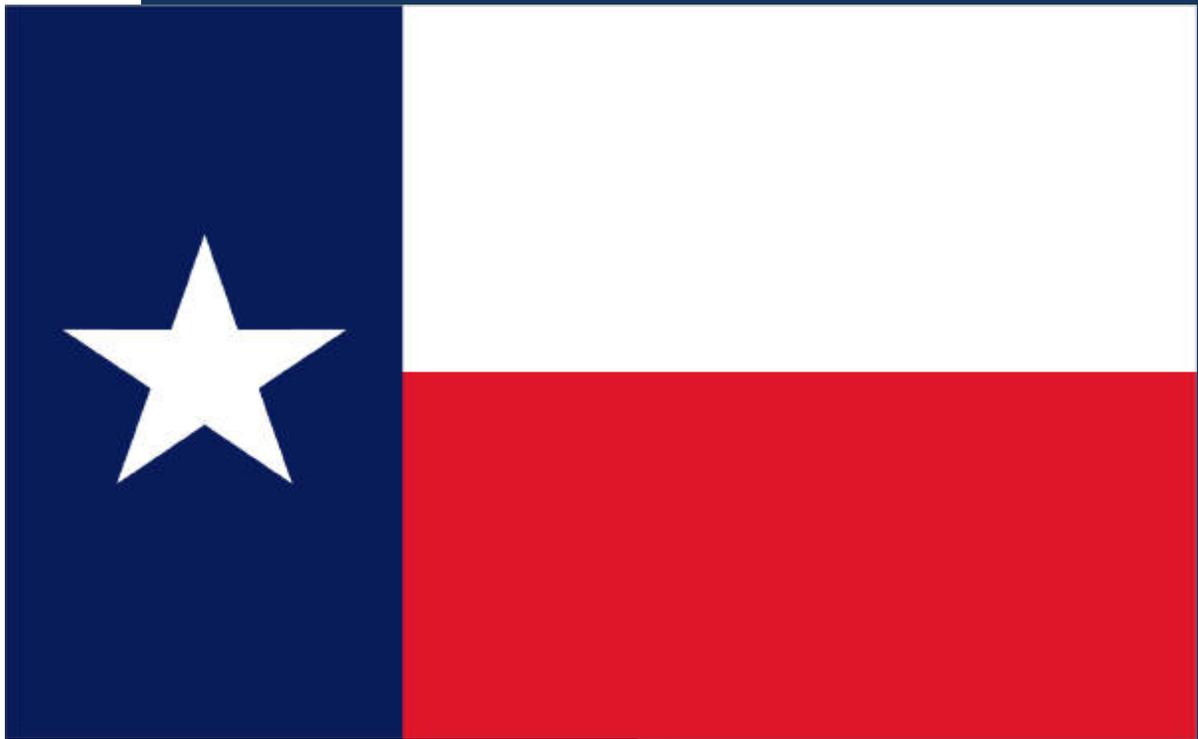


DPS Procurement and Contract Management Guide



Prepared by

Procurement & Contract Services

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REVISION HISTORY

Version	Date	Name	Description
1.0	2013/09/16	DPS Guide to the Procurement and Contract Process Ver 1.0	Original
1.01	2013/11/07	DPS Guide to the Procurement and Contract Process Ver 1.01	Revisions to Attachment E
1.02	2013/12/02	DPS Guide to the Procurement and Contract Process Ver 1.02	Revisions to Section 18 and 19
2.00	2014/11/14	DPS Guide to the Procurement and Contract Process Ver 2.0	Major Revision to the entire Guide
3.00	2015/12/01	DPS Procurement and Contract Management Guide	Major Revision to the entire guide to include a title change and a more robust Contract Management section and to address legislative requirements from the 84 th session.

1. GENERAL

1.1 INTRODUCTION

The Procurement and Contract Services (P&CS) Bureau has developed the DPS Procurement and Contract Management Handbook (Handbook) as an overview of the procurement process for all Texas Department of Public Safety (DPS) employees who request goods and services. Due to the fluid nature of government procurement, rules and procedures may change between revisions of this manual. The P&CS staff should serve as the primary source of guidance on the procurement process and are current on all purchasing rules, policies, and regulations. P&CS coordinates all contracting activities closely with the Office of General Counsel (OGC). This document is meant to serve as a reference tool for the procurement process for non-procurement personnel and is not a substitute for coordination with PC&S staff.

The intent of this Handbook is to assist you, the Requestor (typically known as the Contract Monitor), in understanding the processes that must be adhered to in government purchasing and to prepare you for the role of Contract Monitor. The Handbook may be periodically updated and the latest version can be found on the Administration P&CS SharePoint site:

<http://portal.tle.dps/sites/admin/support/pcs/SitePages/Home.aspx>.

The standard forms referenced in the Handbook are available in the DPS forms repository:

<http://dpsnet/intranetforms/default/default.aspx>. It is preferred and highly recommended that you access the standard forms from this site each time. This will ensure that you are always using the most current version.

This Handbook contains links to many of the sources referenced, which should be accessible to all readers with access to the intranet and internet by clicking on colored text.

Please note this Handbook does NOT contain instructions for how to use the eProcurement system. Information regarding eProcurement can be found in eProcurement training materials and Handbooks. See Section 1.7.

Any suggestions should be directed to the DPS P&CS Bureau at (512) 424.5255 or Procurement@dps.texas.gov.

1.2 PROCUREMENT & CONTRACT SERVICES ORGANIZATION

The P&CS Bureau is the section within DPS Administration Division – Policy & Planning that is responsible for coordinating and managing all procurement and contract activities for the agency. P&CS Staff are available to assist DPS personnel with procurement and contract needs. The P&CS Bureau is responsible for facilitating the procurement needs for all DPS locations and for all types of purchases. P&CS efforts are focused on purchasing and contracting activities, which obtain the best value for the agency. The [Procurement & Contract Services Overview](#) provides additional information on the types of services handled by each procurement team, the various procurement types and methods, and other general procurement information.

1.2.1 MISSION

The Mission of P&CS Bureau is to have highly trained, professional staff to guide, assist, and direct agency staff through the procurement process and approve, record, and process purchases of goods and services for the Agency, at the right time, at the right price, consistent with law, regulations, internal policy, and sound business judgment.

1.2.2 STAFF CONTACT INFORMATION AND ORGANIZATION CHART

The most current organization chart for P&CS and contact information for P&CS staff can be located here: [Procurement Organizational Chart](#)

1.2.3 AFTER HOURS CONTACTS

P&CS can be contacted for purchases in Emergency Situations (after normal business hours) at 512.419.8490

If you do not receive a response when contacting the above number, then attempt to contact one of the managers, the P&CS Director, or the Deputy Assistant Director (DAD) of Policy & Planning. Contact information is also located in the organization chart at the link above.

1.2.4 GENERAL CONTACT INFORMATION

The general P&CS phone number is 512.424.5255 and is monitored from 7:00 AM to 5:30 PM, Monday – Friday.

Procurement@dps.texas.gov is the P&CS email account for general correspondence, questions, comments, or concerns. Emails submitted to this email box will be responded to on the same business day if they are received by 3:00 PM. If they are not received by 3:00 PM, then they will be responded to within one full business day.

1.3 DPS PROCUREMENT & CONTRACTING POLICIES

All DPS employees involved in procurement and contracting activities shall adhere to Chapter 28 of the General Manual, [Agency Contracts & Procurements](#).

1.3.1 INTERACTION WITH VENDORS

All DPS employees that interact with vendors or that may interact with vendors are required to adhere to Chapter 28 of the General Manual, [Agency Contracts & Procurements](#).

1.4 STATE AND AGENCY ETHICAL STANDARDS FOR OFFICERS AND EMPLOYEES

All DPS employees and officials who participate in the state procurement and contracting activities shall adhere to the following ethical standards. Violation of these standards is subject to discipline, up to and including termination.

All DPS personnel involved in procurement or contract management must disclose to the agency any conflict of interest with respect to any contract with a private vendor or bid for the purchase of goods or services. Any person that identifies a conflict of interest should immediately notify their chain of command and the assigned P&CS representative.

State officials and employees are responsible for protecting the safety and welfare of the public's monies. All state officials and employees should endeavor to pursue a course of conduct that does not raise suspicion among the public. Therefore, they must avoid acts, which are improper or give the appearance of impropriety. This conduct is particularly important for state purchasing and contract manager personnel who are charged with the disposition of state funds.

State personnel must adhere to the highest level of professionalism in performing their official duties. Employees of agencies who perform purchasing functions are required ([34 Texas Administrative Code §20.41](#)) to adhere to the same ethical standards required of the Comptroller of Public Accounts ([CPA](#)) employees. The following paragraph is an excerpt from the [CPA's](#) State of Texas [Procurement Manual](#) Section 1.2 regarding ethics for personnel involved in purchasing:

“State officials and state employees are entrusted with the safety and welfare of the citizens of Texas. In return for their confidence in state government, citizens expect that state employees' private interests will not conflict with public business. The nature of purchasing functions makes it critical that all participants in the process remain independent, free of obligation or suspicion, and completely fair and impartial. Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules and responsibilities to govern the behavior of purchasing employees. Credibility and public confidence are vital throughout the purchasing and contracting system.”

All DPS employees must adhere to the ethics policies as set forth in Chapter 28 of the DPS [General Manual](#). The process of purchasing in a government setting requires that all participants strictly adhere to the rules, codes, and statutes put in place by the State of Texas. There are also DPS rules that must be strictly followed. No deviation from any of these policies and standards is permitted.

1.4.1 CONFLICT OF INTEREST

DPS staff members are prohibited under [TEX. GOV'T CODE § 572.051](#) and [TEX. GOV'T CODE § 2155.003](#) from having an interest in or receiving benefits from a contract or bid for a purchase of goods or services. Perception plays a key role in maintaining the highest level of integrity, which includes avoidance of the appearance of impropriety. Employees who participate in any part of the procurement and contract processes are subject to a higher standard of ethics. Employees must adhere to the [State's Ethics Policy](#) which states,

“It is the policy of the State of Texas that a state officer or state employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer’s or employee’s duties in the public interest.”

Under [TEX. GOV'T CODE § 2261.251](#), DPS may not enter into a contract with a vendor if any of the following agency employees or officials has a financial interest:

- A member of the agency’s governing body;
- The Governing Official, Executive Director, General Counsel, Chief Procurement Officer or Procurement Director of the Agency;
- A family member related to an employee or official described above within the second degree by affinity or consanguinity;
- Having a “financial interest” in this section is defined as a state agency employee or official that:
 - Owns or controls, directly or indirectly, a least 1% in the person, including the right to share in profits, proceeds or capital gains or;
 - Could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.
 - A financial interest that is 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.

Under [TEX. GOV'T CODE § 572.069](#), state officers and employees who participated in a procurement or contract negotiation are prevented from accepting employment with the vendor for 2 years after the officer's or employee's service or employment with the agency have ceased.

1.4.2 REQUIRED FORMS

All DPS personnel involved in procurement or contract management activities must disclose to the agency any conflict of interest with respect to any contract with a private vendor or bid for the purchase of goods or services. A [Conflict of Interest Form \(PPP-7\)](#) must be signed by any employee who participates in the development of specifications, solicitation documents, evaluation, negotiation, or contract monitoring activities. A violation of this provision is subject to discipline, up to and including termination. Contract Monitors will be required to sign a Conflict of Interest form upon being assigned to a contract or Major Purchase Order (MPO). P&CS Staff will be required to sign a Conflict of Interest form on an annual basis, and are also responsible to report immediately to their management if they identify a potential Conflict of Interest at any time during the year.

Under [TEX. GOV'T CODE § 2262.004](#), officers or employees involved in the specification development or an award determination must sign a [Nepotism Disclosure Form \(PPP-9\)](#) before a state agency may award a major contract for the purchase of goods or services to a business entity. Each DPS staff member working on the contract must disclose in writing to the Director any relationship that the DPS employee has with an employee, a partner, a major stockholder, a paid consultant with the prospective vendor or business entity for contracts valued more than \$25,000; or other owner of the business entity that is within a degree described by Section [TEX. GOV'T CODE § 573.002](#).

[TEX. GOV'T CODE § 2252.908](#) prohibits agencies from entering into contracts over \$1 million or contracts that require action by the governing body before the contract may be signed with a business entity unless the business entity submits a disclosure of interested parties to the agency at the time the business entity submits the signed contract. Before fully executing a contract valued at \$1 million or more, DPS must obtain a copy of the Disclosure of Interested Parties Form (PPP-10) from the proposed business entity (vendor) to be submitted with the contract for review by the CRB. The P&CS Director will submit the PPP-10 to the Texas Ethics Commission within 30 days of receipt of the disclosure.

1.5 STATE PURCHASING STATUTE AND RULES

The Texas Comptroller of Public Accounts (CPA) identifies a list of governing statute and rules that state purchasing programs must follow: <http://window.state.tx.us/procurement/procedures.html> . All contracts involving procurements must adhere to these rules and the State Procurement Manual, which is also available on the CPA website.

1.6 ITEMS TO REQUEST VIA PPP-1

The PPP-1 form is still required for certain types of requests. A PPP-1 form must be processed and routed through the requesting division's chain of command and submitted to PPPRequests@dps.texas.gov for the following requests:

- Grant applications and grant awards
 - Contact Finance for questions related to Grant applications and awards
- Zero Dollar Memorandum of Understand (MOU)s, Interagency Agreements (IAAs), Interlocal Contracts (ILA) , and Intercooperative Contracts (ICC)
 - Contact the OGC for questions related to zero dollar MOUs or Interagency Agreements
- Boiler Plate language template reviews and annual updates to existing templates
 - Contact the OGC for questions related to Boiler Plate language template reviews
- Donations
 - Donations require the [PPP-4](#) to be completed and submitted with the [PPP-1](#)
 - Contact the OGC for questions related to Donations
- Revenue Agreements
 - Contact the OGC for questions related to Revenue Agreements
- Request for Information
 - Contact the P&CS for questions related to Request for Information
- Enhance Texas Procurement and Support Services ([TPASS](#)) Term or Managed Contracts
 - Contact the PC&S for questions related to requests to add products and services to [TPASS](#) Term or Managed Contracts

1.7 EPROCUREMENT SYSTEM (EPS)

DPS implemented a web based [eProcurement System \(EPS\)](#) in September 2014 to automate the processing of the complete purchasing cycle from the request through the payment process. Additional information and instructional material regarding EPS may be viewed on the P&CS portal: [eProcurement Documents](#)

A link to [EPS](#) can be found here: <https://eprocure.dps.texas.gov/bsol/>

Refer to the [EPS Department Access User Manual](#) for more instruction on how to enter Requisitions in EPS.

A list of the codes that must be entered in [EPS](#) can be found here: [Links to Finance Handbooks](#)
Contact Finance with any questions pertaining to these codes.

Contact your chain of command if you do not currently have access to [EPS](#) and believe that you should be an authorized user of the system.

Note: This Handbook will not contain instructions for using [EPS](#); only instructions related to the procurement and contracting processes. For [EPS](#) instructions, see the documents listed above.

1.8 FISCAL YEAR (FY) DEADLINES

P&CS distributes a year-end schedule that provides deadlines for the submission of specific types of requisitions. These deadlines are based upon the amount of time that is required to process these specific types of requisitions. The year-end schedule will state the cut-off date when requisitions will no longer be accepted by P&CS.

Sufficient time must be allocated for the requisition to go through the procurement process. These deadlines must be closely adhered to due to PSC meetings, state procurement rules, and other bidding and processing requirements. Requisitions received after the published deadline may be cancelled, and should be resubmitted by the requisitioning division with funding for the next FY. Exceptions may be requested from the division ADs to the AD of Administration. Requisitions submitted after posted deadlines may require justification for the late submission and must allow for ample time for the lawful processing of the procurement.

Fiscal Year deadlines can be located here: [Year-End Schedule](#)

1.9 VENDOR PERFORMANCE

Vendor Performance Reporting is **REQUIRED** at various intervals during performance.

The frequency of a Vendor Performance report is based on the activity occurring with the contract.

They must be submitted:

- At least once a year
- Upon completion of any major deliverable
- Upon any negative performance by the vendor at any time during the term of the contract
- At the close-out of the PO or contract.

Information on Vendor Performance Reporting Requirements and how to report can be located here: [Vendor Performance Reporting](#)

Per Texas Government Code 2155.089, a state agency must provide a review of vendor performance at the completion of a contract through the Comptroller's Vendor Performance System.

1.10 CHECKING THE STATUS OF A PAYMENT

Vendors may be directed to the [CPA](#) website for [State Vendor Payment Resources](#) for information related to the status of payments. Other inquiries may contact Finance, Accounts Payable at 512-424-2060 or at apinvoices@dps.texas.gov.

1.11 DIRECTOR'S DIRECTIVE ON CONTRACTING - APRIL 9, 2012

Important Reminder: "DPS contract awards shall be open, competitive and comply with applicable law and best practices. Directed awards without competition -- such as those to meet the agency's proprietary or emergency needs -- shall be open and also comply with applicable law and best practices."

