



**THE TEXAS  
STATE  
UNIVERSITY  
SYSTEM®**

# **Contract Management Handbook**

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Version 4**

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# Section 1 – Introduction

## 1.1 Purpose

The Texas State University System (“TSUS”) contracting policy is established pursuant to Texas Education Code, §51.9335, which grants authority to acquire goods or services to institutions of higher education (“IHEs”). To exercise this authority, the governing boards of IHEs must establish certain standards, and in particular, “*a contract management handbook that provides consistent contracting policies and practices and contract review procedures, including a risk analysis procedure.*” In addition, governing boards must establish, by rule, a contract review checklist that must be reviewed and approved by the Office of General Counsel. Accordingly, TSUS has developed this contract management handbook (“Handbook”), and the TSUS Administration Contract Checklist & Risk Analysis form (ref. Appendix 1) to comply with all applicable statutory requirements and [TSUS Rules and Regulations](#). Finally, this Handbook adopts the Texas Comptroller’s rules under 2161.002 and all subsequent amendments thereto.

For the purposes of this Handbook, Contract Management includes the coordination and administration of the core processes associated with the procurement of goods and services (the “Procurement Cycle”):

- Procurement Planning
- Procurement Method Determination
- Vendor Selection
- Contract Formation
- Contract Management

This Handbook is intended to:

1. Serve as guidance for procurement / contract management for the TSUS administration office (“TSUS Administration”) and its member institutions (collectively, the “Institutions”).
2. Be consistent with sections of the Texas Comptroller of Public Accounts (“Comptroller’s”) Contract Management Guide<sup>1</sup> (“Comptroller’s Guide”) that are applicable to IHEs.
3. Provide consistent procurement / contracting practices and review procedures to Institution personnel.
4. Provide a framework for making procurement / contracting decisions.
5. Provide information on provisions that should be included in procurement contracts.

It is not possible to address all issues that may arise during Contract Management. For complex or unusual circumstances, Institution personnel should seek specific assistance from the TSUS Office of General Counsel (“OGC”) and the TSUS Office of Finance (and others, depending on the circumstances) as early as possible in the procurement process.

This Handbook intentionally contains a minimal number of statutory references, as these are contained in the Comptroller’s Guide and frequently change. Should an individual need to review a statutory requirement, the corresponding section of the Comptroller’s Guide can be

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<sup>1</sup> Version 4.0, published September 2025

used for that purpose. This Handbook, as well as any Institutional operating policies in support of the Handbook, shall be posted on each Institutions' website.

TSUS Administration may, from time to time, make changes to policies, procedures, templates, guides, or other such material that may not be reflected in this Handbook immediately. The TSUS Office of Finance will ensure Institutions are made aware of all material changes as soon as practicable.

**Note:** *Some of the requirements described in this Handbook may not be applicable to certain contracts that Study Abroad programs may have with foreign vendors. Consult with Institution Procurement Staff and OGC for guidance in these situations.*

## 1.2 Key Definitions & Roles

- A. **Best Value:** Factors to be considered in determining best overall value for Institutions in accordance with [Texas Education Code §51.9335 \(b\)](#).
- B. **Contract Administration Team:** A team of individuals that assists the Contract Manager with overseeing various administrative aspects of the contract (e.g., reporting, receipt of goods, invoice review, etc.).
- C. **Contract Close-out:** The process conducted at the completion of the contract during which the Contract Manager confirms and documents compliance with the terms and conditions of the contract, that final deliverables have been received, and that payments have been made.
- D. **Contract Development:** Actions taken prior to contract execution, including the needs assessment, development of specifications, receipt and processing of requisitions, procurement method identification, solicitation activities, negotiation activities, and contract preparation.
- E. **Contract Management:** The administrative actions taken after a contract is executed, including assessing risks associated with the contract, managing the performance of the contract and ensuring the parties adhere to the provisions contained within the contract. Contract management is the final step in the procurement cycle and concludes with contract close-out.
- F. **Contract Manager:** The department-level individual responsible for performing or coordinating Contract Management activities. (Refer to Appendix 2, Contract Management Responsibilities, for more information.)
- G. **Evaluation Team:** A team of departmental end-users and business experts that will review and evaluate qualified responses to a formal solicitation. Team members work with Procurement Staff to develop a detailed scope of work and the evaluation criteria / list of questions used in the scoring process.
- H. **HUB:** Acronym for "Historically Underutilized Business." The term "HUB" is used in this Handbook to refer to 1) the vendors certified by the comptroller in accordance with applicable statutes (34 Texas Administrative Code, Sections 281-298 and Texas Government Code, Chapter 2161) and 2) the associated program administered by the comptroller under said statutes.

- I. **Institution:** The administrative offices (TSUS Administration) or a member institution of TSUS.
- J. **Procurement Staff:** Institution personnel that work in the Purchasing / Procurement Office, Contract Office, etc. in central administration. The tasks described in this Handbook, including Contract Development activities, will generally, be performed or overseen by Procurement Staff.

### 1.3 Exclusions

This Handbook does not apply to:

1. real estate transactions;
2. construction agreements;
3. agreements or IMOUs between Institutions;
4. sponsorship agreements (under which Institutions receive compensation in exchange for recognition of the sponsor);
5. sponsored research contracts; or
6. intellectual property agreements.

While this Handbook may not be applicable to the agreement types listed above, it does provide useful information about procurement and contract management that could be used in those types of agreements.

Information on TSUS construction policy, procedure, and agreements can be found on the TSUS website.

### 1.4 Training and Certifications

Per statute, to maintain the conditional purchasing authority granted to IHEs, Institutions are required to provide training in ethics, procurement method selection, and information resources purchasing to officers and employees authorized to execute contracts or exercise discretion in awarding contracts.

An Institution official or employee who is required to receive training may not participate in purchases by the Institution unless the employee has received the required training, or the purchase is reviewed and approved by an employee who has received the proper training and certification.

#### 1.4.1 Purchasing & Contract Management Personnel

Institution employees must be certified as a Certified Texas Contract Developer (“CTCD”) to engage in contract development functions if the employee develops, evaluates, negotiates, or awards a contract posted to the Electronic State Business Daily or in the Texas Register. This designation was formerly known as the Certified Texas Procurement Manager (“CTPM”).

Institution employees must be certified as a Certified Texas Contract Manager (“CTCM”) to engage in contract management functions on behalf of the Institution if the employee has the job title of “contract manager” or “contract administration manager” or “contract technician” or “contract specialist”; performs contract

management activities as fifty percent (50%) or more of their job activities; or manages any contract in excess of \$5,000,000.

#### 1.4.2 Other Institution Personnel

Institution employees must complete the Comptrollers' Basic Texas Purchaser Course (or an equivalent Institution course) to engage in purchasing functions if the employee has the job title of "purchaser"; performs purchasing activities as fifteen percent (15%) or more of their job activities; or makes a purchase in excess of \$10,000.

Institution personnel directly involved in contract negotiations for the purchase of information resources technologies should also complete the training developed by the Department of Information Resources.

#### 1.4.3 Training Programs

The Comptrollers' Statewide Procurement Division ("SPD") administers a training and certification program, including continuing education courses, to meet the training needs of Institution personnel. The program includes the following courses and certifications:

- Basic Texas Purchaser Course
- Certified Texas Contract Developer Course / Certification
- Certified Texas Contract Manager Course / Certification
- Ethics Law & Professional Standards Course

Institutions may also use equivalent training / certifications offered by a nationally recognized procurement association (e.g., National Institute of Government Purchasing, Institute for Supply Management, etc.).

### 1.5 Procurement and Contracting Policies

Each Institution shall maintain any necessary operating policies and procedures to guide procurement and contract management processes consistent with the practices described in this Handbook. This Handbook does not replace an Institution's responsibility to comply with any rules or laws applicable to specific Institution programs or funding sources.

### 1.6 State Contracting Standards and Oversight

Institutions are subject to Texas Government Code, Chapter 2261, Subchapter F, Ethics, Reporting, and Approval Requirements for Certain Contracts, except to the extent that Subchapter F conflicts with Texas Education Code, §51.9337. Institutions are not subject to other Subchapters of Chapter 2261. The requirements described in this subsection are not applicable to memoranda of understanding, interagency/interlocal contracts, or contracts for which there is not a cost.

**Note:** *This Handbook does not attempt to identify all applicable reporting requirements.*

#### 1.6.1 Contract / Purchase Order Transparency Reporting

Institutions are required to post on the internet, until the contract is completed or

expires, information on each contract / purchase order, regardless of dollar amount, entered into for the procurement of goods or services from a private vendor that is paid for with appropriated funds (General Revenue, General Revenue-Dedicated, Higher Education Funds, statutory tuition, and certain fees) or any contract in excess of \$15,000 paid with non-appropriated funds. Posting a contract on the Major Contracts Database (the Legislative Budget Board’s contract database) satisfies this reporting requirement. Refer to Appendix 3, TSUS Administration Procurement Guidelines Summary, for more information on reporting requirements.

The Transparency Report posting shall include:

- Summary information about the contract (e.g., effective date, vendor name, material or service description, contract expiration);
- The statutory or other authority under which the contract was awarded and executed if not competitively bid; and
- Any documents posted in association with a Request for Proposal associated with the contract.

**Note:** Due to increased risk of fraud, Institutions are advised against posting an actual copy of any contract online. Transparency reporting does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is no cost.

1.6.2 Reporting to the Legislative Budget Board Major Contracts Database

Institutions must provide notice, including the nature of the goods or services, the term, amount, and vendor name, to the Legislative Budget Board (“LBB”) for the contracts described in the table below. Any Institution utilizing a contract executed by TSUS Administration that will use appropriated funds to make payments for goods / services received against that contract, will also be responsible for any applicable reporting requirements. Although this may result in duplicative reporting, it helps ensure compliance. Refer to Appendix 3, TSUS Administration Procurement Guidelines Summary, for more details, including a list of exempt contracts.

| VALUE          | CONTRACT TYPE                            | REPORTING TIMEFRAME        |
|----------------|--|----------------------------|
| > \$50,000     | All Purchases                            | Within 30 days of issuance |
| > \$1,000,000  | Major Information Systems (IT Purchases) | Within 30 days of issuance |
|                | Non-Competitive / Sole Source            | Within 15 days of issuance |
|                | Emergency                                | Within 5 days of issuance  |
| > \$10,000,000 | All Purchases                            | Within 15 days of issuance |

**Note:** Institutions should prioritize entry of contracts based on value and funding source, with a goal of reporting all contracts using appropriated funds

*in the timeframe noted in the table above. The prioritization order for reporting contracts is 1) appropriated funds – large value, 2) appropriated funds – small value, 3) Institutional funds – large value, 4) Institutional funds – small value, and 5) revenue generating.*

Institutions must provide an attestation to the LBB, on a form prescribed by the LBB, for contracts valued at \$10 million or more, or \$1 million or more if not competitively procured (i.e., sole source or emergency purchases).

### 1.6.3 Enhanced Contract and Performance Monitoring

Each Institution shall establish a procedure to identify contracts that require enhanced contract or performance monitoring and submit information on identified contracts to TSUS Office of Finance. Procurement Staff shall immediately notify the TSUS Office of Finance or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

- A. Institutions must develop and comply with a purchasing accountability and risk analysis procedure providing, among other things, for (1) assessment of risk of fraud, abuse or waste in the procurement and contracting process, and (2) identification of contracts that require enhanced monitoring.
- B. Institutions must also develop contract reporting requirements for contracts purchasing goods / services with a value exceeding \$1 million. Each Institution must provide information to its Chief Financial Officer (“CFO”), or their designee, on:
  - 1. compliance with financial provisions and delivery schedules under the contract,
  - 2. corrective action plans required under the contract and the status of any active corrective action plan, and
  - 3. information about any liquidated damages assessed or collected under the contract.
- C. For contracts with a value exceeding \$5 million, the Institution’s contract management office or procurement director must report the following information to the Institution’s CFO and TSUS Administration’s Vice Chancellor and CFO:
  - 1. Verify in writing the solicitation method and vendor selection process comply with state law and Institution policy; and
  - 2. Submit information on any potential issue that may arise in the solicitation, purchasing, or vendor selection process.

**Note:** *TSUS Administration uses the TSUS Administration Contract Checklist & Risk Analysis Form to assess the risk of fraud, abuse, and waste in the procurement / contracting process and to identify contracts that require enhanced contract monitoring (see Section 6.2 of this Handbook for more information). This form is also used to report information on contracts exceeding \$5 million and, upon full execution of the contract, is submitted to the TSUS Vice Chancellor and CFO for review. The TSUS Administration Contract Monitoring & Close-out Plan form is used to provide*

*information to the TSUS Vice Chancellor & CFO if issues or concerns regarding compliance, corrective action plans, etc. arise during the contract term.*

#### 1.6.4 Reports on Interagency Contracts

To the extent that capabilities and resources allow, Institutions shall post on their internet website annual reports during each state fiscal year of the state fiscal biennium beginning September 1, 2019, providing information on each interagency contract with a value that exceeds or may reasonably be expected to exceed \$10 million. Each report must be made available no later than the 30th day after the end of each fiscal year. Each report must identify:

1. each state agency that is a party to the interagency contract and whether the Institution is disbursing or receiving money under the contract;
2. the amount spent by the disbursing agency for the contract and the method of finance; and
3. the Institution programs for which the agencies entered the contract and the appropriation line items from which funds were spent by the agencies to perform the contract.

**Note:** *TSUS Administration provides information on any applicable interagency contracts with the transparency report information on the TSUS Office of Finance webpage.*

### 1.7 Additional Information and Resources

Appendix 1: TSUS Administration Contract Checklist & Risk Analysis Form

Appendix 2: Contract Management Responsibilities

Appendix 3: TSUS Administration Procurement Guidelines Summary

Appendix 4: TSUS Administration Contract Monitoring & Close-out Form

TSUS Rules and Regulations: <https://www.tsus.edu/about-tsus/policies.html>

TSUS Planning and Construction Policies and Procedures: <https://www.tsus.edu/about-tsus/policies.html>

SPD Training Information: <https://comptroller.texas.gov/purchasing/training/>

LBB information & attestation form: [http://www.lbb.state.tx.us/Contract\\_Reporting.aspx](http://www.lbb.state.tx.us/Contract_Reporting.aspx)

## Section 2 – Ethics & Professional Standards

### 2.1 General

Institution personnel involved with procurement and contract management must adhere to the highest level of professionalism in discharging their official duties. The nature of procurement and contracting functions makes it critical that everyone in the process remain independent and free from the perception of impropriety. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the process. Consequently, the credibility of a procurement and contracting program requires that a clear set of guidelines and rules be established. Such guidelines and rules are designed to prevent actual and potential vendors from influencing Institution employees or officials in discharging their official duties. Furthermore, these guidelines and rules will help prevent the Institution employees' or officials' independent judgment from being compromised.

### 2.2 TSUS and Institution Policies

The TSUS Board of Regents (the "Regents") are required to establish a code of ethics for Institution officers and employees, including provisions governing authority to execute contacts or exercise discretion in awarding contracts. The TSUS Ethics policy can be found in Chapter VIII of the [TSUS Rules and Regulations](#). All Institution personnel shall comply with the standards of conduct in the TSUS Rules and Regulations.

Institutions shall have policies governing conflicts of interest, conflicts of commitment, and outside activities ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position. Such policies shall be consistent with Texas Education Code and TSUS Rules and Regulations.

### 2.3 Institution Officers and Employees

An Institution officer or employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.

Institution officers and employees who have influence over purchasing / contracting decisions should specifically be aware of the following information from Chapter VIII of the TSUS Rules and Regulations:

- **Disclosure of Conflicts of Interest:** Officers and employees involved in procurement or contract management shall promptly disclose any potential conflict of interest specified by state law, TSUS policy, or Institution policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor.
- **Gifts:** Officers and employees shall not accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties.
- **Self-Dealing:** Officers and employees may not transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member,

or in which the employee owns a controlling interest unless the Regents have determined no conflict of interest exists.

- **Benefits for Performing Official Duties:** Officers and employees shall not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers or performed official duties.

#### 2.3.1 Compliance with Policy and Law

All officers and employees authorized to execute contracts for an Institution or to exercise discretion in awarding contracts shall:

- A. Comply with all federal, state, and local laws and are subject to disciplinary action for a violation of those laws. A violation by an officer or employee may subject the individual to disciplinary action and any applicable civil or criminal penalty if the violation constitutes a violation of another statute or rule.
- B. Adhere to all TSUS and Institution policies, handbooks, guidelines, and protocols designed to promote ethical and lawful behavior in the procurement process.

#### 2.3.2 Non-Disclosure and Conflict of Interest Statements

Institution officers and employees who participate in the evaluation of vendor bids and proposals are required to sign and abide by a Non-Disclosure and Conflict of Interest Statement (ref. Appendix 12) that applies specifically to the formal solicitation being evaluated. Evaluation Team members must sign a separate agreement for every solicitation they are asked to evaluate.

#### 2.3.3 Disclosure Statement for Purchasing Personnel (Nepotism Form)

Institutions may not enter into a contract for goods or services  $\geq$  \$1 million unless the purchasing personnel involved in the 1) preparation of the solicitation, 2) evaluation of bids / proposals, or 3) determination of vendor to be awarded the contract have completed the State Auditor's ("SAO") "Disclosure Statement for Purchasing Personnel" form. The form is posted on the SAO website and requires the Institution personnel to disclose any known relationships (within the third degree by consanguinity or the second degree by affinity) the employee has with the selected vendor to the Institution's agency head (i.e., Chancellor, President, or President's delegate). A copy of the completed form shall be retained in the contract file.

#### 2.3.4 Contracts with Former or Retired Employees

The following restrictions apply to potential contracts with former or retired Institution officers and employees:

- A. Institutions may not enter into an employment contract, a professional services contract, or consulting services contract with a former or retired employee before the first anniversary of the last date on which the individual was employed by the Institution if appropriated funds are used to make payments

under the contract. Such contracts may be made with an employer of a former or retired employee within one year if the individual does not perform services on procurements or projects on which the individual worked while employed by the Institution.

