



**Texas Department
of Insurance**

Procurement and Contract Management Guide

Version 1.3

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Procurement Office – Administrative Operations Division

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Introduction and Purpose

Texas Government Code Section 2261.256 (b) requires “each agency to publish a contract management handbook that establishes consistent contracting policies and practices to be followed by the agency and that is consistent with the comptroller’s contract management guide.” The information contained in this document reflects the procurement policies, procedures, and practices of the Texas Department of Insurance (TDI) and the Division of Workers’ Compensation (DWC), a division of TDI. This document serves as both a general guide to provide consistent information and practices for employees that request the purchase of goods and services, and provides procedures and practices for procurement personnel to ensure compliance with procurement requirements.

The Office of Injured Employee Counsel (OIEC) is administratively attached to TDI; TDI procures OIEC’s goods and services from vendors. Therefore, this document applies to OIEC purchases processed by TDI.

Purchasing Authority and Oversight

The Texas Comptroller of Public Accounts' (CPA) Statewide Procurement Division (SPD) is the central authority for state agency procurement guidance, education, and statewide contract development services. SPD publishes the State of Texas *Procurement and Contract Management Guide* (CPA Guide) to aid public procurement professionals in the execution of their duties and to provide step-by-step guidance and a framework for the continued development of public procurement processes and best practices.

TDI purchasing processes are governed by the procurement statutes in Title 10, Subtitle D of the *Texas Government Code*, as well as Chapters 2261 and 2262. These statutes are the highest level of authority and overrule the *Texas Administrative Code*, agency policy, and this guide in the event of conflict.

Pursuant to *Texas Government Code* Section 2262.052, TDI is required to comply with the CPA Guide. The CPA Guide is a living document that is continually updated by the CPA to address development of the procurement process and best practices. This *TDI Procurement and Contract Management Guide* (TDI Guide) is a supplement to the CPA Guide and describes specific TDI practices that define how TDI will adhere to the CPA Guide. The CPA Guide prevails in instances where the TDI Guide is silent. The TDI Guide will be updated as needed to ensure compliance with state regulations and guidance.

This guide covers procurement methods and processes typical for TDI. In the event TDI has a procurement that is not covered by this guide, the agency will adhere to the best practices and instructions provided in the CPA Guide.

Definitions

The definitions listed below are those terms most commonly used by TDI. Additional terms relevant to procurement are listed in the CPA Guide.

Term	Definition
Addendum	A written addition, change, or supplement to a solicitation issued prior to the opening date.
Amendment	Written addition or change to a contract.
Automated Information System (AIS)	Products and services that are associated with computers (automation) or telecommunication systems as defined in <i>Texas Government Code</i> Section 2157.001(1).
Award	The act of accepting an offer, thereby forming a contract between the State and a vendor.
Best Interests of the State	Most advantageous to the State considering all relevant circumstances.
Bid	An offer to contract with the State, submitted in response to a bid invitation.
Bid Tabulation	The recording of bids and bid data submitted in response to an IFB. The bid tabulation is used for comparison, analysis, and record keeping.
Bidder	An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or entity that submits a bid, such as an agent, employee, and representative. See Respondent.
Bidders List, Centralized Master Bidders List (CMBL)	A list of vendors that have expressed an interest in doing business with the State. CMBL is an online directory maintained by the CPA, containing contact information and product categories of vendors registered to receive procurement opportunities from public entities.
CAPPS	Centralized Accounting and Payroll/Personnel System. The system developed and maintained by CPA to provide a single financials and human resources administration system for Texas state agencies.
Change Order	An amendment, clarification, change, or deletion to the original scope of work to a contract.
Class and Item	The classification system found in the NIGP Commodity Book.
Commodity	Generally, the term means supplies, materials, or equipment. See IT Commodity Item.
Commodity Book	List of NIGP class and item numbers maintained on the CPA website.
Competitive Solicitation	The process of inviting and obtaining responses from competing vendors in response to advertised competitive specifications, by which an award is made based on best value. The process contemplates giving potential vendors a reasonable opportunity to compete and requires that all vendors be placed on a level playing field. Each respondent must respond to the same advertised specifications, terms, and conditions.

Term	Definition
Comptroller of Public Accounts (CPA)	The CPA Statewide Procurement Division (SPD) is the central authority for state agency procurement guidance, education, and statewide contract development services.
Consultant	A person who provides or proposes to provide the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.
Consulting Services	The service of studying or advising a state agency under contract that does not involve the traditional relationship of employer and employee. See Major Consulting Services Contract.
Contract	The written agreement, if any, executed by the authorized representative of the parties to a solicitation that formalizes the terms, provisions, covenants, and obligations of the respective parties to the arrangement for provision of services. A contract may be in the form of a formal, written agreement, interagency cooperation contract, letter agreement, memorandum of understanding, end user licensing agreement, lease, or a Purchase Order.
Contractor	A business entity or individual that has a contract to provide goods or services to the State.
Cooperative Purchasing	A program for qualified entities to use the SPD or DIR contract resources.
Debarment	An exclusion from contracting or subcontracting with state agencies on the basis of any cause set forth in statute or SPD rules, commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.
Delegated Purchase	A purchase made by an agency under the authority of SPD and subject to SPD rules and procedures.
Deliverable	A measurable task or outcome (e.g. a product or service).
Department of Information Resources (DIR)	Texas' information technology and telecommunications agency. DIR procures and manages statewide cooperative contracts for IT and telecommunications products and services.
Electronic State Business Daily (ESBD)	An online directory, administered by SPD, that publishes solicitations to inform vendors of procurement opportunities and provide public notice of contract awards.
Executive Sponsor	A high-level individual with primary responsibility for implementation and operation of the project. In some instances, the executive sponsor may be the executive head of the entity. In other instances, the executive sponsor may be the division or program director with overall project responsibility.
Fiscal Year (State of Texas)	A period of 12 consecutive months, beginning September 1 of each year and ending August 31 of the next year.
Goods	The term means supplies, materials, or equipment.
Historically Underutilized Business (HUB)	A business as defined by <i>Texas Government Code</i> Chapter 2161 and 34 TAC § 20.282.

Term	Definition
Informal Solicitation	An unsealed, competitive solicitation used to obtain offers submitted verbally or in writing for purchases with a value of \$25,000 or less.
Interagency Contract (IAC)	Written understanding between two or more agencies as authorized by <i>Texas Government Code</i> Chapter 771.
Invitation for Bids (IFB)	A written solicitation requesting the submission of bids; also referred to as a bid invitation.
Invoice	Document from a contractor requesting payment for goods delivered and/or services rendered.
IT Commodity Item	Commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which DIR determines that a reasonable demand exists in two or more agencies. The term includes seat management, through which an agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the agency, including all necessary hardware, software, and support services.
Major Consulting Services Contract	A consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000, or \$25,000 for an institution of higher education other than a public junior college.
Managed Contract	An SPD Term Contract that cannot be processed through Texas SmartBuy. The purchase order is prepared by the agency, referencing the contract number and pricing, and sent directly to the contractor.
Miscellaneous Agreement	An agreement established outside of the standard procurement process. A miscellaneous agreement generally does not involve the exchange of funds.
Negotiations	A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the "dealings conducted between two or more parties for the purpose of reaching an understanding."
NIGP	National Institute of Governmental Purchasing. NIGP provides uniform codes for products or services; the codes are used by bidders, vendors, and state agency personnel.
Notice of Award	An official announcement of an executed contract.
Offer	A proposal to contract with the State submitted in response to an RFO.
Payment Card	A commercial charge card that is predominately used for transactions that require payment upfront. Agencies may only use commercial charge cards obtained under SPD established contract(s).
Posted Date	The date a document is made available online to the public.
Professional Services	Services directly related to the professional practices specified by the Professional Services Procurement Act, Chapter 2254, Subchapter A of the <i>Texas Government Code</i> .
Proposal	An offer to contract with the State, submitted in response to an RFP.
Protest Procedures	Procedures for resolving vendor protests relating to purchasing issues.

Term	Definition
Purchase Order	A document issued by a Purchaser to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the customer. Sending a Purchase Order to a supplier constitutes a legal offer to buy products or services. Acceptance of a Purchase Order by a seller usually forms a one-off contract between the buyer and seller, so no contract exists until the Purchase Order is accepted. A Purchase Order is required for TDI to issue payment of goods or services.
Purchase Requisition	Most common type of procurement planning document. At TDI, a Purchase Requisition is required to initiate the purchasing process.
Request for Information (RFI)	A general invitation to the vendor community requesting information that may be used in a potential future solicitation.
Request for Offers (RFO)	A written solicitation requesting the submission of offers for AIS which include hardware, software, and other information technology goods and services.
Request for Proposals (RFP)	A written solicitation requesting the submission of proposals.
Request for Qualifications (RFQ)	A written solicitation requesting the submission of qualifications or specialized services. Typically used for the procurement of professional services.
Respondent	An individual or entity that submits an offer or proposal. The term includes anyone acting on behalf of the individual or entity that submits an offer or proposal, such as an agent, employee, and representative. See Bidder.
Responsive	The bid, offer, or proposal complies with all material aspects of the solicitation document, including submission of all required documents.
Service	The furnishing of skilled or unskilled labor or professional work.
Set-Aside Contract	Term used to refer to the State Use Program and the Texas Correctional Industries (TCI) purchasing program.
Solicitation	A document such as an IFB, RFO, RFP, or RFQ requesting responses from vendors to provide specified goods and services. The term also refers to the process of obtaining responses from vendors to provide specified goods and services.
Statewide Procurement Division (SPD)	The Texas Comptroller of Public Accounts (CPA) Statewide Procurement Division (SPD) is the central authority for state agency procurement guidance, education, and statewide contract development services.
Term Contract	A contract established by SPD for the purchase or lease of goods and services used in large quantities by several agencies.
Texas SmartBuy	The State's central e-procurement system for non-IT goods and services.
Unauthorized Purchase	Any purchase or agreement entered into by an employee that is not a Purchaser or Contract Specialist in the PCA Program, or one of the employees authorized to sign agreements on behalf of TDI.
Vendor	A potential provider of goods or services to the State.

Roles and Responsibilities

The roles and responsibilities listed below are the roles as used by TDI in the procurement process.

Role	Responsibility
Contracts Attorney	Provides legal review, guidance, and oversight for all aspects of TDI's contracting and is responsible for ensuring that TDI adheres to all statutory requirements.
Commissioner of Insurance	The Commissioner of Insurance may sign documents, including contracts and agreements, on behalf of TDI, and must sign contracts valued at \$1,000,000 and above. The commissioner may delegate signature authority within statutory limits.
Commissioner of Workers' Compensation	The Commissioner of Workers' Compensation has been delegated the authority to sign certain contracts on behalf of TDI within statutory limits. The commissioner may delegate signature authority within statutory limits.
Contract Administrator	The person designated by TDI to be the point of contact between TDI and the Contractor to monitor Contractor performance and provide day-to-day interaction and instruction. May also be referred to as "Agency Primary Contact." The Contract Administrator is not authorized to make or agree to any contractual changes.
Contract Specialist	A member of the Contract Administration Team. The Contract Specialist works directly with division subject matter experts to develop specifications for formal solicitations, leads the procurement process, guides the work of the evaluation solicitation team, negotiates contracts with vendors, and oversees the formal solicitation process. The Contract Specialist also provides contract management oversight for the Contract Administrator.
Contract Administration Team	The team within the Purchasing and Contract Administration Program (PCA) responsible for formal solicitations, including most purchases over \$25,000, DIR cooperative contract purchases, and negotiations for agreements.
Contract Administration Team Lead	Supervises the Contract Administration Team, assigns tasks, and provides guidance and technical advice to the Contract Administration Team and agency staff.
Procurement Director	Oversees the procurement process, provides final approval of procurement documents, and ensures the Procurement Office adheres to all state and agency procurement requirements.
Procurement Manager	Oversees the procurement process, including the Purchasing Team and the Contract Administration Team, and is responsible for ensuring that procurement staff adhere to purchasing requirements.
Procurement Card Administrator, Backup Administrator	Administers TDI's procurement card program by processing applications, providing training and education to card holders, ensuring cardholders follow guidelines, and reviewing and signing off on card holder monthly transaction logs.

Role	Responsibility
Purchaser	A member of the Purchasing Team. The Purchaser works with the Requisitioners to process Purchase Requisitions and obtains goods and services for the agency.
Purchasing and Contract Administration (PCA) Program	The program within the Procurement Office of the Administrative Operations Division responsible for all agency purchasing needs.
Purchasing Team	The team within the Purchasing and Contract Administration Program (PCA) responsible for most informal purchases under \$25,000, spot-purchases, term-contract purchases, and DIR cooperative contract purchases.
Purchasing Team Lead	Supervises the Purchasing Team, sources Requisitions to Purchasers or the Contract Administration Team Lead, assigns tasks, and provides guidance and technical advice to the Purchasing Team and agency staff.
Requisitioner	Employees designated by their agency division to submit Purchase Requisitions and work with PCA staff to process purchases. The Requisitioner is responsible for ensuring all program-level approvals are met before submitting a Requisition. A Requisitioner is not authorized to purchase any item or service or to approve any agreements on behalf of the agency.

PCA Program

The Procurement Office in the Administrative Operations Division is responsible for all agency purchasing needs. The Procurement Office’s Purchasing and Contract Administration (PCA) Program is comprised of two teams: the Purchasing Team and the Contract Administration Team.

The Purchasing Team is responsible for most informal purchases under \$25,000, spot-purchases, term-contract purchases, and DIR cooperative contract purchases. The Purchasing Team Lead supervises the Purchasing Team, sources Requisitions to Purchasers or the Contract Administration Team Lead, assigns tasks, and provides guidance and technical advice to the Purchasing Team and agency staff.

The Contract Administration Team is responsible for formal solicitations, including most purchases over \$25,000, DIR cooperative contract purchases, and negotiations for agreements. The Contract Administration Team Lead supervises the Contract Administration Team, assigns tasks, and provides guidance and technical advice to the Contract Administration Team and agency staff.

The PCA Program is led by the Procurement Director. The director oversees the procurement process, including the Purchasing Team and the Contract Administration Team, and is responsible for ensuring that procurement staff adhere to purchasing requirements.

Ethics and Professional Standards

Ethical behavior and integrity are fundamental to the public procurement profession. Any erosion of public trust or perception of impropriety is detrimental to the integrity of the procurement process and to the reputation of TDI. Therefore, all TDI employees involved in procurement activities – including division staff and subject matter experts working with and researching vendors – must act in an ethical, impartial, transparent, and professional manner.

Annual Non-Disclosure and Conflict of Interest Certification

In compliance with the ethics laws and professional standards outlined in the CPA Guide, each member of the PCA Program will complete a Non-Disclosure and Conflict of Interest Certification upon employment in the PCA Program and at the beginning of each fiscal year. The certification includes a statement that the employee will immediately inform both management and legal counsel if there is any change to the non-disclosure or conflict of interest certifications at any time during the procurement process.

The signed certification will be kept on the PGS SharePoint site.

Conflict of Interest

Texas Government Code Section 2261.252 and 34 TAC §20.158 states that an agency may not enter into a contract with a private vendor for the purchase of goods or services if the amount exceeds \$25,000 and any of the following agency officers or employees have a financial interest in the vendor: a member of the agency's governing body, governing official, executive director, general counsel, chief procurement officer, or procurement director; or a family member related to one of these persons within the second degree of kinship by affinity or consanguinity.

This statement applies to the following TDI officers and employees: Commissioner of Insurance, Commissioner of Workers' Compensation, Chief Deputy Commissioner, TDI General Counsel, DWC General Counsel, DWC Special Counsel, the Deputy Commissioner of Administrative Operations, and the Procurement Director.

This statement applies to the following OIEC officers and employees: Public Counsel, Deputy Public Counsel, and General Counsel.

Upon employment and at the beginning of each fiscal year, TDI officers and defined employees will review a list of all vendors currently doing business with TDI and complete a Conflict of Interest Statement. The original of this certification will be kept in the procurement files. During the fiscal year, as new vendors are considered and evaluated by TDI for goods or services exceeding \$25,000, the Procurement Director will confirm via email to the TDI or OIEC officers and employees that the officers and employees do not have a financial interest in the vendor.

