



Texas Real Estate Commission FY 2022 Procurement Plan

Submitted to:
Texas Comptroller of Public Accounts
Statewide Procurement Division

procurement.plans@cpa.texas.gov

Due: November 30, 2021

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Section 1. General Information

Agency Name: Texas Real Estate Commission
Agency Number: 329

Section 2. Financial Services Director Contact Information

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Purchasing Manager Contact Information

Name: Regina B. Durden
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Section 3. Purchasing Capacity Assessment

- 3.1 Dollar value of agency delegated purchases for FY21: \$2,219,624.03
- 3.2 Number of purchasing FTEs: 4 (3 filled, 1 vacant)
- 3.3 Automated purchasing tools used by the agency (if applicable): CAPPS

Section 4. TREC Purchasing and Contract Management Procedures

- 4.1 Purchasing and Contract Management Procedures – Attachment A
- 4.2 Bid Protest Procedures - Attachment A – Pages 37-38
- 4.3 Credit card procedures – Attachment A – Pages 26-29

Section 5. Audits – FY 21-22

- 5.1 SAO audits of purchasing and contract management functions for FY21-FY22 - **none**
- 5.2 Comptroller post payment or procurement audits for FY21-FY22 – **none**

Section 6. Certified Procurement Professionals

- 6.1 Number of certified procurement professionals
Number of certified purchasing FTEs: 3
Number of certified contract management FTEs: 2

6.2 Name, title, and certification numbers

Certified Texas Contract Developer

Type	Name	Title	Certification Number
Purchasing	Regina B. Durden	Purchasing Manger	1900010526
Purchasing	Sandy Jones	Sr. Purchaser/Contract Manager	1900016950
Purchasing	Kimberly Donnelly	Purchaser	1900026348

Certified Texas Contract Manager

Type	Name	Title	Certification Number
Contract Management	Regina B. Durden	Purchasing Manger	1900014618
Contract Management	Sandy Jones	Sr. Purchaser/Contract Manager	1900016950

6.3 Training Projections for the Fiscal Year

Number of seats needed for CTCD certification courses for FY22: 1

Number of seats needed for CTCM certification courses for FY22: 2

Section 7. Delegated Purchasing Assessment

7.1 List the names of personnel with delegated signature authority for proprietary justifications:

See Attachment B

Chelsea Buchholtz - Executive Director & Commissioner

Delegated Authority

Tony Slagle - Executive Director & Deputy Commissioner

7.2 Five delegated purchases anticipated to have the highest expenditure for commodities or services (excluding professional services) not available on an existing contract through CPA or DIR for FY22.

Delegated Purchase	Anticipated Value for FY22	Previous FY Value for same/similar purchase:	Name of current vendor:	Has the agency looked for the item on CPA or DIR contract? (Y/N)
Regulatory Applications Modernization Project (RAMP)	\$3,700,000.00	n/a	New system	Yes

Attachment A

Purchasing and Contract Management Procedures

- Purchasing Procedures Pages 1 – 25, 32-36
- Credit Card procedures Pages 26-29
- Bid Protest Procedures Pages 37-38



Financial Services
Purchasing
and
Contract Management
Procedures Manual

Table of Contents

Part 1. Introduction.....	3
Part 2. Purchasing Methods.....	4
2.1 Introduction	4
2.2 Process Determination.....	4
2.3 Electronic Posting Requirements	5
2.4 Purchase Requisition Numbering.....	5
2.5 Purchase Order Numbering.....	5
2.6 How to Process a Requisition.....	5
Part 3. SPD Non-Delegated Services	7
3.1 Set-a-sides Programs	7
3.2 Term Contracts	8
3.3 Proprietary Purchases	10
Part 4. SPD - Delegated Purchases	12
4.1 Introduction	12
4.2 Delegated Purchase Categories	12
4.3 Commodities and Services Commodities	12
4.4 Spot Purchases.....	13
4.5 Informal Bids.....	13
4.6 Formal Bids	15
Part 5. Other Delegated Services.....	18
5.1 Emergency Purchases.....	18
5.2 Internal Repair	19
5.3 Direct Publications	20
5.4 Statutorily Exempt.....	21
Part 6. Automated Information Systems	22
6.1 Types of DIR Contracts.....	22
6.2 DIR Thresholds	22
6.3 Services.....	23

6.4 DIR Waiver	23
6.5 Non-Department of Information Services PCC: D	23
6.6 Contracts Over \$1M	24
Part 7. Procurement Card Program	25
7.1 Introduction	25
7.2 How to Obtain a Procurement Card	25
7.3 Procurement Card Agreement	25
7.4 Requirements	25
7.5 Credit Limits	26
7.6 Requisition Submission Requirements	26
7.7 Purchase Order Assignments	26
7.8 Procurement Transaction Verification	26
7.9 Sales and Use Tax	27
7.10 Capital or Controlled Assets	27
7.11 Cardholder Security	27
7.12 Prohibited Purchases	27
7.13 Liability Requirements	28
7.14 How to Handle Returns, Credits, and Disputed Charges	28
7.15 Reporting of Fraudulent Use of a Procurement Card	29
7.16 Employee Separation or Termination	29
Part 8. Contract Management	30
Part 9. Vendor Protest Procedures	35

The Texas Real Estate Commission Financial Services Division, Purchasing Section has developed this purchasing and contract management procedures manual. The purpose of this manual is to establish consistent purchasing and contract procedures that must be followed by TREC purchasing staff and to provide best practices guidelines. This is a living document that may be modified as new processes and procedures are implemented.

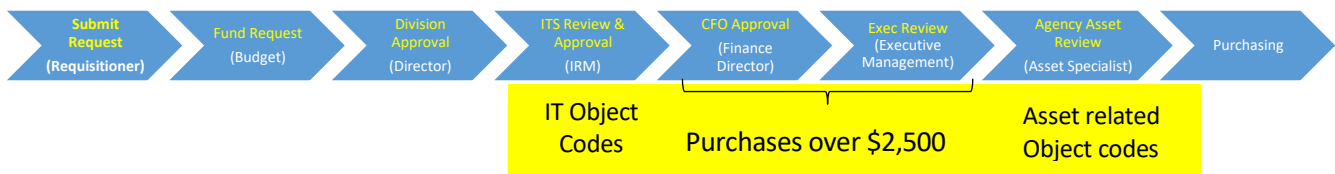
2.1 Introduction

The Texas Comptroller of Public Accounts (CPA) delegates certain purchases to state agencies. This authority depends on an agency's continuing satisfactory performance. Although the agency processes the order and makes the award, CPA sets minimum requirements. The CPA has the authority to revoke delegated authority if an agency fails to comply with established procedures, therefore it is crucial that the purchasing staff adhere to agency purchasing procedures and the CPA Contract Management Guide.

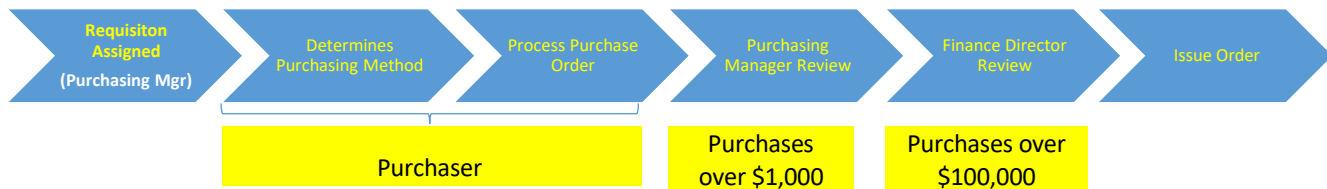
The Texas Real Estate Commission (TREC) launched the CAPPS Financial System, September 1, 2020. CAPPS is a web-based eProcurement system that integrates the agency's budget, approvals, purchasing, accounts payables, and asset management processes.

There are two-main process flows: the requisition and the purchase order. The requisition flow begins when an end user recognizes a need and submits a requisition for the required goods or services. Next, the requisition obtains budget and other approvals as required. The requisition is then assigned to purchasing who will follow specific purchasing guidelines and processes the order.

Requisition Workflow.