- B. A former officer or employee of an Institution employed by the Institution, or other state agency, any time during the prior two years who offers to provide consulting services to the Institution shall disclose the nature of previous employment, the date employment terminated, and annual compensation at the time of termination in the offer for services.
- C. A former officer or employee of an Institution who, during the period of state service or employment, participated on behalf of the Institution in a procurement or contract negotiation with a vendor may not accept employment from that vendor before the second anniversary of the date the contract is signed, or the procurement is terminated or withdrawn.

## **2.4 Vendors**

### **2.4.1 Disclosure of Interested Parties (Form 1295)**

Institutions may not enter into a contract for goods or services with a value  $\geq$  \$1 million (or that requires an action by the Regents) with certain vendors, unless the vendor discloses any interested parties to the contract. No interested party disclosure is needed for publicly traded companies as those parties are already public knowledge and can be obtained elsewhere.

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission ("TEC"), currently Form 1295, and include a list of each interested party for the contract of which the contracting vendor is aware and the signature of the authorized agent of the vendor acknowledging that the disclosure is made under oath and under penalty of perjury.

Information on the electronic disclosure process is posted on the TEC's website which currently contains a link to Form 1295 and other related information.

Steps in the disclosure process include:

1. The vendor completes Form 1295 in electronic format on the TEC website.
2. The vendor submits the completed Form 1295 to the Institution (generally when submitting the signed contract).
3. No later than the 30<sup>th</sup> day following the date the contract is signed by all applicable parties, the Institution shall acknowledge receipt of the certificate on the TEC's website.
4. A copy of both the completed and acknowledged forms shall be retained with the contract file.

This requirement does not apply to an interagency contract; a gas or electricity contract; or a contract related to health and human services if the value cannot be determined at time of execution and any qualified vendor is eligible for the contract.

## 2.4.2 Formal Solicitation Disclosures

When responding to formal solicitations issued by an Institution, respondent responses are required to:

- A. Represent and warrant that respondent's provision of services or other performance under the contract will not constitute an actual or potential conflict of interest and represent and warrant that it will not reasonably create even the appearance of impropriety.
- B. Disclose any current or former employees who are current or former employees of the Institution.
- C. Disclose any proposed personnel who are, or are related to, current or former employees of the Institution.
- D. Represent and warrant that respondent has not given and will not give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant or employee or representative of the Institution in connection with the solicitation or any resulting contract.
- E. Verify that it or any of its principals (including, but not limited to, an owner, proprietor, sole or majority shareholder, director, president, or managing partner) are not debarred, suspended, or otherwise excluded from doing business with TSUS. Institutions may also verify that an entity or principals are not debarred, suspended, or otherwise excluded to confirm that no contracts are awarded, extended, or renewed.

## 2.4.3 Subcontractors or Assignees

Vendors are not allowed to assign their duties and obligations under a contract to others, such as subcontractors or assignees, except as expressly provided in the contract with the Institution's consent and if subcontractors or assignees are subject to the same disclosure requirements and restrictions set forth in this Section. Vendors remain responsible for the disclosure requirements and performance of the contract notwithstanding any such assignment or subcontract. This ensures that the evaluated and selected individual or entity will be responsible for performance and that proposed transactions may be reviewed for compliance with the Conflict of Interest and related party provisions.

## 2.5 Financial Advisors

When soliciting and contracting for the services of financial advisors, Institutions should comply with applicable provisions of the TSUS Investment Policy for Operating Funds and Endowment Funds regarding Investment Consultants, Investment Managers, and Investment Custodians.

## 2.6 Additional Information & Resources

Appendix 12: Sample Non-Disclosure / Conflict of Interest Statement for Evaluation Team Members

SAO website (Nepotism Form): (<https://www.sao.texas.gov/Forms/Nepotism/>)

TEC website (Form 1295 information): <https://www.ethics.state.tx.us/filinginfo/1295/>

TSUS Rules and Regulations: <https://www.tsus.edu/about-tsus/policies.html>

## Section 3 – Procurement Planning

Planning, the first step in the procurement process, will assist Institutions in identifying procurement objectives and strategy. General planning can include determining and documenting need, determining which procurement method is appropriate (or whether the procurement is exempt), identifying the levels of approval necessary based on the anticipated dollar value of the procurement, assembling Contract Administration Team and/or an Evaluation Team, developing the scope of work (“SOW”), assessing risk, identifying any external reporting requirements, and evaluating the necessary level of vendor monitoring and oversight.

Pursuant to [TSUS Rules and Regulations](#), OGC is charged with retention, supervision, and monitoring of all outside legal counsel. Outside legal services contracts must be approved by the Office of the Attorney General and such approval is secured exclusively through OGC. The procurement process to obtain outside legal services differs from what is described in this Handbook therefore, any department in need of outside legal services must contact OGC for such services.

Audit services must be approved by the SAO through the TSUS Office of Internal Audit. Contact the TSUS Office of Internal Audit prior to planning any activity with respect to obtaining audit services.

**Note:** *The majority of TSUS Administration contracts / purchase orders are for tangible goods and services with simple planning needs that are met by the departmental users recognizing the need for the good / service and internal discussions among TSUS Administration Directors and Vice Chancellors. The Director of Procurement determines the appropriate procurement method for any purchase exceeding \$50,000.*

### 3.1 Contract Manager and Contract Administration Team

For purchases and contracts requiring a competitive procurement method, the requestor of the good or service in the department will generally fill the role of Contract Manager. The Contract Manager will advise Institution Procurement Staff of the proposed purchase and potential risks, perform initial supplier identification / verify competition and provide technical requirements needed for the SOW. The Contract Manager has the primary role in contract management and oversight activities (monitors and enforces the contract terms).

A Contract Administration Team may be needed to assist in the procurement planning process and subsequent contract management / oversight. The team can include various Institution personnel including representatives from the requesting department, executive sponsors, Procurement Staff, or TSUS Administration staff.

### 3.2 Procurement Method Determination

Institutions will first refer to any applicable laws, TSUS Rules and Regulations, and Institution policies and procedures that may direct the use of a specific procurement method. If applicable laws or policies and procedures do not direct a specific method, Procurement Staff and department staff will use the contract value thresholds described in this Section to determine which procurement method should be used.

### 3.2.1 Cost Estimate / Contract Value

Prior to determining the correct procurement method (i.e., the procurement path) to use to obtain needed goods or services, a reasonable estimate for the value of the contract will need to be determined. Contract value refers to the total potential cost or monetary value of the contract for the life of the contract, including any extensions or renewals. The estimate must be developed in good faith as it will be used not only in the selection of the appropriate procurement method, but also for compliance with statutory requirements that may be applicable to the purchase based on contract value, funding source or expenditure restrictions and prohibitions.

**Note:** A large purchase may not be divided into smaller purchases to circumvent the procurement thresholds specified in this Section. Conversely, truly independent purchases / contracts to a single supplier over time do not need to be aggregated unless Procurement Staff are reviewing cumulative spend for strategic reasons.

### 3.2.2 Procurement Thresholds for Direct and Competitive Procurement

| Estimated Spend          | Procurement Method   |
|--------------------------|--|
| <\$50,000                | <b>Direct / Open Market Purchase:</b> No competitive procurement is required.  |
| \$50,000.01 to \$100,000 | <b>Informal Bid:</b> Requires informal written quotes from three or more potential vendors.  |
| >\$100,000               | <b>Formal Bid:</b> Requires a formal procurement to be conducted by the Institution's Procurement Staff, another state agency, or a Group Purchasing Organization. |

**Note:** An Institution may set limits that are lower than the TSUS thresholds noted above.

### 3.2.3 Purchases Exempt from Competitive Bidding

Institutions should describe the types of purchases exempt from competitive procurement in their operating policies and procedures. Examples of exempt purchases include, but are not limited to, the following.

#### A. Emergency Purchases

An emergency purchase occurs as the result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises in which compliance with normal procurement practice is impractical or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to the Institution. *Delay or negligence on the part of an Institution does not constitute an emergency.* Emergency purchases

of goods or services are performed to restore a system to its original intended functionality and must not exceed the scope or duration of the emergency. The procurement file for an emergency purchase must include a written determination (basis for the emergency and for the selection of the vendor) provided by the originating department and approved by the Institution's Procurement Staff.

## B. Sole Source Purchases

A purchase may be justified when an equivalent good or service is not available or not suitable (a *proprietary* purchase) or when it is in the best interest of the Institution to use a particular product or service even if more than one source is available (a *best value* purchase). When a specification requirement limits consideration to one supplier, the procurement file for a sole source purchase must include a written justification provided by the originating department and approved by the Institution's Procurement Staff.

The written justification will include:

- Explanation of why a unique scope of work for a good or service is required;
- Details on the unique features of the good or service;
- Reason that competing goods or services are not satisfactory;
- Any other relevant information to support the sole source documentation; and
- Confirmation that the procurement does not violate conflict of interest and conflict of commitment policies.

**Note:** *Price and personal preferences are not acceptable as determining factors. Procurement Staff reserve the right to require additional quotes when reviewing sole source requests.*

Examples of Sole Source purchases include:

1. **Proprietary:** Equipment maintenance or repair parts from the original equipment manufacturer ("OEM"); software or software maintenance from the OEM; pharmaceuticals or chemical reagents only available from a single supplier.
2. **Best Value:** Equipment or parts to add to existing equipment (compatibility with existing equipment); specific reagents used in long term experiments (continuity of research).

## C. Purchases from Persons with Disabilities

Institutions are required to comply with applicable laws (including the best value statutes) related to the Purchases from Persons with Disabilities (or "State Use") program.

The State Use program (1) furthers the state's policy of encouraging and assisting persons with disabilities to achieve maximum personal independence by engaging in useful productive employment activities; and (2) provides state

agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to persons with disabilities. Institutions that purchase products or services through the program must report exceptions each month via the SPD's State Use Program Exception reporting tool.

#### D. Direct Purchases

Unless applicable laws direct the use of a specific procurement method, Institutions are authorized to make direct purchases (sometimes called open market or spot purchases) for goods and services with a contract value of \$50,000 or less. A direct purchase does not require a competitive procurement process or the need for multiple quotes.

#### E. Other Exempt Purchases

Certain goods or services are considered exempt from competitive procurement rules and processes, either by statute, if an exemption is in the best interest of the public, or by Institution policy. Multiple bids or proposals are not required when procuring exempt goods or services but may be requested to confirm best value for the Institution.

Exempt purchases for TSUS include:

1. Training services
2. Publications purchased directly from the publisher including:
  - Newspaper or magazine subscriptions
  - Back issues or reprints of magazines, journals, and newspapers
  - Books
  - Foreign publications
3. Library materials including books, periodicals, subscriptions, educational databases;
4. Allowable membership fees; training or conference registration fees; allowable accreditation or professional license fees;
5. Ad placements (in any medium, to include recruitment) and Sponsorship placements;
6. Goods purchased for retail sale by an Institution auxiliary enterprise;
7. Executive search firms (to include all faculty / staff positions);
8. Agreements with:
  - Federal Agencies
  - State of Texas Agencies
  - Institutions of Higher Education
  - Local Government Agencies (counties, municipalities, school districts, etc.)
  - Quasi-Governmental Agencies
9. Agreements for the purchase of existing artwork; loaned art; artifacts; museum or art exhibits;
10. Commissioned artists or musicians; entertainers; theatre groups; performers; or speakers;

11. Agreements for lodging, hotel rooms or conference space;
12. Catering, meals, and event food service (not food for resale or related to student meal plans);
13. Livestock / Poultry (cattle, sheep, swine, horses, ostriches, etc.);
14. Freight and postal services;
15. Utilities (water, electric, telecom, etc.) by a regulated public utility; and
16. Athletic games and events (including facility use, facility catering, and other agreements required by the athletic event host).

#### 3.2.4 Competitive Bidding – Informal

Informal bidding is a type of competitive procurement method used to procure goods and services when the expected value exceeds \$50,000 but is less than or equal to \$100,000. Institutions must obtain a minimum of three written bids. The bid opportunity is not required to be publicly posted.

#### 3.2.5 Competitive Bidding – Formal

Formal bidding is a type of competitive procurement method used to procure goods and services when the value is expected to exceed \$100,000. The Institution's Procurement Staff will determine the appropriate procurement method to use. The bid opportunity is required to be publicly posted and may require a subcontracting plan. Commonly used formal solicitation types include:

- A. **Invitation to Bid** ("ITB" or "IFB"): An ITB is used when the decision to award will be made primarily on the basis of price and delivery and when the requirements / SOW is clearly defined (e.g., using manufacturer part numbers). ITBs are posted for a minimum of 14 days and negotiations are not allowed unless there is only one respondent.
- B. **Request for Qualifications** ("RFQ"): An RFQ is used to identify a group of vendors who meet a set of minimum qualifications in order to submit proposals for a planned solicitation. Selection is based solely on demonstrated competence to perform the services and respondents are not asked to provide pricing. RFQs are posted for a minimum of 14 days. Only qualified vendors are asked to respond to any subsequent solicitation (which is not required to be publicly posted).

RFQs are also used, per statute, to select professional service providers (e.g., accountants, architects, engineers, physicians, etc.). Price is not a factor until after a provider is selected based on qualifications. RFQs for professional services are posted for a minimum of 30 days.

- C. **Request for Proposal** ("RFP"): An RFP is used when the decision to award will be made based on price, delivery, and additional factors (best value criteria) relevant to the project. RFPs are posted for a minimum of 21 days; however, best practice is to post for 30 days. Longer posting times may be needed to accommodate pre-proposal conferences, responding to vendor questions, etc. Negotiations are allowed with respondents and best and final offers can be requested.

### 3.2.6 Request for Information (“RFI”)

An RFI is used primarily as a planning tool that may be used to gather information when an Institution does not have the necessary information to prepare a complete and accurate solicitation document. RFIs are used to identify industry standards, best practices, potential performance measures, or to generally ascertain the level of interest of prospective respondents. RFIs add time to the overall procurement process but can be valuable when additional information is needed about a good / service to complete the SOW or potential suppliers for the good / service need to be identified. An RFI is posted for a minimum of 14 days. Institutions are not required to issue a solicitation upon completion of an RFI.

It is important to note that an RFI is not a procurement opportunity; a contract cannot be developed from a response to an RFI. Responses to an RFI are strictly voluntary and there is no downside for suppliers who choose not to participate; consequently, an RFI cannot be used to establish a pre-qualified supplier list.

### 3.2.7 Use of Existing Contracts

There are a variety of existing contracts that are available for Institution use for the purchase of goods or services. These contracts have already been competitively solicited by the lead agency and, in many cases, aggregate spend volume with other agencies to achieve contracts with advantageous pricing and services. These contracts are typically accessed by issuing a purchase order that references the specific contract being used. Institution Procurement Staff should review the requirements of a proposed purchase or contract and determine whether an existing contract is the best procurement method for completing the purchase.

- A. **Local Contracts:** Local contracts are contracts that have been competitively solicited for certain goods and services that are useful to multiple departments within an Institution.

Piggyback Clauses: Institutions can utilize another TSUS Institution’s local contract if the supplier community was notified of this potential (ref. Appendix 7, Sample Group Purchasing Language) during the originating Institution’s solicitation. This practice saves resources (the solicitation does not have to be repeated) and can lower pricing with aggregated spend potential. The “piggybacking” Institution will utilize the originating Institution’s solicitation to meet procurement requirements and create its own contract separate from that of the originating Institution. A copy of the original solicitation and, if possible, the resulting contract should be obtained for the procurement file of the “piggybacking” Institution.

Institutions may also piggyback on the solicitations of a non-TSUS institution to enter into a contract with the awarded supplier(s). Institutions must verify all applicable TSUS / State of Texas clauses are included in any resulting contract that may not have been a part of the original solicitation from the non-TSUS institution.

- B. **System Contracts:** TSUS Administration has a list of competitively procured System-wide contracts on its website that are available for use by all

Institutions.

C. **State Contracts:** There are a variety of contracts available for use by state of Texas agencies through the State's various contracting authorities:

- Texas Multiple Award Schedule ("TXMAS")
- Department of Information Resources ("DIR")
- Term Contracts: TxSmartBuy, Managed Term, Council on Competitive Government ("CCG"), and Green Items on TxSmartBuy

D. **Group Purchasing Organizations:** Institutions may also use contracts created by or through Group Purchasing Organizations ("GPOs") including other state agencies that act as GPOs (e.g., The UT System Supply Chain Alliance). Institutions may need to become a member of a GPO before utilizing its contracts.

Texas IHEs commonly use existing contracts from the following GPOs:

- Educational & Institutional Cooperative Purchasing ("E&I")
- Texas Association of School Boards ("TASB") / BuyBoard
- UT System Supply Chain Alliance ("Alliance")
- Premier, Inc.
- Education Service Centers – Various Regions
- National Cooperative Purchasing Alliance ("NCPA")
- OMNIA Partners, formerly National IPA / U.S. Communities
- Sourcewell, formerly National Joint Powers Alliance ("NJPA")
- The Interlocal Purchasing System ("TIPS")

### 3.2.8 Professional Services

Professional service providers are normally licensed or certified and the scope of their services include:

- architecture
- accounting
- landscape architecture
- land surveying
- medicine
- optometry
- professional engineering
- real estate appraising
- professional nursing

A provider of professional services may not be selected on the basis of competitive bids, but rather on the basis of (1) demonstrated competence and qualifications to perform the service and (2) for a fair and reasonable price. Professional service providers are generally pre-qualified based upon an RFQ with the contract award based upon negotiations with the most qualified provider. When a professional service

is required and no pre-qualification has been established, a contract award can be justified if it is established that the selection meets best value criteria. The justification must be in writing and kept in the contract file.

