

# Texas Department of Housing & Community Affairs

## Contract Management Guide



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## TABLE OF CONTENTS

Section	Title	Page No.
1.	INTRODUCTION	3
2.	PROCUREMENT & CONTRACTING – PURCHASING SECTION	3
3.	STATE OF TEXAS PROCUREMENT STATUTES	3
4.	ETHICAL STANDARDS & CONFLICTS OF INTEREST	3
5.	CONTRACT MANAGEMENT	4
6.	TYPES OF CONTRACTS & CONTRACT DOCUMENTS	4
7.	POSTING/NOTIFICATION OF SOLICITATIONS	5
8.	BEST VALUE	5
9.	CONTRACT RISK MANAGEMENT	5
10.	RISK ASSESSMENT TOOL	5
11.	CONTRACT CHANGES/AMENDMENTS	5
12.	CONTRACT PROBLEM SOLVING/DISPUTE RESOLUTION	6
13.	PURCHASING CONTRACT FILES	6
14.	SUMMARY	6
APPENDIX I	RISK ASSESSMENT TOOL	7

## **1. Introduction**

The Texas Department of Housing & Community Affairs (“TDHCA”), in compliance with SB20 passed by the 84<sup>th</sup> Legislative Session, is providing this Contract Management Guide for a brief overview of Department contracting processes. TDHCA’s processes follow closely to the Contract Management Guide provided by the Comptroller of Public Accounts (“CPA”). The CPA’s Guide as well as the Procurement Manual is listed on their website under *Manuals and Reference Guides* and can be found at the following web address: <http://www.cpa.state.tx.us/procurement/pub/>.

## **2. Procurement & Contracting - Purchasing Section**

The Purchasing Section within TDHCA’s Financial Administration Division is responsible for coordinating and managing all aspects of the procurement process for goods and services obtained by the Department. The Purchasing Section provides procurement for all offices located in Austin, Texas as well as all of the Department’s Field Offices. Procurement processes are strictly followed to ensure compliance with procurement rules and regulations, but to also obtain the best product and service available for the best value. The development of specifications for proposed procurement involves both the end user of the product/service and the Purchasing Section. This is to ensure all areas of the specification are validated to ensure a complete and comprehensive scope of work. The Purchasing Section follows the Comptroller Procurement Manual for proper processing as well as the Department Standard Operating Procedures 1210.03.

## **3. State of Texas Procurement Statutes**

TDHCA follows all procurement rules and regulations that have been established. These statutes along with Procedure Manuals and Reference Guides are located on the CPA website: <http://www.cpa.state.tx.us/procurement/procedures.html>. TDHCA also has listed under Texas Administrative Code, Title 10, Part 1, Chapter 1, Subchapter A, §1.4 Protest Procedures for Contractors and §1.6 Historically Underutilized Businesses which are specific to our Department.

## **4. Ethical Standards & Conflicts of Interest**

TDHCA, a state agency, is entrusted with the disposition of funds. It is our duty and responsibility to manage all procurement processes with the highest integrity. State officials and state agency personnel are not to allow private interests to influence public business. TDHCA is dedicated to making sure that all procurement processes are fair and completely impartial. CPA’s Procurement Manual, Section 1.2 Code of Ethics & Conflict of Interest details the conduct and ethics for all personnel involved in the procurement process.

All Department personnel involved in procurement or contract management activities must disclose any conflict of interest immediately upon identification. All Procurement staff are required to sign a Conflict of Interest form each year. (Texas Government Code §2155.003)

## **5. Contract Management**

Planning, forming, and administering contracts from beginning to close-out are encompassed in Contract Management. This involves a dedicated review of the process during the time of performance for the contract. The Department utilizes the CPA's Contract Management Guide for guidance in achieving contract success. The Contract Management Guide may be found at the CPA's website: <http://www.cpa.state.tx.us/procurement/pub/>.

## **6. Types of Contracts & Contract Documents**

Purchase Order – Clearly states what is being purchased including Standard Terms and Conditions.

Two Party Contracts – Written document detailing actions of the parties prepared and signed by the parties involved. Each contract may have both standard and specific terms and conditions related to the services being performed or the products being delivered.

Interagency Contract (“IAC”) – An agreement between two or more state agencies with a written description of services containing relevant terms and conditions required by statute.

Interlocal Contract (“ILC”) – An agreement such as an IAC, but between a state agency and local government such as a city or a county.

Memorandum of Understanding (“MOU”) – A simplified agreement outlining what two parties agree to do for one another, generally at no cost to either party.

