



# WEBINAR FOR GOVERNING BODIES

IN COMPLIANCE WITH  
TEXAS GOVERNMENT CODE 2262.0535



## Training Objective

To provide governing bodies with an understanding of the ethical and professional responsibilities of procurement professionals across the State of Texas.

# Learning Goals



**Statewide  
Procurement  
Division  
Resources**



**Ethics Laws and  
Professional  
Standards**



**Statewide  
Procurement  
Division  
Responsibilities**



**The  
Procurement  
Cycle**



**Certification  
Information**



# Statewide Procurement Division (SPD) Resources

SPD of Texas is the central authority for:

- Procurement Guidance
- Education
- Statewide Contract Development Services



By clicking on the purchasing tab, you can access:



Vendor Resources



Statewide Contracts



User  
Guides & Manuals



Training & Certification  
Information

# Texas Comptroller of Public Accounts Website

[www.comptroller.texas.gov/purchasing](http://www.comptroller.texas.gov/purchasing)

STATE OF TEXAS

# PROCUREMENT AND CONTRACT MANAGEMENT GUIDE

STATEWIDE PROCUREMENT DIVISION



Glenn Hegar  
Texas Comptroller of Public Accounts

[Texas Procurement and Contract Management Guide](#)

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[Outreach Team Email](#)

d Policy  
nt Team

[Policy Team Email](#)

ources for:

- Policy & Certification

# ETHICS LAWS AND PROFESSIONAL STANDARDS

FOR PUBLIC PROCUREMENT PROFESSIONALS





# Appearance of Impropriety

## Examples:

- Dining with a potential vendor
- Not disclosing a personal relationship
- Discussing a solicitation or potential solicitation in public

Avoid any impropriety or the appearance of impropriety that can damage the integrity of the agency.



- [Texas Government Code §572.054](#)
- [Texas Government Code § 572.069](#)
- [Texas Government Code § 669.003](#)
- [Texas Government Code §2252.901\(a\)](#)

## Post-Employment Restrictions

Established to help limit possible conflicts of interest and appearance of impropriety between former agency personnel and the private sector.

# TEXAS ETHICS POLICY

FOR  
STATE OFFICERS OR STATE EMPLOYEES

A state officer or state employee may not:

- Have a direct or indirect interest, including financial interests;
- Engage in a business transaction or professional activity; or
- Incur an obligation of any nature

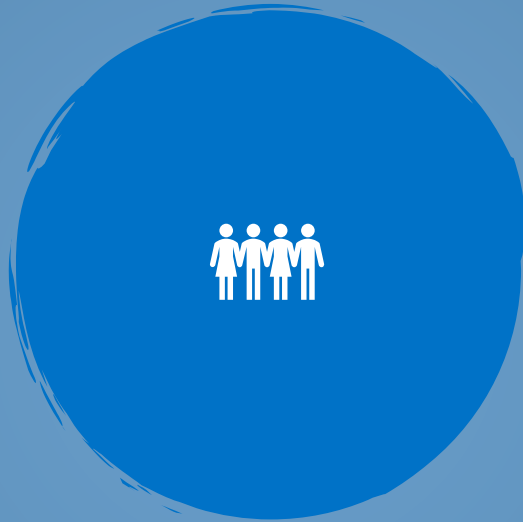
that is in **substantial conflict** with the proper discharge of duties in the public interest.

# State Standards of Conduct

A state officer or employee should not:



Accept, solicit, or agree to accept any gift, favor, service or benefit



Make personal investments



Engage in a business or accept other employment or compensation

**that could create a substantial conflict of interest.**

# Violation of the State Standards of Conduct

State employees who violate State Standards of Conduct are **subject** to:



Termination



Employment-related  
Sanctions



Civil/Criminal  
Penalty (if applicable)

A state agency **may not** use appropriated money to compensate a state employee who violates the State Standards of Conduct.

# Other Ethical Considerations



**Bribery**



**Nepotism**



**Gifts to Public  
Servants**



**Misuse of Official  
Information and  
Government  
Property**



**Fraud, Waste,  
and Abuse**



## Additional Steps & Requirements

**These may include the following depending on the procurement and/or contract value:**

- Non-Disclosure and Conflict of Interest certifications
- Conflict of Interest disclosure statements
- State Auditor's Office (SAO) Statement for Purchasing Personnel
- Disclosure of Interested Parties – Texas Ethics Commission (TEC) Form 1295

Forms can be found at the Comptroller's website or accessed through the Texas Procurement and Contract Management Guide

- SAO Disclosure Statement for Purchasing Personnel
- TEC Disclosure of Interested Parties (1295)

## Texas Ethics Commission (TEC)



Texas Ethics Commission

Promoting Public Confidence in Government

## State Auditor's Office (SAO)



TEXAS  
STATE AUDITOR'S OFFICE  
INTEGRITY. JUDGMENT. INDEPENDENCE.