### 3.2.9 Consulting Services

Consulting service refers to the service of studying or advising an agency under a contract that does not involve the traditional relationship of employer and employee. An agency may contract with a consultant only if there is a substantial need for the consulting services and the agency cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental entity. Consulting services procurements are usually advertised as an RFP which must include a finding by the chief executive officer of the Institution that the consulting services are necessary and an explanation of that finding.

A consulting services contract is considered a “major consulting services contract” if it is expected that the value of the contract will exceed \$25,000. In selecting a consultant, the agency must base its choice on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee for the services.

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

## 3.3 Additional Information and Resources

Appendix 5: Sample Emergency Purchase Justification Form

Appendix 6: Sample Sole Source Justification Form

Appendix 7: Sample Group Purchasing Language

## Section 4 – Formal Solicitations

### 4.1 Planning

The solicitation process begins with planning. Clearly identifying the key business requirements and general contracting objectives (i.e., the needs assessment), assumptions, and constraints is an important step in the process. This step may seem obvious, but when a contract fails, it often fails because the expectations were not met and there was not a true meeting of the minds regarding expectations. Institutions may find that department staff involved hold different views as to the solicitation's objectives. If a contract will be part of a larger organizational project, Institutions may want to consider how the objectives, assumptions, and constraints integrate into the larger organizational project and identify potential integration risks so that a strategy for mitigating or managing those risks can be developed.

As part of the needs assessment, Institutions may conduct market research, study historical spending patterns, use benchmarking, or issue a Request for Information (RFI) to the vendor community.

**Note:** *The TSUS Administration Solicitation Intake Form (ref. Appendix 8) is usually the procurement planning tool used by TSUS Administration to facilitate the collection of information that will be used to prepare the solicitation document.*

#### A. Market Research

Department staff and Procurement Staff are encouraged to seek input from Institution personnel and other agencies or IHEs who have developed solicitations, drafted contracts, or engaged in projects similar to the solicitation that is being planned.

Recommended methods of research include:

- Using the internet to search for similar solicitation documents, contracts, and oversight documents;
- Reviewing websites of potential vendors for useful information;
- Checking with universities, trade associations, and professional organizations to identify industry standards; and
- Publishing an RFI.

While researching, Institutions may wish to contact potential vendors to discuss the procurement. This is an acceptable practice as long as the Institution solicits information from more than one vendor and advises the vendor up front that the Institution's interest is strictly for solicitation research purposes and that any formal requests for pricing or other information will be made through a formal solicitation process.

#### B. Cost Estimates

A cost estimate may be developed from a vendor's advertised price list, through online research, or prepared using standardized estimation methods and based on historical spending rates. It is recommended that someone within the Institution who has

knowledge of the subject area assists with determining the cost estimate. However, if unable to find anyone with knowledge of the subject area, Institutions may choose to contact other agencies or vendors to obtain pricing information. Institutions must clearly explain to any vendors contacted that the estimate is sought for informational purposes only and that the request is not a formal solicitation or quote request. When obtaining price estimates from vendors, care must be taken to avoid giving a vendor any competitive advantage in a future procurement initiative. Institutions can ask not only about market rates, but also about cost structure / pricing models for that good or service.

### C. Lead Time

The time it takes to complete the formal solicitation process and get an executed contract in place will vary with each project (ref. Appendix 9, Sample RFP Timeline). A good estimate Institutions can use for lead time is 5 - 7 months to complete an RFP and 1 - 2 months to complete an ITB. Examples of items that can impact lead time include the:

- workload of the parties involved;
- project complexity;
- submittal requirements;
- size of the evaluation team;
- addition of optional processes (e.g., short list presentations);
- number of items requiring negotiation; and
- the approval / signature requirements of the parties.

## 4.2 Preparing the Solicitation Document

If a competitive solicitation is required, Institution Procurement Staff will prepare the solicitation document based on information gathered from the requesting department (typically provided by the person who will be the Contract Manager). Templates containing basic information about the Institution, the solicitation process, and OGC approved clauses should be used as the starting point for solicitation documents.

Solicitations are effective when the Institution's requirements are clearly articulated to the vendor community. A poorly drafted solicitation may prompt responses that are not aligned with the Institution's actual requirements or include unnecessary costs due to vendor confusion. It is imperative that the solicitation be written in a manner that attracts responses that meet the agency's business needs.

Care must be taken to identify the Institution's requirements in the solicitation as a vendor cannot be held accountable for performance of a requirement that is not specified in the solicitation or resulting contract.

The key elements of the solicitation document are:

### 4.2.1 Background

To help potential respondents understand the project, the solicitation should provide appropriate background information. Such information could include things like

background data, known dependencies, associated work previously performed, description of existing business processes, if the work is currently being performed by another vendor or is a new project, or any other known factor that could help a vendor decide if they will respond to the solicitation.

#### 4.2.2 Contract Term

A reasonable contract term compliant with applicable laws and Institution rules should be included in the solicitation. Contract terms, including renewal periods, should not exceed 5 years unless compelling business needs exist. Institutions should confer with OGC when contemplating terms longer than 5 years.

#### 4.2.3 Submission Requirements

The solicitation should include one section listing all the required information that respondents must submit with their response. This will assist respondents to confirm that all required documentation is submitted.

#### 4.2.4 Timeline

The solicitation should include a calendar of events, so vendors know how long they have to submit questions, any pre-proposal meeting date, when to submit responses, etc. Procurement Staff are responsible for ensuring that the dates are reasonable in comparison to the complexity and cost of the solicitation.

#### 4.2.5 Evaluation Criteria

The Best Value Statutes require the Institutions to use certain evaluation criteria to evaluate responses for goods / services. The evaluation criteria are used to select the vendor that is awarded the contract and should clearly tie back to the Best Value Statutes. Criteria related to cost and vendor experience (i.e., reputation) must always be used. The solicitation must list each criterion and its scoring weight (up to 100% in total). Only the criterion included in the solicitation may be used to evaluate responses or select a vendor. Examples of additional criterion that can be used include:

- quality of goods / services
- implementation plan / schedule
- technical design elements
- staffing and resources
- training plan
- strategic direction
- licensing
- maintenance / service plan
- financial capability
- agreement with required terms & conditions

**Note:** *The cost evaluation criterion is generally not less than 30% of the total score. All other criterion should have weights that reflect that criterion's relative importance to the Institution.*

Institutions should consider the information / submittals that need to be requested in connection with each evaluation criterion, so the Evaluation Team (ref. Section 4.4.1) has the pertinent information needed to conduct the evaluation. Specific sections of the solicitation should be designed to directly relate to each criterion. Ideally, there will be a list of specific questions related to each non-price criterion for the vendors to complete. All information requested by the solicitation should relate to one of the evaluation criteria to be evaluated; information that does not relate to the evaluation criteria may not be considered in evaluating and ranking responses.

#### 4.2.6 HUB Requirements

HUB requirements are an integral part of the procurement process and are intended to promote full and equal business opportunities for all businesses. Institutions are required to make a good faith effort to utilize certified Texas HUBs in contracts in accordance with Institutional operating policies and procedures. An Institution's HUB goals can be achieved through contracting directly with HUBs or indirectly through subcontracting opportunities.

When an Institution is considering entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals), the Institution shall determine whether subcontracting opportunities are probable under the proposed contract before the Institution publishes the solicitation.

If the Institution has determined that subcontracting opportunities are probable for the contract, then the solicitation must state subcontracting opportunities are probable and respondents will be required to submit a subcontracting plan ("SP"). If the SP forms are not submitted with the rest of the solicitation package, the response will be considered non-responsive.

**Note:** *If an Institution determines that subcontracting is not probable, but the respondent intends to subcontract, the respondent would be required to complete the SP prior to contract execution.*

#### 4.2.7 Specifications

The specifications, or SOW, is the description of the product or services an Institution seeks to procure from a vendor. The SOW will be the basis of the resulting contract and is therefore critical to the success of the project. Procurement Staff should take care to ensure the SOW is clear and concise, logically organized, unbiased, avoids repetition and ambiguity, and is not overly restrictive (allowing for competition).

The most common specification types are:

- A. Design-based: The focus is on how the vendor will perform the services or how the goods are made rather than what the goods will do. The burden is on the Institution to provide accurate specifications that will generate the desired result and to properly test / inspect for compliance with the specifications.
- B. Performance-based: The focus is on outcomes or results rather than the process in which products / services are produced. The burden is on the vendor to choose the best approach to meet the Institution's needs.

- C. Mixed: A commingling of both performance- and design-based specifications

Topics to be considered by the Procurement Staff, Contract Manager, and Evaluation Team when drafting the SOW include, but are not limited to:

- Roles & responsibilities of the Institution and vendor
- Deliverables and milestones
- Required professional licenses or certifications
- Quality and quantity of goods / service
- Established industry standards
- Reporting requirements

#### 4.2.8 Payment Method

As with specification types, there are also various payment types. The payment method should be consistent with the goods / services delivered. Payments should be structured to fairly compensate the vendor and encourage timely and complete performance of work. The following are the most common payment methods used:

- A. Fixed Price: Payment to vendor is a total price for a defined product or service.
- B. Time & Materials: Payment to vendor is a pre-determined amount per unit (e.g. service or item)
- C. Cost reimbursement: Payment to vendor of direct and indirect costs actually incurred.

Generally, payment should be approximately equal to the value of the completed work and early payment discounts should be negotiated with vendors when possible. The solicitation must specify any invoice procedures that will apply to the procurement.

#### 4.2.9 Terms & Conditions

Clearly stated terms and conditions are the most effective means of protecting Institutions from unintended risk. It is common practice for contracts to contain standard or “boiler plate” terms and conditions, including the rights of the Institution, in addition to terms tailored to the specific project to address change control, risk mitigation measures, and remedies. Solicitations should include both types of terms, so vendors are aware of required terms prior to submitting a response.

Examples of project specific terms and conditions include:

- A. Change Control
  - Transition plans
  - Price adjustments based on an index
- B. Risk Mitigation
  - Financial capability
  - Insurance

- Surety bonds
- Warranties
- Extended warranty / maintenance agreement
- Limitation of liability

#### C. Remedies

- Liquidated damages
- Compensatory damages
- Restitution damages
- Nominal damages

If questions regarding the applicability of appropriate terms and conditions to use arise, Institutions should consult with OGC (or the Institution’s Risk Manager for insurance requirements).

#### 4.2.10 Additional Considerations

Listed below are several examples of additional items that should be considered when drafting the SOW. These items may affect pricing, so it is important for the vendors to be aware of these requirements if they are applicable to the project.

- Required permits or licenses
- Use of Institution equipment
- Access to Institution premises
- Storage space contractor material / supplies
- Parking
- Criminal background checks
- Lease conditions
- The frequency, content, format, and recipients of reports that may be required under the procurement
- Trade-in equipment
- Data security and privacy requirements
- Intellectual property, use of marks, etc.
- Record retention period
- Institution security policies
- Bonds
  - Bid Bond (deposit)
  - Performance Bond (contract value is >\$100,000)
  - Payment Bond (contract value is >\$25,000)

### 4.3 Advertising the Solicitation

#### 4.3.1 Publication of the Solicitation

Institutions are required to publicly advertise, or “post,” formal solicitations. Advertising is primarily accomplished by using the Institution’s electronic bidding system or website, the Comptroller’s Electronic State Business Daily (“ESBD”) website, or newspapers. While IHE’s are not required to post solicitations to the ESBD, it is a common practice, and some Institutions may have adopted policies or

procedures requiring use of the ESBD.

- A. Posting times will vary depending on the complexity of the solicitation and if the full solicitation package is provided when originally advertised. A 14-day posting time is required, however best practice is to post for a minimum of 30 days for complex solicitations like an RFP.
- B. When determining posting times, the first day the solicitation is posted is excluded and the day the solicitation is due is included. Posting times must be extended as needed so the last day of the posting is not a Saturday, Sunday, or holiday.

#### 4.3.2 Solicitation Announcement

A solicitation announcement is a brief notification, typically an email, sent by the Institution to notify potential respondents of the procurement opportunity and provide key information about the solicitation.

#### 4.3.3 Communication with Respondents

All communication with potential respondents should be limited to the designated Institution staff identified in the solicitation. The solicitation should provide only Procurement Staff as points of contact and include the acceptable forms of communication (e.g., email). Although Procurement Staff may not be able to answer technical questions, they will obtain the responses from the appropriate department staff and ensure that the information is communicated to all potential respondents. Department staff, including Evaluation Team Members, should not have contact with potential respondents outside of the pre-proposal conference. If contacted by a potential respondent, department staff should politely decline to discuss the solicitation and forward the inquiry to the Procurement Staff. A potential respondent that contacts someone other than the designated Institution staff listed in the solicitation *regarding that solicitation* may be disqualified so long as the solicitation notifies respondents of this possible penalty.

##### A. Written Questions

The solicitation may invite potential respondents to submit written questions to clarify provisions or SOW requirements. This option may be in addition to or in lieu of a pre-proposal conference / meeting. The solicitation will provide the deadline to submit questions and the method of acceptable submission (e.g., via email, facsimile, etc.). If the solicitation is posted on the Internet or an Institution's electronic bidding system, the questions and answers should be posted with the solicitation as they become available. Potential respondents must be given a minimum of 5-7 days prior to the submission deadline to review questions / answers therefore Institutions may need to extend the original solicitation deadline.

##### B. Pre-proposal Conference

Institutions may conduct a pre-proposal or "pre-bid" conference if there is a need for an on-site visit prior to submitting responses. The solicitation must

indicate the date, time, and location of the conference and if the conference is optional or a mandatory requirement of the solicitation. Institutions should carefully consider the use of mandatory conferences as requiring vendors to be at a certain place at a given time may limit competition.

Conferences are usually held approximately 10 days after the solicitation is published. All vendors in attendance should be documented through a sign-in sheet that is posted with the other solicitation documents at the conclusion of the conference. A sign-in sheet is required if the conference is mandatory because the sign-in sheet will be used by the Procurement Staff to verify respondent attendance at the conference. Sign-in sheets should be retained in the procurement file.

Conferences are facilitated and conducted by the Procurement Staff in coordination with the Contract Manager and / or select department staff. The Procurement Staff will answer procurement-related questions, while the Contract Manager / department staff should respond to the technical questions. If it is not possible to answer questions at the conference, conference attendees should be directed to submit unanswered questions in writing in accordance with the solicitation.

Pre-proposal conferences provide a forum for:

- Procurement Staff to review the solicitation requirements and respond to questions regarding the solicitation process;
- Institution staff to provide additional information, schematics, plans, reports, or other data that is not easily transferable or distributed through hard copy;
- Attendees to address specific questions or concerns regarding solicitation requirements or the solicitation process; and,
- Subcontracting relationships to develop through the contacts established by vendors at the conference.

#### C. Written Addenda

Any changes or clarifications to a solicitation must be made through written addenda which is posted on the Internet where it may be accessed by all potential respondents. It is best practice to also email a convenience copy to known vendors, including any pre-proposal conference attendees. When issuing an addendum, consider the amount of time remaining until the opening date of the solicitation. It may be necessary to extend the submission deadline – which must also be done through a written addendum.

#### 4.3.4 Response Submission

The solicitation must indicate the submission deadline (both date and time) and the submission method / location. Responses must be received by the submission deadline to be considered responsive.

## A. Receipt

Upon receipt by the Institution, the date and time received must be documented and the response should be kept in a secured location to prevent tampering, opening, or loss until the submission deadline has passed. Proof of receipt documentation should be retained in the procurement file. Each Institution must have procedures in place for the receipt and control of responses received. Such procedures could include having:

- a designated time clock (e.g., email server time, mail room clock, time stamp, etc.) to determine the timeliness of submission; or
- a process to document timeliness (e.g., receipt log, time stamp sheets, screenshot of electronic submission, etc.) and method of delivery; and a designated location for submission storage.

Occasionally, Institutions may receive a response that is not properly identified on the outside of the package and inadvertently open it. Procurement Staff may also intentionally open the package so it can be identified and properly marked as received. If this happens, the package should be resealed, dated, and marked with the reason it was opened (e.g., “opened in error”).

**Note:** *TSUS Administration uses the email server time and a solicitation receipt log (ref. Appendix 10) to document receipt of vendor responses at the TSUS Administration office. The sealed responses are held in the TSUS Office of Finance until the submittal deadline.*

## B. Late Responses

If a response is not received by the published submission deadline, it is considered late and therefore non-responsive. Late responses will not be opened, unless for identification purposes, and will be returned at the respondent’s expense or securely destroyed.

Late responses will only be permissible if the Institution has written policy that allows the acceptance of late responses under extenuating circumstances (e.g., inclement weather). Any such acceptance should be reviewed by the Institution’s Procurement Staff for appropriateness.

**Note:** *TSUS Administration may consider accepting a late response if extenuating circumstances prevent the mail carrier / delivery service from delivering the package on time. Procurement Staff must be able to obtain written proof that the vendor selected a delivery method (e.g., Priority Overnight) that would have otherwise arrived on time.*

## C. Limited Responses

If two or less responses are received for a competitive solicitation, the Institution may elect to accept the responses or reject the responses due to non-competition and reissue the solicitation. In the determination, the Institution should review the specifications for any unduly restrictive requirements and contact known potential respondents to determine why a

response was not submitted. The Institution shall include language in the solicitation document which defines the rights of the Institution in this situation (ref. Section 4.2.9). Proper documentation shall be retained in the procurement file to fully support all actions.

If it is determined that there were unduly restrictive requirements in the solicitation, the Institution may decide to cancel the solicitation and re-advertise once revisions to the solicitation requirements have been made. Otherwise, the Institution should consider the reasons that other responses were not received and determine if it is in the best interest of the Institution to:

- evaluate the responses and potentially make an award;
- re-advertise with a revised solicitation; or,
- cancel the project due to lack of competition.

#### D. Public Opening Option

Institutions may choose to conduct a public opening on the day of the submittal deadline. The solicitation should indicate whether the Institution will hold a public opening of responses and, if so, provide the information for the public opening (e.g., time, location, etc.) so interested parties may attend. Depending on the solicitation, a public opening may include a reading of the solicitation number and either the respondent names (RFPs) or the respondent names and total bid price (ITBs). All attendees of a public bid opening must be documented through a sign-in sheet / log that is kept in the procurement file.