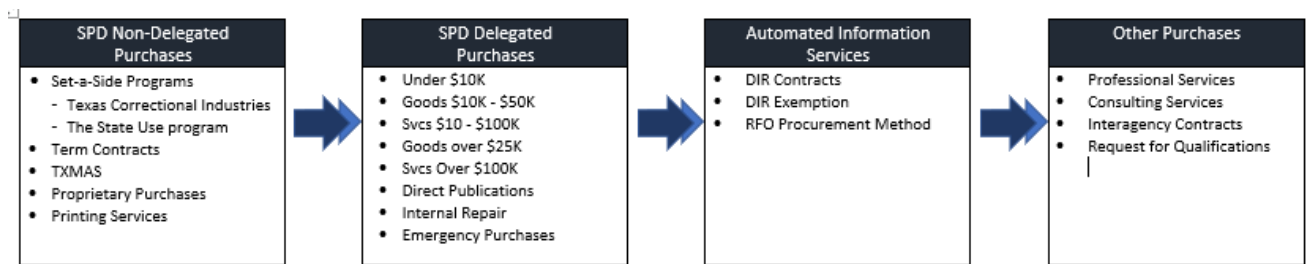
Purchase Order Approval Workflow



2.2 Process Determination

The purchaser must determine the appropriate purchasing method established by TREC, the Texas Comptroller of Public Accounts, the Department of Information Resources and other oversight agencies.

The purchase will typically be processed under one of the following categories:



2.3 Electronic Posting Requirements

All procurements with an estimated value greater than \$25,000 regardless of the source of funds to be used for the contract must be posted on the Electronic State Business Daily (ESBD). The ESBD is managed by the Comptroller’s State Purchasing Division (SPD). The contract value for posting to the ESBD means “the estimated dollar amount that an agency may be obligated to pay during the life of the contract and all executed and proposed amendments, extensions and renewals.

The minimum ESBD posting requirements (see CPA contract management guide for full description of the requirements):

- 14 Calendar days. The entire solicitation package (including all parts, exhibits and attachments posted to the ESBD.
- 21 Calendar days. A notice of the procurement that includes all information necessary to make a successful bid, proposal, or other applicable expression of interest for the procurement contract.

2.4 Purchase Requisition Numbering

All requisition numbers are automatically generated by the CAPPs Financial Services system. The numbering does not reset each fiscal year.

2.5 Purchase Order Numbering

Purchase order numbers are assigned sequentially using the following numbering pattern. The purchase order numbering re-sets September 1st each fiscal year.

Numbering	Category	Numbering Method
1,000 - 4,999	General Purchase Orders	CAPPs Generated
5,000 - 5,999	Inter-Agency	Manually Assigned by the Purchaser
6,000 - 6,999	Procurement Cards	Manually Assigned by the Purchaser
7,000 - 7,999	Special Projects	Manually Assigned by the Purchaser

2.6 How to Process a Requisition

Step	Process	Detail
1.	Receive the requisition	Review the requisition workload. Identify requisition line item(s) to be processed. Determine the appropriate Procurement method.
2.	Process the Requisition	Go to the specific category and type of purchase for specific processing information. Ensure that the requisition includes adequate funding to process the order. If additional funds are required contact the division to obtain approval to add funds and work with the budget analyst to increase funds. Determine if bidding is required If yes, prepare an informal or formal solicitation. If no, obtain a quote or process through SmartBuy.

Step	Process	Detail
3.	Determine if a contract required	<p>A CAPPS contract should be established if the purchase is for (1) services with an associated period of time (i.e., subscription, maintenance) or (2) a blanket contract for goods or services.</p> <p>Contracts are not required for training services or services less than one month or less than \$2,500.</p>
4.	Move the requisition line(s) to the purchase order	<p>Designate a vendor. Pull the line items into the purchase order. Update the line-item description to match the bid or SmartBuy order description. Include vendor contact name, phone, and email. Include agency contact or contract monitor, name, phone, and email. Add start and end date, if applicable.</p> <p>Note: Ensure that quote and PO information, quantities, and dollars match.</p>
5.	Attach back-up documentation	<p>Backup Documentation may include:</p> <ul style="list-style-type: none"> Quotes Bids PCC Checklist Email correspondence Bid Proprietary Justifications Unauthorized Purchase Justifications Other back-up verification documentation
6.	Process PO	<p>If purchase is over \$1,000 notify purchasing manager to review PO. Upon approval issue PO.</p>
7.	Issue PO	<p>Send PO and appropriate backup documentation to vendor. Include requisitioner and PO contact on the email notification. Place a copy of the signed PO in CAPPS.</p>

The State of Texas has established multiple methods to purchase goods and services using pre-established contracts. The CPA and DIR have specific statutory authority, rules, procedures, and processes that must be followed when procuring goods and services under their respective contracts. The following sections provide general information about the contracts established and the general steps required to procure equipment, goods, or services available through the purchase methods.

3.1 Set-a-sides Programs

The Texas Legislature establish special programs through WorkQuest and Texas Correctional Industries. Agencies are required to purchase certain goods and services through these programs.

3.1.1 Texas Correctional Industries (TCI)

TCI is a division of the Texas Department of Criminal Justice (TDCJ) that manufactures goods and services using primarily offender labor for purchase by Texas governmental entities. TCI offers most goods through Texas SmartBuy. For goods not available through Texas SmartBuy, the agency may find them in the [TCI Catalog](#). In those instances, a PO must be issued directly to TDCJ via email to tcj@tdcj.texas.gov with the following notation: “The award was made under the Prison Made Goods Act and is non-competitive.”

TREC/TALCB may decline to procure a good or service from TCI if (1) TCI grants a waiver, (2) SPD determines that the good or service produced by TCI does not meet the requirements of the agency, or (3) SPD certifies that the good or service can be purchased elsewhere at a lower price after the agency gives TCI final opportunity to negotiate on price.

3.1.2 State Use Program Exception

The State Use Program is managed by the Texas Workforce Commission (TWC). State Use programs are administered by WorkQuest (formerly TIBH Industries). Only products and services approved by TWC qualify as a set aside purchase available for agencies to purchase on Texas SmartBuy. The only exceptions to not using the State Use program is when (1) under the rules of SPD, a WorkQuest-provided or -produced product or service does not meet the reasonable requirements of the agency; or (2) the requisitions made cannot be reasonably complied with using products or services produced by persons with disabilities.

3.1.3 How to Process WorkQuest or TCI Orders

PCC: A, C

Statutory Reference: Texas Human Resources Code Chapter 122 and the Texas Correctional Industries governed by Texas Government Code Chapter 497

Purchasers are required to utilize the WorkQuest or Texas Correctional Industries (TCI) contracts before considering other purchasing methods. If the requested commodity or service is not available under either of these contracts, then and only then, should the purchase proceed under a different method.

Most WorkQuest and TCI products and services are available under state term contracts.

WorkQuest or TCI Procedures

Who	What
Division	Recognizes need and submits requisition.
Purchaser	Reviews requisition.
Purchaser	Reviews requisition requirements and determines if requested items are available on SmartBuy, WorkQuest or TCI.
Purchaser	Determines if goods or services are available on SmartBuy contract.
Purchaser	If available on Smartbuy, follows SmartBuy Procedures. If not, confirms that good or service is not TCI or WorkQuest.
Purchaser	Processes order in CAPPs.
Purchaser	Issues PO to vendor and the ordering division.
Purchaser	Saves all backup documentation with signed purchase order in CAPPs.

3.2 Term Contracts

The Comptroller of Public Accounts State Purchasing Division (SPD) establishes term contracts for the purchase or lease of goods and services. Term contracts are available through the Texas SmartBuy catalog and competitive bidding is not required. TREC/TALCB should not 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.

3.2.1 SmartBuy

PCC: A, C, H or X

Texas Comptroller of Public Accounts (CPA) establishes statewide term contracts for goods and services commonly ordered by all agencies. The term or length of each contract may vary, depending on the commodity or service.

3.2.2 Types of Term Contracts.

CPA establishes two basic types of term contracts:

1. Automated Contracts are used to order goods and services available through CPA's on-line purchasing system.
2. Managed Contracts must be processed manually due to the more specialized nature of the good or service.

3.2.3 Smart Buy Instructions

The CPA provides detailed information about how to use the SmartBuy system. For specific information about SmartBuy go to: <http://www.txsmartbuy.com/help>.

TREC Specific Requirements. When processing SmartBuy orders, the following must be taken into consideration:

1. Purchasers cannot purchase items that are above their certification requirements.
2. All Purchasers must obtain and use their own login.
3. All SmartBuy orders must also be entered into CAPPS.

3.2.4 Automated Contracts

The agency processes automated contracts directly through an on-line connection with CPA. Commodity codes and quantities are entered onto an electronically transmitted purchase order.

