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# CONTRACT MANAGEMENT HANDBOOK

TEXAS EDUCATION AGENCY – CONTRACTS AND PURCHASING DIVISION

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Austin, Texas 78701

## Contract Management Handbook

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## 1. Introduction

The Texas Education Agency (TEA), led by the Commissioner of Education, oversees primary and secondary public education in Texas. The mission of TEA is to improve outcomes for all public school students in Texas by providing leadership, guidance, and support to school systems.

TEA's Contracts and Purchasing Division (CPD) is responsible for the procurement of goods and services that support the educational, research, and business initiatives of TEA. CPD is the central purchasing and contracting authority of TEA and is the central repository for all contracts created and monitored by the agency, as well as all contracts and agreements to which TEA is a signatory. TEA has delegated purchasing authority from the Texas Comptroller of Public Accounts (CPA) for one-time purchases of goods of \$50,000 or less and for services valued at \$100,000 or less. Purchases above the stated thresholds are subject to review by the CPA Statewide Procurement Division (SPD).

As procurement professionals and stewards of public funding, all CPD staff are held to high ethical standards. Not only are CPD staff responsible for complying with the minimum standards (outlined in laws, policies, professional codes of conduct, etc.), they are expected to conduct themselves in a manner that avoids even the appearance of inappropriate behavior. Staff must ensure they neither gain personally from, nor unduly favor anyone in the execution of their official duties. The policies outlined in this handbook are designed to uphold the integrity of the procurement process, drive accountability, and limit the risk of fraud, waste, and abuse.

## 2. Legal Authority and Purpose

Pursuant to [Texas Government Code 2261.256](#), this TEA Contract Management Handbook (Handbook) establishes contracting policies and practices to be followed by TEA staff consistent with the [Comptroller's State of Texas Procurement and Contract Management Guide](#) v2.0 (TPCMG).

The Handbook is not intended to restate rules and processes found in the TPCMG or agency policies, procedures, or manuals. If a statute, rule, or the TPCMG conflicts with any portion of this handbook, the statute, rule, or TPCMG, as applicable, prevails to the extent of the direct conflict. TEA Operating Procedures,<sup>i</sup> updated on a semi-annual basis and maintained on [TEA's internal iTEA pages](#), are incorporated herein by reference. The Handbook is designed to provide an overview of the most common situations encountered by CPD staff. It is not intended to be an exhaustive list of every process or policy applicable to the work CPD staff handle. CPD supervisors have broad discretion to implement best practices and processes in compliance with this Handbook and the sources of authority named above.

This Handbook is intended for TEA internal use only and does not create any rights or responsibilities for contractors or vendors,<sup>ii</sup> nor does it alter any TEA contract. The CPD director reserves the right to amend or change the Handbook at any time.

TEA staff who fail to comply with this Handbook or the applicable Operating Procedures may be subject to disciplinary action pursuant to [OP 07-08, Employee Disciplinary Actions and Complaint Procedures](#), and to any applicable civil or criminal penalty, if the employee's noncompliance constitutes a violation of statute or rule.

## 3. Priorities, Process, and Training

### 3.1. Priorities

CPD's efforts are aligned around four key priorities:

- **Compliance:** Ensuring TEA is compliant with legal and ethical standards outlined in the Texas Government Code, Texas Administrative Code, Texas Education Code, the Comptroller's State of Texas Procurement and Contract Management Guide, and any other relevant source of law.
- **Service Delivery:** Providing high-quality, professional, and prompt service delivery to TEA staff and external stakeholders.
- **Communication:** Effectively communicating the policies, procedures, and timelines, as well as required updates, related to the contract process and specific projects to TEA staff.
- **Education:** Providing effective education and training for TEA staff involved in contracting and procurement activities.

### 3.2. Procurement Process

The procurement process identifies the steps performed by public procurement professionals for every procurement. These steps are divided into the following phases:

**Planning (S1):** During planning, CPD staff work with program staff<sup>iii</sup> to identify a need, assess risks, identify sources of funding, establish procurement objectives, define project requirements, and identify the appropriate procurement method.

**Solicitation and Evaluation (S2):** CPD staff work with program staff to develop solicitations, obtain statutory reviews as required, handle intake of solicitation responses, support staff through the evaluation process, and enable them to fairly and objectively score and select the vendor that provides best value to the TEA.

**Contract Formation (S3):** CPD and program staff negotiate the terms of contracts and amendments, ensure contracts comply with applicable procurement laws, and verify contracts contain provisions that achieve the procurement objectives. The Contract Formation team handles execution of the contract and post-execution matters such as contract related purchase orders.

**Contract Monitoring (S4):** CPD and program staff administer, monitor, and enforce the terms of the contract, as well as determine acceptance of deliverables or confirm services completed before approving payment of invoices. Program staff are primarily responsible for reviewing and approving invoices, while the Contract Monitoring team audits invoices and provides support. The Contract Monitoring team also reviews initial change management requests prior to recommending approval of budget revisions and contract amendments.

**Contract Close-Out (S5):** CPD and program staff ensure contracted goods and services transition smoothly to full TEA control, follow appropriate processes to end access to confidential data or data systems, collect TEA property and records or ensure proper disposal of property or records, close-out contract funds, and evaluate and report on vendor performance.

This Handbook is organized to provide best practices and memorialize TEA policies for activities associated with each step of the procurement process.

### 3.3. Team Structure and Service Delivery Model

CPD is comprised of a director, assistant director, executive assistant, team leads who each oversee a phase of the procurement and purchasing process, and their direct reports. CPD’s structure provides appropriate channels for escalation and enables separation of duties, thereby minimizing the risk of fraud, waste, and abuse.

CPD has established email addresses aligned to each phase of the procurement process, monitored by the team lead and members of the corresponding team:

- Planning (S1): [TEAContractPlanning@tea.texas.gov](mailto:TEAContractPlanning@tea.texas.gov)
- Procurement (S2): [TEASolicitations@tea.texas.gov](mailto:TEASolicitations@tea.texas.gov)
- Contract Formation (S3): [TEAContracts@tea.texas.gov](mailto:TEAContracts@tea.texas.gov)
- Contract Monitoring (S4): [TEAContractMonitoring@tea.texas.gov](mailto:TEAContractMonitoring@tea.texas.gov)
- Contract Close-Out (S5): [TEAContractCloseout@tea.texas.gov](mailto:TEAContractCloseout@tea.texas.gov)
- Purchasing: [Purchasing@tea.texas.gov](mailto:Purchasing@tea.texas.gov)
- Requisitions: [Requisitions@tea.texas.gov](mailto:Requisitions@tea.texas.gov)
- Historically Underutilized Business (HUB) Office: [HUBOffice@tea.texas.gov](mailto:HUBOffice@tea.texas.gov)

### 3.4. Training Requirements<sup>iv</sup>

Depending on an employee’s role within TEA and involvement in the procurement process, a variety of TEA and state-wide training and certification requirements may apply. The guidelines below outline the most common scenarios and associated training requirements. If a staff member is unsure of their training requirements, they are encouraged to fill out the [CTCM Tracking](#) form or contact the TEA Contract Monitoring team: [TEAContractMonitoring@tea.texas.gov](mailto:TEAContractMonitoring@tea.texas.gov) for assistance.

#### CPD Staff Training Requirements

- **Ethics and Fraud Training.** CPD staff are required to attend all TEA required courses, including Ethics and Fraud training.
- **CPD Contract Process Training.** CPD staff are required to attend CPD-led training once every three years. This course is listed as “CPD Contract Process Training” on the [HR Professional Development Calendar](#).
- **Texas Comptroller of Public Accounts (CPA)-led Training.** CPD staff are required to obtain and maintain statutorily mandated procurement and contract management certifications as developed by SPD. Depending on their role, staff may be required to obtain the [Certified Texas Contract Developer \(CTCD\) certification](#) (previously the Certified Texas Procurement Manager Certification (CTPM)), and/or the [Certified Texas Contract Manager \(CTCM\) certification](#). **Note:** Under 34 TAC § 20.133(c)(5), a licensed attorney employed by a state agency performing procurement or contract management functions described by the section is exempt from the certification requirements.

#### TEA (non-CPD) Staff Training Requirements

- **Ethics and Fraud Training.** TEA staff involved in the procurement process are required to attend all TEA required courses, including Ethics and Fraud training.
- **CPD Contract Process Training.** TEA staff involved in the procurement process are required to attend CPD-led training once every three years. This course is listed as “CPD Contract Process Training” on the

[HR Professional Development Calendar](#). The purpose of CPD-led training is to support TEA staff’s effective participation in the procurement process by providing an overview of the legal, ethical, and policy landscape as well as the five phases of the contract process detailed in this Handbook.