State Standards of Conduct

As stated in the CPA Guide, the Legislature has established standards of conduct for state officers and employees. A state officer or employee should not:

- accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties, or that the officer or employee knows or should know is being offered with the intent to influence the officer or employee's official conduct;
- accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
- accept other employment or compensation that could reasonably be expected to impair the officer or employee's independence of judgment in the performance of the officer or employee's official duties;
- make personal investments that could reasonably be expected to create a substantial conflict between the officer or employee's private interest and the public interest; or
- intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer or employee's official powers or performed the officer or employee's official duties in favor of another.

A state employee who violates the state standards of conduct or the agency's ethics policy is subject to termination of employment or another employment-related sanction, and any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule. Additionally, agencies may not use appropriated funds to compensate a state employee who violates the state standards of conduct.

Bribery

Bribery is a criminal offense. Bribery occurs if a person intentionally or knowingly *offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept* any benefit as consideration for a violation of a public servant's legal duty or a public servant's decision, opinion, recommendation, vote, or any other exercise of discretion. A salary is a benefit. A state employee, therefore, is subject to criminal prosecution if the employee accepts employment as consideration for an official act. A bribery offense occurs even if the benefit is offered after the employee has acted in a manner desired or after the employee has ceased working for the State.

Gift to Public Servant

As stated in the CPA Guide, it is a criminal offense for a public servant to accept a benefit from a person subject to his jurisdiction. This statute prohibits seven types of conduct by state employees and these prohibitions apply regardless whether the donor seeks or expects anything in consideration for the benefit. A regulatory agency employee, for example, may not solicit, accept, or agree to accept any benefit from a person the employee knows is subject to regulation, inspection, or investigation by the agency.

It is also an offense for a public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government to solicit, accept, or agree to accept any benefit from a person who the public servant knows is interested in or likely to become interested in any

contract, purchase, payment, claim, or transaction involving the exercise of the public servant's discretion. Acceptance of a gift may also be prohibited if the donor of the gift is a registered lobbyist.

Not all gifts are prohibited. Under this statute, some state employees may accept non-cash items of less than \$50 in value. For example, promotional or commemorative items of minimal value such as caps, coffee mugs, t-shirts, key rings, and discount coupons, do not constitute an improper benefit if such items are not solicited and not offered or accepted in exchange for any action or inaction on the part of public servants. It is also permissible to accept a gift from a friend, relative, or business associate with whom a state employee has a relationship independent of the person's official status, provided that the gift is given because of the personal relationship and not because of the official status.

Misuse of Official Information

As stated in the CPA Guide, as a result of employment with the State of Texas, a state employee may have access to information the public does not. A state employee faces criminal liability if the person uses information that has not been made public and was obtained during the course of official duties for a private purpose. The term "information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under the Texas Public Information Act, Chapter 552 of the *Texas Government Code*. A public servant commits an offense if, by relying on nonpublic information, the person (1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information, (2) speculates or aids another to speculate on the basis of the information, or (3) as a public servant, coerces another into suppressing or failing to report that information to a law enforcement agency. A public servant also commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the person discloses or uses information for a non-governmental purpose that the person has access to by means of office or employment and that information has not been made public.

Misuse of Government Property

As stated in the CPA Guide, state law prohibits the misuse of governmental resources. Governmental resources include computers, copiers, supplies, and staff time. A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the person intentionally or knowingly misuses anything of value belonging to the government that has come into the person's custody or possession by virtue of the person's office or employment. A public servant, for example, may face criminal prosecution for use of a state-issued credit card for a personal expenditure that is not an agency-authorized state business expense.

Relationships with Vendors

In addition to the Texas rules and requirements described above and in the CPA Guide, all TDI employees are expected to observe the standards of conduct listed below when dealing with vendors and contractual documents.

- TDI employees shall immediately notify, in writing, the Deputy Commissioner of Administrative Operations if a vendor offers employment, compensation, actual or potential financial interest, or anything of value to an employee or to a member of the employee's family.

- TDI employees shall immediately notify, in writing, the Deputy Commissioner of Administrative Operations if a vendor's conduct under a procurement or potential procurement could reasonably be viewed as a conflict of interest or could create the appearance of impropriety.
- TDI employees who have information or knowledge about an actual or potential violation of policies regarding standards of conduct shall promptly notify, in writing, the employee's supervisor and the Procurement Director.

Additionally, to prevent the appearance of impropriety, PCA Program staff are strongly encouraged to limit non-business interactions and communications with vendor staff.

See also the Vendor Communication section of this document.

Violation of Ethical Standards

As stated in the Employee Conduct and Ethics Section of the TDI *Personnel Manual*, when an actual or potential violation of these ethical standards is discovered, the employee involved will promptly file a written statement concerning the matter with the respective manager. The employee may also request written instructions and disposition of the matter. See disclosure requirements in *Texas Government Code* Section 2261.252.

If an actual violation of these ethical standards occurs or is not disclosed and remedied, the employee involved may be reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled.

Suspected Fraud, Waste, or Abuse

Texas Government Code Section 2261.256 requires each agency to develop and comply with a purchasing accountability and risk analysis procedure that includes an assessment of the risk of fraud, abuse, or waste in the contract selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts.

All TDI procurements use established templates and checklists to ensure procurements are completed in a consistent manner that employs established best practices. Templates are reviewed at least every two years after a legislative session to ensure compliance with new statutes and standards. Other updates are made as needed as a result of lessons learned. See also Templates in the Appendix section of this document.

In addition to the use of templates and checklists, TDI established a clear separation of duties for requisition requests, purchase orders, receipt of goods/services, and payment for goods and services. TDI also uses an established workflow process for requisitions and approvals (see also the Procurement Process – General section of this document).

The Contract Management and Administration section of this document describes TDI's contract monitoring practices, which further supports TDI's efforts to prevent fraud, waste, and abuse.

See also TDI's policy manual.

Procurement Process – General

TDI uses the Centralized Accounting and Payroll/Personnel System (CAPPS) to request the purchase of goods and services for the agency. Division deputy commissioners delegate purchasing roles and approval authority to staff to create, approve, and monitor division Purchase Requisitions. To gain access to CAPPS, staff must submit a CAPPS Access Authorization Form. The form and related information can be found on the PCA Program page on TDI’s intranet.

CAPPS Roles (Division Level)

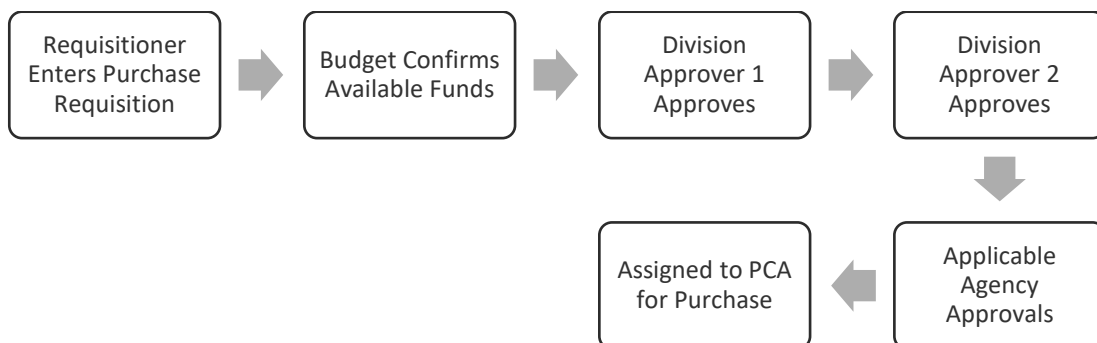
Division deputy commissioners can delegate the CAPPS workflow roles listed below. Note that the workflow roles separate responsibilities to prohibit a Requisition from being entered and finally approved by the same employee.

Requisitioner	Employee responsible for entering Requisitions. The Requisitioner cannot also have Approver 2 authority.
Approver 1	The first level of approval for the division. Approver 1 is expected to perform an internal review of the Requisition before approving.
Approver 2	The final approval for the division. The CAPPS workflow does not require electronic approval from the deputy commissioner or office director. The Approver 2 cannot also have Requisitioner authority.
Read Only	User will not have the ability to create, add, or modify any information in CAPPS.

CAPPS Workflow

To initiate any purchase, the division Requisitioner must enter a Purchase Requisition through CAPPS. Instructions for submitting a Purchase Requisition and other reference information are located on the PCA Program page of TDI’s intranet.

Each Purchase Requisition must go through an approval process that includes division approval and confirmation by the Budget Program that funds are available. The high-level CAPPS workflow is shown below. *Divisions must establish internal controls to ensure that Requisitions submitted are approved before they leave the division’s purchasing workflow.*



Agency Purchase Requisition Approvals

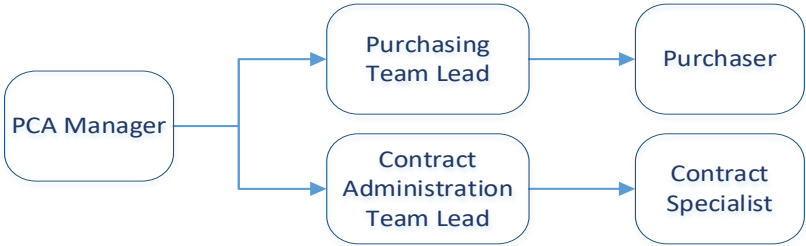
Agency approval of Purchase Requisitions varies based on purchase type and value, as listed in the table below. This workflow is automated in CAPPs.

Type of Purchase	Applicable Account Codes	Additional Approvals Required
Any purchase over \$1,000,000	All	Commissioner of Insurance
Any purchase >\$10,000	All	Deputy Commissioner of Administrative Operations
Any purchase between \$2,500 - \$9,999.99	All	Associate Commissioner of Financial Services/Chief Financial Officer
Memberships	7201	Deputy Commissioner of Administrative Operations
Judgments and Settlements, Other Financing Fees	7225, 7809	Deputy Commissioner of Administrative Operations
Consultant Services, IT Consulting Services, Educational/Training Services, Financial and Accounting Services, Hearings Officers, Veterinary Services, Other Professional Services, Witness Fees, Legal Services	7239, 7240, 7242, 7243, 7245, 7246, 7247, 7249, 7253, 7254, 7255, 7256, 7257, 7258	Deputy Commissioner of Administrative Operations
IT Services, Data Processing Services, Computer Services – Statewide Data Center, DIR Payments	7275, 7284, 7285, 7292	Deputy Commissioner of Administrative Operations
Computer-Related Purchases and Services, all values	7242, 7262, 7267, 7275, 7276, 7284, 7303, 7335, 7367, 7377, 7378, 7379, 7380, 7385, 7387, 7411, 7415, 7510, 7512, 7516, 7518, 7519, 7520, 7522	Information Technology Division staff
Computer-Related Purchases and Services, >\$1,000	7242, 7262, 7267, 7275, 7276, 7284, 7303, 7335, 7367, 7377, 7378, 7379, 7380, 7385, 7387, 7411, 7415, 7510, 7512, 7516, 7518, 7519, 7520, 7522	Deputy Commissioner of Information Technology
Computer equipment, software, maintenance, repairs, or books >\$5,000	7262, 7377, 7379, 7380, 7382, 7415	Deputy Commissioner of Administrative Operations
Retirement Gifts	7211	Associate Commissioner of Human Resources
Temporary Personnel Services	7274	Associate Commissioner of Human Resources and Deputy Commissioner of Administrative Operations

Type of Purchase	Applicable Account Codes	Additional Approvals Required
Tuition Reimbursement	7202	Associate Commissioner of Human Resources
Food Purchases	7315	General Counsel Division
Promotional Items, Advertising, Publications	7218, 7281, 7309	General Counsel Division
Personal Property, Vehicles, Furnishings and Equipment, Computer Equipment, Animals (canines), Books and Reference Materials, Telecommunications Equipment and Supplies	7361, 7371, 7372, 7373, 7374, 7376, 7378, 7379, 7385, 7386, 7387, 7389, 7512, 7519	General Services Office staff <i>Alerts staff to agency assets that need to be inventoried and managed.</i>

PCA Workflow

Once a Requisition is assigned to PCA for the purchase process, the Procurement Office will source the Requisition to a Purchaser or Contract Specialist. Typically, a Purchaser will purchase items from a set-aside program, CPA term contract, or TXMAS contract, spot purchases, and some items on a Texas Department of Information Resources (DIR) cooperative contract. A Contract Specialist will purchase items that require a formal solicitation or Statement of Work through DIR. See the Procurement Methods section of this document for more information.



Requisitioner Guidelines

Requisitioners are not authorized to complete any purchase or agreement (verbal or written) on behalf of the agency and are strictly prohibited from making any type of purchase for TDI.

Requisitioners or division staff are encouraged to research purchases in advance to see if they are available through set-aside programs or term contracts established by CPA or DIR. Links to websites with available product catalogs are available on the PCA Program page of TDI’s intranet. Requisitioners are encouraged to include all applicable and relevant information for the purchase on the Purchase Requisition to assist the assigned Purchaser in fulfilling the division need.

After the Fact and Non-Compliant Purchases

Division Requisitioners must submit a Purchase Requisition in advance of the purchase. If a Purchase Requisition is approved after the purchase is made, after TDI receives an invoice, after goods or services are received, or before a Purchase Order has been completed, the Purchaser will instruct the Requisitioner to submit a Non-Compliant Purchase (After the Fact) memo. The memo must be signed by the supervising program director and the Procurement Director. Information on non-compliant purchases will be compiled by the Procurement Director and provided to the Deputy Commissioner of Administrative Operations upon request.

Unauthorized Purchases

Unauthorized purchases will be reported to the applicable division deputy commissioner and the Deputy Commissioner of Administrative Operations. An unauthorized purchase is any purchase or agreement entered into by an employee that is not a Purchaser or Contract Specialist in the PCA Program or an employee not authorized to sign agreements on behalf of TDI. Employees making unauthorized purchases or entering into unauthorized agreements may be responsible for the agreement and any resulting cost to TDI or the state. The employee may be subject to disciplinary action up to and including termination and the agreement may be considered null and void.

Questionable Purchases

If a Purchaser suspects that a Purchase Requisition may not be in the best interest of the agency or is otherwise questionable, the Purchaser will notify the Requisitioner of the concern and forward the Purchase Requisition to the Procurement Director. The Procurement Director will alert the Deputy Commissioner of Administrative Operations, who will escalate the concern as necessary.

Restricted Purchases

TDI, like other state agencies, must have statutory authority to engage in promotional activities or advertising. To submit a Purchase Requisition for publications, advertising, or promotional items, the division must attach to the Purchase Requisition a justification memo from the deputy commissioner. The justification memo must include the statutory authority that allows TDI to make the purchase. The Purchase Requisition will not be processed without a justification memo. The Contracts Attorney, in consultation with the Chief Financial Officer, will use the memo to determine whether TDI has authority to purchase the item(s) in question.

A template for the justification memo can be found on the PCA Program page of TDI's intranet.

Facility Agreements

Texas Government Code Section 2113.106 states: "A state agency shall use state-owned or state-occupied facilities for meetings, conferences, and administration of group examinations and may not use appropriated money to lease private facilities for these purposes unless state facilities are not available when needed, are not adequate to accommodate the meeting, conference, or examination, or are not an economically favorable alternative to other facilities."

If a division needs to host a meeting or conference and a state facility will not meet the requirement, the division can seek alternate locations for the event. The division will need to submit a Purchase Requisition for the event and attach a State Facility Exemption Memo along with the draft facility agreement. For a draft memo and detailed information about this process, see the PCA Program page on TDI's intranet.

See also the Food Purchases section of this document.

Food Purchases

A state agency is prohibited from purchasing food, coffee, cream, sugar, and similar items that employees of or visitors to the agency would consume. However, an agency may collect funds for the reimbursement of costs directly associated with conducting seminars and conferences that directly relate to the legal responsibilities and duties of the agency, and that are for education, training, or informing employees or the general public. An applicable expense may include the purchase of food when the registration fee contains a mandatory and non-separable cost component based on a cost recovery methodology to pay for the food costs.