1. The Procedure: Obtain or verify commodity codes from the CPA Term Contract. Items designated "Available on SmartBuy" must be entered via the SmartBuy system.
2. Confirm that all required options are listed (i.e, color, finish, accessories).
3. Enter the order into CPA's on-line SmartBuy system – or pick up Requisitioner's shopping cart (see Requisitioner's instructions below).
4. Print out and retain the initial copy of the order with the CAPPS PO in CAPPS.
5. Complete PCC Checklist.
6. Prepare TREC PO to include the SmartBuy PO number.
7. Distribute purchase order copies to the ordering division.
8. Save TREC PO in CAPPS.

3.2.5 Managed Contracts

Managed Contracts are identified by an "N" after the commodity code in the CPA Contract Catalog. This type of contract order is processed manually by preparing and emailing a purchase order directly to the vendor. A copy of the purchase order must be forwarded to CPA for the purchase history file.

The Procedure:

1. Obtain or verify commodity codes from the CPA Term Contract.
2. Prepare a Managed contract purchase order.
3. Complete PCC Checklist.
4. Fax or email the original purchase order to the contract vendor.
5. Send a copy of the purchase order to the ordering division.
6. Save PO in CAPPS.

3.2.6 TXMAS

The CPA established as an alternative purchasing method the use of multiple award schedule contracts that have been competitively awarded (primarily) by the federal Government's General Services Administration (GSA). Once the CPA authorizes use of the contract, it is posted on the CPA web site.

These contracts may be utilized by the agency only after consideration of the set aside programs (TCI and WorkQuest), as well as any other statewide term contracts. A best value determination is made if there are multiple vendors within a TXMAS schedule who have like products or services. A best value determination may include obtaining information and/or quotes from the TXMAS vendors offering the similar product or service. Once an order is placed, the agency is also required to electronically submit information to CPA for

historical reporting, as well as post a procurement award notice on the state’s electronic bulletin board if the value is \$25,000 or greater.

A TXMAS order may be processed as a CPA automated or Managed order depending on how the contract is established through CPA.

3.2.7 Change Orders

A Purchase Order Change Notice is sent to CPA for a Managed Purchase Order from a term contract. CPA will require corrections to any Purchase Order Change Notice incorrectly used.

3.3 Proprietary Purchases

A purchase is proprietary when the specifications or conditions of the purchase are exclusive to one vendor and the vendor does not allow other resellers or there is not an equivalent product or service available for purchase. The Purchasing Section will work with the division to evaluate whether the purchase is proprietary because a proprietary purchase limits competition.

A proprietary justification is required when conducting a sole procurement with an estimated value greater than \$10,000. A procurement under \$10,000 does not require a proprietary justification. Below is a general description of the types of proprietary purchases and the general steps for processing proprietary purchases.

3.3.1 Types of purchases

There are three types of purchases which should be considered:

A. 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.

B. 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.

C. Competitive

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

3.3.2 Proprietary Purchase Procedure: (Upon receipt of the requisition)

PCC: Varies

Who	What
Division	Recognizes the need. Determines if the purchase is proprietary or sole source. If yes, complete proprietary justification form. Submit a requisition; if quotes obtained, submit with requisition. NOTE: The division should contact purchasing if assistance or clarification is required to determine if the good or service is proprietary.

Who	What
Purchasing	Reviews requisition and proprietary justification; submits justification to the purchasing manager
Purchasing Manager	Reviews the proprietary justification, if approved go to the next step; if not approved, notify division for options.
Purchaser	Processes the requisition. If estimated value is over \$25,000 (goods) or \$100,000 (service), work with the division to develop specifications; follow appropriate solicitation process. Obtain appropriate VID number. Check ESB, SAM and Debarred Vendor List.
Purchaser	Completes the PCC Checklist.
Purchaser	Dispatches order and submit to vendor.

- If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESB.
- If the order is over \$100,000 and solicitation required, prepare contract file.
- For contracts over \$1M, obtain the Ethic's Commission's Certificate of Interested Parties (Form 1295) submitted by the vendor.
- If additional funds are required obtain purchase requisition for the additional funds and issue a Purchase Order Change Notice (POCN). NOTE: Competitive award is not required for an internal repair.
- Save all backup documentation with purchase order in CAPPS.

4.1 Introduction

The Texas Comptroller of Public Accounts (CPA) has delegated agencies the authority to procure goods or services that are not available from state contracts, or which are exempt from CPA authority. Each agency must follow established CPA guidelines but is authorized to obtain bids and place the orders.

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

The Comptroller of Public Accounts Procurement Manual (Section 2.10 Delegated Purchase Procedure and Strategic Sourcing Principles) provides the following summary of minimum requirements for Delegated purchase.

4.2 Delegated Purchase Categories

PCC E, F, G, Q, S, T

Delegated Purchases are broken into four (4) categories: (1) spot purchases, (2) informal bids, (3) formal bids for goods or services, and (4) delegated purchase with approval. This does not include items which are subject to the IT Commodity Purchasing Procedure. Commodities which are available from term contracts may be processed as spot purchases only if they are below the specified spot option limit.

Agencies are audited for compliance with CPA rules and any violation may cause the delegated authority to be withdrawn. Each agency is accountable for all purchases made on behalf of the agency.

4.3 Commodities and Services Commodities

4.3.1 Commodities

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

All commodity purchases that exceed that amount will require CPA review and approval prior to purchase. The purchaser must ensure that the commodity purchases do not fall within the requirements provided in Category 1 or 2 described in the previous sections.

4.3.2 Services

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

When procuring services, it is important that the vendor is provided a clear scope of the requested services. Note: Purchasers should not sign any vendor's maintenance agreements or other documents which contain terms and conditions. The agency's contract attorney must review these documents prior to signature by the Executive Administration.

4.4 Spot Purchases

PCC: E

A “Spot Purchase” is a purchase of a good or services from one vendor that does not require competitive bidding. A spot purchase cannot exceed \$10,000 and the good or service must not be available from a pre-established contract. HUB vendors who can provide the needed good or service at a reasonable price should be contacted whenever possible. Purchasers may supplement the CMBL for procurements at this dollar amount.

4.4.1 Spot Purchase Procedures

- a. Obtain Purchase Requisition from the division.
- b. Verify stock numbers, if provided.
- c. Locate a vendor.

Resources to locate vendors include Centralized Master Bidders List, HUB Directory, vendor mailings or catalogs, yellow pages, Minority Development Centers, Chambers of Commerce, business card file, local source, internet, or recommendation from the end user.

- a. Contact at least one vendor, preferably a HUB, to obtain pricing.
NOTE: Purchaser should request freight charges be included with quote.
- b. Verify the vendor is not on the Debarred List or SAM list; print out results and place in PO file.
- c. Finalize and issue PO.
- d. Complete PCC Checklist.
- e. Distribute purchase order copies to vendor.
- f. Distribute purchase order copies to the ordering division.
- g. Save PO in CAPPs.

4.5 Informal Bids

PCC: F or Q

An informal bid is required when purchasing goods or services with an estimated value between \$10,000.01 and \$25,000.00. The informal bid should be in writing using a pricing request form. Purchasers must attempt to solicit from at least 2 HUBs and utilize the CMBL.

4.5.1 Informal Bid Procedures

- a. Obtain Purchase Requisition from the division.
- b. Collect the detailed specifications or scope of work for the required good or service.
- c. Determine NIGP class and Item codes.
- d. Use the “CMBL Only” search criteria and the applicable NIGP class(es) and Item(s) to locate at least three (3) vendors in the appropriate county, city or district that provide the required good or service, two (2) of which must be HUB vendors. If a purchaser is unable to locate two HUBs, the purchaser must make a written notation in the purchase file of all reference sources used.
- e. Non-CMBL vendors (including HUBS) may be added to the final vendor list to enhance competition with written approval from the agency’s Executive Director. If applicable, also attempt to solicit a response from the vendor who last held the contract for the required good or service.

