DEPARTMENT OF
SAVINGS AND
MORTGAGE LENDING

SML Procurement and Contract Management Handbook

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Contents

Overview 4
Purchasing Authority 4
Contract Oversight 5
Staff Certification and Development 5
CPA Training and Development 5
Conflict of Interest and Ethics 6
Vendor and Employee Communication 6
Procurement Planning 7
Needs Assessment 7
Request for Information (RFI) Procurement Planning Method 7
Acquisition Planning 7
Risk Management 8
Procurement Method Determination 9
Procurement Method Requirements 9
Solicitation Development 12
Formal Solicitation Development Process 12
Solicitation Development 12
External and Internal Solicitation Reviews 15
Informal Solicitation Development Process 16
Solicitation Posting and Advertisement 16
Vendor Selection 17
Receipt and Screening Process 17
Evaluation Process 18
Contract Formation and Award 20
Contract Negotiations 20
Contract Development 21
Quality Assurance Team Review 22
Contract Risk Assessment 22
Special Contract Requirements 23
Contract Execution 24
Award Notifications and Posting 24
Post Award Processes 24

Contract Management 26
Contract Management Function 26
Exercise a Contract Option-Year Renewal (no substantive change) 29
Special Contract Management Requirements 29
Vendor Performance Reporting 30
Contract Close-out 30
SML Contract Stakeholders 31
Appendix A: Procurement and Contracting Best Practices 33
Appendix B: Vendor Compliance Verifications 34
Appendix C: Purchasing Accountability and Risk Analysis Procedure 36
Risk Assessment Matrix (Sample) 37
Appendix D: Acronym Key 38
Appendix E: Glossary of Key Terms 39

Overview

The Department of Savings Lending (SML) Purchasing Section is responsible for managing the agency's procurement and contract management functions. The Procurement and Contract Management Handbook ("Handbook") aims to identify the procurement and contracting processes for SML staff. These processes describe how SML complies with statutes and rules in accordance with the Texas Comptroller of Public Accounts (CPA) Texas Procurement and Contract Management Guide, current version ("CPA Guide"). This Handbook complies with the Contract Management Handbook requirement pursuant to Texas Government Code § 2261.256. Procurement and contracting processes from acquisition planning through contract close-out are provided in accordance with the procurement cycle identified in the CPA Guide. Agency policies and procedures provide direction and instruction for creating the handbook and implementing the processes.

All agency employees who request goods and services follow this Handbook and agency policy and procedures. The Purchaser is available to assist staff with procurement and contracting needs and is responsible for facilitating the procurement and contracting needs for all purchases. The Purchaser stays current on all procurement rules, policies, statutes, and regulations and is SML's primary contact for all procurement-related matters. The Purchaser's goal is to process purchases of goods and services for the agency, achieving the best value for the agency and Texas, in accordance with laws, regulations, SML's procedures, and sound business judgment. For questions or comments, contact purchasing@sml.texas.gov.

Purchasing Authority

The CPA and the Texas Department of Information Resources (DIR) are granted purchasing authority for the state. Under this authority, the CPA and DIR establish 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.

The Purchasing Section is responsible for implementing the SML delegated purchasing authority.[1] The delegated and nondelegated purchasing authority is based on the type and value of the purchase. Table 1: Purchasing Authority identifies delegated and non-delegated purchases and their monetary limits.

Table 1: Purchasing Authority

Non-Delegated Purchases
1. Goods exceeding $50,000 2. Services exceeding $100,000

[1] Tex. Gov't Code Sec. 2155.131 and 34 Tex. Admin. Code Sec. 20.82.

Delegated Purchases
1. One-time purchases of goods, including goods for resale, the estimated cost of which does not exceed $50,000 2. Emergency purchases 3. Purchases of perishable goods 4. Purchases of services, including services for resale, the estimated cost of which does not exceed $100,000 5. Purchases of publications directly from the publisher 6. Fuel, oil, and grease purchases 7. Distributor purchases 8. Professional memberships

Contract Oversight

The collaboration and input of SML Executive Staff guide the SML procurement and contracting function.

Staff Certification and Development

Staff development is managed in accordance with Human Resources policy HRD 1.31 POL Training and Development Policy.

CPA Training and Development

The CPA is responsible for developing and managing the statewide training and certification program for public procurement professionals. The training and certifications required for procurement and contracting staff are provided in Table 2: CPA Training Requirements.

Table 2: CPA Training Requirements[2]

Criteria	Type of Certification	Training Requirements	Testing Requirements
Makes a purchase valued over $10,000 or purchasing is 15% or more of job duties	Not required	No continuing education is required.	N/A
Develops, evaluates, negotiates, or awards a contract posted to the Electronic State Business Daily (ESBD) or in the Texas Register on behalf of a state agency. Consulting Services valued over $15,000 or all other contract types valued over $25,000	Certified Texas Contract Developer (CTCD)	CPA CTCD Training. 24-hour continuing education requirement	A score of 80 or above

[2] See https://comptroller.texas.gov/purchasing/training/ for all training and certification requirements.

Manages and Contract valued over $5,000,000 or contract management activities are 50% or more of job activities	Certified Texas Contract Manager (CTCM)	CPA CTCM Training. 24-hour continuing education requirement	A score of 80 or above

Conflict of Interest and Ethics

Staff with procurement and contracting responsibilities are required to abide by a strict code of conduct in accordance with the delegated purchasing authority and adhere to strict ethical standards. As referenced in the SML Procurement Policy, conflict of interest and ethics standards are mandated in statute and rule.

These standards are designed to ensure that staff maintain the highest level of integrity and ethics in procurement and contracting. Staff must also abide by agency policies and procedures when performing their responsibilities.

In compliance with conflict-of-interest and ethics requirements, procurement staff and the Contract Review Team (CRT) complete a Conflict-of-Interest Statement annually to ensure understanding and compliance with requirements.[3]

Additionally, SML staff, identified by the Purchaser, who review vendor-submitted proposals that exceed $10,000, complete an Evaluation Committee Member Non-Disclosure and Conflict of Interest Disclosure Statement.

State officers and employees who participated in a procurement or contract negotiation are prevented from accepting employment with the vendor for two years after the officer's or employee's service or employment with the agency has ceased.[4]

Vendor and Employee Communication

Communication between a vendor and SML staff is appropriate under certain circumstances. For example, specific SML staff may need to communicate with vendors to gather information on goods or services before making a purchase. This communication may be conducted informally through email, phone, or in person for less complex purchases.

For more complex competitive purchases that require a formal solicitation process, staff are encouraged to use the Request for Information (RFI) planning method, described in the Procurement Planning section.

Staff must follow the guidelines provided in the SML Vendor Communication Procedure to ensure consistency in vendor communication. These guidelines establish communication expectations for purchasing and contracting staff to ensure transparency and prevent any perception of impropriety in a contract's life cycle.

Vendors should direct questions to purchasing@sml.texas.gov.

[3] Tex. Gov't Code Sec. 2261.252.
[4] Tex. Gov't Code Sec. 582.069.

Procurement Planning

Needs Assessment

Divisions begin the procurement planning process by identifying the procurement need. The Purchaser uses informal or formal procurement planning processes based on the type and value of the procurement. For example, the need for a one-time goods purchase of up to $10,000 does not require a competitive process or a formal planning process. Divisions can generally determine the need for this type of purchase by market research or purchase history.

While the need for an informal procurement may be readily determined, procurements at certain thresholds generally require formal planning. Open market solicitations expected to exceed $25,000 in value are required to be posted to the Electronic State Business Daily (ESBD)[5], and in accordance with the CPA Guide, require a formal procurement process. Division staff begin the procurement planning process by identifying the procurement need and soliciting input from key stakeholders, including contract managers, Subject Matter Experts (SMEs), or other relevant staff.

Regardless of the planning process, division staff generally identify the procurement need through a prurchase request. The request requires that the requestor provide information that further defines the procurement need. In some cases, the Purchaser may provide technical assistance to the division before submission of the request.

Request for Information (RFI) Procurement Planning Method

The RFI is a formal procurement planning method that may be used as part of the needs assessment process. The purpose of the RFI is to solicit information from the vendor community that may inform a competitive procurement. For example, an RFI may be issued to solicit feedback on the market costs for professional or consulting services not previously procured.

The RFI is posted to the ESBD to ensure transparency and to solicit input from the broadest pool of potential vendors. This method is preferable over contacting a limited number of vendors, as the formal RFI process can prevent the perception of vendor bias.

Acquisition Planning

The anticipated contract start date generally determines the timeline for completing the procurement. In collaboration with key stakeholders, the Purchaser or contract developer establishes the planning approach for procurements with a value under $100,000. For example, the Purchaser may hold a formal planning meeting or informally discuss the procurement process with stakeholders.

SML considers procurements of $100,000 or more complex, requiring a formal acquisition planning process. Complex procurements generally require a planning team and an acquisition plan in accordance with the SML Contracting Procedures.

[5] Tex. Gov't Code Sec. 2155.083.

