



Texas Real Estate Commission FY 2021 Procurement Plan

November 30, 2020



1. General Information

Agency Name: Texas Real Estate Commission
Agency Number: 329

2. Procurement Manager Contact Information

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3. Purchasing Capacity Assessment

Dollar value of agency delegated purchases for FY20: \$168,199.42
Number of purchasing FTEs: 4
Automated purchasing tools used by the agency (if applicable): CAPPS

4. Purchasing and Contract Management Guide and Procedures Manual

- Purchasing and Contract Management Procedures
Section 1-5
- Credit Card Procedures
Section 6

5. Vendor Protest Procedures

- Proposed NEW 534.7 preamble **PROPOSED RULE ACTION FROM THE NOVEMBER 10, 2020, MEETING OF THE COMMISSION, CHAPTER 534 GENERAL ADMINISTRATION, (NEW) [§534.7. Vendor Protest Procedures](#)**



Financial Services
Purchasing
and
Contract Management
Guide and Procedures Manual

Table of Contents

Part 1. Introduction.....	3
Part 2. Purchasing Methods.....	4
2.1 Introduction.....	4
2.2 Process Determination.....	4
2.3 Electronic Posting Requirements.....	5
2.4 How to Process a Requisition.....	5
Part 3. Special Requirement Purchases.....	7
3.1 Statutorily Exempt.....	7
3.3 Internal Repair.....	8
3.4 Proprietary Purchases.....	10
3.5 Direct Publications.....	10
Part 4. Pre-established State Contracts.....	12
4.1 Introduction.....	12
4.2 WorkQuest or TCI.....	12
4.3 Automated Information Systems.....	13
4.4 SmartBuy.....	14
Part 5. Delegated Purchases.....	17
5.1 Introduction.....	17
5.2 Delegated Purchase Categories.....	17
5.3 Commodities and Services Commodities.....	17
5.4 Spot Purchases.....	18
5.5 Informal Bids.....	18
5.6 Formal Bids.....	19
Part 6. Procurement Card Program.....	23
6.1 Introduction.....	23
6.2 How to Obtain a Procurement Card.....	23
6.3 Procurement Card Agreement.....	23
6.4 Requirements.....	23
6.6 Requisition Submission Requirements.....	24
6.7 Purchase Order Assignments.....	24
6.8 Procurement Transaction Verification.....	24
6.9 Sales and Use Tax.....	25
6.10 Capital or Controlled Assets.....	25
6.11 Cardholder Security.....	25
6.12 Prohibited Purchases.....	25
6.13 Liability Requirements.....	25
6.14 How to Handle Returns, Credits, and Disputed Charges.....	26
6.15 Reporting of Fraudulent Use of a Procurement Card.....	26
6.16 Employee Separation or Termination.....	26
Part 7. Contract Management.....	27
Part 8. Vendor Protest Procedures.....	32

The Texas Real Estate Commission Financial Services Division, Purchasing Section has developed this purchasing and contract management procedures manual. The purpose of this manual is to establish consistent purchasing and contract procedures that must be followed by TREC purchasing staff and to provide best practices guidelines. This is a living document that may be modified as new processes and procedures are implemented.

2.1 Introduction

The Texas Comptroller of Public Accounts (CPA) delegates certain purchases to state agencies. This authority depends on an agency's continuing satisfactory performance. Although the agency processes the order and makes the award, CPA sets minimum requirements. The CPA has the authority to revoke delegated authority if an agency fails to comply with established procedures, therefore it is crucial that the purchasing staff adhere to agency purchasing procedures and the CPA Contract Management Guide.

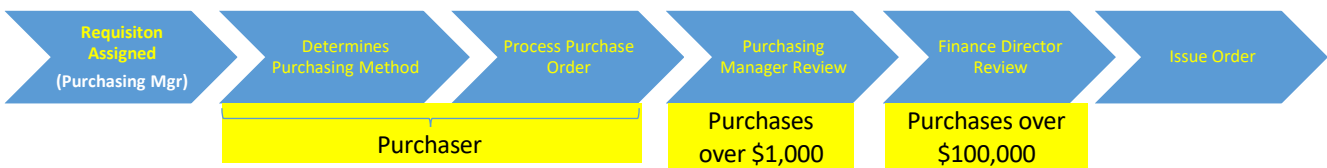
The Texas Real Estate Commission (TREC) launched the CAPPS Financial System, September 1, 2020. CAPPS is a web-based eProcurement system that integrates the agency's budget, approvals, purchasing, accounts payables, and asset management processes.

There are two-main process flows: the requisition and the purchase order. The requisition flow begins when an end user recognizes a need and submits a requisition for the required goods or services. Next, the requisition obtains budget and other approvals as required. The requisition is then assigned to purchasing who will follow specific purchasing guidelines and processes the order.

Requisition Workflow.



Purchase Order Approval Workflow



2.2 Process Determination

The purchaser must determine the appropriate purchasing method established by TREC, the Texas Comptroller of Public Accounts, the Department of Information Resources and other oversight agencies.

The purchase will typically be processed under one of the following categories:

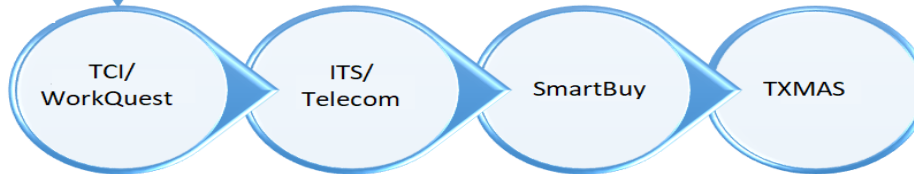
- Category 1 – Special Requirements Procurements
- Category 2 – Pre-established State Contracts
- Category 3 – Delegated Procurements

Purchasers and contract specialist should use the following chart to determine the appropriate purchase category and procurement method before initiating a purchase.

Stage 1. Special Requirements/Exempt Purchases



Stage 2. Pre-Established State Contracts



Stage 3. Delegated Purchases



2.3 Electronic Posting Requirements

All procurements with an estimated value greater than \$25,000 regardless of the source of funds to be used for the contract must be posted on the Electronic State Business Daily (ESBD). The ESBD is managed by the Comptroller’s State Purchasing Division (SPD). The contract value for posting to the ESBD means “the estimated dollar amount that an agency may be obligated to pay during the life of the contract and all executed and proposed amendments, extensions and renewals.

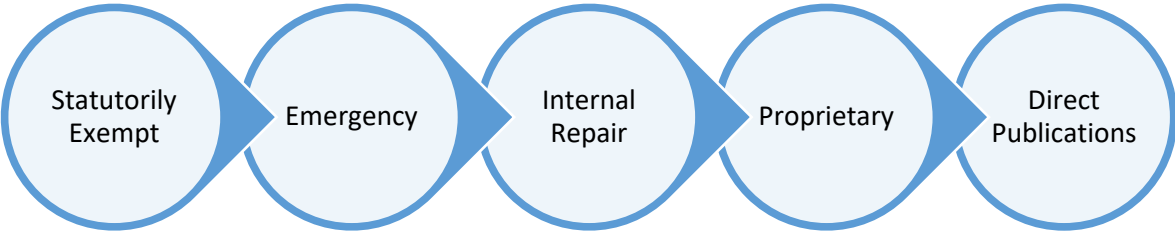
The minimum ESBD posting requirements (see CPA contract management guide for full description of the requirements):

- 14 Calendar days. The entire solicitation package (including all parts, exhibits and attachments posted to the ESBD).
- 21 Calendar days. A notice of the procurement that includes all information necessary to make a successful bid, proposal, or other applicable expression of interest for the procurement contract.

2.4 How to Process a Requisition

1.	Receive the requisition	Review the requisition workload Identify requisition line item(s) to be processed Determine the appropriate Procurement method Category 1 – Special Requirements Procurements Category 2 – Pre-established State Contracts Category 3 – Delegated Procurements
2.	Process the Requisition	Go to the specific category and type of purchase for specific processing information.

		<p>Ensure that the requisition has enough funds to process the order. If additional funds are required contact the division to obtain approval to add funds and work with the budget analyst to increase funds. Determine if bidding is required; if yes Prepare an informal or formal solicitation If no Obtain a quote or process through SmartBuy</p>
3.	Determine if a contract required	<p>A CAPPS contract should be established if the purchase is for (1) services with an associated period of time (i.e. subscription, maintenance) or (2) a blanket contract for goods or services.</p> <p>Contracts are not required for training services or services less than one month or less than \$1,000.</p>
4.	Move the requisition line(s) to the purchase order	<p>Designate a vendor Pull the line items into the purchase order Update the line item description to match the bid or SmartBuy order description. Include vendor contact name, phone and email Include agency contact or contract monitor, name, phone and email Add start and end date, if applicable</p> <p>Note: Ensure that quote and PO information, quantities and dollars match.</p>
5.	Attach back-up documentation	<p>Backup Documentation may include: Quotes Bids PCC Checklist Email correspondence Bid Proprietary Justifications Unauthorized Purchase Justifications Other back-up verification documentation</p>
6.	Process PO	<p>If purchase is over \$1,000 notify purchasing manager to review PO Upon approval issue PO</p>
7.	Issue PO	<p>Send PO and appropriate backup documentation to vendor Include requisitioner and PO contact on the email notification Place a copy of the signed PO in CAPPS.</p>



3.1 Statutorily Exempt

PCC: None; Doc Type 9

Specific goods and services are exempt from competitive bidding by statute. Exempt purchases include but are not limited to: (referencing legal cites which exempt them from competitive bidding). For additional statutorily exempt purchases go the Comptroller Contract Management Guide.

- State Treasury Funds - Purchases made with other than general revenue appropriations and funds not held in the state treasury.
- Employee Payroll Exempt by Statute - Employee payroll and other employee salary related items; e.g. salary, FICA, Federal Income Tax, Health Insurance.
- Exempt by Statute - Commodities and services that are exempt from the procurement process by legal statute.

Description	Statutory Cite
Auxiliary enterprises	2155.141
Goods or services made or provided by blind or visually impaired persons and offered for sale to state agencies	2155.138
Consulting services or services of a Consultant	2254.021 et seq. Must use 7239, 7240, or 7242 comptroller object codes to process expenditures. 2155.001
Items required by statute to be purchased from a particular source	2155.132(f)(2)
Texas Department of Criminal Justice made goods	2155.065
Professional services & fees	2254.001 et seq. must use 7253 or 7356 comptroller object codes to process expenditures. 2155.001
Purchases of products and services: WorkQuest set-aside contracts	2155.441
Services of an employee of a state agency	2155.001
Utilities (services of public utilities): natural gas, electric, water, sewage & garbage services, other services - cell phone or cable services not included	2155.001
Vehicle maintenance & repair: any contract for repair of vehicles made by the Office of Vehicle Fleet Management of SPD.	2171.102(c)

3.2 Emergency Purchases

PCC: D, F, Q, S, T

An emergency purchase occurs when an unforeseen circumstance occurs that requires an immediate response to avert an actual or potential public treat or to avoid undue additional cost to the agency or the state. Lack of planning or pending expiration of funds is not considered an acceptable justification for an emergency. Also, a Declaration of Disaster by the Governor is similar, but will be handled in accordance with the CPA’s Contract Management Guide.