- f. Print the CMBL vendor list including the approved supplemented vendors and include in the procurement file.
- g. Solicit a response from each vendor identified in the previous steps. Response prices are considered firm for acceptance for 30 days from the solicitation due date. The acceptable methods for receiving informal responses are:
 - 1. In person
 - 2. Via direct mail
 - 3. Via electronic mail.
- h. Evaluate responses, complete administrative checklist.
- i. Tabulate the responses and select the vendor that provides best value to the TREC. Include the following information in your tabulation:
 - 1. CMBL vendors contacted, including those supplemented.
 - 2. Corresponding response amounts.
 - 3. For HUBs, the ethnicity/gender of the Certified HUB
 - 4. Awarded vendor.
 - 5. Statement of reasons for non-awards.
- j. Verify the vendor is not on the Debarred List or SAM list, print out results and place in PO file.
- k. Keep a record of all responses. Make tabulations available for public inspection and retain the tabulation for inspection during any audit.
- l. Print out CMBL detail for awarded vendor.
- m. Process the award through issuance of a PO.
- n. Attach the following in CAPPs. Prepare and document the file with:
 - 1. Copy of Pricing Request or IFB sent out.
 - 2. Bid opening date.
 - 3. Bid list (with HUB vendors designated).
 - 4. Vendors' original responses.
 - 5. Tabulation form including vendor contact name, address and phone number.
 - 6. Purchase order.
 - 7. Proprietary statement, if needed.
 - 8. SAM and Debarred Listing.
- o. Distribute purchase order copies to the ordering division.
- p. Save PO in CAPPs.

4.6 Formal Bids

Delegated Purchase of Goods over \$25,000; Services over \$100,000

A formal bid is required when purchasing services with an estimated value over \$25,000.00 for goods and \$100,000 for services if delegated by SPD or through statutory authority. Formal bids at this level require that bids are solicited to all vendors on the CMBL. Either the IFB, RFP or RFO form may be used to obtain responses from bidders.

PCC: S

4.6.1 Examples of typical service contracts established by the agency (if not available from TIBH):

- 1. Shredding Services
- 2. Mailing Services

Note: A purchaser should not sign any vendor's maintenance agreements or other documents which contain terms and conditions. Contract attorney must review these documents prior to signature by the Executive Administration.

4.6.2 Solicitation Documents

a. Invitation for Bid (IFB)

An invitation for bid (IFB) is an invitation to vendors to submit a proposal on a specific commodity or service through a bidding process. The IFB is focused on pricing. The award is based upon the lowest bid meeting the minimum criteria for the specifications/requirements. Negotiations are not authorized when utilizing an Invitation for Bid (IFB) procurement method.

b. Request for Proposals (RFP)

An RFP is a competitive solicitation that allows for negotiations. RFP evaluations may be based on factors other than cost and are typically associated with contracts for services, although the use of RFPs is encouraged for commodities as well. Additionally, the RFP method allows for Best and Final Offer (BAFO) negotiations prior to award.

c. Request for Information. (RFI)

A request for information (RFI) is a document often distributed before initiation of the RFP process. It is used to gather vendor information from multiple companies to generate a pool of prospects providing a short list of candidates who meet the desired qualifications.

4.6.3 Procedures

1. Determine if purchase is an emergency; If yes, require emergency justification form and notify the Procurement Manager immediately.
2. Review risk and needs assessment provided by Division.
3. Collect the detailed specifications or scope of work for the required good or service.
4. Commodities exceeding \$25,000 or Services exceeding \$100,000 are required to be submitted to SPD for review. Purchasers should submit an Open Market Requisition to the CPA for commodities over \$25,000; Purchasers should submit a delegation request through the CPA portal for services over \$100,000.
5. Determine if good or service is proprietary or sole source, if yes complete proprietary justification form.
6. Work with the division to develop the specifications or the statement of work to create a written Invitation for Bid (IFB) or Request for Proposal (RFP).
7. Require division staff to review and sign non-disclosure form.
8. Determine if HUB subcontracting is a probability.
9. Post the solicitation information to the Electronic State Business Daily (ESBD) unless the purchase is specifically exempted under Texas Government Code §2155.083.
10. Using the CMBL Only search criteria and the applicable NIGP class(es) and Item(s) to locate all vendors who provide the required commodity or service and service the county, city or highway district.
11. Print out and save list.
NOTE: If the procurement is a service purchase more than \$100,000, do not limit the search to your highway district. Print the vendor list from the CMBL and include it in the procurement file:
 - a. With written approval from the Procurement Manager, provided in the agency's Procurement Plan, non-CMBL vendors (including HUBS) may be added to the final vendor list to enhance competition. If applicable, also attempt to solicit a response from the vendor who last held the contract for the required good or service.
 - b. Print the CMBL vendor list including the approved supplemented vendors to include in the procurement file.

- c. Determine evaluation team and develop evaluation plan.
- d. Require all evaluation team members to sign conflict of interest/non-disclosure forms.
- e. Solicit a response for the required commodity or service from each vendor identified in the previous steps. If applicable, also attempt to solicit a response from the vendor that last held the contract for the required commodity or service. The acceptable methods for receiving responses to formal solicitations are:
 - 1. In person.
 - 2. Via direct mail.
 - 3. Via electronic mail.
- f. Response due date and release of respondent information:
 - 1. For the Invitation for Bid process, a public opening is typically conducted announcing the respondents and pricing. If a public opening is not in the best interest of the solicitation, the solicitation documentation should state that there will be no release of information until after award.
 - 2. For the Requests for Proposal process, there should not be a public reading of the respondents in order to protect negotiations and to comply with statutory requirements. (Texas Government Code §§ 2156.123 – 2156.124).
- g. Collect the responses; Proposed prices are considered firm for acceptance for 30 days or the number of days from the response due date indicated in the solicitation.
- h. Have all evaluators complete non-disclosure forms.
- i. Evaluate responses; to include:
 - 1. Bid conference/site visit documentation.
 - 2. Evaluation Plan Documents.
 - 3. Bid Receipt Forms – date/time stamped prior to solicitation deadline.
 - 4. Bid Opening Sign In Sheets.
 - 5. Reference Check Forms.
 - 6. Performance Score from the Vendor Performance Tracking System (VPTS).
 - 7. Bid tabulation (must list all vendors solicited).
 - 8. Administrative Review Checklist to verify responsiveness.
 - 9. HUB Subcontracting Plan review.
- j. Set-up evaluation team meeting: provide evaluation instruction and distribute bids for review and evaluation.
- k. Tabulate the responses and select the vendor that provides best value to the TREC. Include the following information in your tabulation:
 - 1. CMBL vendors contacted, including those supplemented.
 - 2. Corresponding response amounts.
 - 3. For HUBs, the ethnicity/gender of the SPD Certified HUB.
 - 4. Awarded vendor.
 - 5. Statement of reasons for non-awards.
- l. Keep a record of all responses; Make tabulations available for public inspection and retain the tabulation for inspection during any audit.
- m. For contracts over \$1M, obtain the Ethic's Commission's Certificate of Interested Parties (Form 1295) submitted by the vendor.
- n. Print out CMBL Vendor List, Debarred & SAM to verify good standing.
- o. Prepare PCC Checklist.
- p. Process the award through issuance of a PO.
- q. Obtain Director of Purchasing approval.
- r. Issue PO to vendor.
- s. Save PO in CAPPS.
- t. Post Award on ESBD.
- u. Submit contract to LBB.

- v. Prepare and attach the following to the CAPPS PO:
 - 1. PCC Checklist.
 - 2. Copy of Pricing Request or IFB sent out.
 - 3. Bid opening date.
 - 4. Bid list (with HUB vendors designated).
 - 5. Vendors' original responses.
 - 6. Tabulation form including vendor contact name, address, and phone number.
 - 7. Purchase order.
 - 8. Proprietary statement, if needed.
 - 9. SAM and Debarred Listing.

Part 5. Other Delegated Services

In addition to the delegated purchases described in Section 5, SPD has delegated purchasing authority to agencies in the following categories of purchase:

- Emergency purchases
- Internal repair purchases
- Direct publications

5.1 Emergency Purchases

PCC: D, F, Q, S, T

An emergency purchase occurs when an unforeseen circumstance occurs that requires an immediate response to avert an actual or potential public threat or to avoid undue additional cost to the agency or the state. Lack of planning or pending expiration of funds is not considered an acceptable justification for an emergency. Also, a Declaration of Disaster by the Governor is similar, but will be handled in accordance with the CPA's Contract Management Guide.

The decision to declare an emergency purchase is the sole responsibility of TREC. If an emergency exists, a written determination must be included in the procurement file. A division requesting an emergency purchase must complete an emergency justification form and submit to the Purchasing Section with the requisition. The emergency justification form must be approved by the Purchasing Manager and will be included in the procurement file.