The acquisition planning team comprises the General Counsel or a designated Attorney, the Contract Manager, the Purchaser, and subject matter experts. The team meets to:

1. Address administrative requirements such as:
   a. Completion of required forms and non-disclosures
   b. Vendor and employee communication guidelines
2. Discuss procurement milestones such as:
   a. Solicitation development
   b. External and internal reviews
   c. Posting date
   d. Evaluation period
   e. Contract start date
3. Identify roles and responsibilities such as:
   a. Assigned Attorney
   b. Contract Manager
   c. Purchaser
   d. Subject Matter Expert(s)
4. Discuss the procurement process and develop the acquisition plan which addresses the following:
   a. the business needs for the procurement,
   b. the procurement roles for the team members,
   c. the timeline for procurement milestones,
   d. the procurement risk and management approach, and
   e. the solicitation posting and reporting requirements.[6]

The development of the acquisition plan ensures that more complex procurements are sufficiently planned and that roles and responsibilities are clearly defined.

Risk Management

SML takes a comprehensive approach to risk assessment and management, complying with the required purchasing accountability and risk analysis procedure.[7] Procurement risk is assessed as part of the acquisition planning process and continues throughout the contract's life.

Performing risk assessments helps determine the degree of oversight and participation from the end user. SML uses a Risk Assessment Matrix (RAM) tool to determine the risk level of the contract. Depending on the risk classification, the contract may require enhanced reporting. The assessment contemplates anticipated risks, how to mitigate or manage risks, and how to avoid or transfer risks to protect SML.

[6] Tex. Gov't Code Secs. 2157.068, 2261.253, and 2261.256.
[7] Tex. Gov't Code Sec. 2261.256.

Procurement Method Determination

Procurement Method Requirements

The Purchaser is required to make the procurement method determination. The following factors are used in making the determination:

- best value,[8]
- state law and rules,
- type of good or service; and
- value of the procurement.

In some cases, the type and value of the procurement determines the purchasing authority delegated to state agencies. In other cases, purchasing authority above certain thresholds must be approved through a delegation request. The delegated and non-delegated purchasing thresholds are identified in Table 1: Purchasing Authority. The Purchaser is responsible for determining the need for requesting delegation authority.

The CPA Guide provides a detailed procurement method identification process to assist the Purchaser.

Non-delegated Procurement Methods

The CPA State Procurement Division (SPD) manages an online procurement system for the purchase of goods and services known as Texas SmartBuy. This web-based system allows agencies to procure non-IT goods and services through existing contracts that have been competitively procured.

The state also creates contracts, referred to as cooperative, set-aside, and term contracts, as non-delegated procurement methods to ensure best value and improve procurement efficiency. These established contracts are managed by the CPA, DIR, and the Texas Workforce Commission (TWC) and are required to be used by state agencies, with limited exceptions. The most used state contracts at SML include:

- DIR contracts,
- set-aside contracts,
- term contracts; and
- travel service contracts.

The CPA Guide provides detailed descriptions of the state contracts, including the circumstances for which exceptions or waivers are granted.

Delegated Procurement Methods

State agencies are delegated purchasing authority by the CPA for goods or services unavailable through established statewide contracts or are exempt from CPA or DIR purchasing authority. Potential purchases that exceed established delegation thresholds as identified in Table 1: Purchasing Authority are required to be reviewed and approved for CPA delegation.

[8] Tex. Gov't Code Sec. 2156.007.

The CPA delegation and review process for solicitations is described in the section titled Solicitation Development.

For informal purchases, there are various purchase methods available. In collaboration with the requestor, the Purchaser leads the process of determining the procurement method. In addition to state requirements and the availability of established contracts, other factors that can impact the procurement method include:

- frequency and duration of need,
- purchase amount,
- requirements or specifications; and
- type of goods or services.

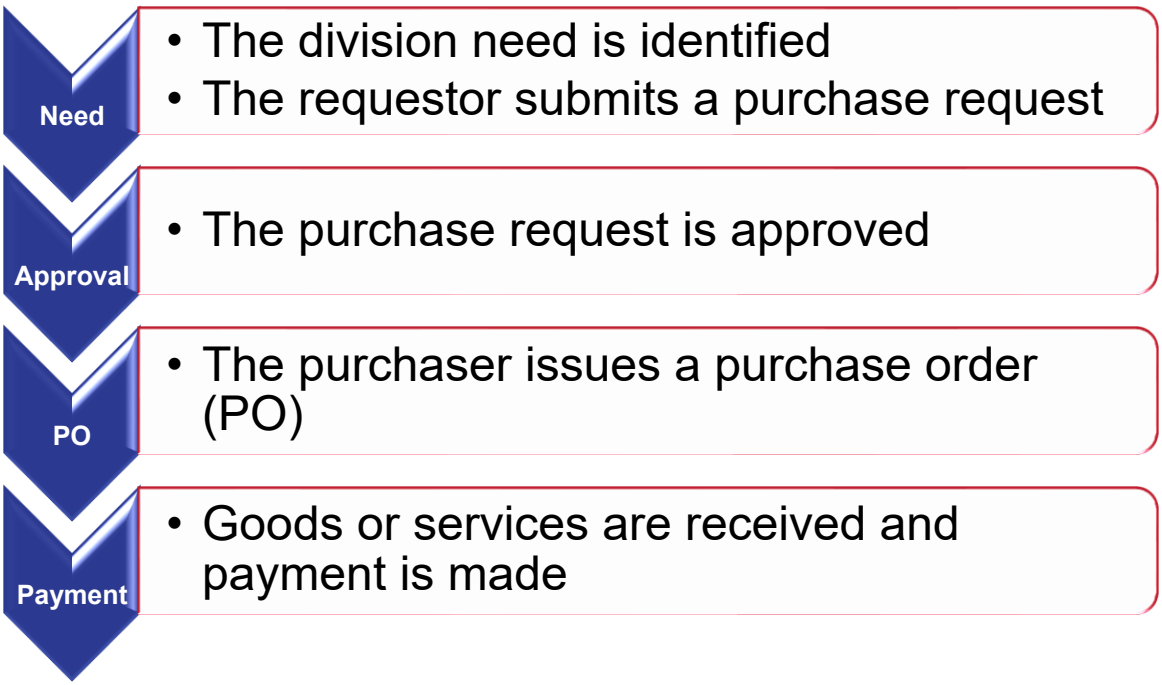
The most common solicitation methods for informal procurements are described below.

Spot Purchases

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. The Purchaser checks the established statewide contracts to determine the availability of the goods or services. In addition, while not required for spot purchases, the Purchaser is encouraged to identify Historically Underutilized Businesses (HUBs) that can provide the goods or services.

The general requisition process for spot purchases is illustrated in Figure 1: Spot Purchase Cycle.

Figure 1: Spot Purchase Cycle



Competitive Purchasing Methods

Competitive purchasing methods are generally required when the purchase exceeds $10,000.[9] The methods used for these purchases may require a formal or informal procurement process depending on the purchase amount. For example, if the purchase is over $25,000 the CPA requires the use of a formal competitive purchasing process. In addition, an open market solicitation method is required for competitive solicitations. This method ensures maximum competition by soliciting responses from all available vendors.

See Table 3: Open Market Solicitations, for a description of the type and purpose of the open market solicitation methods commonly used at SML.

Table 3: Open Market Solicitations

Type	Purpose
Invitation for Bids (IFB)	• Typically for goods, • Clearly defined specifications, • Price is the main factor, but other criteria may be factored to determine the Best Value. • Cannot negotiate.
Request for Offers (RFO)	• IT Services/Automated Information Systems (AIS), • Seeks innovative solutions, • Offers are evaluated based on criteria specified in the solicitation, • Negotiations are encouraged and necessary.
Request for Proposals (traningRFP)	• Services, • Seeks innovative solutions, • Proposals are evaluated based on criteria specified in the solicitation, • Negotiations are encouraged and necessary.
Request for Qualifications (RFQ)	• Professional Services, • Competence, Experience, and Qualifications, • Fair and Reasonable Price, • Price can be negotiated after selection of respondent.

Special Purchases

There are special types of purchases that may not require a competitive process. These purchases can also require certain approvals, inter-agency collaboration, notification requirements, and reporting. These additional requirements are designed to ensure the

[9] The CPA Guide requires that emergency procurements be as competitive as possible under the circumstances.

best value, efficiency, and transparency. Examples of special purchases commonly used at the SML include:

- emergency purchases,
- interagency purchases,
- internal repairs,
- professional services; and
- proprietary purchases.

The additional requirements for these special purchases should be identified during the procurement planning phase to avoid any delays in contract formation and award. The CPA Guide provides detailed instructions for ensuring compliance with special purchases.

Solicitation Development

Formal Solicitation Development Process

Formal solicitation development is a more complex process that includes key stakeholders and is led by the Purchaser. For purposes of this Handbook, solicitation development and contract management are addressed for SML's most common formal competitive procurement methods, the Request for Proposal (RFP)/Request for Offer (RFO) and Invitation for Bids (IFB) methods.

