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OVERVIEW

The Texas Comptroller of Public Accounts' (CPA) Statewide Procurement Division (SPD) is the central authority for state agency procurement guidance, education, and statewide contract development services.

The GLO Procurement Division functions as the contact between SPD, the vendor, and other GLO staff. All purchases must be coordinated through the Procurement Division. The GLO conducts all purchases in accordance with the *Texas Procurement and Contract Management Guide*, published by SPD at <https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>.

The public procurement professionals in the Procurement Division meet the training and certification requirements, comply with all ethics laws, and meet the professional standards detailed in the *Texas Procurement and Contract Management Guide*.

ASSISTANCE

Please contact the Procurement Division for assistance or additional information about purchasing procedures.

Suzanne Loy, Director	(512) 463-5291
Kimberly LaPointe, Manager	(512) 936-6265
Sarah Bergmann, Contract Specialist	(512) 475-5147
Susan Tipton-Hines, Contract Specialist	(512) 475-0226
Kenneth Maze, Purchaser, Credit Card Administrator	(512) 475-3504
Shelia Kirk, Purchaser	(512) 463-5186
Steve Villarreal, Purchaser	(512) 463-5402

Community Development and Revitalization (CDR) staff may contact the Disaster Procurement Division for assistance or additional information about purchasing procedures.

Vonda White, Director	(512) 463-5376
Mahsa Azadi, Manager	(512) 475-4141
Bob Sonnier, Purchaser	(512) 475-4109
Jaynee Williams, Purchaser	(512) 463-5480

RESPONSIBILITIES OF THE PROCUREMENT DIVISION

- Ensure that purchases of products and services are made in accordance with the *Texas Procurement and Contract Management Guide*, any other applicable state statutes and CPA rules, and GLO policy.
- Perform all departmental purchases or authorize the delegation thereof.
- Provide assistance with purchasing procedures and information to GLO employees regarding purchases.

RESPONSIBILITIES OF ALL GLO EMPLOYEES

- Anticipate needs well in advance to allow time for purchase requisitions to be processed and products to be delivered.
- Make all contacts with SPD through the Procurement Division.
- Ensure that products and services are requisitioned according to this policy.
- Comply with the GLO Procurement Card Policy (procurement card holders)

RESPONSIBILITIES OF VENDORS

Vendors must indicate purchase order numbers on all invoices and comply with the terms, conditions, and requirements of the Purchase Order and/or Contract.

FOOD PURCHASE POLICY

Food Purchases

Food purchases are generally not allowed unless the agency is purchasing food for a conference or seminar with funds appropriated under Article IX, Section 8.07 of the General Appropriations Act where:

- The amounts charged by the agency or institution are set to recover all food costs.
- The funds collected to cover the costs associated with the conference are deposited in the state treasury.
- The agency can demonstrate that the expenditures serve a legitimate public purpose that is related to the agency's statutory responsibilities.
- The agency follows all rules governing the use of appropriated funds.
- The food is provided to persons who are not state officers or employees. If state employees or officers are attending, food may only be provided to them if the meal expenses are a mandatory and non-separable part of the registration fee or they are on travel status.

Consult agency legal counsel to determine if the proposed food purchase serves a legitimate public purpose related to the GLO's statutory responsibilities. The relevant statute must be cited on the purchase order or procurement card log.

Equipment Related to Food Preparation or Storage

Equipment and supplies related to the preparation or storage of food, coffee, cream, sugar, and similar items may be purchased.

EMPLOYEE REIMBURSEMENTS

Employee reimbursements should be minimized to the extent practicable. If other methods of payment are available, such as a procurement card, then the purchase must be made with the procurement card. Unless there is a documented emergency, the employee must inform the

Procurement Division prior to making a purchase so that Procurement Division personnel can ensure that the purchase is made in accordance with the *Texas Procurement and Contract Management Guide*, any other applicable state statutes and CPA rules, and GLO policy.

UNAUTHORIZED PURCHASES

Employees who make purchases without prior authorization from the Procurement Division will be personally responsible for paying the vendor. Exceptions to this policy must be approved in writing by the Procurement Director using a form provided by the Procurement Division.

CENTRALIZED MASTER BIDDERS LIST (CMBL)

The Centralized Master Bidders List (CMBL), maintained by SPD, is an online directory of vendors registered to receive bidding opportunities from State of Texas purchasing entities. Agencies, colleges, universities and local governments use the CMBL to find vendors for products and services. The CMBL may also be used to gather information for noncompetitive procurement processes and for vendor performance data.

Agencies must use the CMBL to select bidders for competitive bids or proposals and to the fullest extent possible for purchases exempt from SPD's purchasing authority. For purchases between \$10,000.01 and \$25,000, the agency must solicit from a minimum of three active vendors on the CMBL including two current Texas-certified HUBs. For procurements exceeding \$25,000, an agency must use the CMBL to solicit from each eligible vendor on the list that serves the agency's geographic region. A vendor is not required to be registered on the CMBL to conduct business with state agencies.