To submit a Purchase Requisition for an event that includes a food purchase, the division must attach to the Purchase Requisition a justification memo from the deputy commissioner. The Purchase Requisition will not be processed without a justification memo. The General Counsel Division will use the memo to determine whether TDI has authority to purchase the item(s) in question.

A template for the justification memo can be found on the PCA Program page of TDI's intranet.

Promotional Items

TDI, like other state agencies, must have statutory authority to engage in promotional activities or advertising, and also includes the use of the State of Texas seal. To submit a purchase requisition for publications, advertising, or promotional items, you must complete a justification memo and submit it with the Purchase Requisition. A Purchase Requisition for one of these items will not be approved without the justification memo.

A template for the justification memo can be found on the PCA Program page of TDI's intranet.

Trial Subscriptions

Many online services offer a free trial subscription. A trial offer typically requires the agency to agree to vendor terms and conditions, as well as provide payment information for billing at the end of the trial period. To pursue a free trial, divisions must submit a Purchase Requisition and attach a completed Trial Subscription Supplemental Form to the Purchase Requisition. The form is located on the PCA Program page on TDI's intranet.

Once the trial subscription is approved and a Purchase Order is issued, the division must submit a Customer Service Request (CSR) to Information Technology Services (ITS) to schedule the trial.

Terms and Conditions

All TDI procurements contain the terms and conditions required by the CPA Guide and Texas statutes, along with additional TDI-specific terms and conditions. These terms are contained in each Purchase Order, are available on the TDI website, and are contained in formal solicitation documents such as RFPs and RFOs. The terms and conditions are reviewed and updated on a regular basis and as Texas requirements and SPD guidance changes.

Changes to the TDI terms and conditions are approved by the Deputy Commissioner of Administrative Operations, the Procurement Director, and the Contracts Attorney.

Business Justification Memo

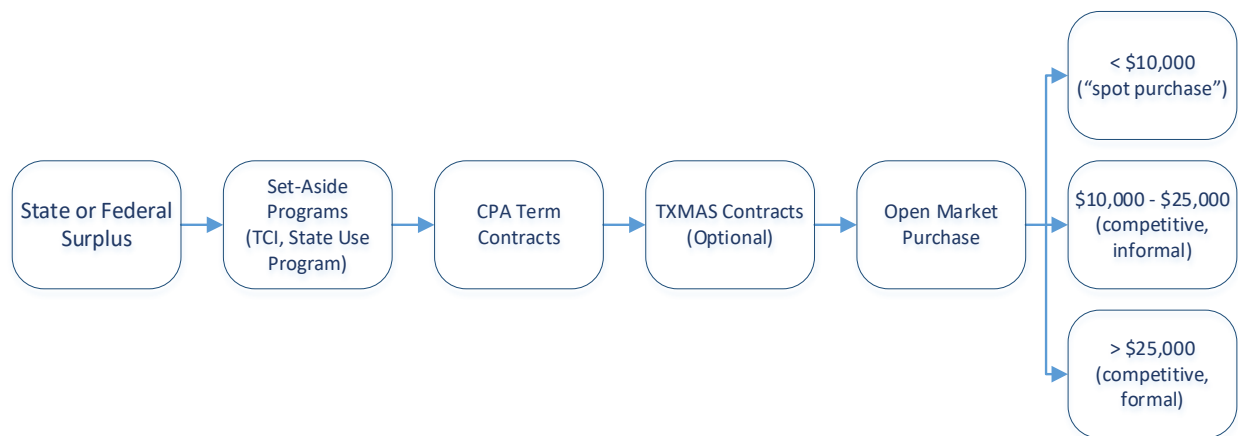
If TDI and a vendor are not able to agree on some contract terms and conditions or other requirements, the division may submit a Business Justification memo to request that the procurement move forward. The Business Justification must include a description of the items requested by TDI that the vendor will not agree to incorporate, a description of the risks to TDI, and a description of the division's business need. The memo content is reviewed by the Contract Administration Manager, Procurement Manager, Procurement Director, and Contracts Attorney, and may include input from TDI's ISO, Privacy Attorney, and Public Information Coordinator. The Business Justification must be approved by TDI's Deputy Commissioner of Administrative Operations before the procurement is completed.

Procurement Methods

State agencies are required to consider procurement type and cost estimates when determining the procurement method. See the Appendix for a summary of the general procurement requirements and timelines.

Goods and Services

For goods and services – excluding consulting services, professional services, legal services, and information technology related purchases – TDI is required to consider several purchase methods in a priority order, as illustrated below.



Contract Value for Goods and Services

Contract value for goods and services is determined by considering the full price of the contract including any optional extensions and renewals.

Texas SmartBuy Catalog

SPD leverages the State’s buying power by developing state contracts for large-volume non-IT goods and services. These contracts are available on Texas SmartBuy. Texas SmartBuy is the State’s central e-procurement system for non-IT goods and services. Almost 2 million items are available through the Texas SmartBuy catalog for agencies as well as local governments and state-funded non-profit organizations.

Best Value Standard

Texas Government Code Section 2155.074 requires TDI to purchase goods and services that provide the best value for the state. The purchase price and whether the goods or services meet the specifications are the most important considerations when determining best value. However, TDI may also consider the following factors:

- installation costs;
- life cycle costs;
- the quality and reliability of the goods and services;
- the delivery terms;

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

State or Federal Surplus

The State and Federal Surplus Program is administered by the Texas Facilities Commission. Before making a procurement of any kind, TDI should ensure that it cannot fulfill the business need by using the surplus program. Generally, furniture needs are the primary TDI purchase that might be fulfilled with an item available through the surplus program; the agency reviews the available surplus supply when applicable to the purchase.

Set-Aside Programs (TCI, State Use Program)

SPD administers the set-aside program, which requires state agencies to purchase goods made by and services offered by the Texas Correctional Industries (TCI) and from the Texas Workforce Commission (TWC) via the Purchasing from People with Disabilities Program (referred to as the State Use Program). Currently, the State Use Program is administered by WorkQuest. TDI must purchase items offered through TCI or the State Use Program that meet the applicable specifications of the purchase, unless TDI obtains a waiver from TCI or an exemption from the State Use Program. Set-Aside Program products are available through the Texas SmartBuy catalog. Purchases made through the Set-Aside Program do not require a competitive procurement regardless of the value.

TCI Waiver

TDI may request a waiver from TCI based on substantial differences in specifications, including the inability to provide deliverables on the requested date, price differences, or precise specifications required by TDI that TCI cannot meet. The approved waiver must be kept with the procurement file.

State Use Program Exception

TDI may request an exception from the State Use Program if the product or service does not meet the reasonable requirements of TDI or if the purchase cannot be completed using goods or services produced by persons with disabilities. Exceptions may be granted based on quantity, quality, delivery time, or life cycle costs; price differences are not a basis for requesting an exception. The approved exception must be kept with the procurement file.

CPA Term Contracts

SPD establishes term contracts for the purchase or lease of goods and services used in large quantities by several agencies. Term contracts are available through the Texas SmartBuy catalog and competitive bidding is not required. Agencies are encouraged to use term contracts whenever possible; TDI is not allowed to purchase goods or services on the open market if they are available through a term contract unless the quantity required is less than the minimum order quantity specified in the relevant term contract.

TXMAS (optional)

SPD establishes Texas Multiple Award Schedule (TXMAS) contracts to supplement the term contracts. TDI has the option to use TXMAS contracts but is not required to do so; TDI can use a TXMAS contract regardless of contract value. TXMAS contracts are available through the Texas SmartBuy catalog.

Purchases through a TXMAS contract with a contract value less than \$50,000 can be awarded directly to a vendor using a best value determination. TDI should request pricing from at least three TXMAS vendors for purchases with a contract value greater than \$50,000.

The Information Technology Purchases section has additional information on DIR TXMAS purchase requirements.

Open Market Purchase

If a purchase cannot be completed via the State or Federal Surplus Program, a Set-Aside Program, a CPA Term Contract, or a TXMAS contract, then TDI will complete an open market purchase. TDI will use the Centralized Master Bidders List (CMBL) to identify vendors that can provide the necessary good or service. Requirements for open market purchases vary based on the contract value.

< \$10,000 ("Spot Purchases")

Competitive bidding is not required if the total value of the contract is \$10,000 or less. For Spot Purchases, the Purchaser may supplement the CMBL with non-CMBL vendors. TDI may not divide purchases to avoid the competitive bidding requirement.

\$10,000 - \$25,000 (competitive, informal)

Competitive bidding is required if the total value of the contract is over \$10,000. For goods and services less than \$25,000, TDI must obtain quotes from three vendors on the CMBL, two of which must be HUBs, if available. If the purchase is over \$25,000, the Purchaser must solicit quotes from each CMBL vendor in the service region (*Texas Government Code* Section 2155.264). The Purchaser may supplement the CMBL with non-CMBL vendors.

> \$25,000 (competitive, formal)

Competitive bidding is required if the total value of the contract is over \$10,000. For goods and services over \$25,000, a formal solicitation is required. See the Formal Solicitations section of this document for details. The Request for Proposals (RFP) procurement method is typically used for these purchases.

Delegated Purchasing Authority

SPD by rule has delegated its purchasing authority to agencies for the open-market procurements listed below.

- One-time purchase of goods up to \$50,000
- Purchase of services up to \$100,000
- Direct publications
- Purchases of perishable goods
- Distributor purchases
- Fuel, oil, and grease purchases
- Internal repair purchases
- Emergency purchases

TDI must request delegated authority for an open market purchase for the one-time purchase of goods over \$50,000 or services over \$100,000. These purchase amounts require a formal solicitation; see the Formal Solicitations section of this document for more information.

Direct Publications

TDI can purchase publications directly from the publisher only when the publication is not available through a set-aside program, CPA term contract, or TXMAS contract or through competitive bidding. TDI must follow SPD guidelines when ordering direct publications. Examples of direct publications include, but are not limited to:

- foreign publications;
- out-of-print or rare publications;
- back issues of magazines, journals, and newspapers;
- publications produced by professional societies;
- audio, visual, or audiovisual materials (films, audio presentations, etc.);
- computer software;
- collections of any of the above, and microfilm or microfiche copies of any of the above; and
- Library of Congress cards.

In order for computer software to be purchased as a direct publication, the procurement must satisfy the requirements of direct publication and be subject to an exemption or exclusion from state set-aside programs and DIR procurement authority. Hardware and IT services may not be purchased as a direct publication.

TDI must include the following statement on POs for direct publication purchases: "Direct Publication – Not available from any other source."

Competitive bidding is not required if the direct publication purchase is less than \$25,000.

Emergency Purchases

An emergency purchase occurs when TDI must make the procurement quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state. TDI is expected to conduct proper procurement planning for the anticipated business. Pending expiration of funds (e.g. end of fiscal

year funding) does not constitute an emergency. Emergencies occur as a result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat or to avoid undue additional cost to the state. This section is not applicable to agency purchases made under a Declaration of Disaster by the Governor.

SPD has delegated authority to TDI to make emergency procurements; however, TDI must follow SPD's rules and procedures when making emergency procurements.

TDI is responsible for deciding whether to declare a purchase an emergency. TDI must include a written determination of the basis for the emergency and the selection of a particular vendor in the procurement file. For an emergency purchase of goods or services over \$25,000, TDI must send SPD a full written explanation of the emergency along with other required documentation as soon as reasonably practical.

All emergency purchases should be made as competitive as possible under the circumstances. TDI should make a reasonable attempt to obtain at least three informal bids. Emergency purchases over \$25,000 must be posted to the ESBD, but the minimum posting times do not apply. Emergency purchases are also subject to Contract Advisory Team (CAT) and Quality Assurance Team (QAT) review (covered under the Formal Solicitations section of this document), and TDI can request an expedited review. Emergency purchases of goods or services should not exceed the scope or duration of the emergency.

The Purchaser or Contract Specialist must ensure the procurement file is clearly documented to justify the emergency purchase by including the determination of the emergency, basis for vendor selection, and evaluation of other options.

Consulting Services

TDI is authorized to procure consulting services under *Texas Government Code* Chapter 2254, Subchapter B; TDI is not required to request delegated authority from SPD for consulting services procurements. Consulting services procurements must follow ESBD posting guidelines; are subject to CAT review, if applicable; and must follow additional guidelines as described below.

Consulting services refers to the service of studying or advising an agency under a contract that does not involve the traditional relationship of employer or employee. TDI may contract with a consultant only if there is a substantial need for the consulting services and TDI cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental entity.

TDI will typically procure consulting services via a formal solicitation using an RFP. When selecting a consultant, TDI must base its choice on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee for services. If other considerations are equal, TDI must give preference to a consultant whose principal place of business is in Texas or who will manage the consulting services contract wholly from an office in Texas.

If a contract involves both consulting and other services, the services will be procured as consulting services if the primary objective of the contract is the acquisition of consulting services.

Consulting services contracts must allow TDI, other agencies, and the Legislature, at TDI's discretion, to distribute any consultant reports and post the report on TDI's website or the website of a standing committee of the Legislature.

Consulting services over \$15,000 are considered a **Major Consulting Services Contract**. TDI cannot divide a consulting contract into more than one contract to avoid additional requirements for a major consulting services contract.

Notification Requirements for Consulting Services Contracts

Consulting services contracts have specific requirements for pre and post award activities described in the table below. If TDI enters into a consulting services contract without following the stated requirements, the contract will be void. The Governor's Budget and Planning Office (GBPO) Finding of Fact Request is located on the GBPO website.

	Pre-Award	Post-Award	Renewals, Extensions, Amendments
Major Consulting Services Contracts (>\$15,000)	<ol style="list-style-type: none"> 1. Notify Legislative Budget Board (LBB) and Governor's Budget and Planning Office (GBPO) 2. Give info to LBB and GBPO to demonstrate compliance with <i>Texas Government Code</i> Sections 2254.026 and 2254.027 3. Obtain Finding of Fact from GBPO 4. Post solicitation to the ESBD 	<ol style="list-style-type: none"> 1. Notify LBB within 30 days of contract execution for awards > \$50,000 2. Post notice of award to the ESBD if >\$25,000 	<p>If the original or renewal value is over \$50,000</p> <ol style="list-style-type: none"> 1. Notify LBB and GBPO 2. Give info to LBB and GBPO to demonstrate compliance with <i>Texas Government Code</i> Sections 2254.026 and 2254.027 3. Obtain Finding of Fact from GBPO 4. Follow Post-award requirements

Employment Services

Temporary Employment Services (excluding IT staff augmentation obtained via DIR)

TDI obtains temporary personnel from WorkQuest (formerly the Texas Industries for the Blind and Handicapped) / Goodwill Industries. The division Requisitioner should enter a Purchase Requisition for the temporary personnel, including the state job classification. The Requisitioner will need to contact PCA staff to obtain current hourly rates for a job classification to determine the amount for the temporary services.

Once a Purchase Requisition has been fully approved and a Purchase Order issued for the temporary personnel, the Purchaser will obtain resumés from WorkQuest and submit these to the Requisitioner or other division contact for review. The division is fully responsible for selecting, training, and monitoring the temporary employee. The division must communicate to PCA if any changes are anticipated in the temporary personnel, as changes require a Purchase Order Change Notice. Changes include an increase or decrease in the number of temporary personnel, as well as any change in the assigned personnel.

Contract Employment Services

If the specific temporary service cannot be obtained from WorkQuest, TDI can solicit bids on the open market from companies to provide certain contract labor at set rates. Additionally, DIR has staff augmentation services available under its cooperative contracts program.

Contracts with Former Employees

No TDI funds may be used to enter into a contract for contract workers who were employed by TDI within the 12-month period immediately before the contract term. *Texas Government Code* Section 2252.901.

Not Employees

Temporary employees and contract workers are not TDI employees. Contract workers may not supervise TDI employees, will not be given job titles, and will not be given performance evaluations. Any communication about a contract worker's performance, other than routine direction, should be discussed with the Purchaser and problems with a contract worker's performance will be addressed by PCA.