The decision to declare an emergency purchase is the sole responsibility of TREC. If an emergency exists, a written determination must be included in the procurement file. A division requesting an emergency purchase must complete an emergency justification form and submit to the Purchasing Section with the requisition. The emergency justification form must be approved by the Purchasing Manager and will be included in the procurement file.

All procurements conducted as emergencies should be made as competitive as possible under the circumstances. For situations where a solicitation is not posted to the ESB, the purchasing section should make a reasonable attempt to obtain at least three informal bids. Emergency purchases greater than \$25,000 must be posted to the ESB; however, the minimum time for posting of the solicitation does not apply to the extent necessary to address the emergency. Emergency purchases are subject to CAT and QAT reviews and the period of service should not exceed the scope or duration of the emergency. In addition, emergency purchases of goods or services exceeding \$25,000, require TREC to send a full written explanation of the emergency along with other required documentation to the Comptroller’s Statewide Procurement Division (SPD).

3.2.1 Emergency Purchase Procedure

Who	What
Division	Completes the emergency justification, submits a requisition and contacts purchasing
Purchasing Manager	Reviews request to review emergency procurement requirements If approved go to the next step; if not approved, the order should be processed using regular purchasing processes
Purchaser	Determines if bids are required and the appropriate procurement method
Purchaser	Processes the order using the appropriate procurement method*
Purchaser	Completes PCC Checklist
Purchaser	Dispatches order and submit to vendor

- Contracts over \$1M. For contracts over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- Save all backup documentation with the purchase order in CAPPS.
- Post PO to agency website and LBB site (when applicable).

3.3 Internal Repair

PCC: E, F, Q, S

An internal repair is a repair to state-owned equipment that cannot be reasonably defined prior to the actual repair and the extent of the repair needed cannot be determined until the equipment is disassembled and examined. Internal repairs are usually the result of an unexpected, basic service outage. For example, the unexpected failure of a

building’s air conditioner may result in unanticipated repair to electrical circuitry, which would constitute an internal repair. Internal repairs should include labor and parts.

3.3.1 Internal Repair Procedure

Who	What
Division	Recognizes need; determines requested service required; contacts Purchasing
Purchasing	Determines if purchase meets internal repair requirements
Division or Purchasing	Identifies potential vendor(s) and obtains estimate from vendor
Division	Prepares a requisition; attach quote to the requisition and submit the requisition in CAPPS NOTE: expedite order when required
Purchaser	Processes the order; include the following statements must be included on the purchase order: “Internal Repair” “Note to vendor: Not to exceed (insert reasonable dollar limit) for repair services unless prior authorization is provided by the agency” Obtain appropriate VID number and verify with TREC Accounts Payables Section
Purchaser	Completes PCC Checklist; Check ESBD, SAM and Debarred Vendor List and attach all required documentation
Purchaser	Dispatches order and submit to vendor

- If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESBD.
- If order over \$100,000 and solicitation required, prepare contract file.
- For contracts, over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- If additional funds required obtain purchase requisition for the additional funds and issue a Purchase Order Change Notice (POCN). NOTE: Competitive award is not required for an internal repair.
- Save all backup documentation with purchase order in CAPPS.

3.4 Proprietary Purchases

PCC: Varies

A proprietary product or service is one that has a distinctive characteristic not shared by competing products or services. When the specification limits consideration to one manufacturer, one product or one service provider, a Proprietary Purchase Justification must be prepared and included in the procurement file.

A proprietary justification is required when conducting a sole procurement with an estimated value greater than \$5,000. A procurement under \$5,000 do not require a proprietary justification. Below are the general steps for proprietary purchases.

3.4.1 Proprietary Purchase Procedure: (Upon receipt of the requisition)

Who	What
Division	Recognizes the need Determines if the purchase is proprietary or sole source If yes, complete proprietary justification form Submit a requisition; if quotes obtained, review submit with requisition.
Purchasing	Reviews requisition and proprietary justification; submit justification to the purchasing manager
Purchasing Manager	Reviews the proprietary justification, if approved go to the next step; if not approved, notify division for options
Purchaser	Processes the requisition. If estimated value is over \$25,000 (goods) or \$100,000 (service), work with the division to develop specifications; follow appropriate solicitation process Obtain appropriate VID number Check ESBD, SAM and Debarred Vendor List
Purchaser	Completes the PCC Checklist
Purchaser	Dispatches order and submit to vendor

- If the estimated purchase price is greater than \$25,000, post the solicitation and award information to the ESBD.
- If order over \$100,000 and solicitation required, prepare contract file.
- For contracts, over \$1M, obtain the Ethic’s Commission’s Certificate of Interested Parties (Form 1295) submitted by the vendor.
- If additional funds required obtain purchase requisition for the additional funds and issue a Purchase a Purchase Order Change Notice (POCN). NOTE: Competitive award is not required for an internal repair.

Save all backup documentation with purchase order in CAPPS.

3.5 Direct Publications

PCC: K; Doc Type: 2

A direct publication is an item which must be ordered from its publisher or producer because it is not available from

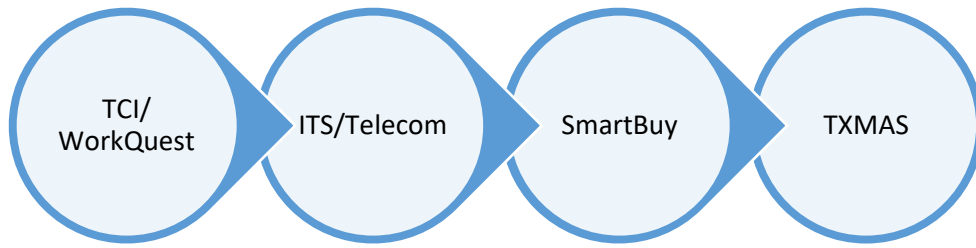
any other source. Competitive bidding is not required and there is no dollar limit on this type of purchase. Purchasers are required to post direct publications more than \$25,000 for a minimum of 14 days on the Electronic State Business Daily.

3.5.1 Direct Publication Procedure

Who	What
Division	Recognizes the need If known, indicate if the publication is coming from the publisher or if it is available from other sources.
Purchaser	Reviews requisition and back up documentation.
Purchaser	Processes the requisition. If estimated value is over \$25,000 (goods) or \$100,000 (service), work with the division to develop specifications; follow appropriate solicitation process Obtain appropriate VID number Check ESB, SAM and Debarred Vendor List
Purchaser	Completes the PCC Checklist
Purchaser	Dispatches order and submit to vendor
Purchaser	Saves and attaches PO to CAPPS

3.5.2 Direct Publication Examples

- a. Direct subscriptions only available from the Publisher
- b. Electronic data service directly from the publisher (not to be confused with on-line information services such as CompuServe)
- c. Foreign publications
- d. Back issues of magazines, journals, and newspapers
- e. Publications of professional societies
- f. Prepared videos, films, audio tapes, and laser disks only available from the Publisher
- g. Computer software and software maintenance which is only available from the publisher
- h. Collections of any of the foregoing items, and microfilm or microfiche copies
- i. Library of Congress cards
- j. Thesis, dissertations, research findings, academic publications



4.1 Introduction

The State of Texas has established multiple methods to purchase goods and services using pre-established contracts. The Texas Legislature establish special programs through WorkQuest and Texas Correctional Industries. Agencies are required to purchase certain goods and services through these programs. The Texas Comptroller of Public Accounts (CPA) and the Department of Information Resources have also established contracts that state agencies must access to purchase various equipment, goods and services. TREC is required to purchase goods and services through these pre-established contracts.

The CPA and DIR have specific statutory authority, rules, procedures and processes that must be followed when procuring goods and services under their respective contracts. The following sections provide general information about the contracts established and the general steps required to procure equipment, goods or services available through the purchase methods.

4.2 WorkQuest or TCI

PCC: A, C

Statutory Reference: Texas Human Resources Code Chapter 122 and the Texas Correctional Industries governed by Texas Government Code Chapter 497

Purchasers are required to utilize the WorkQuest or Texas Correctional Industries (TCI) contracts before considering other purchasing methods. If the requested commodity or service is not available under either of these contracts, then and only then, should the purchase proceed under a different method.

Most WorkQuest and TCI products and services are available under state term contracts.

WorkQuest or TCI Procedures

Who	What
Division	Recognizes need and submit requisition
Purchaser	Reviews requisition
Purchaser	Reviews requisition requirements and determine if requested items are available on SmartBuy, WorkQuest or TCI
Purchaser	Determines if goods or services are available on SmartBuy contract
Purchaser	If available on Smartbuy, follow SmartBuy Procedures If not, confirm that good or service is not TCI or WorkQuest
Purchaser	Processes order in CAPPS
Purchaser	Issues PO to vendor and the ordering division
Purchaser	Saves all backup documentation with signed purchase order in CAPPS
Purchaser	Posts PO to agency website

4.3 Automated Information Systems

PCC: D or I

There are various methods that can be used to procure Automated Information Systems (AIS) procurements equipment, goods, or services. All AIS purchases will either be processed through a pre-established DIR contract or the agency will be required to obtain a waiver and purchase through the open market.

Department of Information Services PCC: I

4.3.1 Types of DIR Contracts

The Department of Information Services (DIR) has various types of contracts which include:

- a. Cooperative Contracts
- b. DBITs Contracts
- c. IT Staff Augmentation Contracts
- d. TXMAS Contracts

4.3.2 DIR Thresholds

The purchaser must determine the appropriate method to purchase. First determining if the requested hardware, software or service is available through a DIR contract. The following criteria should be used to determine how to obtain quotes.

- a. Purchases 50,000 or less – the purchaser may directly award contract to DIR Cooperative Contracts vendor(s) or reseller(s). No additional request for pricing is required
NOTE: TREC will obtain quotes for purchases over \$2,500, if available.
- b. Purchases \$50,000 to \$150,000. Must submit request for pricing to at least three (3) vendors or resellers
- c. Purchases \$150,000 to \$1 Million. Must submit request for pricing to at least six (6) vendors or resellers
- d. Purchases exceeding \$1 million may not enter into a contract through the DIR cooperative contracts division to purchase a commodity item. Note: DIR has posted a blanket exemption for purchases greater than \$1 million.

4.3.3 Services

DIR offers contracts for the following services.

- a. IT Staffing Services
- b. Support Agreements
- c. Maintenance Agreements
- d. Hardware or Software Only Contracts

4.3.4 A statement of work must be established for purchases over \$50,000 and are for the requested:

- a. Cloud Services
- b. Deliverables Based Information Technology Services (DBITS)
- c. Managed Services for Information Technology
- d. IT Security Services
- e. Comprehensive Web Development

4.3.5 DIR Waiver

The Department of Information Resources (DIR) establishes contracts for the State of Texas for use in obtaining information technology goods and services. Should an information technology item or service not be available from these contracts, the TREC obtains an exemption from DIR to proceed with the procurement using procurement methods approved CPA.