COMMITMENT TO HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

The GLO is committed to making a good faith effort to utilize Historically Underutilized Businesses (HUBs) when awarding contracts for all purchases. SPD maintains a HUB Directory in conjunction with the CMBL that the Procurement Division uses to solicit HUB vendors. The agency may supplement the CMBL with State of Texas certified HUBs at any time if the agency determines that it may enhance competition or increase the number of HUBs that submit bids or proposals. Please refer to the GLO HUB Policy for additional information.

BUY SPEED / BUDGET CERTIFICATION

BuySpeed is the web-based procurement software application utilized by the GLO. The integral components of BuySpeed are electronic tracking of approvals and linking purchase requisitions, purchase orders, and payments. BuySpeed interfaces with the CMBL and provides limited interfacing with the Uniform Statewide Accounting System (USAS) and MIP, the GLO's financial system of record. BuySpeed is not capable of being changed for adjustments or corrections in USAS or MIP after transactions are originally interfaced to those systems. Because of this limitation, BuySpeed is not designed to track financial information and should not be relied on as a financial system of record.

The BuySpeed Purchase Requisition is used to authorize purchases. A BuySpeed requisition is required for all procurement methods, except for procurement card purchases under \$500 that have been authorized by the Procurement Division. The BuySpeed Requisition ensures that:

- Program management has approved the purchase(s);
- Funds are allocated from the various programs appropriately; and
- All of the necessary information is in place and approvals have been received for the preparation of a Purchase Order and/or Contract.

Submission of a BuySpeed Purchase Requisition by a program or division constitutes certification that funds are available. For this reason, all requisitions must be for the estimated dollar amount of the purchase, or, in the case of contracts spanning multiple fiscal years, the estimated cost of the contract for the duration of the current fiscal year. Exceptions to this requirement must be approved by the Director of Procurement or the Senior Director of Budget and Planning.

If the accepted bid or negotiated contract amount to be entered on the Purchase Order is more than the estimated dollar amount on the requisition, the Procurement Division shall either: a) return the requisition to the requestor to increase the dollar amount; or b) route a BuySpeed Change Order reflecting the increased amount. These steps shall ensure that funds are available through the designated BuySpeed approval path before awarding the contract and/or issuing the Purchase Order.

Program personnel are responsible for entering BuySpeed Change Orders when funding or time must be increased or decreased on a Purchase Order/Contract, or if administrative changes to the Purchase Order/Contract are required. Please contact the Procurement Division with questions about this process.

Memberships receive blanket approval during the annual budget process. Requisitions for memberships are automatically routed in BuySpeed to the Chief Clerk for approval. Refer to the Professional Memberships policy for additional information regarding memberships.

BuySpeed Purchase Requisitions with incorrect or incomplete information will be returned to the originator to correct. Please contact the Procurement Division for assistance with BuySpeed.

Documents to Attach to the Requisition

- Acquisition Plan (required for any purchase of goods or services from an outside entity that is anticipated to exceed \$25,000 and is not procured through a non-delegated procurement method or established contracts)
- Any vendor quotes obtained by the program or division
- Specifications for goods or services, if insufficient detail provided in the item description(s)

PROCUREMENT TIMELINE

The following should be factored into the timeline for completing a purchase:

- BuySpeed requisition approval time
- Procurement & Grants Committee approval time (certain purchases valued at \$250,000 or greater)
- GLO Procurement Division processing time
- SPD processing time, if applicable (30 calendar days for delegation and/or CAT reviews)
- Electronic State Business Daily (ESBD) posting time, if applicable (21+ calendar days)
- DIR processing and approval of exemption requests, if applicable (15 business days – regular; 3 business days – expedited)
- VLB or SLB approval of contract award (certain contracts valued at \$1 million or greater)
- Office of General Counsel contract execution, if applicable

The Procurement Division strives to process purchase requisitions expeditiously. Delays may occur during periods of high volume, such as the fiscal year transition. Please contact the purchaser assigned to the requisition with questions or concerns about the status of a procurement.

CONTRACT ADVISORY TEAM (CAT) REVIEWS

Prior to posting to the ESBD, an agency must submit solicitation documents for contracts that have a value of \$5 million or greater to the Contract Advisory Team (CAT) for review regardless of procurement method. For CAT submissions, the contract value means the estimated dollar amount that an agency may be obligated to pay over the life of the contract including all executed and proposed amendments, extensions and renewals. Agencies should not artificially split the procurement to avoid the \$5 million threshold for CAT review.

As a general guideline, grant agreements where the recipients eligible for award are governmental entities or non-profit business entities are not subject to a CAT review. CAT will review grants when the recipients eligible for award are for-profit business entities because these contracts provide public funds to entities that could profit from the award. RFAs based solely on federal funding are not subject to CAT review.

PROCUREMENT METHOD – SPD NON-DELEGATED PURCHASES

Texas Correctional Industries Purchases

Texas Correctional Industries (TCI) is a division of the Texas Department of Criminal Justice (TDCJ) that manufactures goods and services using primarily offender labor for purchase by Texas governmental entities. The Prison Made Goods Act requires that agencies purchase goods made by and services offered by TCI. Competitive bidding is not required for items purchased from TCI under the Prison Made Goods Act. For print purchases, TCI must be given the final opportunity to meet or beat the lowest price.