- **Optional Additional Training.** CPD offers “deep-dive” trainings focusing on specific phases of the procurement process which are highly recommended, but not required. Supervisors may require their employees to attend at their own discretion. CPD may also require staff to attend deep-dive training as a corrective action measure as necessary.
- **CPA-led Training.** TEA staff are required to obtain a CTCM certification and meet continuing education requirements if they meet one of the following criteria:
  - the employee has the job title of “contract manager” or “contract administration manager” or “contract technician”;
  - the employee performs contract management activities as fifty percent (50%) or more of their job activities; or
  - the employee manages any contract in excess of \$5,000,000.
- **Additional Training.** State agencies, including SPD and the State Auditor’s Office, may require TEA staff to attend additional training at various times during the year. In such cases, CPD will notify TEA staff impacted by new requirement(s). TEA staff are responsible for meeting additional training requirements in a timely manner and notifying TEA Contract Monitoring, [TEAContractMonitoring@tea.texas.gov](mailto:TEAContractMonitoring@tea.texas.gov) of their training completion.

**An employee whose job duties include contract-related responsibilities who is not up to date on required contract trainings prior to performing any contract-related duties will receive a rating of “1 - Unacceptable” in the Decision Making and Judgement Competency during the agency’s annual Performance Management Cycle (as with other TEA Mandatory Trainings per OP 07-22).**

TEA staff must complete the requisite training as identified by CPD before a project can advance and must attend the entire training to receive credit for the course. TEA staff are primarily responsible for knowing which training requirements apply to them and obtaining state-mandated certifications as necessary. CPD will help identify TEA staff and positions with contract responsibilities and will confirm that staff have completed the required training before they engage in the procurement process.

## 4. Planning (S1)

The purpose of the Planning phase (also known as S1) is to define the business need, establish procurement objectives, and determine the appropriate procurement method. Agency staff requesting the procurement have primary responsibility for planning activities. CPD will provide documentation, support, and assistance through the process.

The Planning team is also responsible for developing the annual Procurement Calendar and related communications to agency staff. In the spring of each year, the Planning team will collect basic information about new procurement projects that the agency will need in the next fiscal year. The Planning team will use this information to develop an agency-wide CPD Procurement Calendar to show planned activity over the next 12 months. The Planning team will work with the commissioner and cabinet to prioritize projects on the calendar based on the requested timeline and urgency of the project. Finally, the Planning team will publish the calendar once it has been finalized before the start of the next fiscal year. As stated in the TPCMG, solicitations calendars are tentative and nonbinding and remain subject to change at the agency’s discretion.

### 4.1. Planning Process Components

#### Agency Staff Responsibilities

- Identify the business need and conduct fact-gathering and market research, including:
  - Historical Spend Analysis
  - Benchmarking
  - Request for Information (RFI)
  - Cost Estimate
- Submit projects for Procurement Calendar placement in spring for the approaching fiscal year.
- Secure project funding.
- Develop requirements (scope of work).
- Complete the “Planning Package” which may include some or all the following documents, depending on the type of procurement:
  - Cost and Price Analysis
  - Funding Memo or Financial Approval Form (FAF)
  - Information Technology (IT) review or assessment forms<sup>vi</sup>
  - Needs Assessment
  - Non-Disclosure Forms
  - Project Requirements
  - Approved TCAPPS Requisition
  - Risk Assessment
- Submit Planning Package to [TEAContractPlanning@tea.texas.gov](mailto:TEAContractPlanning@tea.texas.gov).
  - Revise and resubmit to CPD, if necessary.

#### CPD Planning Staff Responsibilities

- Maintain process for developing and publishing annual Procurement Calendar, including announcing relevant deadlines and instructions to agency staff each year.



- Receive and review Procurement Calendar submissions and Planning Package documents from agency staff.
- Determine the appropriate procurement method.
- Seek clarification and provide technical assistance as needed to resolve issues until the Planning Package is complete.
- Confirm relevant staff members involved in the procurement have completed mandatory training.
- Advance the package to the Solicitation and Evaluation team (S2) or the Contract Formation Team, (S3), as appropriate, and invoke the Limited Contact Policy.
- Provide agency-wide training on best practices and agency standards for procurement planning.

#### Examples of Documents Maintained by the Planning Team<sup>vii</sup>

- Planning Package checklists
- Planning Package documents
- Procurement Calendar (including annual submission forms and Procurement Calendar Dashboard)

## 4.2. Limited Contact Policy

Once the Planning Process is complete and the solicitation-drafting process has begun, the **Limited Contact Policy** is in effect.

During this time, vendor communication must be led by CPD staff only to ensure the integrity of the ongoing procurement. Agency staff may be included on emails and in meetings with vendors (for example, during oral presentations); however, they may not initiate such communications nor respond directly to vendors once the policy has been invoked. If staff receive direct communication from a vendor, they are advised to forward the communication to CPD to handle.

Communication with incumbent vendors regarding work on an existing contract is allowed and must remain within scope of the existing contractual relationship. Discussions with vendors (incumbent, prospective, or otherwise) regarding open procurements is not permitted. When in doubt, staff are advised to reach out to a member of CPD or forward communications to their CPD contact and allow CPD to respond accordingly.

## 4.3. Special Topics in Planning

### Consulting Contracts

The Planning team is responsible for initially identifying contracts for consulting services, which are defined by statute as “the service of studying or advising a state agency.”<sup>viii</sup> If a contract includes both consulting and other services, the contract is considered a consulting contract under the code if the **primary objective of the contract is the acquisition of consulting services.**<sup>ix</sup> The term “consulting services” **does not include a routine service that is necessary to the functioning of a state agency's programs.**<sup>x</sup> When reviewing the project requirements document, the Planning team will make an initial determination as to whether or not a service is likely a “consulting service.” If identified as “consulting,” the Planning team will then seek confirmation from the CPD director or assistant director who may confer with the Legal department to make a final determination. The Planning team will maintain written confirmation from the director of the final determination in the procurement file.

If a consulting contract exceeds \$15,000, it is considered a “Major Consulting Contract” and requires additional review and approval as well as additional pre- and post-contract execution steps.<sup>xi</sup>

## Risk Assessment<sup>xii</sup>

The Risk Assessment form was redesigned in 2021 in light of feedback received from the State Auditor’s Office. CPD now uses two risk assessment forms: one in the Planning phase to assess the overall anticipated risk of the procurement and completed as part of the planning package, and a second form that is completed after each contract is signed with the support of the Contract Monitoring team. The Procurement Planning Risk Assessment Form is used to identify areas of a project where there is a possibility that an event will occur and adversely affect the achievement of objectives. It brings to the forefront any concerns that may impact the project and allows them to be addressed early in the procurement process.

Another risk assessment form is completed at the Contract Monitoring phase of the process to capture any changes that may have occurred since the Planning phase. The Contract Monitoring Risk Assessment Form is used to evaluate and assign a risk level to that specific contract and enables the Contract Monitoring team to inform agency staff how to monitor the contract.

### For more information:

- Email Contact: [TEAContractPlanning@tea.texas.gov](mailto:TEAContractPlanning@tea.texas.gov)
- iTEA Page: [Phase 1: Planning - Home \(sharepoint.com\)](#)

## 5. Solicitation and Evaluation (S2)

Under the Texas Government Code, a purchase of or contract for goods or services shall, whenever possible, be accomplished through competitive bidding.<sup>xiii</sup> The purpose of the Solicitation and Evaluation phase, also known as S2, is to lead the competitive bidding process from solicitation development to selecting the vendor whose response provides the best value to the state. The key activities performed at this stage of the procurement process include solicitation drafting, statutory reviews and postings, vendor response intake and review, evaluation and scoring of vendor responses, and documenting the recommendation of the evaluation committee.

### 5.1. Procurement Process Components

#### Agency Staff Responsibilities

- Prioritize and collaborate closely with CPD throughout all procurement activities.
- Serve as the subject matter expert (SME) for project/program related information and details, especially during solicitation development, response to statutory reviewers, and to vendor questions.
- Complete required forms and disclosures including Conflict of Interest (COI) forms and report any potential COI to CPD immediately.
- Review and score vendor responses.
- Finalize and route the evaluation committee recommendation and, when appropriate, the State Auditor’s Office (SAO) Nepotism form, through the appropriate TEA leadership chain.