#### E. Administrative Review

Once the responses have been opened, Procurement Staff will conduct an administrative review to determine if the responses submitted are responsive to the solicitation. Only those responses deemed to be responsive will be evaluated. Consultation with OGC may be necessary to assist in determining responsiveness. The Institution should use a checklist to document the results of the administrative review (ref. Appendix 11, Sample Administrative Review Checklist) and retain it in the procurement file.

At a minimum, the administrative review should include an examination of each response to confirm the following:

- Inclusion of the signed and completed subcontracting plan (if applicable),
- Inclusion of the signed and completed Execution of Offer,
- Acknowledgement of any solicitation addenda,
- Minimum qualifications, if there are any, have been met; and,
- Inclusion of any required forms or documents in accordance with the solicitation.

### **4.4 Evaluation & Award (Vendor Selection)**

Institutions must conduct evaluations in a fair and impartial manner consistent with Texas law

governing procurement, purchasing, and contracts. The purpose of an evaluation process is to identify which responses are responsive and to have sufficient and accurate information to make a sound decision.

The solicitation documents will include a general description of the evaluation process, the predetermined evaluation criteria, and the relative weights to be assigned to each evaluation criterion.

#### 4.4.1 Evaluation Team

- A. Composition & Role: The Evaluation Team should be comprised of individuals who are stakeholders in the goods / services being procured and who have the necessary technical or program expertise to competently review and evaluate submittals. The Evaluation Team will be led by a representative from the Procurement Staff (the Contract Developer) who serves as a non-voting member. Evaluation Team members are typically nominated by department staff or the Contract Manager. Some Institutions may have the procurement director or CFO conduct the final review and approval of Evaluation Team member participants. It is important to select members who understand the needs of the department and the Institution, and who understand the desired outcome of the procurement.

Procurement Staff will coordinate with Evaluation Team members so they can participate in preparing the solicitation, especially the evaluation criteria and assigned scoring weights. The members should fully understand the requirements of the solicitation and must be able to critically read and evaluate responses and document their judgments clearly, and concisely in accordance with the evaluation criteria.

- B. Size of Teams: The recommended size of an RFP / RFQ Evaluation Team is three to five members. To avoid potential individual bias, the team should not be less than three members. Complex projects may require more than five members or even additional teams (e.g., technical advisors). Coordination and management of the evaluation process become more difficult as the size and number of teams increase. An Evaluation Team for an ITB is generally one to two members.
- C. NDAs: Procurement Staff should collect a signed Non-Disclosure / Conflict of Interest Statement (ref. Appendix 12) from each Evaluation Team member prior to the advertisement of the solicitation when possible. Evaluation Team members will not be able to receive solicitation responses until the NDA has been submitted.
- D. Training: Prior to distributing responses, Procurement Staff will provide guidance to the Evaluation Team members that outlines the team's duties and responsibilities. This may be a separate meeting or may be in the form of written instruction provided with responses. Team members should be instructed on their responsibilities, including the critical nature of confidentiality to the integrity of the evaluation process. The Procurement Staff will review the evaluation criteria with the team members and explain how the evaluation process will be conducted. Each response must be evaluated individually

against the requirements of the solicitation. Only the information identified in the solicitation may be used to evaluate the response.

- E. Communication: During the evaluation period, Evaluation Team members will limit communication regarding the solicitation to asking questions of the Procurement Staff and, if authorized, obtaining information from technical experts to better understand the response contents and requirements. Communication between Evaluation Team members related to evaluating responses or response content is not permitted outside the presence of the entire team and the Procurement Staff. To protect the integrity of the evaluation process, only the Procurement Staff (generally the Contract Developer) may communicate with respondents.
- F. Scoring Matrix: A scoring matrix is used by the Evaluation Team members to score individual responses based on the evaluation criteria defined in the solicitation. Procurement Staff will provide instructions for completing the scoring matrix to the Evaluation Team.

Once evaluations are complete, the scoring matrix from each team member will be returned to the Procurement Staff who will review the scores and verify the accuracy of calculations for input into the final evaluation summary. If it is apparent that one or more team members' evaluations differ significantly from the majority, the Procurement Staff should verify with the team members that information was not overlooked or misunderstood. If after this discussion, a team member feels that they did not understand the criteria, the requirement, or missed information that was included in the response, the evaluator, at his or her own discretion, may revise their evaluation score.

Under no circumstances shall any team member attempt to pressure other members to influence evaluation scores.

**Note:** *TSUS Administration uses a mathematical formula suggested by SPD to evaluate the pricing criterion. The calculations are completed by the Contract Developer and added to the scores provided by the Evaluation Team for the subjective / non-price criteria. This method awards full points for the price criteria to the lowest bidder and the other vendor's scores are reduced proportionately based on the price gap when compared to the lowest bidder*

*Formula:*

$$\frac{\text{price of lowest response}}{\text{price of response being evaluated}} \times \text{max. points available} = \text{weighted score}$$

#### 4.4.2 Reference Checks

The Evaluation Team may verify any references included in the response and conduct any other reference, credit check, or background check deemed appropriate. The Comptroller's Vendor Performance Tracking System may also be used to evaluate a respondent's past performance. Negative findings could result, after consultation with OGC, in the disqualification of the respondent.

Reference checks may be performed in the following ways:

- After Evaluation: A member of the Evaluation Team, or the Procurement Staff, may contact the references of the highest ranked respondent to confirm the Evaluation Team's decision prior to award.
- During Evaluation: A member of the Evaluation Team, or the Procurement Staff, may contact the references of each respondent. The Procurement Staff will share the findings with all Evaluation Team members so the information may be incorporated into the evaluation scores related to references.

In both cases, reference checks should be documented in writing. The same script or format of questions should be used when conducting reference checks so that the results are consistent and fair to all respondents.

Sometimes it is difficult to obtain information from references, either because references have a policy of not providing information or because they cannot be reached in a timely manner. Depending on the importance of the procurement, the Institution may want to consider using the following statement in the solicitation in lieu of checking references for respondents:

***"The [insert System / University / etc.] reserves the right to check references, credit, or background information prior to award. It may, at its sole discretion, contact additional clients not presented as references in response to this RFP. Any negative responses received may be grounds for disqualification of the proposal."***

By including this statement, the Institution is not required to check references but may choose to do so. Whether or not to check references as part of the evaluation is at the discretion of the Institution based on the individual procurement.

#### 4.4.3 Oral Presentations / Discussions

The Institution may require oral presentations or discussions (i.e., short list presentations) with respondents as a part of the RFP process. Oral presentations and discussions provide an opportunity for respondents to highlight the strengths and unique aspects of their response and to provide answers to questions the Institution may have regarding the response. Demonstrations of product functionality are recommended when appropriate, such as information technology procurements or solution-based procurements.

Oral presentations and demonstrations can be scheduled for all respondents or limited to the top ranked respondents in the competitive range as determined by the Procurement Staff. The competitive range shall consist of those responses determined to be reasonably considered for award selection.

Oral presentations and demonstrations should be fair to all parties. The time allowed; the format; the audience, including Evaluation Team members; and the prepared script should be the same for all presenters to ensure consistency. Since some respondents believe there is an advantage to the order in which they present, it is best to draw names for the presentation order. This will ensure impartiality of the process.

#### 4.4.4 Best and Final Offers (“BAFOs”)

Institutions may request BAFOs from the respondents in the RFP process. The BAFO serves as an official revision of the RFP response. A provision for the BAFO process is included in the solicitation document.

Revisions of responses are normally accomplished by formally requesting BAFOs after the initial evaluation process or at the conclusion of oral presentations and discussions, with a deadline set for receipt of BAFOs and including instructions as to exactly what is to be submitted in response to the BAFO. After consideration of all BAFO responses, the Institution may choose to select the best value respondent(s) with which to offer an award and commence negotiations.

#### 4.4.5 Award

Institutions shall award a contract for the purchase of goods or services that provides the best value for the Institution pursuant to the evaluation criteria specified in the solicitation which are based upon the best value criteria established in Texas Education Code. In some cases, Institutions may elect to issue only a Purchase Order that serves as the agreement between the parties. The terms and conditions of the Purchase Order will state that it governs over a response, a quote and any other document provided by a respondent.

Once a decision to award has been made, a written notice (ref. Appendix 15) will be provided by the Institution to all solicitation respondents.

#### 4.4.6 Negotiations

In any contract, there are usually terms or conditions that each party may be willing to relinquish. Once the best value response(s) have been identified, if the solicitation type allows for negotiations, the first step in the negotiation process is to identify those terms and conditions that are essential, desirable, or subject to negotiation.

**Note:** *The ITB method does not allow negotiations unless only 1 respondent submitted a bid, while the RFP method does allow negotiations. A request for a respondent to clarify its proposal is not the same as negotiation of the terms of a respondent’s proposal. However, when seeking clarifications, Institutions should not give any respondent an advantage over another and should extend the same opportunities to each respondent.*

- A. During negotiations, Institutions may not use technical leveling or technical transfusion techniques. Technical leveling means helping a respondent to bring their response up to the level of other responses through successive rounds of discussion, usually by pointing out response weaknesses. Technical transfusion means disclosing technical information or approaches from one respondent’s proposal to other competitors during discussion.

In addition, the following disclosures are prohibited:

- disclosing competing respondents’ cost or prices (even if the disclosure is made without identifying the other respondent by name); and

- advising a respondent of its cost or price standing relative to other respondents.

## B. Negotiation Strategies

Negotiation strategy must be tailored to suit the particular facts and circumstances of the specific solicitation. Like other parts of the contract management process, planning is essential to conducting a successful negotiation. The Contract Manager may choose to meet with OGC to identify:

1. The terms and conditions that are essential to the contract. These are the terms or conditions upon which the Institution is either unable or unwilling to compromise.
2. The terms and conditions that are desirable, but not essential to the contract that the Institution is willing to compromise or relinquish.

The Institution can then cooperatively negotiate the contract. Parties involved in negotiations should be prepared to explain why a term or condition is essential or objectionable and place the burden on the respondent to identify an alternative solution that meets the Institution's needs.

Negotiations can reach an impasse over conflicting terms thought to be essential to each party. If the parties cannot reach an agreement, the Institution should consider ending negotiations and moving on to negotiations with the next highest ranked respondent. Institutions may continue with negotiations in this manner until the best interest of the Institution is achieved.

**Note:** *Once the Institution proceeds to negotiate with the next best value respondent, the Institution cannot return to the negotiation process with any of the respondents with which negotiations failed.*

## 4.5 Additional Information and Resources

Appendix 8: Sample Solicitation Intake Form

Appendix 9: Sample RFP Timeline

Appendix 10: Sample Solicitation Receipt Log

Appendix 11: Sample Administrative Review Checklist

Appendix 12: Sample Non-Disclosure / Conflict of Interest Statement for Evaluation Team Members

Appendix 13: Sample Evaluation Team Instructions

Appendix 14: Sample Proposal Score Sheet

Appendix 15: Sample Award & Regret Letters

## Section 5 – Contract Formation

The purpose of this Section is to provide general guidelines regarding contract formation. There can be many variations and exceptions to these general guidelines. Institutions should consult OGC, if necessary, for any questions about applicable statutes, regulations, [TSUS Rules and Regulations](#), TSUS policy, and operating policies and procedures.

### 5.1 Approach to Contract Formation

Fundamentally, the purpose of a written contract is to establish the rights and obligations of the parties to prevent misunderstanding and conflict. It is important that the parties document clear terms and address potential issues as completely as possible. Once signed, it may be difficult to amend unclear terms or add terms to address issues since all parties must agree to any changes.

Institutions need to allow adequate time to prepare the contract and to consult with OGC, if necessary, regarding potential legal issues. Institutions will include a draft of the standard Institution contract in the solicitation document so the respondent can make an offer with knowledge of the required contractual terms and conditions. Should Institutions fail to include a draft of the standard contract, such may be remedied by explaining the reason for such omission. Solicitations will state that responses may be disqualified if modifications to the Institution's terms and conditions are made.

### 5.2 Legal Elements of a Contract

The basic and essential elements necessary to form a binding contract are:

1. An **Offer** (the intent and willingness to enter into a bargain);
2. **Acceptance** of the offer (in compliance with the offer's terms);
3. A **legal purpose** (the objective of the contract must be legal);
4. **Certainty of Subject Matter** (essential terms have been mutually agreed upon);
5. **Consideration** (both parties make promises / receive something or "mutuality of obligation"); and,
6. **Competent Parties** (both parties must be legally competent).

### 5.3 Drafting the Contract

Contracts should have provisions that fully describe the actual agreement of the parties. Provisions that are typically included in contracts include, but are not limited to:

1. Administrative provisions;
2. Financial provisions;
3. Provisions that allocate risk;
4. The Statement of Work;
5. Provisions relating to the contract term, termination, governing law, and dispute resolution; and,
6. Provisions that relate to rights and ownership of work product and intellectual property.

When drafting a contract, Institutions are strongly encouraged to use an OGC approved

template as the starting point as well as a contract processing checklist (approved by OGC) to ensure that all required reviews and approvals have been completed prior to contract issuance.

**Note:** *TSUS Administration uses the TSUS Administration Contract Checklist & Risk Analysis Form to ensure appropriate reviews and approvals have been completed. The checklist, which is modified from time to time, is maintained by the TSUS Office of Finance.*

### 5.3.1 Form of the Contract

A contract can be in the form of an agreement, with recitals, negotiated terms and signature blocks, or in the form of the Institution's standard Purchase Order.

#### A. Agreement

An agreement offers the greatest opportunity to avoid conflicting provisions, because all the negotiated terms and conditions are contained in one document; however, they require more time to plan, prepare, and review. If an agreement is issued, it is generally a single document which may contain exhibits or attachments that provide additional information. Contract management is sometimes easier when all the provisions regarding the duties, obligations, and responsibilities of each party can be logically organized and easily found. The agreement is signed by both parties and when possible, Institutions should require the vendor to sign the document first.

Examples of common exhibits (if required) include:

- Scope of Work
- Schedule
- Cost
- Service Level Agreements
- FERPA requirements
- HIPPA requirements (Business Associates Agreement)

TSUS Administration may issue master agreements that outline a broad scope of work and associated pricing, but specific "projects" are agreed in separate documents such as order forms or project addenda which is signed by both parties. Institutions can utilize these master agreements and have authority to enter into project addenda for specific services for their Institution.

#### B. Purchase Order

A Purchase Order usually relies on several documents that, in combination, constitute the contract. Applying the formation rules in a simple manner: vendor delivers an offer, in the form of a quote or a solicitation response, and the Institution indicates acceptance of the offer by issuing a Purchase Order with standard terms and conditions attached. Together these various documents comprise the offer and acceptance and evidence of the basis of an agreement.

There is potential for conflicting or additional terms among the various

documents. When used properly, a Purchase Order is quick and efficient, but the Institution's standard terms and conditions need to clarify which document governs in the event of conflicting language. When using a Purchase Order as evidence of a contract, Institutions are advised to use its standard terms and conditions, rather than accepting terms a vendor proposes.

### 5.3.2 Contract Terms

Refer to Appendix 16, Contract Terms, for examples of the types of contract terms / clauses that are required in Institution contracts and those that are recommended. Questions related to specific contract terms and contract term verbiage should be directed to OGC.

### 5.3.3 Legal Review

Institutions may send any contract where the standard terms and conditions originally provided by OGC have been modified to OGC for review prior to contract execution. All agreements that require approval by the Chancellor or the Regents must be submitted to the Vice Chancellor and General Counsel for review prior to being submitted to the Chancellor. Refer to [TSUS Rules and Regulations](#) to determine what contracts and agreements must be approved by the Chancellor or the Regents.

### 5.3.4 Debarment and Vendor Certifications

Not earlier than the seventh day before and not later than the date of entering into the contract, Institutions shall verify the vendor is in good standing and eligible to receive the contract.

- A. **Debarment Check:** Institutions may not award a contract to a vendor that has been debarred by SPD. Procurement Staff shall check the debarred vendor list posted on the SPD website.
- B. **Iran, Sudan, & Foreign Terrorist Organization Check:** Institutions may not contract with a company doing business with Iran, Sudan, or a foreign terrorist organization.
- C. **Boycott Israel Check:** Institutions may not award a contract to a vendor that (1) has 10 or more full-time employees and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds, unless the contract contains a written verification from the vendor that it does not boycott Israel and will not boycott Israel during the term of the contract.
- D. **Energy Company Boycott Check:** Institutions may not award a contract to a vendor that (1) has 10 or more full-time employees and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds, unless the contract contains a written verification from the vendor that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

- E. **Warrant / Payment Hold Check:** Institutions may not (1) award a written contract, (2) make a payment with local funds, or (3) make a purchase with a payment card that exceeds \$500, to a vendor with an active warrant hold.
- F. **SAM Check:** Institutions may not award a contract to a vendor that is excluded from contract participation at the federal level. Procurement Staff shall check the SAM (System for Award Management) database when federal funds will be used for the contract.
- G. **Franchise Tax Check:** While not required, Procurement Staff may choose to check the vendor's franchise tax account status (the right to transact business) on the SPD's website prior to entering a contract.

**Note:** *TSUS Administration purchase orders / contracts include language whereby the vendor certifies compliance with these requirements. For contracts with a value of \$50,000 or more, the Director of Procurement or the Director of Capital Projects Administration will review the debarred vendor lists on the SPD's website.*

#### 5.3.5 Contract Execution

Institutions must follow [TSUS Rules and Regulations](#) and any Institutional policies regarding delegation of authority and contract execution. *It is important to note that the authority to authorize the expenditure of funds does not authorize an employee to sign contracts.* It is recommended that when obtaining contract signatures, Institutions obtain the signature of the vendor first and then fully execute the contract once all required elements of contract formation have been met.