## Texas Government Code § 669.003

State agencies may not contract with:

- Former executive heads, or their employer.\*

## Texas Government Code § 2252.901

State agencies may not enter into:

- An employment, a professional service, or a consulting service contract (under Chapter 2254) with a former or retired employee of the agency\*

\*More information in the Texas Procurement & Contract Management Guide, [Appendix 3](#)



## Contractor Disclosure

Agencies should require all contractors to disclose any possible **conflicts of interest** in their responses.

# AGENCIES SHOULD CONSULT

**with their own legal counsel division  
regarding internal agency policies.**

# Role of the Statewide Procurement Division (SPD)



**Contract  
Development  
Team**



**Contract  
Management  
Team**



**Statewide Fleet,  
Mail, and Travel  
Programs**



**Historically  
Underutilized  
Business (HUB)  
Program**



**Procurement  
Policy and  
Outreach (PPO)**

# Contract Development and Contract Management Teams

**250+**

Contracts developed and  
managed

**1000+**

Line items of  
products and services

**1800+**

Texas SmartBuy  
customers

# Historically Underutilized Business (HUB) Program

Promotes full and equal business opportunities in an effort to remedy disparity in state procurement and contracting.



SPD Training & Policy Development Team



SPD Outreach Team



Procurement Oversight & Delegation Portal



# Statewide Procurement Policy & Outreach

# and Policy Development Team

## Policy

- Provides procurement related policy support
- Maintains the Texas Procurement and Contract Management Guide



## Training

- Provides Basic Purchaser, Contract Developer, and Contract Manager training
- Processes Certified Texas Contract Developer (CTCD) and Certified Texas Contract Manager (CTCM) certificates and renewals
- Provides continuing education



## Resources

[Training and Policy Development](#)

[ctp@cpa.texas.gov](mailto:ctp@cpa.texas.gov)

[spd.policy@cpa.texas.gov](mailto:spd.policy@cpa.texas.gov)



# SPD Procurement and Oversight Delegation (POD) Portal

## Review and Delegation:

- Conducts solicitation reviews and delegation of purchasing authority for service contracts over \$100,000 dollars.
- Coordinates with the Contract Advisory Team (CAT) to review solicitations over \$5 million dollars.

## Resources:

[Procurement Oversight and Delegation](#)

[spd.oversight@cpa.texas.gov](mailto:spd.oversight@cpa.texas.gov)



Centralized Master  
Bidders List



Vendor  
Performance  
Tracking System



Electronic State  
Business Daily



Texas SmartBuy

## SPD Outreach Team

SPD's customer service arm providing support for state employees and vendors with the:

- Centralized Master Bidders List (CMBL),
- Electronic State Business Daily (ESBD),
- Vendor Performance Tracking System (VPTS),
- Texas SmartBuy



## Centralized Master Bidders List

The Centralized Master Bidders List (CMBL) is an online directory of vendors registered to receive bidding opportunities from State of Texas purchasing entities.



## Electronic State Business Daily

The Electronic State Business Daily (ESBD) is the State's online directory listing procurement opportunities.

**Procurements with a contract value of more than \$25,000 must be posted to the ESBD.**



# Vendor Performance Tracking System

The Vendor Performance Tracking System (VPTS) collects vendor performance information from agencies. Agencies **score** vendors and access past vendor performance reports when awarding a contract.



# The Procurement Life Cycle

1. Procurement Planning
2. Procurement Method Determination
3. Vendor Selection
4. Contract Formation
5. Contract Management

# PHASE I: PROCUREMENT PLANNING



Contract Developers and other agency personnel must identify the business requirements, establish the budget, and determine the procurement strategy

- Needs Assessment
- Cost Estimate
- Acquisition Plan

# PHASE II: PROCUREMENT METHOD DETERMINATION



## Specifics of Procurement Method Determination

- Contract Developers must identify the procurement method that will result in the **best value** for the State.

## Types of Solicitations

- Invitation for Bids (IFB)
- Request for Proposals (RFP)
- Request for Offers (RFO)
- Request for Qualifications (RFQ)
- Request for Applications (RFA)



**Whenever possible, state entities must use Set-Aside programs and statewide term contracts to procure non-IT goods and services**

## TEXAS SMARTBUY

For some procurements, state agencies must use contracts available in Texas SmartBuy.

