



Procurement and Contract Management Guide

Adopted September 2021
Version 01.00

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Introduction

The Teacher Retirement System of Texas (TRS) is a constitutional trust fund established as mandated by Article XVI, Section 67 of the Texas Constitution, to provide benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state. Other employees may also be included under the system by law. TRS invests, protects and administers trust funds as a fiduciary for the exclusive benefit of the members of the system. TRS also serves as the trustee and administrator of member benefits, including those set forth in the Texas Public School Employees Group Benefits Program and the Texas School Employees Uniform Group Health Insurance Program.

TRS formed the Procurement and Contracts office (P&C) within the Business Administration Division to centralize and standardize the agency's procurement processes. The key players in these processes include P&C, Legal & Compliance (L&C), each TRS business unit (BU), executive management and the TRS Board of Trustees. P&C manages the procurement process and provides high-level oversight of TRS' contracts, while the business units provide day-to-day contract oversight and management. L&C provides legal counsel throughout both processes.

Purpose and Objectives

The purpose of this Procurement and Contract Management Guide (Guide) is to establish consistent guidelines for TRS employees when procuring goods and services and managing the agency's contracts. The Guide reflects the essential values of acting with integrity and honesty, pursuing the best value, and encouraging continuous improvement and innovation while maintaining transparency, accountability, and fiscal responsibility in conducting TRS' procurement and contracting processes.

To ensure that all purchases and contracts are developed, awarded, monitored and evaluated per applicable laws, rules, and best management practices, each procurement has the following objectives:

- Fiscally responsible use of TRS funds and resources;
- Objective and legally compliant selection of vendors;
- Effective and consistent contract agreements;
- Reasonable payment methodologies;
- Comprehensive contract management; and
- Efficient and responsible coordination within TRS throughout the procurement process and the life cycle of the contract.

This Guide provides an overview of applicable state procurement and contract management responsibilities, requirements and processes. Additional information can be found in the Texas Comptroller of Public Accounts (CPA) State of Texas Procurement and Contract Management Guide (CPA Guide), the TRS Board of Trustees Procurement Policy, and the TRS Procurement and Contracting Standards and Procedures Manual (TRS Procedures Manual).

TRS follows the CPA Guide, unless otherwise set forth in this Guide, to ensure proper procurement and contracting procedures are followed. Any derivation from this Guide, must be reviewed by P&C and L&C and approved in advance by the Executive Director or Chief Operations and Administration Officer. Approval will follow the Escalation Process and be documented.

Governance

This Guide applies to the procurement and management of all TRS contracts for goods and services whether purchased, leased, or licensed, unless otherwise stated herein. It is intended to delineate core procurement and contracting elements in compliance with applicable state procurement law and relevant TRS policies and procedures in order to guide TRS staff through the procurement and contracting process.

TRS will follow the State contract management guide (State Guide) to the greatest extent possible and subject to the interpretive guidance from L&C on the applicability of the State Guide to specific situations, only exercising the exceptions identified in the Guide. This includes that the ED and COAO may grant an exception to any provision in the Guide by documenting and following the escalation process set forth therein.

All TRS employees and non-TRS workers (contract workers, unpaid interns, and volunteers) are subject to the Guide and TRS Procedures Manual. Non-TRS workers assigned to TRS are expected to adhere to the standards of conduct outlined in the Guide and any applicable procedures while conducting TRS business.

Guide Review

TRS shall review the Guide every two years following each legislative session and will update this Guide as necessary to comply with any changes in contracting laws, regulations, and policies. P&C, in consultation with L&C, will be responsible for conducting the bi-annual review and presenting proposed changes. All proposed revisions must be reviewed by L&C and approved by the Executive Director.

Guide Implementation and Effect

The Guide is incorporated by reference into all procurement and contracting standards and procedures developed and administered by P&C. To the extent that a procedure conflicts with the Guide, the Guide shall prevail.

The requirements in this Guide shall be followed for any new procurements, renewals, or amendments commenced after the adoption of this Guide.

General Policy

Exclusive Authority over TRS Trust Funds

Notwithstanding any other law, TRS has exclusive authority under Section 825.103(d) of the Texas Government Code over the purchase of goods and services. Those purchases are statutorily exempt from the requirements of Title 10, Subtitle D, Tex. Gov't Code (Chapters 2151-2176). Further, sections 825.103(e) and (f) of the Texas Government Code exempt TRS from Chapters 2054 (with noted exceptions), 2055, and Subchapter C, Chapter 2260, Tex. Gov't Code.

To the extent TRS exercises the statutory exemptions in its procurement process, such exemptions are incorporated and set forth in this Guide and included Exhibit A, attached.

Fiduciary Principles

In purchasing and contracting for goods and services, TRS shall select the vendor that represents the best overall value for the system based on the candidate's qualifications, experience, proposed

contract terms and conditions, proposed pricing (as appropriate to consider), and other relevant factors that are most consistent with state procurement law requirements and the best interests of the system and comply with TRS's fiduciary duties.

TRS is committed to being competitive to the greatest extent possible. To that end, the type of procurement method used will be determined based on state procurement law requirements and each procurement's facts and circumstances. For most procurements, fiduciary principles of prudence generally require that TRS, as a benefit plan trustee, employ competitive procurement processes when acquiring goods or services for the plan. Any procurement that is not competitively bid must adhere to this Guide and the procedures outlined in the TRS Procedures Manual.

Authority and Responsibility

- The Executive Director maintains ultimate decision-making authority with respect to this Guide.
- P&C is responsible for coordinating the acquisition of goods and services for TRS and ensuring compliance with the applicable TRS procedures outlined in the TRS Procedures Manual.
- The Director or Assistant Director of P&C shall acknowledge in writing that best value standards were used in the procurements and provide executive management required reporting under Tex. Gov't Code §§ 2261.253, 2261.254 and 2261.555. The P&C Director or Assistant Director maintain TRS' procurement plans, oversee agency procurement and contracting training, and maintain the authority to report contracting matters to other agencies as appropriate.
- L&C is responsible for reviewing and advising on contracts and procurement documentation as set forth in the Guidelines for Contract Review. L&C also advises on all modifications to procurement policy or procedure that impact state or federal law procurement compliance, including the use of statutory exceptions.
- All TRS employees and Non-TRS workers are responsible for adherence to this Guide and the TRS Procedures Manual.

Delegation of Contracting and Signature Authority

The Comptroller of Public Accounts (CPA) and the Texas Department of Information Resources (DIR) are granted purchasing authority for the state of Texas. Under this authority, the CPA and DIR have established statewide contracts to support state purchasing needs and improve efficiency in procuring certain goods and services. The CPA also delegates some purchasing authority directly to state agencies.

TRS shall acquire goods or services by procurement methods approved by the Board of Trustees or the Board's designee. Pursuant to Section 5.6 (b) of the [TRS Board Bylaws](#) and the [TRS Board of Trustees Procurement Policy](#), the Board of Trustees has delegated to the Executive Director, or the Executive Director's designee, the authority to contract for goods and services subject to funding and appropriate actions of the Board of Trustees.

TRS Signature Authority

Signature Authority	Dollar Threshold for Contracts and Purchase Orders
- Executive Director - Chief Operations and Administration Officer	- All Board Approved Contracts - All Contracts \$500,000.01 or more
- Director of Procurement and Contracts - Asst. Director of Procurement and Contracts	- All Contracts \$500,000 or less - All Purchase Orders
- Certified procurement professionals	- Purchase Orders \$500,000 or less
- TRICOT Shareholder	- All TRICOT Contracts
- IMD Chief Investment Officer <u>AND</u> - IMD Chief Operating Officer	- Certain Investment Services Contracts

Legal & Compliance (L&C) Review

The Governance & Procurement Solutions (GPS) Team of the L&C Division provides legal counsel and support for TRS contracts and procurements. GPS works with the assigned procurement professionals and the IMD purchasing team to:

- Provide legal review for contracts, solicitations, and other procurement-related documentation;
- Update contracting documentation, including terms and conditions and forms with legal conclusions;
- Assist in negotiations with vendors; and
- Provide general legal counsel on contracting and procurement-related issues, including interpretation of applicable laws, guidelines and policies.

Any request for outside legal services must be submitted to L&C for review and approval since outside legal contracts require the approval of the Office of the Attorney General (OAG).

All contracts subject to the [TRS Board of Trustees Procurement Policy](#) must also be reviewed by L&C. The [Guidelines for Contract Review](#) on the [P&C SharePoint site](#) set out the criteria for determining which contracts require legal review and/or are subject to the Board's Procurement Policy.

Ethics and Standards of Conduct

Ethical behavior in public procurement is exemplified by the commitment of public procurement professionals to ensure they neither gain personally from, nor unduly favor, anyone in the execution of their official duties. Staff with procurement and contracting responsibilities are required to abide by a strict code of conduct in accordance with their delegated purchasing authority. Conflict of interest and ethics standards are mandated in law and policy. These standards are designed to ensure that staff maintain the highest level of integrity and ethics in procurement and contracting. All procurement and contracting activities shall also comply with TRS' ethics-related policies and procedures, including but not limited to, the [TRS Employee Ethics Policy](#), the [TRS Board of Trustees Ethics Policy](#), the TRS [Confidentiality Policy](#), the Code of Ethics for Contractors (Code), the [Non-TRS Workers Policy](#), and the [Fraud, Waste, and Abuse Policy](#).

In accordance with TRS' Employee Ethics Policy, employees must report any situation that could be perceived as a conflict of interest regarding TRS procurement or contracting to the Executive Director. Employees should use the Conflict of Interest Disclosure Statement (TRS Form 541E) to do so and may also report conflicts of interest involving others to the TRS Hotline, or to the agency's Chief Compliance Officer.