Standards of Conduct

Contract workers performing contract services in TDI offices for more than 30 days will be held to certain standards of conduct. To ensure that these standards are communicated to contract workers, each contract worker will be required to sign a Contract Worker Statement and Non-Disclosure Agreement before performing contract services for TDI. Additionally, background checks may be performed on specified contract workers as defined in the terms of the established agreement.

The Contract Worker Statement and Non-Disclosure Agreement is listed in the Templates section of this document and will be included as an attachment in solicitations for contract employment services. The Standards of Conduct are in addition to any standards of performance specified in the solicitation and resulting contract for employment services.

Legal Services

The Texas Office of the Attorney General (OAG) provides legal services to state agencies, including TDI. The OAG must approve contracts for legal services between TDI and an attorney, if other than a full-time OAG employee.

In the event TDI needs to obtain outside legal services that cannot be provided by the OAG, TDI will follow the requirements stated in the CPA Guide and instructions provided by the OAG.

Professional Services

TDI is authorized to procure professional services under *Texas Government Code* Chapter 2254, Subchapter A. TDI is not required to request delegated authority from SPD for professional services procurements. Professional services procurements must follow ESBD posting guidelines and are subject to CAT review, if applicable.

Professional services refer to services that are either:

1. within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing;

2. provided in connection with the professional employment or practice of a person who is licensed or registered as one of the following: 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 or state licensed real estate appraiser; or a registered nurse; or
3. provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Chapter 1053 of the *Texas Occupations Code*.

TDI will typically procure professional services via a formal solicitation using a Request for Qualifications (RFQ) or Request for Proposal (RFP). The award will be based on demonstrated competence and qualifications to perform the services and a fair and reasonable price.

If the professional services contract is over \$50,000, or if a contract is amended or renewed and the price increases to over \$50,000, TDI must provide written notice to the LBB, on a form prescribed by the LBB, not later than the 30th day after TDI executes the contract for professional services.

Request for Qualifications

A Request for Qualifications (RFQ) is generally used for professional services where the respondents are evaluated based solely on their qualifications and skills. This method is like an application process, where it is very clear what is expected from the vendor. Price is negotiated after TDI selects its preferred respondent based on how well the respondents met the published qualifications.

Vendors must respond to an RFQ by submitting their qualifications to perform specified work. The submissions are reviewed to determine the qualified respondent(s) who will be requested to prepare a proposal, including cost, to perform the specific work described in the RFQ. Price is not a factor until after the vendor is selected.

Audit Services

Texas Government Code Section 321.020 specifies that a state agency may enter into a contract for audit services only if:

1. the agency is authorized to contract with a private auditor through a delegation of authority from the State Auditor's Office (SAO);
2. the scope of the proposed audit has been submitted to the SAO for review and comment; and
3. the services of the private auditor are procured through a competitive selection process in a manner allowed by law.

In accordance with this requirement, TDI will seek SAO delegated authority before procuring any professional audit services.

Proprietary Purchases

A proprietary purchase is one where the specifications or conditions of the purchase are proprietary to one vendor and do not permit other vendors to supply an equivalent product or service. TDI must carefully evaluate whether a purchase is proprietary because a proprietary purchase limits competition.

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

Sole Source – the specified good or service is only available from a single vendor. Example: back issue of a magazine available only from the publisher; education conference available only from the conference sponsor.

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

If TDI determines that a purchase is proprietary, TDI must include a Proprietary Purchase Justification signed by the Commissioner of Insurance or Deputy Commissioner of Administrative Operations in the procurement file. The justification must include the following information to document best value to the state:

1. Description of the product or service and a statement about TDI's business need and planned use.
2. Explanation of why TDI's specifications for the good or service are written as they are, and why those specifications are necessary to accomplish TDI's goal for the purchase.
3. Reason(s) that no other competing goods or services will satisfy TDI's need and provide examples of the technical, practical, or operational risks that would occur if competing goods or services are selected.
4. Statement whether the purchase is sole source or competitive.

Proprietary purchases are subject to formal posting requirements as well as requirements applicable to SPD delegation, CAT reviews, and QAT reviews. Competitive bidding is not required if the total value of the purchase is less than \$25,000.

Proprietary purchases over \$10,000 must include the following statement: "These specifications are being advertised under *Texas Government Code* Section 2155.067. Only bids on items conforming exactly to these specifications, which include proposing only the brand name(s), make, and model number(s) specified, will be considered in determining an award."

Information Technology Purchases

TDI is required to use contracts established by the Texas Department of Information Resources (DIR) to obtain automated information systems (AIS) unless the procurement is subject to exclusion or exemption. The term AIS is defined to include the following:

1. computers and computer devices on which an information system is automated
2. services related to the automation of an information system, including computer software or computers
3. telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network, and services related to telecommunications that are not covered under #4; or

4. for DIR, as telecommunications provider for the state, the term includes any service provided by a telecommunications provider, as that term is defined by *Texas Utilities Code* Section 51.002.

Classification codes with an AIS component are noted with an asterisk (*) on the NIGP Commodity Book maintained on the CPA website.

Contract Value for IT Commodity Items

Contract value for IT commodity items is determined by considering the full price of the contract including any optional extensions and renewals.

DIR Contracts

DIR establishes and manages the following types of master contracts for TDI and other eligible customers:

1. Cooperative Contracts for IT commodity items
2. Texas Multiple Award Schedule (TXMAS) contracts for IT commodity items
3. Texas.gov contract
4. Data Center Services contracts
5. Telecommunication Services contracts

DIR Cooperative Contracts

DIR develops master contracts for the procurement of IT commodity items in the following categories: hardware, software, technology-based training, managed services, IT staff augmentation contracts (ITSAC), and deliverables-based IT services (DBITS). The DIR master contracts offer negotiated minimum discounts for the goods and services; TDI may negotiate deeper discounts based on individual purchase volumes.

Monetary Thresholds

The price of the IT commodity item determines how many vendors within the DIR cooperative contract program TDI must solicit for pricing, as described below.

< \$50,000	No competitive bidding is required. TDI may directly award a contract to a vendor included in the applicable category.
\$50,000 - \$1,000,000	TDI must request pricing from three vendors or resellers in the applicable category.
\$1,000,000 - \$5,000,000	TDI must request pricing from six vendors or resellers in the applicable category.
> \$5,000,000 - \$10,000,000	TDI may use the cooperative contracts program, or may use the RFO purchase process. The purchase must go through the CAT process with CPA.
> \$10,000,000	TDI may not use the cooperative contracts program and must use the RFO purchase process. A MIRP must go through the QAT review process.

DIR Statements of Work

Certain IT commodity items require a Statement of Work (SOW) to describe the purchase need. At a minimum, the SOW will include: scope of the project, milestones, description of deliverables, schedule,

acceptance criteria, and other items DIR may require for the specific purchase. If the purchase is over \$50,000, DIR must review and approve the SOW before it is submitted to vendors and must sign the final agreed SOW as part of the contract execution process.

SOW Required

- DBITS
- Managed Services for IT
- IT Security Services
- Web Development
- Cloud Services

SOW Not Applicable

- IT staffing services
- Contracts exclusively for hardware or software and not including services
- Vendors’ standard commercially available support, maintenance, and warranties as listed in the DIR cooperative contract or amendments

Exemptions and Exclusions

TDI can obtain an exemption or waiver from the requirement to use a DIR contract to purchase an IT commodity item as follows.

1. DIR Exemption
 - a. Blanket Exemption. DIR may determine that under certain circumstances it is reasonable to grant a blanket exemption to all agencies. Procurements using blanket exemptions must be made in accordance with the exact scope, terms, and requirements specified in the blanket exemption. DIR maintains a list of current exemptions on its website.
 - b. One-time Exemption Request. If a blanket exemption is unavailable, TDI must submit an exemption request through the DIR portal on DIR’s prescribed form. DIR will review each exemption request on a case-by-case basis to determine if the proposed purchase is in the best interest of the State.
2. LBB Approval. With express prior approval from the LBB for the expenditure necessary for the purchase, TDI may procure an IT commodity item without using a contract established by DIR. TDI must request an exemption from DIR before seeking LBB approval. The LBB’s approval of a biennial operating plan is not an express prior approval for the purpose of obtaining an exemption from the use of DIR contracts.
3. DIR Certification of Unavailability. TDI may procure an IT commodity item through an avenue other than a DIR contract if DIR certifies in writing that the commodity item is not available for purchase under an existing contract developed by DIR.

DIR TXMAS Contracts

TDI may use TXMAS contracts developed by DIR to purchase IT commodity items. As with items in the cooperative contracts program, TDI must solicit for pricing as described below.

< \$50,000	No competitive bidding is required. TDI may directly award a contract to a vendor included in the applicable category.
\$50,000 - \$1,000,000	TDI must request pricing from three (3) vendors or resellers in the applicable category.

\$1,000,000 - \$5,000,000	TDI must request pricing from six (6) vendors or resellers in the applicable category.
> \$5,000,000	TDI may not use the cooperative contracts program. The purchase must go through the CAT process with CPA.

Texas.gov Services

Texas.gov Services include payment processing, custom application development, operational and infrastructure support, customer service, marketing, and analytic reporting. To participate as a customer and use Texas.gov services, TDI must execute a three-party agreement with DIR's service provider and DIR.

DIR Data Center Services

DIR's Data Center Services contract provides participating agencies data center (mainframe and server operations), disaster recovery, and bulk print and mail services. TDI is a participating agency with the data center. The monetary threshold requirements and SOW review and signature process associated with the DIR Cooperative Contracts Program do not apply to services procured through the Data Center Services Program under contracts signed by the contracted vendors.

TDI will work closely with DIR to ensure compliance with DIR's requirements for data center services.

Telecommunication Services

DIR provides a variety of telecommunications services to eligible customers throughout the State. All agencies are required to use the Texas Agency Network (TEX-AN) for telephone, internet, data, and video services. If a telecommunications service is offered by DIR, TDI must purchase the service through DIR or must request and be granted a waiver before procuring the service through an avenue other than DIR.

TDI will work closely with DIR to ensure compliance with DIR's requirements for telecommunication services.

Intake Process for Technology Needs

When a division identifies a technology need, the division can either submit a CSR to ITS with a Program Need Request Form attached, or contact PCA directly. If the division is not sure whether a purchase will be required to meet the need, a CSR is the appropriate starting point. ITS and PCA will coordinate and evaluate the appropriate path to meet the division's need.

For additional information, reference the flowchart in the Appendix that describes the process and coordination between ITS and PCA.

Request for Offers (RFO) Procurement Method

The Request for Offers (RFO) procurement method is the primary purchasing method for procuring AIS items that cannot be purchased under a DIR contract. TDI can use the RFO method under the following circumstances:

- TDI has obtained an exemption from DIR;
- TDI has obtained express prior approval from LBB for the expenditure necessary for the purchase;
- DIR has certified in writing that the IT commodity item is not available for purchase under an existing DIR contract; or

- TDI is otherwise exempt from the requirements of *Texas Government Code* Section 2157.068.

TDI will follow the guidelines stated in the Formal Solicitations section of this document for purchases under the RFO method.

Best Value Standard

The term “best value” means the lowest overall cost of an AIS. In determining the lowest overall cost for a purchase or lease of an AIS, TDI will consider factors including:

- the purchase price;
- the compatibility to facilitate the exchange of existing data;
- the capacity for expanding and upgrading to more advanced levels of technology;
- quantitative reliability factors;
- the level of training required to bring persons using the system to a stated level of proficiency;
- the technical support requirements for the maintenance of data across a network platform and the management of the network’s hardware and software;
- the compliance with applicable department statement standards validated by criteria adopted by DIR rule; and
- applicable factors listed in *Texas Government Code* Sections 2155.074 and 2155.075.

Internet Application Development

Before TDI can contract with a third-party for internet application development that duplicates a state electronic portal function, including a function of a native mobile application, TDI must include DIR as a recipient when the solicitation is advertised. See *Texas Government Code* Section 2054.113(c).

Interagency Contracts (IAC)

An interagency contract is a written understanding between two or more agencies as authorized by *Texas Government Code* Chapter 771. TDI may agree or contract with another agency for the provision of necessary and authorized services (including technical services) and materials and equipment. Competitive bidding requirements do not apply to IACs.

Before TDI can provide or receive a service or resource under the Interagency Cooperation Act, TDI should enter into a written agreement signed by authorized representatives of both agencies. The IAC must specify the kind and amount of services or resources to be provided, the basis for computing reimbursable costs, and the maximum cost during the contract term. To ensure that an IAC is statutorily compliant, the contracting agencies must also certify that:

1. the services specified are necessary and essential and are within the statutory functions and programs of the affected agencies of state government;
2. the proposed arrangements serve the interest of efficient and economical administration of those agencies;
3. the services, supplies, or materials contracted for are not required to be supplied under contract to the lowest responsible bidder; and
4. the contract neither requires, nor permits, either party to exceed its duties and responsibilities or the limitations of its appropriated funds.

A written IAC between two agencies is not required in the following circumstances:

1. an emergency for the defense or safety of the civil population or in the planning and preparation for those emergencies;
2. cooperative efforts, proposed by the governor, for the economic development of the state; or
3. a situation in which the amount involved is less than \$50,000.

When an interagency exchange is exempt from the requirements of a written contract, the agencies involved must document the exchange through informal letters of agreement or memoranda. As with other contractual agreements, it is best practice for a fixed term to be included in the contract.

While not required, it is TDI's best practice to execute an IAC when exchanging services with another agency.

Request for Applications (RFA)

A Request for Applications (RFA) is not a sanctioned method for procuring goods and services from a vendor. TDI issues an RFA when it, as a grantor, is responsible for awarding grant funds to other entities such as other state agencies, local governments, non-profit organizations, or private entities.

An RFA is used to invite grant applications, in which the grants are tied to designated funds and for a specific purpose. An RFA must include the grant objective, guidelines, and any limitations on spending or eligibility. The CPA Guide encourages TDI to include the Essential Provisions defined in the CPA Guide in grant agreements. An RFA must also specify evaluation criteria that will determine which applications are funded and any other information that is needed to submit an application.

TDI must consider the Texas Grant Management Standards (TxGMS) to the extent they are applicable. Uniform grant and contract administration procedures, developed under *Texas Government Code* Chapter 783, promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. TxGMS provide awarding (grantor) agencies and grantees a standardized set of financial management procedures and definitions by requiring consistency among grantor agencies in their dealings with grantees.

Other Procurements

The CPA Guide defines several other procurement methods that are not typically used by TDI, such as using interlocal agreements. TDI will adhere to the requirements defined in the CPA Guide and applicable TDI best practices if these procurement methods are used.

Competitive Solicitations

Typically, TDI will use a competitive solicitation process to procure goods and services that are not available through a set-aside program, on a CPA term contract, a TXMAS contract, or on a DIR contract, or for any procurement over \$10,000.

TDI will select the appropriate solicitation method based on statutory requirements, contract value, TDI's needs, available products, and the potential need to negotiate applicable terms and conditions. For procurements over \$25,000, TDI will typically only use the RFP or RFO method but will consider the IFB and RFQ methods on a case-by-case basis and in accordance with best practices established by the CPA Guide.

The table below provides a summary of the distinguishing characteristics for the IFB, RFO, RFP, and RFQ procurement methods.

Procurement Method	Use When	Advantages	Disadvantages
Invitation for Bid (IFB)	Products and services are standardized or uniform.	Award process is simpler. In determining best value, price and whether the goods or services meet specifications are the most important considerations	Defined specifications may be difficult to develop. Does not encourage innovative solutions. Negotiations are not allowed if there is more than one responsive bidder.
Request for Proposals (RFP) Request for Offers (RFO)	When negotiations are desired. Vendor is expected to provide innovative ideas or solutions.	Allows for customized proposals suggesting different approaches to the same business need. Allows for negotiations. Considerations in addition to price are used to determine best value.	Lead time for procurement is much greater. Evaluations tend to be more complex.
Request for Qualifications (RFQ)	Selection is made solely on the skills and qualifications of the vendor. Price is not a factor until after a vendor is selected.	Emphasizes the competency and experience of the vendors.	Vendor is selected before price is negotiated. Two-step process.