# Set-Aside Programs

Texas  
Correctional  
Industries (TCI)



Prison Made  
Goods Act



State-Use  
Program  
(WorkQuest)

Purchasing from People  
with Disabilities Program



## Term Contracts

Statewide term contracts  
are established by SPD

Agencies are encouraged to  
use term contracts

Competitive bidding is  
not required

Agencies must order through  
Texas SmartBuy



## Managed Term & Travel Services Contracts

Managed term contracts require manual processing

Purchase cannot be completed through Texas SmartBuy

Travel services contracts are negotiated by SPD

Prior approval from SPD required before agencies enter into a contract for travel services



## Texas Multiple Award Schedule (TXMAS) Contracts

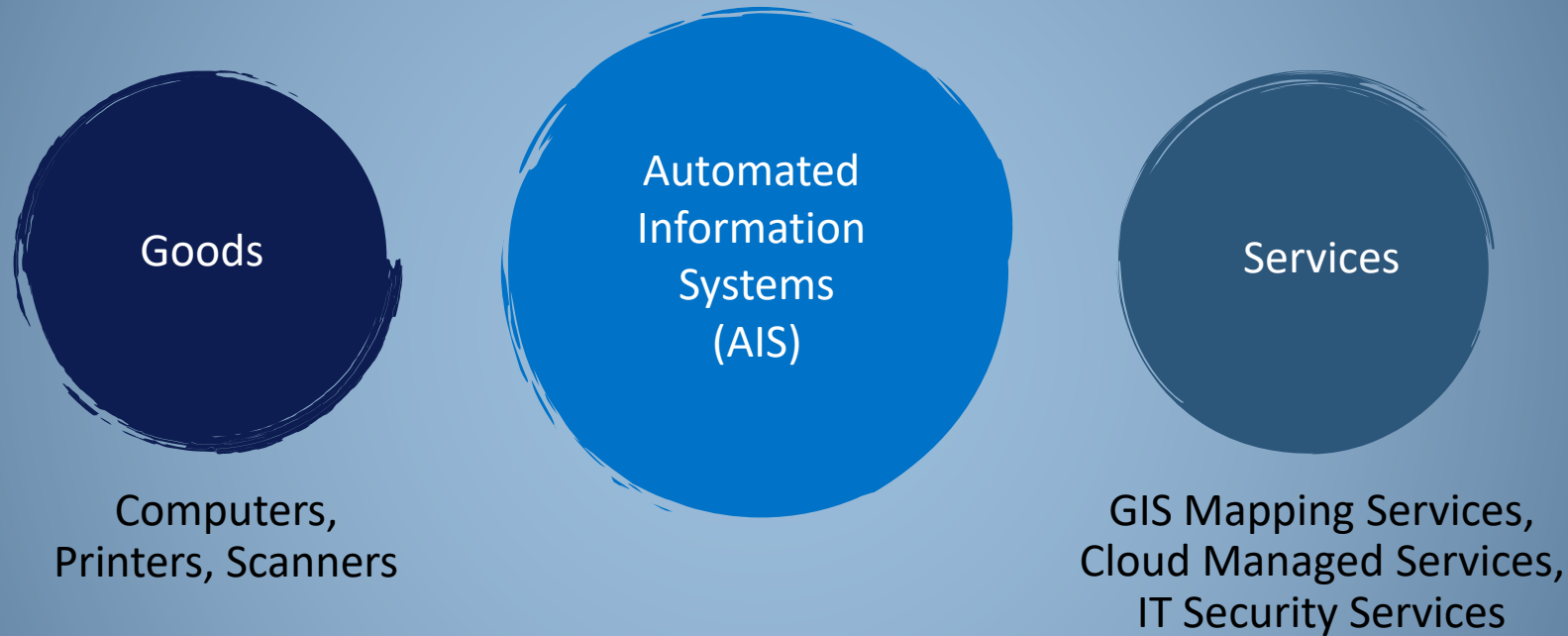
TXMAS contracts supplement  
statewide term contracts

TXMAS program adapts out-of-  
state government contracts by  
implementing Texas laws,  
terms, and conditions to the  
existing competitively awarded  
government contracts

TXMAS contracts are  
available through Texas  
SmartBuy

# IT Commodities & Services

Agencies are required to use Department of Information Resources (DIR) contracts to obtain Automated Information Systems (AIS)



[Department of Information Resources \(DIR\) Website](#)

# Department of Information Resources (DIR)



The Department of Information Resources has statewide procurement authority to establish master contracts. Those include:

- IT commodity items
  - Cooperative contracts
  - Texas Multiple Award Schedule contracts
- Texas.gov contract;
- Data center services contract;
- Telecommunication services contracts.