An agency may decline to procure a good or service from TCI if:

- TCI grants a waiver;
- SPD determines that the good or service produced by TCI does not meet the requirements of the agency; or

- SPD certifies that the good or service can be purchased elsewhere at a lower price after the agency gives TCI final opportunity to negotiate on price.

The State Use Program

The Texas Workforce Commission (TWC) oversees the Purchasing from People with Disabilities Program, commonly referred to as the State Use Program. TWC contracts with a Central Nonprofit Agency, currently WorkQuest, to administer the day-to-day operations of the program.

Agencies must purchase products and services offered through WorkQuest that meet the applicable specifications of the agency and that are available within the time specified. Competitive bidding is not required for purchases from WorkQuest. Any time the quality of a WorkQuest product or service is deemed unacceptable or failed to meet agency specifications, this information should be reported to WorkQuest and a vendor performance report must be filed with SPD.

State Use Program Exceptions: Agencies are not required to purchase products and services using the State Use Program under the following circumstances: 1) under the rules of SPD, a WorkQuest-provided or produced product or service does not meet the reasonable requirements of the agency; or 2) the requisitions made cannot be reasonably complied with using products or services produced by persons with disabilities.

Term Contracts

SPD establishes Term Contracts for the purchase or lease of goods and services used in large quantities by several agencies. Best value is achieved by using SPD established Term Contracts, therefore, competitive bidding by agencies is not required for items purchased from Term Contracts. The Term Contracts are categorized according to the NIGP Class/ Item codes which are located in the NIGP Commodity Book maintained on the CPA website.

Agencies are encouraged to use Term Contracts whenever possible. Agencies are not allowed to use delegated authority to purchase goods or services that are available through a statewide Term Contract unless the quantity required is less than the minimum order quantity specified in the relevant Term Contract.

Search SPD statewide contracts: <https://comptroller.texas.gov/purchasing/contracts/search.php>

SPD-Administered Agency-Specific Procurements

For procurements not delegated to the agencies under the SPD Review and Delegation Process, SPD will establish and administer an agency-specific procurement. The Procurement Division initiates the process by submitting delegation request to SPD either as an Open Market Requisition (OMR) or via the Procurement Oversight & Delegation portal.

Proprietary Purchases

A proprietary purchase is one where the specifications or conditions of the proposed purchase are proprietary to one vendor and do not permit an equivalent product or service to be supplied. The term “proprietary” refers to a product or service that has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services. Proprietary purchases include products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law.

Proprietary purchases may be either sole source or competitive.

- **Sole Source:** The specified product or service is only available for purchase through a single vendor e.g., manufacturer, publisher, service provider. Examples of sole source proprietary purchases include a back issue of a magazine available from only the publisher and an educational conference available from only the conference sponsor.
- **Competitive:** The specified product or service is available for purchase through more than one vendor e.g., dealers, distributors, resellers, authorized service providers. Examples of competitive proprietary purchases include brand-specific replacement parts for equipment available through multiple OEM-authorized dealers and software that a software publisher makes available to the public through several resellers.

Proprietary purchases, regardless of whether they are sole source or competitive, are subject to ESBD posting requirements as well as requirements applicable to SPD delegation, CAT reviews, and QAT reviews. The Procurement Division will determine which document(s) must be posted to the ESBD to comply with ESBD posting requirements.

Proprietary purchases that exceed \$10,000 require a letter of justification approved by the Office of General Counsel and signed by the Chief Clerk. Please contact the Procurement Division for a proprietary letter template.

Mail and Messenger Services Contracts

SPD’s Statewide Mail Operations provides and operates an interagency mail and messenger service to deliver unstamped or non-metered written communications and packages between the Legislature, state agencies, and legislative agencies located in Travis County. Mail may also be delivered to and from the United States Postal Service by agreement of the agency and SPD 125 In addition, the mail and messenger service may process and meter outgoing mail for agencies upon agreement of the agency and the CPA Each agency must furnish funds to cover amounts of postage to be metered.

Printing Services and In-House Copy Centers

Agencies are authorized to provide for their own incidental copying needs by using available local and networked printers and office copy machines either purchased or leased. DIR establishes and manages statewide contracts for these purposes.

Agencies must utilize SPD approved State Print Shops to competitively procure print services for printing procurements estimated to be \$2,500 or more. State Print Shops provide services through interagency contracts with SPD. The State Print Shops provide design, digital, and traditional offset printing, binding, fulfillment, mailing, and other print-related services to agencies. The Procurement Division shall directly source printing procurements under \$2,500 from State Print Shops.

To submit specifications to the State Print Shops, the Procurement Division completes the Print Shop Job Request Form located on the CPA website. The Print Shop Job Request Form provides the agency with an opportunity to enter the “Project Due Date,” the “Estimate Needed by,” and the “Time Needed by” fields for the job; please include this information on the BuySpeed requisition.

Used Equipment and Trade-Ins

As a general rule, an agency should procure new equipment. Sometimes, however, it is necessary or advantageous to purchase used or demonstrator equipment and supplies. The most common reasons are: the inability to secure new equipment, the lack of adequate funds for new equipment, or used equipment that will satisfy the agency’s need is available at a substantial savings.