The formal solicitation development process is required for solicitations for non-delegated goods or services with a value over $25,000 and not available under DIR or SPD-managed contracts. Upon receipt of the purchase request, the Purchaser generally begins the solicitation development process by consulting with the key stakeholders. This process generally includes the following staff:

- General Counsel or assigned attorney,
- Contract Manager,
- HUB Coordinator[10];
- Purchaser;
- Finance Staff; and
- SMEs.

The procurement's complexity and value may necessitate the involvement of other stakeholders, including SML leadership. The Purchaser consults with the requestor and appropriate management to determine the need for additional stakeholder involvement.

Solicitation Development

Affirmations, Certifications, and Clauses

SML requires that solicitation documents contain certain mandatory affirmations, certifications, and clauses to comply with the law and mitigate risk to the agency, as referenced in the Procurement Policy. During solicitation development, the Purchaser, the General Counsel, or the assigned attorney collaborate to ensure the document

[10] The HUB Coordinator is included if the potential contract has an expected value of $100,000 or more.

includes all the necessary provisions. Sometimes, the applicable division may incorporate additional provisions into the solicitation document.

Scope of Work

Developing the solicitation scope of work ("scope") with the goods specifications or service requirements defines the SML purchasing intent. The staff submitting the request, in collaboration with the division-level SMEs, provides the initial scope.

Scope development requires collaboration with the planning team to ensure the procurement business need is clearly defined. The Purchaser also ensures it is clearly written so respondents have the information necessary to prepare a competitive and responsive proposal.

Various elements are typically included in the scope, depending on the purpose of the procurement. Table 4: Scope of Work Elements provides examples of goods or services solicitation development.

Table 4: Scope of Work Elements

Goods	Services
• **Agency Specifications –** The detailed specifications required for the purchase. • **Delivery Date and Instructions –** The detailed instructions for delivering the goods. • **Maintenance Requirements –** The requirements for maintaining the goods to be procured. • **Number of Units –** The number of units to be procured. • **Price List –** The price of the goods to be procured. • **Warranty Information –** The description of any warranties that apply to the purchase.	• **Budget or Price List –** The price of the services to be procured. • **Performance Measures –** The quantified requirements of services, often with performance remedies attached. • **Respondent Eligibility –** The criteria identifying which vendors are eligible to respond to the solicitation. • **Service Area –** The geographic area for services which may include zip code, city, county, region, or state. • **Services Description –** The services required to include the target population. • **Project Plan –** The proposed plan for implementing the solicitation scope.

The Purchaser collaborates with the planning team to determine the appropriate scope elements. In some cases, under existing state contracts, certain product specifications are already defined and are referred to as Texas Specifications. These specifications identify minimum quality requirements. Ensuring adequate time for scope development is critical to ensure the procurement is not delayed.

Best Value

The development of the solicitation scope must include best value criteria, as the primary goal of state procurement is obtaining the best value. Competitive procurements require that the solicitation documents identify factors other than cost that will be used to determine the best value. These factors may include the following:

- cost of employee training,
- life-cycle costs,
- past vendor performance,
- the evaluated probability of performing the requirements stated timely and with high quality,
- vendor experience or demonstrated capability; and
- any other evaluation factors in the solicitation.[11]

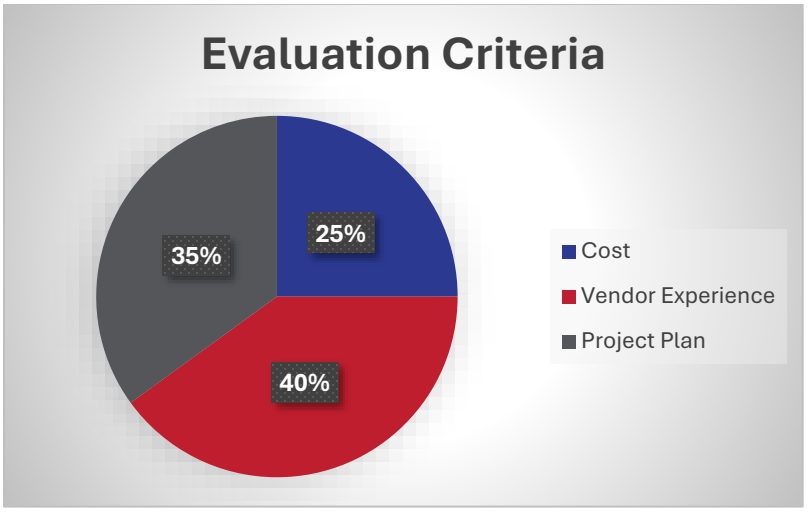
The Purchaser works with division staff and the assigned attorney to ensure the best value criteria comply with state requirements and support SML business needs.

The Purchaser, or CRT when applicable, must approve contracts, document and ensure the best value standard is utilized, and acknowledge in writing that SML complied with agency policy and CPA requirements.

Evaluation Criteria

Related to best value, evaluation criteria identify the factors used to evaluate responses and must be included in the solicitation document.[12] In addition, the CPA Guide requires that the criteria must include weights or a quantitative value. Figure 2: Evaluation Criteria provides an example of weighted evaluation criteria.

Figure 2: Evaluation Criteria



[11] Tex. Gov't Code Sec. 2155.074.
[12] Tex. Gov't Code Sec. 2155.075.

Vendors should know how their responses will be evaluated so they can appropriately plan and determine the level of effort needed to prepare a competitive response. For example, if a potential respondent knows that cost is weighted higher than other criteria, they may want to ensure that more time is devoted to preparing this portion of their response. Clearly stated evaluation criteria improve the likelihood that responsive proposals are received.

External and Internal Solicitation Reviews

In some cases, additional reviews are required in addition to management and legal reviews. The Statewide Procurement Division (SPD) and Contract Advisory Team (CAT) external reviews and HUB internal review requirements are described below.

Statewide Procurement Division

SPD assists with reviewing goods purchases with a value of $50,000 or more and for services purchases with a value of $100,000 or more.

Contract Advisory Team Review

The CAT assists state agencies in improving contract management practices by reviewing and recommending certain solicitation and contract documents. As previously noted, the CPA reviews purchases at certain thresholds for delegation approval. As part of this process, the solicitation document is reviewed by CAT when the solicitation exceeds $5 million or more (including any renewals).

The CAT is required to review the initial solicitation document before posting it on the ESBD. The review can take up to thirty days. It will determine whether the CPA delegates the purchasing authority to SML or whether the SPD will conduct the procurement. The CAT review also includes recommendations to the agency on improving the solicitation document.

The Purchaser is responsible for submitting the solicitation document to CAT. CAT is also responsible for certain contract reviews, which are addressed in the section titled Contract Formation and Award. The CAT review submission instructions are available at https://comptroller.texas.gov/.

HUB Review

The HUB program[13] was developed to ensure state agencies make a good-faith effort to assist HUBs in receiving contract awards from the state. The CPA is the state agency designated to oversee the HUB program. State agencies with a biennial budget of over $10 million are required to appoint a HUB Coordinator.

In accordance with this requirement, the SML HUB Coordinator is the Operations Director. The HUB program requires the HUB Coordinator to review solicitations with potential contracts with an expected value of $100,000[14] or more for probable subcontracting opportunities. These reviews are generally done when the solicitation

[13] Tex. Gov't Code Ch. 2161.
[14] The estimated contract value of $100,000 includes all renewals and amendments in accordance with the Texas Procurement and Contract Management Guide.

scope of work is completed and may be discussed during the acquisition planning meeting. The Purchaser and HUB Coordinator's responsibilities for initiating and completing the review process are addressed in the Procurement Policy.

The vendor must submit a Progress Assessment Report (PAR) to SML with each invoice in the format required by the comptroller to ensure its compliance with the Hub Sub-contracting Plan (HSP), including the use of and expenditures made to its subcontractors.[15] The PAR shall be required as a condition for payment.

Informal Solicitation Development Process

SML uses the Invitation for Bids (IFB) or Informal Bidding methods for informal solicitations valued at $25,000 or less.

Solicitation Posting and Advertisement

The Purchaser is responsible for posting solicitations to the ESBD and must be registered as an authorized user by the CPA to post solicitations.

Responses are submitted directly to SML; submission instructions can be found in the ESBD posting description or the solicitation document. The posting time for solicitations varies based on the purpose and complexity of the solicitation and the timeline. Certain purchasing circumstances require posting periods as follows:

- 14 calendar days is the minimum for all postings with the entire solicitation package, except for emergency purchases, as no minimum applies, and
- 21 calendar days is the minimum if the complete solicitation package cannot be posted simultaneously.[16]

The Purchaser, in collaboration with the planning team, determines the posting duration. As a best practice, more complex solicitations, such as information technology (IT) projects, may have a longer posting period than less complex solicitations. The ESBD portal is available at http://www.txsmartbuy.com/sp.

Advertisement and Notification Methods

The Centralized Master Bidders List (CMBL) is used to notify vendors of solicitation opportunities. The CMBL is a master database used by Texas purchasing entities to develop a notification list for vendors to receive procurement notifications. Vendor notifications are targeted based on the products or services they can provide.[17]

The CPA manages the CMBL database, organized based on the NIGP commodity book. Vendors are assigned NIGP codes that identify the products or services they can provide. Additional information on the required use of the CMBL is available at https://www.comptroller.texas.gov/. In addition to the vendors found on the CMBL, the solicitation may be advertised to a supplemental list of vendors.