Once PCA determines that a formal solicitation is required, a Contract Specialist is assigned to lead the procurement project. Generally, PCA follows the steps below to draft, advertise, evaluate, and award a formal solicitation. Each step is discussed in more detail on the following pages. PCA uses checklists and templates to guide each step of the process and to ensure consistency across procurements.

1. Draft the Solicitation
2. Advertise the Solicitation
 - a. Pre-Proposal Conference (optional)
 - b. Question and Answer Period
 - c. Addenda
 - d. HUB Courtesy Review (optional)
3. Proposal Submission
4. Evaluation
5. Negotiation
6. Award
7. Contract Execution

Contract Value / No Cost to TDI

At times, TDI may need services where there are no fees or where external customers pay fees that cover the service. Additionally, the Commissioner of Insurance or Commissioner of Workers' Compensation has authority to appoint or designate an entity in certain instances that may not fall within the procurement process. TDI will determine how to fulfill each need on a case-by-case basis. As appropriate, the Contract Specialist will include a memo in the procurement file reflecting TDI's decision.

Vendor Communication

Communication between public procurement professionals and vendors is imperative and encouraged. If used effectively, communication with industry representatives is a vital resource for public procurement professionals. However, steps must be taken to maintain a fair opportunity to compete for all vendors and to avoid any appearance of favoritism. Agency personnel must be mindful that one-on-one communications with vendors occurring before contract award are subject to enhanced scrutiny due to the importance of maintaining a "level playing field" among all eligible vendors during competitive procurements. If there is any doubt about appropriate communications with vendors, consult with the Contracts Attorney.

Fact Gathering

Texas law authorizes the exchange of information between an agency and a vendor related to future solicitations. Vendors are often experts in their respective fields and can offer insight on potential purchases, such as current trends, industry practices, and available products or solutions. Procurement staff and division subject matter experts will work together to develop a plan to obtain any needed vendor input, which may include issuance of a Request for Information (RFI), attendance at industry days, or directly contacting industry leaders or vendors listed under the applicable code on the CMBL. *To ensure best practices and State requirements are followed, division staff should not contact vendors without first consulting with the procurement team.* The result of these interactions may lead to increased competition, a more detailed and up-to-date description of technical requirements or statement of work, and ultimately better

value for the State. However, Contract Specialists must never tailor specifications to benefit a particular vendor, as this limits competition. Care should be taken to avoid the appearance of favoritism toward certain vendors in the fact-gathering process and, when possible, agencies should avoid consulting exclusively with the incumbents or a small number of vendors, which could give the appearance of favoritism.

Drafting the Solicitation

When all fact gathering is completed and the actual solicitation-drafting process has begun, vendor communication must cease to ensure the integrity of the procurement. Contract Specialists may use relevant information gathered from the vendor community when drafting specifications. If a vendor is compensated by an agency for its assistance in drafting specifications or scope of work for a solicitation, the vendor will not be eligible to bid on the resulting contract.

During the Solicitation

Once the solicitation is posted, communications between procurement professionals and vendors must follow the procedure outlined in the solicitation. This could include designating specific agency points of contact for receipt of vendor inquiries, a public question and answer process (Q&A process), and pre-bid/offer/proposal conferences.

If any information relevant to the procurement such as evaluation methods or projected ordering volumes is provided to any vendor, TDI will release that information to the public without delay, typically via an addendum to the solicitation. This includes information shared at conferences attended by some but not all potential vendors.

If TDI offers assistance with HUB plans during the solicitation process, such assistance will be offered and provided to all vendors equally and made available from a designated person who will not evaluate responses.

To ensure a level playing field, any contact between vendors and TDI end users or evaluators should be avoided during the advertisement period, and if a vendor fails to adhere to the guidelines regarding vendor communication posted in the agency solicitation, the vendor's proposal may be subject to disqualification.

Evaluation and Negotiation

Allowable interactions between vendors and procurement professionals between the response due date and contract award include:

- clarification of a respondent's ability to meet the solicitation requirements;
- negotiations, as appropriate based on the procurement method, including request for best and final offer; and
- the exchange of information as necessary to facilitate a potential award.

Evaluation and vendor selection will be based on response documents formally submitted by each vendor, not other communications. If one vendor is provided an opportunity to clarify its response, similarly situated vendors will receive the same opportunity.

Draft the Solicitation

The Contract Specialist will work with applicable division subject matter experts to define the business needs and requirements for the procurement. Clear, specific requirements are key to a successful procurement and contract. The Contract Specialist will coordinate review and input from other key areas, such as Information Technology Services and the Information Security Office. Once the requirements are clearly defined, the Contract Specialist will transfer the information to the applicable solicitation template and route the draft solicitation for review using the PCA Routing Form. The PCA Routing Form template includes routing instructions specific to the document type and agency area.

Solicitation Templates

TDI develops and maintains templates for formal solicitations. The templates adhere to the requirements published in the CPA Guide and are reviewed and updated at least annually to ensure the documents continue to meet State of Texas requirements and TDI procurement needs. The template includes the required and recommended terms and conditions for State of Texas contracts. For consistency across solicitations, TDI uses standard language for common solicitation requirements as much as possible, such as for change management and communication requirements. Language may be modified as appropriate for individual solicitations.

External Approvals

SPD requires external approval of formal solicitations as described below. TDI must allow up to 30 calendar days for the review and approval and must provide a response to any recommendations from SPD. TDI cannot proceed with the procurement until the appropriate approvals have been obtained.

SPD Review – SPD must review solicitations that exceed TDI's delegated authority. SPD may then either delegate the authority to make the procurement back to TDI or may conduct the procurement on TDI's behalf. SPD reviews purchases for goods over \$50,000 and for services over \$100,000. Note: not applicable to the RFO procurement method.

CAT Review – The Contracts Advisory Team reviews all solicitations over \$5,000,000.

QAT Review – The Quality Assurance Team provides oversight for major information resources projects (over \$10 million). TDI is required to notify QAT when it advertises any solicitation for a major information resources project and must follow any requirements stated by QAT. Additionally, QAT approves contracts related to major information resources projects valued at more than \$10 million.

Advertise the Solicitation

TDI is required to post all formal solicitations with an estimated value of \$25,000 or more to the Electronic State Business Daily (ESBD). TDI is required to advertise the solicitation for a minimum of 14 calendar days; it is TDI's best practice to advertise for a minimum of 21 days when feasible. TDI will typically post the entire solicitation package to the ESBD.

Once the solicitation is posted, TDI will advertise by sending an email to each eligible vendor on the CMBL that serves TDI's region for the advertised commodity code(s) and solicit quotes. A vendor may request a hard copy of the solicitation. TDI will keep a copy of the CMBL bid list, email announcement, and the distribution date in the procurement file.

Supplementing the CMBL

TDI may supplement the CMBL with Texas certified HUBs at any time if TDI determines that it may enhance competition or increase the number of HUBs that submit bids. In addition, TDI may solicit from vendors that are not on the CMBL by obtaining approval from the agency head or designee to add non-CMBL vendors to the final bid list to increase competition. The non-CMBL vendors may be added to the final bid list for specific solicitations to increase competition where the requirement to solicit only CMBL vendors does not meet TDI's needs.

Each Fiscal Year, TDI seeks and obtains approval to supplement the CMBL from the Commissioner of Insurance. The approval is effective from the date of signature through the end of the fiscal year. The signed approval document can be found on the PGS SharePoint site with procurement procedure documentation.

The Contract Specialist will document additions to the CMBL bid list along with the written approval from the Commissioner of Insurance in the procurement file.

Agency Communications During Solicitation Period

Communication with Vendors

Once the solicitation is formally advertised, all communications with potential respondents will only be made through the Contract Specialist listed as the TDI Point of Contact in the solicitation document, or other designated PCA staff. See the Vendor Communication section of this document for additional information.

Pre-Proposal Conference

Depending on the complexity of the solicitation, TDI may hold a pre-proposal or pre-offer conference. A pre-proposal conference is optional and will not be offered for all solicitations. If TDI opts to hold a conference, attendance at the conference will be optional unless mandatory attendance is necessary for the specific solicitation. All conference attendees will be documented on a sign-in which will serve as TDI's official record to verify attendance. Generally, the conference will include an overview or review of the solicitation and an opportunity to ask questions. Verbal responses to questions during the conference are not binding until TDI confirms the answers in writing with an addendum.

The pre-proposal conference will typically be held during the Question and Answer period, which will allow additional questions to be submitted after the conference.

Following the conference, TDI will issue an addendum that includes the attendee list (sign-in sheet) and written responses to questions asked during the conference. The addendum may also include responses to questions submitted during the formal Question and Answer Period.

Question and Answer Period

All TDI formal solicitations will include a Question and Answer period. The solicitation will include a due date and time for questions to be submitted to TDI and an approximate date that responses will be posted in an addendum to the solicitation.

Written questions submitted to TDI will be compiled, verbatim (with any spelling and grammatical errors) into a question and answer document. Every question received, even similar questions submitted by different vendors, must be accounted for in the question and answer document. TDI will not publish the name of the entity that submitted the question or any identifying information.

TDI will publish the question and answer document on the ESBD as an addendum to the solicitation.

Addenda

TDI will publish any written addenda to the ESBD and will require each Respondent to the solicitation to include a signed acknowledgement of each addendum to the solicitation.

HUB Courtesy Review

For formal solicitations, TDI may allow Respondents to submit the HUB Subcontracting Plan in advance for a courtesy review by a member of the HUB Team. The HUB Team will communicate any errors or items that need to be addressed before the formal submission. If a HUB courtesy review is offered, instructions and due dates will be included in the solicitation.

Submission

TDI requires that responses to a formal solicitation be submitted electronically.

After closing time for the submission, the Contract Specialist or a designated member of the Contract Administration Team will open responses and log them on the proposal response log.

TDI does not conduct public openings of solicitation submissions.

Late Responses

Responses must be received by the due date and time specified in the solicitation document. Late responses will be returned to the sender. TDI may alter the due date and time as appropriate due to office closures for inclement weather or other extenuating circumstances. However, TDI may not be able to update the solicitation document before the due date and time.

Before making any exceptions for late submissions for any reason, the Contract Specialist, Procurement Manager, and Procurement Director will consult the Contracts Attorney and may consult with the Deputy Commissioner of Administrative Operations, the Director of Internal Audit, or others as appropriate. Each exception and related approvals will be documented in the procurement file.

Evaluation

The Contract Administration Team uses an Evaluation Plan template that details the process and procedures the Contract Specialist and evaluation team will follow for each formal solicitation. The Evaluation Plan template includes a description of the Evaluation Process with the response log, administrative review, kick-

off meeting, and evaluation steps; the scoring method; an Administrative Review Checklist; and evaluation committee briefing instructions.

Each procurement file will contain an Evaluation Plan that lists the evaluation team members, schedule, and information specific to the procurement. The scoring method and other items will be tailored to each specific procurement.

The Evaluation Team will recommend next steps: awarding the contract without discussion or negotiation, tentatively awarding the contract subject to successful completion of negotiations, or canceling the solicitation.

Negotiation

As permitted by the CPA Guide, TDI may negotiate terms and conditions and other elements of the formal solicitation before executing a contract. However, negotiations must not materially change the requirements of the solicitation or the advertised requirements or objectives.

The TDI negotiations team typically includes the Contract Specialist, division subject matter expert or project lead, and the Contracts Attorney. The Contract Specialist will guide the negotiations and, together with the Contracts Attorney, will help the division subject matter expert negotiate the terms while ensuring compliance with procurement requirements.

TDI will include items successfully negotiated in the final contract document or as an attachment to the contract, as appropriate.

Award

Solicitation Summary

The Contract Specialist will prepare a detailed summary document that covers the entire procurement process for the solicitation. If the recommendation is based on a best value determination rather than highest ranking, as allowed for procurements delegated by SPD, the summary must include the rationale for the best value determination. The Solicitation Summary also includes external approvals; information on the inclusion/exclusion of liquidated damages; summary of the number of vendors contacted, questions received, total responses, and qualified responses; evaluation summary and results; negotiation information; summary contract information; and approvals from the Evaluation Committee Chair, Contract Specialist, Procurement Manager, Budget Director, Contracts Attorney, and Procurement Director.

Recommendation to Award

The Contract Specialist, with assistance from the Evaluation Committee Chair, will prepare a Recommendation to Award memo that provides a high-level summary of the procurement and recommends the agency award a contract with the Successful Respondent.

Agency Reviews and Approvals

Texas Government Code 2262.053(g) requires the Procurement Director to review the contents of the contract file for the contract, including the Procurement File Checklist, to ensure that all documents required

by state law or TDI policy are complete and present in the file and to certify in a written document that the review was completed. The Director will complete this step by reviewing and initialing each item on the Procurement File Checklist.

The Deputy Commissioner of Administrative Operations will sign the Recommendation to Award to confirm that best value standards were followed during the procurement process; to verify that the purchasing methods and contractor selection process complied with state law and agency policy; and to affirm that information on any potential issue that may arise in the solicitation, purchasing, or contractor selection were conveyed to the Commissioner of Insurance. This affirmation will be completed for each formal solicitation regardless of contract value, in compliance with *Texas Government Code* Section 2155.0755 and exceeding the requirements of *Texas Government Code* Section 2261.255.

The Recommendation to Award will be reviewed and approved by the Deputy Commissioner of Administrative Operations before final negotiations and award with the Successful Respondent.

Contract Execution

The Contract Administration Team uses a standard contract template that is the basis for all TDI contracts. Following negotiations, the Contract Specialist will finalize the contract by including any negotiated items and applicable contract exhibits and attachments.

Vendor Compliance Verifications

The Contract Specialist will ensure that the vendor is in good standing with the State of Texas by completing the required compliance checks listed below.

1. **Debarment Check.** Contract Specialist must check the debarred vendor list on the CPA website at <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>.
2. **SAM Check.** Contract Specialist must check the System for Award Management (SAM) database to verify that the vendor is not excluded at the federal level. www.SAM.gov.
3. **Divestment List Check** (Iran, Sudan, Foreign Terrorist Organizations, Financial Companies that Boycott Energy Companies Boycott Israel). Contract Specialist must check each divestment list provided by the CPA at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.
4. **Warrant/Payment Hold Check.** Contract Specialist must check the warrant hold status of the vendor.
5. **Franchise Tax Check.** Contract Specialist must search the vendor's franchise tax account status on the CPA website at <https://comptroller.texas.gov/taxes/franchise/coas-instructions.php>.

Required Disclosures

The Contract Specialist will ensure that the required disclosures listed below are completed before contract execution.

1. **State Auditor's Office (SAO) Nepotism Disclosure Statement for Purchasing Personnel** – For any contract over \$1 million, all PCA staff working on the contract must disclose the relationship (if any) with the selected vendor (or any employee, stockholder, contractor, etc.) on a form prescribed

by the SAO and located on the SAO website at <http://www.sao.texas.gov/Documents/Forms/NepotismDisclosureForm.pdf>.

2. **Texas Ethics Commission (TEC) Disclosure of Interested Parties (Form 1295)** – For any contract over \$1 million, the selected vendor must complete the Form 1295 Certificate of Interested Parties, found on the TEC website at <https://www.ethics.state.tx.us/>. Before contract award, the selected vendor must submit to TDI a completed and signed form with the certificate of filing number and date. The Contract Specialist then acknowledges the Form 1295 at the TEC website.
3. **Procurement and Contract Management Conflict of Interest Disclosure** – Each member of the Purchasing and Contract Administration Program will disclose any potential conflict of interest that is known by the employee with respect to the selected vendor. This is completed as part of TDI's annual conflict of interest and non-disclosure certification process.

Agency Signature

The Chief Deputy Commissioner or Commissioner of Workers' Compensation will execute TDI contracts and amendments under \$1 million.

The Commissioner of Insurance must execute all TDI contracts and amendments for goods and services over \$1 million.

Posting and Reporting Requirements

Depending on the solicitation type and contract value, TDI must provide notice of the award and report the award through a variety of methods, as described below.