Guidelines and procedures related to allowable or prohibited communications shall be followed by all TRS employees and non-TRS workers involved in procurement as described in the TRS Procedures Manual and as set forth in this Guide under the "Vendor Communication" section below. These guidelines establish communication expectations for purchasing and contracting staff to ensure transparency and prevent any perception of impropriety in the life cycle of a contract.

Suspected Fraud, Waste, And Abuse

TRS has developed a purchasing accountability process to assess risk, which includes a coordinated system of internal processes and controls to reduce the potential for the occurrence of fraud, waste and abuse, and to minimize their impact in the event they occur. Risk is assessed in the planning phase, while the monitoring phase contains activities designed to identify and address any potential fraud, abuse, or waste. All contracts and procurement activity must adhere to the [TRS Fraud, Waste, and Abuse Policy](#).

Conflicts of Interest

A conflict of interest potentially exists whenever a person has business, personal, professional or other relationships that could reasonably influence their judgment in the performance of TRS duties. The receipt of a benefit also may create a conflict of interest regardless of whether a relationship exists. Further, no employee may engage in nepotism, or using one's position to favor a relative, as it relates to TRS contracting activities.

All TRS staff have an ongoing duty to disclose actual or potential conflicts of interest relating to TRS business opportunities. Staff involved in any phase of the contracting process must identify actual or potential conflicts of interests initially during the evaluation of a new competitive solicitation as described in this Guide and in accordance with Tex. Gov't Code § 2261.252.

The [TRS Employee Ethics Policy](#) requires employees to report any situation that could be perceived as a conflict of interest regarding TRS procurement or contracting to the Executive Director, General Counsel, or Chief Compliance Officer.

Code of Ethics for Contractors

TRS vendors are subject to the [Code](#) and are required to promptly disclose a conflict of interest, as defined therein. Questions regarding the Code should be raised with the agency's Chief Compliance Officer or the General Counsel.

Confidentiality

All TRS employees and Non-TRS employees must adhere to the agency's [Confidentiality Policy](#) and [Procedures Confidential Information Procedures and Standards Policy](#) and are prohibited from disclosing or otherwise divulging any confidential information gathered during any solicitation process.

Roles and Responsibilities of Procurement Team

The term “procurement team” refers to any employee who conducts purchasing activities, contract development, or contract oversight activities.

The P&C procurement professionals are responsible for the receipt and processing of requisitions; assessment of need, development and review of specifications and scopes of work (SOW) in coordination with L&C; identification and selection of procurement methods in coordination with L&C; identification and preparation of evaluation criteria; preparation and advertising solicitation documents; tabulation of respondent bids; assisting in the evaluation and the negotiation of respondent proposals; and the preparation of contract documents. They are also responsible for ensuring the procurement is in compliance with TRS and State procurement rules and regulations in coordination with L&C.

The contract sponsor, contract manager and other business unit procurement team members are responsible for developing annual procurement plans, timely submitting requisitions according to that plan, completion of needs assessment, development of SOW and evaluation criteria in coordination with P&C, liaising with potential vendors during negotiations, monitoring vendor performance, approving deliverables, or approving invoices. Business Units are responsible for assigning Contract Managers and Contract Sponsors to fulfill the responsibilities listed in this Guide. This includes, for example, management of the contract/PO once it has been transferred from the P&C procurement professional to the contract manager, and completing risk assessments and performance monitoring, as per this Guide.

L&C is responsible for reviewing contract and procurement documentation; negotiating contracts in coordination with business units and P&C; assisting with the development of solicitation documents in coordination with business units and P&C; coordinating outside counsel services; and advising on compliance with procurement laws, rules, policies, and regulations in coordination with P&C.

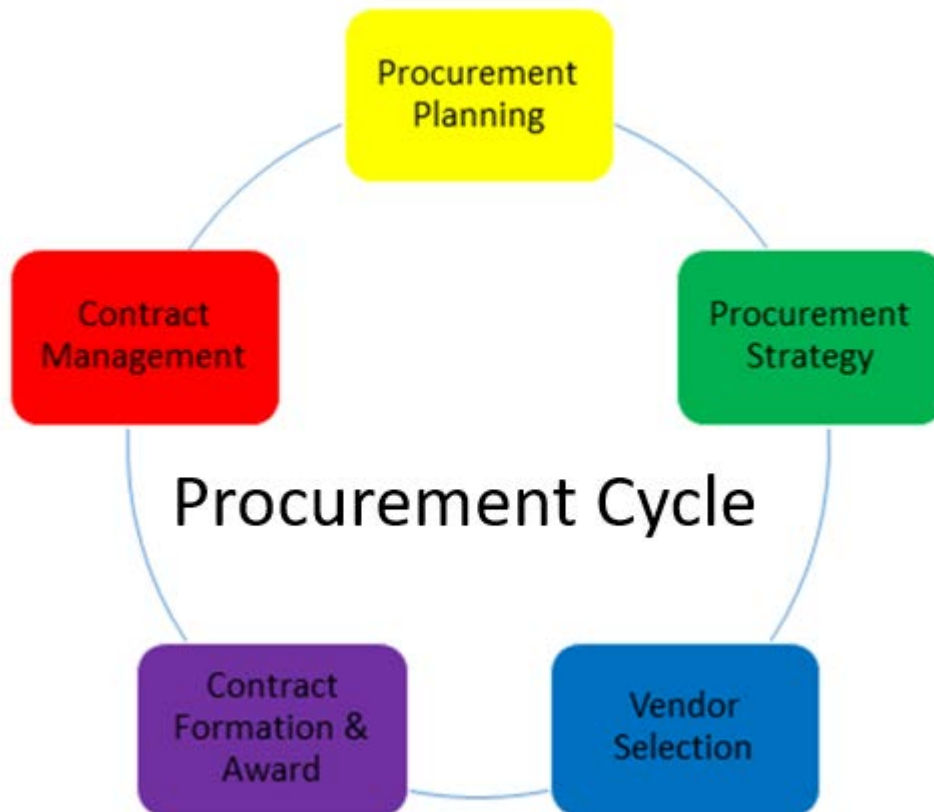
Information Security is responsible, in coordination with L&C for identifying HIPAA requirements, ensuring compliance with cybersecurity regulations, and reviewing possible risks in regard to the exchange of data.

Business Units are responsible for assigning Contract Managers and Contract Sponsors to fulfill the responsibilities listed in this Guide.

The Procurement and Contracting RACI Matrix describes who is Responsible, Accountable, Consulted, or Informed as to each procurement and contracting function, as well as any applicable procedures. See Exhibit B, attached.

Procurement Cycle

All procurements follow a general sequence referred to as the procurement cycle. Following each of the processes outlined below ensures that the procurement is conducted in an efficient manner.



The Procurement Cycle consists of five stages to be followed for every TRS procurement for goods and services. The BUs, P&C, and L&C have responsibilities at each stage of the process. The steps are:

1. **Procurement Planning:** Define the business needs, identify risks, and establish procurement objectives.
2. **Procurement Strategy:** Determine the procurement method and issue the solicitation, if any.
3. **Vendor Selection:** Fairly and objectively select the vendor that provides the best value to TRS.
4. **Contract Formation & Award:** Ensure the awarded contract complies with applicable procurement policies and contains provisions that achieve the desired procurement objectives.
5. **Contract Management:** Manage, monitor, and administer the terms of the contract.

Step One: Procurement Planning

The procurement process begins with procurement planning. TRS staff may develop a plan for each anticipated procurement which may include some or all of the following:

1. Development of the business needs assessment;
2. Identification of risks;
3. Development of mitigation plan(s);
4. Creation of a cost estimate;
5. Development of a scope of work or specifications; and
6. Identification of contract requirements

The following planning activities can assist in the preparation for procurement:

Annual Procurement Plans

With proper procurement planning, TRS is able to procure the goods and services it needs while allowing for the steps required to comply with state procurement law and this Guide. During the budget creation process, each business unit must submit an annual Procurement Plan to its assigned P&C procurement professional and budget analyst. Procurement Plans are then reconciled with proposed budgets and current contracts. Once approved, the Procurement Plan provides the BU and P&C with the roadmap for procurements for the upcoming year and is used to build the procurement milestone deadlines for the year.

Procurement Lead Times

For each procurement, the assigned procurement professional, in coordination with the contract manager will develop the Acquisition Planner, a timeline with required deadlines for each procurement milestone. The Acquisition Planner should include all key milestones for completing the procurement within those required deadlines. Failure to meet the deadlines will result in the need to move all prospective deadlines for the Acquisition Planner including the date of contract award. It is incumbent on everyone involved in a procurement to meet the deadlines in order to avoid delaying the final contract award. Requests by the BU to condense the schedule (instead of moving all prospective due dates) due to failure to meet Acquisition Planner due dates will require notice to the impacted BUs and approval of the Chief of Business Administration. The [Procurement Deadlines and Lead Times](#) document is maintained on the P&C SharePoint page, and outlines the amount of time a procurement typically will take based on the type of procurement and estimated dollar value.

Procurement Requisition

The first step to any procurement is the creation of a requisition utilizing the online CAPPS system. A requisition will contain at least the following: goods or service description, estimated or actual costs, due date, and budget coding information. The entry of the requisition will generate an approval workflow to ensure proper documentation. The requisition is then assigned to a procurement professional who will create a purchase order and begin the next step in the contract process. The deadlines for submitting requisitions are contained in the procurement plan and in the Procurement Deadlines and Lead Times document.

Initial Request Questionnaire and Needs Assessment

When submitting a requisition, the business unit must develop a needs assessment that details the critical business requirements and explains how the procurement will meet the business unit or TRS mission.