An agency may trade in agency-owned equipment for new equipment of the same or similar type if it is in the best interest of the State. An agency may not trade in property that has been declared either surplus or salvage; such property must be disposed of through the State Surplus Property Program. Trade-ins are not allowed through orders placed against Term Contracts. The agency must have documentation supporting the equipment’s value in order to make a decision whether to process as surplus or trade-in the equipment for new equipment utilizing a solicitation.

Contract Established by Another State Agency

When a contract created by another state agency fulfills an unmet need, the SPD director may either (1) endorse the contract of the other agency as an SPD contract and make it generally available for agency use or (2) authorize the use of the contract of the other agency on a case-by-case basis. Please contact the Procurement Division to coordinate case-by-case authorization from SPD.

Federal Government Purchases and Interstate Compacts & Cooperative Agreements

SPD may negotiate purchases of goods of any kind needed by a state agency with the appropriate agency of the federal government as long as the price of goods that are purchased from the federal government does not exceed the fair market value of the goods. In addition, SPD may enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if SPD determines that the agreement would be in the best interest of the State. Please contact the Procurement Division to

coordinate assistance with federal government purchases and procurements utilizing interstate compacts and cooperative agreements with SPD.

PROCUREMENT METHOD – SPD DELEGATED PURCHASES

SPD is authorized to delegate its purchasing functions to agencies. A delegation of authority may be: 1) provided by SPD rule for a pre-approved class of procurements, such as a particular procurement type (e.g., emergency purchases) or contract value (e.g., one-time purchases of goods that do not exceed \$50,000), or: 2) obtained on a case-by-case basis by the agency through the SPD Review and Delegation Process. Procurements made under SPD’s delegation authority are subject to ESBID posting requirements as well as requirements applicable to CAT and QAT reviews.

For SPD reporting, review, and delegation requirements, contract value is defined as “the estimated dollar amount that an agency may be obligated to pay pursuant to the contract and all executed and proposed amendments, extensions and renewals of the contract.: Contract value, therefore, is not limited to just the cost for the initial term, it is determined by the total value of the contract over a contract’s term as well as any modifications, renewals, or extensions of the contract.

SPD has by rule delegated its purchasing authority to agencies for the following types of procurements:

- one-time purchases of goods that do not exceed \$50,000;
- purchases of services that do not exceed \$100,000;
- direct publications;
- purchases of perishable goods;
- distributor purchases;
- fuel, oil, and grease purchases;
- internal repair purchases; and
- emergency purchases.

Purchases of \$10,000 or Less (“Spot” Purchases)

With the exception of printing services, competitive bidding is not required if the total value of the contract is \$10,000 or less. For Spot Purchases, an agency may supplement the CMBL with non-CMBL vendors. Dividing purchases to avoid the competitive bidding requirement is explicitly prohibited. Agency personnel should request quotes from current Texas-certified HUBs for spot purchases when it is feasible to do so. The agency’s HUB team is available to assist program personnel with locating HUB vendors in a specified geographical area.

One-Time Purchases of Goods of \$50,000 Or Less

SPD delegates the purchasing functions of one-time purchases of goods, including goods for the resale, which do not exceed \$50,000. Goods refer to supplies, materials, and equipment.

Purchases of Services of \$100,000 or Less

SPD delegates the purchasing functions of services, including services for resale, the estimated cost of which does not exceed \$100,000. A service is defined as the furnishing of skilled or unskilled labor or professional work. Delegated purchases of services do not include the following: professional or consulting services as defined by Chapter 2254 of the Texas Government Code; services of an employee of an agency; or services of public utilities.

Direct Publications

An agency may purchase publications directly from the publisher only when such publications are not available through statewide contract (e.g., TCI Purchases, State Use Program purchases, Term Contracts) or through competitive bidding, including proprietary competitive purchases. Direct publication orders shall be made by following guidelines established by SPD.

Perishable Goods Purchases

Perishable goods are items that are subject to spoilage within a relatively short time.

Distributor Purchases

The purchase of repair parts for a unit of major equipment that is needed immediately, or a maintenance contract for laboratory/medical equipment may qualify as a distributor purchase. Complete components, such as engines, transmissions and compressors do not qualify as repair parts under this description. A distributor purchase must be made from a dealer or distributor of the equipment being repaired; for a major component that is built by another manufacturer, such as an engine in a vehicle, the distributor purchase can be made from the component manufacturer.

Fuel, Oil, and Grease Purchases

The following goods may be purchased by an agency in either bulk or packaged form: fuel, oil, and lubricants/grease purchases including gasoline, diesel fuel, kerosene, aviation fuels, transmission fluids, motor oil and other lubricants, liquefied petroleum gas (LPG), and compressed natural gas (CNG). Service station point of sale transactions (amounts of fuel, oil or grease required for continued operation of a motor vehicle such as pump-delivered gasoline, pump-delivered diesel fuel, and less than case lots of oil or other fluids), may be purchased using a State of Texas Retail Fuel Card. Please contact the Procurement Division's Credit Card Administrator to apply for a Fuel Card.