#### CPD Procurement Staff Responsibilities

- Facilitate procurement phase activities, including, but not limited to:
  - Reviewing the Planning Package to develop the first draft of the solicitation.
  - Disseminating the first draft to identified agency staff involved in the procurement to review and prepare for discussion during the Solicitation Kickoff meeting.
  - Host the Solicitation Kickoff meeting for identified agency staff involved in the procurement.
  - Coordinate involvement, reviews, and approval from other agency stakeholders as needed including legal, IT, etc.
  - Facilitate the subcontracting probability, subcontracting opportunity, and Historically Underutilized Business (HUB) subcontracting plan review processes with the TEA HUB Office.
  - Obtain necessary external delegations and approvals, as required, from SPD or the Department of Information Resources (DIR).
- Post solicitation documents on the Electronic State Business Daily (ESBD) or publish, by email, to vendors with active DIR contracts, as applicable.<sup>xiv</sup>
- Facilitate the communication process, including the question-and-answer period by fielding written questions from vendors and posting or publishing responses.
- Receive vendor responses and complete response receipt and check-in activities, including administrative reviews and clarifications as appropriate.
- Route HUB subcontracting plans to the HUB Office, when appropriate.
- Facilitate the conflict of interest review process and verify completion of a conflict of interest form from all scoring members and non-scoring technical advisors on the evaluation team.
- Host the Evaluation Kickoff meeting with all scoring members and non-scoring technical advisors of the evaluation team, including reiteration about and emphasis on confidentiality, impartiality, and scoring independently against the requirements and criteria in the solicitation.

- Provide agency-wide training on best practices and agency standards for solicitations and evaluations.

## Examples of Documents and Procedures Maintained by the Solicitation and Evaluation Team<sup>xv</sup>

- Non-Disclosure form
- Solicitation templates (Request for Proposals (RFP), Request for Qualifications (RFQ), Statement of Work (DIR SOW), Request for Offers (RFO), Request for Information (RFI), etc.)
- Kickoff meeting checklists
- Evaluation team guidelines
- Sample Task, Activity, Deliverable, and Budget Plans (TADBPs)
- Conflict of Interest form<sup>xvi</sup>
- Reference Check form
- Certification of Vendor Assessment memo
- Recommendation memo
- SAO Nepotism form

## 5.2. Limited Contact Policy

The **Limited Contact Policy** is invoked by the S1 Planning team upon acceptance and transfer of the completed Planning Package. The policy is in effect throughout the Solicitation and Evaluation phase.

This means that vendor communication must be managed by only CPD staff to ensure the integrity of the ongoing procurement. Agency staff may not communicate with vendors or others, including agency staff, regarding the procurement once the policy has been invoked. If TEA has an existing contract with a respondent, program staff must confine their discussions with that vendor to the active contract/project only. Program staff must direct all questions to CPD and never discuss open procurements. Questions about the limited contact policy or discussion about open solicitations should be directed to the S2 contract specialist, the S2 lead, or the CPD director or assistant director. Respondents who do not follow the communication process identified in the solicitation may be disqualified. CPD has also posted the Limited Contact Policy on its TEA webpage here: <https://tea.texas.gov/about-tea/agency-finances/contracts-and-purchasing>.

## 5.3. Best Value

Texas law mandates that state agencies award contracts to responsive vendors providing the best value to the state. The best value standard may vary depending on the procurement method; therefore, TEA must ensure the appropriate best value standard is used as the basis for a contract award. The two most important considerations when determining best value are purchase price and whether the goods or services meet specifications. TEA may also consider other best value factors, including:

1. Installation costs;
2. Life cycle costs;
3. Quality and reliability of the goods and services;
4. Delivery terms;
5. Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
6. Cost of any employee training associated with a purchase;

7. Effect of a purchase on agency productivity;
8. Vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment;
9. Impact of a purchase on the agency's administrative resources;<sup>xvii</sup> and
10. Other factors relevant to determining the best value for the state in the context of a particular purchase.<sup>xviii</sup>

For purchases made through competitive bidding, TEA must specify in the solicitation the factors other than price that the agency will consider in determining which bid offers the best value for the state as well as the criteria the agency will use when considering those factors.<sup>xix</sup>

## 5.4. Electronic Receipt and Control of Responses<sup>xx</sup>

In March 2020, TEA fully implemented electronic acceptance of all solicitation responses. Solicitations published or posted after March 16, 2020 include the requirement to submit responses electronically either through email to [TEASolicitations@tea.texas.gov](mailto:TEASolicitations@tea.texas.gov) or through a unique web link to a designated, secure ShareFile folder created specifically for the named solicitation. Only the S2 lead and the S2 contract specialist assigned to the project have access to the secure folder. Responses will not be opened prior to the passing of the response due date and time. The date and time in the email, ShareFile or standard email, will mark the official receipt of responses. Occasionally, physical copies of responses or portions of responses are required (*for example, procurements for braille or large-print materials*). In these rare instances, CPD will document the procurement file to describe the necessary changes.

This electronic receipt process enables CPD to accurately document the time and day each response is received. After the response due date and time have passed, the S2 contract specialist will save a copy of the email, which reflects the date and time of receipt, and the electronic response document(s) into the solicitation file. The contract specialist will document the results of their administrative review in the procurement file.

## 5.5. Response Disqualification

Solicitations must clearly indicate when failure to provide certain components in a response shall result in a response's disqualification. To review potential disqualifications fairly and accurately, CPD has implemented a multi-tier review process for response disqualification. Responses lacking one or more required components are flagged for second review by the S2 lead, who completes a second review of the response(s) and documents their findings. The findings of the S2 contract specialist and the S2 lead are sent to the CPD director or assistant director for final determination. Occasionally the S2 contract specialist may send findings directly to the CPD director or assistant director. This review process ensures response are given full consideration prior to disqualification, and the decision-making process is fair, transparent, and well-documented.

## 5.6. Conflict of Interest Procedure<sup>xxi</sup>

All solicitation responses require vendors to submit a TEA Disclosure of Interested Parties form (Attachment G) and related information for the prime contractor and any subcontractors. Scoring members and non-scoring technical advisors of the evaluation team must review this information and complete the conflict of interest review process prior to receiving responses. If TEA staff disclose an actual or potential conflict of interest, the S2 contract specialist submits the evaluator's form and information to the CPD director or assistant director for

review and determination. The CPD director or assistant director will review the evaluator’s form and discuss the situation with the evaluator if needed. The CPD director or assistant director will then determine whether there is an actual conflict of interest, and if so, whether it can be cleared. CPD leadership may consult with TEA’s Ethics Advisor if needed. The CPD director or assistant director will document their decision within the Conflict of Interest form and in their response to the S2 contract specialist.

**All agency staff involved in procurements have an ongoing obligation to immediately report potential conflicts of interest.** Erring on the side of disclosure helps avoid the appearance of impropriety and supports TEA’s efforts to maintain the integrity of the procurement process. If circumstances change or an evaluator becomes aware of a potential conflict, they must contact a member of CPD immediately and may be asked to complete a new COI form to describe the potential conflict. The key question is whether the relationship would influence the individual’s ability to remain impartial in the performance of their duties related to the procurement. If the CPD director or assistant director determine the staff member has an actual conflict of interest, that evaluator will be excused from participation in the procurement, and the remaining evaluation team members will be instructed not to share information with the evaluator excused from participation.

## 5.7. Evaluations

### Evaluation Committee

The evaluation committee members are initially identified in the Planning Package by the project lead. The committee is composed of subject matter experts and stakeholders who have taken the required TEA trainings and executed non-disclosure agreements (NDAs). Evaluation committee members must also complete the TEA Conflict of Interest Disclosure Form (COI Form) prior to receiving proposals for evaluation. The S2 contract specialist will verify all evaluators have completed the required training and forms throughout the procurement phase.

### Evaluation Process

To safeguard the integrity of the evaluation process, committee members may not communicate with anyone outside the committee regarding the responses received or the evaluation process. Discussion of responses must only occur at an evaluation committee meeting, facilitated by the S2 contract specialist, with all scoring members present. Each response must be evaluated independently against the requirements and evaluation criteria published in the solicitation. The evaluation committee members must not conduct independent research. Each member’s evaluation must be based solely on their personal review of each response, as submitted.