The Needs Assessment is documented in the [PAVES Requisition Intake Form](#) and the electronic PAVES requisition, which is required for every new procurement. The Initial Request Questionnaire is required to identify any additional contract requirements such as a Code, background checks, or Business Associate Agreement (BAA).

Procurement Kick-Off Meetings

A procurement "Kick-off Meeting" may be scheduled early in the procurement process by the P&C staff assigned to help facilitate the coordination of all the resources. A collaborative multi-divisional approach, this step aims to bring together all business units involved in the procurement process to discuss the requirements for procuring the contract, such as identifying the goods or services needed, sources of funding, scope of work, timelines, initial risk assessment and procurement method options and logistics.

Contract Risk Assessment

Risk management is a process that includes the identification and analysis of risk and the decision to either accept or mitigate the exposure to such risk when compared to the potential impact on the achievement of the agency's objectives. Under Tex. Gov't Code § 2261.256, TRS is required to complete a Risk Assessment on any procurement that is \$100,000 or more for the contract's life (which includes the original term and all amendments and extensions combined). P&C works with the contract manager to complete a Risk Assessment.

The Risk Assessment identifies and manages risks in the early stages of the procurement. It evaluates if the vendor can meet the desired results, as stated in the contract. Some examples of potential risks may include cost, quality, or delivery issues. Risks can also include compliance issues resulting in a vendor not fulfilling contractual obligations or incurring disruption of services. If a risk is identified by the contract manager, a Mitigation Plan to eliminate or reduce the risk is required. Risk assessment, however, is an ongoing process and risk should be reassessed throughout the contract lifecycle. This comprehensive approach to risk assessment and management provides TRS with the best defense against unintended consequences.

Cost Estimate

TRS is required to complete a Cost Assessment per Tex. Gov't Code § 2261.203. A cost estimate is based on the requirements of the SOW. It is an approximate value of the total cost of a service, product, resource, or project management, and is used for planning and resource allocation. A cost 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 the contract value, funding source, or expenditure restrictions and prohibitions.

The TRS contract manager must develop a cost estimate during the procurement planning phase for any procurement that is \$100,000 or more for the contract's life. Depending on the procurement, a cost estimate may be developed from a vendor's advertised price list, developed through online research, or may be prepared using standardized estimation methods and based on historical spending. A cost estimate is the TRS contract manager's best estimate of a contract's potential costs and a valuable tool throughout the planning and awarding process.

Historically Underutilized Businesses (HUBs)

TRS is required to make a good faith effort to ensure that HUBs have an opportunity to respond to solicitations for goods and services when possible per Texas Government Code 2161 and 825.514. TRS shall determine whether subcontracting opportunities are probable for contracts estimated to

exceed \$100,000 over the contract's life, including extensions and renewals. If subcontracting opportunities are probable, vendors shall be required to submit a HUB subcontracting plan with their solicitation response as a condition of being eligible to receive a contract per Texas Government Code 2161.252.

Procurement Categories

There are many different types (or categories) of products and services that may need to be procured to meet business needs. In the requisition, each category of products or services may require more specific information. This information can be found in the TRS Procedure Manual to help plan for the procurement of the various products and services, such as:

- Conferences/Memberships/Licenses/Certifications
- Publication Subscriptions
- Printing Services
- Mailings and Equipment
- Messenger Services
- Training
- Temporary and IT Staff Augmentation Services
- Professional Services
- Audit Services
- Legal Services
- Consulting Services
- Health Care
- Facilities
- Space Modifications
- Construction
- Building Appliances/Equipment
- Automated Information Systems (AIS)/Telecommunication Commodities and Services
- Software Maintenance

Step Two: Procurement Strategy

The second step of the procurement process is to determine which procurement method would best achieve the identified business requirements and procurement objectives. TRS shall use competitive selection procedures to the greatest extent possible when selecting vendors. Tex. Gov't Code § 2261.051. The procurement method selected must comply with state law requirements and this Guide, ensure that the best value is obtained for TRS, and be consistent with the performance of TRS' fiduciary duties. Business units should consult with P&C, and L&C as necessary, to determine the best procurement method for their goods or services needs. For more information on the requirements for selecting a procurement method, please refer to the TRS Procedures Manual.

Competitive Procurement Methods

TRS uses competitive selection procedures to the greatest extent possible. Tex. Gov't Code § 2261.051. A non-competitive procurement process is only used in accordance with state procurement requirements sparingly and with the appropriate executive approvals, which must be documented.

The following competitive procurement methods are utilized by TRS, depending on the procurement:

- 1 Invitation for Bids (IFB): An IFB is a formal written competitive sealed bid method and must be used for procurements exceeding \$25,000 and may be used for procurements of \$25,000

or less. TRS may use the IFB procurement method to obtain bids from eligible vendors for specific goods or services when price is the determining factor for the purchase, the good or service is standardized or uniform. Negotiations are not allowed for an IFB. Contract award shall be generally based on the vendor who offers the lowest price, meets all the IFB specifications, and provides the best value for the State.

- 2 Request for Proposal (RFP): TRS may use the RFP procurement method to acquire goods and services from eligible vendors when factors other than price are to be considered, negotiations are desired, requirements cannot be described by detailed specifications included in a PO, or the vendor is expected to provide an innovative solution. The contract award shall be based on the vendor who provides the best value to TRS based on the RFP's evaluation criteria.
- 3 Request for Offer (RFO): TRS may use the RFO procurement method to obtain non-DIR Automated Information Systems/telecommunications goods and services. The process for the RFO is very similar to an RFP.
- 4 Request for Qualification (RFQ): TRS may use the RFQ procurement method to obtain certain professional services from eligible respondents who are evaluated primarily on their qualifications and skills. The contract award should be based primarily on the vendor's qualifications. Price is negotiated after TRS selects the preferred respondent based on how well the respondents met the published qualifications.

Non-Competitive Procurement Methods

Non-competitive procurement methods are used in accordance with state procurement requirements, unless otherwise set forth in this Guide, and only with the appropriate approvals outlined in the TRS Procedures Manual. For example:

1. **Spot Purchase:** The "spot purchase" is a delegated non-competitive method used to purchase goods or services that do not exceed \$10,000. This method is frequently used to procure items to support general business functions. TRS may use the spot purchase procurement method for goods and services purchases as outlined in the TRS Procedures Manual.
- 2 **Texas SmartBuy,** maintained by the Comptroller's State Procurement Division (SPD), is the State of Texas online marketplace for non-IT goods and services. As the State's central e-procurement system, TRS may utilize the web-based ordering system to access hundreds of competitively bid and awarded state contracts with almost 2 million items available.
- 3 **Proprietary/Sole Source Purchase:** TRS may use the proprietary purchase procurement method if the proposed purchase specifications are proprietary to one vendor and do not permit an equivalent good or service to be supplied by another vendor.
- 4 **Set Aside Procurements:** TRS may use the State of Texas set aside programs which include: 1) Prison made Goods, governed by Chapter 497 of the Texas Government Code and overseen by the Texas Correctional Industries (TCI), and 2) the State Use Program (also referred to as the Purchasing from People with Disabilities Program) authorized by Chapter 122 of the Texas Human Resources Code administered by WorkQuest.
- 5 **Term Contract and Managed Term Contract:** TRS may use the term and managed term contract procurement method of the Comptroller's SPD to purchase or lease certain non-IT goods and services used in large quantities by several agencies. Managed term contracts typically have different pricing structures. TRS may use the managed term contracts for one-time purchases or under a blanket purchase order under the terms, dates and provisions of the original managed term contract. TRS is encouraged to use this method whenever possible and must order goods or services on Term Contracts through the Texas SmartBuy online ordering system.

- 6 **TXMAS:** Comptroller's SPD establishes Texas Multiple Award Schedule (TXMAS) contracts to supplement the Term Contracts. The TXMAS Program adapts existing competitively awarded government contracts to service the procurement needs of state agencies and Texas SmartBuy members. A contract awarded through the TXMAS Program must be based on an existing contract that was previously awarded by the federal government or any other governmental entity in any state using a competitive process that is adaptable to Texas laws. Neither consulting services nor certain professional services (such as engineering and architecture) are offered as part of TXMAS program.
- 7 **Travel Services Contract:** As part of the State Travel Management Program (STMP), the Comptroller's SPD negotiates contracts with private travel agents, travel and transportation providers, and credit card companies that provide travel services and other benefits to the State. TRS may not enter into a contract for travel services without prior approval from Comptroller's SPD. TRS must use the STMP to obtain cost-effective lodging and transportation for employees traveling on official government business, except as provided below:
 - Lower cost to the State;
 - Unavailability of contract travel services during the time or at the location;
 - Special needs of the traveler (health, safety, physical or disability accommodations);
 - Custodians of persons (per statute or court order);
 - In travel status schedule changes;
 - Group programs to obtain a particular rate or service;
 - Responding to a public health or safety emergency situation; and
 - Legally required attendance without sufficient notice to obtain services under STMP.
- 8 **Federal Government Purchases:** TRS may negotiate without a competitive process the purchase of goods of any kind needed with the federal government's appropriate agency as long as the price of goods purchased does not exceed the fair market value of the goods.
- 9 **Internal Repair:** An internal repair is a repair to state-owned equipment that cannot be reasonably defined before the actual repair and the extent of which cannot be determined until the equipment is disassembled. Internal repairs are usually the result of an unexpected, basic service outage. If an internal repair qualifies as an emergency, it should be processed as an emergency purchase.
- 10 **Mail and Messenger Services Contracts:** SPD's Statewide Mail Operations provides and operates an interagency mail and messenger service to deliver unstamped or non-metered written communications and packages between the Legislature, state agencies, and legislative agencies located in Travis County. Mail may also be delivered to and from the U.S. Postal Service by agreement of the agency and SPD. In addition, the mail and messenger service may process and meter outgoing mail for agencies upon agreement. TRS must furnish funds to cover amounts of postage to be metered.
- 11 **Department of Information Resources (DIR) Contract:** Pursuant to Texas Government Code section 825,103(e), TRS controls all aspects of procurement for information technology and associated resources, including computer, data management, and telecommunication operations, procurement of hardware, software, and middleware, and telecommunication equipment and systems, location, operation, and replacement of computers, computer systems, and telecommunication systems, data processing, security, disaster recovery, and storage. TRS may procure any service that is available through DIR, and will do so after receiving and reviewing the requisite number of bids as set forth in DIR's procurement threshold requirements. The DIR contract terms and conditions may be used for all DIR contracts except contracts with a value over \$500,000 for the life of the contract or contracts requiring a Business Associate

Agreement (BAA) or a criminal background check (CBC). Those contracts will require the addition of the TRS Purchase Order Terms and Conditions for DIR Contracts. If there is an available DIR contract for a specific good or service, a cost-benefit and risk analysis should be utilized when deciding to go with a non-DIR contract and a competitive solicitation process should be used to procure those goods or services unless subject to one of the other exceptions listed here.