4.3.6 Non-Department of Information Services PCC: D

If a piece of equipment, a good or service is not available under a DIR contract, procurement may follow the delegated purchase process. Before proceeding however, the purchaser should review the DIR Exemption process. If it is determined that an exemption is not required, the purchaser should purchase under the delegated purchase process. If a competitive bid is required, a Request for Offer should be used to issue the solicitation.

4.3.7 Processing tips

TREC Purchasers are encourage to obtain informal quotes on all purchases over \$2,500.00. Informal quotes may be obtained via email or using a pricing request form. The request should be sent to DIR vendor only.

- If the purchase is under \$1,000 and not available through DIR, the purchase can be made to a non-DIR vendor. The PO file must include ESBID printout, a SAM verification dated and printed, the Debarred Vendor List, and the PCC D checklist. NOTE: If multiple bids are obtained, a bid tabulation must be included in the PO file.
- If the purchase is over \$1,000, the purchaser must submit an exemption request to DIR. The order cannot be processed until DIR approval is obtained.

4.3.8 Contracts Over \$1M

- a. The Ethic's Commission's Certificate of Interested Parties (Form 1295) must be obtained from the vendor.
- b. Post PO to agency website
- c. Post contracts on LBB website

4.4 SmartBuy

PCC: A, C, H or X

Texas Comptroller of Public Accounts (CPA) establishes statewide term contracts for goods and services commonly ordered by all agencies. The term or length of each contract may vary, depending on the commodity or service.

4.4.1 Types of Term Contracts.

CPA establishes two basic types of term contracts:

- a. Automated Contracts are used to order goods and services available through CPA's on-line purchasing system.
- b. Managed Contracts must be processed manually due to the more specialized nature of the good or service.

4.4.2 Smart Buy Instructions

The CPA provides detailed information about how to use the SmartBuy system. For specific information about SmartBuy go to: <http://www.txsmartbuy.com/help>

TREC Specific Requirements. When processing SmartBuy orders, the following must be taken in to consideration:

1. Purchasers cannot purchase items that are above their certification requirements.
2. All Purchasers must obtain and use their own login.
3. All SmartBuy orders must also be entered into CAPPs.

4.4.3 Automated Contracts


The agency processes automated contracts directly through an on-line connection with CPA. Commodity codes and quantities are entered onto an electronically transmitted purchase order.

The Procedure. The purchaser will

1. Obtain or verify commodity codes from the CPA Term Contract. Items designated “Available on SmartBuy” must be entered via the SmartBuy system.
2. Confirm that all required options are listed (i.e. color, finish, accessories).
3. Enter the order into CPA's on-line SmartBuy system – or pick up Requisitioners shopping cart (see Requisitioners instructions below)
4. Print out and retain the initial copy of the order with the CAPPs PO in CAPPs
5. Complete PCC Checklist
6. Prepare TREC PO with SmartBuy information. Include CPA contract number on PO.
7. Distribute purchase order copies to the ordering division.
8. Save TREC and PO in CAPPs.
9. Post PO to agency website (when appropriate).

4.4.4 Division Submissions

Divisions may create a shopping cart for all SmartBuy orders. This will allow the purchaser to pick up the Requisitioners request and eliminate the need to input the order a second time in SmartBuy. Below are the steps requisitioners should use to save and submit an order in SmartBuy:

1. Go to the SmartBuy website: <http://www.txsmartbuy.com/>
2. At the search button, find the items or equipment on contract
3. Add to the wish list
4. Once all items are added, click on the “items” in the top right corner of 
5. The system will take you to “My Wish List”
6. Click on the “Share” button
7. Two options are available:
 - a. Option 1 – the Requisitioner can email you their wish list
 - b. Option 2 – the Requisitioner can copy and paste a link onto their requisition

Please note: Option 2 is the preferred method.

4.4.5 Managed Contracts

Managed Contracts are identified by an "N" after the commodity code in the CPA Contract Catalog. This type of contract order is processed manually by preparing and emailing a purchase order directly to the vendor. A copy of the purchase order must be forwarded to CPA for the purchase history file.

4.4.6 The Procedure

1. Obtain or verify commodity codes from the CPA Term Contract
2. Prepare a Managed contract purchase order
3. Complete PCC Checklist
4. Fax or email the original purchase order to the contract vendor
5. Send a copy of the purchase order to the ordering division
6. Save PO in CAPPs
7. Post PO to agency website

4.4.7 TXMAS

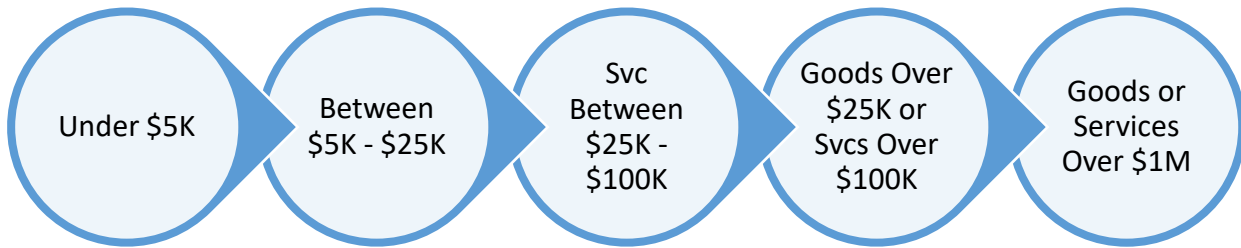
The CPA established as an alternative purchasing method, the use of multiple award schedule contracts that have been competitively awarded (primarily) by the federal Government's General Services Administration (GSA). Once the CPA authorizes use of the contract, it is posted on the CPA web site.

These contracts may be utilized by the agency only after consideration of the set aside programs (TCI and WorkQuest), as well as any other statewide term contracts. A best value determination is made if there are multiple vendors within a TXMAS schedule who have like products or services. A best value determination may include obtaining information and/or quotes from the TXMAS vendors offering the similar product or service. Once an order is placed, the agency is also required to electronically submit information to CPA for historical reporting, as well as, post a procurement award notice on the state's electronic bulletin board if the value is \$25,000 or greater.

A TXMAS order may be processed as a CPA automated or Managed order depending on how the contract is established through CPA.

4.4.8 Change Orders

A Purchase Order Change Notice is sent to CPA for a Managed Purchase Order from a term contract. CPA will require corrections to any Purchase Order Change Notice incorrectly used.



5.1 Introduction

The Texas Comptroller of Public Accounts (CPA) has delegated agencies the authority to procure goods or services that are not available from state contracts or which are exempt from CPA authority. Each agency must follow established CPA guidelines, but is authorized to obtain bids and place the orders.

A delegated purchase is a procurement in which the authority to manage the competitive process is delegated to an agency by CPA rule or by statutory exemption. The delegated purchase procedure does not apply to mandatory state use set-aside purchasing programs or that can be satisfied by other purchasing methods specifically authorized by state statutes.

The Comptroller of Public Accounts Procurement Manual (Section 2.10 Delegated Purchase Procedure and Strategic Sourcing Principles) provides the following summary of minimum requirements for Delegated purchase.

5.2 Delegated Purchase Categories PCC E, F, G, Q, S, T

Delegated Purchases are broken into four (4): (1) spot purchases, (2) informal bids, (3) formal bids for goods or services, and (4) delegated purchase with approval. This does not include items which are subject to the IT Commodity Purchasing Procedure. Commodities which are available from term contracts, may be processed as spot purchases only if they are below the specified spot option limit.

Agencies are audited for compliance with CPA rules and any violation may cause the delegated authority to be withdrawn. Each agency is accountable for all purchases made on behalf of the agency.

5.3 Commodities and Services Commodities

5.3.1 Commodities

A commodity purchase is a procurement of supplies, materials, or equipment and does not include the purchase of real property or services. CPA delegates to all state agencies the authority to purchase commodities whose estimated purchase price does not exceed \$25,000.

The agency may purchase commodities such as supplies, materials, or equipment on a PO that cannot exceed \$25,000. All commodities purchases that exceed that amount will require CPA review and approval prior to purchase. The purchaser must ensure that the commodity purchases do not fall within the requirements provided in Category 1 or 2 described in the previous sections.

5.3.2 Services

PCC: E, Q, S

A service is defined as the furnishing of skilled or unskilled labor or professional work. Delegated purchases of services do not include professional services.

When procuring services, it is important that the vendor is provided a clear scope of the requested services.

Note: Purchasers should not sign any vendor's maintenance agreements or other documents which contain terms and conditions. The agency's contract attorney must review these documents prior to signature by the Executive Administration.

5.4 Spot Purchases

PCC: E

A "Spot Purchase" is a purchase of a good or services from one vendor that does not require competitive bidding. A spot purchase cannot exceed \$5,000 and the good or service is not available from a pre-established contract. HUB vendors who can provide the needed good or service at a reasonable price should be contacted whenever possible. Purchasers may supplement the CMBL for procurements at this dollar amount.

5.4.1 Spot Purchase Procedures

- a. Obtain Purchase Requisition from the division
- b. Verify stock numbers, if provided
- c. Locate a vendor

Resources to locate vendors include: Centralized Master Bidders List, HUB Directory, vendor mailings or catalogs, yellow pages, Minority Development Centers, Chambers of Commerce, business card file, local source, internet, or recommendation from the end user.

- a. Contact at least one vendor, preferably a HUB, to obtain pricing
- b. Verify the vendor is not on the Debarred List or SAM list, print out results and place in PO file
- c. Print out CMBL detail for awarded vendor
- d. Finalize and issue PO
- e. Complete PCC Checklist
- f. Distribute purchase order copies to vendor
- g. Distribute purchase order copies to the ordering division
- h. Save PO in CAPPs
- i. Post PO to agency website

Note: Be sure that the vendor includes any freight charges in their price quote

5.5 Informal Bids

PCC: F or Q

An informal bid is required when purchasing goods or services with an estimated value between \$5,000.01

and \$25,000.00. The informal bid should be in writing using a pricing request form. Purchasers must attempt to solicit from at least 2 HUBs and utilize the CMBL.