Improvements: Assistant Directors shall be responsible for ensuring sufficient time to complete required contracting processes. All DPS divisions shall improve planning and prioritization of their contracting needs and shall coordinate early and often on these matters with the *Enterprise Program Management Office (EPMO formerly known as the Policy, Projects and Portfolio Management office (EPMO)), the P&CS, and OGC.

Delegations – Approval and Signature: *The Deputy Director, Law Enforcement, and the Deputy Director, Homeland Security and Services, as appropriate for the requesting division, are authorized to approve and sign all contracts. Operational units that do not report to a Deputy Director should route contracts through the Director for approval and signature. All prior delegations of all prior actions relating to contract approval and signature are revoked. This applies to all contracts of all types and amounts. As my directive relates to contract signature authority, it applies to all contracts requiring signature on behalf of the agency. Thus, my delegation of contract signature authority does not revoke the authority of P&CS to issue purchase orders.

Purchase Orders: For all agreements to be memorialized through a purchase order issued by the P&CS rather than an agreement signed by one of the deputy directors, the delegations of contract approval in the prior paragraph still apply; however, since for these items there will be no corresponding agreement to be signed by one of the Deputy Directors, the requesting Division's Assistant Director shall routinely meet with the appropriate Deputy Director, *EPMO, P&CS and OGC to review and discuss all proposed purchase orders with a value of \$100,000 or more at any time during the life of the agreement.

Contract Negotiations: I have authorized P&CS to coordinate all contract negotiations on behalf of the agency, working closely with OGC and the requesting divisions. Other agency personnel are not authorized to contact potential contractors to request quotes, begin negotiations, exchange potential contractual documents, etc., outside of the processes developed by P&CS and OGC consistent with this directive.

Training: All Assistant Directors and their designated *contract monitors shall attend contract training prepared and conducted by May 31, 2012, and **quarterly thereafter, by *EPMO, P&CS, and OGC. These sessions shall include training on planning and prioritization, open and competitive contracting, proprietary and emergency contracts, ethics, nepotism, donations, best value evaluations, and other related topics.

Compliance: *EPMO, P&CS and OGC shall promptly bring to my attention any concerns about compliance with this directive. Procurement or contract requests over \$50K must be reviewed by the respective Deputy Director(s) prior to the request moving forward for processing in PC&S.

**-The Directive was modified to account for current organizational and title names based upon organizational changes that have occurred since the directive was originally published. The instructions still apply.*

*** -The quarterly training requirement has been adjusted. Contract Monitors are now required to attend 8 hour contract monitor training provided by P&CS.*

2. CONTRACT MANAGEMENT GUIDE

2.1. REQUESTS THAT REQUIRE OVERSIGHT BY PUBLIC SAFETY COMMISSION

The [Public Safety Commission \(PSC\)](#) established the Contract Review Board (CRB) in order to provide them greater visibility into the major agreements the agency enters into.

2.1.1. CONTRACT REVIEW BOARD & EXECUTIVE CONTRACT REVIEW BOARD

Proposed contracts, agreements or purchase orders meeting the criteria set by the Public Safety Commission must be reviewed by the CRB prior to execution. The Commission established the CRB to fulfill this oversight need. The CRB reviews significant procurements and contracts to help ensure efficiency, effectiveness, and best practices. Procurements meeting any of the following requirements must be reviewed by the CRB:

- New contracts valued at \$1 million or more, including all available renewal options;
- Contract amendments (excluding available, previously-reviewed renewal options) valued at \$100,000 or more that increase the value of the original contracts by 50% or more; or
- Contract amendments (excluding available, previously reviewed renewal options) valued at \$500,000 or more.

2.1.2. EXECUTIVE CONTRACT REVIEW BOARD

The Executive Contract Review Board (ECRB) reviews the Department's proposed procurements and contracts with an estimated value of \$500,000 or more; any modifications to contracts with an estimated value of \$500,000 or more; and any staff augmentation services procurement requests, regardless of contract value. ECRB approval must occur prior to the item being routed to P&CS for processing.

The Public Safety Commission Policy can be reviewed at this link: [Public Safety Commission Policy](#)

The CRB Charter can be reviewed at this link: [CRB Charter](#)

Additional information on the CRB and ECRB and process can be found here: [Understanding the CRB and ECRB](#)

2.2. SIGNATURE AUTHORITY & APPROVALS

An authorized employee's signature on a contract will reflect a representation that the contract has been properly submitted, reviewed and approved in accordance with all Department policies and procedures, and that the contract is in the best interest of the state.

The following individuals are authorized to sign contracts on behalf of the Department:

- Director;
- Deputy Director, Law Enforcement Operations, for contracts with a total estimated value of less than \$1 million; and
- Deputy Director, Homeland Security and Services, for contracts with a total estimated value of less than \$1 million.

No other employee may sign a contract binding the agency without a delegation of authority to do so as set out in this policy. All contracts that require signatures or otherwise bind the agency must be reviewed by P&CS in the Administration Division and the Office of General Counsel (OGC).

2.3. CONTRACTS REQUIRING ENHANCED MONITORING

[TEX. GOV'T CODE § 2155.0755](#) requires each state agency by rule to establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit to the agency governing body. The P&CS Director shall immediately notify the Agency's governing body, through the Assistant Director of Administration, of any serious issue or risk that is identified with respect to a contract monitored under this section.

Under [TEX. GOV'T CODE §2261.254](#), on August 27, 2015, the PSC delegated to Steven C. McCraw, Director of the Department, the authority to approve contracts that exceed a value of \$1 Million. See also above provisions regarding the CRB and its review of \$1 Million plus contracts and other high risk transactions.

Under administrative rules approved by the PSC and now published in the Texas Register for comment under [TEX. GOV'T CODE §2261.253](#), all procurements and contracts that meet the threshold of review by the CRB or the Executive Committee of the CRB will be considered to require enhanced contract or performance monitoring and those monitoring reports will be submitted to the PSC by the Assistant Director of Administration. Any member of the CRB or the Procurement Director may recommend that there is a serious issue or risk with any contract that needs to be immediately brought forward to the PSC through the Assistant Director of Administration.

2.3.1. ENHANCED GUIDANCE FOR CONTRACTS OVER \$1 MILLION

Under [TEX. GOV'T CODE § 2261.254](#), for all contracts over \$1 million, the agency shall develop and implement contract reporting requirements that provide information on:

- Compliance with financial provisions and delivery schedules;
- Corrective action plans required under the contract and the status of those plans;
- Any liquidated damages assessed or collected under the contract.

The Agency shall verify the accuracy of any information reported by a contractor and the delivery time of goods and services.

All contracts over \$1M must be presented to the CRB before the contract may be signed. Prior to entering into contracts over \$1million with a final signature, the business entity must submit a Disclosure of Interested Parties Form (PPP-10) to the agency at the time the business entity submits the signed contract. The disclosure form will be created by the Texas Ethics Commission.

DPS must provide 10 business days' notice to the Legislative Budget Board (LBB) before payment can be made on any contract that is over \$1 million that was awarded outside of the competitive process. This notice will include a certification, in the form prescribed by the LBB, from the Director of DPS that the purchase complied with the contract management guide, procurement manual, applicable statues or the alternative process used and the name of the person directing that process.

2.3.2. ENHANCED GUIDANCE FOR CONTRACTS OVER \$5 MILLION

Under [TEX. GOV'T CODE 2261.255](#), for all contracts over \$5M, the Director of Procurement and Contract Services must verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy and submit information to the CRB on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.

2.3.3. ENHANCED GUIDANCE FOR CONTRACTS OVER \$10 MILLION

Under [TEX. GOV'T CODE 2262.101](#), all solicitations expected to result in contracts valued at \$10M and greater must be submitted to the Contract Advisory Team for review before the solicitation can be posted. The contract value is determined without regard to source of funds or payment mechanism.

DPS must provide 10 business days' notice to the LBB before payment can be made on any contract that is over \$10M. This notice will include a certification, in the form prescribed by the LBB, from the Director of DPS that the purchase complies with the state contract management guide, state procurement manual, applicable statues or what alternative process was used and the name of the person directing that process.

2.4. CONTRACT MANAGEMENT

Contract Management refers to the entire contracting process, which involves planning, forming, and administering contracts through closeout. DPS will also adhere to the DPS Procurement Guide in executing the contract management and monitoring processes. Contract management activities include administering and monitoring the contract after the award and during contract implementation by measuring completed work, computing and approving payments, monitoring contract performance, supervising the contract

connection, addressing linked issues, incorporating necessary changes and modifications to the contract, and actively interacting with the Contractor to achieve the contract objectives. In addition to it being a requirement that DPS adhere to the State Contract Management Guide adopted by the Contract Advisory Team, the DPS Contract Monitoring Program was developed to standardize an agency-wide methodology for managing contracts.

2.5. DPS CONTRACT MONITORING PROGRAM

Each purchase order and contract will have a designated Contract Monitor from the requesting division, a P&CS Contract Administrator, and an Executive Sponsor (the AD of the requesting Division) to assist in the contract management process.

The Contract Monitoring Program also hosts quarterly internal contract advisory team (iCAT) meetings which provide a forum for Contract Monitors to share ideas and recommend changes to for continuous improvement of the contract monitoring processes through discussion, lessons, learned, and collaboration.

2.6. DPS MAJOR CONTRACTS

All contracts, regardless of the dollar amount, are formally monitored. A contract is written document referring to promises or agreements for which the law establishes enforceable duties and remedies between a minimum of two parties. An original Contract, Amendment, Modification, Extension, Purchase Order (PO), Interagency Agreement, Interlocal Agreement, Intercooperative Contract, and a Memorandum of Understanding are all considered contracts.

All POs are also to be formally monitored, but only those considered to be Major POs require the Contract Monitor Questionnaire reporting and are included in the Contract Library.

A Major POs is defined as follows:

- A PO with a “High” or “Important” risk classification;
- A PO with a total value of \$1 million or more, including optional renewals;
- A PO for Staff Augmentation Services; or
- A PO that is based on a Time and Materials fee and payment structure.

2.7. CONTRACT MANAGEMENT ROLES

Per [TEX. GOV'T CODE § 2261.256](#), each state agency must develop and comply with a purchasing accountability and a risk analysis procedure that provides for establishing clear levels of purchasing accountability and staff responsibilities related to purchasing and contract monitoring. Provided below is a high-level description of key differences between the Contract Monitor and the Contract Administrator.

2.7.1. CONTRACT MONITOR (CM)

A Contract Monitor must be assigned to every PO or contract. The Contract Monitor is responsible for the continual monitoring and day-to-day management of the contract's performance to ensure its compliance with terms and conditions as well as the forecasting and planning for contract renewals, changes, and close-outs. The Contract Monitor must understand the procurement timelines associated with renewals, solicitations, and transitions and ensure that those actions are initiated and planned by the division so as to start and finish within constraints.

DPS Contract Monitors are individuals within the Division responsible for the day-to-day oversight of the contract and the Contractor. Contract Monitors are:

- Appointed by the requesting Division's Assistant Director
- Full time employees, and not contract employees
- Required to attend Contract Monitor Training offered by the agency before being listed as such on a contract or MPO
- Expected to monitor the contract for the life of the contract
- Required to review vendor performance and report the review to P&CS who will report to CPA at the termination of a contract
- Responsible for their contract monitoring duties and may not delegate their duties to any other personnel
- An individual that has read and understood the DPS Procurement & Contract Management Guide

NOTE: CM changes must be formally requested by the CM's Assistant Director to the Assistant Director of Administration. The new CM may not begin their duties until they have completed the required agency training.

CM Responsibilities Include:

- Read the entire contract. The written contract defines both parties' obligations and responsibilities
- Always adhere to the written contract
- Continual monitoring and day-to-day management of the contract's performance to ensure its compliance with terms and conditions as well as the forecasting and planning for contract renewals, changes, and close-outs, under the guidance and oversight of the contract administrator in P&CS
- Understand the procurement timelines associated with renewals, solicitations, and transitions and ensure that those actions are initiated and planned by the division so as to start and finish within constraints
- Understand the requirements, provisions, and deliverables of the purchasing documents
- Serve as the point of contact for disseminating the instructions regarding the work to the contractor/vendor
- Communicate, track, and escalate (as needed) work to be performed by Agency staff that impacts contract performance

- Receive and respond to communications between the agency, stakeholder divisions, and the contractor once the contract is in place
- Meet with the contractor and stakeholder divisions on a regular basis to review progress, discuss problems and consider necessary changes
- Verify accuracy of invoices and authorize payments consistent with the contract terms (Receiving Reports / Receipts)
- Track that contract requirements are satisfied and that the goods and services are delivered in a timely manner and within the conditions specified in the contract
- Monitor the contractor's progress and performance to ensure goods and services conform to the contract requirements
- Monitor the budgeting/accounting process to ensure sufficient funds are available
- Facilitate and Coordinate with P&CS and Stakeholder divisions to identify any requested or needed changes to the contract or requesting work orders under the contract and then work through P&CS to implement them
- Coordinate with P&CS and Stakeholder divisions to document vendor performance
- Coordinate with Stakeholder divisions to plan, evaluate, and approve work for contracts that span multiple divisions
- Work with P&CS to provide information necessary for proper contract close-out
- Supply Contract Monitor Questionnaire and Expenditure reports per defined frequency
- Supply Vendor Performance Reports per defined frequency
- Conduct Risk Assessments as needed on active contracts and with P&CS upon award
- Keep detailed and thorough documentation of communication with vendors and progress reports of contract performance
- Ensure compliance with the purchasing and contract documents - monitor to ensure avoidance of Non-Compliance
- Document all contract related communication
- Measure, monitor, and track performance. Report on progress. Ensure completion of work.
- Maintain accurate and detailed records in the contract file
- Verify the accuracy of invoices before payment is approved
- Identify inconsistencies between planned and actual performance
- Document and follow up on all corrective actions
- Monitor and enforce contract terms and conditions. Report any contract disputes immediately
- Conduct business in a professional manner
- Monitor for potentially fraudulent actions from vendors:
 - Unauthorized substitutions
 - Delayed services (false progress reports)
 - Work performed by uncertified individuals or by lower-rate personnel but charging for higher-rate personnel
 - Cancelling the required insurance policies after award
 - False work requirements to increase volume
 - Proposing development work that has been performed on other contracts

- Allowing contractors to serve as informal contract monitors or to influence changes to existing or future solicitations as that crosses over to consulting services
- Double billing
- Shortages – not delivering 100%
- Providing foreign-made where domestic ones are required (Made in America)
- Monitor for potentially fraudulent actions by DPS employees:
 - Altering receiving documents
 - Accepting substitute items or services that are not authorized in contract
 - Signing off on services/products not received
 - Requesting services that are not needed
 - Approving false or inflated invoices
 - Nepotism
 - Allowing contractors to serve as informal contract monitors or to influence changes to existing or future solicitations as that crosses over to consulting services
 - Financial interest in a company resulting in potential personal gain to a DPS resource associated with the contract or decision-making process
- Educate contractors – Remind vendors of TXDPS' "No gift" policy
- Avoid the perception of impropriety
- Be careful in situations that may lead to ethical dilemmas
- Avoid personal actions or investments in business that may be perceived as a conflict of interest
- Document and report to division management any incident that may lead to ethical questions
- Document and report to P&CS Director any incident that is or may lead to an ethical problem
- Document and report to the Contract Specialist / Procurement Lead
 - Discrepancies between test and inspection results and contract claims and specifications
 - Charges for fees, equipment rental, or travel are not adequately supported
 - Failure to have adequately supporting documentation for reports and summary data
 - Inadequate or apparently altered, missing, or incomplete supporting documentation or test results
 - Contractor's claims or statements are unreasonable when compared to prior history or industry standards
 - Delays or refusal to allow inspections
 - High rate of test or operational failures
 - Actual progress is inconsistent with site inspection report
 - Contractor is slow (or nonpayment of) supplies, employees, or the government
 - Contractor's progress payment claims do not appear to coincide with the contractor's plan to perform the contract
 - Invoice with no physical address for vendor
 - Undocumented and/or unapproved adjustments, credits, and write-offs
 - Invoices for services /goods not rendered
 - Multiple remittance addresses for the same vendor
 - Payments to vendor have increased dramatically for no apparent reason
 - Duplicate invoices

- Higher-than-usual costs or expenses on invoice
- Inconsistent invoicing time periods
- Don't talk to the Vendor in regards to upcoming or active solicitations
- Don't accept gifts from Vendors
- Don't agree to changes in the contract without written authorization from P&CS
- Don't negotiate with the vendor without going through P&CS
- Don't authorize work outside of the current, approved version of the contract
- Don't fail to include stakeholder divisions in requirements, tracking and reporting performance, or planning deliverables

2.7.2. CONTRACT ADMINISTRATOR

DPS Contract Administrators are P&CS personnel responsible for facilitating the procurement and contract management processes to ensure compliance with the state laws, policies, and guidelines. Contract Administration involves the administrative activities associated with handling contracts. The role of Contract Administrator is to complete the acquisition cycle, oversee the management of the contract, ensure the customer needs are satisfied, and confirm the Contractor is fully compensated for services or supplies rendered per the contract terms and conditions. Contract Administrators must receive formal training and are required to be certified by the State of Texas.