- **ESBD Notice of Award** – Notice of award must be posted to the ESBD for all contracts exceeding \$25,000. The Contract Specialist must keep proof of the ESBD posting in the procurement file.
- **QAT Notice of Award** – TDI must notify the QAT within 10 business days when TDI awards a contract for a major information resources projects over \$10 million. Additionally, if TDI amends the contract to increase the value by 10 percent or more, TDI must notify the Governor, Lieutenant Governor, Speaker of the House, Senate Finance Committee, House Appropriations Committee, and QAT.
- **LBB Reporting** – TDI must submit information to the LBB Contracts Database on the LBB website in certain circumstances.
 - All contracts over \$50,000 – report within 30 days of contract execution or modification.
 - Major Information Systems over \$100,000 – report within 30 days of award or modification.
 - Non-competitive/sole-source or emergency contracts over \$1 million – report within 15 days of award.
 - Emergency contracts must be reported within five (5) days of award.
 - All contracts over \$10 million – report before the first payment and within 30 days after contract execution.
- **TDI Website Posting** – For contracts not reported to the LBB contracts database, including DIR SOWs, TDI must post contract information to the TDI website. TDI posts all contracts to the TDI website, regardless of other external posting requirements. TDI updates the contract information on its website on a weekly basis. *Texas Government Code* Section 2261.253.

Contract Management and Administration

Once the procurement process is complete, the purchase moves to the contract management and administration phase. During the contract management and administration phase, work generally transfers from the Contract Specialist to the division Contract Administrator. The Contract Specialist and Contract Administration Team remain involved in an advisory and oversight capacity.

Simple/Routine Procurements

Contract management and administration procedures are limited for simple and routine procurements such as those made through a set-aside program, CPA term contract, DIR cooperative contract, TXMAS, spot purchases, or informal solicitations.

For goods, automated information systems, software, and hardware, TDI will confirm receipt of the product and the division will approve the invoice for payment; for services, the division will confirm receipt of the services and approve the invoice for payment. If the procurement is over \$25,000, PCA staff will work with the division Contract Administrator to complete a vendor performance report (see Vendor Performance Reporting below).

Formal Procurements

Formal procurements require an advanced level of contract management and administration. Contract management activities vary based on the level of risk associated with the contract.

Risk Assessment

TDI uses the matrix below as a guide to assess the level of risk associated with a formal procurement. In accordance with *Texas Government Code* Section 2261.253(c), any contract valued over \$1 million or any contract assessed as an extremely high-risk contract will require enhanced contract monitoring and performance monitoring. These activities are described in the contract management activities below.

Risk Factor	Level of Risk			
	Low (1 point)	Medium (2 points)	High (3 points)	Extremely High (4 points)
Contract Value	< \$25,000	\$25,000 - \$100,000	\$100,000 - \$1M	> \$1M <i>* any contract over \$1M is considered extremely high risk, regardless of other risk factors</i>
Procurement Type	IAC, MOU	RFP, RFO	Consulting, Emergency, Sole Source, Proprietary, Construction	Major Information Technology, Lease
Impact to the Public or TDI	None	Minimal	Some	High

Risk Factor	Level of Risk			
	Low (1 point)	Medium (2 points)	High (3 points)	Extremely High (4 points)
TDI Mission	Not critical to mission	Moderately critical to mission	Necessary for mission	Critical for mission
Statutorily Required	None	None	Required	Required
TDI Experience with Similar Projects	4+ previous contracts	2-3 previous contracts	1 previous contract	No experience
Vendor Performance History	All "A" Scores	"A" and "B" Scores	"B" and "C" Scores or No History	One or More "D" or "F" Score
Contract Administrator Experience	Significant	Moderate	Limited	None
Vendor Years in Business	5+	3-4	1-2	Less than 1
Service Level Agreements (SLAs) Included	Multiple, Clearly Defined	1-2, Clearly Defined	1, Generally Defined	None
Service Duration / Contract Term	Less than 3 months	3-6 months	6 – 12 months	12+ months
Defined Deliverables	Multiple, Clearly Defined	1-2, Clearly Defined	1, Generally Defined	None
Total Points for Each Level				
Total Points				

Risk Level	Contract Management Activities
Low Risk <i>(12 – 20 points)</i>	<p>Project contains minimal risks and risks that are unlikely to occur. Contract management activities are minimal and should include:</p> <ul style="list-style-type: none"> • Kick-off meeting with the selected vendor and TDI division to review contract requirements, deliverables, invoicing instructions, HSP reporting, and other expectations documented in the contract. (Optional, as appropriate for the contract.) • Invoice review and cost management. • A close-out report stating that deliverable acceptance criteria were met. • Vendor Performance Reporting if the contract value is over \$25,000.

Risk Level	Contract Management Activities
<p>Medium Risk (21 – 29 points)</p>	<p>Project contains medium risks and some likelihood that risks may occur. Contract management activities should include:</p> <ul style="list-style-type: none"> • Kick-off meeting with the selected vendor and TDI division to review contract requirements, deliverables, invoicing instructions, HSP reporting, and other expectations documented in the contract. • Quarterly status reports from Contract Administrator to Procurement Director, if the duration is longer than six months. • Invoice review and cost management. • A close-out report stating that deliverable acceptance criteria were met. • Vendor Performance Reporting if the contract value is over \$25,000.
<p>High Risk (30 – 39 points)</p>	<p>Project contains high risks, a likelihood that risks or issues may occur, and any issues with the contract may negatively impact TDI’s mission or customers. Contract management activities must include:</p> <ul style="list-style-type: none"> • Kick-off meeting with the selected vendor and TDI division to review contract requirements, deliverables, invoicing instructions, HSP reporting, and other expectations documented in the contract. • Quarterly status reports from Contract Administrator to Procurement Director. • Invoice review and cost management. • Close-out report. • Vendor Performance Reporting.
<p>Extremely High Risk (40 – 48 points)</p> <p>* Includes ALL contracts over \$1M, regardless of other risk factors</p>	<p>Project is extremely high risk, issues are likely to arise, and any issues that do occur are likely to negatively impact TDI’s mission or customers. Contract requires enhanced contract monitoring and performance monitoring activities.</p> <ul style="list-style-type: none"> • Kick-off meeting with the selected vendor and TDI division to review contract requirements, deliverables, invoicing instructions, HSP reporting, and other expectations documented in the contract. • Monthly status reports from Contract Administrator to Procurement Director. • Quarterly status reports from Contract Administrator to executive sponsor, or meetings with the executive sponsor. • Invoice review and cost management. • Close-out report. • Vendor Performance Reporting.

Kick-off Meetings

Contract Hand-off Meeting

The Contract Specialist will meet with the Contract Administrator to review the contract terms, assess the level of risk associated with the contract, and review the recommended contract monitoring activities. This

meeting represents the formal hand-off of the project from the Contract Administration Team back to the division.

Contract Kick-off Meeting

Generally, kick-off meetings with the vendor are important when TDI contracts for goods or services provided over time. For example, if the contract is for the one-time purchase of a good that requires no development or communication between TDI and the vendor, then a kick-off meeting with the vendor is generally unnecessary. However, if the contract is for the one-time purchase of a software application that includes some development or training services, a kick-off meeting is recommended.

The Contract Specialist will work with the Contract Administrator to coordinate the kick-off meeting with the selected vendor. During the kick-off meeting, the Contract Specialist will review the contract terms, invoicing instructions, and Historically Underutilized Business (HUB) reporting, and address any contractual questions. The Contract Administrator will review the contract deliverables and acceptance criteria, service level agreements, schedule, and address any project questions.

Status Reports

Status reports will vary based on the procurement and requirements stated in the contract. Some contracts may require the vendor to provide a written status report to the Contract Administrator on a routine basis; the Contract Administrator will keep these documents in the contract management file. Simple procurements may not require a status reports.

When a status report from the Contract Administrator to the Procurement Director is recommended, the Contract Specialist will provide a status report template and recommended reporting schedule. The status report will typically contain:

- progress of deliverables and milestones;
- significant activity;
- invoices received/approved;
- project schedule;
- issues;
- vendor scorecard, i.e. high-level assessment of vendor's performance;
- status of corrective action plans, if any; and
- liquidated damages assessed.

The Contract Compliance Specialist will escalate any concerns to the Procurement Director to review the status report and may discuss specific concerns with the Contract Administrator, provide other guidance, or work directly with the vendor to address concerns or issues. The Director will keep the Deputy Commissioner of Administrative Operations informed as appropriate. In accordance with *Texas Government Code* Section 2261.253(c), the Director will immediately notify the Commissioner of Insurance and the Deputy Commissioner of Administrative Operations of any serious issue or risk that is identified for any contract deemed high risk or extremely high risk.

Invoice Review and Cost Management

The Contract Administrator is responsible for reviewing invoices, confirming that products or services were provided and accepted by TDI, and approving the invoice for payment. The Contract Administrator must track costs associated with the project to ensure accurate invoicing, availability of funds, and that costs are aligned with the contract amount. The Contract Administrator must promptly notify the Procurement Director of any issues or concerns with the invoicing or vendor.

The Contract Administrator must ensure that payments do not exceed the approved contract amount. The Contract Administration Team is not responsible for tracking expenses related to contracts once the contract has been handed over to the Contract Administrator. However, the Contract Administration Team will ensure that all Purchase Orders adhere to the contract amount.

Vendor Performance Reporting

Once a contract with a value over \$25,000 is completed or otherwise terminated, PCA must report vendor performance via the Vendor Performance Tracking System maintained by SPD on the CPA website. PCA will consult all agency personnel involved in the contract, including the Contract Administrator, and Accounting Director to complete the report.

As a TDI best practice, vendor performance reporting should be completed within 10 business days after contract activities are complete and final payments made to the vendor. The status of the vendor performance report should be included in the Close-out Report.

Additionally, Contracts valued over \$5 million require vendor performance reporting at least once per year and at each key milestone. The contract cannot be extended or renewed until after the vendor performance is reported.

IACs and MOUs do not require vendor performance reporting.

Contract Close-out Activities

The contract close-out process is an administrative process to verify that both TDI and the vendor have met their obligations under the contract. As a TDI best practice, close-out activities should be completed within 10 business days after contract activities are complete and final payments made to the vendor.

Close-out Report

The Contract Administrator should complete a Close-out Report and submit it to the Director of Purchasing and Contract Administration. The Contract Compliance Specialist will provide a recommended template. The Close-out Report will typically contain verification that:

- all goods or services have been received and accepted by TDI;
- all reports have been delivered and accepted by TDI;
- all administrative actions have been completed;
- any TDI-furnished equipment or materials have been returned;
- all property inventory and ownership issues have been resolved including disposition of any equipment or licenses purchased under the contract;
- division project manager has accepted the product;

- final payment has been made to the vendor; and
- vendor performance report has been completed and submitted to the Contract Administration Team.

The Contract Administration Team completes close-out activities, which include saving final documentation in the procurement file and noting that the contract is closed on the master contract list.

Change Control and Contract Amendments

TDI includes change control requirements in its standard solicitation template. The Contract Administrator is responsible for monitoring the day-to-day contract activities. The Contract Administrator must consult with the Procurement Manager or Procurement Director before implementing any changes that impact the scope, cost, or term of the contract. The Procurement Manager or Procurement Director will determine if a contract amendment is necessary. Generally, a contract amendment is necessary to address substantive changes to the contract, such as:

- change in price;
- change in delivery schedule;
- change in quantity;
- change of deliverables or specifications; or
- change of any terms or conditions.

The Contract Administrator should consult with the Procurement Manager or Procurement Director for any potential changes to the services. Additionally, the Contract Administrator must document any approved changes using a change request form and must maintain approved change requests in the division's contract management file.

Miscellaneous Agreements

A Miscellaneous Agreement is one that is established outside of the standard procurement process. These generally include letter agreements, non-monetary interagency agreements, memoranda of understanding, and other forms of contracts or agreements where no funds are exchanged between TDI and another party. Miscellaneous agreements do not include agreements or negotiations regarding the settlement of lawsuits, leases, contracts requiring payment by third-party applicants or participants, special deputy receivers, or the designation of statistical agents. If there is any question about whether an agreement or contract should follow the standard procurement process or the miscellaneous agreement process, contact the Procurement Manager or the Procurement Director.

A miscellaneous agreement does not require a Purchase Requisition, but is coordinated in conjunction with PCA.

Miscellaneous agreements between the Division of Workers' Compensation (DWC) and a third-party are referred to the Legal Services Division at DWC. DWC Legal Services will provide signed DWC-related agreements to PCA. DWC-related miscellaneous agreements will not otherwise follow this process.

When a division needs a miscellaneous agreement, the division will contact the General Counsel Division and request that an attorney be assigned to work with the division. The division and assigned attorney will develop the terms of the agreement, including terms that protect agency information. The assigned attorney may consult with the privacy counsel as needed on the privacy review, the public information coordinator for open records concerns, the Information Security Officer (ISO) for data concerns, and the Contracts Attorney for assistance with terms and conditions. The division, with assistance from the assigned attorney as needed, will draft a memo describing the background and purpose of the agreement. The assigned attorney will first route the draft agreement and memo to their respective director for review and comment, and then route the agreement and memo to PCA.

PCA will route the agreement for final approval to the privacy counsel, public information coordinator, ISO, contracts attorney, and division deputy commissioner. TDI's Chief Deputy Commissioner will provide TDI's final approval and execution. PCA will then route the agreement to the applicable external party for execution.

PCA will maintain the original electronic agreement and will provide copies to the assigned attorney and program area. The electronic files will be kept on the PGS SharePoint site, and the agreement will be logged in the miscellaneous agreement spreadsheet in the same folder.

Records Retention

Retention Period

Before August 31, 2015

All contract and procurement files, including Purchase Orders and related documentation, for procurements executed, renewed, or amended on or before August 31, 2015, must be retained by TDI for four years after the contract or procurement closes. If the contract or procurement was involved in any litigation, claim, negotiation, audit, open records request, administrative review, or other action, then the retention date is four years from the completion of the action.

After September 1, 2015

All contract and procurement files, including Purchase Orders and related documentation, for procurements executed, renewed, or amended on or after September 1, 2015, must be retained by TDI for seven years after the contract or procurement closes. If the contract or procurement was involved in any litigation, claim, negotiation, audit, open records request, administrative review, or other action, then the retention date is seven years from the completion of the action.

PCA Retention

PCA is responsible for ensuring the retention of all procurement files.

Purchase Order Records

CAPPS is the system of record for all Purchase Orders and related documentation.

Solicitation Records

Records for formal solicitations are kept in electronic copy on the PGS SharePoint site. Records include all elements of the solicitation process and copies of all submitted vendor responses.

Contract Records

PCA keeps all contract records in electronic format on the PGS SharePoint site. Records include the original solicitation, response from the selected respondent, executed contract, and any amendments. The division Contract Administrator keeps contract management files related to day-to-day contract management activities.

Division Retention

The Contract Administrator is responsible for ensuring the retention of division-level files. This includes documents related to the day-to-day management and oversight of the contract, project management, deliverable testing and acceptance, and invoice approvals.

Bid Protests and Disputes

Bid Protest Procedures

TDI provides a protest procedure to be used by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract. TDI's bid protest procedures are defined in Title 28 *Texas Administrative Code* Sections 1.1101 – 1.1107.

Protests must be addressed to TDI's Chief Financial Officer. If, after the Chief Financial Officer's determination is made, the aggrieved party is not satisfied, that party may appeal the determination to the Commissioner of Insurance.

Dispute Resolution

To the extent applicable, TDI follows the dispute resolution process defined in *Texas Government Code* Chapter 2260.

Historically Underutilized Businesses (HUBs)

In accordance with *Texas Government Code* Chapter 2161 and CPA rules, TDI established a Historically Underutilized Business (HUB) Program to promote a good faith effort to do business with minority and woman-owned businesses that are Texas-certified HUBs.

HUB Team

Texas Government Code Section 2161.062(e) requires TDI to designate a staff member to serve as the HUB coordinator for the agency. TDI has designated the Procurement Director as the HUB Coordinator. The HUB Coordinator is required to coordinate training programs to recruit and retain HUBs, report information to the CPA, and match HUB businesses with key staff within the agency. Additionally, *Texas Government Code* Section 2161.066(c) requires TDI to participate in CPA HUB forums; Section 2161.066 (d)(1) requires TDI to design its own HUB program modeled after the CPA program; and Section 2161.066 (d)(2) requires TDI to sponsor presentations by HUBs at TDI.