Digital Signatures: TSUS accepts digital signatures that are compliant with the ESIGN Act of 2000 and the Uniform Electronic Transaction Act (UETA) of 1999 when the signature platform authenticates users by password and the platform produces a time stamp for the digital signature. Compliant digital signatures are considered "original signatures."

## 5.4 Additional Information and Resources

Appendix 1: TSUS Administration Contract Checklist & Risk Analysis Form

Appendix 16: Contract Terms

SPD website: <https://comptroller.texas.gov/purchasing/>

## Section 6 – Contract Management

The final step in the procurement process is Contract Management. The objective of Contract Management is to ensure the contract is performed satisfactorily and the responsibilities of both parties are properly discharged. This Section serves as recommended guidance for the Contract Management process.

Contract Management can include the following processes:

1. Post-award Planning
2. Monitoring Performance
3. Change Management
4. Payment Approval
5. Dispute Resolution
6. Termination
7. Contract Close-out

The primary tasks included in Contract Management include:

- Verifying vendor performance for purposes of payment and for compliance with contract requirements;
- Determining if corrective action is necessary and taking any needed action; and
- Developing a plan/checklist for contract close-out.

The SOW is the roadmap for Contract Management. The goal is for the parties to satisfactorily perform their responsibilities.

The extent of Contract Management will not be the same for all contracts. The level of Contract Management necessary should be consistent with the complexity and level of risk of the contract, the contract term, and dollar value.

**Note:** *The majority of TSUS Administration contracts / purchase orders are for tangible goods and services with simple Contract Management needs that are met by the departmental user verifying goods / services were received by approving the related invoice(s) for payment.*

During the solicitation process, a Contract Manager from the department requesting the goods / services should be identified (ref. Appendix 8, Sample Solicitation Intake Form), as well as any other Institution personnel (i.e., the Contract Administration Team) who may assist the Contract Manager with contract administration responsibilities.

### 6.1 Post-Award Planning & Conference

To properly plan, the Contract Manager must understand the components of the solicitation and the contract. The Contract Manager should use template checklists to monitor contract compliance, key components of which may include, but are not limited to:

- Expected costs
- Potential risks
- Timelines for performance
- Options for inspection and acceptance

- Key dates of the contract

The Institution may hold a post-award conference with vendor personnel responsible for administering the contract. A post-award conference is held soon after a contract is awarded or upon contract execution. The meeting should be held with the vendor, prior to beginning performance under the contract, to verify that the vendor fully understands the expectations, will perform accordingly, and can provide the foundation for an effective Contract Management effort. The post-award conference assists those involved directly in the Contract Management process to understand all requirements of contract performance. The post-award conference cannot be used to change the terms of the contract.

Not every contract requires a formal post-award conference. For less complex, low risk, low-dollar value contracts, a post-award conference is not necessary. The Contract Manager will usually decide if a post-award conference is necessary. Factors used to determine the need for a post-award conference include:

- Type of contract;
- Level of risk associated with the contract;
- Value and complexity;
- Length of contract, period of performance, or delivery requirements;
- Procurement history of the goods or services required;
- Institution's prior experience with the vendor;
- Any special or unusual contract requirements; and
- Any special or unusual payment requirements.

## 6.2 Monitoring Performance

Monitoring the performance of a vendor is a key function of proper Contract Management to assess whether the vendor is performing all duties in accordance with the contract and to allow the Institution to identify and address any developing issues. Performance monitoring tools (e.g., reporting, testing, etc.) should be specified in the solicitation and included in the contract.

There are different types of monitoring available, including:

- Site Visits (visits to vendor's facility)
- Desk Review (review of reports)
- Expenditure Document Review (analysis of vendor invoices)

Not all contracts require extensive monitoring. The level of monitoring will depend on the dollar value, complexity of goods or services, the level of risk, and the Institution's experience with the vendor.

Each Institution shall develop a procedure to identify contracts that require enhanced contract or performance monitoring and submit information on the contract to the Regents via the TSUS Administration Vice Chancellor and CFO. Institutions shall immediately notify the Regents of any serious issue or risk identified with respect to a monitored contract.

**Note:** *TSUS Administration uses the TSUS Administration Contract Checklist & Risk Analysis Form to identify contracts that require monitoring. The completed form, is submitted to the TSUS Administration Vice Chancellor and CFO for all contracts identified as needing*

*enhanced contract monitoring for disclosure to the Regents as needed.*

### **6.3 Reporting**

Contract reporting obligations include vendor reports to the Institution and Institution reports to other state agencies. Reports can be effective monitoring tools used by the parties to monitor the progress of contract compliance. Reporting requirements should be clearly defined in the SOW providing for the frequency, content, format, and recipients of each report. Common status and activity reports that may be utilized by the parties include, but are not limited to:

- Service Level Reports
- Progress or Milestone Reports
- Subcontractor Reports
- Ordering Activity Reports
- Historical Metrics
- Revenue Reports

### **6.4 Payment Approval**

Payments must be made in accordance with the Texas Prompt Pay Act, which provides for payment of invoices within 30 days unless contract performance is in dispute. The invoice payment date is determined by the latter of the date that a correct invoice is received, or the date goods are received, or the performance of services was completed. If a payment is disputed, payment will be withheld until the Institution is satisfied with the contract performance.

#### **6.4.1 Invoice Review**

Each Institution shall develop and maintain policies and procedures addressing payment approvals. Invoices should be reviewed to ensure:

- The vendor is billing only for goods or services received by the Institution;
- The goods or services have been inspected and accepted;
- The invoice is correct and complies with the pricing, terms and conditions of the contract; and
- The total payments do not exceed the contract limits.

#### **6.4.2 Withholding Payment**

Institution employees must protect the interests of the Institution, and, under appropriate circumstances, it may be necessary to withhold payment (no more than 110% of the disputed amount) from a vendor. Such circumstances include, but are not limited to:

- A material breach of the contract by the vendor;
- Errors in the invoice;
- Unsupported or undocumented costs;
- To remedy previous overpayments on the same contract; and
- Non-conforming or unacceptable performance by the vendor.

If an invoice issue can't be resolved, the Contract Manager should take the following steps to escalate the issue:

- Notify the Institution's Accounts Payable Office;
- Notify the vendor of the invoice issue; and
- Request assistance, if needed, from OGC to send a disputed invoice letter.

The vendor must be notified, and provided with details, regarding any error or disputed amount in an invoice within 21 days of receipt of the invoice.

## 6.5 Contract Changes

Throughout the term of the contract, it may become necessary to make changes to the contract. These changes can be minor, administrative changes such as a change of address, or they can be substantial changes that affect the price, delivery, and other material provisions.

Changes can be by mutual agreement, in which all parties to the contract agree in writing that a modification is necessary to alter a provision of the contract.

The Institution should not verbally authorize the vendor to alter performance under the contract before the formal change management process is complete, including full analysis of the change, written approval of the change, and documentation of the change through a written contract amendment.

**Note:** Changes must be approved by the Institutional signer of the contract unless otherwise authorized by the [TSUS Rules and Regulations](#).

### 6.5.1 Material Contract Changes

Whether or not a change is considered a material change to the contract depends upon the solicitation process and the contract. The contract and any amendments must be consistent with the specifications, the procurement cooperative program requirements, or be allowed by [TSUS Rules and Regulations](#) and Institutional operating policies and procedures. If a change is needed to a contract that was competitively solicited, the change must be within the scope of the solicitation.

Material changes are measured by whether the changes would substantially alter the original specifications. Where there is a need for material changes, Procurement Staff evaluate the changes and determine if there is a need to resolicit to allow for fair competition.

### 6.5.2 Administrative Changes

These are changes that are within the scope of the contract and do not affect or alter the rights of the parties. Examples of administrative changes include:

- Changes in billing or contact information;
- Corrections of typographical errors not affecting the substance of the contract;

- Changes as permitted by the specific contract language; and
- Changes in Institution personnel assigned to the contract.

### 6.5.3 Substantive Changes

These are changes to a contract that affect the rights of both parties. Examples of substantive changes include:

- Change in the price of the contract;
- Change in the delivery schedule;
- Change in the quantity;
- Change in the specifications / deliverable for goods or services;
- Change of key personnel by the vendor; and
- Change of any terms and conditions.

### 6.5.4 Constructive Changes

If a vendor perceives that changes beyond the scope of the contract were ordered by the Institution, the vendor may claim that the contract was “constructively” changed, and the vendor may be entitled to additional compensation for the changes. Constructive changes may occur when Institution personnel:

- Provide suggestions to a vendor;
- Accelerate the delivery schedule;
- Direct the work to be performed differently;
- Change the sequencing of the work;
- Delay accepting or rejecting deliverables;
- Delay reviewing invoices and approving payment; and
- Interfere with or hinders vendor performance.

The Contract Manager is responsible for managing the performance of a contract and is charged with managing the contract in a way to prevent constructive changes.

## 6.6 Dispute Resolution

The goal of dispute resolution is to resolve contract issues before they escalate. To avoid escalation, and to avoid Institution personnel actions exacerbating potential problems, it is imperative that the Contract Manager respond promptly to all vendor inquiries. Initial steps to be taken include:

1. **Identify the problem:** Many times, what may appear to be a problem can be resolved by providing a vendor with information or clarification.
2. **Report:** The Contract Manager can report the issue to the Procurement Staff even in cases where action may not be required from the Procurement Staff.
3. **Research facts:** Obtain information regarding the potential problem from all relevant sources, including members of the Contract Administration Team and the vendor. This resulting information should be maintained in the contract file.
4. **Evaluation:** Review the facts in conjunction with the requirements and terms and conditions of the contract.

## 6.7 Termination

When a contract is terminated, the parties are relieved from further unperformed obligations in accordance with the agreed terms and conditions. A contract may include language to terminate for the following reasons:

### 6.7.1 Termination for Convenience

A termination for convenience, also known as no-fault termination (or “without cause”), allows an Institution to terminate a contract, in whole or in part, at any time in its sole discretion, if it is determined that such termination is in the best interest of the Institution.

Procurement Staff shall provide the vendor with written notice specifying whether the Institution is terminating all or part of the contract. The notice of termination shall give the effective date of termination. If the contract is being selectively terminated, the notice shall specify which part(s) of the contract are being terminated.

### 6.7.2 Termination for Default

A contract may be terminated for default (or “with cause”) when an Institution concludes that a vendor has failed to perform, make progress, or has otherwise breached the contract. An Institution is not required to terminate a contract even though the circumstances permit such action. The Institution may determine that it is in the Institution’s best interest to pursue other alternatives such as extending the delivery or completion date, allowing a vendor to continue performance, or working with a vendor’s surety to complete the outstanding work. The purpose of a termination for default is essentially to protect the interests of the Institution.

Prior to terminating a contract for default, a cure notice should be sent to the vendor if the parties so agreed in the contract. A cure notice letter allows a vendor to have a defined period of time to “cure” the deficiency or violation. If the vendor fails to cure the situation or provide a satisfactory explanation as requested and within the time allowed, the contract may be terminated by sending a notice of termination.

**Note:** *A vendor may also have the right to terminate a contract for default if the Institution fails to perform.*

### 6.7.3 Force Majeure Termination

Institutions may not be able to terminate a contract for cause when the failure to perform is the result of a force majeure or other excusable causes. To qualify as an excusable cause, the cause must be beyond the control, and without the fault or negligence of the vendor. Such excusable causes include, but are not limited to:

- Acts of God or a public enemy;
- Acts of the Institution;
- Fire;
- Floods;
- Epidemics and pandemics;
- Strikes;

- Freight embargos; or
- Unusually severe weather.

## 6.8 Contract Close-out

The purpose of the contract close-out process is to confirm that both parties have fulfilled all contractual obligations. In addition, contract close-out is the time to assess the success of the contract and recognize any process improvements for future contracts.

A contract is ready for close-out when all goods or services have been received and accepted; all administrative actions have been accomplished; and all Institution furnished equipment and materials have been returned. Final payment should not be made to a vendor until all compliance and corrective actions have been successfully completed and the Contract Manager or his or her designee has provided final acceptance.

Each Institution shall determine the appropriate contract threshold that requires a formal contract close-out.

**Note:** *TSUS Administration uses the TSUS Administration Contract Monitoring & Close-out Plan Form to document contract close-out activity. Contracts with a value of less than \$1,000,000 are typically considered closed with approval and payment of the final invoice.*

While not a statutory requirement for IHE's, as a part of the close-out process, an Institution may choose to report the vendor's performance to the Comptroller using the Vendor Performance Tracking System ("VPTS").

## 6.9 Record Retention

Aside from the responsibility of maintaining the procurement file, the Contract Manager, or designated responsible Institution employee, is also responsible for ensuring that contract documents are retained in the required format for the appropriate amount of time as determined by applicable law and the Institution's records retention schedule. Each Institution should develop a plan for procurement and contracting file contents in accordance with the TSUS Records Retention policy. Refer to Appendix 17 for an example of how to organize electronic files from a formal solicitation.

Each Institution:

- A. shall retain records of each contract (including amendments) entered into by the Institution and any related formal solicitation documents, including posted solicitation documents, the vendor's response, the evaluation determination (the "bid tab"), and the notice of award document; and
- B. may destroy the contract and supporting documentation only after the seventh anniversary of the date:
  - the contract is completed or expires; or
  - all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or supporting documentation are resolved.

Documentation may be retained by the Institution's Purchasing, Contract, Accounts Payable Offices, or by the Contract Manager's department.

#### **6.10 Additional Information and Resources**

Appendix 1: TSUS Administration Contract Checklist & Risk Analysis Form

Appendix 2: Contract Management Responsibilities

Appendix 4: TSUS Administration Contract Monitoring & Close-out Form

Appendix 8: Sample Solicitation Intake Form

Appendix 17: Sample Electronic File Storage Plan

## Version History:

| Version   | Release Date   | Summary of Revisions   |
|-----------|----------------|--|
| Version 1 | January 2017   | Original Publication Date  |
| Version 2 | July 2018      | Non-substantive clarifications and revisions.  |
| Version 3 | September 2020 | Substantive reorganization and revision of content.<br>Updates to existing appendices and creation of new appendices.  |
| Version 4 | June 2026      | Non-substantive clarifications and revisions throughout.<br>Substantive changes to sections: 1.6.2, 3.2.2, 3.2.3 D-E, 3.2.4, 5.3.4, 5.3.6 (removed section), and 6.4.2.<br>Updates to Appendices 1, 3, 4, and 16 |

## Appendices List:

**Note:** *The information provided in the following Appendices is not meant to be prescriptive, but to provide examples and guidance to Institutions about how certain tasks can be done when performing procurement and contract activities.*

| Appendix # | Appendix Title   |
|------------|--|
| 1          | TSUS Administration Contract Checklist & Risk Analysis Form                        |
| 2          | Contract Management Responsibilities   |
| 3          | TSUS Administration Procurement Guidelines Summary                                 |
| 4          | TSUS Administration Contract Monitoring & Close-out Plan Form                      |
| 5          | Sample Emergency Purchase Justification Form                                       |
| 6          | Sample Sole Source Justification Form  |
| 7          | Sample Group Purchasing Language   |
| 8          | Sample Solicitation Intake Form  |
| 9          | Sample RFP Timeline  |
| 10         | Sample Solicitation Receipt Log  |
| 11         | Sample Administrative Review Checklist   |
| 12         | Sample Non-Disclosure / Conflict of Interest Statement for Evaluation Team Members |
| 13         | Sample Evaluation Team Instructions  |
| 14         | Sample Proposal Score Sheet  |
| 15         | Sample Award & Regret Letters  |
| 16         | Contract Terms   |
| 17         | Sample Electronic File Storage Plan  |

# TSUS Administration

## Contract Checklist & Risk Analysis Form

(Complete this form for Purchase Orders / Contracts > \$50,000)

### SECTION 1: GENERAL INFORMATION

Requesting Office / School: \_\_\_\_\_

Requesting Office / School Contact: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

Material / Service Description: \_\_\_\_\_

PO / Contract Number: \_\_\_\_\_

Maximum Value (include potential renewal options, amendments, etc.): \$ \_\_\_\_\_

Effective Date: \_\_\_\_\_ Initial Expiration\*: \_\_\_\_\_ Max Renewal Exp.: \_\_\_\_\_

\*Contract term NTE 5yrs without OGC review

**Procurement Justification:**

Competitive Procurement Type:  Existing Contract  Informal Bid  ITB  RFP  RFQ

Non-competitive Procurement Type:  Sole Source  Blanket PO  Emergency  Exempt per CMHB

Name of Contract Developer completing this checklist: \_\_\_\_\_

### SECTION 2: PROCUREMENT JUSTIFICATION

Based on the purchasing justification selected in Section 1, complete the appropriate boxes below:

**Existing Contract:**

Contract Source: \_\_\_\_\_ Contract #: \_\_\_\_\_

Is the contract valid to use (not expired, goods/services/vendor is on contract)?  Yes  No

Proof of contract has been included in the contract file?  Yes  No

**Sole Source / Emergency / Other:**

Appropriate documentation has been included in the contract file?  Yes  No

Purchase Type: \_\_\_\_\_

**Informal Bid:**

A minimum of 3 written quotes were collected.  Yes  No

**Formal Bid:**

Solicitation Type:       ITB     RFP     RFQ

Solicitation #: \_\_\_\_\_      ESBID Posting Date: \_\_\_\_\_

Solicitation Title: \_\_\_\_\_

Number of Bids Received: \_\_\_\_\_      NDAs included in file?    Yes    No

Date Awarded: \_\_\_\_\_      Sample Contract included in solicitation?  Yes    No\*  
\*if no, explain why in notes

Base Contract Term & Renewal Options: \_\_\_\_\_

If the expected value of the contract is ≥ \$100K, was a subcontracting plan required?    Yes    No    N/A  
 If required, will vendor subcontract?    Yes    No

This is a:    Single Award    Multiple Award (list additional vendors in notes)

Notes: \_\_\_\_\_

---

**Exempt per CMHB:**

Library Books / Materials     Ad / Sponsorship placement     Goods for Resale     Utilities

Allowable Fees (Membership / Prof. License / Conference Registration)     Lodging / Hotel Agmts.