### Scoring

Evaluation committee members must individually submit their scores to the S2 contract specialist who will compile the scores and identify the competitive range and/or highest scoring response(s). After reviewing the responses, TEA may conduct oral presentations. Oral presentations are not required and may not be necessary in every situation. Oral presentations may be scheduled for all respondents or limited to the top ranked vendors in the competitive range. The S2 contract specialist will coordinate the presentation with the respondents.

Oral presentations provide an opportunity for respondents to highlight the strengths and unique aspects of their responses and provide answers to clarification questions evaluators may have about the responses. Oral presentations are facilitated by CPD. Following oral presentations, the evaluation committee members will complete a new scoring matrix using the evaluation criteria published in the solicitation. The S2 contract

specialist will compile the new scores and identify the highest scoring responses(s). The final scores are reviewed by a non-CPD staff member for third-party verification before being considered final.

## 5.8. Certification of Vendor Assessment Process

In accordance with [Texas Government Code § 2261.0525](#), the CPD director will review the process and all documents used to assess each respondent and include a written certification in the contract file. The S2 contract specialist will draft a memo for the CPD director's signature to certify the following:

- The agency assessed each response using the evaluation criteria published in the solicitation;
- The number of scoring rounds that were completed;
- Scores were reviewed by the S2 contract specialist, verified through a third-party review process, and the final calculation of scoring of responses is accurate; and
- If scores were changed, the reasons for the changes were reviewed and determined to be appropriate.

## 5.9. Recommendation Memo

On behalf of the evaluation committee, the S2 contract specialist will draft a recommendation memo summarizing the procurement process and the evaluation committee's recommendation to award the contract to 1) the highest ranked respondent without discussion, 2) tentatively award the contract to the highest ranked respondent subject to successful completion of negotiations, or 3) not award the solicitation. If the solicitation allows, the evaluation committee may recommend a contract award to more than one respondent provided the respondents are the highest ranked in the evaluation. This is most common in requests for qualifications (RFQs) when multiple individuals or firms are necessary to complete the same scope of work.

The S2 contract specialist will provide the draft memo to the project lead for review and additional information. Once finalized, the CPD director or assistant director will review the memo to ensure it accurately summarizes the solicitation and evaluation process and includes the best value considerations. The CPD director or assistant director will sign the memo and return it to the S2 contract specialist. The S2 contract specialist will send the partially signed memo to the project lead for signature and routing through the appropriate leadership chain through and including their deputy commissioner.

## 5.10. SAO Nepotism Form

For contracts with an estimated value of \$1 million or more, the S2 contract specialist will complete an SAO Nepotism Form with information for the respondent(s) recommended for an award. The S2 contract specialist will ensure each member of the evaluation team and the leadership team who signs the Recommendation to Award memo reviews and signs the SAO Nepotism Form. The S2 contract specialist will also sign the form and ensure the CPD HUB Office staff member(s) signs the form. It is sometimes necessary to complete more than one form, especially for solicitations with large evaluation teams. In this case, the S2 contract specialist will ensure multiple forms are appropriately completed, clearly identified, and routed for all necessary signatures prior to the project transition to the Contract Formation team. The form(s) are routed with the Recommendation to Award memo and other pertinent solicitation related documents to the Contract Formation team. The S3 contract specialist assigned to the project and the S3 lead, at a minimum, will also sign the SAO Nepotism Form before routing with other contract documents for signature by the appropriate signature authority.

## 5.11. Special Topics in Solicitation and Evaluation

### Formal Protest Procedures

In compliance with Texas Government Code 2155.132, TEA has adopted rules for handling formal protests located in 19 TAC § 30.2002. These rules outline the procedures for filing and evaluating formal protests related to the TEA procurement process.

### Interagency Contracts and Interlocal Cooperation Contracts

Interagency Contracts (IAC) and Interlocal Cooperation Contracts (ICC) are examples of exceptions to the competitive bidding requirement. IACs are governed by the Interagency Cooperation Act, Texas Government Code Chapter 771, which enables state agencies to contract with other state agencies for governmental functions and services. ICCs are governed by the Interlocal Cooperation Act, Texas Government Code Chapter 791, which enables state agencies to contract with units of local government.

### Education Service Centers (ESCs)

ESCs are statutorily created entities whose purpose is to provide services to and support for school districts, schools, and educators that help students succeed. A contract between TEA and an ESC, other than a contract entered into under a standard competitive solicitation to which the ESC responded, is considered an ICC, governed by Chapter 791 of the Texas Government Code and Chapter 8 of the Education Code.<sup>xxii</sup>

### Outside Counsel Contracts

The Attorney General serves as the State of Texas' legal counsel representing state agencies and institutions of higher education. Accordingly, per Title 1, Chapter 57 of the Texas Administrative Code, TEA may not retain or select any outside counsel without first receiving authorization and approval from the Office of the Attorney General. TEA staff must make a request for Outside Counsel in consultation with TEA's Legal Services Division and will generally be directed to solicit the required services through a Request for Qualifications (RFQ) process facilitated by CPD.<sup>xxiii</sup>

### Sole-Source or Proprietary Procurements

Sole-Source or proprietary purchases are subject to enhanced scrutiny and are governed by procedures outlined in Texas Government Code 2155.067 and in the TPCMG. Agency staff must consult with CPD to ensure compliance with appropriate policies and procedures. Sole-source or proprietary memos must be signed by the Commissioner or a person to whom such signature authority has been properly delegated in the agency procurement plan. Proprietary purchases, regardless of whether they are sole source or competitive, are subject to statutory external reviews and posting requirements. The S2 contract specialist will ensure the sole-source or proprietary memo is submitted to SPD with the solicitation, as applicable.

### For more information:

- Email Contact: [TEASolicitations@tea.texas.gov](mailto:TEASolicitations@tea.texas.gov)
- iTEA Page: [Phase 2: Procurement - Home \(sharepoint.com\)](#)



## 6. Contract Formation (S3)

The purpose of the Contract Formation phase is to enable the agency to enter into a contract that complies with applicable laws and policies, contains provisions designed to hold vendors accountable to a specific project schedule and cost, manages risk appropriately, and achieves the procurement objectives.

### 6.1. Contract Formation Process Components

#### Agency Staff Responsibilities

- Provide information about task plan areas that they would like to negotiate.
- Participate in contract negotiations along with CPD staff as needed.
- Participate in task plan revisions and provide final contract approval prior to signature.
- Provide an approved requisition prior to contract signature.
- Provide new approved requisitions as needed at any contract amendment and each fiscal year of the contract.

#### CPD Formation Staff Responsibilities

- Lead contract negotiations and task plan review.
- Obtain necessary approvals from agency subject matter experts including legal, IT, etc.
- Handle post-execution work including, but not limited to, purchase order creation, accurate data reporting in tools like Smartsheet and timely reporting of contracts to the Legislative Budget Board (LBB).
- Lead annual renewal process and ensure timely renewal of contracts.
- Participate with Legal (as needed) in updates to TEA Standard Terms and Conditions.
- Providing agency-wide training on best practices and agency standards for contract formation.

#### CPD Contract Monitoring<sup>xxiv</sup> Staff Responsibilities During Contract Formation Phase

- Conduct vendor due diligence prior to executing contracts.
- Conduct pre-signature review process.
- Route contracts for TEA signature.

#### Examples of Documents Maintained by the Contract Formation Team<sup>xxv</sup>

- TEA Standard Terms and Conditions and related contract forms (the terms and conditions are owned by Legal, but CPD maintains copies in its files).
- LBB Attestation Letter template.
- Various contract templates.

### 6.2. Contract Negotiations

The time it takes to negotiate and execute a formal written agreement varies depending on several factors including, but not limited to, the complexity of the procurement, the type and extent of vendor exceptions to TEA's standard terms and conditions, level of planning done ahead of time to achieve a well-written task plan, and responsiveness and availability of program staff and vendors to negotiate terms.

The TEA negotiations team primarily consists of the S3 contract specialist assigned to the project and the program manager and/or project lead. TEA Legal, outside counsel, and/or a representative from IT may also join negotiations if their expertise is necessary. The program manager, with the guidance of the contract specialist, is permitted to participate in discussions with the vendor for the limited purpose of negotiating terms of the contract. **The Limited Contact Policy remains in effect for all other TEA staff, unless the staff member is designated by the program manager as a necessary participant in negotiation efforts. Effective March 1, 2022, additional staff participating in contract negotiations will be required to complete a COI and NDA if they have not already done so for the project.**

Once TEA and the vendor reach a final agreement on the substantive terms and conditions of the contract, the contract is sent to the S3 lead for a second review, before being sent to the program manager for final approval of the contract.