Contract Administrator Responsibilities Include:

- Provide guidance, oversight, and support to the CM
- Serve as the official Contract Manager, CTCM
- Facilitate / Coordinate escalations between internal stakeholders
- Determine Solicitation and Procurement Method
- Lead Evaluations
- Lead Negotiations
- Communicate Awards with the Vendor
- Communicate with Vendor during planned or active solicitations
- Provide oversight to ensure that the [State of Texas Contract Management](#) best practices are adhered to and are able to survive an external audit
- Work with CMs to address changes and issues; validate scope and terms of contract against requested work orders, changes, performance reporting, etc.
- Administer, approve, and document any changes to the contract identified by the CM; Modifications, Amendments, and Change Orders are not authorized unless formally issued to the vendor through P&CS
- Facilitate resolving of disputes with contractor in a timely manner
- Facilitate exercising state remedies, as appropriate, when a contractor's performance is deficient
- Aid division in developing plans for new solicitations and/or renewals, modifications, and changes
- Ensure [Major Contracts Library](#) is up – to –date
- Collect, review and store the Contract Management Questionnaire and Vendor Performances

- P&CS will provide monthly progress reports to Administration Management and Division ADs on contracts identified as high risk or having performance issues
- Maintain appropriate and required records in the official contract file
- Report to CM and Stakeholder divisions on status of contract or contract administration activity related approvals
- Perform contract closeout process ensuring the contract file contains all necessary contract documentation, ensuring formal acceptance is documented, and documenting lessons learned
- Conduct Risk Assessments on new requisitions and with Contract Monitor at award
- Immediately report to the P&CS Director any issues or risks to a contract or MPO
- Immediately report to the P&CS Director and DAD of Policy & Planning any of the following:
 - Conflict of Interest
 - Potential Conflict of Interest
 - Failure of a peer, self, contract monitor, or customer to abide by required purchasing and contracting rules, laws, or policies
 - Facilitate lessons learned as needed.

2.7.3. OFFICE OF GENERAL COUNSEL (OGC)

As requested, the OGC provides guidance, direction, and review to assist the agency in ensuring that the contracting and procurement activities are compliant with applicable state laws, policies, and guidelines.

Other OGC Responsibilities include the following as requested:

- Provide guidance and direction through the solicitation, award, monitoring, and closeout processes to help ensure the Agency is protected
- Help to ensure that DPS contracts are monitorable and measurable
- Identify opportunities to improve clarity of responsibility and expectations documented in the contract
- Provide “lessons learned” and “post mortem” feedback to determine where DPS can improve contract language to mitigate agency risk moving forward
- Vet and recommend Executive Director approval on two party contracts
- Provide guidance and direction on dispute resolution
- Identify state remedies, as appropriate, when a vendor’s performance is deficient
- Ethics Officer

2.7.4. OTHER CONTRACT STAKEHOLDERS

Finance

- Ensure compliance with prompt payment
- Validate and approve use of funds identified on requisition

- Validate receipts have been completed before issuing payments
- Perform two or three way match before issuing payment
- Immediately report to the P&CS Director, DAD of Policy & Planning, and AD of Administration any of the following:
 - Conflict of Interest
 - Potential Conflict of Interest
 - Fraud
 - Potential fraud
 - Any incident that is an ethical problem
 - Any incident that may lead to ethical questions
 - Failure of a peer, self, contract monitor, or customer to abide by required purchasing and contracting rules, laws, or policies

Other Divisions

- Responsible for evaluating request and determining if they need to contribute or approve specifications
- Responsible for identifying to what extent and how their division will be impacted by the contract
- Responsible for reviewing and approving or disapproving if listed in the approval path, and for providing a reason for disapproval
- Responsible for adhering to all procurement and contracting rules, policies, and procedures
- Responsible for supporting the Contract Monitor and team
- Immediately report to the P&CS Director and DAD of Policy & Planning any of the following:
 - Conflict of Interest
 - Potential Conflict of Interest
 - Fraud
 - Potential fraud
 - Any incident that is an ethical problem
 - Any incident that may lead to ethical questions
 - Failure of a peer, self, contract monitor, or customer to abide by required purchasing and contracting rules, laws, or policies

2.8. CONTRACT CHANGE CONTROL

A key aspect to effective contract management is the ability to manage change and have sufficient oversight to prevent scope creep, unauthorized work from being performed, and over-billing. The Contract Monitor, Contract Administrator, and the Executive Sponsor all have a responsibility to ensure all contracts are memorialized in the form of a modification, amendment, or change order. Changes not addressed through formal Modification, Amendment or Purchase Order Change Notice is considered Non-Compliant.

Contract Monitors should implement a change control system for major contracts and keep a log of all requested changes. The change control system should account for evaluation of requested changes and approvals/disapprovals of requested changes, and date change was executed if applicable.

All changes must be within scope of original contract. Types of Changes include, Work Orders, Administrative Changes, Substantive Changes, and Constructive Changes.

Changes:

- Must not be addressed verbally and Verbal agreements are NOT binding
- Changes must be addressed in writing and must go through P&CS to be authorized
- May require ECRB and/or CRB review/approval
- Are not considered authorized until both parties have signed-off and P&CS has identified the item as being fully executed

2.9. CONTRACT ISSUE MANAGEMENT

The Contract Monitor is the first person to know about and resolve issues. Contract Monitors should keep a log of all issues that arise during the life of the contract and document the timeline of the issue along with the resolution.

To prevent disputes, Contract Monitors will:

- Maintain regular communication with contractor
- Respond promptly to all contractor inquiries regarding contract concerns
- Work with P&CS to develop a strategy to resolve issues and communicate to contractors
- Thoroughly document all issues and communications pertaining to contract issues
- Must notify P&CS promptly of any issues
- Must use Corrective Action Plans to address issues that are impacting performance of the contract

2.10. CONTRACT RISK MANAGEMENT

Under [Texas Government Code 2261.256](#), each state agency must develop and comply with a purchasing accountability and risk analysis procedure that provides for:

- Assessing the risk of fraud, abuse or waste in the contractor selection process, contract provisions and payment and reimbursement rates;
- Identifying contracts that require enhanced contract monitoring or immediate attention of the contract management staff;
- Establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

Performing risk assessments help to determine the level of degree of oversight and participation from the Executive Sponsor. Executive sponsorship participation increases when the risk is higher. The Agency developed a Risk Assessment tool for determining the risk level of the contract. Based upon the classification of risk, the contract may require enhanced levels of reporting.

This assessment is completed to anticipate risks, mitigate or manage risks, and avoid or transfer risk in order to protect the agency. Performing risk assessment is an ongoing process throughout the life of the contract. At DPS, the frequency of which Contract Monitor Questionnaires (contracts monitoring reports) are required is based on the risk classification assigned to the contract. The Risk Assessment is conducted at the time the requisition is submitted to P&CS, at the time of award, and throughout the life of the contract, as needed, based on current circumstances.

Risks to the contract must be reviewed and reevaluated by the Contract Monitor on a continual basis until the contract has fully performed and final payment has been rendered. The Contract Monitor Questionnaire is required to provide visibility and support to remedy outstanding issues and risks in order to increase the chances for successful outcomes.

In addition to using the risk assessment tool, Contract Monitors should keep a log for all Major Contracts and Major POs. This log should identify all risks to their contract, the mitigation plan or strategy for addressing the risk, and the outcome. This log should be available for review upon request by P&CS. Current risks must also be reported on the Contract Monitor Questionnaire.

Under Section 2261.253, TEX GOV'T Code, and other provisions of Senate Bill 20 (84th Legislative Session) and General Appropriations Act Art IX, Rider 7.12 adopted by the 84th Legislature, Regular Session, the P&CS Director has responsibilities relative to serious issues or risks on certain contracts. The P&CS Director shall notify the agency's governing body, through the Assistant Director of Administration, of any serious issue or risk on certain contracts. The P&CS Director will also provide a weekly report through the Assistant Director of Administration to the Public Safety Commission that identifies risks or issues with these items.

2.11. CONTRACT DISPUTES

Despite best efforts, there is always the potential for dispute with a contract. Contract Monitors will follow these steps in order to informally address disputes.

1. Identify the problem – many times what may appear to be a problem can be resolved by providing the contractor with information or clarification.
2. Research facts – you should obtain all the information regarding the potential problem from all relevant sources.
3. Evaluation – you should review all of the facts in conjunction with the requirements and terms and conditions of the contract. The agency should then determine the appropriate course of action.

4. Corrective action – identification of problems early in the performance period, effectively communicating and formalizing the process in writing via a corrective action plan (contract performance is impacted) or less formal written procedure (contract performance could be impacted if not resolved), is essential.
5. Include all information related to the informal dispute in the Contract Monitor Questionnaires until the informal dispute is resolved. Resolution must also be reported in the Contract Monitor Questionnaire.

If disputes are not able to be addressed informally, then notify your assigned Purchaser or Contract Specialist and your management.

6. Email the assigned Purchaser of Contract Specialist, cc division management. The email should contain an overview of problem and actions taken towards resolution to date.
7. P&CS will provide guidance and assistance and escalate to OGC if needed.
8. P&CS will facilitate resolution with all parties, including OGC.
9. P&CS will facilitate completion of an internal Corrective Action Plan and/or require the contractor to provide a formal Corrective Action Plan (CAP).
10. As requested, OGC will provide guidance and direction on appropriate legal action if the vendor is non-compliant.

2.12. CONTRACT REPOSITORY

All Major POs and all Contracts will be stored in the Contracts Library. P&CS is responsible for ensuring the initial contract and Major PO is loaded in the library upon award. Additionally, P&CS is responsible for ensuring that all amendments, modifications, and POCNs are loaded and that all data elements included in the contract library are updated upon change.

Contract Monitors are responsible for checking the library and validating that all information for their contract or Major PO is correct and up-to-date and reporting any discrepancies to

Procurement@dps.texas.gov.

2.13. CONTRACT FILES

Procurement & Contract Services will be responsible for maintaining an official contract file for all contracts that include the request, solicitation, responses, scoring, BAFO, award documents, corrective actions, contract monitor reports, and change documents.

The Contract Monitor is responsible for maintaining a working file that captures documents pertaining to the contract, issues, changes, risks, expenditures, invoices, payments, and correspondence and being able to provide that file on request by P&CS.

2.14. POSTING CONTRACTS AND CONTRACT DOCUMENTS

DPS will also comply with all procurement and contract posting requirements, including those described by Sections 2157.0685, 2261.253, and 2261.256 of the Texas Government Code. Procurement & Contract Services will be responsible for this compliance.

2.15. CONTRACT MONITOR TOOLKIT

The following documents are considered to be the Contract Monitor Toolkit:

- Contract / Purchasing Documents
- Contract Monitor Questionnaire (PPP-5)
- Contract Monitor Schedule
- Expenditure Report
- Risk Assessment Tool
- Corrective Action Plan
- Vendor Performance Report (PPP-6)
- Change Log
- Risk Log
- Issue Log

Numbered forms are located in the DPS Forms Repository. Additional forms and templates for Contract Monitors are located in the Contract Monitoring Program section of the DPS Procurement & Contracts portal.

2.16. CONTRACT MONITOR REPORTING SCHEDULE

Risk Level	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.
Low – Contracts, Major POs	Due on Sept. 10 th to cover period of previous fiscal year											
Moderate Contracts, Major POs	Due on Sept. 10 th to cover period of March to August						Due on March 10 th to cover period of Sept to Feb					
Important Contracts, Major POs	Due on Sept. 10 th to cover period of June to August			Due on Dec. 10 th to cover period of Sept. to Nov.			Due on March 10 th to cover period of Dec. to Feb.			Due on June. 10 th to cover period of March to May		
High Contracts, Major POs	Due on Sept. 10 th	Due on Oct. 10 th	Due on Nov. 10 th	Due on Dec. 10 th	Due on Jan. 10 th	Due on Feb. 10 th	Due on Mar. 10 th	Due on Apr. 10 th	Due on May 10 th	Due on June 10 th	Due on July. 10 th	Due on Aug. 10 th

3. PROCUREMENT GUIDE

3.1. WAYS TO Purchase GOODS AND SERVICES

3.1.1. REQUISITIONS

Most goods and services will be purchased using the requisition method. Requisitions should be requested through [EPS](#).

3.1.2. PURCHASING / PAYMENT CARD (PCARD)

Information on PCARD purchases and the associated required guidelines are located in section [2.45 The State Payment Card](#) of the State of Texas Procurement Manual.

Additionally, DPS has guidelines specific to our Agency that must be followed. Only certain goods and services can be purchased on the PCARD, and the threshold for DPS is \$2,000 as opposed to the State's \$5,000 requirement. Refer to the DPS [Procurement Card Manual](#) or contact the Accounts Payable Manager in Finance for more information.

There is a \$2,000 single transaction purchase limit and a \$10,000 monthly limit. There are no limitations on the quantity of transactions allowed per business day or per billing cycle. Additionally, please refer to the email sent on August 17, 2012, which is located in [Attachment A](#) of this Handbook. This outlines **purchases that are prohibited**.

If you have any questions or need assistance regarding rules or procedures related to PCARD utilization, purchasing, or payment, please contact Finance at 512.424.2060

OR

Click on any of the following links for additional information:

[DPS Payment Card Program Information](#)

[Information about Spot Purchase limits and Term Contracts](#)

[State of Texas Charge Card Program \(administered by the Texas Comptroller\)](#)

[Texas Payment Card Rules](#) (Texas Administrative Code)

3.1.3. SPO (AKA SPOT PURCHASE ORDER (SPO) BOOK)

The SPO MAY be used for the following purchases:

- When the purchase meets the parameters of using a [PCARD](#) but the vendor does not accept credit cards
- Authorized purchases of goods and/or services up to \$5,000 within the [CPA](#), [DIR](#), and DPS [PCARD](#) rules and guidelines
- Registration fees for conferences and/or training

- Note: If the vendor requires payment in advance, you must indicate that on the SPO
- Non-DIR Contract IT purchases (software prohibited) not to exceed \$1,000 (example: mouse, keyboard, cables, etc.)
- On [DIR](#) contract – not to exceed \$5,000 (DIR Contract must be listed on the quote)
- Employee Awards not to exceed \$100 (if item is available through [Texas Industries for the Blind and Handicap \(TIBH\)](#), then the [PCARD](#) limit is \$15.00).

The SPO MAY NOT be used for the following types of purchases:

- Items available on State Term Contract (Council on Competitive Government ([CCG](#)), [Texas Multiple Award Schedule \(TXMAS\)](#), Texas [Procurement](#) and Support Services ([TPASS](#)))
- Travel related expenses (even if work related)
- Fuel purchases
- Capitalized or controlled items/assets
- [TIBH](#) or Texas Correctional Industries [TCI](#) /TDCJ purchases
- Software
- Food/water
- Employee awards exceeding \$100.00 (if item is available through [TIBH](#), then limit is \$15.00)
- Utility services
- Memberships
- Any purchase/transaction where the purchaser's signature agrees to a vendor's terms and conditions that have not been reviewed and approved by the P&CS prior to transaction
- A prepayment for goods and/or services
- Insurance Surety bonds
- Professional or Consulting Services
- Recurring services, such as janitorial, lawn, pest control, wallpaper and carpeting, etc.
- Any purchase(s) where the annual aggregate costs will exceed \$5 ,000
- Recurring purchases.

The SPO must be filled out before or at the time of purchase. The white copy of the SPO or SPO number must be provided to the vendor at the time of purchase. The SPO cannot be written to pay an invoice.

SPOs must be entered as a Request for Payment Authorization (RPA) in [EPS](#), and a copy of the SPO from the book must be attached to the RPA. This allows for payment to the vendor.

Documentation of vendor compliance is required for any purchase \$500 or more. It is a requirement to check the Texas vendor hold status at [Vendor Hold Search](#) and the federal System for Award Management

(SAM) at www.sam.gov to verify a vendor's hold status prior to making a SPO purchase. SAM includes vendors listed on the federal excluded parties list, which prohibits these vendors from doing business at the federal and state level. It is a requirement to attach a screenshot of both the Texas Vendor Hold Search and SAM statuses to the RPA. Vendor status must not be conducted more than seven (7) days prior to purchase date.

If the SPO guidelines are not adhered to, including proper documentation of vendor compliance, the buyer will be contacted by P&CS staff to document the acquisition as a non-compliant purchase.

Please refer to [Section 3.2 – Post Payment Audit](#) of the Procurement Manual and the Comptroller's [Comptrollers Fiscal Procedures](#), which provides documentation guidelines for procurement files for audit purposes.

If you have any questions or need assistance regarding rules or procedures related to SPO utilization, purchasing, or payment, then please contact P&CS at 512.424.5255.

3.1.4. INVENTORY REQUISITIONS

An Inventory Requisition is used when a request for items are to be issued by General Stores, Fleet and Reprographics. Refer to the EPS [Inventory User Manual](#) for more instruction on how to enter Requisitions in EPS.

3.1.5. RELEASE REQUISITIONS

A Release Requisition is used when a request for items or services are processed against a Blanket PO. Refer to the [Instructions for Processing Releases](#) or EPS [Department Access User Manual](#) for more details on how to enter Release Requisitions in EPS.