5.5.1 Informal Bid Procedures

- a. Obtain Purchase Requisition from the division
- b. Collect the detailed specifications or scope of work for the required good or service
- c. Determine NIGP class and Item codes
- d. Use the “CMBL Only” search criteria and the applicable NIGP class(es) and Item(s) to locate at least three (3) vendors in the appropriate county, city or district that provide the required good or service, two (2) of which must be HUB vendors. If a purchaser is unable to locate two HUBs, the purchaser must make a written notation in the purchase file of all reference sources used
- e. With written approval from the Procurement Manager, provided in the agency’s Procurement Plan, non-CMBL vendors (including HUBS) may be added to the final vendor list to enhance competition. If applicable, also attempt to solicit a response from the vendor who last held the contract for the required good or service
- f. Print the CMBL vendor list including the approved supplemented vendors to include in the procurement file
- g. Solicit a response from each vendor identified in the previous steps. Response prices are considered firm for acceptance for 30 days from the solicitation due date. The acceptable methods for receiving informal responses are:
 1. In person
 2. Via direct mail
 3. Via electronic mail
- h. Evaluate responses; complete administrative checklist.
- i. Tabulate the responses and select the vendor that provides best value to the TREC. Include the following information in your tabulation:
- j. CMBL vendors contacted, including those supplemented.
- k. Corresponding response amounts
- l. For HUBs, the ethnicity/gender of the PAC Certified HUB
- m. Awarded vendor
- n. Statement of reasons for non-awards
- o. Verify the vendor is not on the Debarred List or SAM list, print out results and place in PO file.
- p. Keep a record of all responses. Make tabulations available for public inspection and retain the tabulation for inspection during any audit
- q. Print out CMBL detail for awarded vendor
- r. Process the award through issuance of a PO
- s. Attach the following in CAPPs. Prepare and document the file with:
 1. Copy of Pricing Request or IFB sent out
 2. Bid opening date
 3. Bid list (with HUB vendors designated)
 4. Vendors' original responses
 5. Tabulation form including vendor contact name, address and phone number.
 6. Purchase order
 7. Proprietary statement, if needed
 8. SAM and Debarred Listing
- t. Distribute purchase order copies to the ordering division.
- u. Save PO in CAPPs
- v. Post PO to agency website

5.6 Formal Bids

PCC: S

Delegated Purchase of Goods - over \$25,000; Services over \$100,000

A formal bid is required when purchasing services with an estimated value over \$25,000.00 for commodities if delegated by SPD or through statutory authority. Formal bids at this level require that bids are solicited to all vendors on the CMBL. Either the IFB, RFP or RFO form may be used to obtain responses from bidders.

5.6.1 Examples of typical service contracts established by the agency (if not available from TIBH):

1. Shredding Services
2. Mailing Services
3. Copy Services
4. Janitorial Services
5. Court Reporting

Note: A purchaser should not sign any vendor's maintenance agreements or other documents which contain terms and conditions. Contract attorney must review these documents prior to signature by the Executive Administration.

5.6.2 Solicitation Documents

a. Invitation for Bid (IFB)

An invitation for bid (IFB) is an invitation to vendors to submit a proposal on a specific commodity or service through a bidding process. The IFB is focused on pricing. The award is based upon the lowest bid meeting the minimum criteria for the specifications/requirements. Negotiations are not authorized when utilizing an Invitation for Bid (IFB) procurement method.

b. Request for Proposals

An RFP is a competitive solicitation that allows for negotiations. RFP evaluations may be based on factors other than cost and are typically associated with contracts for services, although the use of RFPs is encouraged for commodities as well. Additionally, the RFP method allows for Best and Final Offer (BAFO) negotiations prior to award.

c. Request for Information.

A request for information (RFI) is a document often distributed before initiation of the RFP process. It is used to gather vendor information from multiple companies to generate a pool of prospects providing a short list of candidates who meet the desired qualifications.

5.6.3 Procedures

1. Determine if purchase is an emergency; If yes, require emergency justification form and notify the Procurement Manager immediately
2. Review Risk and needs assessment provided by Division
3. Collect the detailed specifications or scope of work for the required good or service
4. Commodities exceeding \$25,000 or Services exceeding \$100,000 are required to be submitted to SPD for review by purchasers should submit an Open Market Requisition to the CPA for commodities over \$25,000; Purchasers should submit a delegation request through the CPA portal for services over \$100,000
5. Determine if good or service is proprietary or sole source, if yes complete proprietary

justification form

6. Work with the division to develop the specifications or the statement of work to create a written Invitation for Bid (IFB) or Request for Proposal (RFP)
7. Require division staff to review and sign non-disclosure and form
8. Determine if HUB subcontracting is a probability
9. Post the solicitation information to the Electronic State Business Daily (ESBD) unless the purchase is specifically exempted under Texas Government Code §2155.083
10. Using the CMBL Only search criteria and the applicable NIGP class(es) and Item(s) to, locate all vendors who provide the required commodity or service and service the county, city or highway district. Print out and save list

NOTE: If the procurement is a service purchase more than \$100,000, do not limit the search to your highway district. Print the vendor list from the CMBL and include it in the procurement file

- a. With written approval from the Procurement Manager, provided in the agency's Procurement Plan, non-CMBL vendors (including HUBS) may be added to the final vendor list to enhance competition. If applicable, also attempt to solicit a response from the vendor who last held the contract for the required good or service
- b. Print the CMBL vendor list including the approved supplemented vendors to include in the procurement file
- c. Determine evaluation team and develop evaluation plan
- d. Require all evaluation team members to sign conflict of interest/non-disclosure forms
- e. Solicit a response for the required commodity or service from each vendor identified in the previous steps; If applicable, also attempt to solicit a response from the vendor that last held the contract for the required commodity or service; The acceptable methods for receiving responses to formal solicitations are:
 1. In person
 2. Via direct mail
 3. Via electronic mail
- f. Response due date and release of respondent information:
 1. For the Invitation for Bid process, a public opening is typically conducted announcing the respondents and pricing; If a public opening is not in the best interest of the solicitation, the solicitation documentation should state that there will be no release of information until after award
 2. For the Requests for Proposal process, there should not be a public reading of the respondents in order to protect negotiations and to comply with statutory requirements. (Texas Government Code §§ 2156.123 – 2156.124)
- g. Collect the responses; Proposed prices are considered firm for acceptance for 30 days or the number of days from the response due date indicated in the solicitation
- h. Have all evaluators complete non-disclosure forms
- i. Evaluate responses; to include:
 1. Bid conference/site visit documentation
 2. Evaluation Plan Documents
 3. Bid Receipt Forms – date/time stamped prior to solicitation deadline
 4. Bid Opening Sign In Sheets
 5. Reference Check Forms
 6. Performance Score from the Vendor Performance Tracking System (VPTS)
 7. Bid tabulation (must list all vendors solicited)
 8. Administrative Review Checklist to verify responsiveness
 9. HUB Subcontracting Plan review
- j. Set-up evaluation team meeting; provide evaluation instruction and distribute bids for review and evaluation
- k. Tabulate the responses and select the vendor that provides best value to the TREC. Include the following information in your tabulation:

1. CMBL vendors contacted, including those supplemented
2. Corresponding response amounts
3. For HUBs, the ethnicity/gender of the SPD Certified HUB
4. Awarded vendor
5. Statement of reasons for non-awards
- l. Keep a record of all responses; Make tabulations available for public inspection and retain the tabulation for inspection during any audit
- m. For contracts, over \$1M, obtain the Ethic's Commission's Certificate of Interested Parties (Form 1295) submitted by the vendor
- n. Print out CMBL Vendor List, Debarred & SAM to verify good standing.
- o. Prepare PCC Checklist
- p. Process the award through issuance of a PO
- q. Obtain Director of Purchasing approval
- r. Issue PO to vendor
- s. Save PO in CAPPS
- t. Post PO to agency website
- u. Post Award on ESBD
- v. Submit contract to LBB
- w. Post contract information on the agency internet site.
- x. Prepare and attach the following to the CAPPS PO:
 1. PCC Checklist
 2. Copy of Pricing Request or IFB sent out
 3. Bid opening date
 4. Bid list (with HUB vendors designated)
 5. Vendors' original responses
 6. Tabulation form including vendor contact name, address and phone number.
 7. Purchase order
 8. Proprietary statement, if needed
 9. SAM and Debarred Listing

6.1 Introduction

The procurement card should be used in accordance to and in compliance with the State of Texas and TREC policy and procedures. The procurement card holder should use the procurement card when a purchase order is not accepted or an expedited procurement process is required.

6.2 How to Obtain a Procurement Card

A procurement card application must be completed and signed by the employee's division director and submitted to the TREC purchasing manager. Once the application form has been received and approved, the employee requesting the procurement card must complete procurement card training.

The employee must successfully complete the training program before a card will be ordered and issued. The purchasing manager will issue the card to the cardholder in person or via express mail when received.

NOTE: At this time only procurement cards will be issued to the Financial Service purchasers only.

6.3 Procurement Card Agreement

Each person assigned a procurement card must sign an Acknowledgement of Receipt Form before activating the card. The form must be immediately returned to the purchasing manager.

6.4 Requirements

- a. All purchases made using the procurement card must be made by the cardholder only.
- b. The cardholder is responsible for the security of the procurement card and the transactions made with it.
- c. The procurement card must be kept in a safe locked location at all times.
- d. The cardholder must use the procurement card for official state business only.
- e. The cardholder can use the procurement card at any vendor or service provider that accepts it, is not on the restricted list, and is in good standing with the State of Texas.
- f. The procurement card may be used for in-store purchases, mail, telephone, or fax orders.
- g. The cardholder may use the procurement card to purchase specific approved items and services less than the established single transaction limit.
- h. The total amount spent must not exceed the credit limit assigned to the procurement card in a given month.
- i. The cardholder must reconcile the statement received from the bank to ensure all charges are accurate.
- j. The procurement card is not intended to avoid or bypass appropriate purchasing or payment procedures.
- k. The procurement card is not for personal use.
- l. The procurement card must be returned to the program administrator before transfer or termination.

NOTE: If TREC's guidelines are not followed by the TREC employee when using the procurement card, disciplinary action, including termination of employment, may occur.

6.5 Credit Limits

All procurement cardholders have a monthly spending limit. Limits may vary for each cardholder and will be established by the State program administrator.

A cardholder maintenance form must be completed to change procurement card limits. The form must be approved by division management and sent to the purchasing manager. The purchasing manager will forward the request to the bank for processing.

6.6 Requisition Submission Requirements

All procurement card transactions must be placed on a purchase order prior to transaction execution. A requisition submitted by a division but not placed on a purchase order is considered an unauthorized purchase unless approved in writing by the purchasing manager.

6.7 Purchase Order Assignments

A purchase order number will be assigned to each procurement card holder. A requisition will be processed by adding the transaction to the purchaser's procurement card purchase order. A new purchase order will be issued each fiscal year and tracked by the procurement card holder using a transaction log.

6.8 Procurement Transaction Verification

A procurement card transaction will be added to the PO with the following line item detail. The quantity and unit of measure should coincide with the purchase. Example: 3 @ \$5.00, extension 15. The credit card transaction will be \$15.00.

VID, Vendor name Description of good or service Receipts attached.
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The procurement card holder will track all purchases on a transaction log for every billing cycle.

Each requisition added to the PO must include the appropriate back-up documentation including but not limited to receipts, PO checklist and vendor check documents. A warrant hold check must be printed and added to the file for all transactions over \$500.

NOTE: The cardholder must obtain a receipt or confirmation for every transaction. The transaction log must be maintained, reconciled and submitted to accounts payables at the end of each billing cycle and with the procurement card monthly statement.