Existing or Loaned Art / Artifacts / Art Exhibits     Artist / Musician / Performer / Speaker     Catering

Freight / Postal services     Publications (journals / books / reprints / etc.)     Search Firms     Livestock

Athletic Games & Events     Training Services     IHE or State / Federal agency

### SECTION 3: RISK ANALYSIS

| Part A: Internal Reviews & Notifications   | Yes                      | No                       |
|--|--------------------------|--------------------------|
| Is the contract revenue generating?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the contract a type of lease?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the vendor a foreign individual, organization, company, or government?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the vendor an employee of any TSUS Institution, a Texas State agency or another university? If yes, which agency or university? _____   | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the contract for outside counsel, consulting, or audit services?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract include the purchase of Electronic Information Resources (EIR) such as hardware, software, equipment with embedded hardware/software, websites, or other IT services? If yes, an IT Security / Accessibility review may be needed - <b>complete Section 4 below.</b> | <input type="checkbox"/> | <input type="checkbox"/> |

| <b>Part B: Optional Contract Clauses</b> <i>(review questions re: applicability with OGC)</i>                          | <b>Yes</b>               | <b>No</b>                |
|--|--------------------------|--------------------------|
| Should the contract include limited auto-renewal term language?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract require BOR approval?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the contract amount been pre-approved by the BOR?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor provide architect or engineering services?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor be paid on an hourly fee basis?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor's employees be placed on a campus for an extended period?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor be given custody of any vital state records?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor create IP protected work material?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract involve manufactured iron or steel?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract include use of electronic and information resources (hardware, software, A/V systems, phones, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the vendor accept/process credit card payments?   | <input type="checkbox"/> | <input type="checkbox"/> |

| <b>Part C: Risk Assessment</b> <input type="checkbox"/> N/A (value < \$1M, MOU, interlocal or interagency)  | <b>No</b>                |                          |                          | <b>Yes</b>               |                          |                          |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|   | (L)                      | (M)                      | (H)                      | (L)                      | (M)                      | (H)                      |
| Is the amount of the contract ≥ \$2M? <i>(Select "Yes - H" if value is higher than \$5M)</i>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Will prepayment or progress payments be made?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there SOW deliverables to track during the term? <i>(Select "Yes - H" if deliverables are non-specific)</i>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract include subcontracting activity?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the contract term longer than 5 years? <i>(Select "Yes - H" if longer than 10 yrs.)</i>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there concerns regarding intellectual property?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there concerns regarding cyber / data security?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there concerns regarding EIR accessibility? <i>(Select "Yes" if an Exception was granted)</i>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract include the purchase, use, or development of a system that will use confidential data (personally identifying, protected health, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there concerns regarding personal safety or security for people / buildings?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Risk Level Determination:**

Low (L): Routine Monitoring (suggested)

*(The high-level risk criteria noted in this section are a guide; however, context-specific factors or mitigating circumstances may warrant a higher or lower rating based on the professional judgement of the procurement officer.)*

Medium (M): Routine Monitoring (required)

High (H): Enhanced Monitoring (required)

**If judgement was applied in determining the risk level, provide a brief explanation:**

## SECTION 4: TECHNOLOGY INFORMATION

N/A

| Based on information received from the end user, briefly describe the purpose of the IT goods / services. Who will be the primary users (students, staff, faculty) of the goods / service?  |                          |                          |
|---|--------------------------|--------------------------|
|   |                          |                          |
| IT Questionnaire  | Yes                      | No                       |
| Does the contract require the vendor to have access (i.e. NET ID log on) to TSUS computer systems?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the contract allow for data to be created, uploaded, stored, or processed by the vendor?<br>If yes, check all applicable data types below:   |                          |                          |
| <input type="checkbox"/> PII (e.g., name, DOB, SSN, biometric identifiers, etc.)  |                          |                          |
| <input type="checkbox"/> PHI – HIPAA protected (e.g., info related to patient’s health, demographics, insurance, etc.)  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Financial information (e.g., credit card numbers, bank routing numbers, etc.)  |                          |                          |
| <input type="checkbox"/> Student information – FERPA protected (e.g., student records, student ID numbers, grades, email addresses, recording of class discussions, etc.)   |                          |                          |
| <input type="checkbox"/> Other (e.g., sensitive research data, survey answers, etc.)  |                          |                          |
| Is the contract for the procurement of software, website, telecommunication products, video/multimedia, information technology hardware or self-contained/closed equipment? If so, the vendor must comply with the EIR requirements of TAC Chapters 206 and 213.  | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the software or system integrate into any other TSUS software / system (to include Banner, Microsoft applications, Blackboard, etc.) or any integrated single sign-on (SSO) feature?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the software or any equipment include cloud computing services?<br><i>*Keywords to watch for include:<br/>Software-as-a-Service (SaaS), Platform-as-a-Service (PaaS), Infrastructure-as-a-Service (IaaS), On-demand Self Service, Broad Network Access, File Sharing, Rapid Elasticity, data storage</i> | <input type="checkbox"/> | <input type="checkbox"/> |

## SECTION 5: REPORTING & COMPLIANCE

| Vendor Status Checks (pre-award)  |  |
|---|--|
| SPD debarment & CPA divestment lists:   | <input type="checkbox"/> Completed <input type="checkbox"/> N/A (Interagency / Interlocal) |
| SAM (federal database):   | <input type="checkbox"/> Completed <input type="checkbox"/> N/A (non-federal funds)        |
| Warrant Hold:   | <input type="checkbox"/> Completed <input type="checkbox"/> N/A (non-local funds)          |
| Transparency Report (post-award)  |  |
| <input type="checkbox"/> Completed <input type="checkbox"/> N/A (MOU / Interagency) |  |

| LBB Report (post-award)   |   |                          |
|---|---|--------------------------|
| <input type="checkbox"/> Completed <input type="checkbox"/> N/A (funded exclusively by federal grant / consulting)  |   |                          |
| Approval / Requisition Date:  |   |                          |
| Award / Issue Date:   |   |                          |
| Completion Date:  |   |                          |
| NIGP Code (class / item):   |   |                          |
| <u>Reporting Codes &amp; Deadlines:</u>   |   |                          |
| Report within 30 days:  | <input type="checkbox"/> Construction >\$50K<br><input type="checkbox"/> Professional Services >\$50K<br><input type="checkbox"/> Purchases >\$50K<br><input type="checkbox"/> Major Information System >\$1M |                          |
| Report within 15 days:  | <input type="checkbox"/> Non-competitive Purchase >\$1M *<br><input type="checkbox"/> Purchases >\$10M *  |                          |
| Report within 5 days:   | <input type="checkbox"/> Emergency Purchase >\$1M *<br><i>*Attestation Letter required</i>  |                          |
| <b>NOTE:</b> Vendor address is required for LBB entry. If contract is for multiple years, including renewal options, LBB entry requires estimated cost of contract by fiscal year (FY). IHEs are exempt from uploading attachments. |   |                          |
| Additional Reviews & Requirements   | Completed   | N/A                      |
| Office of General Counsel Review (if standard terms not used)   | <input type="checkbox"/>  | <input type="checkbox"/> |
| IT Security / Accessibility Review (if applicable)  | <input type="checkbox"/>  | <input type="checkbox"/> |
| SPD Subcontracting Form Completed (≥ \$100,000, if opportunities exist)   | <input type="checkbox"/>  | <input type="checkbox"/> |
| Chancellor's approval / one-time delegation received (> \$500,000)  | <input type="checkbox"/>  | <input type="checkbox"/> |

**SECTION 6: CONTRACTS ≥ \$1 M**

N/A

| Additional Requirements   | Yes                      | N/A                      |
|---|--------------------------|--------------------------|
| Form 1295 - T.E.C. Certificate of Interested Parties submitted (≥ \$1M)   | <input type="checkbox"/> | <input type="checkbox"/> |
| LBB Attestation Letter completed (non-competitive > \$1M or any purchase > \$10M)   | <input type="checkbox"/> | <input type="checkbox"/> |
| SAO State Agency Uniform Nepotism Disclosure Form completed (≥ \$1M)  | <input type="checkbox"/> | <input type="checkbox"/> |
| Contract Monitoring & Closeout Plan Form completed (≥ \$1M) <i>*submit to CFO if applicable</i>   | <input type="checkbox"/> | <input type="checkbox"/> |
| Board of Regents Approval (≥ \$2M)  |                          |                          |
| <input type="checkbox"/> BOR approval received at the _____ meeting<br><input type="checkbox"/> BOR approval anticipated at the _____ meeting and OGC-approved clause related to BOR approval included in contract<br><input type="checkbox"/> BOR approval not applicable per Regent Rule: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| Director of Procurement verification to Institution CFO and TSUS VC & CFO (≥ \$5M)  |                          |                          |
| <ul style="list-style-type: none"> <li>• Solicitation method &amp; vendor selection process is compliant</li> <li>• Identification of potential issues with selection process</li> </ul>  | <input type="checkbox"/> | <input type="checkbox"/> |
| Interagency contract has been posted on the website (> \$10M)   | <input type="checkbox"/> | <input type="checkbox"/> |

## Contract Management Responsibilities

A Contract Manager needs to have a proficient understanding of the contract provisions, the ability to communicate about contract obligations to all parties involved and maintain control over the contract performance.

The Contract Manager should monitor that contract requirements are satisfied, that goods or services are delivered in a timely manner, and that the financial interests of the Institution are protected.

### A. Contract Manager Responsibilities

The primary post-award responsibilities of the Contract Manager (from the requesting department) may include, but are not limited to:

- Serving as the point of contact for disseminating instructions regarding the SOW to the vendor.
- Receiving and responding to informal communications between an Institution and a vendor.
- Establishing scope of authority, clear lines of communication and reporting, and specific individuals who will interact directly with a vendor.
- Managing Institution assets used in contract performance.
- Providing access to Institution facilities, equipment, data, personnel, materials, and information.
- Identifying, documenting, and resolving minor disputes with a vendor in a timely manner.
- Implementing a quality control and assurance process.
- Maintaining appropriate documentation as required by the applicable retention guidelines.
- Documenting significant events including deficiencies, deliverables, and milestones.
- Monitoring the vendor's progress and performance to confirm goods or services conform to the contract requirements.
- Inspecting and approving the final goods or services received and providing documentation of acceptance.
- Monitoring budgets to verify sufficient funds are available for the duration of the contract.
- Monitoring default terms and conditions in the contract.
- Authorizing payments consistent with the contract documents and in accordance with Institutional operating policies and procedures.
- Performing the contract close-out responsibilities.

Contract Managers are **not** authorized to:

1. Instruct a vendor to start work prior to a fully executed contract and receipt of any required bonds and insurance or other requirements.
2. Alter the scope or terms of the contract without a formal contract amendment processed through the Procurement Staff.
3. Approve changes to the HUB Subcontracting Plan or approve substitutions or additions of subcontractors without written approval from the Procurement Staff.
4. Extend the term of the contract without execution of formal contract amendment processed through the Procurement Staff.

## **Appendix 2: Contract Management Responsibilities**

5. Allow the vendor to incur any obligations outside of the scope of the contract.

### **B. Procurement Staff Responsibilities**

Certain administrative tasks related to the management of the contract will be performed by designated Procurement Staff, typically the Contract Developer, who will advise and guide the Contract Manager throughout the term of the contract.

The primary post-award responsibilities of the Procurement Staff may include, but are not limited to:

- Providing guidance, as needed, to the Contract Manager throughout the Contract Management process.
- Consulting with OGC to address any legal concerns or issues.
- Receiving and responding to formal contract communications between the Institution and the vendor.
- Managing, approving, and documenting any changes to the contract.
- Documenting and assisting in resolving disputes with the vendor in a timely manner.
- Establishing control of correspondence, data, and reports.
- Coordinating with the Contract Manager to store key contract file documentation for the required retention period.
- Providing notices and exercising remedies, as appropriate, when a vendor's performance is deficient in consultation with OGC.
- Providing oversight of the Contract Close-out process to properly document the contract file.

## **TSUS Procurement Guidelines Summary**

*For the Purchase of Goods & Services*

| Contract / PO Amount     | Procurement / Solicitation Method <sup>1</sup> | Delegated Authority | Posting <sup>2</sup> & Reporting <sup>3</sup> Requirements |
|--------------------------|--|---------------------|--|
| <\$50,000                | Open Market – one (1) written quote            | Institution         | Transparency   |
| \$50,000.01 - \$100,000  | Informal Bid – three (3) written quotes        | Institution         | Transparency & LBB*  |
| \$100,000.01 - \$500,000 | Formal Bid – ITB or RFP                        | Institution         | Transparency & LBB*  |
| \$500,000.01 - \$2M      | Formal Bid – ITB or RFP                        | Chancellor          | Transparency & LBB*  |
| >\$2M                    | Formal Bid – ITB or RFP                        | BOR                 | Transparency & LBB*  |

|   |   |
|---|---|
| <p><b><sup>1</sup> Procurement / Solicitation Method Notes</b></p> <p>Alternate competitive methods include existing contracts from:</p> <ul style="list-style-type: none"> <li>• GPO</li> <li>• Co-op</li> <li>• State (DIR/TxMAS)</li> <li>• Interagency / Interlocal / Texas IHEs</li> </ul> <p>Alternate non-competitive methods: sole source, emergency, exempt purchases</p>  | <p><b><sup>3</sup> LBB Reporting Requirement Notes (see GAA, Article IX)</b></p> <ul style="list-style-type: none"> <li>• All Purchases &gt; \$50K (report within 30 days)</li> <li>• IT Purchases &gt; \$1M (report within 30 days)</li> <li>• Non-Competitive &gt; \$1M (report within 15 days; requires attestation letter)</li> <li>• Emergency &gt; \$1M (report within 5 days; requires attestation letter)</li> <li>• All Purchases &gt; \$10M (report within 15 days; requires attestation letter)</li> </ul> <p><i>*Refer to the TSUS CMHB for information on entry prioritization.</i></p> <p>LBB reportable contracts include those purchased through an eCommerce system (e.g., Marketplace, BearKatBuy, etc.) or through an existing contract (e.g., TxMAS, DIR, E&amp;I, etc.), leases, blanket orders, and revenue generating contracts.</p> <p>Fee-for-service contracts (i.e., zero-dollar contracts) should be reported when actual cumulative expenditures meet reporting requirements.</p> <p>Contracts with periodic payments and no completion date (e.g., telephones, utilities, etc.) should be reported to the LBB each fiscal year, as a new contract, if estimated spend for the year meets reporting requirements.</p> <p>IHEs are exempt from providing contract copies and solicitation documents to the LBB.</p> <p>IHEs are exempt from reporting consulting contracts.</p> <p>Professional Services contracts for physicians and optometrists are exempt from LBB reporting.</p> |
| <p><b><sup>2</sup> Transparency Posting Notes (see TGC 2261.253)</b></p> <p>Orders &lt;\$15K, using appropriated funds, must be posted within 30 days of issuance.</p> <p>Orders &gt;15K, regardless of funding source, must be posted within 10 days of issuance.</p> <p><u>Exemptions:</u> contracts posted in the LBB contracts database; MOUs; interagency and interlocal contracts; no-cost contracts; and contracts &lt;\$15K fully paid for with non-appropriated funds</p> <p>Solicitation documents must be posted for the life of the contract.</p> |   |

# TSUS Administration

## Contract Monitoring & Close-out Plan Form

Govt. Code 2261.253 – 2261.255

(Complete this form for Purchase Orders / Contracts ≥ \$1M or any contract requiring monitoring)

### SECTION 1: GENERAL INFORMATION

|  |  |
|--|--|
| Contract Number:   |  |
| Start Date:  |  |
| Expiration Date:   |  |
| Renewal Options:   |  |
| Vendor:  |  |
| Vendor Contact:  |  |
| Vendor Contact Email:  |  |
| Contract Manager:  |  |
| Contract Developer:  |  |
| <p><b>Note:</b> The person in the Contract Manager (<b>CM</b>) role is a department-level individual that will be responsible for performing or coordinating contract management activities for the duration of the contract term. The Purchasing / Procurement Office will assign a staff member to act as the Contract Developer (<b>CD</b>). These are roles and not job titles and may only be a small part of the assigned individual's overall job responsibilities.</p> |  |

### SECTION 2: MONITORING PLAN

| <b>Risk Level &amp; Monitoring Plan</b> <i>(as determined in Section 3 of the Contract Checklist)</i>   |
|---|
| <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Low: Routine (Suggested)                 </div> <div style="width: 45%;"> <input type="checkbox"/> Medium: Routine (Required)                 </div> </div> <div style="margin-top: 10px;"> <input type="checkbox"/> High: Enhanced (Required)                 </div> |

**Routine Monitoring Plan:**

1. Financial Provisions & Delivery Schedules:
  - CM will review and approve invoices prior to payment
  - CM will verify cost charged is accurate
  - CM will verify Progress Activity Reports (PARs) related to subcontracting are included with each invoice, if applicable
  - CM will monitor compliance with delivery schedule

2. CM will notify CD of any contract-related issues that cannot be resolved. If it is determined that the vendor’s performance is not satisfactory, a corrective action plan will be issued by the CD.
3. CM and CD will monitor signs of fraud, abuse, or waste in accordance with this plan.
4. CD will maintain a file of all key communications with the vendor related to contract performance.
5. CD will issue any renewal letters prior to expiration of contract term, if applicable.