If you are unsure if your contract or PO is configured as a blanket and/or if you are unsure as to whether or not a particular need of your division would qualify as a blanket, then please contact Procurement for guidance by calling 512.424.5255 or emailing Procurement@dps.texas.gov.

3.1.6. NON-COMPLIANT PURCHASES

Non-Compliant purchases are unauthorized transactions which obligates the agency to pay for products or services without complying with the procurement policies and laws. When an unauthorized purchase occurs, a P&CS staff member will notify the manager of the buyer that a non-compliant purchase has occurred and requests that corrective action is taken immediately to rectify the situation. A RPA is processed in EPS to process payment for a non-compliant purchase. More information on the Non-Compliant process can be located here: [Non-Compliant Purchases](#).

3.1.7. EQUIPMENT TRADE-IN CREDIT

Property identified as potential surplus or salvage property may be offered as trade-ins when purchasing the same or similar types of equipment if it is in the best interest of the state. However, a state agency may not trade in property that has been declared either surplus or salvage; such property must be disposed of in accordance with [Government Code 2175](#) through the [Texas Facilities Commission \(TFC\) State Surplus Property](#) program. It is very important for an agency to have documentation supporting the equipment's value to make a decision whether to process as surplus or place in a solicitation for the new equipment.

Trade-ins are not allowed through orders placed against [TPASS](#) term contracts.

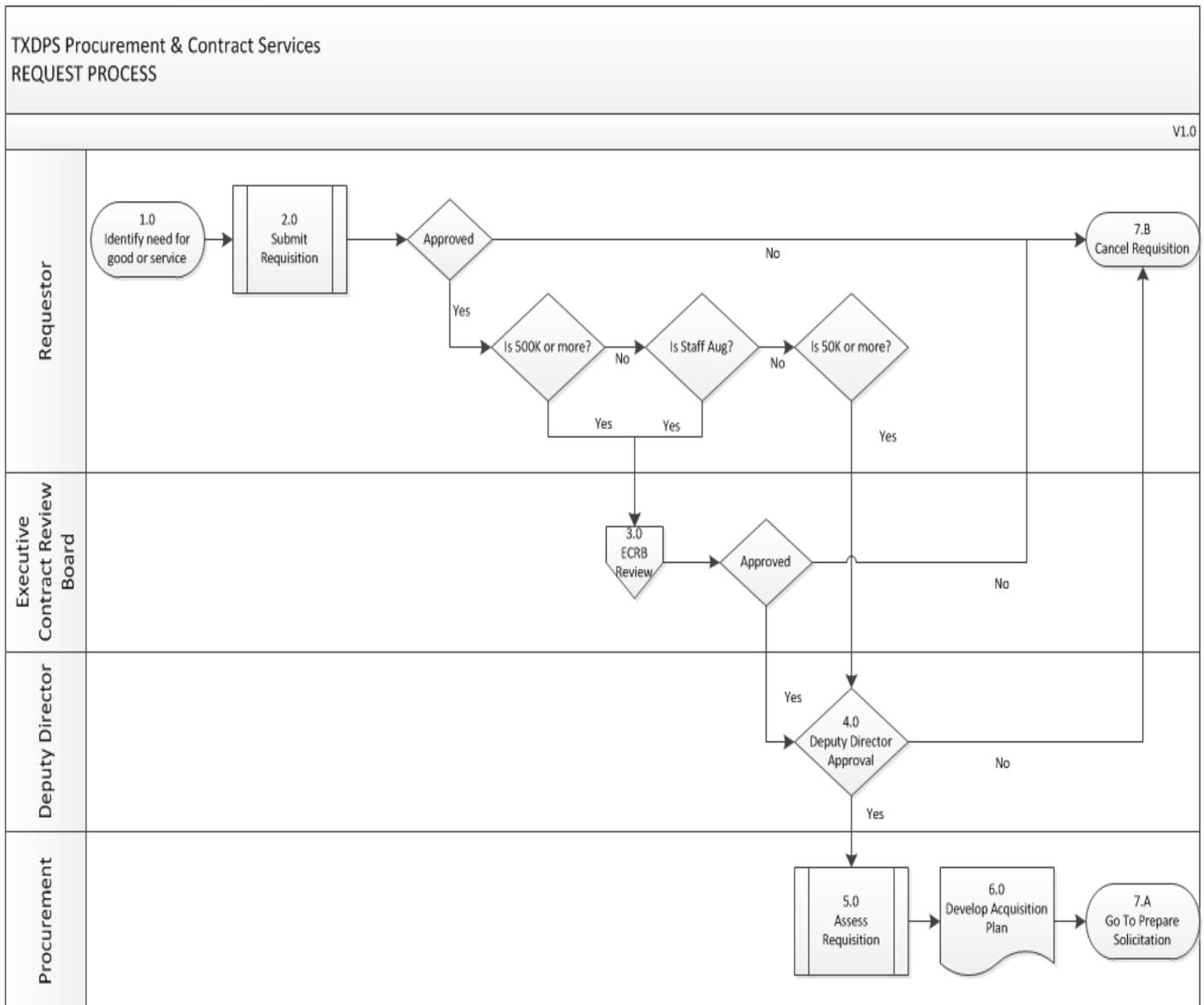
Trade-ins must be identified and be listed in the solicitation. The Respondent cannot include the deduction for trade-in allowance in the price bid for new equipment. Each trade-in allowance must be listed separately. Information on the requirements for processing trade-ins through a solicitation can be located in [2.2 Trade-In Equipment](#).

3.2. PROCUREMENT PROCESSES

The lifecycle of a procurement or contract includes the [request](#) (requisition), the procurement of the goods or services ([solicitation](#) and [award](#)), the receipt of the goods or services purchased, and payment of the goods or services that happens during [monitoring](#) and the [closeout](#) of the procurement or contract. In order to ensure that your request is completed in a timely manner, advance planning needs to occur within the requesting division. As a general rule of thumb, the [Procurement Timeline](#) can be used as a method of estimating how long your procurement will take. More detailed information on each step can be found below.

3.2.1. REQUEST PROCESS

3.2.1.1. DIAGRAM



3.2.1.2. STEPS

Task	Activity	Medium	Description	Responsibility	Typical Duration
1.0	Identify need for good or service	Based on Division	1.1 Follow Division's Internal Process and Procedures for requesting goods or services.	Each Division	Based on Division
2.0	Submit Requisition	EPS	2.1 Open a New Requisition. 2.2 Enter Required Data 2.3 Attach Other Relevant Documents a. Specifications b. Other 2.4 Submit Requisition for Approvals 2.5 Approval Path a. If approved go to Step 3.0 b. If not approved go to Step 7.B	Contract Monitor	6 Days
3.0	ECRB Approval	EPS	3.1 Finance Review 3.2 OGC Review 3.3 ECRB Decision a. If approved go to Step 4.0 b. If not approved go to Step 7.B	Executive Contract Review Board / Contract Monitor	3 Days
4.0	Deputy Director Approval	EPS	4.1 Deputy Director Reviews and Makes Decision a. If approved go to Step 5.0 b. If not approved go to Step 7.B	Deputy Director	2 Days

Task	Activity	Medium	Description	Responsibility	Typical Duration
5.0	Assess Requisition	EPS	<p>5.1 Requisition is reviewed by P&CS Management</p> <p>5.2 P&CS Management assigns the requisition to a purchaser or contract specialist (Procurement Lead)</p> <p>5.3 Procurement Lead determines Procurement method</p> <p>5.4 Procurement Lead Evaluates for all required Information</p> <p>a. Requisition will not be awarded and in some cases cannot move forward in parallel while waiting for required information</p> <p>b. Procurement Lead will provide Contract Monitor with a must receive by date to supply the information to avoid impacting the overall timeline of the purchase.</p>	Procurement & Contract Services	2 Days
6.0	Develop Acquisition Plan	EPS	<p>6.1 Procurement Lead drafts Acquisition Plan based on the information available and the determined procurement method</p> <p>a. If Low or Medium complexity, the acquisition plan is entered in the notes</p> <p>b. If High complexity, the acquisition plan is attached in pdf format</p> <p>6.2 Procurement Lead performs a risk assessment on the procurement and obtains a signed Conflict of Interest Form (PPP-7) for any acquisitions classified as High or Important risk</p> <p>6.3 Procurement Lead emails Contract Monitor through EPS to notify them of the estimated dates and the risk classification level.</p>	Procurement Lead	3 Days
7.0	At Process End		<p>7.1 Go To Prepare Solicitation Process</p> <p>7.2 Contract Monitor Cancels Requisition in EPS</p>	Procurement Lead /Contract Monitor	

3.2.1.3. REQUEST ROLES

Contract Monitor Responsibilities

The Contract Monitor is responsible for determining what goods and services their department/unit needs. The Contract Monitor is also responsible for:

- Validating the item is not obtainable from inventory on hand and inventory available in warehouses before determining to expend funds
- Composing clear and concise descriptions and/or specifications to be utilized during the Procurement Cycle to acquire goods or services
- [Estimating the cost of the goods or services](#) and ensuring they do NOT request any formal bids, provide any vendors an unfair advantage, or verbally or in writing give the perception of binding the Agency to an agreement with a vendor
- Drafting and submitting the Requisition in [EPS](#)
- Ensuring all required supporting documents are supplied with the Requisition at the time of submission in [EPS](#)
- Inserting any approvers not already identified in the automatic [EPS](#) approval path as needed based upon their division's approval requirements
- Participating in development of the solicitation
- Signing and returning a [Conflict of Interest Form \(PPP-7\)](#) to the procurement lead
- Identifying all stakeholders and subject matter experts (SMEs) who should participate in the development of the solicitation
- Providing more detail on the scope, requirements, or specifications for the solicitation as requested by P&CS or OGC
- Responding to recommendations or guidance to address any legal concerns and/or issues.

Procurement Lead Responsibilities

The Purchaser or Contract Administrator's (also known as the Procurement Lead) primary responsibility is to obtain the highest quality goods or services at the lowest cost – maximum value for the dollar and he or she is accountable for the facilitating the procurement process. Purchase Orders (POs) are, upon acceptance by the vendor, legally enforceable. Purchasers are also responsible for procuring commodities, services, and/or equipment through the following tasks:

- Reviewing the Requisition for completion and compliance with applicable requirements prior to processing solicitation documents. Occasionally the Purchaser must contact the Contract Monitor for

additional information if the specification is not clear or any required supporting documents were not supplied, and this can slow down the procurement process

- Performing the initial risk assessment on Requisitions
- Advising DPS staff on proper interpretation/application of purchasing policies and regulations
- [Determining the correct method to procure](#) the requested goods or services
- Researching to assess what is available in the market
- Requesting any required waivers or exemptions pertaining to the purchase
- Determining if the compensation structure is appropriate for the work
- Obtaining the official quotes from the vendors and reviewing offers for responsiveness
- Monitoring legal and regulatory requirements pertaining to purchasing
- Establishing quotas, needs, and issuing schedules on commonly used items
- Routing final draft solicitation documents outside of the Agency for external reviews
- Managing, approving, and documenting any changes to the PO or contract
- Distributing solicitation addendums and updates as needed
- Identifying and resolving disputes with vendors in a timely manner
- Implementing a quality control/assurance process
- Maintaining appropriate P&CS records
- Documenting significant events
- Contacting the top respondent reference(s) prior to an award, if applicable.

NOTE: During the procurement process, the Procurement Lead is the point of contact between the vendor and the Contract Monitor. This is particularly important when an incumbent vendor is bidding on a new solicitation. A vendor's offer may be deemed invalid if the procurement process has been compromised or if a perception of compromise has been introduced.

OGC's Responsibilities

The OGC reviews all major solicitations as well as any document or agreement that will result in a two-party signed contract, regardless of the dollar amount. The OGC is also responsible for:

- Guiding and assisting to help ensure the Agency is protected
- Helping to ensure that contracts the Agency enters into are monitorable and measurable
- Identifying opportunities to improve clarity of responsibility and expectations documented in the contract
- Vetting and recommending for approval all two party agreements prior to securing the Executive Director or the Deputy Directors signatures
- Serving as part of ECRB Approval.

Finance's Responsibilities

Finance is the final decision authority for identifying and approving all funding sources. Finance is also responsible for:

- Validating the coding entered on the requisition and correcting the codes as needed
- Working with the division Budget Analyst to answer funding questions or resolve any discrepancies
- Validating and approving the use of funds identified on requisition
- Serving as part of ECRB Approval.

3.2.1.4. ESTIMATING THE COST(S) FOR THE REQUISITION

An estimated cost of the goods and services requested is always necessary. It is very important for the estimated cost to be as close to the actual cost as possible. If the actual cost is more than 10% of the estimated cost or \$1000 more than the estimated cost, the Purchaser is required to send the draft Purchase Order back through the approval path (identical to the requisition) to receive approval for the additional expenditure of funds. If the actual cost is within 10% and does not exceed \$1,000 of the estimated cost, the Purchaser is authorized to proceed with the award without any additional approvals.

Note: Inflating the estimated cost in order to avoid the 10% overage approval is prohibited. An accurate estimated cost is important to all parties. Also, remember that in many cases, the cost determines the procurement method.

Contract Monitors may employ one of the following methods to accurately estimate the cost of the purchase:

- Refer to current available price lists and/or catalogs
- Contact a vendor to seek a “budgetary estimate”. **Do not obligate the agency or ask for a “bid” or “quote”.** For example, you should state “I need a budgetary estimate for the following items, can you help me?” Describe the items, record the estimates, and thank the vendor. No mention should be made that you will be buying these goods at a later date, or that they should go ahead and order the goods, or any such statement
- All formal and official bids and quotes will be obtained by the P&CS.

3.2.1.5. SPECIAL REQUIREMENTS FOR REQUISITIONS

Emergency Requisitions

Information on and the definition of Emergency Purchases and the associated required guidelines and steps can be located in section [2.12 Emergency Purchases](#) of the State of Texas Procurement Manual.

Section 2.12 also summarizes responsibilities, solicitation procedures, plus justification requirements. A written justification of the basis for the emergency in the form of an Emergency Purchase Justification Decision Memorandum (DM) must be prepared by the Contract Monitor when an emergency occurs. The justification will be from the requesting division's AD to the Director of P&CS. The Contract Monitor will prepare and submit the Requisition in [EPS](#) and must attach the DM in [EPS](#) in addition to submitting it via email as outlined below.

Emergency purchase under \$5,000 during normal business hours. There are no emergency purchases under \$5,000, only expedited purchases. Bids are not required on purchases under \$5,000, so for such situations follow the same steps for composition and submission of a Requisition.

Emergency purchase request over \$5,000 during normal business hours. The Contract Monitor must:

- Prepare a Requisition with the specification for the requirement clearly defined
- Prepare the Emergency Justification DM and send it to the Division's AD for approval and submission to the P&CS Director. This decision will be made in the normal course of assessing the Requisition and through any communications with the requesting party. All questions on the DM must be clearly answered. General statements of loss or nominal damage are not acceptable, so be specific and detailed. The purchase order cannot be issued until the DM is received and approved by the P&CS Director
- Attach the DM to the Requisition in EPS and submit the Requisition for approvals
Note: A phone call to each person in the approval path is recommended to expedite the approval process. Call P&CS and speak with the P&CS Director or the appropriate Branch Manager to let them know what the situation is and that the Requisition is on the way
- Submit the Emergency Justification DM to the P&CS Director by emailing it to Procurement@dps.texas.gov and carbon copy/ CC the P&CS Director.

Emergency purchase request after hours. If the Contract Monitor determines that a purchase of goods or services must be handled as an emergency after normal business hours, the Contract Monitor must contact the P&CS Director or Branch Manager to explain the emergency situation. If they concur, they will place the PO with a vendor to supply the requested goods or services. Emergency contact information is located in [Section 2.3](#) of this document.

An example of the Emergency Purchase Justification DM can be found here: [Emergency DM Template](#)

Additional information used for internal training on Emergency Purchases can be viewed at: [Internal Repair and Emergency](#)

Internal Repair Requisitions

Information on and the definition of Internal Repair Purchases and the associated required guidelines and steps can be located in section [2.10 Delegated Purchase Procedure and Strategic Sourcing Principles](#) of the

State of Texas Procurement Manual. 2.10 Delegated Purchase Procedure and Strategic Sourcing Principles also summarizes responsibilities and the solicitation procedures.

The Contract Monitor will prepare and submit a Requisition in [EPS](#) and must identify the request as an Internal Repair and describe how the purchase meets the criteria.

Additional information used for internal training on Internal Repairs can be viewed at: [Internal Repair and Emergency](#)

Proprietary Requisitions

Information on and the definition of Proprietary Purchases and the associated required guidelines and steps can be located in section [2.15 Proprietary Purchases](#) of the State of Texas Procurement Manual. Section 2.15 Proprietary Purchases also summarizes responsibilities, solicitation procedures, plus justification requirements.

A written justification of the basis for the proprietary purchase in the form of a Proprietary Purchase Justification Decision Memorandum (DM) must be prepared by the Contract Monitor when they believe they have a proprietary purchase. The justification must be approved by the requesting division's AD and sent by the AD to the Director of P&CS. The Contract Monitor will prepare and submit the Requisition in [EPS](#) and must attach the DM. An example of the Proprietary Purchase Justification DM can be found here: [Proprietary DM Template](#).