All procurements conducted as emergencies should be made as competitive as possible under the circumstances. For situations where a solicitation is not posted to the ESBD, the purchasing section should make a reasonable attempt to obtain at least three informal bids. Emergency purchases greater than \$25,000 must be posted to the ESBD; however, the minimum time for posting of the solicitation does not apply to the extent necessary to address the emergency. Emergency purchases are subject to CAT and QAT reviews and the period of service should not exceed the scope or duration of the emergency. In addition, emergency purchases of goods or services exceeding \$25,000, require TREC to send a full written explanation of the emergency along with other required documentation to the Comptroller's Statewide Procurement Division (SPD).

5.1.1 Emergency Purchase Procedure

Who	What
Division	Completes the emergency justification, submits a requisition and contacts purchasing.
Purchasing Manager	Reviews request for emergency justification. If approved go to the next step; if not approved, the order should be processed using regular purchasing processes.
Purchaser	Determines if bids are required and the appropriate procurement method.
Purchaser	Processes the order using the appropriate procurement method*.
Purchaser	Completes PCC Checklist.
Purchaser	Dispatches order and submit to vendor.

- For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- Save all backup documentation with the purchase order in CAPPS.
- Post PO to LBB site (when applicable).

5.2 Internal Repair

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

5.2.1 Internal Repair Procedure

PCC: E, F, Q, S

Who	What
Division	Recognizes need; determines requested service required; contacts Purchasing.
Purchasing	Determines if purchase meets internal repair requirements.
Division or Purchasing	Identifies potential vendor(s) and obtains estimate from vendor.
Division	Prepares a requisition; attach quote to the requisition and submit the requisition in CAPPS. NOTE: expedite order when required.
Purchaser	Processes the order; the following statements must be included on the purchase order: “Internal Repair” “Note to vendor: Not-to-exceed (insert reasonable dollar limit) for repair services unless prior authorization is provided by the agency.” Obtain appropriate VID number and verify with TREC Accounts Payables Section.
Purchaser	Completes PCC Checklist; Check ESBD, SAM and Debarred Vendor List and attaches all required documentation.
Purchaser	Dispatches order and submits to vendor.

- If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESBD.
- If order over \$100,000 and solicitation required, prepare contract file.
- For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- If additional funds required obtain a purchase requisition for the additional funds and issue a Purchase Order Change Notice (POCN). NOTE: Competitive award is not required for an internal repair.
- Save all backup documentation with purchase order in CAPPS.

5.3 Direct Publications

Publications may be purchased directly from the publisher only when the publication is not available through a set-aside program, CPA term contract, TXMAS contract or through competitive bidding. All SPD guidelines must be followed when ordering direct publications. Purchasers are required to post direct publications more than \$25,000 for a minimum of 14 days on the Electronic State Business Daily.

The following statement must be added to all POs for direct publication purchases:
 “Direct Publication – Not available from any other source.”

5.3.1 Direct Publication Examples

- a. Direct subscriptions only available from the Publisher
- b. Electronic data service directly from the publisher (not to be confused with on-line information services such as CompuServe)
- c. Foreign publications
- d. Back issues of magazines, journals, and newspapers
- e. Publications of professional societies
- f. Prepared videos, films, audio tapes, and laser disks only available from the Publisher
- g. Computer software and software maintenance which is only available from the publisher
- h. Collections of any of the foregoing items, and microfilm or microfiche copies
- i. Library of Congress cards
- j. Thesis, dissertations, research findings, academic publications

5.3.2 Direct Publication Procedure PCC: K; Doc Type: 2

Who	What
Division	Recognizes the need. If known, indicate if the publication is coming from the publisher or if it is available from other sources.
Purchaser	Reviews requisition and back up documentation.
Purchaser	Processes the requisition. If estimated value is over \$25,000 (goods) or \$100,000 (service), work with the division to develop specifications; follow appropriate solicitation process. Obtain appropriate VID number. Check ESBD, SAM and Debarred Vendor List.
Purchaser	Completes the PCC Checklist.
Purchaser	Dispatches order and submit to vendor.
Purchaser	Saves and attaches PO to CAPPs.

5.4 Statutorily Exempt

Specific goods and services are exempt from competitive bidding by statute. Exempt purchases require a legal cite which exempts it from competitive bidding be referenced on the purchase order. For additional statutorily exempt purchases go the Comptroller Contract Management Guide.

PCC: None; Doc Type 9

- State Treasury Funds - Purchases made with other than general revenue appropriations and funds not held in the state treasury.
- Employee Payroll Exempt by Statute - Employee payroll and other employee salary related items, e.g. salary, FICA, Federal Income Tax, Health Insurance.
- Exempt by Statute - Commodities and services that are exempt from the procurement process by legal statute.

Description	Statutory Cite
Auxiliary enterprises	2155.141
Goods or services made or provided by blind or visually impaired persons and offered for sale to state agencies	2155.138
Consulting services or services of a consultant	2254.021 et seq. Must use 7239, 7240, or 7242 comptroller object codes to process expenditures. 2155.001
Items required by statute to be purchased from a particular source	2155.132(f)(2)
Texas Department of Criminal Justice made goods	2155.065
Professional services & fees	2254.001 et seq. must use 7253 or 7356 comptroller object codes to process expenditures. 2155.001
Purchases of products and services: WorkQuest set-aside contracts	2155.441
Services of an employee of a state agency	2155.001
Utilities (services of public utilities): natural gas, electric, water, sewage & garbage services, other services - cell phone or cable services not included	2155.001
Vehicle maintenance & repair: any contract for repair of vehicles made by the Office of Vehicle Fleet Management of SPD.	2171.102(c)

Part 6. Automated Information Systems

There are various methods that can be used to procure Automated Information Systems (AIS) procurements of equipment, goods, or services. All AIS purchases will either be processed through a pre-established DIR contract, or the agency will be required to obtain a waiver (through the blanket exemption or waiver process) and purchase through the open market.

Department of Information Services PCC: I

6.1 Types of DIR Contracts

The Department of Information Services (DIR) has various types of contracts which include:

- a. Cooperative Contracts
- b. DBITs Contracts
- c. IT Staff Augmentation Contracts
- d. TXMAS Contracts

6.2 DIR Thresholds

The purchaser must determine the appropriate method to purchase. First determining if the requested hardware, software, or service is available through a DIR contract. The following criteria should be used to determine how to obtain quotes. (<https://dir.texas.gov/it-solutions-and-services/buying-through-dir/procurement-professionals-guide-dir>)

Initial Term Value	# of Vendors
Up to \$50,000	State Agencies may directly award a contract to DIR Cooperative Contracts vendor(s) or reseller(s) in the category to which the contract relates.
Over \$50,000 but not exceeding \$1 Million	State Agencies must submit a request for pricing to at least three (3) DIR vendors or resellers in the category to which the contract relates.
Over \$1 Million but not exceeding \$5 Million	State Agencies must submit a request for pricing to at least six (6) DIR vendors or resellers in the category to which the contract relates.
Over \$5 Million but not exceeding \$10 Million	State Agencies have the option to enter into a contract through the DIR Cooperative Contracts program. If using DIR contracts, state agencies must submit a request for pricing to at least six (6) DIR vendors or resellers in the category to which the contract relates.
Over \$10 Million	May not enter into a contract through the DIR cooperative contracts program to purchase a commodity item

6.3 Services

DIR offers contracts for the following services.

- a. IT Staffing Services
- b. Support Agreements
- c. Maintenance Agreements
- d. Hardware or Software Only Contracts

A statement of work must be established for purchases over \$50,000 and are for the requested:

- a. Cloud Services
- b. Deliverables Based Information Technology Services (DBITS)
- c. Managed Services for Information Technology
- d. IT Security Services
- e. Comprehensive Web Development

6.4 DIR Waiver

The Department of Information Resources (DIR) establishes contracts for the State of Texas for use in obtaining information technology goods and services. Should an information technology item or service not be available from these contracts, the TREC obtains an exemption from DIR to proceed with the procurement using procurement methods approved by CPA.

6.5 Non-Department of Information Services PCC: D

If a piece of equipment, a good or service is not available under a DIR contract, procurement may follow the delegated purchase process. Before proceeding however, the purchaser should review the DIR Exemption process. (<https://dir.texas.gov/it-solutions-and-services/state-agencies/exemptions>)

If it is determined that an exemption is not required, the purchaser should purchase under the delegated purchase process. If a competitive bid is required, a Request for Offer template should be used to issue the solicitation.