Internal Repair Purchases

An internal repair is a repair to state-owned equipment where the extent of the work cannot be determined until the equipment is disassembled. An internal repair must contain labor and may also include parts. Internal repairs are usually the result of an unexpected, basic service outage. If an internal repair qualifies as an emergency, it must be processed as an emergency purchase.

Emergency Purchases

An emergency purchase occurs when the agency must make the procurement quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state. Proper procurement planning for anticipated business need is expected. Pending expiration of funds does not constitute an emergency.

Emergency purchases that exceed \$10,000 require a letter of justification approved by the Office of General Counsel and signed by the Director of Procurement. The agency should make a reasonable attempt to obtain at least three informal bids for emergency purchases between \$10,000.01 - \$25,000.

For an emergency purchase of goods or services exceeding \$25,000, the Procurement Division must send to SPD a full written explanation of the emergency along with other documentation required by SPD. The notification to SPD must be provided via email as soon as reasonably practical given the nature of the emergency. Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies should be made as competitive as possible under the circumstances. Emergency procurements over \$25,000 must be posted to the ESBD; however, the minimum time for posting of the solicitation does not apply to the extent necessary to address the emergency. In addition, emergency procurements are subject to CAT and QAT reviews; expedited reviews are available upon request to these oversight teams. Emergency purchases of goods or services should not exceed the scope or duration of the emergency.

Note: Emergency purchases discussed in this section are different from agency purchases conducted under a Declaration of Disaster by the Governor. SPD authority does not extend to purchases made under the Texas Disaster Act of 1975. Refer to Procurement Method – Texas Disaster Act of 1975.

SPD Review and Delegation Process

The Procurement Division may request a delegation of SPD's purchase authority for a procurement that is not addressed by SPD rule by submitting a delegation request specific to the procurement to SPD as either an Open Market Requisition (OMR) for goods via email or through the Procurement Oversight & Delegation portal for services, as applicable.

The Procurement Division must follow the SPD Review and Delegation Process to submit delegation requests to SPD procurements of goods with a value of more than \$50,000 and services with a value of more than \$100,000.

A delegation request will be reviewed, processed, and prioritized in the order received. Delegation reviews may take up to 30 days to complete. Even if the review period exceeds 30 days, the agency does not have the authority to issue the solicitation until it receives a letter of delegation from SPD. If the agency proceeds with the procurement without receiving a letter of delegation from SPD, the resulting contract is voidable.

Competitive Bidding: Formal Invitation for Bids (IFB) and Informal Bidding

An Invitation for Bids (IFB) is a formal written competitive sealed bid method used to obtain written bids. An IFB must be used for procurements exceeding \$25,000 and may be used for procurements of \$25,000 or less. If the total value of a solicitation is greater than \$25,000, an IFB must be posted on the ESD and all eligible vendors within the NIGP Class and/or Class/Items designated for the procurement that are active on the CMBL must be solicited for formal bids.

For purchases over \$25,000 using the IFB procurement method, the requesting program shall complete an Acquisition Plan, located on the GLO intranet, and submit it to the Procurement Division with sufficient lead time allowed for drafting and POD review and delegation, if applicable.

If the total value of a contract is over \$10,000 but not more than \$25,000, the Procurement Division, or program personnel with the authorization and oversight of the Procurement Division, must solicit bids from a minimum of three active vendors on the CMBL, two of which must be current Texas-certified HUBs.

Negotiations are not permitted by the competitive bidding procurement method. However, if there is only one qualified bidder then the agency may negotiate with the sole bidder, including price, provided the negotiation does not result in a material change to the advertised specifications.

For a purchase made through competitive bidding, the agency must specify in the solicitation the factors other than price that will be considered in determining which bid offers the best value for the State. In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations. The agency may, however, consider other relevant factors, including those specified in Texas Government Code §2155.074(a).

Competitive Sealed Proposals/Request for Proposals (RFPs)

A Request for Proposals (RFP) is a written solicitation document for purchases acquired by means of the competitive sealed proposals procurement method. Generally, an RFP is recommended when factors other than price are to be considered, negotiations are desired, requirements cannot be described by detailed specifications included in a PO, or the vendor is expected to provide innovative ideas. This solicitation type must be used when an IFB is not practicable or advantageous. One of the key differences between an IFB and an RFP is that negotiations are allowed in an RFP and not allowed in an IFB.

The GLO shall purchase goods and services that provide the best value for the State. For a purchase made through competitive sealed proposals, the agency must specify in the solicitation the known factors other than price that the agency will consider in determining which proposal offers the best value for the State. The agency shall make a written award of a contract to the respondent whose proposal offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and any other evaluation factors in the RFP. The

Procurement Division shall draft the RFP in conjunction with the requesting program, Contract Management, and Office of General Counsel personnel.

For purchases using the RFP procurement method, the requesting program shall complete an Acquisition Plan, located on the GLO intranet, and submit it to the Procurement Division with sufficient lead time allowed for drafting and POD review and delegation, if applicable.