Following the program manager's final approval, a member of the Contract Monitoring team conducts a pre-signature compliance review before the S3 contract specialist sends the final contract to the vendor for their signature.

Any deviations from TEA's standard terms and conditions must be approved by TEA Legal or outside counsel. If no standard terms have been changed during the negotiations process, then legal review of the contract is not required.

### 6.3. Pre-Signature Review (PSR) and Execution

Before CPD routes the contract for signature by authorized officials, a member of the Contract Monitoring (S4) team completes a pre-signature review, known as PSR. The PSR may be completed by the S4 lead, or the S4 contract specialist designated by the S4 lead.

During this stage, S4 staff conduct all necessary checks to ensure the vendor is eligible to contract with TEA. This includes checking a variety of sources, including:

- [Debarred Vendor List](#)
- [Divestment Statute Lists](#)
- [Vendor Hold Search](#)
- [Vendor Performance Report Search](#)
- [System for Award Management](#)

If there are instances and/or emerging patterns of noncompliance identified during PSR, S4 will consult with the CPD director to proactively implement system corrections.

Once the contract has passed PSR, the assigned S4 contract specialist will notify the S3 contract specialist who will route the contract to the vendor for signature.

Once the S3 contract specialist receives the vendor's signature, they will send the contract to the S4 lead to route the contract to the appropriate TEA signatory based on the signature authority delegation below.

### 6.4. Signature Authority Delegation<sup>xxvi</sup>

A contract is not valid until it is signed by both parties. Once PSR has been completed and the vendor has signed the contract, the S4 lead or the S4 contract specialist designated by the S4 lead routes the contract to the appropriate internal signatory according to the following schedule (*updated by CPD and approved by Commissioner Morath in November 2021*):

Pursuant to both Texas Government Code §2261.254 and OP 01-02, the Commissioner of Education delegated the approval and signature authority for all agreements (*for avoidance of doubt, this includes contracts, Memoranda of Understanding (MOUs), Interagency Agreements (IACs), Interlocal Cooperation Contracts (ICCs), and purchase orders (POs)*) as follows:

- Director of Contracts and Purchasing: up to \$149,999.99
- Chief Financial Officer: from \$150,000.00 to \$999,999.99
- Deputy Commissioner of Finance: from \$1,000,000.00 to \$4,999,999.99
- Commissioner of Education: \$5,000,000.00 and above

Some additional clarification:

- For renewals and amendments that do not add funding, staff will select the TEA signatory based on the total contract value of the original contract.
- For renewals and amendments that add funding, staff will select the TEA signatory based on the updated total contract value according to the thresholds above.
- For MOUs, IACs, ICCs, and other non-contract/non-PO agreements with zero dollar value, staff will select the TEA signatory based on the level of seniority of the counter-signing party. If the seniority of the counter-party is unclear, staff will direct the document to the Deputy Commissioner of Finance or Commissioner of Education for signature, as appropriate.

As an additional compliance control, the CPD Director, the Chief Financial Officer, the Deputy Commissioner of Finance, and the Commissioner of Education cannot enter requisitions or purchase orders into TEA's financial accounting systems.

## 6.5. Post-Execution Activity

Once the contract is fully executed, the S3 contract specialist provides a copy to the vendor and the program manager, informing them the project may begin and the limited contact policy has ceased.

### External Reporting Requirements<sup>xxvii</sup>

For competitive contracts and certain other contract awards, the S3 contract specialist must post a notice of award to the ESBD if the contract is expected to exceed \$25,000, or, in the case no contract can be reached, a notice of no award. Depending on the procurement, TEA may also provide notification to each unsuccessful vendor in writing. CPD must maintain proof of the ESBD posting in the contract master file.

Certain contracts, such as major consulting contracts, require additional steps be taken after contract execution and at the time the contract is renewed, amended, or extended. If an agency does not comply with the statutory requirements for major consulting services contracts, the consulting contract, including amendments, extensions, and renewals, is void.

The S3 contract specialist is also required to submit contract information to the [LBB Contracts Database](#). The new LBB reporting requirements as revised by the 87<sup>th</sup> Legislative Session are as follows:

CONTRACT REPORTING REQUIREMENTS BY THRESHOLD				
VALUE	>\$50,000	>\$1 MILLION	>\$1 MILLION	>\$10 MILLION
Type	All Contract Types	Non-competitive/ Sole Source	Emergency	All Contract Types
Due date	Within 30 days of award or amendment	Within 15 days of award	Within 5 days of award	Within 15 days of award
Reporting provision	GAA, Article IX §7.04, Texas Government Code §322.020	GAA, Article IX §7.11	GAA, Article IX §7.11	GAA, Article IX §7.11
Documentation requirement	Requires solicitation and contract documents	Requires attestation letter, solicitation, and contract documents	Requires attestation letter, solicitation, and contract documents	Requires attestation letter, solicitation, and contract documents

Data Integrity<sup>xxviii</sup>

TEA recognizes the need for data integrity to ensure that all necessary contracts and reporting items are handled promptly. The S3 contract database is routinely reviewed to ensure that only necessary information is captured. Additionally, any potentially ambiguous data column contains an informational dropdown that further explains what information needs to be recorded. Finally, the S3 lead regularly emphasizes the need for Smartsheet and other data to be accurate (CPD routinely use such information for reporting, compliance, and other items) and has instituted a double-check system following execution of any contract document to ensure data integrity.

### 6.6. Change Management, Renewals, & Amendments

Change management (which includes renewals and amendments) is typically a shared responsibility between the Contract Formation and Contract Monitoring teams. These topics are addressed in detail below in [Section 7.4](#).

### 6.7. Special Topics in Contract Formation

Standard Terms and Conditions

TEA’s Office of Legal Services maintains ownership of TEA’s contract terms and conditions. TEA staff may recommend changes to TEA’s standard terms and conditions, but all changes must ultimately be approved by Legal. CPD and Legal review and update the terms and conditions annually and at certain key events, including after legislative sessions and when CPA issues updated guidance regarding required and recommended contract clauses.<sup>xxix</sup>

Advance Payment Policy

In accordance with state policy and as a general policy to reduce the risk of fraud, waste, and abuse, CPD limits the availability of advance payments to vendors as a TEA contract payment methodology. CPD has permitted advance payments in rare circumstances per Department of Information Resources (DIR) guidance in cases where TEA is already receiving substantial benefits under the contract (as in the case of software access). In all other cases, TEA limits advance payments to those instances authorized by statute and approved by the TEA Deputy Commissioner of Finance.

## Form 1295 Disclosure of Interested Parties<sup>xxx</sup>

Texas law prohibits TEA from entering certain contracts over \$1 million with a business entity unless the entity submits a Disclosure of Interested Parties form (Form 1295) to TEA at the time the business entity submits the signed contract. A Form 1295 is also required if, after execution of the original agreement, the terms of the contract change and require an action or vote by the entity's governing body, or if the value of the contract increases by at least \$1 million. Vendors must update the Form 1295 any time there is a change to the information disclosed in the original Form 1295.

Vendors must establish an account and user profile on the Texas Ethics Commission website and follow instructions provided to create a new certificate. The vendor must sign and return the form as directed to TEA. CPD staff must acknowledge receipt of the Form 1295 on the Texas Ethics Commission website.

## SAO Nepotism Form<sup>xxxi</sup>

Pursuant to Texas Government Code 2262.004, purchasing personnel of a state agency must disclose information regarding certain relationships with, and direct or indirect pecuniary interests in, any party to a major contract with the state agency prior to the award of a major contract. TEA uses the [State Agency Uniform Nepotism Disclosure Form](#) created by SAO to report those relationships.

The S3 contract specialist is responsible for securing all remaining necessary signatures and routing to the CPD director for final review and sign-off. The Deputy Commissioner of Finance has delegated signing authority to the CPD director to acknowledge receipt of the State Agency Uniform Nepotism Disclosure Form signed by the purchasing staff members involved in the procurement.

## 6.8. Limited Contact Policy

Throughout the Contract Formation phase, the **Limited Contact Policy** remains in effect. Vendor communication must be led by CPD staff to ensure the integrity of the ongoing procurement. Agency staff may be included on emails and in meetings with vendors; however, they may not initiate such communications nor have unmonitored communications directly with vendors once the policy has been invoked.