TRS may award directly to a selected DIR vendor if in TRS' best interest. Absent ED or COAO approval consistent with the TRS Guide, TRS will solicit multiple DIR vendors to obtain the best value. A direct award to a selected DIR vendor will be documented by TRS procurement professionals. TRS, however, is not exempt from the competitive procurement requirement for AIS and Telecommunication commodities and services procurements. As stated above, unless TRS is using a DIR contract as identified above, TRS will procure through a competitive procurement.

- 12 **Software Renewal and Maintenance:** TRS will use DIR to the greatest extent possible when purchasing software. A cost benefit and risk analysis may be required to be submitted and approved before purchasing software from a non-DIR vendor. If applicable, TRS may use a proprietary/sole source procurement method for software renewal and maintenance to maintain the product's warranty or if it would be cost-prohibitive to change the current software. This procurement method would need to be reviewed by P&C and L&C if applicable.
- 13 **Temporary Staffing and Staff Augmentation:** TRS may rely on its exemptive process for DIR contracts for DIR professionals. For all temporary staff (including IT Professionals), TRS will follow the State Use Program Requirements and provide the necessary reporting when not using the vendors provided. To the extent it does not use the vendors provided under the State Use Program or DIR for IT-related staff augmentation services, TRS will be required to competitively bid for those services
- 14 **Direct Publications:** TRS may purchase publications directly from the publisher or through a competitive bid process. Competitive bidding is not required if the direct publication contract's total value is \$25,000 or less.

Examples of direct publications include, but are not limited to, the following:

- Foreign publications;
- Out-of-print or rare publications;
- Back issues of magazines, journals, and newspapers;
- Publications produced by professional societies;
- Audio, visual, or audiovisual materials (films, audio presentations, etc.);
- Collections, microfilm or microfiche copies of any of the previous items;
- Library of Congress cards; and
- Computer software (Note: Computer hardware and IT services may *not* be purchased as a direct publication.)

- 15 **Interagency Contracts:** TRS may use an interagency agreement between two or more agencies as authorized by Chapter 771 of the Texas Government Code.
- 16 **Interlocal Contracts:** TRS may use an interlocal agreement as authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.

Emergency Purchases

An emergency purchase occurs when the agency must quickly make the procurement to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state. Proper procurement planning for anticipated business need is expected through the annual procurement plans. Emergencies occur as a result of unforeseeable circumstances. They may require an immediate response to avert an actual or potential public threat or to avoid the undue additional cost to the state. An Emergency Justification Form describing the basis for the emergency and for the selection of a particular vendor must be completed, approved by the Executive Director, and shall be included in the procurement file.

Training

Any training that is estimated to be \$5,000 or more over the life of the procurement will require a competitive procurement.

ProCard Purchases

The State of Texas negotiated to provide state agencies with credit cards (ProCards) for selected spot purchases instead of using the traditional purchase order/voucher procedures. The ProCard is intended to complement the current purchasing process by providing TRS with a more efficient method of procuring small-dollar items for goods, conferences, training, and licenses.

Additional information can be found in the TRS Procedures Manual and the [ProCard Policy](#).

Texas Disaster Act of 1975

Under Chapter 418 of the Texas Government Code, the Governor may by Executive Order or proclamation declare a state of disaster. The Governor may suspend enforcement of statutes and administrative rules regarding contracting or procurement that would impede any agency's emergency response that is necessary to protect life or property threatened by a declared disaster. A purchase made under a disaster must clearly relate to the disaster, conform to the directives of the disaster declaration, and occur within the timeframe specified in the disaster declaration. The procurement file, at a minimum, must contain a copy of the disaster declaration, documentation to support the purchase, receipt of goods or services, and approval of the payment.

Statement of Work/Solicitation Preparation

Once the P&C procurement professional has reviewed the needs assessment, obtained a cost estimate, developed an Acquisition Plan, chosen the proper procurement method, and determined that a solicitation is required, they will work with the BU to develop applicable SOWs and other business requirements and draft the solicitation document, as applicable.

Evaluation Criteria

All solicitations must contain an evaluation criterion. Evaluation criteria are those requirements included in the solicitation document that will be used to evaluate proposals and determine the best value for TRS. It is important that the solicitation is clear about the evaluation criteria that will be used and the priority of the evaluation criteria.

The contract manager, in consultation with the assigned procurement professional, must ensure that the evaluation criteria relates to the requirements in the SOW.

Solicitation – Advertisement

Advertising of solicitations shall be determined based on relevant state law procurement requirements and shall comply with procedures outlined in the TRS Procedures Manual.

Contract Advisory Team Review

The Contract Advisory Team (CAT) review is a review process established by the Texas Legislature to assist state agencies in improving contract management practices by reviewing and making recommendations for contracts that have an estimated value of at least \$5 million. Tex. Gov't Code § 2262.101. Before posting a solicitation, TRS must submit solicitation documents for contracts with a value of \$5 million or greater over the contract's life to the CAT for review regardless of procurement method. Due to State requirements, agencies may not split a procurement to avoid the \$5 million threshold for CAT review.

The CAT review period begins when it receives all information needed to conduct its review and can take up to 30 days to complete. Even if the review period exceeds 30 days, TRS does not have the authority to issue the solicitation until the CAT review process outlined in the Procedures Manual is complete. The procurement professional will submit the solicitation document to CAT for review once they have received approval from the business unit, the evaluation team, and L&C.

Quality Assurance Team Review

The Quality Assurance Team (QAT) is an interagency working group composed of representatives of Legislative Budget Board (LBB), DIR and CPA, with State Auditor's Office (SAO) participating as an advisor. The QAT was established to provide on-going oversight to reduce risk of project overruns and failures of major information resources projects that receive appropriations from the Legislature. For purposes of the QAT, risk is defined as the likelihood that a project will not deliver a quality solution based on the timeline, budget and scope commitments made to state leadership.

TRS is required to inform the QAT when it advertises any solicitation of a Major Information Resource Project (MIRP) that is either: 1) identified as such by the Legislature, 2) valued over \$5 million and it is anticipated that the project will take over a year to reach operational status, involves more than one agency, or significantly impacts the work processes of more than one agency, or 3) valued at \$10 million or more.

Vendor Communication

Communication between procurement professionals and vendors is imperative and encouraged. If used effectively, contact with industry representatives is a vital resource for public procurement professionals.

However, steps must be taken to maintain a fair opportunity to compete for all vendors and avoid any appearance of favoritism. TRS maintains strict guidelines for communication during a solicitation. TRS employees must be mindful that one-on-one communication with vendors occurring prior to contract award are subject to enhanced scrutiny due to the importance of maintaining a level playing field among all eligible vendors during competitive procurements.

When all fact gathering is completed and the actual solicitation-drafting process has begun, vendor communication must cease in order to ensure the integrity of the procurement. During the solicitation, all communication with potential respondents should be made only through the P&C procurement professional or other designated employee. To maintain a level playing field among all potential respondents, program employees or other non-purchasing procurement professionals should not have contact with potential respondents once the solicitation process has begun.

This does not apply to communications required as part of regular contract monitoring of an existing contract with an incumbent vendor that is also a respondent to a solicitation. Care, however, must be taken only to discuss items related to the current contract and not to discuss the current solicitation.

For more information on communicating with a vendor, review the section on "Vendor Communication" in the TRS Procedures Manual.

Step Three: Vendor Selection

The third step of the procurement process is to select the vendor that provides the best value to TRS. TRS must conduct evaluations consistent with either the evaluation procedure published in the solicitation or, for informal bidding situations, established by written procedure. Also, vendor selection must be consistent with state procurement law requirements, TRS' fiduciary duties, and this Guide.

Evaluation Process

For competitive procurements, TRS will select a vendor by conducting evaluations fairly and impartially consistent with state procurement law requirements, this Guide, and per the evaluation criteria published in the solicitation. When not using a competitive process, TRS will document the vendor selection justification and follow the TRS Procedures Manual for each procurement method.

Evaluation Committee

An evaluation committee is selected to evaluate the bid responses. At a minimum, an RFP evaluation team should consist of three or five TRS stakeholders representing different subject matter areas related to the final product or services. The contract manager should ensure appropriate subject matter representation on the team, including project management, finance, IT and others, as needed, prior to receipt of the responses. Evaluation team scores and recommendations are used for the next steps of awarding a contract. Evaluation committee members must sign non-disclosure and conflict of interest disclosure forms before evaluating responses

The evaluation team shall follow the guidelines set out in the "Response Evaluation and Award Recommendation" section of the TRS Procedures Manual.