[15] 34 Tex. Admin. Code Rule 20.285.
[16] State of Texas Procurement and Contract Management Guide.
[17] Texas Comptroller of Public Accounts CMBL.

Solicitation Cancellation or Changes

The solicitation may need to be amended or canceled during the posting period. This need can occur for several reasons, including:

- federal or state law change,
- funding source change,
- response deadline change,
- scope of work change; and
- solicitation document errors.

The addendum process amends or cancels ESBD-posted solicitations and some SOWs. The Purchaser is responsible for drafting addenda, obtaining any internal approvals, and posting to the ESBD or providing them to vendors if the solicitation was otherwise distributed.

Vendor Conference

A vendor conference may be held for potential respondents to ask questions about the procurement. The solicitation document specifies the format (face-to-face or virtual meeting), whether it is mandatory or voluntary, and if notification of attendance is required.

The Purchaser facilitates the vendor conference and presentations by relevant staff, which may include the Operations Director, SMEs, and the HUB Coordinator. After the vendor conference, the Purchaser works with relevant staff to develop the final answers to any vendor questions. The Purchaser posts the questions and SML's answers to the ESBD. The answers posted to the ESBD represent the official response to vendor questions.

Vendor Selection

Receipt and Screening Process

The Purchaser logs responses received by the published deadline. Responses received after the published deadline are not considered. The solicitation document provides submission instructions such as submission method(s), due date, and time.[18]

Sometimes, a vendor may submit a bid directly to the Purchaser. Regardless of the receipt method, responses are logged and kept secure similarly.

Purchaser Review of Responses

The Purchaser reviews responses with the Contract Manager, if applicable, to ensure submissions meet minimum qualifications and that the mandatory components (e.g., required signatures, forms, and HUB Subcontracting Plan) are present to determine if the response qualifies to be evaluated. The time needed to screen can vary based on the number of responses received and the complexity of the solicitation.

[18] 34 Tex. Admin. Code Rule 20.207.

Non-qualified responses do not move to the evaluation phase, and qualified responses do move to the evaluation phase of the procurement.

Stakeholder Notification

Upon completing the screening process, the Purchaser notifies SML stakeholders of the number of qualified responses. If there is only one qualified respondent, the Purchaser consults with the Operations Director, project leadership, and the General Counsel or assigned attorney to determine if a non-competitive contract negotiation can be held. SML may determine that it is in the best interest to re-solicit. The decision to proceed with contract negotiations or a re-solicitation is at SML's discretion.

Evaluation Process

The Purchaser facilitates the evaluation process and is the sole point of contact for questions or clarifications. The solicitation evaluation criteria determine the extent to which responses meet the solicitation's requirements and offer the best value.

SML's evaluation team commonly consists of three or more primary staff members who complete the evaluation. The Purchaser develops the evaluation scoring tool to ensure conformity in the evaluation process.

Evaluator Briefing

The Purchaser provides evaluator briefings in collaboration with the planning team. The goal of the briefing is to ensure that evaluators understand the evaluation process, the importance of maintaining confidentiality, and the need to conduct an impartial and fair evaluation.

Evaluator briefing generally takes place before the receipt of responses or shortly thereafter. The evaluator briefing generally covers the following:

- completion of the evaluation tool,
- completion of required forms or non-disclosure agreements,
- confidentiality and conflict of interest,
- evaluation timeline; and
- safeguarding responses.

After the evaluation briefing and the responsive proposals are identified, the Purchaser provides the evaluators access to the responses. In addition, the Purchaser provides the following documents to the evaluators:

- the solicitation document (e.g., RFP),
- any addenda to the solicitation; and
- the evaluation scoring sheets.

The time needed for the evaluation process varies based on the number of responses and the complexity of the solicitation.

Upon receipt of the completed evaluation tools, the Purchaser compiles the evaluation results and determines the competitive range and if there are any outlier scores. If there are outlier scores, the Purchaser holds an outlier meeting with the evaluators to discuss

the rationale for their scores. The Purchaser is responsible for ensuring that score revisions are properly documented on the evaluator scoring sheets.

The Purchaser compiles the results and obtains management approval, as applicable. Upon approval, the evaluation score results are forwarded to the relevant staff. The competitive range is established after conducting outlier meetings to finalize the scoring. Along with providing scores to management, it may be necessary to recommend that interviews should be conducted with the closest bidders within the competitive range (e.g., Vendor A scores 81, Vendor B scores 84, and Vendor C scores 75). In this instance, Vendors A and B may be asked to move to interviews so they can do a presentation, the agency may ask clarifying questions for a revised technical proposal, and a best and final offer (BAFO) request can be made.

After identifying the respondents, the Purchaser obtains approval to proceed with contract negotiations.

Interview Scoring

In some cases, it may be required to invite the final two or three top vendor candidates for a presentation and interview after the evaluation scores are tallied. In such cases, it is recommended that the following guidelines be used to score the presentation and interview properly.

Scoring Definitions and Standards		
Excellent	90 – 100	During the proposal interview, it was evident that the candidate has an outstanding comprehension of the requirements and approach that goes beyond the expected performance or capability standards. The candidate possesses exceptional strengths that will greatly benefit the Government. Furthermore, their past performance indicates they can achieve high success with minimal risks.
Good	80 – 89	During the proposal interview, it was demonstrated that the candidate understands the requirements and approach that exceeds performance or capability standards. They have one or more strengths that will benefit the agency. Although there is a mild risk, they have past performance in similar scope, but not necessarily to scale.
Satisfactory	70 – 79	During the proposal interview, the candidate demonstrated an acceptable understanding of the requirements and approach that meets the performance or capability standards. The solution provided was deemed acceptable with few or no strengths. While the candidate does not have past performance that matches the scope of work, they have contracts of similar size and complexity. As a result, the candidate is considered to have a moderate risk profile.
Marginal	60 – 69	During the proposal interview, it became evident that the understanding of the requirements and approach was not

		thorough enough to meet the necessary performance or capability standards. The proposed solution only meets the minimum requirements for acceptable contract performance. Furthermore, there is no past performance record within the project scope, and the company has not undertaken similar projects in size or complexity. This situation poses a moderately high risk for the project.

Following the interview, the respondents are given time to review and revise their original proposal to be resubmitted.

Once the revised technical proposal has been received and accepted, the evaluators will re-score the revised technical proposal, the presentation, and the final pricing using the following guidelines (percentages can be adjusted based on the needs of the agency):

- Revised Technical Proposal: 35% - Evaluation Team
- Interview Presentation: 50% - Evaluation Team
- Final Pricing: 15% - Procurement Team

Vendor Compliance Verifications

The Purchaser proceeds with required vendor compliance verifications upon the Commissioner's approval. The CPA requires that certain reviews be completed before the development of the contract to verify vendor good standing or eligibility for a state contract.

Any vendor not in good standing, as determined by the required compliance verifications, is ineligible to receive a contract award from the state. The Purchaser ensures that all vendor verification information is filed in the procurement file and that only eligible vendors move to the contract negotiation process.

Appendix B: Vendor Compliance Verifications describes the required checks to determine good standing.

Contract Formation and Award

Contract Negotiations

Upon completion of the vendor verifications, the Purchaser, in collaboration with the planning team, leads the contract negotiation process. Contract negotiations are held in person or by conference call. The staff participating in contract negotiations are generally the Contract Manager, Purchaser, and SMEs. The assigned attorney, HUB coordinator, IRM, and ISO may also be included. The content for contract negotiations is usually based on the vendor’s response and evaluation results.

The contract negotiation process helps staff assess whether the respondent can provide the goods or services as proposed. Clarifications initiated by the contract negotiations team or the vendor are documented and responded to in writing by the Purchaser.

Best and Final Offer

Some procurement methods, like the RFP, allow the respondent to submit a Best and Final Offer (BAFO). The agency requests the BAFO after negotiations are completed. The respondent submits their BAFO as the final proposal to provide the revised scope of work along with updated pricing. This process allows the agency to negotiate costs, which is not permitted under the IFB procurement method.[19] If negotiations with the selected vendor(s) are unsuccessful, staff may proceed to negotiations with the next highest-scoring vendor(s).

Contract Development

The Purchaser leads the contract development process after the contract negotiation and vendor compliance verification processes. The Purchaser collaborates with the General Counsel or assigned attorney and contract manager to ensure the contract contains the statement of work, general terms and conditions, or “boilerplate” terms and conditions, and any special conditions. For IT/AIS procurements, the Purchaser collaborates with the IRM and ISO to ensure the contract contains cybersecurity requirements where applicable. SML essential provisions are identified in the SML Contracting Procedures. In addition, the CPA Guide includes a comprehensive list of essential and recommended clauses for contract formation.

External and Internal Contract Approvals

Contract approvals are determined by the type and value of the contract, and the approving staff are identified in the Procurement Policy. Contracts cannot move forward until required approvals are obtained through a manual review and approval process.