Communication with vendors regarding work on an existing contract is allowed and must remain within scope of the existing contractual relationship. Discussions with vendors (incumbent, prospective, or otherwise) regarding open procurements is not permitted. When in doubt, staff should reach out to CPD or forward communications to their CPD contact and allow CPD to respond accordingly.

### For more information:

- Email Contact: [TEAContracts@tea.texas.gov](mailto:TEAContracts@tea.texas.gov)
- iTEA Page: [Phase 3: Contract Formation - Home \(sharepoint.com\)](#)

## 7. Monitoring (S4)

The purpose of the Monitoring phase is to ensure vendors are providing goods and services consistent with the terms and conditions of their TEA contracts and to prevent fraud, waste, and abuse. Contract monitoring is primarily the responsibility of the contract manager (*TEA staff member who has ultimate responsibility for managing the contract and the vendor relationship*), with support from Accounting, CPD, and Legal as needed.

Contract monitoring begins as early as the Planning phase, where staff are responsible for developing clear criteria to include in the solicitation so vendors will be aware of how their performance will be monitored.

Examples include:

- An established timeline for completion of major tasks;
- Scheduled meetings with required attendees, outcomes, and deliverables;
- Deliverables meeting objective criteria such as accessibility compliance; and
- Submission of status reports on a regular cadence.

Monitoring activities are conducted in a variety of ways depending on the risk level and the nature of the contract. These activities must be conducted as objectively as possible and account for contract complexity, value, and risk. TEA has general criteria for assigning contracts a low, medium, or high risk status. Low-risk contracts are subject to general monitoring, and medium- or high- risk contracts are subject to enhanced monitoring, an increased level of monitoring beyond what is normally used.

### 7.1. Monitoring Process Components

#### Agency Staff Responsibilities<sup>xxxii</sup>

- Contract managers are generally responsible for monitoring the contracts to which they are assigned. This includes:
  - Serving as the primary point of contact for agency communication with the contractor regarding all matters pertaining to the contract;
  - Managing any state property used in contract performance, (such as computers, telephones, identification badges, etc.);
  - Implementing a quality control and contract monitoring process using TEA monitoring resources;
  - Monitoring the contractor’s progress and performance to ensure goods and services procured conform to the contract requirements and keeping timely records of findings;
  - Promptly consulting with agency legal counsel to address any legal concerns and/or issues;
  - Managing, approving, and documenting any changes to the contract through the change management process authorized by the terms of the contract;
  - Verifying accuracy of invoices and authorizing payments consistent with the contract terms;
  - Maintaining documentation verifying that goods and/or services were reviewed and accepted, subject to production to CPD, Internal Audit, SAO, and others upon request;
  - Monitoring the contract budget to ensure sufficient funds are available throughout the term of the contract;
  - Identifying and resolving disputes with the contractor promptly (in collaboration with CPD, Legal, and Accounts Payable as needed);

- Exercising state remedies, as appropriate, when a contractor's performance is deficient (with support from CPD and Legal as needed);
  - Maintaining appropriate records in accordance with the records retention schedule; and
  - Confirming all products and/or services have been delivered and delivery is completed prior to the expiration date of the contract.
- Contract managers must ensure they attend mandatory training held by CPD and may be required to obtain and maintain a CTCM certification (see [Section 3.4](#)).

## CPD Monitoring Staff Responsibilities

- Helping contract managers complete a Risk Assessment Form after a contract has been signed.
- Auditing invoices to compare invoiced amounts against tasks and costs outlined in the contract.
- Assisting agency staff in resolving budgeting and purchase order issues.
- Monitoring agency contracts for certain administrative reporting activities stated in the contract's terms and conditions or in any special provisions, including contractor reporting of any litigation, lobbyist activities, changes in ownership or financial status, and key changes in personnel.
- Monitoring changes in a contractor's HUB Subcontracting Plan (HSP) and requesting updated plans when contract amendments or renewals are processed.
- Communicating with TEA's HUB Office to ensure the contractor submits HUB Performance Assessment Reports (PARs) according to schedule.
- Monitoring agency compliance with statutes, rules, and regulations governing state agency contract and procurement activities.
- As part of enhanced monitoring activity, scheduling formal monitoring meetings between contract managers and S4 staff to review monitoring requirements.
- As part of enhanced monitoring activity, reviewing tools developed by contract managers for contract monitoring.
- Providing agency-wide training on best practices and agency standards for contract monitoring.

## Examples of Documents Maintained by the Monitoring Team<sup>xxxiii</sup>

- Risk Assessment Form
- Risk Categories/Tiers
- Contract Monitoring Tool, an excel document used to manage the budget and deliverables throughout the life of a contract.

## 7.2. Risk Assessment Policy and Procedures<sup>xxxiv</sup>

CPD requires project managers fill out and sign a Procurement Planning Risk Assessment Form in the Planning phase as part of the Planning Package to assess the risk of the planned procurement generally.

Once a vendor has been awarded a contract and the contract has been executed, the Monitoring team will request that the contract manager responsible for that specific contract fill out a Contract Monitoring Risk Assessment Form containing more detailed criteria designed to address the risks specific to that contract.

Contract managers must fill out the form accurately and request clarification or assistance from CPD when necessary. The S4 contract specialist is responsible for reviewing the form, saving it to the procurement file, and ensuring the correct risk level is identified based on information supplied by the contract manager.

The Contract Monitoring Risk Assessment Form enables CPD staff to determine whether a specific contract has a high, medium, or low risk rating. CPD will inform the contract manager of their monitoring responsibilities depending on the level of risk. For high-risk contracts, the Contract Monitoring team will provide additional support to contract managers, including ensuring they are properly documenting receipt of goods and services.

### 7.3. Procedures Required by Law

The following are examples of contract monitoring activities specifically required by statute. This is not an exhaustive list; rather, it is intended to highlight a few of the most important requirements of which staff should be aware.

TEA is required by law<sup>xxxv</sup> to develop and comply with a purchasing accountability and risk analysis procedure. The procedure must provide for the following:

- 1) Assessing the risk of fraud, abuse, or waste in the vendor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;
- 2) Identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and
- 3) Establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

TEA is legally required to inspect and certify that all goods or services comply with the contract and certify in writing that the invoice is correct.<sup>xxxvi</sup>

TEA is also required to post information regarding certain contracts on its public-facing website.<sup>xxxvii</sup> CPD updates the website monthly, accessible here: [Current Contracts | Texas Education Agency](#).

Finally, the CPD director is responsible for immediately notifying the Commissioner of any serious issue or risk that is identified with respect to a contract.<sup>xxxviii</sup>

### 7.4. Change Management: Amendments, Renewals, and Budget Revisions<sup>xxxix</sup>

As mentioned above, change management is typically a shared responsibility between the Contract Formation and Contract Monitoring teams. Because the Contract Monitoring team most often serves as the intake for change management requests, the topic is addressed in detail here.

#### [Change Management Overview and Compliance Objectives](#)

Throughout the term of a contract, changes may become necessary for a variety of reasons. These changes may be minor administrative changes such as a change of address, or they can be substantial changes that impact the price and delivery of goods and/or services.

**Under no circumstance may TEA staff direct a contractor to perform work that is not stated in the contract.**

If a contractor perceives that work beyond the scope of the contract was ordered by TEA, this creates a risk that the contractor may claim that the contract was “constructively” changed and may be entitled to additional compensation for the changes. Changes determined to be substantial will require additional review as appropriate by the CPD director and approval by the appropriate signature authority.



Failure to manage and control changes may also result in an unintentional modification to the scope of work, extension of the schedule, increase in the contract cost, circumvention of management controls, or diminished contractor accountability, all of which subject the agency to risk. CPD's change management policy is specifically designed to mitigate the risk of fraud, waste, and abuse by ensuring all changes are properly evaluated and documented.

**Any changes to a competitive contract must remain within the scope of the original solicitation, funding authority, and statutory authority. Amendments are not allowed to undermine state procurement laws regarding competitive bidding.**

### Change Management Timing

The Contract Monitoring team supports contract managers in effective planning for change management of their contracts. Agency staff are advised to plan ahead, as formal contract amendments typically take a minimum of one month to complete.

To enable CPD's efficient use of resources, projects should be sufficiently well-planned and documented at each contract document execution. Effective March 1, 2022, no formal amendments will be allowed prior to the expiration of 90 calendar days after the most recent document execution date.