If a solicitation uses a different scoring method, the method for scoring must be stated in the solicitation document and be pre-approved by both P&C and L&C.

Oral Presentations/Demonstrations

If expressly permitted by the solicitation, the Evaluation Committee may elect to conduct oral presentations and/or product demonstrations after reviewing the responses. These presentations provide an opportunity for respondents to highlight the strengths and unique aspects of their responses and to provide answers to questions seeking further clarification that the evaluation committee and other technical advisors as identified in the solicitation document may have regarding the responses. Presentations that include product functionality demonstrations are recommended, when appropriate, such as for information technology procurements or solution-based procurements.

Best and Final Offer

After the initial evaluation and oral presentations/demonstrations are complete, the P&C procurement professional will meet with the evaluation team, the procurement team members, and L&C, as needed, to review the solicitation documents, scoring tool, responses and related materials to ensure

accuracy and completeness. At this meeting, it will be decided who will be part of the negotiations team and the next steps to prepare for the negotiations.

At this stage, TRS may formally request that respondents submit proposed revisions to their solicitation proposals through Best and Final Offers (BAFOs). BAFOs are only used in the evaluation of RFPs.

Negotiations

Negotiating specific terms and price is allowed for certain solicitations as long as the negotiations do not result in a material change to the advertised specifications. TRS may use a variety of negotiation strategies and techniques to determine the best value. Before the commencement of negotiations, the procurement professional will work with the evaluation committee, procurement team, and L&C to gather all the necessary documentation and information needed for the negotiations team. Depending on the particular procurement, some of the information needed may include data on prevailing prices and required deliverables and contract terms. The negotiations team will review this information, and a strategy will be developed at the internal planning meeting.

Step Four: Contract Formation and Award

TRS awards a contract for the purchase of goods and services that are in the best interest of TRS, and that provides the best value. The P&C procurement professional is responsible for the coordination and preparation of the appropriate contract agreement. Contracts between TRS and the selected vendor may be in the form of either a purchase order (PO) or a formal signed agreement. If a formal signed agreement is used, TRS must also use a PO to document the contract's encumbrance.

Contract Term (Length of Contract)

The term of a contract is a definite period of time that the contract will remain in effect. All contracts must have a commencement date and a specific expiration date and should not include an auto-renewal provision. A contract term compliant with applicable law must be included in the solicitation.

Generally, the maximum duration for a TRS contract without reissuing a competitive solicitation is no more than five years, inclusive of any renewal or extension periods. Individual business needs may dictate a different period. TRS contract managers should consult their procurement professional and L&C for advice on this matter early in the planning process.

The Executive Director or his designee may approve an extension of a contract term past five years in exceptional circumstances. The process for requesting an extension is included in the TRS Procedures Manual.

Contract Amount

All TRS contracts must have a specific contract amount or a not-to-exceed amount. A contract cannot be open-ended. Many procurement processes and reporting requirements are based on the contract amount over the life of the contract.

Contracts with a Value Exceeding \$1 Million

P&C will report the following information to the Executive Director and the Chief Operations and Administrative Officer (COAO) on contracts that have a value of \$1 million or more for the life of the contract:

- Compliance with financial provisions and delivery schedules under the contract;

- Corrective Action Plans (CAP) required under the contract, and the status of any active CAPs; and
- Any liquidated damages assessed or collected under the contract.

Contracts with a Value Exceeding \$5 Million

In addition to the reporting requirements for contracts with a value exceeding \$1 million or more, P&C will report to the Executive Director and COAO information on any potential issues that may arise in the solicitation, purchasing, or vendor selection for any contract with a value of \$5 million or more for the life of the contract.

Step Five: Contract Management

Contract Management is the final stage of the procurement process. It ensures that the contract is performed satisfactorily and the responsibilities of both parties are properly discharged.

The contract manager is responsible for the main activities under the Contract Management stage. The contract manager is responsible for ensuring that the contract requirements are satisfied, that the products and services are delivered in a timely manner, and that the financial interests of TRS are protected.

Contract manager duties may include, but are not limited to, the following:

- Day-to-day activities of the contract/PO;
- Ongoing coordinating and communicating with the contractor/vendor throughout the contract;
- Processing requisitions timely (although this is also the first step in the procurement process, the contract manager must also ensure timely requisition for any renewals or amendments);
- Assessing the need for the continuing need for the procurement as it relates to the business unit and TRS mission;
- Overseeing performance and receipt of quality services and deliverables;
- Tracking and monitoring compliance with deliverables and reporting requirements within a contract;
- Ensuring compliance with contract terms;
- Establishing specific, time-bound, performance measures and requirements to ensure vendor accountability;
- Reviewing and approving invoices;
- Maintaining contract budget; and
- Maintaining all substantive communications and documentation during the contract management stage.

The contract sponsor is usually the chief officer or director for the operational division requesting the goods or services. Contract sponsors ensure adequate resources are in place and provide guidance, as needed, to the contract manager, and address any escalated concerns or issues related to the contract/PO. The contract sponsors may choose to delegate authority of the contract/PO management to a staff member within their respective area to serve as the contract manager but will continue to serve as the contract sponsor.

Both the contract sponsor and contract manager are responsible for the overall success of the contract or PO and compliance with this Guide.

Transition from P&C to Contract Manager

After the contract/PO has been executed, the management of the contract/PO is transferred from the P&C procurement professional to the contract manager for the contract management stage.

If the contract manager was unable to participate in pre-contract award procurement activities, the procurement professional should facilitate the transition of documents and foundational knowledge of the solicitation and contract. At this time, the procurement professional will provide a thorough review of the SOW, contract terms and conditions, agreed-upon inspections and acceptance criteria, extension and renewal potential, and articulated remedies.

Before the procurement professional transfers the contract to the contract manager, the contract manager must sign a Contract Manager Acknowledgement Form. This form outlines the responsibilities, contract deliverables, and enhanced monitoring activities. By signing the form, the contract manager certifies that they understand their role and responsibilities.

After the contract manager has been briefed on the events preceding the contract award, the contract manager will begin the management of the contract.

Contract Kick-Off Meeting

As soon as the contract/PO has been transferred from P&C to the contract manager, the contract manager will determine whether a post-award conference meeting, also known as a "contract kick-off meeting," with the contractor is needed. If so, the contract manager will schedule that with the vendor and any other necessary attendees. The contract kick-off meeting ensures that everyone involved directly in the contract management process understands all contract performance requirements and points of contact.

Contract Risk Assessment and Monitoring Plan

If required by applicable procedures and before final execution of a contract, contract managers should complete a contract risk assessment that identifies acceptable and unacceptable levels of risk and key areas that require close monitoring during the life of the contract. Contract managers may consult with P&C and L&C in developing a monitoring plan based on the contract risk assessment that prioritizes monitoring activities for the contract manager.

In addition, if there is a data sharing component to a contract, one or more data questionnaire will be required to be completed by the vendor. Information Security will review the data questionnaire and may develop a 3rd Party risk assessment. The 3rd Party Risk assessment should become part of the contract file. P&C and L&C will work with the contract manager on any contractual mitigation that may help reduce any identified risk factors.

1 Contract Monitoring

Contract managers are required to monitor a vendor's performance to ensure that the vendor complies with all contractual obligations and to identify any developing problems or issues. Contract managers should regularly review the results of monitoring efforts to ensure corrective actions have been taken, identify common problem areas that might require training, and improve contract requirements for future contracts.

Contact managers may use the following monitoring methods: contract performance reports, desk reviews, expenditure and invoice review, site visits, and vendor performance reporting. Additional information on contract monitoring can be found in the TRS Procedures Manual.

2 Enhanced Contract and Performance Monitoring

TRS is required to utilize an enhanced contract and performance monitoring method for high-dollar and high-risk contracts. Enhanced monitoring is an increased level of monitoring beyond the regular methods customarily used in contract monitoring.

The contract manager, in consultation with P&C and L&C, shall assess each contract to determine whether enhanced contract monitoring is necessary. Pursuant to 34 Tex. Admin. Code § 51.14, the contract manager will use the following factors to determine if enhanced monitoring is required:

- Complexity of the services,
- Dollar value of the contract,
- Whether the services or vendor are new or significantly changed,
- Whether the TRS staff managing the contract is new or significantly changed, and
- Any other factors that may impact the project.

If TRS determines that a contract requires enhanced monitoring, TRS may require that the vendor provide status reports on a scheduled basis to determine whether performance measures are being met. Enhanced monitoring may also include site visits, additional meetings with the vendor, and other documentation requirements to assess progress toward meeting performance measures.

The Director of P&C shall notify TRS Executive Management of contracts requiring enhanced monitoring under this section.

This section does not apply to an interagency agreement, interlocal agreement, a memorandum of understanding with another state agency, or a contract for which there is no cost to TRS.

Amendments, Change Orders, Renewals, and Early Termination

A written contract amendment or change order, signed by TRS authority and reviewed by L&C, is required if there is a change to any contractual provisions, including the contract terms and conditions, services or the SOW, including performance measures, dollar amount or contract period that is outside of the contract period stated in the contract. The contract manager shall notify P&C promptly upon becoming aware of a potential change that needs to be made to a contract. Contract modifications, including early termination, must be facilitated by P&C per this Guide and applicable procedures. Contract modifications that will increase the cost of the contract must be executed per the Delegated Signature Authority Matrix and may require consultation with L&C. All requests to change standard terms and conditions or any terms that may impact TRS' rights or remedies under the contract, including early termination, must be reviewed by L&C.