**Enhanced Monitoring Plan:**

The items below will be completed in addition to those required by the Routine Monitoring Plan:

1. A contract kick-off call/meeting may be conducted to review contract requirements, risks and the contract monitoring plan.
2. Parties will determine need / frequency of periodic contract reviews that may include:
  - Provision of progress reports/updates to CM by vendor
  - Site Visits
  - Desk Reviews by CM:
    - verification that contract spend is within contract limits,
    - verification that items / services meet specifications, and
    - notifying CD if the department is not satisfied with vendor’s performance

**List any additional monitoring requirements specific to the contract:**

Contract Manager: \_\_\_\_\_ Signature: \_\_\_\_\_

Contract Developer: \_\_\_\_\_ Signature: \_\_\_\_\_

### SECTION 3: CONTRACT REPORTING

Contracts over \$1M will be reported to the Institution CFO (or their designee) if there are any issues or concerns regarding the vendor’s compliance with financial provisions or delivery schedules; corrective action plan requirements; or information about liquidated damages.

Are there any known issues or concerns to report?  No  Yes \*

*\*If yes, submit this form and the Contract Checklist & Risk Analysis form to the CFO.*

**List any measures to be taken regarding known issues / concerns:**

**Note:** Any issues or concerns that arise during the contract term will be reported to the CFO as soon as possible.

### SECTION 4: CONTRACT CLOSEOUT

**Complete this section once the contract is completed.**

- The CM has confirmed that the contract has been completed satisfactorily, final payment has been/can be made, any TSUS resources used by the vendor for the contract have been returned, and vendor permissions/access to TSUS property have been revoked.

Contract Developer: \_\_\_\_\_ Signature: \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



4. In order to provide the required goods / services, the vendor (check one):

**Requires a physical PO**

**Requires a verbal PO**

**Requires verbal approval from requesting department (no PO)**

*In the case where there is an immediate threat to The Texas State University System and a vendor is on hand or can quickly mobilize to perform needed repairs (or the emergency occurs after normal business hours), the requesting department can give the go ahead for the vendor to start work and submit an Emergency Purchase Justification Form to the Office of Finance for review as soon as possible.*

---

**CONFLICT OF INTEREST AND COMMITMENT STATEMENT**

I hereby certify that the following statements are true and correct and that I understand and agree to be bound by the commitments contained herein. I am acting on my own accord and am not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with this vendor in return for favorable consideration of this request. I also certify that I am not participating in activities outside of my employment which interfere with my official duties and responsibilities.

Name: \_\_\_\_\_  
*(Requestor / Primary User)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Note: Government Code Chapter 572, Subchapter C, Sec. 572.069 – CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.)*

---

**PROCUREMENT APPROVAL – TO BE COMPLETED BY THE OFFICE OF FINANCE**

Emergency Purchase Procurement Method Determination: \_\_\_\_ Approved \_\_\_\_ Not Approved

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Director of Procurement)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Vice Chancellor and Chief Financial Officer)*



---

**CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT STATEMENT**

I hereby certify that the following statements are true and correct and that I understand and agree to be bound by the commitments contained herein. I am acting on my own accord and am not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with this vendor in return for favorable consideration of this request. I also certify that I am not participating in activities outside of my employment which interfere with my official duties and responsibilities.

Name: \_\_\_\_\_  
*(Requestor / Primary User)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Note: Government Code Chapter 572, Subchapter C, Sec. 572.069 – CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.)*

---

**PROCUREMENT APPROVAL – TO BE COMPLETED BY THE OFFICE OF FINANCE**

Determination: \_\_\_\_\_ Approved      \_\_\_\_\_ Not Approved

Justification:

\_\_\_\_\_ Proprietary (i.e. Proprietary, OEM, Unique Specification, Direct Publication)

\_\_\_\_\_ Best Value (i.e. Compatibility, Continuity, Best Value)

Rationale for determination/comments:

Signature: \_\_\_\_\_  
*(Director of Procurement)*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
*(Vice Chancellor and Chief Financial Officer)*

Date: \_\_\_\_\_

### Sample Group Purchasing Language

This Appendix provides an example of the type of language that should be included in every ITB or RFP issued by an Institution to assist other Texas IHE's by reducing duplicate solicitations.

**GROUP PURCHASING AUTHORITY:** Texas law authorizes institutions of higher education (defined by Section 61.003, Education Code) to use the group purchasing procurement method (ref. Section 51.9335, Education Code). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP.

Texas institutions of higher education (“**IHEs**”) routinely evaluate whether a contract resulting from a procurement conducted by another IHE might be suitable for use, and if so, this RFP could give rise to additional purchase volumes. As a result, in submitting its proposal, Proposer should consider proposing a pricing model and other commercial terms that consider the higher volumes and other expanded opportunities that could result from the eventual inclusion of other IHEs in the purchase contemplated by this RFP. Any purchases made by other IHEs based on this RFP will be the sole responsibility of those IHEs.

## TSUS ADMINISTRATION RFP INTAKE FORM

### Introduction / Submittal Instructions

The Request for Proposal (RFP) solicitation method is used when best value criteria, in addition to price and delivery, are considered in determining award. The RFP process (RFP initiation through signed contract) generally takes 5-7 months to complete and requires the active participation of an evaluation team. The team, which is made up of end users and business experts from TSUS and/or the Component Institutions, work together to develop a scope of work and a list of questions for vendors that will assist the evaluation team in the scoring process. Each team member will review qualified proposals and score them based on the RFP criteria.

**Submittal Instructions:**

The evaluation team lead for the project should review and complete this form in its entirety. **Completed forms and any additional information can be submitted to TSUS Director of Procurement via email.**

The Director of Procurement will review and address immediate questions with the team lead, organize and format all information provided into the TSUS RFP template and then work with the evaluation team to finalize the draft, schedule required team meetings, collect signed Non-Disclosure Agreements, and guide the evaluation team through the RFP process.

More information about the RFP process can be found in the TSUS Contract Management Handbook (CMHB).

### Evaluation Team Leader (Primary contact for TSUS Director of Procurement)

|        |  |                           |  |
|--------|--|---------------------------|--|
| Name:  |  | Institution / Department: |  |
| Phone: |  | Email Address:            |  |

**Provide a brief description (2-3 sentences) of the goods / services required:**

### Project Information Questionnaire

Check the appropriate box / provide an answer for each question below:

1. Is this a request for goods, one-time service, or ongoing service?     Goods    One-time    Ongoing
  
2. Is this a new or existing service for The System / Component Institution(s)?    New    Existing
  
3. Do you anticipate making an award / entering a contract with a single vendor or multiple vendors? If you are not sure, provide a brief explanation about the factors that could influence this decision.
 

One    Multiple    Unknown

4. Will the System / Component Institution(s) pay for the goods / services or receive payment from the vendor?

- Pay    Receive Payment    Neither

5. What is the estimated total value of the contract (consider the entire *potential* length of the contract) to the vendor and / or the System / Component Institution(s)?

\$ \_\_\_\_\_

6. How was the estimated total value determined?

- Current Cost / Received Payment    Budgeted Amt.    Polled Market    Guess

7. Length of Contract: Generally, a 3/2/1 contract term is used to get the maximum 5-year contract term length. This means there will be a 3-year base contract term with two available 1-year renewal options. Please advise if this is not desirable. Other common options include a 4/1/1 term or 3/1/2 term instead so only 1 renewal needs to be exercised.

What is the preferred contract term? \_\_\_\_\_

**Additional Information Required for RFP Preparation**

There are several items that the evaluation team will need to provide TSUS so the RFP document can be prepared. The team lead should work with the proposed evaluation team members and other project stakeholders to address the items listed below.

**1. Background Information and Special Circumstances**

Provide any needed background information the vendors will need to know to determine if they should respond to the solicitation. This information starts to paint the picture of what we are looking for in a vendor.

Information provided should be relevant and concise. This is not the place to put scope of work requirements. *Examples* of things you could describe in this section include:

- What is the purpose of the solicitation? What are you trying to accomplish? What are the project goals?
- Current environment description: How do things work today, and do they need to be maintained or changed? What is the current volume of activity? Is that volume expected to hold or change?
- Are there special considerations involved? Any dependencies on other groups, projects, or other contracts that the vendors should be aware of?

**Provide background information:**

**2. Minimum Requirements / Preferred Qualifications**

Are there any minimum requirements (vendor location, certifications, years' experience, etc.) the vendors must meet in order to respond to the RFP? Use minimum requirements with caution! Vendors that do not satisfy the minimum requirements may not be considered for award. If any minimum is not met, that submission will be disqualified and not provided to the evaluation team for review. "Preferred Qualifications" can be used instead to help indicate to the vendor pool the qualifications that are important to the team.

The items provided below are:     Minimum Requirements             Preferred Qualifications

**Provide requirements / qualifications, if any:**

**3. Detailed Scope of Work (SOW)**

The SOW is the most important part of any RFP and must be written and reviewed carefully. The SOW will become the basis of the resulting contract and must contain everything we need the vendor to do on the project including but not limited to description of job to be done, work hours, reports to submit, training to provide, work locations, uniform requirements, project deliverables, contract monitoring requirements, etc.

The SOW must be clear and concise. It must not use ambiguous or vague language open for interpretation by the reader. For example, don't say "Contractor will submit reports on a regular basis." Instead say "Contractor will provide reports to the university on a monthly basis." The SOW can have many sections, and the Director of Procurement will help organize the SOW into appropriate sections.

The team should consider the current contract, if any, and address items that should be clarified or items of concern. *This is not the place to ask questions – only to tell the vendor what we need them to do!*

**Submit this information in a separate document.**

**4. Evaluation (Best Value) Criteria**

Evaluation criteria, including cost, are used to decide which vendor is awarded the contract. Each criterion is given a weight, up to 100% in total. Proposed Pricing and Vendor Experience are two required criterions. Examples of other functional / technical criterion that COULD be used, if appropriate for the project, include:

- Quality of Service
- Team Member Qualifications (Use if wanting to separate out from "Vendor Experience")
- Project Approach
- Implementation Plan
- Proposed Products
- Training Plan

- Staffing Plan
- Available Resources
- Technical Design
- Strategic Direction
- Proposer Financials

*NOTE: The proposed cost of the goods and services should account for at least 30% of the score with other criteria making up the remaining 70% of the RFP score. No single criterion can have a weight below 5%.*

The team may find that coming up with evaluation questions first (see item #5 below) can help determine what the criteria should be. If the questions the team wants to ask are related to certain topics, those topics can then become the evaluation criteria “buckets.”

**Provide desired evaluation criteria buckets for this project and corresponding weight (%) of each – to total 100%:**

Proposed Pricing: X%

Vendor Experience: X%

Insert Additional Criterion (as needed): X%

Insert Additional Criterion (as needed): X%

Insert Additional Criterion (as needed): X%

**5. Evaluation Questions**

Provide a list of “interview” type questions for the vendors to answer in the RFP. The questions are important as they are what the evaluation team will use to decide which vendor is the best fit for TSUS. The team will score each answer provided to the questions using a predetermined scale.

Yes / no type questions should be avoided, if possible. Vendors can be asked to describe their experience, current processes, what their methodologies are, support services they provide, warranties, problems they’ve encountered on similar projects and resolutions, etc. Questions should be divided by topic (e.g., experience, implementation plan, strategic direction, etc.) that can be used as the evaluation criteria buckets (refer to item #4 above). Questions should be arranged within each bucket so that broad questions are asked first followed by specific questions. An example of two required questions under the Vendor Experience criteria is provided in the excerpt from Section 9 of the TSUS Administration RFP template below. First, vendors are asked about their overall experience and then their specific experience with TSUS.

**9.1 VENDOR EXPERIENCE**

*9.1.1 Provide references from three (3) of Proposer’s customers from the past five (5) years for services that are similar in scope, size, and complexity to the Services described in this RFP.*

*Provide the following information for each customer:*

- *Customer name and address;*
- *Contact name with email address and phone number;*
- *Time period in which work was performed;*
- *Short description of work performed.*

*9.1.2 Has Proposer worked with The System or one of the Component Institutions in the past five (5) years? If “yes,” state The System contact (or Component Institution name, department name, and department contact) and provide a brief description of work performed.*

The number of questions asked will vary with each evaluation “bucket” or criterion used in the RFP. A general rule is to have 3-10 questions per criterion. It is important to note that all questions within a criterion are weighted the same. A criterion worth 20% that has two questions will make each question worth 10% of the overall RFP score. Another criterion worth 20% with 10 questions will make each question worth 2% of the overall RFP score. After the Director of Procurement reviews the questions submitted, they will suggest the addition, the removal, or general edits to the questions.

Submit this information in a separate document if needed / preferred.

**Provide the questions you would like to ask the vendors. Group questions according to the evaluation criterion proposed in Item #4 above:**

**6. Known Vendors**

Provide a list of qualified companies (2-3 preferred) you believe can successfully complete the work described in the RFP. The list must include company name, contact name, and contact email address.

**Provide a list of known vendors:**

**7. Pricing Schedule Ideal**

Provide information about the preferred / desired pricing schedule. Examples of things to consider include:

- How is the good / service paid for now? Is the same method desired for this project?
- What is the payment norm for the industry?
- Will there be any one-time or start-up costs in addition to ongoing costs?
- Should there be one lump sum payment for the project or multiple payments made over time?
- If multiple payments, when should the vendor be paid? After milestone or phase completions?
- If multiyear project, will payments vary across years?

The RFP's pricing schedule will be reviewed and scored by the Director of Procurement; therefore, the pricing schedule must be written in a way that leaves no room for interpretation during evaluation. The evaluation team will not see the submitted pricing information until after the scoring of the functional and / or technical criteria has been completed. Team members will review and approve the pricing schedule prior to posting the RFP.

**Provide initial thoughts on how to request pricing / cost:**

## RFP Timeline Worksheet

RFP#:

RFP Name:

| Tasks & Subtasks  | Anticipated Date | Actual Date |
|---|------------------|-------------|
| <b>Draft RFP (30 + days)</b>  |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: Review information submitted by customer, do initial research (3-5 days)</li> </ul>                                 |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: Discuss project with customer, determine appropriateness of RFP (3-5 days)</li> </ul>                               |                  |             |
| <ul style="list-style-type: none"> <li>Buyer &amp; Customer: Determine team members, SOW development review (7-10 days)</li> </ul>                                |                  |             |
| <ul style="list-style-type: none"> <li>Buyer &amp; Team: Continue to work on RFP draft, review team responsibilities &amp; requirements (14 – 30 days)</li> </ul> |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: Submit to mgmt. for review, revise as needed (7-10 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: Obtain approval from Team and mgmt. to post RFP (3-5 days)</li> </ul>   |                  |             |
| <b>Issue RFP (posted for 30 days)</b>   |                  |             |
| Pre-bid meeting (~ 7-10 days after posting)   |                  |             |
| Question deadline (~11-12 days after posting)   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: admin review, compile and distribute (1-2 days)</li> </ul>  |                  |             |
| <ul style="list-style-type: none"> <li>Team: review and answer (3-4 days)</li> </ul>  |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: admin review and format (2-3 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: post addenda and email contacts (1 day)</li> </ul>  |                  |             |
| <b>RFP submittal deadline</b>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: admin review and distribute to team (3-5 days)</li> </ul>   |                  |             |
| <b>Evaluation (up to 30 days)</b>   |                  |             |
| <ul style="list-style-type: none"> <li>Team: review and score (10-14 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: compile and review (1-2 days)</li> </ul>  |                  |             |
| <ul style="list-style-type: none"> <li>Buyer &amp; Team: review results, determine next step (5-7 days)</li> </ul>  |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: review award recommendation w/mgmt. (3-5 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: notify suppliers (1-2 days)</li> </ul>  |                  |             |
| <b>Short List – Optional Process (30 + days)</b>  |                  |             |
| <ul style="list-style-type: none"> <li>Team: determine agenda and requirements (7-10 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: notify suppliers, compile &amp; issue agenda / instructions (2-3 days)</li> </ul>                                   |                  |             |
| <ul style="list-style-type: none"> <li>Vendors: prepare for presentations (14-21 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer &amp; Team: attend &amp; evaluate short-list presentations (1-3 days)</li> </ul>                                     |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: compile and distribute results (1 day)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer &amp; Team: review results, recommend award (1-2 days)</li> </ul>  |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: review award recommendation w/mgmt. (3-5 days)</li> </ul>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer: issue award &amp; regret notices (1 day)</li> </ul>   |                  |             |
| <b>Contract Negotiation (30 + days)</b>   |                  |             |
| <ul style="list-style-type: none"> <li>Buyer, Team, Vendor negotiate terms and finalize contract (30-90 days). Estimated contract start date?</li> </ul>          |                  |             |

# TSUS ADMINISTRATION OFFICE OF FINANCE

## SOLICITATION RECEIPT LOG

RFP No. \_\_\_\_\_

Due Date & Time: \_\_\_\_\_ **at 2:30pm**

Contract Developer: \_\_\_\_\_

|    | <b>Vendor Name</b> | <b>Delivery Method &amp;<br/># of packages</b> | <b>Date and Time<br/>Received</b> |
|----|--------------------|--|-----------------------------------|
| 1  |                    |  |                                   |
| 2  |                    |  |                                   |
| 3  |                    |  |                                   |
| 4  |                    |  |                                   |
| 5  |                    |  |                                   |
| 6  |                    |  |                                   |
| 7  |                    |  |                                   |
| 8  |                    |  |                                   |
| 9  |                    |  |                                   |
| 10 |                    |  |                                   |
| 11 |                    |  |                                   |
| 12 |                    |  |                                   |
| 13 |                    |  |                                   |
| 14 |                    |  |                                   |
| 15 |                    |  |                                   |

# Administrative Review Checklist

RF# #758-XX-XXXXX

RF# Due Date | Time: X/X/20XX 2:30PM

Supplier Name: \_\_\_\_\_

Response received on time? Yes  No

SP Submitted? Yes  No  N/A

SP Approved? Yes  No

Notes:

Is firm a TX HUB? Yes  No

Self-Performing? Yes  No

[add notes re: items to follow up on, mandatory pre-bid attendance, etc.]