The TDI HUB Coordinator will create a HUB Team of PCA staff to be Assistant HUB Coordinators and assist with HUB program duties, compile information, attend HUB events, and coordinate contacts.

Subcontracting

In accordance with *Texas Government Code* Section 2161.252, TDI requires respondents to solicitations with an expected value over \$100,000 to complete and submit a HUB Subcontracting Plan (HSP). TDI also requests and encourages respondents to solicitations with an expected value under \$100,000 to complete and submit a HSP.

Outreach

TDI will make reasonable efforts to educate HUB vendors on potential contracting opportunities with TDI. This outreach includes sponsoring or attending HUB business forums, spot bid fairs, and other HUB-focused events; offering reviews of draft HSPs before final proposal submission; and partnering with advocacy groups and associations to publicize procurement opportunities.

Additionally, TDI supports the Texas Association of African American Chambers of Commerce (TAAACC) and Texas Association of Mexican American Chambers of Commerce (TAMACC) organizations. TDI executes a Memorandum of Cooperation Agreement with each organization on a biannual basis and provides monetary support. TDI works with TAAACC and TAMACC to publicize bid opportunities and encourage minority business groups.

Mentor-Protégé Program

TDI established a mentor-protégé program to foster relationships between prime contractors and HUBs. The objective of the program is to provide professional guidance and support to the protégé (HUB) to facilitate its growth and development and increase HUB contracts and subcontracts with the state. TDI provides a Mentor-Protégé Application on the TDI website; applications are evaluated using the following criteria:

- Eligibility and willingness to obtain HUB certification under the State of Texas HUB Program.
- Business in operation for at least one year.
- Ability to identify the type of guidance needed for business development.
- Good standing in doing business with the State of Texas.

Reporting

Legislatively mandated HUB reporting requirements are listed below.

1. **Semi-Annual Report** (*Texas Government Code* Sections 2161.121 and 2161.125). Due March 15 and reported through the CPA HUB Portal following the instructions provided by CPA.
2. **Annual Report** (*Texas Government Code* Sections 2161.121 and 2161.125). Due September 15 and reported through the CPA HUB Portal following the instructions provided by CPA.
3. **HUB Assessment – Bi-Annual** (General Appropriations Act Rider). Due December 1 and submitted to CPA and LBB via email.
4. **State Agency Progress Reports** (*Texas Government Code* Section 2161.124). Due December 31 and reported by the Financial Services Office with the Nonfinancial Data Report. PCA provides requested information to the Financial Services Office.
5. **Legislative Appropriations Request** (*Texas Government Code* Section 2161.127). Reported in TDI's LAR every even-numbered year, as compiled by the Financial Services Office. PCA provides requested information to the Financial Services Office.
6. **Estimate of Expected Contract Awards** (*Texas Government Code* Section 2161.183). Due October 30; prepare and keep in TDI file. The HUB Team may update the estimate on a quarterly basis.
 - a. Estimate of the total value of contract awards TDI expects to make for the fiscal year that are subject to *Texas Government Code* Section 2161.181, which requires TDI to make a good faith effort to increase the contract awards to HUBs for the purchase of goods and services.
 - b. **Internal HUB Reports** (*Texas Government Code* Section 2161.122). TDI will compile the following information monthly and maintain the data in the HUB files.
 - c. HUB Progress Assessment Report information collected from contractors.
 - i. Total dollar amount of purchases and payments made to HUBs.
 - ii. The number of contracts awarded to HUBs.
 - d. The number of bids and proposals made by HUBs.

CPA provides extensive reporting instructions and timelines for the Semi-Annual Report and Annual Report. These instructions are sent to the HUB Coordinator and HUB contacts on file with the CPA. The Procurement Director must ensure that contact information remains up to date.

Regular HUB Activities

To monitor and support TDI's HUB program, the HUB Coordinator and HUB Assistant Coordinators will engage in several actions on a regular basis.

1. Maintain a HUB resource mailbox in Outlook that is accessible by all HUB Team members. Using a resource mailbox ensures continuity of operations as staffing changes. The resource mailbox is HUB@tdi.texas.gov.

2. Generally, for purchases where a formal solicitation is not required and where HUBs are available that meet TDI's procurement needs, TDI will procure items from a HUB if the HUB's bid is within 10 percent of the lowest bid.
3. Review CAPPs reports monthly to make sure the correct Purchase Category Code (PCC) is used, and that each Purchaser and Contract Specialist is completing the required HUB information for each purchase.
4. Maintain a log of all contracts where a HUB Progress Assessment Report (PAR) is required. Monthly, enter PAR information reported by contractors and follow-up with contractors that fail to report. (Part of the required Internal HUB Reports.)
5. Monthly, update agency data required to supplement the annual HUB report submitted to the CPA. (Part of the required Internal HUB Reports.)
6. Maintain a HUB Contacts spreadsheet that lists known HUBs, the services the HUB can provide, and an indicator whether the HUB is on the CMBL. Encourage all PCA staff to use the spreadsheet and contact vendors as part of TDI's good faith efforts to increase HUB participation.
7. Strive to attend one HUB outreach event each month, pending availability of time, resources, and applicable events.
8. Maintain a log of business contacts made at HUB outreach events by asking vendors to complete a sign-in sheet, collecting business cards, and entering information into the HUB Contacts spreadsheet.
9. For formal solicitations, TDI may allow Respondents to submit the HUB Subcontracting Plan in advance for a courtesy review by a member of the HUB Team. The HUB Team will communicate any errors or items that need to be addressed before the formal submission.
10. Strive to attend each HUB Discussion Work Group meeting to share ideas and learn from HUB Coordinators at other state agencies.
11. Strive to attend each HUB training opportunity to maintain current with best practices.
12. Send each formal solicitation to TAAACC and TAMACC and request that the bid opportunity be shared with members.

Agency Payment Cards

Procurement Card

Procurement cards are credit cards used by TDI to pay for specific items or services that cannot be obtained through the regular procurement process. These situations may include registering for conferences, online purchases, veterinary services and canine supplies, and paying for maintenance and repair services for agency fleet vehicles. Procurement cards may only be used for situations where a Purchase Order cannot be used; the procurement card is not intended to avoid or bypass appropriate purchasing or payment procedures. Procurement cards are billed directly to TDI and not to the individual card holder.

The PCA Program is the administrator of the procurement card program.

Users

Generally, procurement cards are issued to the agency staff or positions listed below.

- Each Purchaser in PCA.
- The Procurement Director for additional assistance with procurement needs.
- The agency fleet manager and designated backup(s).
- General Services Director for additional assistance with the fleet program and disaster-related purchase needs.
- State Fire Marshal's Office staff for canine-related services and supplies.
- Enforcement Office staff to pay for Court Reporter Transcript orders.
- General Counsel staff for OAG Open Records Request payments.
- Division of Workers' Compensation staff for field office needs, workplace safety training needs, and other incidental items.

Application, Training, and Acknowledgment

Payment cards issued to cardholders outside of PCA will have a total limit of \$5,000.00 with a single transaction limit of \$500.00. The prospective cardholder's supervisor must send the new payment card request to the Procurement Director for approval. The request must include the intended use of the payment card, an explanation of why the current procurement process does not meet their needs, and if applicable, a justification for a requested credit limit higher than the default limits listed above. Once the request has been approved, the employee will work with the payment card administrator to complete the online application form.

The employee will be required to review procedures and rules related to using the procurement card and must acknowledge in writing on a form provided by the Procurement Card Administrator his or her understanding of the procedures and rules. Each agency employee issued a procurement card will review and acknowledge the rules and procedures.

The employee must sign an Acknowledgement of Receipt when the card is issued and promptly return the form to the Procurement Card Administrator.

Credit Limits

Each procurement card has monthly cardholder spending limits and per-transaction limits. Limits may vary for each cardholder and will be established by the Procurement Card Administrator. To change the credit limit on a card, the cardholder can contact the Procurement Card Administrator to make the request.

Guidelines

Procurement card cardholders must follow the guidelines listed below. If TDI's guidelines are not followed, the cardholder may be subject to disciplinary action up to and including termination.

- The cardholder is responsible for the security of the card and must never let another person use the card.
- The cardholder must guard the account number carefully and keep it confidential.
- The cardholder must keep the card in a secure but accessible location.
- The procurement card must only be used for official state business.
- Cardholder may use the procurement card to purchase specific approved items and services less than the single transaction limit that was established.
- Total amount spent must not exceed the monthly credit limit.
- Procurement card must be returned to the program administrator if the employee transfers for another area or if employment is terminated.

Vendor Compliance Verifications

Before completing a transaction, the cardholder must ensure that the vendor is in CAPPs and in good standing with the State of Texas by completing the required compliance checks listed below.

1. **Debarment Check.** Cardholder must check the debarred vendor list on the CPA website at <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>.
2. **SAM Check.** Cardholder must check the System for Award Management (SAM) database to verify that the vendor is not excluded at the federal level. www.SAM.gov.
3. **Divestment List Check** (Iran, Sudan, Foreign Terrorist Organizations, Financial Companies that Boycott Energy Companies, Boycott Israel). Cardholder must check each divestment list provided by the CPA at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.
4. **Warrant/Payment Hold Check.** For any purchase over \$500, cardholder must check the warrant hold status of the vendor. The Procurement Card Administrator or backup administrator can assist with this check upon request.
5. **Franchise Tax Check.** Cardholder must search the vendor's franchise tax account status on the CPA website at <https://comptroller.texas.gov/taxes/franchise/coas-instructions.php>.

Transaction Monitoring and Expenditure Approval

- Cardholders must maintain a monthly transaction log for expenditure tracking and reconciliation. The transaction log must contain a detailed description of each purchase.
- Cardholders must obtain and maintain a receipt for each purchase.

- At the end of each billing cycle, cardholders will receive a Cardholder Memo Statement listing all purchases made to that account. Cardholder will reconcile the statement with the transaction log and attach all applicable receipts.
- Cardholder will submit the transaction log and receipts for their supervisor approval, and then submit the documentation to the Procurement Card Administrator.
- The Procurement Card Administrator will review all cardholder charges and documentation, sign off on all approved/valid transactions, and submit to the Accounting Program for processing.
- The Procurement Card Administrator will keep a log of instances where the cardholder failed to document a purchase, failed to complete compliance checks, or otherwise did not adhere to card use guidelines. Cardholder eligibility will be revoked if the cardholder repeatedly fails to follow established guidelines.

Fuel Card

TDI uses State of Texas Retail Fuel Cards for fuel, car washes, and limited authorized maintenance for agency fleet vehicles. The fuel card program is administered through the agency's fleet unit in the General Services Office, part of the Administrative Operations Division. A fuel card is assigned to each agency fleet vehicle.

Travel Card

TDI may approve a travel credit card for an employee that is expected to travel at least three times per fiscal year or spend at least \$500 in travel for state business per fiscal year. The travel card program is administered by the Accounting Program in the Financial Services Office, part of the Administrative Operations Division. Travel cards are issued to individual employees and billed directly to the individual employee. Travel cards are used for state travel only. Employees are responsible for seeking reimbursement from Accounting to pay the travel card balance.

Texas Public Information Act

Unless specifically excepted from disclosure, all documentation and correspondence related to TDI purchases and contracts are subject to the Texas Public Information Act.

Debriefings

TDI does not offer vendor debriefings after a procurement closes. If a vendor requests feedback about the procurement process, TDI will instruct the vendor to submit a public information request.

Vendor References

As described in the Contract Management and Administration section of this document, TDI reports vendor performance via the Vendor Performance Tracking System maintained by CPA. TDI does not provide additional reference or performance information to other entities, such as another entity requesting a reference or review of a TDI vendor.

If TDI receives a reference request for a current or past vendor, TDI will refer the requestor to the Vendor Performance Tracking System maintained by CPA. Other information requests will follow TDI's open records process.

Appendix

Templates

Templates associated with the TDI procurement processes described in this document are listed below. This list is not inclusive of all templates because documents are added when PCA staff identify a need. All templates are located on the PGS SharePoint site in the Templates folder. Templates will be modified and updated as needed based on program needs and experience and to adhere to statutory requirements.

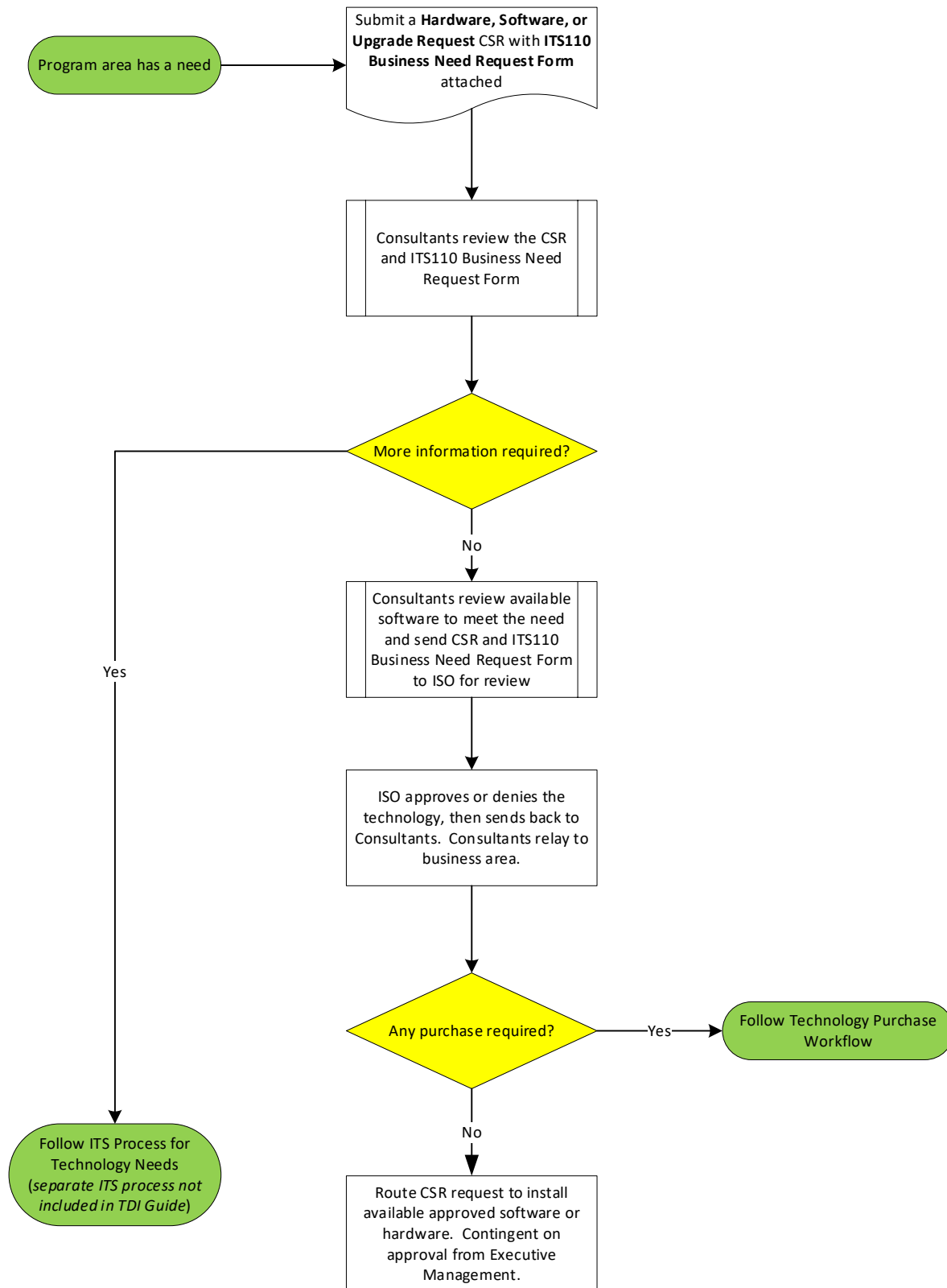
TDI procurement personnel must always begin a document with the current template from the file, rather than starting with an existing, previously completed related document. This helps to ensure that the current, correct version is used.