The contract amendment or change order should follow the process documented in the contract and include an effective date and detailed description of the change and should be clear on whether the change necessitates a change in the dollar amount.

A contract renewal is the continuation of the contract period according to the timeframes specified in the contract. Typically, a renewal is limited to an additional period of time with a purchase order change notice. In order to renew or extend a contract, the contract must contain provisions that allow for renewal or extension.

Contract managers must also regularly review assigned contracts as well as the BU procurement plan and be aware of the expiration deadlines. The contract manager should consult with P&C to determine whether the contract will be renewed, extended, re-procured, or allowed to expire well before the procurement lead times required for a new solicitation in the event one is needed. If no renewals remain available under a contract, P&C will consult with the contract manager to determine whether the services are still needed, and a new solicitation will be necessary.

Contract File and Records Retention

TRS' Procurement and Vendor e-System (PAVES) will be the location of all contract files unless stated otherwise in the Procedures Manual. P&C will be responsible for the management of procurement documents within the contract file from initiation up to award. The contract manager is responsible for maintaining and uploading any contract documents after execution, which may include items such as deliverables and communication with the vendor. The content for contract management may vary depending on the size and complexity of the contract. The contract manager can use the [contract file checklist](#) to help ensure appropriate documentation is in the contract file.

A contract management file will include documentation that:

- Ensures vendor is performing according to contract requirements
- Ensures that issues are addressed timely
- Supports action taken during the contract
- Contains information for Vendor Performance reviews required by CPA
- Facilitates open records requests
- Furnishes essential facts in the event of a dispute or litigation
- Documents information for internal and external audits

P&C will ensure that contract managers are trained on the contract file requirements.

In addition to maintaining the contract file, the contract manager is also responsible for ensuring that contract documents developed during the performance of contract management activities are retained according to the TRS retention schedule.

In accordance with Tex. Gov't Code § 441.1855, most contract documents must be retained for a minimum of seven (7) years after a contract is complete (expired, terminated, or otherwise closed) or the last action related to the contract is resolved, whichever is later. The contract manager may contact their assigned procurement professional or the TRS Records Management team for more information on records retention requirements.

Contracts Managers are responsible for ensuring that all documents responsive to a Public Information Act request are provided to L&C upon receipt of a program notice from L&C. The contract manager is also responsible for working with L&C to clarify requests and review documents, as required. Contracts Managers are also responsible for identifying all documents responsive to a Legal Hold Notice and retaining documents in accordance to the directions received from L&C and until the Legal Hold Notice is withdrawn.

Dispute Resolution

Dispute resolution should follow the process set forth in the applicable contract. Therefore, contract managers should review that process in the contract before taking any action. Generally, the contract manager should identify and attempt to resolve contract performance issues and disputes with vendors as promptly as possible. Any communications with the vendor on potential a dispute should be in writing and kept as part of the contract file.

P&C and L&C provide business units with assistance, as necessary, to help resolve disputes. L&C should be consulted as soon as possible when legal claims or actions by a vendor are made or there are any questions about what remedies TRS has under the contract.

Contract Job Aids

P&C has developed the following job aids to assist contract managers with managing their contracts. The job aids are located on the [Procurement and Contracts Resource Center](#). A list of the job aids can be found in Appendix 1.

P&C Contract Management Oversight

P&C is responsible for the following oversight activities:

- Assisting in developing Agency procurement policies and procedures;
- Providing business units with systems (contract management system), tools (including solicitation and risk assessment templates and checklist) and training to assist with compliance;
- Providing agency procurement training;
- Ensuring that procurement processes and procedures are in compliance with TRS and State requirements;
- Coordinating with L&C on contract development and compliance;
- Coordinating the procurement process to ensure procurements are performed in a timely manner; and
- Ensuring contract managers and procurement staff meet relevant state certification requirements.

Contract managers are responsible for all contract management activities after the execution of the contract including contract performance monitoring. In addition, they are required to maintain required CTCM certifications and attend TRS procurement training.

Contract Close-Out

Contract closeout occurs once the contract has been completed or terminated. Unless otherwise stated in the contract or other extenuating circumstances exist, the closeout process should be completed in a timely manner, usually within ninety (90) days of contract termination. The contract close-out process is a detailed and straightforward administrative procedure. The purpose is to verify that both parties to the contract have fulfilled their contractual obligations and no responsibilities are remaining. Also, contract close-out is the time to assess the contract's success and determine if there are any lessons to be learned for future contracting.

A contract is considered completed when:

- All goods or services have been received and accepted,
- All reports have been delivered and accepted,
- All administrative actions have been accomplished,
- All agency-furnished equipment and materials have been returned,
- All property inventory and ownership issues are resolved, including disposition of any equipment or licenses purchased under the contract,
- Final acceptance from the contract manager has been received,
- Final payment has been made to the contractor,
- Vendor performance (VPTS reporting) is completed, and
- Lessons learned reviews are completed.

The contract close-out process consists of the following elements:

- **Close-out letter:** This is a letter that the contract manager sends to the vendor confirming the deliverables have been received and requesting the final invoice (usually in the form of an e-mail).
- **Release of Claims:** This is a form that the vendor submits with the last invoice releasing TRS from any potential claims. It should be transmitted to the vendor with the Close-out letter.
- **Performance Evaluation form:** The P&C procurement professional is responsible for reviewing and submitting vendor performance information to the CPA Vendor Performance Tracking System (VPTS). This form is required to be completed by the contract manager within 30 days from the end of a contract/PO that is valued at \$25,000 or more for the life of the contract/PO.
- **Lessons Learned:** It may be beneficial to schedule a "lessons learned" meeting (optional).

For additional information, please see the Procedures Manual.

Procurement & Contracts Certifications and Training

TRS procurement professionals assigned to P&C (contract specialists, purchasers, buyers and contract support specialists) are required to obtain one or both of the State procurement certifications within the first 12 months of employment and maintain statutorily mandated procurement and contract management certifications, as developed by the Texas Comptroller of Public Accounts' Statewide Procurement Division (SPD). Depending on the position, this may include Certified Texas Contract Developer (CTCD) certification (previously the Certified Texas Procurement Manager Certification (CTPM)) and/or the Certified Texas Contract Manager (CTCM).

In addition, pursuant to Tex. Gov't Code § 656.052, all TRS contract managers who meet one or all of the following criteria are also required to obtain CTCM training through the Comptroller of Public Accounts:

- 1) Managing a contract that is over \$500,000,
- 2) Managing more than three (3) contracts of any value, and/or
- 3) Performs contracting activities that make up 30% or more of their job duties.

If a TRS employee has a job title "contract manager" or "Contract administration manager" or contract technician"; performs contract management activities as fifty percent (50%) or more of their job activities; or manages any contract in excess of \$5,000,000, the employee will be required to obtain CTCM certification.

P&C will track CTCM training and certifications for the agency.

P&C will continually develop a wide variety of procurement training for TRS employees. A schedule of upcoming training may be found at the [P&C Events Calendar](#).

If a TRS employee has a suggestion for a specific procurement or contract management training, please contact the [Director of P&C](#), [Assistant Director of P&C](#), or the P&C's [Special Projects Coordinator](#).

In addition, all [P&C procurement professionals](#) are available for one-on-one procurement training of TRS employees.

Escalation Process

If there is an issue that requires ED and COAO approval at any time during the procurement process, the escalation process found in the Procedures Manual must be closely followed. Escalation and approval are required for the use of a non-competitive procurement process for a procurement not listed under the Non-Competitive Procurement Methods section above.

Exemptions from this Guide

The investment and management of pension assets have been delegated to TRS' Investment Management Division (IMD) through TRS' Investment Policy Statement (IPS). Accordingly, those activities are governed by the IPS and related policies and procedures and are exempt from this Guide. The procurement process for Tricot is also subject to a separate procurement process. However, the procurement by IMD of goods and services unrelated to specific investment transactions or Tricot are not exempt and must be procured under the requirements set forth in this Guide and following the Procedures Manual. Questions about the characterization of a specific investment or Tricot procurement should be reviewed by L&C.

Non-Compliance with this Guide

Failure to comply with this Guide may expose TRS to increased contractual, financial, legal, audit, and headline risk. Any person found to be in violation of this Guide is subject to disciplinary action, as provided by [TRS Corrective Action Policy](#).

Glossary of Standard Terms and Acronyms

Acquisition Planner	A written document that outlines the required tasks and milestones, completion dates, and responsible party throughout the procurement process.
Addendum	A written addition, change, or supplement to a solicitation issued prior to the opening date.
Amendment	Written addition or change to a contract.
Assignment	Transfer of contractual rights from one party to another party
Automated Information System (AIS)	Products and services that are associated with computers (automation) or telecommunications systems as defined in Section 2157.001(1) of the Texas Government Code.
Award	The final act of accepting an offer after completion of all negotiations on the contract, thereby forming a contract between the State and a vendor.
Best and Final Offer (BAFO)	Formal request for revisions to vendor proposals. A BAFO is a procurement strategy often used when the evaluation committee believes that the price could or should be better, or when some element of the proposal needs further definition. It is also used to obtain added information that will offer a larger point of difference between competitive proposals.
Best Value	Most advantageous to the State in light of all relevant circumstances. Also referred to as "Best Interests of the State".
Bid	An offer to contract with the State submitted in response to an IFB.
Bid Sample	A sample required to be furnished as part of a bid, for evaluating the quality of the product offered.
Bid Tabulation	The recording of bids and bid data submitted in response to an IFB. The bid tabulation is used for comparison, analysis, and record keeping.
Blanket Order	A purchase order to a vendor for a specified time period, specific product and an estimated minimum quantity; with actual delivery to only occur in conformance with subsequent authorization(s) by the ordering entity. Use of minimum estimated call out quantities is advised for this type of order. Also referred to as "Standing Order."
Breach of Contract	Failure to perform a contractual obligation.
Business Unit	All TRS staff outside of the P&C Division. This term is used as a general statement to refer to agency staff responsible for implementing the education, research, and business initiatives (or programs) supporting TRS' strategic plan.
Centralized Master Bidders List (CMBL)	An online directory, maintained by SPD, containing contact information and product categories of vendors registered to receive procurement opportunities from public entities.
Change Order	An amendment, clarification, change, or deletion to the original scope of work to a contract.