In the rare circumstance where an amendment is needed due to unforeseen circumstances or other good cause, the contract manager must obtain written approval from their deputy commissioner as well as approval from CPD, pursuant to the change management process outlined below.

### Change Management Process

The most common types of changes are renewals, amendments, and budget revisions. Renewals are handled by the Contract Formation team and typically occur near the end of the fiscal year. To initiate any requested modifications to any part of the contract, contract managers must submit a [Change Management Request](#) form.

As a part of all change management requests, the contract manager will need to review their contract and provide the following information in the form linked above:

- 1) An updated task plan or statement of work showing the requested changes.
- 2) A description or justification explaining how the change remains within the scope of the original solicitation, if applicable.
- 3) Confirm the change management request does not fall within 90 calendar days of the most recently executed contract document (applicable to all change management requests submitted after March 1, 2022).
- 4) An analysis of whether the change should be able to be handled via a budget revision or a formal amendment. Contract managers must review the terms and conditions of their contracts with particular attention to the amendments clause (*this information is contained in Clause 7 for terms and conditions dated 1/7/22, 9/1/21 and 10/27/20, Clause G for terms and conditions dated from 10/2/18 through 12/9/19, and Clause RR for terms and conditions prior to 10/2/18*).
- 5) A current vendor performance report.

The S4 lead will review the request and consult with S3 and/or CPD leadership, as needed to determine whether the request is allowable. If a change is not approved, the S4 lead will reach out to contract manager and provide an explanation. If the requested change is approved, the S4 lead will notify the contract manager and transfer the file to S3 to draft and execute any formal amendments.

## Budget Revisions

Changes made via budget revision are handled by S4, typically via an email saved to the procurement file. Contract managers must still submit a change management request form to enable S4 to determine if the change may be handled via a budget revision.

## Renewals

If the contract has an option to extend or renew, the contract manager must assess whether the option will be exercised by TEA prior to the expiration of the current contract term. The number, length, and process for exercising renewals and extensions should be specified in the contract. As a courtesy, the S3 team sends notices to contract managers with contracts that have renewals exercisable in the relevant fiscal year at the beginning of each calendar year to initiate the renewal process.

Under no circumstances will a contract be renewed, or otherwise extended or modified after the expiration date of the relevant contract term. Contract managers have a responsibility to ensure work ceases and are prohibited from approving an invoice for work performed after the contract term expires. **Work performed by a vendor without a valid contract or outside the terms of a valid contract constitutes an unauthorized purchase and is prohibited.**

## 7.5. Special Topics in Contract Monitoring

### Service Provider Criminal History Reviews and Non-Disclosure Agreements

TEA OP 04-02 requires any contractor who has, or will potentially have, direct contact with public school students, to sensitive information, or to TEA data systems to submit to a national criminal history record information review (including fingerprinting) before commencement of the contract. TEA program staff are responsible for ensuring the contractor has executed all necessary Access to Confidential Information forms prior to surrender of or access to TEA confidential information or access to public school students and TEA data systems.

### Data Sharing Agreements

Completion and submission of an Access to Confidential Information – Agent Agreement is required for TEA contractors to obtain access to confidential information. To ensure agency compliance with the Family Educational Rights and Privacy Act (FERPA), TEA staff must consult OP 10-03 for agency policy governing the access, use, and dissemination of confidential agency information.

### Dispute Resolution

The objective of any dispute resolution process is to resolve problems before they escalate. To avoid escalation of issues to the next level and ensure TEA has not exacerbated potential problems, it is imperative that TEA personnel respond promptly to all contractor inquiries. TEA contract managers should make every attempt to informally resolve all issues with a vendor. Informal resolution may include corrective action plans to identify improved service delivery or goods. CPD and Legal are available to assist if needed. In the event the parties are unable to resolve the dispute, TEA is required by law to include as a term of the contract the dispute resolution process provided in Chapter 2260 of the Texas Government Code.

### For more information:

- Email Contact: [TEAContractMonitoring@tea.texas.gov](mailto:TEAContractMonitoring@tea.texas.gov)
- iTEA Page: [Phase 4: Monitoring - Home \(sharepoint.com\)](#)

## 8. Close-Out (S5)

The purpose of the Close-Out process is to verify that both parties to the contract have fulfilled their contractual obligations. Contract close-out responsibilities are shared between the contract manager and S5 staff member assigned to close-out tasks. The steps outlined below must be conducted promptly once the contract has concluded.

### 8.1. Close-Out Process Components

#### Agency Staff Responsibilities

- Ensuring all TEA-furnished equipment and materials are returned.
- Resolving all property inventory and ownership issues, including disposition of any equipment or licenses purchased under the contract. If vendor has acquired TEA data through the contract period, that data must be destroyed no later than 30 days after the end date of the contract. An authorized agent of the contractor must certify the completion of the destruction of data and sanitization.
- Completing final review and acceptance of all goods and/or services.
- Identifying any goods and/or services that have not been provided to TEA’s satisfaction as required by the contract and notifying a member of the Close-Out team immediately.
- Working with Accounting to ensure vendors receive final payment under the contract.
- Completing vendor performance forms and submitting to a member of the Close-Out team.
- If transition of the work (either to TEA staff or another vendor) is required, leading and monitoring completion of transition tasks and notifying a member of the Close-Out team immediately of any issues during transition.
- Performing contract closeout processes by ensuring the contract file contains all necessary contract documentation, reporting vendor performance to the VPTS, and documenting “lessons learned” via a form provided by S5.

#### CPD Close-Out Staff Responsibilities

- Obtaining Vendor Performance Tracking System (VPTS) information from contract manager and reporting to CPA.
- Supporting contract managers to ensure all goods and services have been received and accepted.
- Supporting contract managers in reviewing any required reports and ensure all reports have been received, reviewed, and accepted for accuracy and completeness.

#### Examples of Documents Maintained by Close-Out Team<sup>xi</sup>

- [Contract Close-Out Checklist](#)
- [Contractor Performance Evaluation Form](#)
- [Lessons Learned Form](#)

### 8.2. Vendor Performance Reporting<sup>xli</sup>

The [Vendor Performance Tracking System](#) (VPTS) requires agencies to assign vendors a letter grade based on a vendor’s performance during their contract. VPTS reports are required within 30 days from contract completion.<sup>xlii</sup>

Additional requirements apply to agreements with a total contract value \$5M and above. For these contracts, VPTS reports are required:

- At least once each year during the term of the contract; and
- At each key milestone identified in the contract.

The Monitoring team is available to assist contract managers in determining what constitutes a “key milestone” for the additional VPTS reporting.

In assessing contractor performance, the contract manager should consider the following:

- Did the contractor meet the requirements in the contract?
- Were there any other criteria besides price and meeting specifications in the contract? If so, the contract manager must consider those criteria in the vendor performance evaluation.

The contract manager must maintain documentation and be able to justify the vendor performance rating.

**TEA cannot extend a vendor's contract until VPTS reports are completed in compliance with statute.**

### Grading Vendor Performance

The following vendor scoring scenario and guide is adapted from the TPCMG and is designed to support agency staff responsible for assigning vendors a grade in the VPTS report.

**Scenario:** The agency purchased 25 sets of digital materials. The contract specifications state the materials must meet accessibility requirements, be provided in both English and Spanish, in print and digital format, and must be delivered by September 1, 2022. The agency purchased these specific materials because they meet best value criteria and the vendor indicated in its RFP response that it has the staffing and expertise to supply the materials according to specifications within the timeline required.