# Delegation of Purchasing Authority

Delegation of purchasing authority is granted on a case-by-case basis by agencies submitting a specific delegation request through:

- An Open Market Requisition (OMR)
- The Procurement Oversight & Delegation (POD) portal

SPD is the State's **central authority** for the procurement of non-IT goods and services and also has the authority to delegate purchasing authority to individual agencies, by rule or delegation request.



# PHASE III: VENDOR SELECTION



Administrative Review of Responses

Bid Tabulation Process

Evaluation Committee Process

- Consult with the legal department on a **proper evaluation process** for each procurement
- Establish **written procedures** for selecting a vendor
- Conduct a **fair and impartial** evaluation to be consistent with Texas law and statute
- Select a vendor that will provide the **best value for state**

# Bid Tabulation



Used with an Invitation for Bids (IFB)



Major Consideration: Price

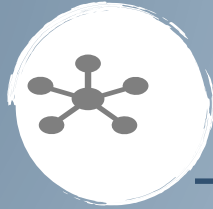


Objective Criteria



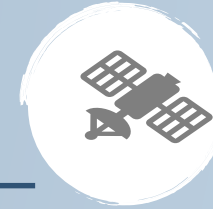
Best Practice  
Evaluation by two Contract Developers

# Evaluation Committee



**Used with complex solicitations**

RFPs, RFOs, RFQs



**Considerations other than price**

Quality, reliability, life cycle costs



**Recommended Size**

3-5 People



**Contract Developer**

Usually acts as the non-scoring Committee Chair

# Sample Evaluation Criteria

## EXAMPLE 1: Weighted Scores, Scoring Scale, and Price Formula

RFP Solicitation	
Evaluation Criteria	Weight
Respondent's Past Performance, Qualifications, and Experience	20%
Respondent's Proposed Plan for Providing Services	40%
Price	40%
<b>Total:</b>	<b>100%</b>

Possible Scoring Strategy			
PRICE EVALUATION CRITERION		Use a mathematical formula to determine the weighted price score.	
<u>Price of Lowest Response</u> Price of Response Being Evaluated x Maximum No. of Available Points* = Weighted Price Score** *Number of Points Assigned corresponds to the numerical percentage assigned to the criterion. **Do not round.			
NON-PRICE EVALUATION CRITERIA		Evaluators assign a raw score for each criterion using a 100 point scoring scale. The cumulative score is determined by converting the raw score for each criterion into a weighted score using the using the applicable weighted percentage.	
DESCRIPTION OF CRITERIA	RAW SCORE (0-100 PTS)	WEIGHT	WEIGHTED SCORE
Respondent's Past Performance, Qualifications, and Experience		20%	
Respondent's Proposed Plan for Providing Services		40%	
Total Weighted Points:			

SCORING SCALE – Past Performance, Qualifications, and Experience		
Score	Rating	Definition
90-100	Excellent	Respondent demonstrates a broad range of relevant experience and completed projects within the last three (3) years of similar scale and complexity with at least one (1) completed contract of larger scale and complexity.
80-89	Good	Respondent demonstrates a broad range of relevant experience and completed projects of similar scale and complexity within the last 3 years.
70-79	Satisfactory	Respondent demonstrates relevant experience and completed projects of similar scale and complexity within the last 3 years.
50-69	Marginal	Respondent demonstrates marginal experience and completed projects of similar or smaller scale and complexity within the last 3 years.
1-49	Unsatisfactory	Respondent demonstrates limited experience. Bidder has either not completed any relevant projects within the last 3 years or completed projects were of smaller scale and complexity.
0	Unacceptable	Response does not address requirement.

SCORING SCALE – Proposed Plan for Providing Services		
Score	Rating	Definition
90-100	Excellent	Response demonstrates excellent understanding of the requirements. Response clearly details how provided services will significantly exceed all specified requirements.
80-89	Good	Response clearly demonstrates an understanding of the requirements. Response exceeds, to varying degrees, one or more specified requirements.
70-79	Satisfactory	Response demonstrates an understanding of the requirements. Response satisfies the identified requirements in an adequate manner.
50-69	Marginal	Response demonstrates only a limited understanding of the requirements. Response has deficiencies, to varying degrees, of one or more specified requirements.
1-49	Unsatisfactory	Response does not demonstrate an understanding of the requirements. Response contains significant deviations from one or more key requirements.
0	Unacceptable	Response does not address the requirements or response does not meet the minimum requirements.