In certain circumstances, not unlike the internal solicitation review requirements, inter-agency review is required for certain types of contracts. These review requirements help to ensure adequate project planning time to reduce the likelihood of unanticipated costs and delays. The primary external review requirements are described below.

Contract Review Team

SML’s Contract Review Team (CRT) comprises the Purchaser, Commissioner, Director of Operations, and General Counsel. Proposed contracts, agreements, or purchase orders must be reviewed to ensure that they meet SML's criteria and requirements. The CRT reviews significant procurements and contracts to help ensure efficiency, effectiveness, best value, and best practices.

DIR Review

DIR is the state agency responsible for providing technology leadership, solutions, and best value to local and state governments when procuring IT commodities. State agencies must submit a contract statement of work (SOW) for the solicitation of certain IT services that exceed $50,000 for DIR review and approval.[20] IT purchases below the $50,000

[19] If there is only one qualified respondent under the IFB method, negotiation of cost is permitted.
[20] State of Texas Procurement and Contract Management Guide.

threshold may be directly awarded through DIR master contracts. DIR is required to review the draft SOW before the vendor receives the contract.

DIR will review the SOW and approve or reject the submission. If rejected, DIR will request modifications to re-submit. Upon DIR approval of the SOW, the contract may be sent to the vendor for execution. Upon contract execution, the final SOW is sent to DIR for their signature. The DIR signature process is required before payment to the vendor can be made. Following the DIR signature, the contract is posted on the SML website.

The SOW submission instructions are provided on the DIR website at: https://dir.texas.gov/.

A SOW review is not applicable to:

- contracts exclusively for hardware or software and not including services;
- IT staffing services when using a request for resumes;
- the vendors' standard commercially available support, maintenance, and warranties as documented in the DIR Cooperative Contract;
- the Shared Technology Services Program;
- Communications Technology Services; or
- Managed Services for Telecommunications.

Quality Assurance Team Review

The Quality Assurance Team (QAT) is an inter-agency team comprised of members from the CPA, DIR, and Legislative Budget Board (LBB). The QAT is charged with reviewing Major Information Resources Projects (MIRPs) to ensure best value, recommend policies and procedures, and provide training to state procurement and contract management staff.[21] Agencies proposing expenditures for a MIRP submit for QAT review.

The duties of the Quality Assurance Team include:

- recommendation of policies and procedures to improve return on investment (ROI),
- review of the business case for the MIRP,
- review of certain contract amendment cost-benefit analyses,
- recommendations on contract terms for a MIRP with a value of at least $10 million; and
- a report to the Governor.

Contract Risk Assessment

The contract risk assessment is the second part of the Purchasing Accountability Risk Analysis procedure SML uses to assess risk. Depending on the type of contract, the Purchaser or designee must complete one for contracts valued at $25,000 or more. The risk assessment is completed before contract formation to incorporate any special terms and conditions into the contract.

[21] Tex. Gov't Code Sec. 2054.158.

Appendix C: Purchasing Accountability and Risk Analysis Procedure provides the contract risk assessment procedure. The risk assessment includes standard criteria to determine risk and can be customized to include unique and complex contract criteria.

Diagram 6: Contract Risk Assessment Criteria identifies key criteria for assessing contract risk.

Diagram 6: Contract Risk Assessment

Based on the contract risk assessment results, contracts may require risk management and enhanced contract monitoring plans. The section titled Contract Management addresses the process for developing these plans.

Special Contract Requirements

Major contracts are defined as contracts with a value of at least $1 million and require additional approval, oversight, and reporting.[22] Similarly, there are special requirements for IT contracts that frequently meet the major contract definition and include the following:

- automated information system/telecommunications,
- information resources technologies; and
- major information systems.

Appendix E: Glossary of Key Terms defines these types of contracts. Table 5: Special Contract Requirements summarizes the key requirements for special contracts commonly used at the SML.

Table 5: Special Contract Reporting Requirements

Contract Type	Reporting Requirements
Automated Information System/ Telecommunications	• Use DIR Contracts if the product or service is available and meets SML's needs unless an exemption is obtained.

[22] Tex. Gov't Code Sec. 2262.001.

All Contracts Over $50,000	• LBB notification.

Contract Execution

The internal approval process for contracts is determined by the value of the contract, what is being procured, and other factors. Contracts are routed for signature, and the approval process is manual.

Upon contract approval, the Purchaser completes the contract execution process and sends the PO or contact to the vendor. If the contractor needs clarifications or requests a change to the contract, the Purchaser collaborates with the relevant staff for clarifications or change approval.

Contract Signature Authority and Approvals

Before any contract is executed, the Purchaser will document the best value standards used for the contract and acknowledge in writing that SML complied with this handbook and the CPA's contract management guide.

An authorized employee's signature on a contract reflects a representation that the contract has been properly submitted, reviewed, and approved in accordance with all agency policies and procedures, and that it is in the best interest of SML.

The following individuals are authorized to sign contracts on behalf of SML:

- Commissioner
- Deputy Commissioner
- Director of Operations
- General Counsel
- The Purchaser may sign and execute CAPPS-generated Purchaser Orders after receiving prior approval in CAPPS from the Director of Operations.

No other employee may sign a contract binding SML without the Commissioner's delegation of authority to do so.

Award Notifications and Posting

The Purchaser is responsible for completing award notification and posting requirements[23] and notifies applicable internal personnel.

Post Award Processes

Procurement Debriefing Process

The Purchaser notifies vendors not receiving a contract award that they were not selected. Vendors may request a procurement debriefing with the Purchaser. Procurement debriefings are only done at the request of the unsuccessful vendor and after awards are posted to the ESBD. The vendor debriefing aims to provide feedback on the strengths and weaknesses of their response. The briefing provides the vendor with information to inform future proposal submissions.

[23] Tex. Gov't Code Secs. 2157.068, 2261.253, and 2261.256.

Vendor Protest Process[24]

The vendor protest process applies to actual or prospective bidder, offeror, proposer, or contractor aggrieved in connection with a solicitation, evaluation, or award of a contract by SML. The procedures for responding to vendor protests include the following:

- filing of protest,
- SML staff roles,
- review of protest determination,
- appeal,
- failure to file timely,
- status of procurement during protest and appeal; and
- standards for maintaining documentation.

A vendor who submits a written response or is eligible to submit a written response to a solicitation issued by SML may file a protest with SML. The protest must be submitted in writing and emailed to SML at purchasing@sml.texas.gov and the Texas Comptroller of Public Accounts.

The protest must contain the following:

- Specific identification of the rule(s) or statute(s) violated by the solicitation or contract award,
- A description of the violation(s) that the vendor alleges the solicitation or contract award violates.
- A Statement of Facts with supporting documentation,
- A Statement of Argument in support of the protest,
- A statement indicating the protesting party has provided a statement confirming copies of the protest to any other interested parties.

For a protest to be considered timely, the vendor must submit the protest by the end of a solicitation period if the protest concerns the solicitation documents or actions associated with the publication of the solicitation documents, by the day of the award of the contract if the protest concerns the evaluation or method of evaluation for a solicitation, or no later than 10 calendar days after the award of the contract if the protest concerns the award.

In response to vendor protests, the Texas Comptroller of Public Accounts may:[25]

- Delay the solicitation or award of the contract,
- Dismiss untimely protests,
- Solicit responses from involved parties,
- Settle protests by mutual agreement, and
- Issue final determinations.

Vendors may appeal the Texas Comptroller's Decision in accordance with Comptroller's procedures no later than 10 calendar days after the determination. CPA staff make all final determinations and forward them to the SML General Counsel.

[24] Tex. Admin. Code Sec. 10.30.
[25] 34 Tex. Admin. Code Secs. 20.531 – 20.538.

Procurement File Documentation

The Purchaser is responsible for ensuring the required documentation is in the procurement file, which serves as the official record of the procurement process. This file is used to respond to requests for information in the event of an audit or an open records request. Upon completion of the procurement process, the Purchaser ensures the file is complete and complies with policy and procedure.

Procurement Planning

The division staff initiates planning a new procurement in collaboration with the Purchaser. The planning time can vary depending on the complexity and size of the contract. Procurements for renewing contracts should occur well before the current contract expires.

Contract Management

Contract Management Function

The contract management function is centralized in the Purchasing Section. This section is responsible for managing certain administrative and legal contracts supporting SML infrastructure, IT, financial services sector, and legal functions.

Contract Managers are responsible for working closely with the Purchaser from procurement planning through contract award and managing the contract through contract close-out upon contract award.

The Contract Manager, which is commonly the Purchaser at SML, is responsible for the following core contract development and management functions:

- contract planning,
- contract management; and
- contract close-out.

Contract Planning

Contract planning activities include the Contract Manager to ensure contracting requirements are addressed at the beginning of the acquisition planning process. The primary planning responsibilities of the Contract Manager include:

- participation in the identification of needs,
- development of the solicitation scope,
- identification of contract risk,
- participation in contract negotiation; and
- contract development.

The Procurement Policy, Contract Management Procedures, and related template(s) identify the Contract Manager's and Purchaser's responsibilities for contract planning.