6.5.1 Processing tips

TREC Purchasers are encouraged to obtain informal quotes on all purchases over \$50,000.00. Informal quotes may be obtained via email or using a pricing request form. The request should be sent to DIR vendors only.

- a. If the purchase is under \$5,000 and not available through DIR, the purchase can be made to a non-DIR vendor without obtaining an exemption from DIR. The PO file must include ESBD printout, a dated and printed SAM verification, the Debarred Vendor List, and the PCC D checklist. NOTE: If multiple bids are obtained, a bid tabulation must be included in the PO file.
- b. If the purchase is over \$5,000, the purchaser must submit an exemption request to DIR. The order cannot be processed until DIR issues an approved exemption request.

6.6 Contracts Over \$1M

- 6.6.1 The Ethic's Commission's Certificate of Interested Parties (Form 1295) must be obtained from the vendor.
- 6.6.2 Post contracts on LBB website.

7.1 Introduction

The procurement card should be used in accordance to and in compliance with the State of Texas and TREC policy and procedures. The procurement card holder should use the procurement card when a purchase order is not accepted, or an expedited procurement process is required.

7.2 How to Obtain a Procurement Card

A procurement card application must be completed and signed by the employee's division director and submitted to the TREC purchasing manager. Once the application form has been received and approved, the employee requesting the procurement card must complete procurement card training.

The employee must successfully complete the training program before a card will be ordered and issued. The purchasing manager will issue the card to the cardholder in person or via express mail when received.

NOTE: At this time procurement cards will only be issued to Purchasers in Financial Services.

7.3 Procurement Card Agreement

Each person assigned a procurement card must sign an Acknowledgement of Receipt Form before activating the card. The form must be immediately returned to the purchasing manager.

7.4 Requirements

- a. All purchases made using the procurement card must be made by the cardholder only.
- b. The cardholder is responsible for the security of the procurement card and the transactions made with it.
- c. The procurement card must be kept in a safe, locked location at all times.
- d. The cardholder must use the procurement card for official state business only.
- e. The cardholder can use the procurement card with any vendor or service provider that accepts it, is not on the restricted list, and is in good standing with the State of Texas.
- f. The procurement card may be used for in-store purchases, mail, telephone, or fax orders.
- g. The cardholder may use the procurement card to purchase specific approved items and services less than the established single transaction limit.
- h. The total amount spent must not exceed the credit limit assigned to the procurement card in a given month.
- i. The cardholder must reconcile the statement received from the bank to ensure all charges are accurate.
- j. The procurement card is not intended to avoid or bypass appropriate purchasing or payment procedures.
- k. The procurement card is not for personal use.
- l. The procurement card must be returned to the program administrator before transfer or termination.

NOTE: If TREC's guidelines are not followed by the TREC employee when using the procurement card, disciplinary action up to and including termination of employment may occur.

7.5 Credit Limits

All procurement cardholders have a monthly spending limit. Limits may vary for each cardholder and will be established by the State program administrator.

A cardholder maintenance form must be completed to change procurement card limits. The form must be approved by division management and sent to the purchasing manager. The purchasing manager will forward the request to the bank for processing.

7.6 Requisition Submission Requirements

All procurement card transactions must be placed on a purchase order prior to transaction execution. A requisition submitted by a division but not placed on a purchase order is considered an unauthorized purchase unless approved in writing by the purchasing manager.

7.7 Purchase Order Assignments

A purchase order number will be assigned to each procurement card holder. A requisition will be processed by adding the transaction to the purchaser's procurement card purchase order. A new purchase order will be issued each fiscal year and tracked by the procurement card holder using a transaction log.

7.8 Procurement Transaction Verification

A procurement card transaction will be added to the PO with the following line item detail. The quantity and unit of measure should coincide with the purchase. Example: 3 @ \$5.00, extension 15. The credit card transaction will be \$15.00.

VID, Vendor name Description of good or service Receipts attached.
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The procurement card holder will track all purchases on a transaction log for every billing cycle.

Each requisition added to the PO must include the appropriate back-up documentation including but not limited to receipts, PO checklist and vendor check documents. A warrant hold check must be printed and added to the file for all transactions over \$500.

NOTE: The cardholder must obtain a receipt or confirmation for every transaction. The transaction log must be maintained, reconciled and submitted to accounts payables at the end of each billing cycle and with the procurement card monthly statement.

7.8.1 Transaction Log format

Format: Excel – Column, File name: FY_CC_buyer(lastnamefirst initial)_FY

example: 2020_CC_durdenn

PO Line Item	Transaction Date	Vendor	Description of items purchased	Checklist Attached	Transaction Amount

The transaction logs will be saved on the common drive: Purchasing/ProcCard.

7.8.2 Procurement Card Statement Reconciliation

The procurement card holder must:

- a. reconcile log with the statement
- b. confirm and/or update the transaction log
- c. attached all receipts to the PO online folder for each line item
- d. send email confirming statement and transaction log is correct

7.9 Sales and Use Tax

The cardholder must ensure that sales and use tax are not included on the order.

7.10 Capital or Controlled Assets

The procurement card **should not be used to purchase capital or controlled items** unless approved in writing by the Director of Finance. If approved, the correct expenditure object code established for the type of assets being purchased must be used. The Texas Identification Number/Payee Identification Number/Vendor Identification (TIN/PIN/VID) of the selling vendor must be entered into USAS, rather than the TIN/PIN/VID of the state credit card issuer.

7.11 Cardholder Security

The cardholder is responsible for the security of the card. The procurement card should be treated with the same level of care as the cardholder would use with his/her own personal charge cards, even though the liability associated with the use of this card lies with the agency. The cardholder must guard the procurement card account number carefully, keeping it confidential at all times. It should not be posted in a work area or left in a conspicuous place. It should be kept in an accessible but secure location.

*The only person authorized to use the procurement card is the cardholder whose name appears on the card. The card is to be used for business purposes only.

7.12 Prohibited Purchases

The card holder may use the card for items specifically identified on the PO. If the item or service is not specifically listed, the procurement card should not be used.

In addition, Per **Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter E, Section 5.57(g)**, a TREC cardholder may not use the card and may not reimburse an officer or

employee for the use of a payment card for:

- A purchase of a personal nature or any other purchase not connected with official state business
- A cash advance
- A purchase of a consulting service
- A purchase of a good or a service that may not be purchased without the prior approval of another state agency
- A purchase that the office of the Texas Comptroller of Public Accounts audits before payment
- A purchase from a vendor if a payment to the vendor is prohibited by:
 - Government Code §403.055 or §2107.008
 - Education Code §57.48, or §57.482
 - Family Code §231.007
- A purchase that violates any provision of the General Appropriations Act regarding the occurrence of excess obligation provisions
- The purchase of automotive fuel

7.13 Liability Requirements

TREC may be liable for late payment fees and transactions charged to lost and stolen cards if lost or stolen cards are not reported immediately. The agency will have no liability for transactions that occur after notification of a card being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, Customer's liability is limited to a maximum of \$50 per card (up to \$100,000).

If a procurement card is lost or stolen, it is imperative that Citibank be notified immediately by calling 1-800-248-4553. Inform the bank that the card in question is a Texas Real Estate Commission procurement card. Next, notify the Procurement Card Administrator immediately.

The bank will deactivate the old card and send a new one to the program administrator. The cardholder will be notified by email when the new procurement card arrives. TREC will have no liability for transactions that occur after notification of a card being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, TREC's liability is limited to a maximum of \$50 per card (up to \$100,000).

7.14 How to Handle Returns, Credits, and Disputed Charges

In the case of a return, credit or dispute of a purchased item, service or other charge, every attempt should be made to first resolve the issue directly with the supplier. Next, ensure that the account is properly credited for the return, credit, or disputed charge in question. The returned, credited, or disputed item should be noted on the Cardholder's Procurement Card Transaction Log.

By rule of the State Comptroller, cardholders are not allowed to receive a cash refund for returned merchandise. All credits or refunds must be applied to the same cardholder account that was used for the original purchase.

- a. **Returns:** If a cardholder needs to return an item to a supplier, contact the supplier and obtain instructions for return. Note that some suppliers may charge a restocking or handling fee for returns. All returns should be indicated in the cardholder's transaction log.