# Sample Evaluation Criteria

## EXAMPLE 2: Sub-criteria, Maximum Available Points Allocation, Reasonableness of Price

RFO Solicitation	
Evaluation Criteria	Weight
Respondent's Past Performance, Qualifications, and Experience	35%
Respondent's Proposed Plan for Providing Services	35%
Reasonableness of Price	30%
<b>Total:</b>	<b>100%</b>

Possible Scoring Strategy			
Evaluation Criteria		Points are assigned to each criterion equal to the weight percentage advertised in the solicitation. Evaluators assign a score within maximum range of points allocated for the criterion.	
Description of Criteria		Weight	Assigned Points
Respondent's Past Performance, Qualifications, and Experience		35	35
Subcriteria	1. Respondent's Past Performance	(10)	(10)
	2. Respondent's Overall Experience & Qualifications	(10)	(10)
	3. Qualifications & Experience of Respondent's Proposed Personnel	(15)	(15)
Respondent's Proposed Plan for Providing Services		35	35
Reasonableness of Price		30	30
<b>Total:</b>		<b>100</b>	<b>100</b>

Example Score Sheet					
Evaluation Criteria		Weight	Maximum Possible Points	Assigned Points	
				Respondent 1	Respondent 2
Respondent's Past Performance, Qualifications, and Experience		35	35	29	29
Subcriteria	1. Respondent's Past Performance	(10)	(10)	8	8
	2. Respondent's Overall Experience & Qualifications	(10)	(10)	9	8
	3. Qualifications & Experience of Respondent's Proposed Personnel	(15)	(15)	12	13
Respondent's Proposed Plan for Providing Services		35	35	32	30
Reasonableness of Price		30	30	20	27
Total:		100	100	81	86

Sample evaluation criteria can be found in the appendices section of the [Texas Procurement & Contract Management Guide](#)

# PHASE IV: CONTRACT FORMATION & AWARD



## Essential Contract Elements:

- Offer
- Acceptance
- Legal Purpose
- Consideration
- Certainty of Subject Matter
- Competent Parties

## Finalizing the Contract:

- Negotiations
- Contract Award
- Notice of Award Posted

# PHASE V: CONTRACT MANAGEMENT



## Contract Manager Responsibilities



## Contract Monitoring



## Contract Completion



## General Responsibilities

- Primary point of contact
- Verify inspection and acceptance
- Coordinate between end user and vendor
- Ensure payment
- Complete contract closeout
- File vendor performance reports in VPTS

## Contract Monitoring Responsibilities

- Assessing risk
- Monitoring deliverables and milestones
- Enhanced monitoring for high risk/high dollar contracts

## Contract Completion Responsibilities:

- Contract requirements satisfied
- Goods and services delivered and received
- Contract Close-Out
  - Applicable reports delivered and accepted
  - Administrative actions accomplished
  - Final payment made to the contractor

# Contract Manager Responsibilities

# Procurement Roles

Purchaser



Contract Developer



Contract Manager





The purchasing role includes the:

- Receipt and processing of requisitions;
- Development of specifications;
- Issuance of purchase orders against existing statewide, cooperative, or agency contracts;

Purchaser

\*This term does not include the development of solicitations and contract awards that must be posted to the ESBD or in the Texas Register.



# Contract Developer

The contract development role applies to the actions taken prior to contract execution including:

- Identification and selection of procurement methods
- Identification and preparation of evaluation criteria,
- Preparation and advertisement of solicitation documents
- Evaluation of respondent proposals
- Negotiation of proposals (if applicable)
- Preparation and completion of contract award documents

The contract management role applies to the actions taken following contract execution including:

- Assessment of risk
- Verification of contractor performance
- Monitoring compliance with deliverable and reporting requirements
- Enforcement of contract terms
- Monitoring and reporting of vendor performance

## Contract Manager

# CERTIFICATION

**SPD offers two levels of certification:**

- **Certified Texas Contract Developer (CTCD)**
- **Certified Texas Contract Manager (CTCM)**

# Certification Requirements

- Attend the Certified Texas Contract Developer (CTCD) or Certified Texas Contract Manager (CTCM) training class
- Pass the exam with a grade of 80% or higher
- **Certification Eligibility:**
  - State agency employees
  - Employees of a Texas SmartBuy member
  - Current students or recent graduates of a Texas accredited institution of higher education
- **Certificate is valid for three (3) years**
  - Completion of 24/36 SPD sponsored or provided continuing education hours to renew.



## Certificate of Achievement

PRESENTED TO

FOR

AT:

ON THE DAY OF IN THE YEAR

SIGNED,



# THANK YOU

[CPA's Purchasing Website](#) 

[Policy Questions](#) 

[Training & Certification Questions](#) 