Template Document Name	Purpose
General Templates	
Approval Routing Form	Routing form used to route solicitations, contracts, and other procurement documents for approval. The form includes routing instructions based on the item. The completed form is saved in the applicable procurement file.
Conflict of Interest – Executive	Upon employment and at the beginning of each fiscal year, TDI officers and defined employees will review a list of all vendors currently doing business with TDI and complete the Conflict of Interest Statement.
Contract Worker Statement and Non-Disclosure Agreement	Contract workers performing contract services for TDI for more than 30 days are required to sign.
Non-Disclosure and Conflict of Interest Certification	To be completed by each member of the PCA Program upon employment and at the beginning of each fiscal year.
Routing Forms	Approval routing forms to issue a solicitation, execute a contract, and execute a miscellaneous agreement.
Vendor Performance Reporting	To be completed jointly by business area, PCA, and Accounting to document vendor performance. Data is used for reporting vendor performance to CPA.
Solicitation Templates	
Action and Decision Log	Included with each procurement file to document various actions and decisions for the procurement.
Addendum	Template for an addendum for an RFP, RFO, or DIR SOW.
BAFO Pricing Sheet	Pricing sheet used as part of the Best and Final Offer process.
DCS Questionnaire	Questionnaire to be completed by selected vendor before a final contract award; submitted to DIR as part of the DCS Exemption process.

Template Document Name	Purpose
DIR Statement of Work	Solicitation template used for purchases under a DIR cooperative contract.
Evaluation Plan	The Evaluation Plan written procedures, documentation, and evaluator instructions, and Excel template to document Responses and evaluation scores.
Financial Capability Review	Template used by Financial Services to evaluate the financial capability of vendors; part of the evaluation process for an RFO or RFP.
HSP Evaluation Form	Used by the HUB Coordinator to evaluate the submitted HSP.
HUB Coordinator Review	To be used before solicitation is issued to determine/document whether an HSP will be required.
Kickoff Agenda	Draft agenda for solicitation project kickoff meeting.
Procurement File Checklist	Checklist required to be part of the procurement file; must be reviewed by the Procurement Director before a contract is executed.
Procurement File Checklist - Amendment	Checklist required to be part of the procurement file; must be reviewed by the Procurement Director before an amendment is executed.
Recommendation to Execute Contract	Recommendation memo that accompanies a contract for final execution.
Solicitation	RFO and RFP template; TDI and OIEC versions.
Solicitation Kickoff Agenda	Agenda for procurement kick-off meetings.
Solicitation Planning Questionnaire	To be completed by the business area before a new procurement begins.
Solicitation Summary	Summary document detailing the procurement process for a specific procurement.
Solicitation Team Briefing	Briefing document used in the solicitation kickoff meeting to outline procurement team responsibilities and expectations.
Specifications Library	Compilation of requirements frequently used in a variety of solicitations.
Contracts and Amendments Templates	
Amendment	Used for contract amendments.
Contract	Used for all TDI contracts.
DIR SOW Amendment	Used for amendments to a DIR SOW.
IAC	Used for all TDI interagency agreements.
Contract Management	
Contract Closeout Checklist	Checklist to document steps to close a contract and confirm services and payments are complete.

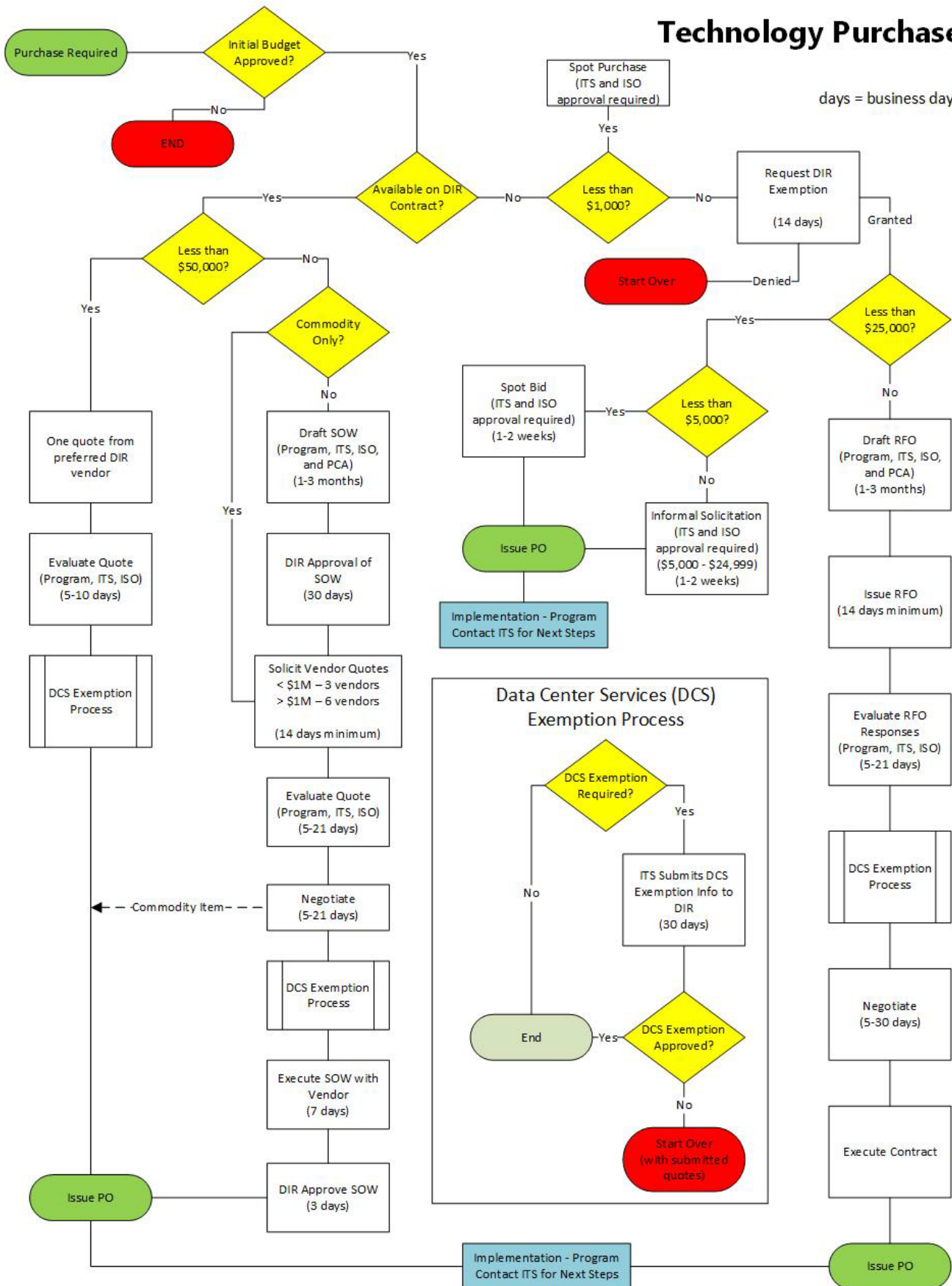
Template Document Name	Purpose
Contract Hand-off Meeting (internal)	Sign-in and agenda for internal meeting to transition project from procurement to the business area.
Contract Hand-off Meeting_Notes	Internal reminders for the contract specialist when conducting the contract hand-off meeting.
Contract Kick-off Meeting (external)	Sign-in and agenda for kick-off meeting between vendor and business area.
Contract Kick-off Meeting (external)_Notes	Internal reminders for the contract specialist when conducting the contract kick-off meeting.
Contract Management Workbook	Excel workbook for business area to track deliverables and expenses.
Purchasing	
After the Fact Purchase Memo	To be submitted by the business area for a PR entered after goods/services received.
IFB	Template for Invitation for Bid.
P Card Purchases	Template for PCA staff to document purchases completed on their assigned procurement card.
PCC Checklists	
PCC 0, PCC A, PCC B, PCC C, PCC D, PCC E, PCC F, PCC G, PCC H, PCC I, PCC K, PCC N, PCC Q, PCC S, PCC T, PCC X	Procurement file checklists for each PCC type.

Intake Process for Technology Needs



Technology Purchases

days = business days



General Procurement Requirements and Timeline

(excludes consulting, professional services, IACs, legal services)

Goods & Services – General Requirements and Procurement Methods

Cost or Method	General Requirements
< \$10K	No competitive bidding required
\$10K - \$25K	<ul style="list-style-type: none"> Solicit quotes from 3 vendors, 2 must be HUBs Over \$15K must solicit from each CMBL vendor in the region
\$25 - \$50K	<ul style="list-style-type: none"> Formal solicitation required, posted on ESB (14-day minimum, 21-day best practice) Award must be posted on ESB
\$50K - \$100K	<ul style="list-style-type: none"> Goods/Commodities over \$50K require delegated authority from CPA (30-day review period) Formal solicitation required, posted on ESB (14-day minimum, 21-day best practice) Award must be posted on ESB
\$100K+ [\$85K+ as a TDI best practice]	<ul style="list-style-type: none"> Services over \$100K require delegated authority from CPA (30-day review period) Formal solicitation required, posted on ESB (14-day minimum, 21-day best practice) Award must be posted on ESB
Texas SmartBuy Products	No competitive bidding required
TXMAS Contracts	<ul style="list-style-type: none"> Under \$50K, no competitive bidding required Over \$50K, solicit quotes from 3 vendors

Technology Purchases – General Requirements and Procurement Methods

Cost or Method	General Requirements
IT Item on DIR Cooperative Contract (** see also SOW Requirements below)	
< \$50K	No competitive bidding required
\$50K - \$1M [\$40K+ as a TDI best practice]	<ul style="list-style-type: none"> • May require DIR review of SOW (30-day review period) • Solicit quotes from 3 vendors • May require DIR approval of final negotiated SOW (3-day review period)
\$1M - \$10M [\$900K+ as a TDI best practice]	<ul style="list-style-type: none"> • May require DIR review of SOW (30-day review period) • Solicit quotes from 6 vendors • May require DIR approval of final negotiated SOW (3-day review period)
\$5M - \$10M	<ul style="list-style-type: none"> • TDI has the option to go through the RFO process instead of soliciting DIR vendors; no DIR exemption is required if TDI uses the RFO process • If using DIR vendors, must solicit quotes from 6 vendors
> \$10M	<ul style="list-style-type: none"> • TDI must use the RFO procurement process, cannot use DIR Cooperative Contract
IT Item Not on DIR Cooperative Contract	
< \$1K	No competitive bidding required
\$1K - \$10K	<ul style="list-style-type: none"> • Must get DIR exemption (14 days) • No competitive bidding required
\$10K - \$25K	<ul style="list-style-type: none"> • Must get DIR exemption (14 days) • Solicit quotes from 3 vendors, 2 must be HUBs • Over \$25K must solicit from each CMBL vendor in the region
\$25K+	<ul style="list-style-type: none"> • Must get DIR exemption (14 days) • Formal solicitation required, posted on ESBD • RFOs do not require CPA review, regardless of price • Award must be posted on ESBD
ALL Procurements Over \$10M	<ul style="list-style-type: none"> • Require CAT review (30-day review period) • IT purchases over \$10M cannot be purchased on a term contract, must be competitively bid with RFO

***** All technology applications or software purchases that will not be in the State Data Center require a Data Center Services Exemption from DIR. This request adds 30 business days to the timeline.**

Terms:

ESBD – Electronic State Business Daily. Online directory that publishes solicitations to inform vendors of procurement opportunities and provides public notice of contract awards.

DIR – Department of Information Resources.

CPA – Comptroller of Public Accounts.

CAT – Contract Advisory Team. Multi-agency team that reviews and makes recommendations on contracts valued at \$5M+.

CMBL – Centralized Master Bidders List. Online directory maintained by the State Procurement Division, containing contact information and product categories of vendors registered to receive procurement opportunities from public entities.

HUB – Historically Underutilized Business, as defined by Chapter 2161 of the *Texas Government Code* and 34 TAC §20.282.

SOW Requirements

A DIR Statement of Work and approval is required under these circumstances:

- Procurement > \$50,000
- Data Center Services SOWs administered as a pass-through expense
- Deliverables-Based Information Technology Services (DBITS)
- Managed Services for Information Technology
- IT Security Services
- Cloud Services (when an SOW is executed)
- Comprehensive Web Development

General Timelines

Formal Solicitations (RFP, RFO) – Applies to ALL formal solicitations, including rebids

Task	Approximate Number of Calendar Days <i>(days vary based on complexity of solicitation and availability of SMEs)</i>
Draft solicitation, review with multiple areas, edit, Legal review, formal approval	30 – 60 days
<ul style="list-style-type: none"> • Goods/Commodities over \$50K • Services over \$100K 	<ul style="list-style-type: none"> • 30-day CPA review for delegated authority • 7 days to review comments and finalize document
IT item not available on DIR contract	14 days for exemption request
Posting	<ul style="list-style-type: none"> • 14 days required • 21 days best practice • Additional time may be given if appropriate for solicitation
Review and score responses	14 days
Oral presentations and second scoring (optional)	7 days
Negotiation with top respondents	14 days
Data Center Services (DCS) Exemption (if required)	30 business days
Contract negotiation and award with selected vendor	7-30 days
General Total Timeline	Minimum: 86 days Maximum: 198+

Amendments

Task	Approximate Number of Calendar Days <i>(days vary based on complexity of solicitation and availability of SMEs)</i>
Draft amendment, review with multiple areas, edit, Legal review, formal internal approval	7 – 30 days
Vendor review of amendment, execute	7 days
TDI execute amendment	7 days
General Total Timeline	Minimum: 21 days Maximum: 44 days

SOW for DIR Contract Items – Applies to ALL SOWs, including rebid/repurchase

Task	Approximate Number of Calendar Days <i>(days vary based on complexity of solicitation and availability of SMEs)</i>
Draft SOW, review with multiple areas, edit, Legal review, formal approval	30 – 60 days
Over \$50K, DIR review/approval of SOW	<ul style="list-style-type: none"> • 30-day DIR review • 7 days to review comments and finalize document
Request Vendor Quotes	<ul style="list-style-type: none"> • No minimum period required • 14 days best practice • Additional time may be given if appropriate for solicitation
Review and score pricing	14 days
Negotiate with top vendors and finalize SOW	14 days
Data Center Services (DCS) Exemption (if required)	30 business days
Execute SOW with selected vendor	7 days
DIR review/approval of final SOW	3 days
General Total Timeline	Minimum: 75 days (no DIR review of SOW required) Maximum: 179+ (DIR review of SOW required)

Version History

Release / Revision Date	Version	Summary of Changes
11-30-2018	1.0	Original version.
4-6-2020	1.1	<p><i>Updated:</i> PCA organizational references; After the Fact and Non-Compliant Purchases; TXMAS information; Major Consulting Services Contracts informational table; Definition of Professional Services; Submission; Late Responses; Award; Miscellaneous Agreements; list of Templates in the Appendix.</p> <p><i>Changed:</i> Deputy Commissioner for Administrative Operations references to Chief of Staff; removed posting requirements for Texas Register.</p> <p><i>Added:</i> Violation of Ethical Standards; Suspected Fraud, Waste, or Abuse; Restricted Purchases; Facility Agreements; Food Purchases; Trial Subscriptions; Texas SmartBuy Catalog information; Intake Process for Technology Needs; Contract Value/No Cost to TDI; Vendor References; Appendix – Intake Process for Technology Needs; Appendix – General Procurement Requirements and Timeline</p>
9-28-2021	1.2	<p><i>Updated:</i> various position titles; various reporting and procurement thresholds updated due to legislative changes effective 9/1/2021; Intake Process for Technology Needs; retention information to reflect all electronic storage; electronic storage locations; solicitation submission to reflect electronic submission; template listing</p> <p><i>Added:</i> Debriefings; Vendor References; Promotional Items; Best Value Standard for good/services</p>
9-30-2021	1.2.1	Corrected LBB reporting requirements.
10-30-2023	1.3	Updated various position titles and organizational changes.

Document Name	TDI Procurement Guide
Purpose	To establish consistent policies and procedures for TDI procurements.
Created Date	April – November 2018
Created By	Melissa Burkhart
Reviewed By	Tricia Schulze, Carrie Demaree
Approved By	Melissa Burkhart
Last Updated/Reviewed	10/30/2023