PROCUREMENT METHOD – SPD TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACTS

SPD establishes Texas Multiple Award Schedule (TXMAS) contracts to supplement the Term Contracts. A contract award through the TXMAS Program must be based on an existing contract that was previously awarded by the federal government or any other governmental entity in any state using a competitive process that is adaptable to the laws of the State of Texas. Neither consulting services nor certain professional services (such as engineering and architecture) are offered as part of the TXMAS program.

The agency must conduct a best value determination before issuing a purchase order to a TXMAS vendor. For purchases with a value of no more than \$50,000, the agency may directly award a PO to an SPD TXMAS contractor without submitting a price request to other contractors in the same category. SPD recommends that for contracts that exceed \$50,000, the agency submit a pricing request to at least three TXMAS vendors included in the TXMAS category to which the contract relates or all TXMAS vendors included in the applicable TXMAS category if the category has fewer than three vendors.

The Procurement Division shall not issue a purchase order for services pursuant to a TXMAS contract until GLO's Contract Management division has reviewed the contract, which will ensure that contract management and legal staff review the contract for best contract formation practices. Purchases of goods on TXMAS contracts are exempt from this requirement.

PROCUREMENT METHOD – REVERSE AUCTION PROCEDURE

Agencies may purchase goods or services using the reverse auction procedure. This procedure, which is not commonly used in Texas state agency procurement, may be conducted in either of two ways: 1) Multiple vendors submit bids (anonymously to other vendors) at a previously scheduled time and Internet location (lasting usually less than an hour) to provide solicited goods or services; or 2) Multiple vendors submit bids (anonymously to other vendors) during a specific time period (usually two weeks or less) and at a previously scheduled Internet location, to provide solicited goods or services.

Procurements made under the reverse auction procedure are subject to SPD's delegation authority as well as the requirements applicable to ESDD posting and reviews by CAT and QAT.

PROCUREMENT METHOD – INFORMATION TECHNOLOGY PROCUREMENTS

All purchase requisitions for technology and technology-related purchases must originate in the GLO's Enterprise Technology Solutions (ETS) division unless written approval is granted. Exceptions include data plans, device accessories, audio recording devices, cameras, or drones. Please refer to the IT Policy: Technology Purchases for more information.

Agencies are required to use contracts established by the Department of Information Resources (DIR) to obtain Automated Information Systems (AIS) unless the procurement is subject to an exclusion or exemption. AIS type products and services are associated with computers (automation) or telecommunications systems.

DIR establishes and manages the following types of master contracts for use by eligible customers: 1) Cooperative Contracts for IT commodity items, 2) Texas Multiple Award Schedule contracts for IT commodity items, 3) the Texas.gov contract, 4) Data Center Services contracts, and 5) Telecommunication Services contracts.

DIR Cooperative Contracts

An agency purchasing an IT commodity item under a DIR contract must follow the following procedure:

- For a contract with a value of no more than \$50,000, the agency may directly award the contract to a vendor included in the category to which the contract relates without submitting a price request to other vendors in the same category;
- For a contract with a value of more than \$50,000 but not more than \$1 million, the agency must submit a request for pricing to at least three vendors or resellers included in the category to which the contract relates; and
- For a contract with a value of more than \$1 million but not more than \$10 million, the agency must submit a request for pricing to at least six vendors included in the category to which the contract relates or all vendors in the category if the category has fewer than six vendors. An agency may not enter into a contract to purchase a commodity item through the DIR Cooperative Contracts Program if the value of the contract exceeds \$10 million unless it is a DIR coordinated bulk purchase.

Agencies are required to prepare and submit to DIR certain Department of Information Resources Statements of Work (DIR SOWs) for contracts that exceed \$50,000. A DIR SOW executed by an agency under a contract for an IT commodity item is not valid and money may not be paid to the contractor under the terms of the DIR SOW unless DIR first signs the DIR SOW. The GLO ETS division prepares the DIR SOW and coordinates with DIR, the vendor, and the GLO's Contract Management Division to execute the SOW and post it to the agency's website.

An agency may obtain an exemption or waiver from the requirement to use a DIR Contract to purchase an IT commodity item in one of three ways: DIR exemption, LBB approval, or DIR certification. The GLO ETS division submits exemption requests to DIR.

DIR Texas Multiple Award Schedule (TXMAS) Contracts

The Texas Multiple Award Schedule (TXMAS) Program adapts existing competitively awarded government contracts to the procurement needs of the State of Texas. Agencies may utilize TXMAS contracts developed by DIR for the purchase of IT commodity items. For orders that exceed \$25,000, the agency must post the award notice on the ESBD. The monetary thresholds associated with the DIR Cooperative Contracts Program apply to procurements under DIR TXMAS contracts.

Texas.Gov Services

Texas.gov, the official website of the State of the Texas, provides portal and payment services for Texas state agencies and eligible local governmental organizations, enabling them to cost-effectively conduct online business with their customers. Texas.gov is one of DIR's Shared Technology Services. A Texas state agency is eligible to use the Texas gov contract by entering into an Interagency agreement with DIR.