Contract Management

Contract management ensures that SML receives the goods or services procured in compliance with the contract's terms and conditions. The Contract Manager monitors

contracts regularly to ensure compliance with contract terms and conditions, manage risk, and assess vendor performance.

The Contract Manager works closely with division staff and management to address contract management issues. For example, a contractor who submits incorrect invoices to division staff may need technical assistance or additional invoice monitoring.

Contract Issue Management

The Contract Manager resolves issues related to contract performance. The Contract Manager and employees assigned by the Contract Manager monitor deliverables, and communicate to ensure issues that arise during the contract's life are resolved.

To prevent disputes, the Contract Manager:

- Maintains regular communication with contractors.
- Responds promptly to all contractor inquiries regarding contract concerns.
- Works with the Purchaser to develop a strategy to resolve issues and communicate with contractors.
- Thoroughly documents all issues and communications pertaining to contract issues; and
- Address issues impacting the contract's performance.

The Purchaser:

- Facilitate resolutions with all parties, with the assistance of the Legal Division.
- Facilitate completion of a plan to address contractor deficiencies and require the contractor to provide a formal Corrective Action Plan.

The General Counsel or assigned attorney provides guidance and direction on appropriate legal action for non-compliant vendors.

Change Management

A key aspect of effective contract management is managing change and having sufficient oversight to prevent scope creep, unauthorized work from being performed, and overbilling. The Purchaser, Contract Manager, Contract Developer, and the end user are all responsible for ensuring all contract changes are memorialized as a modification, amendment, or change order.

Formal changes must be a formal Addendum, Amendment, or Purchase Order Change Notice (POCN). All changes must be within the scope of the original contract. Types of changes include work orders, administrative changes, substantive changes, and constructive changes.

Changes:

- Must be addressed in writing and must go through the Purchasing Section to be authorized; and
- Are not considered authorized until both parties have signed off unless it is a POCN and the Purchaser has identified the item as fully executed.

The Contract Manager also completes any required external reviews or submissions.

Risk Management

The contract risk assessment results identify risk and the activities that will be implemented to mitigate and manage risk. Based on the risk assessment rating, the Contract Manager identifies the approach and activities for risk management, including enhanced contract monitoring activities.

Those contracts assessed as high-risk are prioritized for targeted technical assistance and must have a risk management plan. The risk management plan identifies enhanced contract monitoring activities and staff responsibilities in implementing the plan. As the Contract Management Procedure requires, contractors requiring enhanced monitoring are reported to SML leadership.

The Contract Manager manages the risk management process in collaboration with SMEs and appropriate division leadership.

Invoice Review and Payment

The invoice review and approval process is identified at the beginning of the contract term. Invoices are reviewed as they are received and completed before payments are made. Upon invoice approval, payment is made in accordance with SML Finance Procedures.

Expenditure Review

Expenditure reviews are completed regularly. The reviews identify any under-spending or over-spending trends that may indicate compliance or funding issues.

In addition to monitoring contractor compliance, these reviews help to inform future funding allocations and re-procurement planning. Significant spending variances are communicated to internal stakeholders and management.

Vendor Performance Review

The Contract Manager is responsible for reviewing vendor performance monthly. Contract performance measures define the requirements for vendor performance.

The goods or services purchased and the complexity of the contract statement of work determine the type of contract performance measures used. Table 6: Contract Performance Measures provides examples of measures used for SML contracts.

Table 6: Contract Performance Measures

Types of Performance Measures	Examples
Deliverable – The product for a project which may include a report, service, or software.	Contractor will deliver a **cybersecurity assessment report** within 90 days of contract execution.
Efficiency – The period for the delivery of a good or service, which may include minutes, hours, days, or months.	Contractor will deliver the ordered documents **within 10 business days**.

Output – The quantity of goods or services.	Contractor will ensure **5 documents** can be attached to emergency notification communications.
Outcome – The impact of goods or services.	Contractor will provide training and show an **80% increase in knowledge** based on a training evaluation.

Performance measures may be monitored using a variety of methods including required reporting, project plans, and stakeholder input. Based on performance monitoring, the contract manager provides a monthly rating of vendor performance. This rating informs the CPA that required vendor performance reporting has been completed at the end of the contract term or after a key milestone or deliverable.

Exercise a Contract Option-Year Renewal (no substantive change)

SML generally creates new one-year contracts. The following procedures apply when the agency determines it would like to exercise available optional renewal terms on a contract:

1. The Contract Manager should determine if the contract outlines a specific method for exercising renewal options and follow that process.
2. If a specific method is not outlined, and there are no substantive changes to the contract, the Contract Manager may request to temporarily extend or create a new contract entirely.

Special Contract Management Requirements

HUB HSP Requirements

As part of monitoring the HSP, contractors are required to submit Progress Assessment Reports (PARs) and revised HSPs to the HUB Coordinator. The Contract Manager coordinates the receipt of these documents at the beginning of the contract term.

The HUB Coordinator is responsible for reviewing the reports and revised HSPs and providing technical assistance to contractors.

Major Information Resources Projects (MIRPs)

As noted in the section titled Contract Formation and Award, the QAT is charged with certain duties for MIRP contracts.

The QAT is also charged with monitoring and reporting on MIRP performance indicators to include:

- Schedule,
- cost,
- scope; and
- quality.[26]

[26] Tex. Gov't Code Sec. 2054.158.

The Contract Manager collaborates with division SMEs to ensure compliance with QAT requirements. More information on the QAT review process is available at https://qat.dir.texas.gov/.

Vendor Performance Reporting

The CPA provides a tracking system for state agencies to report vendor performance for certain purchases. The Vendor Performance Tracking System (VPTS) is the CPA portal used for reporting vendor performance.[27]

The Purchaser submits agency reports to the CPA via the VPTS.

Reporting requirements include the following:

- applicable purchases,
- SML legal review,
- rule and statutory references,
- reporting format; and
- staff responsibilities.

More information on the vendor performance reporting requirement is available at https://www.comptroller.texas.gov/.

Vendor Requests for References

SML staff are not authorized to provide references for a past or current contractor/vendor. Established methods for soliciting information from vendors regarding past performance on an IT Project or contracted service with SML must be used. Additional sources of information about contractor performance are:

- Vendor Performance Tracking System (VPTS)
- Comptroller of Public Accounts Debarred Vendor
- Texas Comptroller of Public Accounts Taxable Entity
- Texas Comptroller of Public Accounts Vendor Hold

SML uses VPTS to report vendor performance on all completed or otherwise terminated contracts valued at more than $25,000[28], with additional reporting if the value is $5 Million or more[29].

Contract Close-out

Contract Termination

Contract termination occurs when the contract ends before the scheduled end of the term. The reasons for early termination may include:

- Termination for cause (e.g., breach of contract),
- loss of funding,
- project completion,
- services are no longer needed,

[27] Tex. Gov't Code Sec. 2262.055.
[28] State of Texas Procurement and Contract Management Guide.
[29] Tex. Gov't Code Sec. 2155.089.

- termination for convenience; and
- vendor performance.

The contract terms and conditions describe the reasons and notification required for early termination. Staff are required to consult with the Purchaser and legal for contract terminations. The CPA Guide provides a detailed description of the types of contract terminations.

The contract close-out process is completed at contract termination or the end of the contract term. The close-out process ensures that the contract file includes all required documentation. The Contract Manager is responsible for the following close-out activities:

- expenditures and invoice reconciliation,
- records retention determination,
- risk management documentation and resolution,
- vendor performance rating and reporting; and
- verification of receipt of goods or services.

The Contract Manager completes the contract closeout process in compliance with the Contract Management Procedures.

Procurement File Documentation

The Purchaser, in collaboration with the Contract Manager, is responsible for ensuring the required documentation is in the procurement file, which serves as the official record of the procurement process. This file is used to respond to requests for information in the event of an audit or an open records request. Upon completion of the procurement process, the Purchaser ensures the file is complete and complies with policy and procedure.

SML Contract Stakeholders

Legal Division

The Legal Division:

- Provides guidance, direction, and review to assist SML in ensuring contracting and procurement activities are compliant with applicable state laws, policies, and guidelines.
- Provides guidance and direction through solicitation, award, monitoring, and closeout processes to help ensure the SML is protected.
- Assists in ensuring SML contracts can be monitored, and performance is measurable.
- Identifies opportunities to improve clarity of responsibility and expectations documented in contracts.
- Vets and recommends Commissioner action on two-party contracts.
- Provides guidance and direction on dispute resolution.
- Identifies state remedies, as appropriate, when a vendor's performance is deficient.