Additional information used for internal training on Proprietary Purchases can be viewed at: [Proprietary Procurement Process](#)

Staff Augmentation Requisitions

Contract Monitors seeking to procure the services of contractors (both technology services [\[DIR\]](#) and non-technology services [\[TIBH\]](#)) must complete and attach a [PPP-3](#) Justification for Staff Augmentation. The [PPP-3](#) documents the expected services to be performed, time period the services are needed and justifies the need. The Contract Monitor must attach the completed [PPP-3](#) to the requisition in EPS.

All requests for staff augmentation will be solicited. If the request is for an IT staff augmentation, then the Contract Monitor must also supply the most current version of the PSC approved staff augmentation plan that clearly depicts the item number being addressed with the requisition.

Contract Monitors seeking to change a staff augmentation purchase order must attach a [PPP-3A](#) the completed PPP-3 to the requisition in EPS. The Purchaser will initiate the Change Order in EPS and route the Change Order to obtain all the necessary approvals, including ECRB and the Deputy Director.

Examples of the [PPP-3](#) and [PPP-3A](#) can be found at: [Staff Augmentation Examples and Templates](#)

Additional information used for internal training on Staff Augmentation Requests can be viewed at: [Staff Augmentation Process](#)

1122 Program Requisitions:

The [1122 Program purchases](#) can be utilized to save time, money, and provide the agency with critical equipment in a timely manner. Items can be identified as an [1122 Program](#) candidate if they are used in support of one or more of the following activities:

- ▶ Counter - Drug
- ▶ Homeland Security
- ▶ Emergency Response (Emergency Management/First Respondents).

A written justification, in the form of a Letter of Intent, must be submitted with the requisition in [EPS](#) for 1122 purchase requests and must be addressed from the requesting Division's AD or an authorized designee.

An example of the Letter of Intent can be found at: [Letter of Intent Example](#)

More information on the 1122 process can be located at: [1122 Program Procurement Process](#)

Requisitions - \$500,000.00 or more

Contract Monitors seeking to procure goods or services that may total \$500,000.00 or more over the entire span of the contract (initial term plus available renewal options) must provide justification for the purchase for ECRB review and approval prior to the request being processed by P&CS. Section II of the PPP-1 form must be completely filled out for requests, renewals, or extensions with a projected value of \$500,000.00 or more. In this case, the Contract Monitor must attach the completed PPP-1 to the Requisition in EPS before the requisition is submitted for approvals.

An example of Section II of the PPP-1 can be found at: [PPP-1 - Section 2 Example](#)

3.2.1.6. SUPPORTING DOCUMENTATION FOR THE REQUISITION

Requisitions should be accompanied by documentation, which supports the procurement request, and the supporting documentation must be attached to the requisition within EPS, if any of the following conditions are applicable:

- Identify the Purchase Order / Contract number in the notes area of the requisition to identify any related or previous PO, POCNs, contract, and/or contract amendment(s)
- Requirements and Specifications – Include one or more of the following attachments as applicable:
 - Screen print of each product or service listed on the Requisition
 - Proposed Service Level Agreement (SLA)
 - Proposed vendor performance metrics or requirements
 - Maintenance, support or service requirements
 - Draft Statement of Work (SOW)
 - See [Developing Statements of Work](#) for more information
 - Other specifications document
 - Screen prints of specifications found online
 - Scanned copies of the previous specifications
 - Essentially, attach anything that you have that will help the purchaser determine exactly what you need to acquire
- Proprietary Purchase Justification DM required if proprietary
- Emergency Purchase Justification DM required if emergency
- [PPP-1](#) required if \$500,000.00 or more in total contract value (initial plus renewals)
- [PPP-3](#) Justification required for Staff Augmentation Requests
- [PPP-3a](#) Justification required for Staff Augmentation Change Requests
- Letter of Intent required if purchasing from 1122 Program
- Law Enforcement or Homeland Security Sensitive Justification Memo
 - The entire procurement and contracting process is subject to open records however, information held by a law enforcement agency, which deals with the detection, investigation or prosecution of crime may be exempt from release if it meets the criteria set forth by [TEX. GOV'T CODE § 552.108](#). It is important that procurements be designated as sensitive if release of the information could impose a risk to the detection, investigation, or prosecution of a crime. Please identify these by attaching a memo explaining how the procurement meets this criterion.

3.2.1.7. DETERMINING THE PROCUREMENT METHOD

Procurement Hierarchy

The CPA [Procurement Manual Section 2.4](#) provides the hierarchy for selecting the method of procuring goods and/or services. Each requisition submitted will be assessed against this hierarchy to determine the method of procurement and solicitation method. The first place to look for goods or services is the [CCG](#),

[TCI](#), [TIBH](#), [TxSmartBuy](#) or [DIR](#) Term Contracts. The following table lists the authorized procurement method in the order of precedence:

IF THE COMMODITY OR SERVICE:	THEN
<p>1. Is available through Council on Competitive Government (CCG) contract</p>	<p>Council on Competitive Government (CCG) Contracts are competitively bid contracts designed to reengineer state and local government services to maximize operational efficiencies, including mail services, fuel card, print shop, GIS and more. State agencies are required (TEX. GOV'T CODE § 2162) to utilize the CCG contracts. For more information on CPA CCG Contracts: http://www.window.state.tx.us/procurement/contracts/</p>
<p>2. Is available through the Texas Correctional Industries (TCI)</p>	<p>The Prison Made Goods Act (TEX. GOV'T CODE § 2155.065) requires an agency to purchase goods made by and services offered by TCI. If a product/service offered by TCI, needs to be purchased from a source other than TCI, a Waiver from TCI must be obtained. The Waiver can be based on a substantial difference in specifications, such as delivery, substantial price differences, or both. The waiver request will be processed by solely the P&CS procurement personnel. For more information on CPA Term and TxSmartBuy Contracts: http://www.window.state.tx.us/procurement/contracts/</p> <ul style="list-style-type: none"> For more information on TCI goods or services: http://www.tci.tdcj.state.tx.us/
<p>3. Is available through Texas Industries for the Blind and Handicap (TIBH)</p>	<p>State agencies are required to give a preference to approved goods and services offered by organizations whose primary mission is to train and employ persons with mental or physical disabilities (TEX. GOV'T CODE § 2155.138). TIBH administers the Texas Council on Purchasing from People with Disabilities (TCPPD) whose purpose is to encourage and assist disabled persons to achieve maximum personal independence by engaging in useful and productive activities. TIBH offers products, services and temporary services to state and local government entities through 150 statewide Community Rehabilitation Programs that employ Texans with disabilities. Approved products and services are set aside from competitive bidding and thus satisfy competitive requirements per Texas statute. For more information on TIBH goods or services: http://www.tibh.org/catalog/index.php</p>

<p>4. Is qualified as Automated Information System (AIS) or IT</p>	<p>IT Cooperative Contracts are established by DIR and offer products and services. If a commodity code is on the DIR IT Commodity List (TEX. GOV'T CODE § 2157.068), a state agency must purchase the item through a DIR contract or must receive an exemption before procuring the item through an avenue other than a DIR contract. The exemption request will be processed solely by the P&CS procurement personnel. Per the 84th Texas Legislature (SB 20), the DIR Guidelines outlined below are effective September 1, 2015.</p> <ul style="list-style-type: none"> • For purchases less than or equal to \$50,000, a request for pricing is required from at least one (1) vendor; • For purchases of \$50,000 but no more than \$150,000, a request for pricing is required from at least three (3) vendors; • For purchases of \$150,000 but no more than \$1 million, a request for pricing is required from a least six (6) vendors; • For IT Services purchases of \$50,000 but no more than \$1 million, a SOW must be submitted to DIR for review and approval prior to soliciting and again to DIR for final signature upon award; and • For purchases of \$1 million or more, agencies are granted a blanket exemption from the requirement to purchase through a DIR contract; • For more information on DIR Cooperative Contracts: http://dir.texas.gov/View-Contracts-And-Services/Landing.aspx
<p>5. Is available through a TPASS TxSmartBuy Term Contract</p>	<p>Texas Procurement and Support Services (TPASS), a division of the CPA, establishes term contracts by National Institute of Governmental Purchasing (NIGP) commodity/service codes as a source for state agencies, universities, and the members of the Cooperative Purchasing Program.</p> <ul style="list-style-type: none"> • For more information on CPA TxSmartBuy Contracts: http://www.window.state.tx.us/procurement/contracts/
<p>6. Is available through a TPASS Managed Contract</p>	<p>Managed term contracts are established by TPASS, the CCG or the Strategic Sourcing Division for unique items for specific entities or for distinct ordering processes.</p> <ul style="list-style-type: none"> • For more information on TPASS managed contracts: http://www.window.state.tx.us/procurement/contracts/managed/

	<p>over \$25,000. As a supplement to the CMBL, agencies may refer to the Commission's HUB Directory, which is maintained and accessible electronically, to locate HUBs in the agencies' geographic region. If an agency is unable to locate two HUBs from the Commission's HUB Directory or other available sources, the agency must make a written notation in the purchase file of all reference sources used. Agencies must follow the Open Market Informal Solicitation process.</p> <p><u>\$25,000 but less than \$100,000</u></p> <ul style="list-style-type: none"> ○ Commodity Items: Please see Non-Delegated Purchases ○ Services: For purchases of services estimated more than \$25,000 and less than \$100,000, state agencies must, as a minimum, solicit formal bids from all CMBL and HUB Directory vendors located in the agency's geographic region. Purchases of services estimated to cost more than \$100,000 per year per contract are not delegated and the appropriate documentation must be forwarded to the TPASS to request delegation. If delegation is not granted, TPASS will facilitate the solicitation process on behalf of the DPS. Agencies must use the Open Market Formal Solicitation process. <ul style="list-style-type: none"> ● <u>\$100,000 or more:</u> <ul style="list-style-type: none"> ○ Commodity Items: Please see Non-Delegated Purchases ○ Services: Please see Non-Delegated Purchases
<p>9. Is a Non-Delegated Purchase</p>	<p>Any procurement not identified in Items 1 through 8 within the Section 3.2.1.7 Table may require authorization from CCG, TCI, TIBH, DIR, or TPASS prior to proceeding with applicable Delegated Purchase method described in Table 1 Section 8.</p>

3.2.1.8. CONTRACT OR PO RENEWALS AND REBIDS

Modifying a PO or Contract

A Requisition to modify a PO or contract may be used for the following reasons:

- Changing items found in the original terms and conditions
- Changing quantities for increases and/or decreases, over shipments and/or under shipments as defined by the ordering entity's needs (only whole units of measure as defined by the PO or contract can be changed)
- Exercising options or provisions for additional services included in the original award
- Changing pertinent information such as delivery address or ordering entity contact. A Change Order may also be used to document a new serial number for equipment replacement, and change incorrect or amend the period of service in accordance with the PO or contract terms and conditions.

A request to modify a PO or contract may not be used for the following reasons:

- Extending the period of service beyond the expiration date of a PO or contract that had expired
- Modifying the scope of a PO or contract to add a product, service, or deliverable not included in the solicitation
- Increasing a quantity beyond the scope of the PO or contract
- Changing accounting information if no payments have been made.

Contract or PO Renewals

A contract or PO may be established with renewal options when pricing is solicited for in the original solicitation and provided by the vendor for the optional renewal years. This allows for renewal of the contract or PO within the boundaries of the document's terms and conditions. In order to renew a contract, the following steps must be followed:

- The contract or PO cannot be extended if the initial or current period has expired
- The agency has provided the vendor a 30-day notice of the agency's intent to renew, if applicable
- To initiate a renewal a reminder to the Purchaser is required. The reminder must be sent allowing time for the renewal process to be completed before the original or current period expires. If you are unsure about the time required, contact the Contract Administrator/Purchaser
- The Requisition must clearly state it is a renewal of the pre-existing contract. Renewal term beginning and ending dates must be listed in the long description of the Requisition.
- Any other changes to the contract or PO allowed for in the terms and conditions must be clearly spelled out in attached specifications. Note: Changes to the contract may require a POCN, Modification, or Amendment as specified in the original contract. If the renewal is \$500K or more, a PPP-1 with Section II completed will need to be submitted with the request for renewal
- Any other changes to the contract or PO allowed for in the terms and conditions must be clearly notated in the reminder and the PPP-1 sent to the Purchaser. Note: Changes to the contract will require a POCN, Modification, or Amendment as specified in the original contract
- The Purchaser will initiate the Change Order in EPS and route the Change Order to obtain all the necessary approvals, including ECRB and Deputy Director.

NOTE: OGC discourages the agency from sending renewal notices if the renewal option is at the sole discretion of DPS.

Adding Funds For Next Fiscal Year

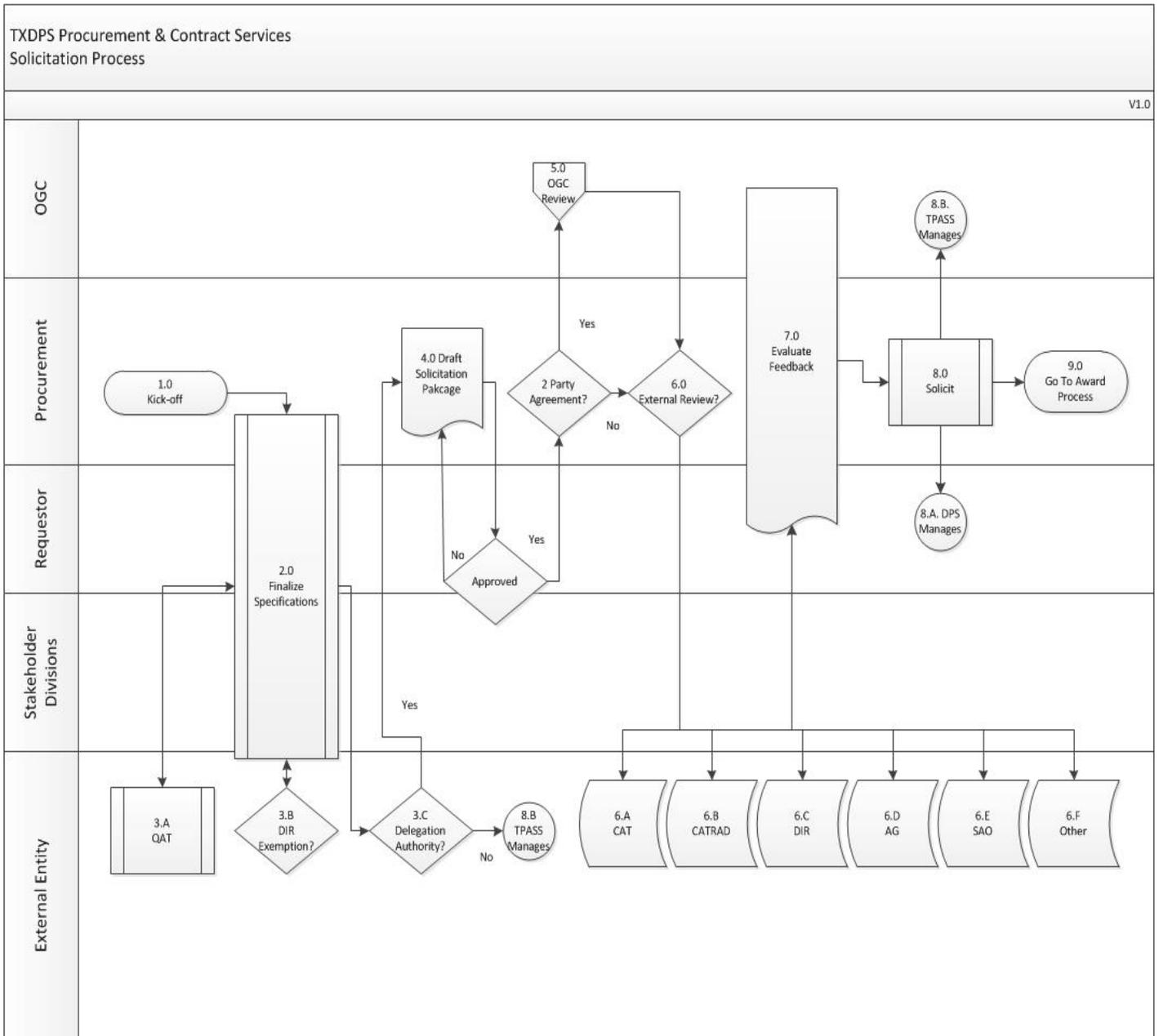
A contract or PO may have additional funds added for the next fiscal year if the current contract period crosses fiscal years, and the funds for the period of performance was only encumbered through the current fiscal year. This allows for the funds to be charged to the appropriate appropriation year in which services are received, and within the boundaries of the document's terms and conditions. In order to add funds for next fiscal year to a contract, the Purchaser will work with the contract monitor to process a Change Order in EPS and route the Change Order to obtain all the necessary approvals, including ECRB and Deputy Director.