- b. **Credits:** If an item is accepted as a return by the supplier, a credit for this item should appear on a future month's statement. All credits should be indicated in the cardholder's transaction log.
- c. **Disputed Charges:** A cardholder may dispute a charge that appears to be incorrect or is not recognized as part of the authorized purchase. The cardholder should first make a good-faith effort to settle a claim or dispute for purchases directly with the vendor. If an agreement cannot be reached with the vendor, contact Citibank at 800-248-4553 and complete and submit a Citibank Cardholder Dispute Form to Citibank within 60 days of the statement date on which the disputed transaction was posted. All disputed items should be indicated in the cardholder's transaction log. Disputes must be sent to Citibank within 60 days of the billing close date. The closing date for the previous billing cycle is on the 3rd of the next month. The Non-Travel Related Dispute form may be requested by the Citibank Chargeback Specialist and should only be completed upon their request.

7.15 Reporting of Fraudulent Use of a Procurement Card

- Financial Services, Director of Finance at 512-936-0102

7.16 Employee Separation or Termination

The procurement card must be returned to the program administrator upon the transfer, separation, or termination of employment. The program administrator should deactivate the card immediately upon notification of termination or separation.

The Texas Real Estate Commission (TREC) has established contract management procedures in compliance with the State of Texas Contract Management Guide (CMG), the State of Texas Procurement Manual and the Department of Information Resources (DIR) rules.

8.1 Conflict of Interest

- A. By statute, any person involved in the development or approval of a contract that has an actual or potential conflict of interest must disclose it and must be removed from involvement in the contract process.
- B. All purchasing staff and other staff involved in contract approval must sign a conflict-of-interest statement certification.
- C. Each signatory in the workflow approval of a contract, by approving the contract, certifies that he or she:
 1. Has no interest in, or connection with, the contract;
 2. Has not accepted or received, and will not accept or receive, from a person or entity to whom the contract has been awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation; and
 3. Has disclosed any possible conflicts of interest to the Executive Director?
- D. TREC staff that has knowledge of any conflict of interest by any staff involved in the procurement process that has previously not been disclosed must report it to the General Counsel and the Executive Director.
- E. TREC may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:
 1. A member of the agency's governing body.
 2. The governing official, Executive Director, General Counsel, Chief Procurement Officer, or Procurement Director of the agency; or
 3. Family member related to an employee or official within the second degree by affinity or consanguinity.
 4. A state agency employee or official has a financial interest in a vendor if the employee or official:
 - owns or controls, directly or indirectly, an ownership interest of at least one percent in the vendor, including the right to share in profits, proceeds, or capital gains; or awarding a contract to the vendor could result in a financial benefit to the employee or official.
 - A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

8.2 Steps in the Contract Process

A. Identify Need

The Purchaser will serve as the contract manager and consult with the requesting users to identify a clear understanding of the need. This may involve requesting additional details from the end users, asking for clarification, calling vendors or service providers (vendor), consulting with CPA Statewide Procurement Division (SPD) or Department of Information Resources (DIR), performing research or finding other state approved sources. Obtain a quote or verify a quote received from requesting department.

B. Submission of Purchase Requisition

The requesting department must submit an approved Purchase Requisition in accordance with the memorandum from Chelsea Buchholtz dated 3/27/2020, “Delegation of Authority to Approve Purchases”.

C. Plan the Procurement

Planning the procurement is the first and most important step in Contract Management. The more planning, the less risk and better the solicitation will be to result in a solid contract that can be monitored and managed efficiently. The requesting department will consult with purchasing and legal as necessary, identifying needs and planning accordingly. The senior team members, General Counsel and Executive Director will be involved as deemed appropriate in the initial planning stages of a contract. This will avoid issues later in the process.

D. Perform risk assessment

Once the required services are decided, the Purchaser consults with the requesting department and team members to determine the risk level for the agency and how to minimize risks through contract requirements. Based on the risk level, develop a detailed statement of work with written performance measures that minimizes risk. Contracts requiring enhanced monitoring will be identified during the risk assessment. Risk factors to be considered include, but are not limited to:

1. Type of purchase (competitive/non-competitive)
2. Payment type/structure
3. Dollar amount of the contract
4. Scope of goods/services being procured
5. Vendor Background and Experience

E. Identify Procurement Method

Determine proper procurement method in compliance with the State of Texas Procurement and Contract Management Guide. Prepare competitive solicitation process when required following procedures set forth in the State of Texas Procurement and Contract Management Guide and DIR’s Statement of Work procedures.

F. Prepare a Statement of Work

A Statement of Work (SOW) is used in solicitations to minimize risk by describing in detail what parties are required to do. Including clearly defined performance measure and deliverables in the contract will minimize risk to the agency. The requesting department will assist in developing a detailed statement of work, deliverables, and performance measures.

G. Evaluation

The Purchaser receives the responses and distributes them to the evaluation team members with an evaluation scoring matrix and a non-disclosure form. The Purchaser ensures that all Evaluation Team Members understand their responsibilities (refer to CMG).

The Evaluation Team meets to review responses. The team may decide to invite vendors to conduct a presentation and discuss their responses in further detail.

H. Negotiate/Best & Final Offer

Negotiate with the vendors to find the best value based on best value standards; Best and Final Offers may be requested from responsive vendors.

An agreement is reached with the other party on the terms of the contract. Certain standard legal terms are non-negotiable.

Purchasing tabulates total scores from the evaluation score sheets completed by each of the Evaluation Team Members.

In some situations, a second evaluation scoring matrix may be required. Purchasing prepares a final Scoring Tabulation and recommends selection of the best vendor in accordance with state purchasing rules.

Best Value Standards

In determining the best value, the purchase price and whether the goods or services meet specifications are generally the most important considerations. When best value is a consideration other factors should be considered such as:

- a. Installation costs;
- b. Life cycle costs;
- c. Quality and reliability of goods and services;
- d. Delivery terms;
- e. Past vendor performance;
- f. Vendor's financial resources and ability to perform;
- g. Vendor's experience, capability or responsibility;
- h. Cost of training associated with a purchase; and
- i. Other factors relevant to determining the best value in the context of a particular purchase.

The best value standard used to determine the award of a contract will be documented on the purchase order or supporting documentation.

The purchaser will acknowledge in writing that the procurement is in compliance with the State of Texas Procurement and Contract Management Guide.

I. Award

- Select the best vendor in accordance with state purchasing rules.
- Present recommendation of award to Commission if approval is required.
- Notify vendor of award.
- Issue purchase order and/or contract to the awarded vendor.

J. Issuing a Contract

For larger, complex purchases, in addition to a purchase order, it may be appropriate that a contract be written and signed by both parties. The contract is generally drafted by the General Counsel and reviewed by the Purchaser, the Executive Director and other appropriate team members as required for the procurement.

For contracts over \$14,000, a contract routing sheet is completed by the Purchaser and requires approval signatures from the Purchaser, Division Director, Chief Financial Officer, Information Resource Manager, General Counsel, Executive Director and others as required. This ensures all parties have reviewed and approved the contract. Attach all documents related to the purchase request including proposals, quotes, evaluation tabulation sheet, contract documents or agreements needing signature.

All contracts other than a purchase order are reviewed by the General Counsel and signed by the Executive Director binding the agency.

Contracts over \$1M must be signed by the Chair of the Texas Real Estate Commission or Texas Appraiser Licensing & Certification Board.

Two original contracts are sent to the vendor for review and signature. One original is retained by the vendor, and one is retained by the agency in the Purchasing office. Electronic copies of the signed contracts are stored in the SS and DD common drives.

K. Contract Management

Generally, the Purchaser serves as the Contract Manager and is the designated agency staff that has primary responsibilities for the day-to-day management of contracts, including but not limited to:

- a) Monitoring vendor performance and fiscal, financial and record keeping requirements;
- b) Reporting vendor performance in the Comptroller's Vendor Performance Tracking System;
- c) Taking timely and appropriate action to resolve performance and compliance issues;
- d) Receiving, reviewing and approving deliverables;
- e) Documenting receipt of contract deliverables and communicating acceptance of these deliverables to the appropriate section;
- f) Processing contract modifications, addendums, Purchase Order Change Notices, etc.
- g) Settling contract disputes;
- h) Recommending renewal or non-renewal of the contract;
- i) Handling contract termination and closeout;

- j) Providing complete and accurate contract correspondence and documentation, and;
- k) Attending contract management continuing education to maintain certification as a Certified Texas Contract Manager (CTCM).