6.8.1 Transaction Log format

Format: Excel – Column, File name: **FY_CC_buyer(lastnamefirst initial)_FY** example:
2020_CC_durdenr

PO Line Item	Transaction Date	Vendor	Description of items purchased	Checklist Attached	Transaction Amount

The transaction logs will be saved on the common drive: Purchasing/ProcCard.

6.8.2 Procurement Card Statement Reconciliation

The procurement card holder must:

- reconcile log with the statement,
- attach the transaction log,
- confirm **all** receipts are attached to the PO line item,
- sign and date the statement, and

- submit all statements to accounts payables within 5 days of receipt.

6.9 Sales and Use Tax

The cardholder must ensure that sales and use tax are not included on the order.

6.10 Capital or Controlled Assets

The procurement card **should not be used to purchase capital or controlled items** unless approved in writing by the Director of Finance. If approved, the correct expenditure object code established for the type of assets being purchased must be used. The Texas Identification Number/Payee Identification Number/Vendor Identification (TIN/PIN/VID) of the selling vendor must be entered into USAS, rather than the TIN/PIN/VID of the state credit card issuer.

6.11 Cardholder Security

The cardholder is responsible for the security of the card. The procurement card should be treated with the same level of care as the cardholder would use with his/her own personal charge cards, even though the liability associated with the use of this card lies with the agency. The cardholder must guard the procurement card account number carefully, keeping it confidential at all times. It should not be posted in a work area, or left in a conspicuous place. It should be kept in an accessible, but secure location.

*The only person authorized to use the procurement card is the cardholder whose name appears on the card. The card is to be used for business purposes only.

6.12 Prohibited Purchases

The card holder may use the card for items specifically identified on the PO. If the item or service is not specifically listed, the procurement card should not be used.

In addition, Per **Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter E, Section 5.57(g)**, a TREC cardholders may not use the card and may not reimburse an officer or employee for the use of a payment card for:

- A purchase of a personal nature or any other purchase not connected with official state business.
- A cash advance
- A purchase of a consulting service
- A purchase of a good or a service that may not be purchased without the prior approval of another state agency
- A purchase that the office of the Texas Comptroller of Public Accounts audits before payment
- A purchase from a vendor if a payment to the vendor is prohibited by:
 - Government Code [§403.055](#) or [§2107.008](#)
 - Education Code [§57.48](#), or [§57.482](#)
 - Family Code [§231.007](#)
- A purchase that violates any provision of the General Appropriations Act regarding the occurrence of excess obligation provisions
- The purchase of automotive fuel

6.13 Liability Requirements

TREC may be liable for late payment fees and transactions charged to lost and stolen cards if lost or stolen cards are not reported immediately. The agency will have no liability for transactions that occur after notification of a card

being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, Customer's liability is limited to a maximum of \$50 per card (up to \$100,000).

If a procurement card is lost or stolen, it is imperative that Citibank be notified immediately by calling 1-800-248-4553. Inform the bank that the card in question is a Texas Real Estate Commission procurement card. Next, notify the Procurement Card Administrator immediately.

The bank will deactivate the old card and send a new one to the program administrator. The cardholder will be notified by email when the new procurement card arrives. TREC will have no liability for transactions that occur after notification of a card being lost or stolen. For unauthorized charges made prior to the card being reported lost or stolen, TREC's liability is limited to a maximum of \$50 per card (up to \$100,000).

6.14 How to Handle Returns, Credits, and Disputed Charges

In the case of a return, credit or dispute of a purchased item, service or other charges, every attempt should be made to first resolve the issue directly with the supplier. Next, ensure that the account is properly credited for the return, credit, and disputed charge in question. The returned, credited, or disputed item should be noted on the Cardholder's Procurement Card Transaction Log.

By rule of the State Comptroller, cardholders are not allowed to receive a cash refund for returned merchandise. All credits or refunds must be applied to the same cardholder account that was used for the original purchase.

- a. **Returns:** If a cardholder needs to return an item to a supplier, contact the supplier and obtain instructions for return. Note that some suppliers may charge a restocking or handling fee for returns. All returns should be indicated in the cardholder's transaction log.
- b. **Credits:** If an item is accepted as a return by the supplier, a credit for this item should appear on a future month's statement. All credits should be indicated in the cardholder's transaction log.
- c. **Disputed Charges:** A cardholder may dispute a charge that appears to be incorrect or is not recognized as part of the authorized purchase. The cardholder should first make a good-faith effort to settle a claim or dispute for purchases directly with the vendor. If an agreement cannot be reached with the vendor, contact Citibank at 800-248-4553 and complete and submit a Citibank Cardholder Dispute Form to Citibank within 60 days of the statement date on which the disputed transaction was posted. All disputed items should be indicated in the cardholder's transaction log. Disputes must be sent to Citibank within 60 days of the billing close date. The closing date for the previous billing cycle is on the 3rd of the next month. The Non Travel Related Dispute form may be requested by the Chargeback Specialist and should only be completed upon their request.

6.15 Reporting of Fraudulent Use of a Procurement Card

- Financial Services, Director of Finance at 512-936-0102

6.16 Employee Separation or Termination

The procurement card must be returned to the program administrator upon the transfer, separation, or termination of employment. The program administrator should deactivate the card immediately upon notification of termination or separation.

The Texas Real Estate Commission's (TREC) has established contract management procedures in compliance with the State of Texas Contract Management Guide (CMG), the State of Texas Procurement Manual and the Department of Information Resources (DIR) rules.

7.1 Conflict of Interest

- A. By statute, any person involved in the development or approval of a contract that has an actual or potential conflict of interest must disclose it and must be removed from involvement in the contract process.
- B. All purchasing staff and other staff involved in contract approval must sign a conflict of interest statement certification.
- C. Each signatory in the workflow approval of a contract, by approving the contract, certifies that he or she:
 1. Has no interest in, or connection with, the contract;
 2. Has not accepted or received, and will not accept or receive, from a person or entity to whom the contract has been awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation; and
 3. Has disclosed any possible conflicts of interest to the Executive Director.
- D. TREC staff that has knowledge of any conflict of interest by any staff involved in the procurement process that has previously not been disclosed must report it to the General Counsel and the Executive Director.
- E. A state agency may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:
 - a) A member of the agency's governing body;
 - b) The governing official, Executive Director; General Counsel, Chief Procurement Officer, or Procurement Director of the agency; or
 - c) Family member related to an employee or official within the second degree by affinity or consanguinity.
 - d) A state agency employee or official has a financial interest in a vendor if the employee or official:
 - owns or controls, directly or indirectly, an ownership interest of at least one percent in the vendor, including the right to share in profits, proceeds, or capital gains; or awarding a contract to the vendor could result in a financial benefit to the employee or official.

- A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

7.2 Steps in the Contract Process

A. Identify Need

The Purchaser will serve as the contract manager and consult with the requesting users to identify a clear understanding of the need. This may involve requesting additional details from the end users, asking for clarification, calling vendors or service providers (vendor), consulting with CPA Statewide Procurement Division (SPD) or Department of Information Resources (DIR), performing research or finding other state approved sources. Obtain a quote or verify a quote received from requesting department;

B. Submission of Purchase Requisition

The requesting department must submit an approved Purchase Requisition in accordance to the memorandum from Chelsea Buchholtz dated 3/27/2020, “Delegation of Authority to Approve Purchases”.

C. Plan the Procurement

Planning the procurement is the first and very important step in Contract Management. The more planning, the less risk and better the solicitation will be to result in a solid contract that can be monitored and managed efficiently. The requesting department will consult with purchasing and legal as necessary, identifying needs and planning accordingly. The senior team members, General Counsel and Executive Director will be involved as deemed appropriate in the initial planning stages of a contract. This will avoid issues later in the process.

D. Perform risk assessment

Once the required services are decided, the Purchaser consults with the requesting department and team members to determine the risk level for the agency and how to minimize risks through contract requirements. Based on the risk level, develop a detailed statement of work with written performance measures that minimizes risk. Contracts requiring enhanced monitoring will be identified during the risk assessment. Risk factors to be considered include, but are not limited to:

1. Type of purchase (competitive/non-competitive)
2. Payment type/structure
3. Dollar amount of the contract
4. Scope of goods/services being procured
5. Vendor Background and Experience

E. Identify Procurement Method

Determine proper procurement method in compliance with the State of Texas Procurement and Contract Management Guide. Prepare competitive solicitation process when required

following procedures set forth in the State of Texas Procurement and Contract Management Guide and DIR's Statement of Work procedures.

F. Prepare a Statement of Work

A Statement of Work (SOW) is used in solicitations to minimize risk by describing in detail what parties are required to do. Including clearly defined performance measure and deliverables in the contract will minimize risk to the agency. The requesting department will assist in developing detailed statement of work, deliverables and performance measures.

G. Evaluation

The Purchaser receives the responses and distributes them to the evaluation team members with an evaluation scoring matrix and a non-disclosure form. The Purchaser ensures that all Evaluation Team Members understand their responsibilities (refer to CMG).

The Evaluation Team meets to review responses. The team may decide to invite vendors to conduct a presentation and discuss their responses in further detail.

H. Negotiate/Best & Final Offer

Negotiate with the vendors to find the best value based on best value standards; Best and Final Offers may be requested from responsive vendors.

An agreement is reached with the other party on the terms of the contract. Certain standard legal terms are non-negotiable.

Purchasing tabulates total scores from the evaluation score sheets completed by each of the Evaluation Team Members.

In some situations, a second evaluation scoring matrix may be required. Purchasing prepares a final Scoring Tabulation and recommends selection of the best vendor in accordance with state purchasing rules.

Best Value Standards

In determining the best value, the purchase price and whether the goods or services meet specifications are generally the most important considerations. When best value is a consideration other factors should be considered such as:

- a. Installation costs;
- b. Life cycle costs;
- c. Quality and reliability of goods and services;
- d. Delivery terms;
- e. Past vendor performance;
- f. Vendor's financial resources and ability to perform;
- g. Vendor's experience, capability or responsibility;
- h. Cost of training associated with a purchase; and
- i. Other factors relevant to determining the best value in the context of a particular purchase.

The best value standard used to determine the award of a contract will be documented on the purchase order or supporting documentation.

The purchaser will acknowledge in writing that the procurement is in compliance with the State of Texas Procurement and Contract Management Guide.

I. Award

- Select the best vendor in accordance with state purchasing rules.
- Present recommendation of award to Commission if approval is required.
- Notify vendor of award. Issue purchase order and/or contract to the awarded vendor.

J. Issuing a Contract

For larger, complex purchases, in addition to a purchase order, it may be appropriate that a contract be written and signed by both parties. The contract is generally drafted by the General Counsel and reviewed by the Purchaser, the Executive Director and other appropriate team members as required for the procurement.