Rebids

A contract or PO that has exhausted all the optional renewal periods or services can only be procured on an annual basis and must be re-solicited. In order to rebid a contract or PO, a new requisition is required. If a Requisition has not already been submitted, then the requesting division will need to submit a requisition by the [Fiscal Year End Deadline Schedule](#), or prior to the expiration date of their current service if the date is earlier than the year-end deadline. For rebids, a new PO will be issued to the awarded vendor.

3.2.2. SOLICITATION PROCESS

3.2.2.1. DIAGRAM



3.2.2.2. STEPS

Task	Activity	Medium	Description	Responsibility	Typical Duration
1.0	Kick-off	Email, Meeting (Round Table)	<p>1.1 Determine Solicitation Method</p> <p>1.2 Send Email to the Contract Monitor and all Stakeholder division Points of Contact (POC) outlining the Acquisition Plan, Roles and Responsibilities, Next Steps, and Known Issues or Risks</p> <p>1.3 Hold a kick-off meeting to address questions and answers or to discuss specific unknown requirements in order to save time if the procurement will be complex</p>	Procurement Lead	1 Day
2.0	Finalize Specifications	SharePoint, Emails, Meetings (Round Table)	<p>2.1 Create a draft Solicitation Document, upload the Document to the Development Library in SharePoint, and distribute the Link and Instructions to the Contract Monitor and the Stakeholder POCs</p> <p>2.2 Facilitate revisions and updates to Document while tracking to dates in Acquisition Plan</p> <p>2.3 Hold round tables as needed to speed up the process and settle discrepancies</p> <p>2.4 Obtain all POCs approvals on final draft of Specifications</p> <p>2.5 Submit document for additional internal and external approvals, if required.</p>	Procurement Lead	1 - 30 Days
3.0	External Entities	eMail	<p>3.A Quality Assurance Team (QAT). Items that require QAT Review must have QAT Acquisition Plan approval prior to soliciting. The QAT Acquisition Plan is facilitated by the Information Technology Division. More information on QAT can be located at: http://qat.state.tx.us/; http://www.dir.texas.gov/management/project_delivery/Pages/Overview.aspx</p> <p>3.B Department of Information Resources (DIR) Exemption</p> <p>3.C Contract Advisory Team Review and Delegation (CATRAD) : http://comptroller.texas.gov/procurement/res/CAT/catrad/.</p>	3.A – 3.C; Procurement Lead	Each entity has up to 30 Days Each for Review and must be reviewed in order listed.

Task	Activity	Medium	Description	Responsibility	Typical Duration
4.0	Draft Solicitation Package	SharePoint	<p>4.1 Use appropriate template and Standard Terms and Conditions</p> <p>4.2 Follow appropriate Checklist(s)</p> <p>4.3 Update document with additional Terms and Conditions specific to the procurement</p> <p>4.4 Incorporate final specifications / SOW.</p>	Procurement Lead	Occurs in Parallel with Finalize Specifications
5.0	OGC Review	eMail, SharePoint	5.1 OGC will review and approve any 2- party agreements before the process moves forward.	OGC Managing Attorney	5 Days
6.0	External Review	EPS	<p>6.A Contract Advisory Team (CAT): http://www.window.state.tx.us/procurement/res/CAT/</p> <p>6.B Contract Advisory Team Review and Delegation (CATRAD): http://www.window.state.tx.us/procurement/res/CAT/catrad/</p> <p>6.C DIR. If a Statement of Work (SOW) to procure IT Services against a DIR contract exceeds \$50K, then DIR must review and approve the SOW prior to soliciting and sign the SOW at contract award</p> <p>6.D Attorney General's Office (AG). If using outside collection or Upon Request by AG or recommendation by OGC</p> <p>6.E State Auditor's Office (SAO). If using outside auditor on a contract. Upon Request by SAO or recommendation by CAO</p> <p>6.F Other. This would be joint contracts with other Agencies or some other instance where an external Agency or entity would need to review and approve prior to solicitation.</p>	6.A – 3.F: Procurement Lead	Each entity has up to 30 Days Each for Review and must be reviewed in order listed.
7.0	Evaluate Feedback	EPS	<p>7.1 Procurement, OGC, Contract Monitor and Stakeholders will review feedback from external entity and provide a response</p> <p>7.2 Update the solicitation documents as appropriate based upon the feedback</p> <p>7.3 Obtain approval of OGC, Contract Monitor, and Stakeholders on any updates to the solicitation documents.</p>	Procurement Lead	1-3 Days

Task	Activity	Medium	Description	Responsibility	Typical Duration
8.0	Solicit	EPS, ESBD	<p>8.1 In accordance with TEX. GOV'T CODE § 2155.083 and 34 Texas Administrative Code §20.212, the requirement to advertise solicitations by posting on the Electronic State Business Daily ESBD applies to all purchases exceeding \$25,000 regardless of source of funds used for the procurement. The minimum period for posting a solicitation is 14 calendar days; however other typical durations are 21 and 30 calendar days depending upon the complexity of the requirements and the time required to obtain a fair, responsive, and competitive offer. Proof and verification of the posting on the ESBD is required to be included in the procurement file.</p> <p>8.2 If DPS is issuing and managing the solicitation ** See Solicitation Methods for details on each type of solicitation</p> <p>8.3 If TPASS is issuing and managing the solicitation, the Procurement Lead will serve as the DPS point of contact to TPASS and will facilitate information gathering from the Contract Monitor and stakeholders to TPASS and will obtain status updates from TPASS to provide the Contract Monitor.</p>	Procurement Lead with input from Contract Monitor	A minimum 14 days but complex solicitations should be posted for 21 to 30 days (emergency purchases may be posted for less than 14 days)
9.0	End of Process		Go To Award Process		

3.2.2.3. REQUEST ROLES & RESPONSIBILITIES

Contract Monitor Responsibilities

The Contract Monitor must be fully engaged during the solicitation phase of the procurement process. The Contract Monitor is responsible for composing clear and concise descriptions, requirements, and/or specifications to be utilized during the solicitation phase to acquire the goods or services. The Contract Monitor is also responsible for:

- Participating in development of the solicitation documents
- Providing any required Exhibits or supporting documentation

- Identifying all the participants such as the other division stakeholders and SMEs
- Meeting the assigned dates in the acquisition plan
- Assisting to remove any barrier that impedes progress in meeting a milestone date on the acquisition plan
- Clarifying the scope, refining the requirements, or specifications for the solicitation as requested by P&CS or OGC
- Responding to recommendations or guidance to address any legal concerns and/or issues
- Working through P&CS to respond to any vendor questions or requests
- Notifying P&CS immediately if contacted directly by a vendor during an active solicitation. Depending on the circumstances, the vendor may be disqualified from the solicitation.
- Communicating with the Executive Sponsor to provide updates and handle escalations as necessary.

Procurement Lead Responsibilities

The Procurement Lead's (also known as Purchaser or Contract Administrator) primary responsibilities are to facilitate the solicitation process, safeguard the integrity of the procurement process, ensure the acquisition is a fair and competitive playing field, and validate the acquisition is compliant with all laws, guidelines, and policies. The Procurement Lead is also responsible for the following:

- Advising DPS staff on proper interpretation/application of purchasing policies and regulations
- Facilitating completion of specifications, Statements of Work, terms, or conditions
- Determining if the compensation structure is appropriate for the work
- Coordinating between OGC and the Contract Monitor to address any legal concerns and/or issues prior to solicitation posting and during contract negotiations
- Identifying and/or selecting potential vendors
- Advertising bid invitations or solicitations to vendors
- Serving as the sole point of contact for communications between the agency and the vendor prior to contract award or PO/contract issuance
- Monitoring legal and regulatory requirements pertaining to purchasing
- Distributing solicitation addendums and updates as needed
- Identifying and resolving disputes with vendors in a timely manner
- Maintaining appropriate and auditable procurement records
- Documenting significant events and escalate issues to P&CS Management as necessary.

OGC's Responsibilities

The OGC is responsible for reviewing all contracts and all major solicitations, and to provide guidance / feedback to the Procurement Lead and the Contract Monitor to ensure the resulting contract or PO protects the agency's interest. The OGC is responsible for:

- Guiding and assisting the team responsible for drafting the solicitation to help ensure the Agency is protected
- Helping to ensure that the contracts the Agency enters into are monitorable and measurable
- Identifying opportunities to improve clarity of responsibility and expectations documented in the contract
- Vetting and recommending for approval all two party agreements prior to securing the Executive Director or the Deputy Director's signatures

Finance's Responsibilities

Finance's primary responsibility is to ensure that the identified funds are reserved or earmarked for purchase during the solicitation process. Finance is responsible for:

- Validating and approving use of funds identified on requisition
- Notifying the requesting Division's Budget Analyst if the identified funds have timeline or funding restrictions
- Reviewing and making decisions on requests for additional funding if more money is required to make an award.

3.2.2.4. TYPE OF SOLICITATION

[TEX GOV'T CODE § 2155.063](#) requires purchases of or contracts for goods and services, whenever possible, to be accomplished through competitive bidding. There are different types of solicitation methods that will be used based on the goods and/or services the Contract Monitor is seeking to acquire.

Invitation for Bid

The Invitation for Bid (IFB) uses the competitive sealed bid method. This method is used when the requirements are clearly defined and price is the major determining factor for selection. The award is based upon the lowest bid meeting the minimum criteria for the specifications/requirements. Negotiations are not authorized when utilizing an IFB procurement method; however, if only one response is received, negotiations are allowed and encouraged. IFBs are used for items that are over \$25,000 that we do not intend to negotiate.

More information on the IFB process can be located here: [Invitation for Bid \(IFB\) Process](#)

Request for Information

The Request for Information (RFI) is a general invitation to vendors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation. RFIs are commonly used on major procurements where the agency needs to know the capability of potentially available products and services available in the marketplace. Pricing is not requested when issuing a RFI. A Range of Magnitude may be requested.

Oral presentations may be requested as part of the RFI process. Testing and evaluation are excluded from the RFI process.

More information on the RFI process can be located here: [The Request for Information Process](#)

Request for Offer

The Request for Offers (RFO) purchasing method is intended as the designated, **primary purchasing method for procuring AIS/telecom (IT) commodities and services** other than those under [DIR](#). As authorized under House Bill 2918 and House Bill 3560, 80th Legislature, 2007, the RFO method is established by the [CPA](#) and by rule effective September 1, 2007 ([34 TAC §20.391](#)). By definition under this rule, RFOs are open and competitive. However, state agencies may choose to use the RFO purchasing method described below or any other purchasing method authorized by [TEX. GOV'T CODE §2155](#), which will obtain best value. The RFO method may be used in three instances under applicable law if:

- The IT commodity or service is unavailable under [DIR](#) ;
- The agency has obtained an exemption from [DIR](#) ; or
- The agency is otherwise exempt from [TEX. GOV'T CODE § 2157.068](#).

More information on the RFO process can be located here: [The RFO Process](#)

Request for Proposal

A Request for Proposal (RFP) is a written request for proposals for goods or services the state intends to acquire by means of the competitive sealed proposal procedure, similar to the IFB procurement process; however, instead of competitive sealed bids, a negotiation phase is included and a best and final offer is permitted. This procurement method is often used for items or services that:

- represent a high risk;
- are extremely expensive;
- are exceptionally technical; or
- are complicated purchases from the ordering entity.

The RFP is a unique purchasing method because purchasers are authorized to utilize some of the more complex [Best Value](#) criteria within the state approved procedures. These include:

- a pre-conference with Respondents;
- a modification of the offering by an addendum same with IFB;
- oral presentations with top Respondents; and
- involves negotiating for a Best and Final Offer (BAFO).

More information on the RFP process can be located here: [The RFP Process](#)

Request for Qualifications

A Request for Qualifications (RFQ) is a solicitation document requesting the submittal of qualifications for professional services within scope of practice as defined by [TEX. GOV'T CODE § 2254.002](#) or provided in connection with the professional employment or practice of a person who is licensed or registered as:

- A Certified Public Accountant;
- An Architect;
- A Landscape Architect;
- A Land Surveyor;
- A Physician, including a Surgeon;
- An Optometrist;
- A Professional Engineer;
- A state certified/licensed Real Estate Appraiser; or
- A Registered Nurse.

Pricing is solicited separately from the qualifications with an RFQ. This solicitation process is often referred to as a two-step process.

More information on the RFQ process can be located here: [Request for Qualifications](#)

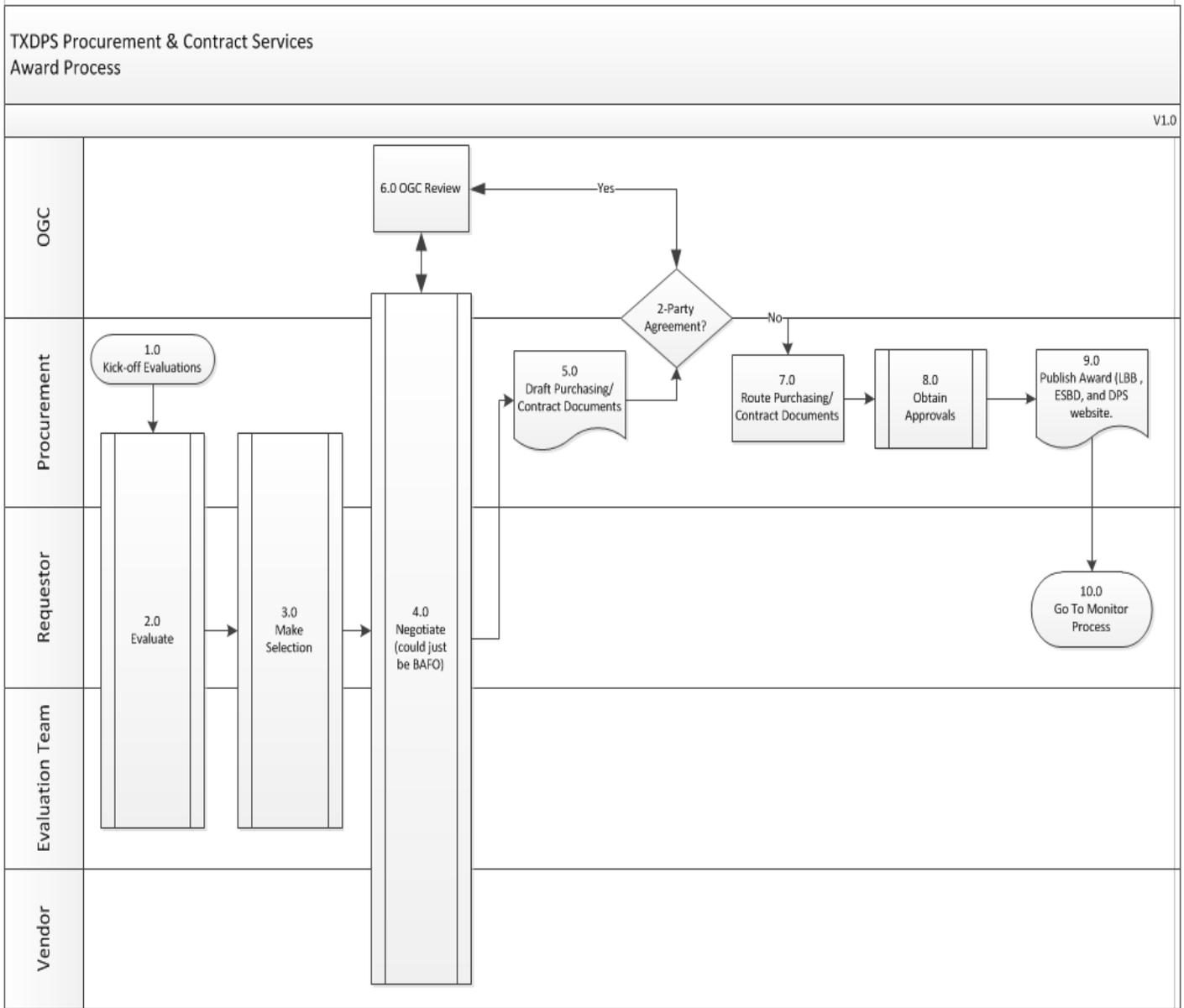
Pricing Request (PR)

A Pricing Request is an informal solicitation document used to request pricing for the TXMAS, [DIR](#) ICT Cooperative Contract, and the informal Open Market procurement methods depending on the nature of the product or service being procured. A Pricing Request is an invitation for a vendor to submit competitive prices under an existing contract or through the informal procurement process. A Pricing Request is used in conjunction with [DIR](#) purchases that exceed \$50K, TXMAS purchases over \$5K, and for Open Market purchases between \$5K and \$25K.