Vendor Scoring Guide	
Letter Grade	Example
A – Must be given to vendors who met best value criteria and fully complied with all contract material terms with complete or substantial customer satisfaction.	<i>The materials are delivered on the delivery date and meet all specifications detailed in the contract.</i>
B – Must be given to vendors who met best value criteria and fully complied with all material terms – or promptly remedied any minor instance of non-compliance with those terms — with substantial or adequate customer satisfaction.	<i>Twenty-five sets of materials are delivered on the delivery date; however, only 24 meet the contract specifications for accessibility. The contractor has delivered one set of materials that do not meet accessibility requirements. The non-compliant materials are promptly replaced with compliant materials within 24 hours after notification and correspondence with the vendor. All materials meet other contract specifications.</i>
C – Must be given to vendors who met best value criteria and substantially remedied most of the instances of non-compliance with the material terms of the contract with adequate customer satisfaction.	<i>Twenty sets of accessible materials and five sets of non-complaint materials are delivered on the delivery date. Within 48 hours of notification and correspondence with the vendor, all non-compliant materials are replaced with compliant materials. All materials meet other contract specifications.</i>
D – Must be given to vendors who did not meet best value criteria or were in substantial non-compliance with material contract terms and failed to remedy most of those instances of non-compliance.	<i>Five sets of accessible materials and 20 sets of non-compliant materials are delivered a day after the delivery date. After correspondence with the vendor including escalation to a supervisor, the vendor informed TEA the delay was due to a subcontractor’s poor performance. As a result of</i>

	<i>this delay, the remaining 20 complaint materials would not be available until two weeks after the deadline.</i>
F – Must be given to vendors who did not meet best value criteria or were in substantial non-compliance with the material contract terms and failed to remedy most of those instances of non-compliance or displayed conduct that would be cause for debarment such as fraud, material misrepresentation, or certain types of contract breach.	<i>Twenty-five non-complaint sets of materials, in English only, are delivered after the deadline specified in the contract. Upon delivery, the vendor notifies TEA that the vendor had an established policy not to make their products accessible online (prior to the establishment of the contract) and the agency was not made aware of the vendor’s inability to meet contract requirements.</i>

For more information:

- Email Contact: [TEAContractCloseout@tea.texas.gov](mailto:TEAContractCloseout@tea.texas.gov)
- iTEA Page: [Phase 5: Closeout - Home \(sharepoint.com\)](#)

## 9. Additional Information and Resources

### Annual Compliance Activities<sup>xliii</sup>

At least once a year, CPD will conduct an internal compliance review. This includes tasks designed to ensure division information is accessible only to those with a “need to know” the information. It also includes completion of mandatory annual non-disclosure and conflict of interest forms.

Although the official review takes place annually, this does not replace the obligation of staff to ensure employees are properly off-boarded when they leave the agency or change roles within TEA, including terminating access to applications such as Smartsheet, secured drives, TxSmartBuy, TCAPPS, and other internal and external agency applications.

### Other CPD Handbooks and Resources

CPD maintains several other handbooks in addition to this Contract Management handbook. Other handbooks are listed below:

- [Disaster Procurement Policy](#)
- [HUB Handbook](#)
- [Operating Procedures](#)
- [P-Card Policies](#)
- [Purchasing Manual](#)

## 10. References

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- <sup>i</sup> For a full list of TEA Operating Procedures, TEA staff may visit [Operating Procedures and Agency Forms \(sharepoint.com\)](#).
- <sup>ii</sup> This handbook uses the terms “contractor” and “vendor” interchangeably to mean an entity who contracts with TEA (*or seeks to contract with TEA by submitting a proposal*). It may include prospective contractors/vendors, or current contractors/vendors.
- <sup>iii</sup> The terms “Program Staff,” “Program Manager,” “Agency Staff,” and “Contract Manager” are used somewhat loosely in this handbook to refer to agency staff who request the procurement and are responsible for the underlying project or initiative. It is important to note that the program manager who works with CPD on the procurement early on may not be the same staff member who is ultimately considered the contract manager. The CPA training requirements mentioned elsewhere in this handbook apply to the contract manager who is responsible for a specific contract.
- <sup>iv</sup> This section was added in response to informal feedback received from SAO during the [2021 SAO audit](#) to enhance the agency’s ability to identify and track staff who are required to obtain CTCM or CTCD certifications.
- <sup>v</sup> For more information on Comptroller training requirements, see [34 TAC § 20.133](#).
- <sup>vi</sup> Program staff are responsible for filling out forms related to IT assessment that include questions regarding IT matters and data use expected with the procurement. Depending on the responses supplied in the form, additional IT review may be required. CPD includes the relevant IT forms (*subject to change at IT’s discretion*) as part of the Planning Package.
- <sup>vii</sup> Process documents used by each team within CPD are incorporated by reference and may be updated from time to time at the discretion of the CPD team lead, assistant director, or director.
- <sup>viii</sup> See [Tex. Gov’t Code 2254.021](#).
- <sup>ix</sup> See [Tex. Gov’t Code 2254.038](#).
- <sup>x</sup> See [34 TAC §5.54](#).
- <sup>xi</sup> See [Tex. Gov’t Code 2254.021](#) and [34 TAC § 5.54](#).
- <sup>xii</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure the agency’s practices related to assessing risk during planning align with enhanced monitoring requirements.
- <sup>xiii</sup> See [Tex. Gov’t Code 2155.063](#).
- <sup>xiv</sup> CPD follows the guidance outlined in the TPCMG that recommends using the Centralized Master Bidder’s List (CMBL) to find vendors (TPCMG v 2.0, p. 69) and post solicitations on ESD as detailed in TGC 2155.083. This clarification is included in this Handbook in response to feedback received from SAO during the 2021 SAO audit to document the agency’s practice for posting solicitations.
- <sup>xv</sup> Process documents used by each team within CPD are incorporated by reference and may be updated from time to time at the discretion of the CPD team lead, assistant director, or director.
- <sup>xvi</sup> CPD’s Conflict of Interest (COI) form was revised and put into use in July 2021.
- <sup>xvii</sup> This factor for determining best value is new and was added with the passage of SB 799 in 2021.
- <sup>xviii</sup> See [Tex. Gov’t Code 2155.074\(b\)](#).
- <sup>xix</sup> This requirement is new and was added with the passage of SB 799 in 2021.
- <sup>xx</sup> Per the TPCMG, TEA must have documented internal procedures outlining the responsibilities and steps for the receipt and control of solicitation responses (p. 73). This section was added as part of TEA’s management response to the 2021 SAO audit to ensure the agency has a written process to document timely receipt of vendor proposals.
- <sup>xxi</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to document CPD’s policy concerning review and disposition of potential conflicts of interest.
- <sup>xxii</sup> As stated in [Texas Education Code 8.012](#), contracts between TEA and an ESC are governed by the statutes, regulations, and procedures outlined in the TPCMG.
- <sup>xxiii</sup> The Office of the Attorney General (OAG) provides rules and templates for procuring outside counsel services here: [LetterToAgenciesOnOutsideCounselContracts.pdf \(texasattorneygeneral.gov\)](#) (*subject to revision by the OAG’s office*).
- <sup>xxiv</sup> This phase of the process includes some overlap and collaboration between the Contract Formation (S3) and Contract Monitoring (S4) teams.
- <sup>xxv</sup> Process documents used by each team within CPD are incorporated by reference and may be updated from time to time at the discretion of the CPD team lead, assistant director, or director.
- <sup>xxvi</sup> This section was added in response to feedback received from SAO during the 2021 SAO audit to clarify the agency’s signature authority for contracts.

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<sup>xxvii</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure contracts required to be reported to LBB are reported timely.

<sup>xxviii</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure data is entered into CPD’s contract tracking document accurately and completely.

<sup>xxix</sup> The comptroller publishes a list of Texas [required](#) and [recommended](#) contract clauses on its purchasing website, including the applicability and the legal authority for the clause.

<sup>xxx</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure contractors submit a Disclosure of Interested Parties form timely and the agency submits those forms to the Texas Ethics Commission timely.

<sup>xxxi</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to strengthen the agency’s policies around required disclosures.

<sup>xxxii</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure staff maintain appropriate documentation of required reviews of the receipt of goods or services.

<sup>xxxiii</sup> Process documents used by each team within CPD are incorporated by reference and may be updated from time to time at the discretion of the CPD team lead, assistant director, or director.

<sup>xxxiv</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to document the process explaining how CPD’s conflict of interest form is used and how potential conflicts of interest are identified, evaluated, decided, and documented.

<sup>xxxv</sup> See [Tex. Gov’t Code 2261.256](#).

<sup>xxxvi</sup> See [Tex. Govt. Code 2155.322](#).

<sup>xxxvii</sup> See [Tex. Gov’t Code 2261.253](#).

<sup>xxxviii</sup> See [Tex. Gov’t Code 2261.253\(c\)](#).

<sup>xxxix</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to document the agency’s process for performance of tasks related to handling contract amendments.

<sup>xl</sup> Process documents used by each team within CPD are incorporated by reference and may be updated from time to time at the discretion of the CPD team lead, assistant director, or director.

<sup>xli</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to ensure vendor performance is reported to CPA as required.

<sup>xlii</sup> See [Tex. Gov’t Code 2155.089](#).

<sup>xliii</sup> This section was added as part of TEA’s management response to the 2021 SAO audit to strengthen the agency’s processes around access controls to information.