Closing Date	The date and time that offers or proposals are due in response to a solicitation. Used interchangeably with the term "Opening Date."
Commodity	Generally, the term means supplies, materials, or equipment.
Competitive Solicitation	The process of inviting and obtaining responses from competing vendors in response to advertised competitive specifications, by which an award is made based on best value. Each respondent must respond to the same advertised specifications, terms, and conditions.
Conflict of Interest	When an individual has a relationship or interest that could reasonably be expected to diminish the individual's independence of judgment in the performance of the individual's responsibilities to TRS.
Contract	A legally enforceable agreement between two parties.
Contractor	A business entity or individual that has a contract to provide goods or services to the State. Also referred to as "Vendor".
Contract Manager	Program staff involved in the development, evaluation, award, or management of a contract.
Contract Sponsor	An executive-level individual with primary overall responsibility for implementation and operation of the project.
Contract Term	The term (beginning and ending dates) during which all related goods and services are provided, and all related costs incurred. Any extensions and renewal terms must be identified in the original contract document.
Cost Estimate	An approximate value of the total cost of a service, product, resource, and/or project management; used for planning and/or resource allocation based on requirements of the Statement of Work (SOW).
Debarment	An exclusion from contracting or subcontracting with state agencies on the basis of any cause set forth in statute or SPD rules, commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.
Electronic State Business Daily (ESBD)	The online directory, administered by the State Procurement Division of the Comptroller's Office, that publishes solicitations for the purpose of informing vendors of procurement opportunities and provides public notice of contract awards.
Escalation Clause	A clause in a contract providing for a price increase or decrease under certain specified circumstances.
Evaluation Committee	TRS staff assigned to serve on the evaluation committee assessing the quality, value, and reasonableness of proposals, qualification statements, offers, or bid documents submitted to TRS in response to a competitive solicitation for goods and services. Evaluation committee members must sign non-disclosure and conflict of interest disclosure forms before evaluating responses.
Exception	A person or thing that is excluded from a general statement or rule.
Exemption	The state of being free from an obligation or liability or rule.

Historically Underutilized Business (HUB)	A business as defined by Chapter 2161 of the Texas Government Code and 34 TAC § 20.282.
Informal Solicitation	An unsealed, competitive solicitation used to obtain offers submitted verbally or in writing for purchases with a value of \$25,000 or less.
Inspection	Examination and/or testing of merchandise to determine whether it has been received in the proper quantity and condition and to verify that it conforms to the applicable specifications. An Inspection Report will be produced as a result of the agency's inspection, informing the buyer of a product's compliance with advertised specifications.
Interagency Contract (IAC)	Written understanding between two or more agencies as authorized by Chapter 771 of the Texas Government Code.
Interlocal Contract	Written understanding between local government entities, a local government entity and a federally recognized Indian tribe, or a local government entity and a state agency of Texas or another state as authorized by Chapter 791 of the Texas Government Code.
Invitation for Bids (IFB)	A written solicitation requesting the submission of bids; also referred to as a bid invitation.
Invoice	Document from a vendor requesting payment for goods delivered and/or services rendered.
Kick-Off Meeting	A meeting at the beginning of a procurement to help coordinate all stakeholders, resources and to gather all the necessary information to ensure a successful project.
Legal & Compliance (L&C)	A department in the Executive Division at TRS that provides legal counsel to TRS under the direction of the General Counsel and oversees the TRS compliance program under the direction of the Chief Compliance Officer.
Legal Hold	A process by which L&C advises TRS employees when information must be preserved for potential litigation matters or investigations.
Managed Contract	A contract that is initially set up for one specific agency but can also be used by other agencies who might have a business need for the same goods or services. They may be used for one-time purchases or under a blanket purchase order under the terms, dates and provisions of the original managed term contract.
Mitigation Plan	Outlines the processes or actions that are to be implemented to reduce or eliminate identified risks.
Needs Assessment	An assessment of why a procurement is required as part of the planning phase of the procurement planning. The needs assessment should include the benefits to TRS or to the business unit's mission and contain sufficient detail to identify the key business requirements.
Negotiations	A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the "dealings conducted between two or more parties for the purpose of reaching an understanding."
Notice of Award	An official announcement of an executed contract which is typically posted on the State Electronic State Business Daily (ESBD). For TRS, the term also

	refers to a letter signed by the Executive Director or designee which creates a contract.
Opening Date	The date and time that bids are due in response to an IFB. Used interchangeably with the term "Closing Date."
Procurement Plan	A written document that identifies and consolidates the procurement requirements and determines the timeframes for the procurement with the aim of having them as and when they are required. When a contract manager is developing an annual procurement plan, they will review current contracts and future contracts
Purchasing & Contracts (P&C)	A department in the Business Administration Division at TRS that oversees the procurement process.
Procurement Card (ProCard)	A commercial charge card that is predominately used for certain approved transactions that require payment upfront.
Procurement Cycle	The five components of contract administration that define the primary activities of the contracting process.
Professional Services	Services directly related to the professional practices specified by the Professional Services Procurement Act, Chapter 2254, Subchapter A, of the Texas Government Code.
Proposal	An offer to contract with the State, submitted in response to an RFP.
Proprietary Contract	An agreement to purchase a good or service where the specifications or conditions of the proposed purchase are proprietary, or that has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services.
Public Information Act (PIA)	The Public Information Act (PIA), Chapter 552 of the Texas Government Code, provides a mechanism for citizens to inspect or copy government records. It also provides that governmental bodies may withhold government records from the public in specific instances.
Public Opening	The public opening of bids, offers, or proposals, in which the names of the respondents to a solicitation are publicly read and recorded.
Purchase Order	A document issued by P&C staff to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the TRS.
Purchasing Professional	P&C staff whose primary job responsibilities include carrying-out and overseeing purchasing and contracts of goods and services for TRS.
RACI	RACI is an acronym derived from the four key responsibilities most typically used: Responsible, Accountable, Consulted, Informed. A RACI document is developed by a roles and responsibility charting technique to identify functional areas where there are process ambiguities, bringing the differences out in the open and resolving them through a cross-functional collaborative effort.
Request for Information (RFI)	A general invitation to the vendor community requesting information that may be used in a potential future solicitation.
Request for Offers (RFO)	A written solicitation requesting the submission of offers for AIS which include hardware, software and other I.T.-related goods and services.

Request for Proposals (RFP)	A written solicitation requesting the submission of proposals.
Request for Qualifications (RFQ)	A written solicitation requesting the submission of qualifications or specialized services. Typically used for the procurement of professional services.
Risk Assessment	A process of evaluating the potential risks that may be involved in a project or procurement.
Sealed Bids/Proposals	A response which is kept secure and unopened until after the due date and time specified in the solicitation.
Service	The furnishing of skilled or unskilled labor or professional work.
Set Aside Contract	Term used to refer to the State Use Program and the Texas Correctional Industries (TCI) purchasing program.
Sole Source	The specified product or service is only available for purchase through a single vendor e.g., manufacturer, publisher, service provider. Examples of sole source proprietary purchases include a back issue of a magazine available from only the publisher and an educational conference available from only the conference sponsor.
Solicitation	<ul style="list-style-type: none"> - A document (such as an IFB, RFO, RFP or RFQ) requesting responses from vendors to provide specified goods and services. - The process of obtaining responses from vendors to provide specified goods and services.
Statement of Work	The detailed description of what the agency is purchasing and what the contractor is required to provide in order to satisfactorily perform the work.
Term Contract	A contract established by SPD for the purchase or lease of common goods and services used in large quantities and can be used by all agencies.
Texas Multiple Award Schedule (TxMAS)	A contract program established by SPD to supplement the Term Contracts. It adapts existing competitively awarded government contracts to service the procurement needs of state agencies and Texas SmartBuy members. A contract awarded through the TXMAS Program must be based on an existing contract that was previously awarded by the federal government or any other governmental entity in any state using a competitive process that is adaptable to Texas laws.
Texas SmartBuy	The State's central e-procurement system for non-IT goods and services.
Vendor Communication	Communication between procurement professionals and vendors. However, once the fact gathering is complete and the actual solicitation development begins, all communication regarding the solicitation between a vendor and program staff must cease and be directed instead to P&C.

Exhibit A: TRS Contract and Procurement Requirements & Exemptions

General Exemptions

Pursuant to Texas Government Code, section 825.103(d), “notwithstanding any other law,” the retirement system has exclusive authority over purchases of goods and services using trust assets. Furthermore, the requirements of Title 10, Subtitle D, Gov’t Code (Chapters 2151-2176) do not apply.¹

Further, sections 825.103(e), (f), Gov’t Code also exempt TRS from Chapters 2054 (with noted exceptions), 2055, and Subchapter C, Chapter 2260 of the Gov’t Code.