DIR Data Center Services

The Texas Data Center Services (DCS) program allows state and local governmental entities to outsource management of technology infrastructure services and receive the benefit of aggregated volume discounts by sharing technology services. The monetary threshold requirements and SOW review and signature process associated with the DIR Cooperative Contracts Program do not apply to services procured through the DCS program under contracts signed by the contracted vendors.

Telecommunication Services

DIR provides a variety of telecommunications services to eligible customers throughout the State, through the operation of major and secondary networks and numerous contracts for communications related services. Agencies in the Capitol Complex are required to use the Capitol Complex Telephone System (CCTS) for landline services. All agencies are required to use the Texas Agency Network (TEX-AN) for telephone, internet, data, and video services. If a telecommunications service is offered by DIR, an agency must purchase the service through DIR or must request and be granted a waiver before procuring the service through an avenue other than DIR.

RFO Procurement Method

The Request for Offers (RFO) procurement method is intended as the designated, primary purchasing method for procuring AIS other than under DIR's IT commodity program. However, agencies may choose to use the RFO procurement method or any other procurement method authorized by Title 10, Subtitle D of the Texas Government Code that will obtain the best value. When using these other methods to procure such AIS, the procuring entity must follow the guidelines published by SPD.

The RFO method is available for use by agencies to procure AIS items in the following circumstances: the agency has obtained an exemption from DIR; the agency has obtained express prior approval from LBB for the expenditure necessary for the purchase; DIR has certified in writing that the IT commodity item is not available for purchase under an existing DIR contract; or the agency is otherwise exempt from the requirements of Section 2157.068 of the Texas Government Code.

The procuring entity's use of an RFO does not require or involve delegation of authority or prior approval by SPD. Procurements using the RFO method are subject to ESBD posting requirements as well as requirements applicable to CAT and QAT reviews.

For purchases using the RFO procurement method, the requesting program shall complete an Acquisition Plan, located on the GLO intranet, and submit it to the Procurement Division with sufficient lead time allowed for drafting.

PROCUREMENT METHOD – PROFESSIONAL SERVICES

Agencies are authorized to procure professional services under Chapter 2254, Subchapter A, of the Texas Government Code. Acquisition of professional services is delegated to agencies by statute and does not require a delegation of authority from SPD. The procurement of professional services is subject to ESBD posting requirements as well as requirements applicable to CAT reviews.

Professional services refer to services that are either: 1) within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing; 2) provided in connection with the professional employment or practice of a person who is licensed or registered as one of the following: a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse; or 3) provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Chapter 1053 of the Occupations Code.

The award of a professional services contract is based on (1) demonstrated competence and qualifications to perform the services, and (2) a fair and reasonable price. The professional fees under the contract may not exceed any maximum provided by law.

Professional services procurements are usually advertised by the GLO as a Request for Qualifications (RFQ); a Request for Proposals (RFP) may also be used unless the procurement is for architectural, engineering, or land surveying services.

Architectural, Engineering, or Land Surveying Services

To procure architectural, engineering, or land surveying services, the agency must first select the most highly qualified provider based on demonstrated competence and qualifications, and then attempt to negotiate a fair and reasonable price for the services. If a satisfactory contract cannot be

negotiated with the most highly qualified respondent, the agency must formally end negotiations with the respondent and then must attempt to negotiate a fair and reasonable price with the next most highly qualified respondent. This process may continue until a contract is executed for the service. Although the described process applies to the services of an architect, engineer or land surveyor, this selection process can be used for all professional services.

Audit Services

The GLO may enter into a contract for audit services only if: 1) the agency is authorized to contract with a private auditor through a delegation of authority from the State Auditor's Office (SAO); 2) the scope of the proposed audit has been submitted to SAO for review and comment; and 3) the services of the private auditor are procured through a competitive selection process in a manner allowed by law.

In addition, Article IX, Section 6.20 of the General Appropriations Act (86th Legislature), provides requirements for state agencies and institutions of higher education that use appropriated funds to contract for audit services.

PROCUREMENT METHOD – CONSULTING SERVICES

Agencies are authorized to procure consulting services pursuant to Chapter 2254, Subchapter B, of the Texas Government Code. Acquisition of consulting services is delegated to agencies by statute and do not require a delegation of authority from SPD. The procurement of consulting services is subject to ESBD posting requirements as well as requirements applicable to CAT reviews.

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

There are several statutory requirements associated with the procurement of consulting services. The Procurement Division works closely with the Contract Management Division and the Office of General Counsel to ensure the GLO's compliance with these requirements. Please refer to the *Texas Procurement and Contract Management Guide* for additional information.

PROCUREMENT METHOD – LEGAL SERVICES

The GLO's Office of General Counsel coordinates the procurement of outside legal services. Procurement Division staff ensure that the BuySpeed purchase order associated with an outside counsel contract includes the required legal citations.

PROCUREMENT METHOD – INTERAGENCY COOPERATION CONTRACTS (IACs)

An interagency contract is a written understanding between two or more agencies as authorized by Chapter 771 of the Texas Government Code. An agency may agree or contract with another agency for the provision of necessary and authorized services (including technical services) and materials and equipment. Competitive bidding requirements do not apply to Interagency Contracts.