More information on the PR process can be located here: [Price Request Process](#)

3.2.3. AWARD PROCESS

3.2.3.1. DIAGRAM



3.2.3.2. STEPS

Task	Activity	Medium	Description	Responsibility	Typical Duration
1.0	Kick-off Evaluations	Email , Meeting (Round Table)	<p>1.1 Prior to the solicitation close date, send email to all Stakeholder division Points of Contact (POC) outlining the remaining tasks</p> <p>1.2 Hold a Kick-off meeting to address questions and answers or to discuss specific requirements in order to save time if the evaluations will be complex.</p>	Procurement Lead	1 Day
2.0	Evaluate	Emails, Meetings (Round Table)	<p>2.1 Procurement Lead will evaluate the Vendor Responses for Responsiveness to ensure all basic requirements were met</p> <p>2.2 Procurement Lead will facilitate evaluations with the Evaluation Team as the non-voting Chairperson. The Team will score the responses against the evaluation criteria outlined in the advertised solicitation document.</p>	Evaluation Team	1 - 30 Days
3.0	Make Selection	SharePoint	3.1 Evaluation Team will make a selection based on the Evaluations and Best Value (or Pricing) Determination.	Evaluation Team	1 Day

Task	Activity	Medium	Description	Responsibility	Typical Duration
4.0	Negotiate	EPS	<p>4.1 Procurement Lead will facilitate negotiations between Negotiation Team and the Vendor leveraging General Counsel as needed</p> <p>4.2 Procurement Lead will facilitate evaluation of any requests to modify the contract and/or exceptions to any requirements related to price and product</p> <p>4.3 Vendor will submit Best and Final Offer</p> <p>4.4 OGC will facilitate negotiations related to any exceptions taken by Vendor to the boiler plate Terms and Conditions</p> <p>4.5 Contract Monitor will obtain the Executive Sponsors approval of the Award Recommendation.</p>	Procurement Lead /Contract Monitor	1-30 Days
5.0	Draft Purchasing Documents	eMail	<p>Procurement Lead will draft Contract / Purchasing Documents, which will include a Purchase Order and may include a Contract or 2-Party Agreement. If \$500K or more, the Procurement Lead will obtain the Executive Sponsors approval of the recommended vendor's D&B Financial Rating.</p>	Procurement Lead	Occurs in Parallel with Evaluations and Selection
6.0	OGC Review	eMail, SharePoint	<p>6.1 OGC will review and approve any contracts and 2 party agreements before the process moves forward.</p>	OGC	5 Days

Task	Activity	Medium	Description	Responsibility	Typical Duration
7.0	Route Purchasing Documents	EPS	7.0 Procurement Lead will route Contract Documents to the Vendor for Acceptance If \$1 million or more, the Procurement Lead will request for the vendor to return the Disclosure of Interested Parties Form with the contract.	Procurement Lead	2 to 5 Days
8.0	Obtain Approvals	EPS, Signatures	8.1 Procurement Lead will obtain the Contract Monitor's approval of the Contract / Purchasing Documents 8.2 Procurement Lead will obtain Vendor Acceptance of the Contract / Purchasing Documents 8.3 If the acquisition meets the CRB criteria, the Procurement Lead will submit the item for CRB approval 8.4 If it is a 2-Party Agreement or Contract, Procurement Lead will obtain OGC Approval (stamp) of the Contract / Purchasing Documents 8.5 If it is a 2-Party Agreement or Contract, Procurement will obtain Deputy Director or Executive Director Signature on the Contract / Purchasing Documents 8.6 If it is a SOW against a DIR Contract for \$50k or more, obtain DIR approval and signature of the SOW.	Procurement Lead	1 - 45 Days

Task	Activity	Medium	Description	Responsibility	Typical Duration
9.0	Publish Award	EPS, ESBD, LBB Website, DPS Website	<p>9.1 Procurement Lead will publish the Award after sending the Approved Contract / Purchasing Documents to the Vendor.</p> <p>9.2 Procurement Lead will upload any 2-party contracts or Major PO to the DPS Major Contracts Library</p> <p>9.3 Procurement Lead will notify Contract Monitor of Award</p> <p>9.4 If the acquisition is for a non-competitive purchase of 1M or more or for a competitive purchase of 10M or more, then an Attestation Letter will be submitted to the LBB. If the acquisition meets one of the following criteria for a Major Contract, the Procurement Lead will publish the award to the LBB website: All awards valued at \$50,000 or more; Section 2054.008 - Major Information Service Contracts valued at \$100,000 or more; Section 2166.2551 - Construction Projects valued at \$14,000 or more; Section 2254.006 - Professional Services Contracts valued at \$14,000 or more; Section 2254.0301 - Consulting Service Contracts valued at \$14,000 or more; or</p> <p>9.5</p>	Procurement Lead	3 Day

Task	Activity	Medium	Description	Responsibility	Typical Duration
			<p>9.6 If the Purchase is \$25,000 or more, the Procurement Lead will publish the award to the ESBD</p> <p>9.7 Awards, including the solicitation and contract documents, will be published on the external DPS website.</p> <p>9.8 Procurement will ensure all Procurement checklist items have been accounted for and included in the file</p> <p>9.9 Public Posting on DPS Website is required for each contract the agency enters into for goods or services with a private vendor. DPS must all notate the following:</p> <ul style="list-style-type: none"> a) the authority for not having to comply with competitive bidding requirements for each contract; and b) the Request for Proposals related to the competitively bid contract <p>9.10 Public Posting on CPA Website. DPS is required to report contracting and purchasing information in a uniform manner required by the Comptroller.</p>		
10.0	End of Process		Go To Monitoring Process		

3.2.3.3.

AWARD ROLES & RESPONSIBILITIES

Contract Monitor Responsibilities

The CM is responsible for participating on both the Evaluation and Negotiation teams as a technical lead, and serving as the liaison between the evaluation team and the Executive Sponsor. The CM is also responsible for the following:

- Composing clear and concise answers to vendor questions and for addendums to the solicitation
- Working through Procurement to respond to any vendor questions or requests
- Evaluating the technical and business aspects of proposals in comparison to the advertised solicitation
- Responding to recommendations or guidance to address any legal concerns and/or issues.

Procurement Lead Responsibilities

The Procurement Lead is responsible for facilitating the evaluation process, and serving as the non-voting Chairperson of the evaluation team. The Procurement Lead is also responsible for the following:

- Advising DPS staff on proper interpretation/application of purchasing policies and regulations
- Distributing solicitation addendums and updates as needed
- Coordinating between OGC and the CM to address any legal concerns and/or issues prior to solicitation posting and during contract negotiations
- Identifying and/or selecting potential vendors
- Serving as the point of contact for communications between the agency and the vendor prior to contract award or PO/contract issuance
- Conducting, assisting with, or coordinating evaluation of solicitation responses to determine the lowest and best responses, and preparing or overseeing the preparation of the PO/contract
- Issuing a PO/contract to awarded vendor and disseminating notices to vendors not selected
- Monitoring legal and regulatory requirements pertaining to the procurement method
- Managing, approving, and documenting any changes to the PO or contract.
- Identifying and resolving questions requiring clarification with vendors
- Maintaining appropriate and auditable P&CS records
- Documenting significant events
- Performing vendor reference checks
- Submission of Attestation Letter to LBB for competitive procurements that are \$10M or more and non-competitive procurements that are \$1M or more.

NOTE: The CM or any member on the evaluation / negotiation team are not permitted to contact other vendors or entities to perform reference checks on potential vendors as there are specific guidelines that only certified Purchasers are trained to follow.

OGC's Responsibilities

The OGC is responsible for reviewing the response of the top Respondent, negotiating any exceptions taken to the boiler plate Terms and Conditions by the top Respondent, and assist with finalizing the award. The OGC is also responsible for:

- Guiding and assisting to help ensure Agency is protected
- Helping to ensure that contracts the Agency enters into are monitorable and measurable
- Identifying opportunities to improve clarity of responsibility and expectations documented in the contract
- Determining the structure of the final contract and reviewing the PO language drafted by the Procurement Lead
- Vetting and recommending for approval all two party agreements prior to securing the Executive Director or the Deputy Director's signatures.

NOTE: P&CS and OGC personnel are the only entities authorized to negotiate agreements with parties outside of the agency. Personnel in any other division are not authorized to hold themselves out as having authority to bind the agency. Persons who hold themselves out as authorized to bind the agency are subject to discipline, up to and including, termination.

Finance's Responsibilities

Finance's primary responsibility is to ensure the identified funds are available upon contract award. Finance is also responsible for:

- Validating and approving use of funds identified on requisition
- Notifying the requesting Division's Budget Analyst if the identified funds have timeline or funding restrictions
- Reviewing and making decisions on requests for additional funding if more money is required to make an award

3.2.3.4. EVALUATION

Reasons for Award

Under [TEX. GOV'T CODE § 2156.009](#), on award of a contract, the division of the commission responsible for purchasing or the state agency making the purchase shall prepare and file with other records relating to the transaction a statement of the reasons for making the award to the successful bidder and the factors considered in determining which bidder offered the best value for the state.

Under [TEX. GOV'T CODE § 2155.0755](#), before the “best value” standard can be used to make an award, the P&CS Director at DPS shall:

- Approve each contract that is authorized to use the best value standard;
- Ensure that the agency clearly documents the best value standard used; and
- Acknowledge in writing that the agency complied with the agency’s and CPA’s contract management guide for the purchase.

For any contract where an agency used a best value standard, the agency must add that information to the CPA’s Vendor Performance Tracking System (VPTS). State agencies shall use the CPA-VPTS to determine whether to award a contract to a vendor based on their past performance.

Best Value for Goods or Services

Under [TEX. GOV'T CODE § 2155.074](#). BEST VALUE STANDARD FOR PURCHASE OF GOODS OR SERVICES.

(a) For a purchase of goods and services under [TEX. GOV'T CODE § 2155](#), each state agency shall purchase goods and services that provide the best value for the state.

(b) In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the state agency may, subject to Subsection (c) below and [TEX. GOV'T CODE § 2155.075](#), consider other relevant factors, including:

- (1) installation costs;
- (2) life cycle costs;
- (3) the quality and reliability of the goods and services;
- (4) the delivery terms;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;

- (6) the cost of any employee training associated with a purchase;
- (7) the effect of a purchase on agency productivity;
- (8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment; and
- (9) other factors relevant to determining the best value for the state in the context of a particular purchase.

(c) A state agency shall consult with and receive approval from the commission before considering factors other than price and meeting specifications when the agency procures through competitive bidding goods with a value that exceed \$25,000 or services with a value that exceeds \$100,000.

Best Value for AIS (IT Commodities and Services)

Under [TEX. GOV'T CODE § 2157.003](#). DETERMINING BEST VALUE FOR PURCHASES OF AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this chapter means the lowest overall cost of an automated information system. In determining the lowest overall cost for a purchase or lease of AIS under this chapter, the commission or a state agency shall consider factors including:

- (1) the purchase price;
- (2) the compatibility to facilitate the exchange of existing data;
- (3) the capacity for expanding and upgrading to more advanced levels of technology;
- (4) quantitative reliability factors;
- (5) the level of training required to bring persons using the system to a stated level of proficiency;
- (6) the technical support requirements for the maintenance of data across a network platform and the management of the network's hardware and software;
- (7) the compliance with applicable department statewide standards validated by criteria adopted by the department by rule; and
- (8) applicable factors listed in [TEX. GOV'T CODE § 2155.074](#) and [TEX. GOV'T CODE § 2155.075](#).

Value Factors

Under [TEX. GOV'T CODE § 2155.075](#). REQUIREMENT TO SPECIFY VALUE FACTORS IN REQUEST FOR BIDS OR PROPOSALS.

- (a) For a purchase made through competitive bidding, the commission or other state agency making the purchase must specify in the request for bids the factors other than price that the commission or agency will consider in determining which bid offers the best value for the state.

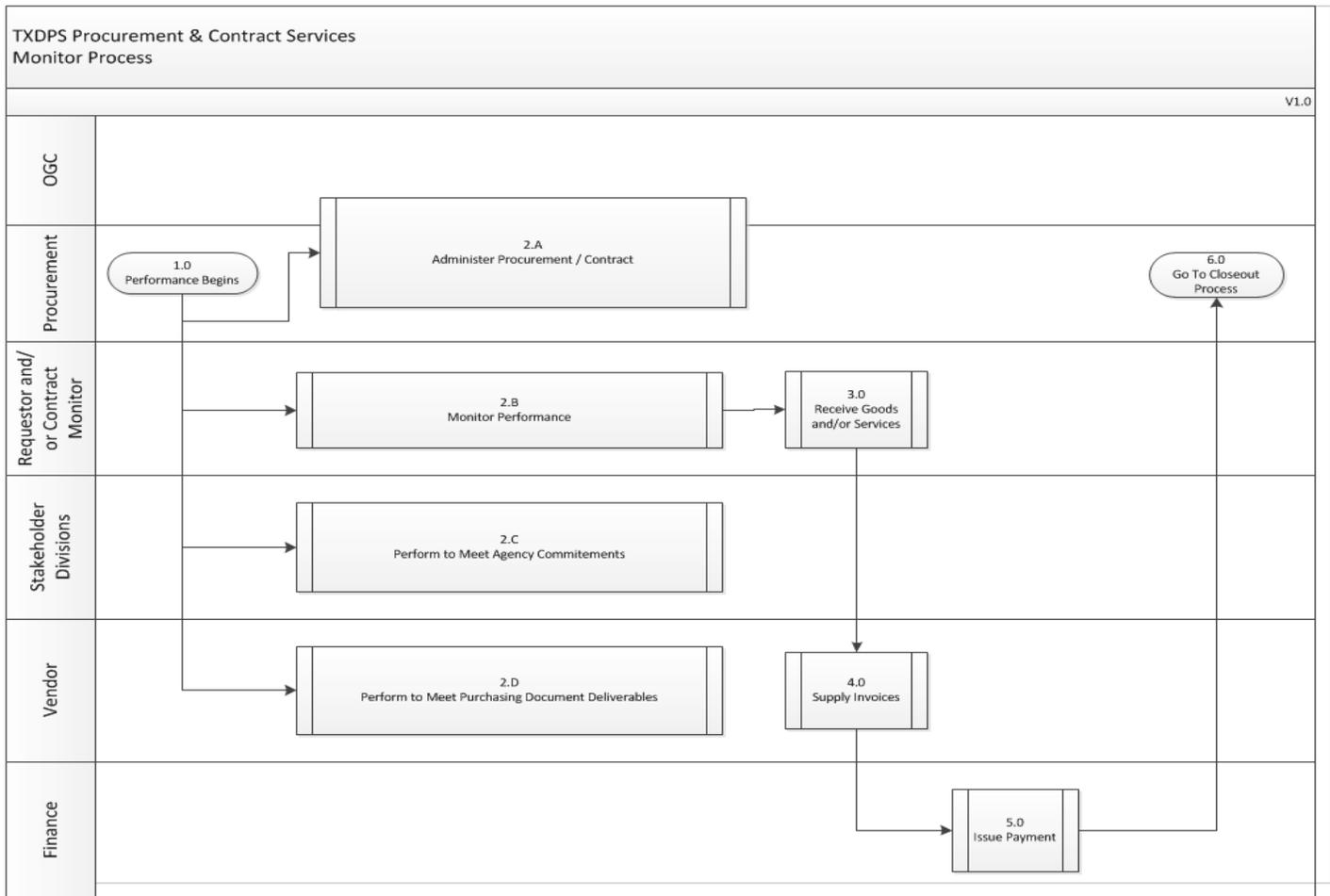
(b) For a purchase made through competitive sealed proposals, the commission, or other state agency making the purchase:

(1) must specify in the request for proposals the known factors other than price that the commission or agency will consider in determining which proposal offers the best value for the state; and

(2) may concurrently inform each vendor that made a proposal on the contract of any additional factors the commission or agency will consider in determining which proposal offers the best value for the state if the commission or other agency determines after opening the proposals that additional factors not covered under Subdivision (1) are relevant in determining which proposal offers the best value for the state.

3.2.4. MONITORING PROCESS

3.2.4.1. DIAGRAM



3.2.4.2. STEPS

Task	Activity	Medium	Description	Responsibility	Typical Duration
1.0	Performance begins	Email, Meeting (Round Table)	1.1 Acquire Goods / Services Per Purchasing Documents 1.2 Hold a Kick-off meeting if needed or specified in Purchasing Documents.	All	1 Day

Task	Activity	Medium	Description	Responsibility	Typical Duration
2.A	Administer Purchase / Contract	Emails, Meetings, Documentation, EPS, Contracts Library	2.A Purchasing Lead Administers Purchase / Contract See Purchaser and OGC Responsibilities Below	Purchasing Lead with guidance from OGC as needed	Ongoing through Term of Purchasing Documents
2.B	Monitor Performance	Emails, Meetings, Purchasing Documents, Project Documents (if applicable)	2.B.1 Monitor deliverables, performance measures, and vendor performance and reports and manages to purchasing documents 2.B.2. Initiate requests to Purchasing for Change Orders and Work Orders. Note: These can only be initiated by the original Contract Monitor in EPS. You will need to contact the original Contract Monitor to request a Change Order. If the original Contract Monitor is no longer an authorized EPS user, then please contact Procurement@dps.texas.gov for guidance on how to initiate your change request 2.B.3 Notify Purchasing of significant events, issues, or risks 2.B.4.Coordinate between DPS Stakeholder Divisions See Contract Monitor Responsibilities Below for additional responsibilities.	Contract Monitor	Ongoing through Term of Purchasing Documents

Task	Activity	Medium	Description	Responsibility	Typical Duration
2.C	Perform to Meet Agency Commitments	SharePoint	2.C.1 Ensure timely completion of action items and deliverables that are the responsibility of DPS to keep the Purchase / Contract deliverables on target 2.C.2 Notify Contract Monitor of any risks, issues, needed actions, or concerns.	Stakeholder Divisions	Ongoing through Term of Purchasing Documents
2.D	Perform to Meet Purchasing Document Deliverables	eMail	2.D.1. Perform to meet deliverables and actions that are the responsibility of the Vendor to keep the Purchase / Contract deliverables on target 2.D.2 Ensure no non-compliant goods or services are provided as Vendor may not be paid for goods or services outside the scope and terms of Purchase / Contract.	Vendor	Ongoing through Term of Purchasing Documents
3.0	Receive Goods / Services	EPS, Signatures	3.1 Receiver of Goods / Services will generate a receipt in EPS Note: All receiving problems should be reported to the Purchaser via email as soon as possible.	Receiver or Contract Monitor	1 - 45 Days

Task	Activity	Medium	Description	Responsibility	Typical Duration
4.0	Supply Invoices	EPS	Vendors will Issue Invoices for delivery of goods and services per Purchasing Documents.	Vendor	Ongoing through Terms of Purchasing Documents or One-Time per Terms of Purchasing Documents
5.0	Issue Payment	EPS, ESBD, LBB Website, DPS Website	5.1 Finance / Accounts Payable will issue payment for goods / services that have a receipt. See other Finance responsibilities below.	Finance	Within 30 Calendar Days of receipt of Goods or Services (dependent on completion of receipt)
6.0	Go to Closeout Process		Go To Closeout Process.		