For contracts over \$14,000, a contract routing sheet is completed by the Purchaser and requires approval signatures from the Purchaser, Division Director, Chief Financial Officer, Information Resource Manager, General Counsel, Executive Director and other as required. This ensures all parties have reviewed and approved the contract. Attach all documents related to the purchase request including proposals, quotes, evaluation tabulation sheet, contract documents or agreements needing signature.

All contracts other than a purchase order are reviewed by the General Counsel and signed by the Executive Director binding the agency.

Contracts over \$1M must be signed by the Chair of the Texas Real Estate Commission or Texas Appraiser Licensing & Certification Board.

Two original contracts are sent to the vendor for review and signature. One original is retained by the vendor and one is retained by the agency in the Purchasing office. Electronic copies of the signed contracts are stored in the SSS and DD common drives.

K. Contract Management

Generally, the Purchaser serves as the Contract Manager and is the designated agency staff that has primary responsibilities for the day to day management of contracts, including but not limited to:

- a) Monitoring vendor performance and fiscal, financial and record keeping requirements;
- b) Reporting vendor performance in the Comptroller's Vendor Performance Tracking System;
- c) Taking timely and appropriate action to resolve performance and compliance issues;
- d) Receiving, reviewing and approving deliverables;
- e) Documenting receipt of contract deliverables and communicating acceptance of these deliverables to the appropriate section;
- f) Processing contract modifications, addendums, Purchase Order Change Notices, etc.
- g) Settling contract disputes;
- h) Recommending renewal or non-renewal of the contract;

- i) Handling contract termination and closeout;
- j) Providing complete and accurate contract correspondence and documentation, and;
- k) Attending contract management continuing education to maintain certification as a Certified Texas Contract Manager (CTCM).

For specialized contracts, after a contract has been awarded, the requesting department will:

- a) Apply specialized knowledge, skills, and techniques to support program activities;
- b) Administer and manage daily operations of required services established in contract;
- c) Manage and monitor performance as required in the contract. This may require involvement of the Purchaser should a dispute arise;
- d) Ensure vendor meets required performance objectives defined in the contract;
- e) Oversee delivery and receipt of services;
- f) Certify services were performed and deliverables met; and
- g) Approve invoice for payment, if applicable.

H. Vendor Performance:

After a contract has been completed or terminated, information about that vendor's performance shall be entered into the Comptroller's Vendor Performance Tracking System (VPTS); and

As a part of the closeout process for all purchases over \$25,000, vendor performance information both positive and negative shall be entered into the VPTS.

I. Records Retention of Contracts:

The following is the required retention policy for all purchase order and contract related documentation:

For contracts and purchase orders entered into after 9/1/2015, a state agency shall retain in its records each contract and related documents it enters into for a period of seven (7) years after contract expires, terminated, or is completed, after all issues have been resolved. Along with the contract, all solicitation documents shall also be retained.

For contracts and purchase orders entered into prior to 9/1/2015, the records retention period is four (4) years.

Authority:

Texas Government Code, Title 10, Subtitle F, Chapter 2262 – Statewide Contract Management

PROPOSED RULE ACTION FROM THE NOVEMBER 10, 2020, MEETING OF THE
COMMISSION
CHAPTER 534 GENERAL ADMINISTRATION
(NEW) §534.7. Vendor Protest Procedures

(a) The purpose of this section is to provide a procedure for vendors to protest purchases made by the Texas Real Estate Commission ("Commission") and the Texas Appraisal and Licensing Board (collectively "the agency"). Protests of purchases made by the Texas Facilities Commission ("TFC") on behalf of the agency are addressed in 1 Texas Administrative Code Chapter 111, Subchapter C (relating to Complaints and Dispute Resolution). Protests of purchases made by the Department of Information Resources (DIR) on behalf of the agency are addressed in 1 Texas Administrative Code Chapter 201, §201.1 (relating to Procedures for Vendor Protests and the Negotiation and Mediation of Certain Contract Disputes and Bid Submission, Opening and Tabulation Procedures). Protests of purchases made by the Statewide Procurement Division of the Comptroller of Public Accounts ("CPA") on behalf of the agency are addressed in 34 Texas Administrative Code Chapter 20, Subchapter F, Division 3 (relating to Protests and Appeals). The rules of TFC, DIR, and the CPA are in the Texas Administrative Code, which is on the Internet website of the Office of the Secretary of State, Texas Register Division at: www.sos.state.tx.us/tac/index.shtml.

(b) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the agency. Such protests must be in writing and received in the office of the Director of Finance within ten working days after such aggrieved person knows, or should have known, of the occurrence of the action which is protested. Formal protests must conform to the requirements set forth in subsection (c) of this

section. Copies of the protest must be mailed or delivered by the protesting party to all vendors who have submitted bids or proposals for the contract involved.

(c) A formal protest must be sworn and contain:
(1) a specific identification of the statutory provision(s) that the action complained of is alleged to have violated;

(2) a specific description of each act alleged to have violated the statutory provision(s) identified in paragraph (1) of this subsection;

(3) a precise statement of the relevant facts;

(4) an identification of the issue or issues to be resolved;

(5) argument and authorities in support of the protest; and

(6) a statement that copies of the protest have been mailed or delivered to other identifiable interested parties.

(d) The Director of Finance shall have the authority, prior to appeal to the Executive Director or his or her designee, to settle and resolve the dispute concerning the solicitation or award of a contract. The Director of Finance may solicit written responses to the protest from other interested parties.

(e) If the protest is not resolved by mutual agreement, the Director of Finance will issue a written determination on the protest.

(1) If the Director of Finance determines that no violation of rules or statutes has occurred, he or she shall so inform the protesting party and interested parties by letter which sets forth the reasons for the determination.

(2) If the Director of Finance determines that a violation of the rules or statutes has occurred in a

case where a contract has not been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action.

(3) If the Director of Finance determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action. Such remedial action may include, but is not limited to, declaring the purchase void; reversing the award; and re-advertising the purchase using revised specifications.

(f) The Director of Finance's determination on a protest may be appealed by an interested party to the Executive Director or his or her designee. An appeal of the Director of Finance's determination must be in writing and must be received in the office of the Executive Director or his or her designee no later than ten working days after the date of the Director of Finance's determination. The appeal shall be limited to review of the Director of Finance's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties and must contain an affidavit that such copies have been provided.

(g) The General Counsel shall review the protest, Director of Finance's determination, and the appeal and prepare a written opinion with recommendation to the executive director or his designee. The executive director or his or her designee may, in his or her discretion, refer the matter to TREC at a regularly scheduled open meeting or issue a final written determination.

(h) When a protest has been appealed to the Executive Director or his or her designee under subsection (f) of this section and has been referred to the relevant Commission or Board of TREC by the Executive Director or his or her designee under

subsection (g) of this section, the following requirements shall apply:

(1) Copies of the appeal, responses of interested parties, if any, and General Counsel recommendation shall be mailed to the TREC members and interested parties. Copies of the general counsel's recommendation and responses of interested parties shall be mailed to the appealing party.

(2) All interested parties who wish to make an oral presentation at TREC's open meeting are requested to notify the office General Counsel at least two working days in advance of the open meeting.

(3) TREC may consider oral presentations and written documents presented by staff, the appealing party, and interested parties. The chairman shall set the order and amount of time allowed for presentations.

(4) TREC's determination of the appeal shall be by duly adopted resolution reflected in the minutes of the open meeting and shall be final.

(i) Unless good cause for delay is shown or the Executive Director or his or her designee determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

(j) In the event of a timely protest or appeal under this section, a protestor or appellant may request in writing that the agency not proceed further with the solicitation or with the award of the contract. In support of the request, the protestor or appellant is required to show why a stay is necessary and that harm to the agency will not result from the stay. If the Executive Director determines that it is in the interest of agency not to proceed with the contract, the Executive Director may make such a determination in writing and partially or fully suspend contract activity.

(k) A decision issued either by TREC in open meeting, or in writing by the Executive Director or his or her designee, shall constitute the final administrative action of the agency.

case where a contract has not been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action.

(3) If the Director of Finance determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action. Such remedial action may include, but is not limited to, declaring the purchase void; reversing the award; and re-advertising the purchase using revised specifications.

(f) The Director of Finance's determination on a protest may be appealed by an interested party to the Executive Director or his or her designee. An appeal of the Director of Finance's determination must be in writing and must be received in the office of the Executive Director or his or her designee no later than ten working days after the date of the Director of Finance's determination. The appeal shall be limited to review of the Director of Finance's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties and must contain an affidavit that such copies have been provided.

(g) The General Counsel shall review the protest, Director of Finance's determination, and the appeal and prepare a written opinion with recommendation to the executive director or his designee. The executive director or his or her designee may, in his or her discretion, refer the matter to TREC at a regularly scheduled open meeting or issue a final written determination.

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(1) Copies of the appeal, responses of interested parties, if any, and General Counsel recommendation shall be mailed to the TREC members and interested parties. Copies of the general counsel's recommendation and responses of interested parties shall be mailed to the appealing party.

(2) All interested parties who wish to make an oral presentation at TREC's open meeting are requested to notify the office General Counsel at least two working days in advance of the open meeting.

(3) TREC may consider oral presentations and written documents presented by staff, the appealing party, and interested parties. The chairman shall set the order and amount of time allowed for presentations.

(4) TREC's determination of the appeal shall be by duly adopted resolution reflected in the minutes of the open meeting and shall be final.

(i) Unless good cause for delay is shown or the Executive Director or his or her designee determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

(j) In the event of a timely protest or appeal under this section, a protestor or appellant may request in writing that the agency not proceed further with the solicitation or with the award of the contract. In support of the request, the protestor or appellant is required to show why a stay is necessary and that harm to the agency will not result from the stay. If the Executive Director determines that it is in the interest of agency not to proceed with the contract, the Executive Director may make such a determination in writing and partially or fully suspend contract activity.

(k) A decision issued either by TREC in open meeting, or in writing by the Executive Director or his or her designee, shall constitute the final administrative action of the agency.

6. Audits

- Attach or provide links to any SAO audits of purchasing and contract management functions for FY20-FY21 – None.
- Comptroller post payment or procurement audits for FY20-FY21.

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An Audit of the Texas Real Estate Commission

Audit Report # 329-19-01
October 13, 2020

Glenn Hegar
Texas Comptroller of Public Accounts



Table of Contents

Executive Summary

Purpose and Scope	1
Background	1
Audit Results	1
Key Recommendations	3

Detailed Findings

Payroll Transactions	4
Incorrect State Effective Service Date/Longevity Payment	4
Incorrect Salary Payment Amounts	5
Purchase Transactions	7
Payment Card Transactions	7
Missing Warrant Hold Verification	7
Contract Transactions	7
Incorrect Procurement and Contract Award Process	8
State Auditor’s Office Delegation of Authority for Audit Services Obtained After Contract Award Date	8
Vendor Compliance Verifications Obtained After Contract Award Date	8
Travel Transactions	9
Security	9
Internal Control Structure	9
Fixed Assets	10
Target Analysis	10
Incomplete Direct Deposit Authorization Forms	10

Appendices

Appendix 1 — Objectives, Scope, Methodology, Authority and Team	11
Appendix 2 — Definition of Ratings	13



Executive Summary

Purpose and Scope

The objectives of the Texas Real Estate Commission (Commission) audit were to determine whether:

- Contracts were procured according to applicable state laws and Comptroller requirements.
- Payments were processed according to applicable state laws, Comptroller requirements and statewide automated system guidelines.
- Documentation to support those payments was appropriately maintained.
- Capital and high-risk assets were properly recorded.
- Appropriate security over payments was implemented.