PROCUREMENT METHOD – INTERLOCAL COOPERATION CONTRACTS

An interlocal contract is a written understanding authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The purpose of the Interlocal Cooperation Act is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the State. Competitive bidding requirements do not apply to Interlocal Cooperation Contracts.

PROCUREMENT METHOD – STATE AND FEDERAL SURPLUS PROPERTY PROGRAMS

The Federal and State Surplus Property programs are administered by the Texas Facilities Commission (TFC). Refer to Appendix 10 of the *Texas Procurement and Contract Management Guide* for procedures related to these programs.

PROCUREMENT METHOD – REQUEST FOR QUALIFICATIONS

A Request for Qualifications (RFQ) is generally used for professional services wherein the respondents are evaluated based solely on their qualifications and skills. This solicitation method is more like an application process, where it is very clear what is expected from the vendor. Price is negotiated after the agency selects its preferred respondent(s) based on how well the respondents met the published qualifications.

For purchases using the RFQ procurement method, the requesting program shall complete an Acquisition Plan, located on the GLO intranet, and submit it to the Procurement Division with sufficient lead time allowed for drafting.

The GLO may also use the RFQ procurement method to prequalify vendors for indefinite delivery/indefinite quantity (IDIQ) contracts. Refer to the GLO Contract Management Division's policy and procedures for vendor selection under IDIQ contracts for additional information.

PROCUREMENT METHOD – TEXAS DISASTER ACT OF 1975

Under Chapter 418 of the Texas Government Code, the Governor may by executive order or proclamation declare a state of disaster if a disaster has occurred or that the occurrence or threat of disaster is imminent. The Governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of an agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

A purchase made under a disaster must clearly relate to the disaster, conform to the directives of the disaster declaration, and occur within the timeframe specified in the disaster declaration. If a purchase does not fall within the parameters of a Governor-declared disaster, agencies should check whether the purchase qualifies as an emergency purchase under the applicable procurement method.

AGENCY-SPECIFIC EXEMPT PURCHASES

The GLO has agency-specific statutorily authorized exemptions for several programs. Purchases for these programs are not subject to SPD review and delegation. Competitive procurements made under these statutory exemptions are subject to ESBD posting requirements as well as requirements applicable to CAT and QAT reviews. These exemptions include, but are not necessarily limited to:

Competitive Solicitation Required:

Veterans Homes and Veterans Cemeteries purchases
Coastal Erosion Planning and Response Act (CEPRA) purchases

Non-competitive:

Veterans Land Board (VLB) bonds/fees
Permanent School Fund (PSF) investments
Purchase of Land/Real Estate Transactions

Consult agency legal counsel:

Alamo Complex purchases

REQUEST FOR APPLICATIONS

In contrast to the procurement methods, a Request for Applications (RFA) is not a sanctioned method for procuring goods and services from a vendor. An agency issues an RFA when it, as the grantor, is responsible for awarding grant funds to other entities such as other state agencies, local governments, non-profit organizations or private entities. An RFA is used to invite grant applications, in which the grants are tied to designated funds and for a specific purpose. An RFA must include the grant objective, guidelines, and any limitations on spending or eligibility. It is recommended that agencies include the Essential Provisions in grant agreements. An RFA must also specify evaluation criteria that will determine which applications are funded and any other information that is needed to submit an application. When issuing an RFA, the GLO considers the Uniform Grant Management Standards (UGMS) to the extent they are applicable.

SOLICITATION AND VENDOR SELECTION

The Procurement Division is responsible for the solicitation and vendor selection process, including, but not limited to: determination of procurement method; solicitation preparation, review, and approval; solicitation advertisement; communications with potential respondents; receipt and control of responses; selection of the vendor(s) that provide(s) the best value to the

state; conducting pre-award vendor compliance verifications; and coordination with the Contract Management Division on required reviews, approvals, disclosures, and website postings. GLO personnel conduct these activities in strict accordance with the *Texas Procurement and Contract Management Guide* and internal procurement and contract management procedures.

Evaluation Committees

For the RFP, RFQ, and RFO procurement methods, evaluation committees are assembled to evaluate solicitation responses using the evaluation criteria specified in the solicitation. The evaluation committee is composed of subject matter experts and stakeholders that independently assess the content of each response. The composition of the committee is determined during the procurement planning process by the project manager designated on the Acquisition Plan and is subject to approval by the Procurement Division. The committee should have a diverse relevant disciplinary expertise and knowledge of the product or service being procured. Because service on an evaluation committee involves a significant time commitment, care should be taken to ensure that each member selected as a scoring member is able to attend the committee meetings, oral presentations, and site visits to respondent premises.

Individuals serving on an evaluation committee or as technical advisors must sign the *Texas General Land Office Non-Disclosure and Conflict of Interest Statement* prior to receiving the responses or participating in evaluation committee activities. Any actual or potential conflicts of interest must be reported promptly to the Procurement Division and the attorney assigned to the solicitation.

Additional Information

For more information regarding the solicitation and vendor selection process, please refer to corresponding sections of the *Texas Procurement and Contract Management Guide* and the GLO Procurement Series training published on the GLO intranet.