3.2.4.3. MONITORING ROLES & RESPONSIBILITIES

CM Responsibilities

Contract Monitors (CMs) should possess the technical and/or programmatic expertise and knowledge or have the expertise and knowledge readily available to them. CMs ensure contracting decisions involve all relevant parties and coordination and input from all stakeholder divisions to minimize risk and maximize compliance. The CM is also responsible for:

- Responding to recommendations or guidance to address any legal concerns and/or issues
- Often the Contract Monitor performs responsibilities outlined in the Receiver’s role
- Monitoring to ensure all requirements, measures, and deliverables are met
- Monitoring to ensure sufficient funds are available
- Monitoring to ensure there are no non-compliant activities

- Understanding procurement timelines to ensure submission of renewal or re-solicitation requests in enough time to avoid lapse in service and/or non-compliant activities
- Completing [Vendor Performance](#) reports and [Contract Monitor](#) reports and submitting to P&CS on time
- Verifying accuracy of invoices and authorizing payments consistent with the contract terms.

Procurement Lead Responsibilities

- Advising DPS staff on proper interpretation/application of purchasing policies and regulations
- Determining if the compensation structure is appropriate for the work
- Coordinating between legal counsel and the Contract Monitor to address any legal concerns and/or issues
- Monitoring legal and regulatory requirements pertaining to purchasing
- Managing, approving, and documenting any changes to the PO or contract or issuing Work Orders
- Identifying and resolving disputes with vendors in a timely manner
- Quality control/assurance process
- Maintaining appropriate P&CS records
- Documenting significant events
- Reporting the vendor's performance to [TPASS](#)
- Exercising state remedies, as appropriate, when a vendor's performance is deficient
- Monitoring the P&CS contract file to ensure sufficient funds are available
- Provide guidance and oversight to the Contract Monitor

Receiving Responsibilities

In most cases, the Receiver is the CM. The Receiver will report to the CM in the event they are not one in the same. The CM is ultimately responsible for ensuring the Receiver responsibilities have been addressed. A key step of the Receiving process is to inspect and accept (see [Receiving goods or services](#)) the goods or services. Goods and services procured are received by completing a receipt in EPS. Receiving is a very important step because failure to promptly complete a receipt can lead to interest payments to vendors. The Prompt Payment Act of 1999 requires state agencies to pay interest on unpaid, uncontested invoices over 30 calendar days old. **Interest payments are taken directly out of the requesting department/unit's budget. In addition, House Bill 2251 passed by the 78th Legislature allows a vendor to suspend performance, deliveries or services, in the event that an undisputed invoice is not paid by the 30th**

calendar day. Do not wait until you get a copy of an invoice. In most cases, you should not need an invoice to submit a receiving report. Failure to promptly complete a receiving report can result in interest payments to vendors.

A receiving report is required within 48 hours of the receipt of goods/services. A receiving report may be submitted after all items or services have been received only if the PO or contract states that all goods or services must be received prior to payment. State agencies are mandated by [TEX. GOV'T CODE § 2251.021](#) to issue payment in thirty (30) calendar days or less for the following conditions (whichever is latest):

- the date the governmental entity receives the goods under the contract;
- the date the performance of the service under the contract is completed; or
- the date the governmental entity receives an invoice for the goods or service.

You have the ability to partially receive items by entering a partial receipt to account for only the goods or services received.

You must notify Procurement@dps.texas.gov and APInvoices@dps.texas.gov immediately upon identifying that an item should not be paid so that proper communication can be pursued with the vendor without impeding the prompt pay requirement.

Receiving responsibilities include:

- Receiving, Inspecting and Testing, and reviewing the Acceptance Criteria
- Verifying that all items including quality, quantity, type, performance, etc. on the manifest, bill of lading or packing slip were received
- Coordinating of the return and/or replacement as applicable of defective, damage or otherwise unacceptable items or services
- Resolving of discrepancies in receivables
- Accepting of receivables
- Completing and submitting of the Receipt in EPS
- Completing and submitting of a Vendor Performance Report within 30 days.

The receiver must inspect all shipments received against purchase orders and report any discrepancies to P&CS and the vendor. The vendor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.

Inspections

No Visible Damage Or Shortage...	Accept the shipment if the containers are not crushed, torn, wet, or otherwise damaged.
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Minor Visible Damage...	Damage to the shipping containers should be noted on the shipping document and signed by the delivery person before the shipment is accepted. It is very important to note any minor damages in order to document any claims for possible concealed damage.
Severe Visible Damage...	<p>If shipping containers are damaged in such a manner that it is obvious the goods are badly damaged, the entire shipment may be accepted or refused. If the entire order was refused, the vendor must be contacted and requested to re-ship (this assumes the terms of shipment were F.O.B. Destination). If only a part of the order was refused, then the vendor must be contacted to re-ship that part of the order. If damaged commodities are unloaded at your facility, immediately notify the Purchaser and vendor and request that the order be re-shipped. If the vendor abandons the merchandise (fails or refuses to pick it up), contact the responsible purchaser.</p> <p>Note: In the rare instance where the terms of shipment are F.O.B. Origin and the shipping containers are damaged enough that it is probable the contents are also damaged, accept the shipment, and record the damage on the carrier's freight bill. DPS is responsible for filing freight claims with the carrier in this case.</p>
Overages...	Overages should not be accepted, except in cases of commodities with indeterminable quantities (concrete, gravel, steel by the pound, etc.). This exception will always be noted on the purchase order.
Shortages...	Any shortages of shipping containers, cartons, etc. are to be noted on the shipping document and the shipment accepted. Notify the responsible purchaser.
Concealed Damage...	Notify the carrier and vendor in writing within fifteen (15) calendar days if damages are discovered after unpacking. Notification by facsimile transmission is acceptable. It is recommended that the Receiver state on the shipping document " allow for concealed damages " when accepting shipments. The responsible Purchaser should be notified.
Concealed Shortages...	If there is a minor shortage (such as 11 of an item rather than 12) simply note on the shipping document, notify Accounts Payable and they will deduct the difference on the invoice. If it is a major concealed shortage, notify the vendor in writing and have them ship the needed goods at their expense. Notify the responsible Purchaser.
Substitutions...	Substitutions must meet or exceed the specifications of the purchase order and be approved by the responsible Purchaser before being received.

Failure to Meet Specifications...	If the goods do not meet the specifications, notify the responsible Purchaser. If it is a Term Contract or an Open Market Order processed through the TPASS , the Purchaser will notify the TPASS . Payment to the vendor should be withheld until the merchandise meets or exceeds all specifications without exception.
Inside Delivery...	If required, inside delivery must be specified in the specifications to the exact location, including available access or access limitations. It is the sole responsibility of the vendor for making inside delivery and removal of packing materials. The freight company is not responsible. If there is a problem, the vendor should be contacted immediately.

Receiving Reports

Goods and services are formally received by completing a Receipt in EPS (Use a PRO-3 if the PO was dated prior to 9/1/14 and is not in EPS). A receiving report is required for all received goods and services purchased on a PO or contract except:

- Building/Tower/Land Leases
- Utilities
- Memberships

OGC Responsibilities

- Guiding and assisting to help ensure Agency is protected
- Helping to ensure that contracts the Agency enters into are monitorable and measurable
- Providing “lessons learned” and “post mortem” feedback to determine where we can improve our language to mitigate Agency risk moving forward
- Identifying opportunities to improve clarity of responsibility and expectations documented in the contract
- Vetting and recommending Executive Director approval on signed two party agreements that bind the agency.

Finance’s Responsibilities

- Ensuring compliance with prompt payment
- Validating and approve use of funds identified on requisition

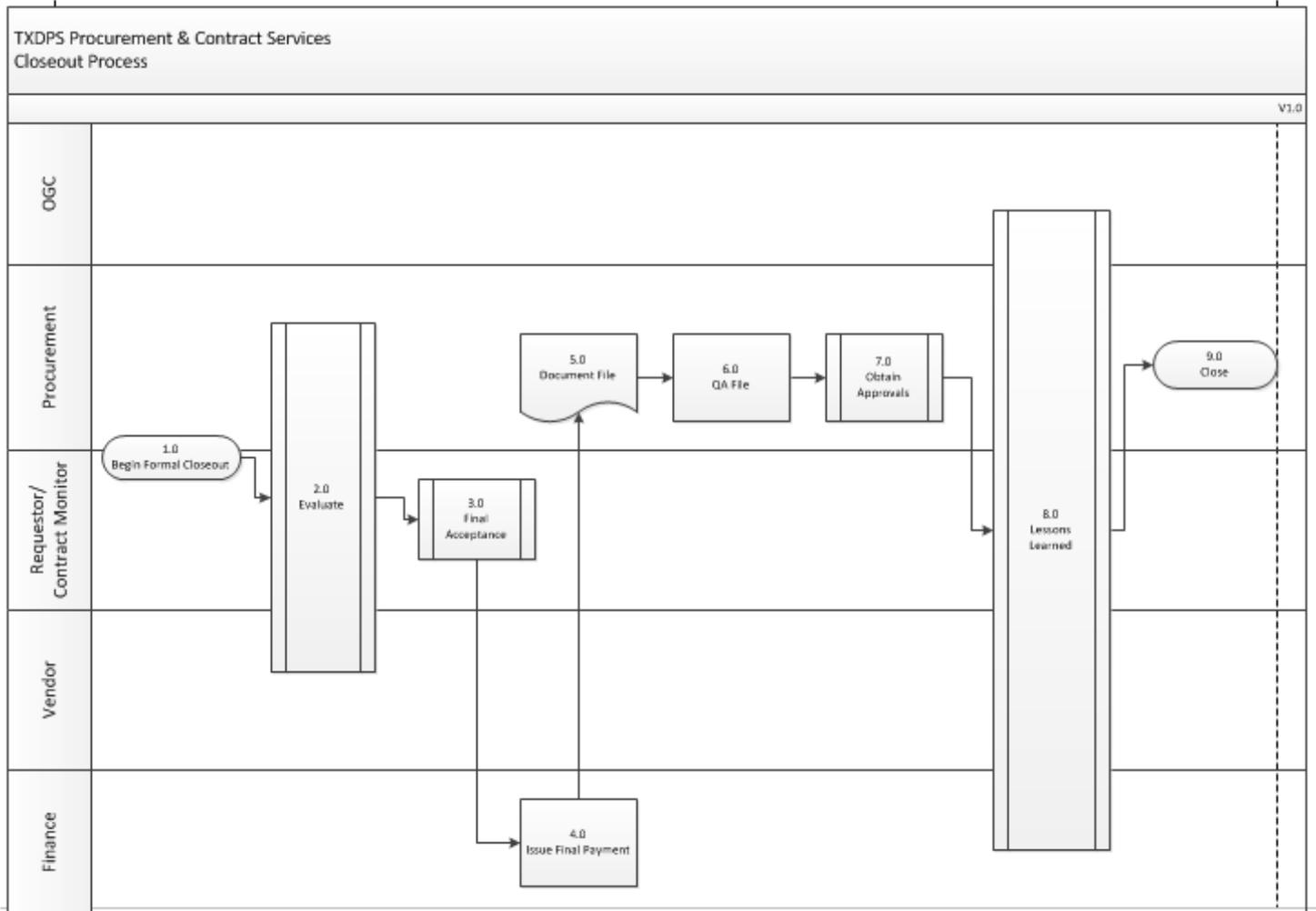
- Validating receipts have been completed before issuing payments
- Performing two or three way match before issuing payment.

3.2.4.4. CONTRACT OR PO RENEWALS AND REBIDS

See section 4.2.1.8 for the guidelines related to contract or PO renewals and rebids.

3.2.5. CLOSEOUT PROCESS

3.2.5.1. DIAGRAM



3.2.5.2. STEPS

Task	Activity	Medium	Description	Responsibility	Typical Duration
1.0	Begin Formal Closeout	Email	1.A Contract Monitor notifies Purchaser of Readiness for Contract Closure 1.B Procurement Notifies Contract Monitor of expiration of Purchase / Contract Term.	Contract Monitor	1 Day
2.0	Evaluate	Emails, Meetings, Documentation, EPS, Contracts Library	2.1 Contract Monitor validates that all deliverables have been met 2.2 Purchasing Lead reviews files and documentation to obtain any additional needed information or clarifications from Contract Monitor and/or Vendor.	Purchasing Lead / OGC	1-5 Days
3.0	Final Acceptance	Emails, Signature (if applicable), EPS	3.1 Approve Final Acceptance of Purchase / Contract 3.2 Submits any outstanding receipts and provides signed Final Acceptance Document if applicable 3.3 Provide Vendor Performance Report.	Contract Monitor	1 Day
4.0	Issue Final Payment	EPS	Finance Issues Final Payment if Applicable.	Finance	Within 30 days of receipt of Final Deliverable *dependent on completion of receipt

Task	Activity	Medium	Description	Responsibility	Typical Duration
5.0	Document File	Email	5.1 Purchasing documents file with any needed documentation per state purchasing rules and Handbook guidelines 5.2 Purchasing works with Contract Monitor to obtain any documents needed for file.	Procurement Lead	1-5 days
6.0	QA File	EPS	Quality Assurance is performed to ensure file contains all necessary documents and/or that file is documented to account for any non-required elements.	Procurement Lead	1-5 days
7.0	Obtain Approvals		Purchasing obtains approvals from P&CS management to close file.	Procurement Lead	1-3 Days
8.0	Lessons Learned	Email, Meetings, Surveys	Purchasing conducts Lessons Learned with Contract Monitor, Stakeholder Divisions, OGC, Finance, and Vendor as necessary to capture feedback to feed continuous process or performance improvements.	Procurement Lead	1-3 Days
9.0	Close	EPS, Contracts Library	File is closed and marked Inactive	Procurement Lead	1 Day

3.2.5.3. CLOSEOUT ROLES & RESPONSIBILITIES

Contract Monitor Responsibilities

- Responding to recommendations or guidance to address any legal concerns and/or issues
- Often the Contract Monitor performs responsibilities outlined in the Receiver’s role
- Monitoring to ensure sufficient funds are available
- Verifying accuracy of invoices and authorizing payments consistent with the contract terms
- Final Acceptance.

Purchaser/Contract Specialist Responsibilities

- Advising DPS staff on proper interpretation/application of purchasing policies and regulations
- Determining if the compensation structure is appropriate for the work
- Coordinating between legal counsel and the Contract Monitor to address any legal concerns and/or issues
- Monitoring legal and regulatory requirements pertaining to purchasing
- Managing, approving, and documenting any changes to the PO or contract or issuing Work Orders
- Identifying and resolving disputes with vendors in a timely manner
- Quality control/assurance process
- Maintaining appropriate P&CS records
- Documenting significant events
- Reporting the vendor's performance to [TPASS](#)
- Exercising state remedies, as appropriate, when a vendor's performance is deficient
- Monitoring the P&CS contract file to ensure sufficient funds are available
- Performing contract closeout process ensuring the P&CS file contains all necessary documentation, formal acceptance documented, and document lessons learned.

Receiving Responsibilities

Refer to Information in Section [Receiver's Responsibilities](#) for Monitoring Process.

CM's Responsibilities

Refer to Information in Section [Contract Monitor's Responsibilities](#) for Monitoring Process.

OGC's Responsibilities

- Guiding and assisting to help ensure Agency is protected
- Helping to ensure that contracts the Agency enters into are monitorable and measurable
- Providing "lessons learned" and "post mortem" feedback to determine where we can improve our language to mitigate Agency risk moving forward
- Identifying opportunities to improve clarity of responsibility and expectations documented in the contract
- Vetting and recommending Executive Director approval on signed two party agreements that bind the agency.

Finance's Responsibilities

- Ensuring compliance with prompt payment
- Validating and approve use of funds identified on requisition
- Validating receipts have been completed before issuing payments
- Performing two or three way match before issuing payment.