This audit was conducted by the Texas Comptroller of Public Accounts (Comptroller's office), and covers the period from Dec. 1, 2017, through Nov. 30, 2018.

Background

The mission of the Texas Real Estate Commission is to safeguard consumers in matters of real property transactions and valuation services. Together with the Texas Appraiser Licensing and Certification Board, the Commission oversees real estate brokerage, real property appraisals, inspections, home warranties, right-of-way services and timeshares. The agency provides licensing, education, complaint investigation services, and regulation and enforcement of state laws and requirements.

**Texas Real Estate Commission
website**

<https://www.trec.texas.gov/>

Audit Results

The Commission generally complied with the General Appropriations Act (GAA), relevant statutes and Comptroller requirements. Auditors found no issues with purchase or travel transactions, system security, internal control structure or fixed assets. However, the Commission should consider making improvements to its payroll, payment card, contracting and direct deposit form processes.

In the last audit, issued in March 2015, auditors issued two findings related to the controls over expenditure processing. Auditors determined that those control issues were mitigated in the current audit. An overview of audit results is presented in the following table.

Table Summary

Area	Audit Question	Results	Rating
<u>Payroll Transactions</u>	Did payroll transactions comply with the GAA, pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none"> • Incorrect state effective service date/incorrect longevity payment. • Incorrect salary payment amounts. 	Compliant, Findings Issued
Purchase Transactions	Did the purchase transactions comply with the GAA, pertinent statutes and Comptroller requirements?	No issues	Fully Compliant
<u>Payment Card Transactions</u>	Did payment card purchase transactions comply with all pertinent statutes and Comptroller requirements?	Missing warrant hold verification	Compliant, Findings Issued
<u>Contract Transactions</u>	Did contracts and related payments comply with the GAA, pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none"> • State Auditor's Office delegation obtained after contract award date. • Vendor compliance verifications obtained after contract award date. 	Compliant, Findings Issued
Travel Transactions	Did travel transactions comply with the GAA, pertinent statutes and Comptroller requirements?	No issues	Fully Compliant
Security	Are Commission employees who are no longer employed or whose security was revoked properly communicated to the Comptroller's office?	No issues	Fully Compliant
Internal Control Structure	Are Department employees who are no longer employed, or whose security was revoked properly communicated to the Comptroller's Office?	No issues	Fully Compliant
Fixed Assets	Were tested assets in their intended locations and properly reported in the State Property Accounting system?	No issues	Fully Compliant



Area	Audit Question	Results	Rating
<u>Target Analysis – IAT (International ACH Transactions) Report</u>	Did the Commission comply with the federal mandate to properly identify and handle payments involving moving funds internationally?	Incomplete direct deposit authorization forms	Compliant, Findings Issued

Key Recommendations

Auditors made several recommendations to help mitigate risk arising from control weaknesses. Key recommendations include:

- The Commission must enhance its internal controls to prevent incorrect payroll payments. Additionally, the Commission should research and verify prior state service time for employees and ensure all prior service verifications are properly documented, accurate and maintained in the personnel files.
- The Commission must ensure agency staff checks a vendor’s warrant hold status before making any payment card purchases over \$500 and retains a printout of the results in the purchase file.
- The Commission must ensure staff maintains all required contract documents for all procurements and performs all contracting requirements in a timely manner.
- The Commission must ensure all payees who request direct deposit payments submit a completed, signed direct deposit authorization form with the international payment verification question answered.



Detailed Findings

Payroll Transactions

Auditors developed a representative sample totaling \$267,261.23 from a group of 20 employees and 169 payroll transactions to ensure the Commission complied with the GAA, [Texas Payroll/Personnel Resource \(FPP F.027\)](#) and pertinent statutes. Additionally, auditors reviewed a limited sample of 11 voluntary contribution transactions with no exceptions identified. Audit tests revealed the following exceptions in the payroll transactions.

Incorrect State Effective Service Date/Longevity Payment

Auditors identified one employee at the Commission with an incorrect state effective service date. The employee was identified in a report outside the sample that listed prior state service. The error resulted in a \$1,700 underpayment of longevity pay.

The Commission has procedures in place to verify prior state service, including verifying prior service a new hire lists the in the application. At the time of hire, the employee listed the previous state employment on the application and on the Commission's internal prior state service information form.

The Commission stated that while the employee did provide written information about prior state employment, the employee said the work performed was graduate work and might not count toward state service credit.

During the audit, the Commission verified the prior service and made the required entries in CAPPs. The employee was credited with an additional ten years of state service credit, which resulted in the employee being owed an additional \$1,700 in longevity pay. In October 2019, the Commission processed a payroll payment to compensate the employee.

When an agency hires an employee, the agency must research whether the employee has previous state employment. If prior employment exists, the agency must confirm the amount of lifetime service credit and properly record it or risk underpaying longevity pay. See [Texas Payroll/Personnel Resource – Non-Salary Payments – Longevity Pay](#).

In April 2018, the Comptroller's office introduced the [State Employment History Application](#), a secure web-based application to help state human resource officers research state employment history. Because this application was available when the employee was hired, the Commission could have used the application to help determine if prior state of Texas employment existed.

[34 Texas Administrative Code Section 5.40\(c\)\(2\)](#)

Quality control measures. Each state agency must ensure that its internal operating procedures include quality control measures that will detect any underpayment of compensation to a state employee.



Recommendation/Requirement

The Commission should ensure staff follows its internal policies and verifies periods of state employment listed on an application or other applicable form. Additionally, the Commission should consider enhancing its procedures to include the use of the state employment history application during the new hire process to ensure employees receive all eligible state service credit.

Incorrect Salary Payment Amounts

Auditors identified four employees who received incorrect salary payment amounts. Three employees were identified in a report outside of the sample that listed incorrect salary payments and the other employee was identified as part of the sample. Auditors asked the Commission to provide detailed information to help determine how the issues occurred.

One employee received two incorrect salary payments totaling \$4,250 for the pay period ending March 2018. At the time, the employee's monthly salary was \$2,750. Additionally, the incorrect amount paid represented payment for 272 hours in a month where the maximum available work hours were 176. The employee worked a total of 159.5 hours and was eligible for payment of \$2,492.19. This resulted in an overpayment of \$1,757.81, of which \$1,393.52 was the net amount after payroll taxes. The employee terminated employment with the Commission on August 13, 2018. The Commission agreed that the employee was overpaid and stated the second payment was inadvertently paid for the hours already worked instead of the remaining hours to be paid.

The former employee was placed on warrant hold on January 30, 2020, in accordance with [Texas Government Code, Section 403.055\(f\) and \(g\)](#).

Two additional employees appeared on the report because the Commission entered incorrect salary increase amounts in the payroll system that were lower than the amounts they were actually awarded and paid, and so appeared to be overpayments. The Commission entered a salary amount of \$3,800 instead of \$3,825 for one employee, and \$6,750 instead of \$6,800 for the other employee.

The Commission stated that the salaries were entered incorrectly for March 1, 2018, and manually overrode the payroll system and compensated the employees for the May 2018 through August 2018 pay periods. The Commission did not override the system or compensate the employees for the March 2018 or April 2018 pay periods which resulted in auditors concluding that the approval for the increases did not process timely. As a result, the employees were underpaid \$50 and \$100, respectively. In March 2020, the agency processed payroll payments to compensate the employees.

The auditors found that in addition to overriding the system, the Commission entered invalid salary actions for these two employees effective September 1, 2018. The auditors requested personnel action forms to justify the September 1 salary actions that were



entered. However, the Commission provided the correct documentation that supported the March 1 actions, not the September 1 actions, and made clear that the original March 1 salary actions had been approved in a timely manner, not two months after the fact.

It is unclear why the documentation was not provided or given to the appropriate individuals on or before March 1. The transactions would have processed without exception if the correct documentation had been provided at the time the salary actions were entered, making it unnecessary for the Commission to override and manipulate the system.

The final issue was identified in the payroll sample where auditors identified one hourly employee who received payment for nine hours in November 2017 that could not be accounted for. Auditors reviewed the employee's timesheets for the entire duration of employment, July 2017 through May 2018, and were not able to account for the nine hours. This resulted in an overpayment of \$216.

The Commission provided auditors a copy of an internal calendar listing the days and number of hours per day that totaled nine hours as supporting documentation. However, this document did not have an original, dated signature from an employee authorized by the Commission. See [Texas Payroll/Personnel Resource – General Provisions – Required Documentation](#). The Commission stated it lacked sufficient official documentation to substantiate the claim.

The former employee was placed on warrant hold on June 4, 2020, in accordance with [Texas Government Code, Section 403.055\(f\) and \(g\)](#).

Agencies are required to maintain specific documentation to support the legality, propriety and fiscal responsibility of each payment paid from the agency's funds. The Comptroller's office may require the documentation during a post-payment audit, a pre-payment audit or any other time. See [Texas Payroll/Personnel Resource – General Provisions – Required Documentation](#).

Recommendation/Requirement

The Commission must ensure its internal operating procedures include quality control measures that will detect any incorrect compensation payments to a state employee. See [34 Texas Administrative Code Section 5.40\(c\)\(2\)](#). The Comptroller's office also recommends that the Commission implement consistent procedures for processing salary actions to prevent incorrect compensation payments in the future.

[34 Texas Administrative Code Section 5.40\(c\)\(3\)\(C\)](#) requires state agencies to correct any compensation underpayment promptly through a supplemental payroll. The Commission has compensated the employees the underpaid amount and has requested reimbursement for the overpaid amounts.



Purchase Transactions

Auditors developed a representative sample of 40 purchase transactions for \$4,091,674.28 to ensure the Commission complied with the GAA, [eXpendit \(FPP I.005\)](#) and pertinent statutes. Audit tests revealed no exceptions for this group of transactions.

Payment Card Transactions

Auditors developed a representative sample of five purchase transactions using the Commission's payment card and totaling \$6,318.12 to ensure the Commission complied with the GAA, [eXpendit \(FPP I.005\)](#) and pertinent statutes. Audit tests revealed the following exceptions in this group of transactions.

Missing Warrant Hold Verification

Auditors identified four payment card transactions totaling \$6,089.12 where the Commission's employees failed to verify the vendor's warrant hold status before making the payment. The Commission stated that agency staff was not aware that the vendor hold status verification also applied to payment card transactions.