Statutory Requirement	Section Heading	TRS Exemption
Tex. Gov’t Code, Chapter 2054, “ <i>with the exception of cybersecurity and information security standards established by DIR under this chapter.</i> ”	Information Resources	825.103(e)
Tex. Gov’t Code, Chapter 2055	Electronic Grant System	825.103(e)
Tex. Gov’t Code, Chapter 2151	General Provisions	825.103(d)
Tex. Gov’t Code, Chapter 2152	Texas Facilities Commission	825.103(d)
Tex. Gov’t Code, Chapter 2155: “ <i>comptroller shall acquire by purchase, lease, rental, or another manner all goods and services for a state agency</i> ”	Tex. Gov’t Code, Chapter 2155 – Purchasing: General Rules and Procedures	825.103(d)
Tex. Gov’t Code, Chapter 2156 – Purchasing Methods	Tex. Gov’t Code, Chapter 2156 – Purchasing Methods	825.103(d)

¹ Regardless of statutory exemptions, all procurements must follow TRS procurement policies and procedures. Consult L&C for specific questions about whether an exemption from state procurement requirements applies.

Tex. Gov't Code, Chapter 2157	Purchasing: Purchase of Automated Information Systems	825.103(d)
Tex. Gov't Code, Chapter 2158	Purchasing: Miscellaneous Provisions for Purchase of Certain Goods and Services	825.103(d)
Tex. Gov't Code, Chapter 2163	Commercially Available Activities	825.103(d)
Tex. Gov't Code, Chapter 2170	Telecommunications Services	825.103(d)
Tex. Gov't Code, Chapter 2171	Travel and Vehicle Fleet Services	825.103(d)
Tex. Gov't Code, Chapter 2172	Miscellaneous General Services Provided by Comptroller	825.103(d)
Tex. Gov't Code, Chapter 2175	Surplus and Salvage Property	825.103(d)
Tex. Gov't Code, Chapter 2176	Mail	825.103(d)
Tex. Gov't Code, Chapter 2260, Subchapter C	Contested Case Hearing under Chapter 2260	825.103(f)

Buildings, Real Property, Leases

In addition, Texas Government Code, section 821.007 provides that the "buildings comprising the home office of the retirement system are under the control and custodianship of the retirement system..." Further, Texas Government Code, section 825.101 provides that "[t]he board of trustees is responsible for the general administration and operation of the retirement system." Based on these provisions, TRS home office facilities are not "state facilities" or "state property" and therefore, except for the noted exceptions, TRS is not subject to Chapters 2165-2167 of the Gov't Code.

Statutory Requirement	Section Heading	TRS Exemption
Tex. Gov't Code, Chapter 2165, <i>with the exception of 2165.104 – Space Use Study; Limitation on Allocation of Space</i>	State Buildings, Grounds, and Property	821.007, 825.101

Tex. Gov't Code, Chapter 2166	Building Construction and Acquisition and Disposition of Real Property	821.007, 825.101
Tex. Gov't Code, Chapter 2167	Lease of Space for State Agencies	821.007, 825.101

Consulting Services Exemptions

The remaining exemptions are found within Chapters 2254-2257, Gov't Code. Chapters 2254 and 2256 either provide a specific exemption for TRS or exempt a retirement system. The exemptions under Chapter 2257 are based on the manner in which TRS holds its assets.

Statutory Requirement	Section Heading	TRS Exemption
Tex. Gov't Code, Chapter 2254, Subchapter B: <i>whose services are determined by the governing board of a retirement system trust fund to be necessary for the governing board to perform its constitutional fiduciary duties</i>	Consulting Services: Exemptions from:	2254.024(a)(6)
Tex. Gov't Code, Chapter 2254, Subchapter C – to the extent services are paid for from money that is not appropriated from GR	Contingent Fee Contract for Legal Services	2254.102(d)
Tex. Gov't Code, Chapter 2256, Subchapter A	Authorized Investments for Governmental Entities	2256.004(a)
Tex. Gov't Code, Chapter 2257	Collateral for Public Funds	2257.002(3)(B) and 2257.082

Special considerations for investment-related contracts and procurements

Pursuant to Article 16, Section 67(a), Tex. Const., pension assets are held in trust for the exclusive benefit of plan participants and may not be diverted and Article 16, Sec. 67(a)(3), Tex. Const., requires the TRS Board of Trustees to invest trust assets only in "securities." "Securities" are neither "goods" nor "services" and therefore transactions in which TRS buys or sells "securities" (whether publicly traded or privately issued) are not subject to state purchasing rules. These transactions are instead subject to the Board's investment policies under its authority as fiduciary to the plan. Section 825.301(a), Gov't Code.

Certain Exemptions Repealed

Exemptions Repealed by SB 65. Effective 9/1/2019, SB 65, effective 9/1/2019, repealed Subsection 825.103(g) which previously exempted TRS from Chapters 2261 and 2262 of the Gov't Code. TRS is no longer exempt from the following requirements. TRS, however, retains all other exemptions listed above. To the extent provisions under Tex. Gov't Code, Chapters 2261 and 2262 potentially conflict with the statutory exemptions, please consult L&C.

Statutory Requirement	Section Heading	Former TRS Exemption
Tex. Gov't Code, Chapter 2261	State Contracting Standards and Oversight	825.103(g)
Tex. Gov't Code, Chapter 2262	Statewide Contract Management	825.103(g)

EXHIBIT B: Procurement Roles and Responsibility Charting (RACI)

The Roles and Responsibility Charting is a technique for identifying functional areas where there are process ambiguities, bringing the differences out in the open and resolving them through a cross-functional collaborative effort.					
Legend:					
Responsible: “The Doer” – the person assigned to do the work.					
Accountable: “Ultimately Answerable” – The person who makes the final decision and has ultimate ownership.					
Consulted: “In the Loop” – The person who must be consulted before a decision or action is taken.					
Informed: “Kept in the Picture” – The person who must be informed that a decision or action has been taken.					
Activities	P&C	Business Unit	L&C	ERM	IT Security
Procurement Planning					
Identifies need	I	R/A	I		
Develops needs assessment	C	R/A	I		
Creates a cost estimate	C	R/A			
Determines funding source	I	R/A			
Identifies risks and mitigation plan	C	R/A	C	C	
Identifies contract requirements	R/A	R/A	R/A		C
Identifies need for COE	R	R/C	A		
Identifies need for BAA	R	R/C	A		C
Procurement Strategy					
Determines procurement method	R/A	C	C		
Develops acquisition plan	R/A	R	C	C	C
Determines if subcontracting opportunities are probable	C	R/A	I		
Develops scope of work, including business requirements, and minimum vendor qualifications	R/C	R/A	C		C
Defines contract deliverables, performance measures, and milestones	R/C	R/A	C		
Develops evaluation criteria and response submission criteria	R/C	R/A	C		
Determines Insurance Requirements	R/C	R/A	C		
Determines if liquidated damages are required	R	R/A	C		
Determines if special terms are required	C	R/A	C		
Identifies evaluation team members	C	R/A			
Drafts SOW and reviews solicitation	R	R/A	R/C		
Develops evaluation tool	R/C	R/A	C		

OAG approval for outside counsel services	I	C	R/A		
Other external review/approvals	R/A	R	C		
Approves final solicitation	R/A	R	R		
Advertises solicitation	R/A				
Conducts vendor conference	R/A	R	C		
Facilitates solicitation addendum and Q&A	R/A	R	C		C
Vendor Selection					
Receives and secures bids and proposals	R/A				
Prepares bid tabulation	R/A				
Performs administrative review	R/A				
Reviews HUB Subcontracting Plans	R/A				
Evaluation team process	R/A	R	C		C
Clarification of proposals	R/A	R	C		
Vendor demonstrations	R/A	R	C		C
Point of contact for vendors	R/A	C	C		
Conducts negotiations	R	R/A	R		C
Verification of vendor eligibility	R/A	C			
Selects vendor	R	A	C		
Confirms SB 65 compliance	R/A	I	R		
Contract Formation & Execution					
Conducts pre-award and amendment compliance checks	R/A				
Review of required disclosures	R/A				
Conducts vendor compliance verifications	R/A				
Drafts contract	R/A	C	R		
Executes contract	R/A	I	I		
Posts award to the ESBD and TRS website	R/A				
Responds to requests for debriefings	R/A	R	C		
Responds to protests	R	A	C/R		
Contract Management					
Completes contract risk assessment	A	R	C	I	
Includes high risk contracts on departmental risk assessment				R/A	
Develops Contract Monitoring Plan	R	R/A	C		
Conducts post award contractor conference	C	R/A			
Monitors performance based on Contract Monitoring Plan	C	R/A	C		
Reviews and approves invoices		R/A			
Reviews and accepts deliverables		R/A			
Assignments or transfers of contracts and licenses	C	R/A	C		
Initiates contract amendments, renewals, or change notices	C	R/A	C		

Prepares contract amendments or change notices	R/A	R	C		
Resolves contract disputes	C	R/A	C		
Decisions to terminate or take remedial action	C	R/A	C		
Annual compliance - BAA and IT Security	C	C	C		R/A
Annual compliance - COE	C	C	A/R		
Performs contract closeout process	A	R			
Maintains complete procurement file	R/A	R			
Maintains complete contract management file	C	R/A			

Exhibit C: Contracting Job Aids

P&C has developed the following job aids to assist contract managers with managing their contracts. The job aids are located on the [Procurement and Contracts Resource Center](#).

- [Invoice Approval Checklist](#)
- [Contract Kick-Off \(Post-Award\) Meeting Agenda](#)
- [Contract File Checklist](#)
- [Scope of Work Development](#)
- [Change Management Checklist](#)
- [Monitoring Guidelines](#)
- [Contract Monitoring – Issues](#)
- [Contract Monitoring - Deliverables](#)
- [Contract Termination Checklist](#)
- [Lesson's Learned Checklist](#)