## Review Items

### Required Submittals

### Notes / Issues / Questions

- Section 6 – Pricing & Delivery Schedule
- Section 7 - Execution of Offer – complete and signed
- Section 7.5 – Acknowledgement of Addenda
- Section 8 – Proposer’s Questionnaire
- Section 9 – Additional Questions
- Section 10 – General Terms & Conditions of Contract
- Insert additional items if needed**
- Paper Submittal – **X** copies
- Electronic Submittal – complete and accessible

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Optional Submittals

### Notes / Issues / Questions

- Cover Page / TOC / Executive Summary
- Proposed contracts / forms / etc.
- Supplemental Information

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Determination on Responsiveness

- Yes, submittal **is** responsive       No, submittal **is not** responsive

**The Texas State University System Administration  
Non-Disclosure / Conflict of Interest Statement**

I hereby certify and affirm that the following statements are true and correct. Furthermore, I understand and agree to be bound by the commitments contained herein. I am, at the request of The Texas State University System (“TSUS”), willingly participating as an evaluation team member to evaluate proposals received in response to Request for Proposal (RFP) # [indicate solicitation number and title].

I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any responses to the RFP identified herein or involved with any of the respondent(s) to the RFP identified herein. I have not in the past nor will I receive in the future any economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in return for favorable consideration by me of the RFP identified herein. I do not have any other conflict of interest that may hinder my ability to act in an impartial manner as an evaluator of the potential respondents or RFP described herein. I have no preconceived position on the relative merits of any of the potential respondents, nor have I established a personal preference or position on the worth of standing of any potential or actual respondent participating in this RFP.

By my signature below, I agree, to the extent permitted by law:

- To not discuss any details regarding the solicitation with parties outside the evaluation team or the proposed method of evaluation of any response received during the period of the solicitation unless such discussions are known, conducted or coordinated by the designated TSUS point-of-contact for the solicitation;
- To not disclose, or otherwise divulge to anyone information pertaining to any part of the RFP contents at any time during the draft or solicitation process;
- To not disclose or otherwise divulge any information pertaining to the status or ranking of any submitted responses to anyone other than the designated TSUS point-of-contact or other evaluation team members at any time during the solicitation or evaluation process that occurs prior to execution of a contract. I understand the definition of the terms “disclose or otherwise divulge” include, but are not limited to, reproduction of any part or portion of any responses or removal of same from designated areas without prior authorization from the designated TSUS point-of-contact; and,
- To direct all inquiries from outside sources pertaining to this solicitation to the designated TSUS point-of-contact.

As an employee of TSUS Administration or one of the TSUS Member Institutions, I will adhere to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, Texas Government Code. I agree to perform any and all evaluations of submitted responses in an unbiased manner to the best of my ability, and with the best interest of the State of Texas and TSUS paramount in all decisions.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Date)

*(Note: Government Code Chapter 572, Subchapter C, Sec. 572.069 – CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.)*

# Evaluation Team Scoring Instructions

Members of the evaluation team will enter evaluation scores into an Excel spreadsheet labeled “Evaluator Score Sheet.” The Evaluator Score Sheet indicates the questions / sections in the vendor submittals the evaluation team is responsible for scoring. Instructions are noted at the top of the Evaluator Score Sheet along with the scoring scale. Evaluators will use the scoring scale to determine the most appropriate score to give each answer. Scores must be between 0 and 5 and do not have to be whole numbers (i.e. 3.25, 3.5, 3.75, etc.). As the scoring is completed, the numbers entered by the evaluator (raw scores) will be tabulated at the bottom of the spreadsheet.

- Evaluators may choose to evaluate all responses question by question or review one complete response at a time.
- As evaluators scroll through the spreadsheet the names of the vendors should always be visible and will help ensure the scores are entered in the correct columns.
- Be consistent with scoring values (a score of “4” on one response is equal to a “4” on another).
- Information contained in, and related to, the submittals must be kept confidential and should not be shared with anyone outside the evaluation team. Evaluators must protect both paper and electronic copies.
- When the final evaluation results are reviewed, evaluators will not be identified by name. This allows scores to remain confidential within the evaluation team if members do not want their scores known to other team members.
- Non-Disclosure / Conflict of Interest statements are in effect until any resulting contracts are fully executed.
- In evaluating proposals, exercise independent judgement and score based on what is in the submittal, including the listed evaluation criteria, and not any other outside influence. Scores should not be shared with anyone other than the procurement official.

When all scoring is complete, save the file and return it via email to the procurement official: **INSERT BUYER NAME (insert buyer email)**. After the Evaluator Score Sheets are received, the procurement official will review and evaluate the pricing for all vendors that have met the minimum functional score. The pricing score will be added to the functional scores provided by the evaluation team and the average total score will be used to rank the suppliers. The results will be shared with the evaluation team members for review and concurrence prior to award.



|   |                  |  |  |  |  |  |  |  |  |  |
|---|------------------|--|--|--|--|--|--|--|--|--|
| # | Insert question. |  |  |  |  |  |  |  |  |  |
| # | Insert question. |  |  |  |  |  |  |  |  |  |
| # | Insert question. |  |  |  |  |  |  |  |  |  |
| # | Insert question. |  |  |  |  |  |  |  |  |  |

| E - Insert Criteria Name |                  | Evaluator Raw Scores |  |  |  |  |  |  |  |  |
|--------------------------|------------------|----------------------|--|--|--|--|--|--|--|--|
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |
| #                        | Insert question. |                      |  |  |  |  |  |  |  |  |

| Raw Scores - Subtotals                            |    |    |    |    |    |    |    |    |    |   |
|---|----|----|----|----|----|----|----|----|----|---|
| Evaluation Criteria & Maximum Potential Raw Score | V1 | V2 | V3 | V4 | V5 | V6 | V7 | V8 | V9 |   |
| A - Vendor Experience                             | 40 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| B - Insert Criteria                               | 40 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| C - Insert Criteria                               | 40 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| D - Insert Criteria                               | 40 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| E - Insert Criteria                               | 40 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |

| Weighted Scores - Max of XX          |    |    |    |    |    |    |    |    |    |   |
|--------------------------------------|----|----|----|----|----|----|----|----|----|---|
| Evaluation Criteria & RFP Weight (%) | V1 | V2 | V3 | V4 | V5 | V6 | V7 | V8 | V9 |   |
| A - Vendor Experience                | 20 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| B - Insert Criteria                  | 15 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| C - Insert Criteria                  | 30 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| D - Insert Criteria                  | 5  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| E - Insert Criteria                  | 10 | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |
| Non Price / Functional Score:        |    | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0 |

**\*\*A minimum Functional Score of XX is needed for Proposer to be considered satisfactory / able to perform work.**

**Delete these instructions prior to sending the score sheet to team.**

- 1) **Delete** all text in **RED** with solicitation specific information then change text color to black.
- 2) **Add** and delete rows as needed depending on the number of questions in each criterion (delete all but 1 if just one lump score will be used).
- 3) **Calculate** the "maximum potential raw score" found in the "Raw Scores - Subtotals" table, multiply the total number of questions in each evaluation criteria by 5. **Example:** A criterion with 4 questions will have a raw score potential of 20. If the criteria will be scored as 1 lump score, use a raw score potential of 5.
- 4) Double check all formulas are correct: Raw scores should be a sum of the correct fields. Weighted scores should be the raw score earned / raw score possible multiplied by the weight of that criterion. Verify with test numbers.
- 5) After bid is opened insert the vendor names in cells D10 – L10, adding or deleting columns as needed for the number of proposers. Adjust text size down or abbreviate names as needed to display correctly.
- 6) **Optional:** Lock down all cells except for B12 (for evaluator name) and the yellow cells where scores will be entered. Hide "Weighted Scores" box.

## Sample Award & Regret Letters

This Appendix contains examples of wording that can be used by Institutions when notifying solicitation respondents if they are being provided a conditional award of the project (award letter) or not (regret letter).

### A. Award Letter Sample

Dear \_\_\_\_\_:

*After comprehensive review and evaluation of the proposals qualified for The Texas State University System (the System) RFP 758-XX-XXXXX \_\_\_\_\_ I am pleased to inform you that your firm has been selected for the final step in the solicitation process.*

*Before your firm may begin providing the goods and/or services contemplated under the RFP, \_\_\_\_\_ and The System must enter into an agreement setting forth the respective rights and obligations of both parties.*

*Please provide the contact name and email address for the individual at your firm who will coordinate the agreement details. Key items that need to be discussed include:*

- *Insurance requirements*
- *Assignment and subcontracting*
- *EIR accessibility requirements*

*The System reserves the right to evaluate proposals from other entities and award the contract to a different firm, if \_\_\_\_\_ and The System are not able to reach an agreement.*

*Sincerely,*

### B. Regret Letter Sample

Dear \_\_\_\_\_:

*Thank you for your response to The Texas State University System's (The System) RFP 758-XX-XXXXX \_\_\_\_\_. After comprehensive review and evaluation of the qualified proposals, I regret to inform you that your firm has not been selected at this time.*

*The System is currently negotiating and attempting to finalize its contract with the selected vendor. In the event The System is unable to reach an agreement with that vendor, The System may reevaluate your proposal and consider awarding the contract to your firm.*

*We appreciate your interest in doing business with The System and encourage your firm to continue to pursue business with The System in response to future bid opportunities.*

*Sincerely,*

## Contract Terms

This Appendix contains examples of contract terms, clauses, and affirmations that must or should be included in contracts entered into by Institutions.

Specific contract language associated with the terms and provisions referenced in this Appendix is available in contract templates approved by OGC; copies of which are available from TSUS Administration. If preapproved contract templates and / or preapproved contract language will not be used, or if a vendor is requesting modifications be made to the preapproved contract template or preapproved language, Institutions may send the contract to OGC for review **prior to contract execution.**

*\*\* The information provided in this Appendix is current as of the Handbook publication date. The contract terms described in this Appendix will likely change as Texas procurement and contracting laws are amended and as TSUS Administration revises and updates its contract templates and / or contract language. Institutions should ensure that the most current version of the preapproved contract language is used when drafting contracts.*

### A. Required Contract Terms

Some provisions are required for a contract to be formed and to be legally binding on the parties. For example:

- Identification of the contracting parties;
- Scope of work;
- Financial provisions (e.g., price and payment terms); and
- Contract term and termination provisions

are just a few of the terms that must be included in any contract. By their nature, these terms are context-dependent and, therefore, exact language for these terms will vary depending on the nature of the contemplated transaction.

In addition to the above, the following provisions are required by Texas law and / or TSUS and must be included in contracts for the purchase of goods and services (as applicable):

1. Antitrust Affirmation
2. Assignment \*\*
3. Buy American Iron and Steel (construction services) \*\*
4. Buy Texas Affirmation \*\*Child Support Obligation Affirmation
5. Cloud Computing State Risk and Authorization Management Program\*\*
6. Computer Equipment Recycling Program \*\*
7. Contracting Information Responsibilities \*\*
8. COVID-19 Vaccine Passport Prohibition
9. Criminal Background Checks\*\*
10. Critical Infrastructure Affirmation\*\*
11. Cybersecurity Training
12. Data Management and Security Controls\*\*
13. Dealings with Public Servants Affirmation
14. Debts and Delinquencies Affirmation
15. Disaster Recovery Plan \*\*
16. Disclosure of Prior State Employment \*\*
17. Dispute Resolution (general) \*\*

18. Dispute Resolution (engineering, architectural, or construction services) \*\*
19. Entities that Boycott Israel
20. Entities that Discriminate against Certain Firearm or Ammunition Industries \*\*
21. Entities that Boycott Certain Energy Companies\*\*
22. Excess Obligations Prohibited \*\*
23. Excluded Parties \*\*
24. Financial Participation Prohibited Affirmation
25. Foreign Terrorist Organizations
26. Former Agency Employees \*\*
27. Governing Law and Venue
28. Hardening of Texas's Critical Infrastructure\*\*
29. Human Trafficking Prohibition
30. Indemnification (general) \*\*
31. Indemnification (engineering or architectural services) \*\*
32. Indemnification (IP) \*\*
33. National Anthem Verification\*\*
34. No Conflicts of Interest
35. Prior Disaster Relief Contract Violation
36. Prompt Payment
37. Public Information Act
38. Signature Authority
39. Sovereign Immunity
40. Standard of Care for Architectural and Engineering Contractors \*\*
41. State Auditor's Right to Audit \*\*
42. Student Participation on Evaluation of Services \*\*
43. Suspension and Debarment
44. Taxes
45. Television Equipment Recycling Program \*\*

*\*\* These provisions have exceptions and may not always be required or alternate contract language may exist. Institutions should seek guidance from OGC, IT Security and / or the TSUS Office of Finance, as appropriate, to help determine if the provision applies or if alternative contract language is available for use.*

## **B. Recommended Contract Terms**

Recommended contract terms are terms that are typically included in a contract but are not required by law. Recommended provisions include, for example:

- Administrative provisions;
- Allocation of risk and availability of remedies;
- Identification and safeguarding of confidential information exchanged under the contract; and
- Rights or title to work product or intellectual property created under the contract.

The following is a list of provisions / clauses not required by Texas law but nonetheless should be included in contracts for the purchase of goods and services:

1. Abortion Provider and Affiliate Transactions Prohibited

2. Agencies Right to Audit
3. Americans with Disabilities Act
4. Assignment (for goods)
5. Binding Effect
6. Change in Law and Compliance with Laws
7. Contract Term
8. Critical Infrastructure Subcontracts
9. Damage to Government Property
10. Disclosure of Interested Parties
11. Discounts
12. Drug-Free Workplace
13. Electrical Items
14. Equal Employment Opportunity
15. Federal Occupational Safety and Health Law
16. Force Majeure
17. Immigration
18. Independent Contractor
19. License Grant (simple)
20. Limitation on Authority
21. Lobbying Prohibition
22. Media Releases
23. No Felony Criminal Convictions
24. No Implied Wavier
25. No Third-Party Beneficiaries
26. Permits, Certifications, and Licenses
27. Property Rights
28. Records Retention
29. Refund
30. Restricted Employment for Certain State Personnel
31. Severability
32. Subcontractors
33. Survival
34. Termination for Convenience
35. Trademark License
36. Trademark Ownership
37. Unfair Business Practices
38. Use of State Property

| Folder Name:                                      | Purpose:  | Subfolder Name / Content Description:                       |   |
|---|---|---|---|
| <b>1 - Initial Docs</b>                           | This folder should contain any documents given to start the process (emails with project information, vendor lists, old contracts, old RFPs, etc.)  |   |   |
| <b>2 - Posting</b>                                | This folder should contain any information related to the public posting of the RFP, including associated emails and any draft documents the buyer has created or revised, and approvals from the team / management   | <b>1 - Drafts</b>   | Use for addendums as well as main RFP documents. Drafts should be dated to track versions. Once a final version is ready, move a copy of the last draft to the "posted docs" folder and rename it. Can create subfolders if there are too many drafts in the main folder. Using labels for subfolders, such as: 1 - RFP Drafts, 2 - Addendum #1 (Q&A) Drafts, etc., may be helpful. |
|   |   | <b>2 - Approval to Post</b>                                 | PDF of emails from team / management that RFP is approved for posting   |
|   |   | <b>3 - Posted Docs</b>                                      | Any file posted on ESDB while RFP is open must be in this folder. If the actual HSP forms were not posted (used a link instead) download a current version and save a copy here.  |
|   |   | <b>4 - Proof of Posting &amp; Notifications</b>             | PDF of ESDB posting notification email and print out of ESDB solicitation. PDF copies of emails sent to team and potential proposers.   |
| <b>3 - Questions Submitted by Deadline</b>        | This folder should contain PDF copies of emails with questions sent to buyer from potential respondents prior to question deadline  |   |   |
| <b>4 - NDAs</b>                                   | This folder should contain electronic versions of the signed NDAs from the team and any related emails or instructions  |   |   |
| <b>5 - Intake Docs &amp; Electronic Proposals</b> | This folder should contain electronic copies of proposals, a scanned copy of the completed proposal receipt log, and a scanned copy of the completed Administrative Review form   | <b>1 - Administrative Review &amp; Receipt Log</b>          | Scanned PDF copy of completed documents   |
|   |   | <b>2 - Electronic Proposals</b>                             | Label subfolders with the name of each Proposer to store documents they submitted   |
|   |   | <b>3 - No Bids (optional)</b>                               | PDF copy of email, or other submission / documentation, indicating vendor will not bid  |
| <b>6 - Evaluation</b>                             | This folder should contain the final version of the bid tab, the blank evaluator score sheet, PDF copy of approval to award   | <b>1 - Blank Score Sheet &amp; Scoring Instructions</b>     | Copy of Excel Score Sheet, once template is customized for project, and locked version sent to the team. PDF copy of email instructions sent to team re: evaluation and any other evaluation instructions / training provided to team.  |
|   |   | <b>2 - Completed Evaluator Score Sheets</b>                 | Copy of each team member's score sheet. Ideally, name files as: "evaluator X - RFP number"  |
|   |   | <b>3 - Bid Tab</b>  | Bid Tab (contains pricing, evaluator scores and final ranking)  |
| <b>7 - Award Notification</b>                     | This folder should contain copies of award and regret notices sent to proposers. Ideally, name PDF of emails as "Award notice - Proposer name and date sent" and the same for regret letters.   |   |   |
| <b>8 - Contract</b>                               | This folder should contain contract documents   | <b>1 - Agreement Drafts</b>                                 | Draft versions of agreement   |
|   |   | <b>2 - Partially Executed Agmt &amp; Vendor Set-up Docs</b> | Copy of agreement partially executed by the vendor and W-9 / ACH set-up forms if new vendor   |
|   |   | <b>3 - Fully Executed Agmt &amp; Related Docs</b>           | Fully executed agreement copy and other related contract documents (PDF copy of contract issuance email, nepotism form, Form 1295, contract checklist & risk analysis form, board motion, etc.)   |
| <b>Templates</b>                                  | This folder should contain current versions of templates used in the RFP process: RFP, agreement, addenda format, NDA, proposal receipt log, Administrative Review form, evaluator score sheet, bid tab, various email templates (notifications, award/regret, etc.), Receipt Log, etc. |   |   |