For specialized contracts, after a contract has been awarded, the requesting department will:

- a) Apply specialized knowledge, skills, and techniques to support program activities;
- b) Administer and manage daily operations of required services established in contract;
- c) Manage and monitor performance as required in the contract. This may require involvement of the Purchaser should a dispute arise;
- d) Ensure vendor meets required performance objectives defined in the contract;
- e) Oversee delivery and receipt of services;
- f) Certify services were performed and deliverables met; and
- g) Approve invoice for payment, if applicable.

L. Vendor Performance:

After a contract has been completed or terminated, information about that vendor's performance shall be entered into the Comptroller's Vendor Performance Tracking System (VPTS); and as a part of the closeout process for all purchases over \$25,000, vendor performance information both positive and negative shall be entered into the VPTS.

M. Records Retention of Contracts:

The following is the required retention policy for all purchase order and contract related documentation:

For contracts and purchase orders entered into after 9/1/2015, a state agency shall retain in its records each contract and related documents it enters into for a period of seven (7) years after contract expires, is terminated, or is completed, and after all issues have been resolved. Along with the contract, all solicitation documents shall also be retained.

For contracts and purchase orders entered into prior to 9/1/2015, the records retention period is four (4) years.

Authority:

Texas Government Code, Title 10, Subtitle F, Chapter 2262 – Statewide Contract Management

PROPOSED RULE ACTION FROM THE NOVEMBER 10, 2020, MEETING OF THE
COMMISSION

CHAPTER 534 GENERAL ADMINISTRATION

(NEW) §534.7. Vendor Protest Procedures

(a) The purpose of this section is to provide a procedure for vendors to protest purchases made by the Texas Real Estate Commission (“Commission”) and the Texas Appraisal and Licensing Board (collectively “the agency”). Protests of purchases made by the Texas Facilities Commission (“TFC”) on behalf of the agency are addressed in 1 Texas Administrative Code Chapter 111, Subchapter C (relating to Complaints and Dispute Resolution). Protests of purchases made by the Department of Information Resources (DIR) on behalf of the agency are addressed in 1 Texas Administrative Code Chapter 201, §201.1 (relating to Procedures for Vendor Protests and the Negotiation and Mediation of Certain Contract Disputes and Bid Submission, Opening and Tabulation Procedures). Protests of purchases made by the Statewide Procurement Division of the Comptroller of Public Accounts (“CPA”) on behalf of the agency are addressed in 34 Texas Administrative Code Chapter 20, Subchapter F, Division 3 (relating to Protests and Appeals). The rules of TFC, DIR, and the CPA are in the Texas Administrative Code, which is on the Internet website of the Office of the Secretary of State, Texas Register Division at: www.sos.state.tx.us/tac/index.shtml.

(b) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the agency. Such protests must be in writing and received in the office of the Director of Finance within ten working days after such aggrieved person knows, or should have known, of the occurrence of the action which is protested. Formal protests must conform to the requirements set forth in subsection (c) of this section. Copies of the protest must be mailed or delivered by the protesting party to all vendors who have submitted bids or proposals for the contract involved.

(c) A formal protest must be sworn and contain:

(1) a specific identification of the statutory provision(s) that the action complained of is alleged to have violated;

(2) a specific description of each act alleged to have violated the statutory provision(s) identified in paragraph (1) of this subsection;

(3) a precise statement of the relevant facts;

(4) an identification of the issue or issues to be resolved;

(5) argument and authorities in support of the protest; and

(6) a statement that copies of the protest have been mailed or delivered to other identifiable interested parties.

(d) The Director of Finance shall have the authority, prior to appeal to the Executive Director or his or her designee, to settle and resolve the dispute concerning the solicitation or award of a contract. The Director of Finance may solicit written responses to the protest from other interested parties.

(e) If the protest is not resolved by mutual agreement, the Director of Finance will issue a written determination on the protest.

(1) If the Director of Finance determines that no violation of rules or statutes has occurred, he or she shall so inform the protesting party and interested parties by letter which sets forth the reasons for the determination.

(2) If the Director of Finance determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action.

(3) If the Director of Finance determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action. Such remedial action may include, but is not limited to, declaring the purchase void; reversing the award; and re-advertising the purchase using revised specifications.

(f) The Director of Finance's determination on a protest may be appealed by an interested party to the Executive Director or his or her designee. An appeal of the Director of Finance's determination must be in writing and must be received in the office of the Executive Director or his or her designee no later than ten working days after the date of the Director of Finance's determination. The appeal shall be limited to review of the Director of Finance's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties

and must contain an affidavit that such copies have been provided.

(g) The General Counsel shall review the protest, Director of Finance's determination, and the appeal and prepare a written opinion with recommendation to the executive director or his designee. The executive director or his or her designee may, in his or her discretion, refer the matter to TREC at a regularly scheduled open meeting or issue a final written determination.

(h) When a protest has been appealed to the Executive Director or his or her designee under subsection (f) of this section and has been referred to the relevant Commission or Board of TREC by the Executive Director or his or her designee under subsection (g) of this section, the following requirements shall apply:

(1) Copies of the appeal, responses of interested parties, if any, and General Counsel recommendation shall be mailed to the TREC members and interested parties. Copies of the general counsel's recommendation and responses of interested parties shall be mailed to the appealing party.

(2) All interested parties who wish to make an oral presentation at TREC's open meeting are requested to notify the office General Counsel at least two working days in advance of the open meeting.

(3) TREC may consider oral presentations and written documents presented by staff, the appealing party, and

interested parties. The chairman shall set the order and amount of time allowed for presentations.

(4) TREC's determination of the appeal shall be by duly adopted resolution reflected in the minutes of the open meeting and shall be final.

(i) Unless good cause for delay is shown or the Executive Director or his or her designee determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

(j) In the event of a timely protest or appeal under this section, a protestor or appellant may request in writing that the agency not proceed further with the solicitation or with the award of the contract. In support of the request, the protestor or appellant is required to show why a stay is necessary and that harm to the agency will not result from the stay. If the Executive Director determines that it is in the interest of agency not to proceed with the contract, the Executive Director may make such a determination in writing and partially or fully suspend contract activity.

(k) A decision issued either by TREC in open meeting, or in writing by the Executive Director or his or her designee, shall constitute the final administrative action of the agency.

Attachment B

Delegated Signature Authority
for Proprietary Justification



Protecting Texans' Dreams

TREC Commissioners

R. Scott Kesner
Chair

Bob Leonard
Vice Chair

TJ Turner
Secretary

Jason Hartgraves

Jan Fite Miller

Barbara Russell

Rayito Stephens

DeLora Wilkinson

Micheal Williams

Douglas E. Oldmixon
Executive Director

TO: Director of Staff & Support Services, and Agency Purchasers

FROM: Chelsea Buchholtz, Executive Director/Commissioner

RE: Delegation of Authority to Approve Purchases

DATE: April 7, 2020

This is to confirm that authority is hereby delegated to the following deputies and division directors to approve purchases up to the indicated amounts. This remains in effect until amended or revoked, provided the position description can be reasonably determined to be equivalent to the position named below. The Director of Staff & Support Services/Chief Financial Officer (CFO), or Accounting Manager in the absence of the CFO, will continue to certify the availability of funds for each requisition.

Deputy Executive Director/Deputy Commissioner = unlimited when acting for the absent Executive Director/Commissioner; otherwise \$5,000

Division Director, or Acting Director if currently unfilled = \$2,500

In addition, the CFO or Accounting Manager has the authority to replenish the following accounts:

Postage = not to exceed \$5,000 per order

Routinely stocked supplies = not to exceed \$2,500 per order

Proprietary, emergency purchases and memberships require written approval by the Executive Director/Commissioner, or Deputy Executive Director/Deputy Commissioner in absence of the Executive Director/Commissioner.

cc: Tony Slagle, Vanessa E. Burgess, Steve Rapp, Troy Beaulieu, Mark Moore, Jennifer Wheeler, Denise Sample, Robert Hood, Priscilla Pipho, Melissa Huerta, Sandy Jones, Mary Beth Hanna, Ron Hunter



TALCB Board Members

Sara Oates
Chair

Martha Gayle Reid Lynch
Vice Chair

Chance Bolton
Secretary

Clayton P. Black

James J. Jeffries

Tony F. Peña

Earl "Buster" Renfrow

Stephanie Robinson

Lisa Sprinkle

Douglas E. Oldmixon
Commissioner