Finance Section

Finance and Accounting staff:

- Ensures compliance with prompt payment.
- Validates and approves the use of funds identified on requisitions.
- Validates that receipts are complete before issuing payments.
- Performs a three-way match before issuing payment; and
- Immediately reports to the Purchaser, Director of Operations, and the Commissioner any of the following:
    - Conflicts of Interest
    - Potential Conflicts of Interest
    - Fraud
    - Potential fraud
    - Any incident that is an ethical problem
    - Any incident that may lead to ethical questions
    - Failure of a peer, self, contract manager, or customer to abide by required purchasing and contracting rules, laws, or policies

All Divisions

All division staff are responsible for the following when impacted and applicable:

- Reviewing and evaluating requests and determining if they need to modify or approve specifications.
- Identifying to what extent a contract will impact their division.
- Adhering to all procurement and contracting rules, policies, and procedures.
- Provides "lessons learned" and feedback to determine where SML can improve contract language to mitigate risk moving forward.
- Supporting the Contract Manager and Contract Review Team.
- Immediately reports to the Purchaser, Director of Operations, and the Commissioner any of the following:
    - Conflicts of Interest
    - Potential Conflicts of Interest
    - Fraud
    - Potential fraud
    - Any incident that is an ethical problem
    - Any incident that may lead to ethical questions
    - Failure of a peer, self, contract manager, or customer to abide by required purchasing and contracting rules, laws, or policies

Records Retention

For contracts and purchase orders entered into after September 1, 2015, SML retains in its records each contract, all solicitation documents, and any related documents it enters into for a period of seven years after the contract expires, is terminated or is completed after all issues have been resolved. The records retention period is four years for contracts and purchase orders entered into before September 1, 2015.

Appendix A: Procurement and Contracting Best Practices

Content	Source
State of Texas, Procurement and Contract Management Guide	Comptroller of Public Accounts, Procurement and Contract Management Guide, available at https://comptroller.texas.gov/purchasing/publications/procurement-contract.php
Best Practices in Service Contracting for State and Local Government Agencies	National Contract Management Association, Journal of Contract Management, 2009, available at https://www.ncmahq.org/.
The Contract Management Standard	National Contract Management Association, available at https://www.ncmahq.org/Web/Web/Standards---Practices/Contract-Management-Standard-Publication.aspx?hkey=5f1fdc7a-f748-437d-a5a1-3e9af7cdb83c
Global Best Practices	National Institute of Governmental Procurement, available at https://www.nigp.org/our-profession/global-best-practices
NASPO Contract Administration Best Practices Guide	National Association of State Procurement Officers, available at https://www.naspo.org/research-and-innovation/content-library/contract-administration/

Appendix B: Vendor Compliance Verifications

Verification Purpose	Verification Process
Boycott Energy Companies Check – Confirm the vendor does not boycott energy companies.	Check the divestment lists (maintained by the Texas Safekeeping and Trust Company) and posted on the CPA website, available at: https://comptroller.texas.gov/purchasing/publications/divestment.php
Boycott Israel Check - Confirm that the vendor does not and will not boycott Israel.	Check the divestment lists (maintained by the Texas Safekeeping and Trust Company) and posted on the CPA website, available at: https://comptroller.texas.gov/purchasing/publications/divestment.php
Debarment Check - Confirms the CPA has not debarred the vendor.	Check the debarred vendor list posted on the CPA website, available at: https://comptroller.texas.gov/purchasing/ programs/vendor-performance-tracking/debarred-vendors.php
Franchise Tax Check - Confirms whether the vendor has the right to transact business in Texas.	Check the CPA Tax Policy Division website, available at: https://comptroller.texas.gov/taxes/franchise/
Iran, Sudan, and Foreign Terrorist Organization Check: This confirms that the vendor does not do business with a foreign terrorist organization.	Check the divestment lists (maintained by the Texas Safekeeping and Trust Company) and posted on the CPA website, available at: https://comptroller.texas.gov/purchasing/publications/divestment.php

System for Award Management (SAM) Check - Confirms whether the vendor is excluded from a federal contract or grant.	Check the System for Award Management (SAM) website, available at: https://sam.gov/
Warrant/Payment Hold Check - Confirms whether the vendor is on warrant/payment hold for an outstanding debt.	Check the CPA Statewide Fiscal Services Division website available at: https://fmx.cpa.texas.gov/fmx/payment/ index.php
VPTS- Checks a vendor's grade quality.	Check the vendor's grade at the Texas Smart Buy Website, available at: https://www.txsmartbuy.gov/vpts
National Defense Authorization Act (NDAA) - Checks if vendor appears on the lists under Section 889 and 1260H	Section 889 Search: https://smartpay.gsa.gov/resources/tools/889-representations-search/ Section 1260H: https://www.defense.gov/News/Releases/Release/Article/4023145/dod-releases-list-of-chinese-military-companies-in-accordance-with-section-1260/
U.S Department of Commerce's Foreign Adversaries List – Checks if vendor is owned or controlled by a country /government that appears on the list.	https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-E/part-791/subpart-A/section-791.4

Appendix C: Purchasing Accountability and Risk Analysis Procedure

This procedure must be followed for procurements and contracts with a value of $25,000 or more to determine procurement and contracting risk.[30] This procedure complies with purchasing accountability and risk analysis requirements.[31]

Procurement Risk Assessment

1. During the acquisition planning process, the Purchaser determines whether the solicitation has a value of $25,000 or more.
2. If the solicitation has a value of $25,000 or more, the purchaser must follow the Contracting Procedure to complete the acquisition plan and procurement risk assessment.
3. At the end of the solicitation, the Purchaser forwards the acquisition plan and procurement risk assessment to the assigned Contract Manager and retains them in the procurement file.

Staff Resources

Procurement and Contracting Policies and Procedures are provided in the agency policy management repository.

The remainder of this page was intentionally left blank. See the Risk Assessment Matrix on the next page.

[30] The instructions for managing procurement and contracting risk, to include enhanced monitoring, are provided in the risk assessment procedure/template.
[31] Tex. Gov't Code Sec. 2261.256.

Risk Assessment Matrix (Sample)

#	Risk Factor	Risk level LOW Score 1-3	Risk Level MEDIUM Score 4-7	Risk Level HIGH Score 8-10	Justification/ Comments	Risk Level Score
Pre-set Risk Factors						
1	Type of Contract Purchase	Interagency, MOU or Inter- local 25K	Contract Less than $25K	Consulting, Emergency Sole Source, Proprietary, or Construction		
2	Payment Type/Structure	Fixed price or contingency	Rate or Fee for Services	Cost Reimbursement		
3	Total Dollar Amount for FY	Less than $100K	$100K to $1 million	Over $1 million		
4	Essential Agency Function	Contract services are not critical for meeting SML's mission	Contract services are moderately essential to SML's mission	Contract services are essential to SML's mission		
5	Stability & Experience of Contractor Key Management Staff	No recent change and significant experience	No recent change, but not significant experience; or recent change but significant experience	Recent change and not significant experience		
6	Percentage of Services Performed by Subcontractors	No Subcontractor involvement	Subcontractors account for50% or less of contract work	Subcontractors account for more than50% of contract performed work		
7	Compliance History finding	No issues of non-compliance	Moderate instances of non compliance/ no history - never contracted with SML before	Substantial of non-compliance		
8	Past Programmatic Performance	Met or exceeded all output and outcome measures	Met 75% or more of output and outcome measures	Met less than 75% of output and outcome measures		
Risk Factors – Financial						
9	Audit Outcomes	No audit required or no issues or finding in audit(s)	Moderate issues or findings in audit(s)	Substantial issues or findings in audit(s)		
10	Number of years in business	More than 5 years	1 year to 5 years	Less than 1 year		

Appendix D: Acronym Key

Acronym	Meaning
AIS	Automated Information Systems
BAFO	Best and Final Offer
CAPPS	Centralized Accounting and Payroll Personnel System
CMBL	Contract Master Bidders List
CPA	Texas Comptroller of Public Accounts
CTCD	Certified Texas Contract Developer
CTCM	Certified Texas Contract Manager
CTP	Certified Texas Purchaser
CTPM	Certified Texas Procurement Manager
DIR	Department of Information Resources
ESBD	Electronic State Business Daily
HUB	Historically Underutilized Businesses
HSP	HUB Subcontracting Plan
IFB	Invitation for Bid
LBB	Legislative Budget Board
MIRP	Major Information Resources Project
NIGP	National Institute of Governmental Procurement
OMR	Open Market Requisition
PO	Purchase Order
POCN	Purchase Order Change Notice
PR	Purchase Requisition
RFI	Request for Information
RFQ	Request for Qualifications
QAT	Quality Assurance Team
SAM	System for Award Management
SME	Subject Matter Expert
SPD	Statewide Procurement Division
TAC	Texas Administrative Code
TXMAS	Texas Multiple Award Schedule
VPTS	Vendor Performance Tracking System

Appendix E: Glossary of Key Terms

Amendment - The written change to an executed contract.

Automated Information Systems (AIS)/Telecommunications – Services that include computers and computer devices on which an information system is automated, including computer and computer devices that the CPA identifies in guidelines in consultation with DIR and pursuant to Texas Government Code, Chapter 2054 and rules adopted under that chapter; a service related to the automation of an information system, software(s) or computers; a telecommunications apparatus or device that serves a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network, and services related to telecommunications services; for the department (DIR) as telecommunications provider for the state, includes any service provided by a telecommunications provider, as defined by Texas Government Code § 2157.001.