A contract may consist of several documents:

1. Solicitation: Request for Proposal (“RFP”), Request for Offer (“RFO”), Invitation for Bid (“IFB”), Request for Qualifications (“RFQ”), or Informal solicitation inclusive of all posting information
2. Addenda to the solicitation
3. Proposal provided by the vendor
4. Negotiated or agreed changes to the scope signed by both parties
5. Best and Final Offer
6. Signed Contract

## **7. Posting/Notification of Solicitations**

The Department posts notification of solicitation opportunities according to the Comptroller Procurement Manual and Texas Government Code §2155.083. Procurement solicitations that are anticipated to be \$25,000 or more are posted on the Electronic State Business Daily (“ESBD”). The Department also posts any formal solicitations on the Department’s website: [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

## **8. Best Value**

Best Value to the state is determined by the purchase price and whether the goods and services meet the specified requirements. Other factors considered for determination of Best Value are installation costs, life cycle costs, quality of goods/services, delivery availability, past vendor performance, vendor financial status, vendor ability to perform, vendor experience and capability, training cost, or other factors that impact the procurement.

## **9. Contract Risk Management**

TDHCA complies with accountability and risk analysis for assessing the risk of any contract. The analysis is to identify any possibility of fraud, waste, and abuse that could occur as the result of a procured good or service. Performing risk assessments will help to mitigate any problems as well as establish a degree of control required to monitor the contract from beginning to end.

## **10. Risk Assessment Tool**

In order to examine possible risk for contracts, a Risk Assessment Tool is used (Appendix I). This tool enables the Department to see what level of management, oversight and procurement process will be required. The Risk Assessment Tool should be performed prior to the procurement process, prior to award, and during the course of performance and at the end of the procured contract. The use of the Risk Assessment Tool should determine what contracts would be considered higher risk to the Department along with enhanced monitoring controls where needed, and any mitigation/remedies that should be considered. The Risk Assessment Tool will be part of the contract file.

## **11. Contract Changes/Amendments**

All changes to the contract after it has been awarded will be processed by an Amendment which will encompass the original specification and the specification that has been changed. The Amendment is not effective until both parties agree and sign the Amendment. Amendments may be considered only if it is within the scope of the contract and is allowable per the Terms & Conditions.

## **12. Contract Problem Solving/Dispute Resolution**

The dispute resolution process provided for in Texas Government Code, Chapter §2260 shall be used by TDHCA and Vendor to resolve any dispute arising under the Contract.

## **13. Purchasing Contract Files**

All purchasing contract files and associated documents are kept within the Purchasing Section of the Financial Administration Division. The Purchasing Section is responsible for the maintenance of the contract files including all documentation referencing changes, amendments, or updates. Retention period for contracts are based upon the following dates:

- 1) Contracts entered into prior to September 1, 2015, are kept for four years;
- 2) Contracts entered into after September 1, 2015, are kept for seven years after the expiration, termination, or completion of the contract.

## **14. Summary**

The Texas Department of Housing & Community Affairs is dedicated to following the rules and regulations set forth by the Legislature. The Comptroller Contract Management Guide and the Comptroller Procurement Manual are an integral part of our processes.

The Department modifies and adjusts procurement processes only when changes are made within the guides and when new rules and regulations are passed by Legislature.

APPENDIX I

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS  
CONTRACT MANAGEMENT  
RISK ASSESSMENT TOOL**

Scoring: LOW RISK (1-3) / MEDIUM RISK (4-7) / HIGH RISK (8-10)

**Requirement:**

**Cost Determination Factors:**

**Coordinator Name/Division:**

**PRE-PROCUREMENT FACTORS**

No.	Subject	LOW (1-3)	MED (4-7)	HIGH (8-10)	SCORE
1.	Type of Contract	Interagency, MOU, Interlocal	Contract <\$25,000	Technical Assistance, Multiple Compliance, Emergency, Proprietary, or >\$25,000	
2.	Type of Payment	Fixed Price	Fee for Service	Cost Reimbursement	
3.	FY Dollar Amount	<\$100,000	\$100,000-\$1 Million	Over \$1 Million	
4.	Critical Function	Not critical to Agency's Mission	Moderately critical to Agency's Mission	Essential to Agency's Mission	
5.	Performance Specifications	Multiple defined & measurable performance milestones	At least one defined & measurable performance milestone	No performance milestones included	
6.	Deliverables	Multiple defined deliverables	At least one defined deliverable	No defined deliverables	
7.	Financial Reports	Substantial financial reports	Minimal financial reports	No financial reports	
				Pre-Procurement Score	

**RISK ASSESSMENT TOOL**

**PRE-AWARD FACTORS**

8.	Contractor Experience - Key Staff	Significant Experience	Some Experience	Not significant experience, recent changes	
9.	Subcontractors	No Subs	Up to 50% Subs	More than 50% Subs	
10.	Years in Business	More than 5 years	1 to 5 years	Less than 1 year	
				<b>Pre-Award Score</b>	

**POST CONTRACT FACTORS**

11.	Compliance	No issues	Moderate issues	Significant Issues	
12.	Performance	Met all Measures	Met 75% of Measures	Met Less than 75% of Measures	
<i>These factors to be assessed during the life of the contract.</i>				<b>Contract Score</b>	

<b>Overall Score</b>	
Low Risk Procurement	0-50
Medium Risk Procurement	51-110
High Risk Procurement	111-150

**ADDITIONAL CONSIDERATIONS**

<b><i>Risk Assessment Notes:</i></b>
<b><i>Risk Mitigation:</i></b>
<b><i>Other Considerations:</i></b>