Best and Final Offer (BAFO) - A negotiation process used for RFPs or RFOs that allows the procuring agency to request a final offer from one or more vendors.

Best Value - The factors to be considered in determining lower overall cost and value in purchasing goods or services as defined by Texas Government Code, § 2155.074 (non-information technology related) and Texas Government Code, § 2157.003 (information technology related).

Centralized Accounting and Payroll Personnel System (CAPPS) - The state of Texas' web-based system for financial and HR/payroll information. The Purchaser utilizes CAPPS to generate Purchase Orders, monitor contracts, and confirm receipt of goods and services.

Certified Texas Contract Developer (CTCD) - The purchasing certification issued by the CPA to staff who have successfully completed a training curriculum and passed a written qualifying examination.

Certified Texas Contract Manager (CTCM) - The contract management certification issued by the CPA to staff who have successfully completed a training curriculum and passed a written qualifying examination. A state agency employee must be certified as a CTCM to engage in contract management activities on behalf of a state agency if the employee has the job title of "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.[32]

Consulting Services - The service of studying or advising an agency under contract that does not involve the traditional relationship of employer and employee.[33]

Contract - A legally enforceable agreement between two or more parties.[34] A contract is a written contract between a unit of state government and a contractor for goods or

[32] See Comptroller website https://comptroller.texas.gov/purchasing/training/contract-manager/.
[33] Tex. Gov't Code Sec. 2254.021.
[34] See Comptroller website https://comptroller.texas.gov/purchasing/publications/procurement-contract.php

services or for a project as defined by Tex. Gov't Code Sec. 2166.001.[35] An original Contract, Amendment, Modification, Extension, Purchase Order (PO), Interagency Agreement, Inter-local Agreement, Inter-cooperative Contract, and a Memorandum of Understanding are all considered contracts.

Contract Advisory Team (CAT) - The CPA team created to assist state agencies in improving contract management practices.[36]

Contract Review Team (CRT) - A team of SML staff that reviews certain contracts, contract renewals, and extensions to verify that the contract meets the agency's needs and goals and to reduce risks by evaluating costs, terms, and past performances.

Contract Developer – The assigned SML staff, usually the purchaser, who is responsible for facilitating the procurement and contract management process to ensure compliance with state laws, policies, and guidelines. Contract developer duties include drafting, reviewing, and negotiating contracts with vendors to ensure the best value for the State.

Contract Manager - The assigned SML staff, usually the purchaser, who is responsible for managing one or more contract(s) from planning through contract close-out.

Contract Management - The process of managing a contractor's performance to ensure compliance with contract terms and conditions, from contract execution through contract close-out.

Contracting - The acquisition of goods and services by SML using a contract to minimize risk to the agency by outlining terms and conditions, accountability, and performance measures.

Contractor - A business entity or individual that has a contract to provide goods or services to the State of Texas. The term may be used interchangeably with "vendor".39

Department of Information Security (DIR): The state of Texas' information technology and telecommunications agency. DIR provides IT and telecom products and services to agencies and local governments. It leverages the state's buying power and utilizes strategic sourcing methods to select vendors offering the best value on IT commodities.

Electronic State Business Daily (ESBD) - The website for posting state solicitations that exceed $25,000 in value.

Emergency Procurement - A situation requiring the state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.4

Goods - The term describing supplies, materials, or equipment.[37]

Grant - The method for awarding state or federal funding to local entities to implement program activities, OR federal or state funding allocated to a local or state government to award to local entities.

[35] Tex. Gov't Code Sec. 2260.001 (1).
[36] Tex. Gov't Code Sec. 2262.101.
[37] Tex. Gov't Code Sec. 2155.001.

Historically Underutilized Businesses (HUB) - An entity with its principal place of business in the state as defined by Texas Government Code, Chapter 2161 and 34 TAC § 20.82.42.

HUB Subcontracting Plan (HSP) - The required plan, which is submitted with a solicitation response when the contracting agency has determined that subcontracting opportunities are probable under the potential contract.

Information Resources Technologies - Data processing and telecommunications hardware, software, services, supplies, personnel, facility resources, maintenance, and training.[38]

Invitation for Bids (IFB) - The competitive solicitation method used to procure goods or services that are based on pricing. Negotiation of price is not permitted under this solicitation method unless there is only one qualified vendor.

Key Stakeholders - SML employees or SML contractors involved in the contract development phase of the procurement cycle, such as the Information Resources Team, General Counsel, Executive Management, and subject matter experts.

Major Consulting Services Contract - A consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed $15,000, or $25,000 for an institution of higher education other than a public junior college.

Major Contract - A contract with a value of at least $1 million.

Major Information Resources Project (MIRP)[39] - An information resources technology project identified in a state agency's biennial operating plan whose development cost exceeds $5 million and that:

(a) requires one year or longer to reach operations status;

(b) involves more than one state agency; OR

(c) substantially alters work methods of state agency personnel or the delivery of services to clients; and

(d) any information resources technology project designated by the legislature in the General Appropriations Act as a major information resources project.

Major Information System - A system that includes:

(1) one or more computers that in the aggregate cost more than $100,000;

(2) a service related to computers, including computer software, that costs more than $100,000; and

(3) a telecommunications apparatus or device that serves as a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network and costs more than $100,000.

[38] Tex. Gov't Code Sec. 2054.003.
[39] Tex. Gov't Code Sec. 2054.003.

Offer - A proposal to contract with the State, submitted in response to an RFO.

Procurement - The process of buying goods and services that involves the categories of contract administration, purchasing and contract management.

Procurement Card - The agency's payment card, issued by SPD for general purchasing and travel expenditures.

Procurement Manager - The purchaser assigned to manage a procurement from identification of need through contract award.

Proprietary Purchase - A purchase in which the specifications and conditions describe a product that is proprietary to one vendor and does not permit an equivalent product to be supplied.[40]

Public Procurement Professionals - An agency employee who conducts purchasing, contract development, or contract management activities.

Purchaser - The staff member assigned a requisition to initiate a purchase and determine a purchasing method.

Purchase Order (PO) - The PO document is the most frequently used purchasing method by SML to authorize the purchase of goods and services. All SML POs are executed and dispatched by the agency's Staff Services Officer.

Purchase Order Change Notice (POCN) - The procedure for changing an executed purchase order.

Purchase Requisition (PR) - The internal electronic procedure in CAPPS ePro for initiating a purchase of goods or services.

Purchasing - The acquisition of goods and services using purchase orders or a procurement card (Procard).

Quality Assurance Reviews - The assessment method for verification of compliance with procurement and contracting policies and procedures.

Request for Information (RFI) - A formal procurement planning method for soliciting information on available products or services from the marketplace. The RFI may be used prior to the advertisement of a formal solicitation.

Request for Offers (RFO) - The solicitation method used to procure Automated Information Systems/Information Technology goods or services.

Request for Proposals (RFP) - The solicitation method used to procure goods or services through the competitive process. This solicitation method allows for the negotiation of costs.

Request for Qualifications (RFQ) - The solicitation method used to procure professional services pursuant to the definition provided in Texas Government Code § 2254.002.

[40] Tex. Gov't Code Sec. 2054.067.

Requestor - An SML employee who requests goods and services to be procured by the agency to address the needs of a department, staff, or agency to meet the agency's mission and goals.

Risk Analysis - The process for assessing procurement or contract risk to identify areas for targeted technical assistance, enhanced monitoring, or other risk management strategies.

Risk Management - The procurement or contract risk management process based on a formal or informal risk analysis.

Service - The furnishing of skilled or unskilled labor or professional work.

Solicitation - A document requesting submittal of bids or proposals for goods or services in accordance with the advertised specifications.

Spot Purchase - A state procurement method for purchasing goods and services valued at $10,000.00 or less. They are also purchases delegated from the SPD to the SML to purchase non-interagency and non-state contract-related goods and services.

Statewide Procurement Division (SPD) - A division of the Texas Comptroller of Public Accounts and is the state of Texas' central authority for procuring non-IT commodities. SPD is responsible for managing statewide contracts, exercising procurement authority delegation, and providing guidance on state procurement practices.

State of Texas Procurement and Contract Management Guide - A publication issued by the State Procurement Division to provide a framework for navigating the complexities of Texas procurement law and offers practical step-by-step guidance to ensure state agencies acquire goods and services effectively and efficiently in compliance with state law.

Subject Matter Expert (SME) - A person with demonstrated knowledge and experience in one or more content areas.

Supplier - A potential provider of goods or services to the state.

Texas Comptroller of Public Accounts (CPA) - The Texas Comptroller of Public Accounts (SPD) is the central authority for state agency procurement guidelines, education, and statewide contract development services.

Texas Multiple Award Schedule (TXMAS) - An alternative purchasing method developed by the CPA. This method allows state agencies to leverage state and federal government contracts (for certain goods and services) to achieve the best value.

Vendor - A potential provider of goods or services to the state.

Vendor Performance Tracking System (VPTS) - The system provided by the CPA for evaluating vendor performance pursuant to Texas Government Code § 2155.089, § 2262.055 and Texas Administrative Code Title 34, § 20.509.