The purchaser must check the warrant hold status of the vendor when a payment card purchase is over \$500. State agencies are required to verify a vendor's hold status for non-emergency payment card payments over \$500 and cannot proceed with a purchase until the warrant hold has been released. [34 Texas Administrative Code Section 5.57\(g\)\(6\)](#) prohibits a state agency from using payment cards for a purchase from a vendor on a warrant hold. See [eXpendit – Restricted Expenditures – Persons Indebted to the State](#).

Recommendation/Requirement

The Commission must check the vendor's warrant hold status before making any payment card purchase over \$500 and must retain the results of the check as evidence in the purchase file.

Contract Transactions

Auditors reviewed two contracts totaling \$135,591.00 and developed a sample of four contract transactions totaling \$31,104.65 to ensure the Commission complied with the GAA, [eXpendit \(FPP I.005\)](#), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. Audit tests revealed the following exceptions for this group of transactions.



Contract	Amount	Type of Service	Procurement Cycle				
			Planning	Procurement Method Determination	Vendor Selection	Contract Formation/Award	Contract Management
Contract A	\$18,000	Information Technology Services	No exceptions	No exceptions	No exceptions	No exceptions	No exceptions
Contract B	\$117,591	Audit Services	No exceptions	State Auditor's Office (SAO) delegation of authority obtained after contract award date	No exceptions	Vendor Compliance Verifications obtained after contract award date	No exceptions

Incorrect Procurement and Contract Award Process

One of the two contracts selected for review did not follow the correct process for documentation required before contract award as noted below.

State Auditor's Office Delegation of Authority for Audit Services Obtained After Contract Award Date

The Commission failed to obtain delegation of authority in a timely manner for one contract. The procurement file contained documentation that the Commission submitted a request for delegation of authority after the audit services contract was signed. The Commission stated this was an oversight and the documentation included instructions for Commission staff to ensure a delegation request is submitted for audit services whenever the contract is renewed or procured.

A state agency may enter into a contract for audit services only if the agency is authorized to contract with a private auditor through a delegation of authority from SAO; the scope of the proposed audit has been submitted to SAO for review and comment; and the services of the private auditor are procured through a competitive selection process in a manner allowed by law. See [Texas Government Code, Section 321.020](#).

Recommendation/Requirement

The Commission must obtain proper delegation of audit service contracts from the SAO. Unless the Commission receives such delegation in writing from SAO, it should not proceed with the solicitation because it may result in a void contract.

Vendor Compliance Verifications Obtained After Contract Award Date

The Commission did not obtain the required System for Award Management (SAM) and vendor warrant hold verification printouts dated before one contract award. The Commission provided documentation that staff completed the verifications, but the documentation date was after the contract execution.



The agency must check the SAM database to verify that the vendor is not excluded from grant or contract participation at the federal level. A contract cannot be awarded to a vendor named on the U.S. Treasury Department, Office of Foreign Assets Control's master list of specially designated nationals and blocked persons (SDN List). See [State of Texas Procurement and Contract Management Guide](#) – SAM Check.

State agencies are required to check the warrant hold status of a vendor if the transaction involves a written contract. [Texas Government Code, Section 2252.903\(a\)](#) requires each state agency to determine whether a payment law prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person before the agency enters into a written contract with that person. The agency must make this determination no earlier than the seventh day before and no later than the date of the contract.

Recommendation/Requirement

The Commission must conduct a vendor contract verification search before any purchase, contract award, extension or renewal, and must make a final check of the SDN List before any contract award to ensure the Commission does not award contracts to any person or vendor whose name appears on the list. The Commission must retain a dated copy of the results from the SAM database as evidence and include it in the procurement file.

The Commission must ensure it performs a warrant hold check according to the [State of Texas Procurement and Contract Management Guide](#) and maintains documentation of all required vendor compliance checks before the contract is executed.

Travel Transactions

Auditors developed a sample of 25 travel transactions totaling \$9,955.37 to ensure the Commission complied with the GAA, [Textravel \(FPP G.005\)](#) and pertinent statutes. Audit tests revealed no exceptions for this group of transactions.

Security

The audit included a security review to identify Commission employees with security access in the Uniform Statewide Accounting System (USAS) or on the voucher signature cards who were no longer employed or whose security had been revoked. The Commission must meet certain deadlines at termination or revocation so security can be revoked in a timely manner. Audit tests revealed no exceptions in these transactions.

Internal Control Structure

The review of the Commission's internal control structure was limited to obtaining reports identifying current users' access. The review did not include tests of existing mitigating controls. The audit tests conducted revealed no exceptions in user access.



Fixed Assets

The audit included a review of a limited number of fixed assets acquired during the audit period to test for accurate reporting and to verify the existence of assets. All assets tested were in their intended locations and properly recorded in the State Property Accounting (SPA) system. Audit tests revealed no exceptions in these transactions.

Target Analysis

Incomplete Direct Deposit Authorization Forms

Auditors reviewed the Commission's procedures to comply with the federal mandate to properly identify and handle payments involving the international transfer of funds.

Of the 10 vendors/employees selected and reviewed, three direct deposit forms on file were not properly completed: two for employees and one for a vendor. Without a properly completed form on file, the Commission was unable to indicate whether state funds were forwarded to a financial institution outside the United States.

The Office of Foreign Assets Control requires all direct deposit payments transmitted outside the United States to be identified and monitored. To avoid potential federal penalties, each state agency must:

- Show due diligence in processing all direct deposit payments.
- When possible, ensure the direct deposit payments it issues to accounts at U.S. financial institutions are not ultimately being transferred to financial institutions outside of the United States.

International automated clearing house transactions (IATs) are payments destined for a financial institution outside of the United States. The Comptroller's office does not participate in IATs. If a payee informs an agency that a payment is destined for a financial institution outside of the United States, the agency may not set up that payee for direct deposit.

Recommendation/Requirement

The Commission must ensure all payees requesting direct deposit payments submit a completed, signed Direct Deposit Authorization form with the international payment verification question answered. The Commission should not process a Direct Deposit Authorization form without the proper, signed form with a completed international payment verification section.



Appendices

Appendix 1 — Objectives, Scope, Methodology, Authority and Team

Audit Objectives

The objectives of this audit were to:

- Ensure payments are documented so a proper audit can be conducted.
- Ensure payment vouchers are processed according to the requirements of any of the following:
 - Uniform Statewide Accounting System (USAS),
 - Uniform Statewide Payroll/Personnel System (USPS),
 - Standardized Payroll/Personnel Reporting System (SPRS),
 - Human Resource Information System (HRIS) or
 - Centralized Accounting and Payroll/Personnel System (CAPPS).
- Verify payments are made in accordance with certain applicable state laws.
- Verify assets are in their intended locations.
- Verify assets are properly recorded for agencies and institutions of higher education that use the State Property Accounting (SPA) system.
- Verify voucher signature cards and systems security during the audit period are consistent with applicable laws, rules and other requirements.

Audit Scope

Auditors reviewed a sample of the Texas Real Estate Commission (Commission) payroll, purchase, procurement and travel transactions that processed through USAS and USPS from Dec. 1, 2017, through Nov. 30, 2018, to determine compliance with applicable state laws.

The Commission received appendices with the full report including a list of the identified errors. Copies of the appendices may be requested through a [Public Information Act](#) inquiry.

Texas law requires the Texas Comptroller of Public Accounts (Comptroller's office) to audit claims submitted for payment through the Comptroller's office. All payment transactions are subject to audit regardless of amount or materiality.

The audit provides a reasonable basis for the findings set forth in this report. The Commission should implement the recommendations listed in the Detailed Findings of this report. It is the Commission's responsibility to seek refunds for all overpayments unless it determines it is not cost effective to do so. If necessary, the Comptroller's office may take the actions set forth in Texas Government Code, Section 403.071(h), to ensure that the Commission's documents comply in the future. The Commission must ensure that the findings discussed in this report are resolved.



Audit Methodology

The Expenditure Audit section uses limited sampling to conduct a post-payment audit, and relies on professional judgment to select areas the auditor considers high risk.

Fieldwork

Each auditor in the Expenditure Audit section approaches each audit with an appropriate level of professional skepticism based on the results of the initial planning procedures.

If an auditor suspects during an audit that fraud, defalcation or intentional misstatement of the facts has occurred, the auditor will meet with his or her supervisor, the Statewide Fiscal Oversight manager, or both, to decide what action or additional procedures would be appropriate.

Audit Authority

State law prohibits the Comptroller's office from paying a claim against a state agency unless the Comptroller's office audits the corresponding voucher.

- Texas Government Code, Sections 403.071(a), 403.078, 2103.004(a)(3).

State law allows the Comptroller's office to audit a payment voucher before or after the Comptroller's office makes a payment in response to that voucher.

- Texas Government Code, Section 403.071(g)-(h).

In addition, state law authorizes the Comptroller's office to conduct pre-payment or post-payment audits on a sample basis.

- Texas Government Code, Sections 403.011(a)(13), 403.079, 2155.324.

Audit Team

Angelica Villafuerte, CGAP, CTCD, Lead Auditor

Melissa Hernandez, CTCD, CTCM

Anna Calzada, CTCD



Appendix 2 — Definition of Ratings

Compliance Areas

Definition	Rating
Agency complied with applicable state requirements and no significant control issues existed.	Fully Compliant
Agency generally complied with applicable state requirements; however, control issues existed that impact the agency's compliance, or minor compliance issues existed.	Compliant, Findings Issued
Agency failed to comply with applicable state requirements.	Noncompliant
Restrictions on auditor's ability to obtain sufficient evidence to complete all aspects of the audit process. Causes of restriction include but are not limited to: <ul style="list-style-type: none"> Lack of appropriate and sufficient evidentiary matter. Restrictions on information provided to auditor. Destruction of records. 	Scope Limitation

Internal Control Structure/Security Areas

Definition	Rating
Agency maintained effective controls over payments.	Fully Compliant
Agency generally maintained effective controls over payments; however, some controls were ineffective or not implemented. These issues are unlikely to interfere with preventing, detecting, or correcting errors or mitigating fraudulent transactions.	Control Weakness Issues Exist
Agency failed to effectively create or implement controls over payments.	Noncompliant

Repeat Finding Icon Definition



This issue was identified during the previous post-payment audit of the agency.

7. Certified Procurement Professionals

- Number of certified purchasing FTEs: 1
Sandra Jones, Lead Purchaser
Certified Texas Contract Developer (CTCD) Certification No. B1331

- Number of certified contract management FTEs: 1
Sandra Jones, Lead Purchaser
Certified Texas Contract Texas Manager (CTCM) Certification No. CTCM0731159

8. Training Projections for the Fiscal Year

- Number of seats needed for CTCD certification courses for FY21: 3
- Number of seats needed for CTCM certification courses for FY21: 3

9. Delegated Purchasing Assessment

Names of personnel with delegated signature authority for proprietary justifications

- Chelsea Buchholtz - Executive Director & Commissioner

Five delegated purchases anticipated to have the highest expenditure for commodities or services (excluding professional services) not available on an existing contract through CPA or DIR for FY21.

- TREC anticipates procuring all purchases and contracts through CPA or DIR in FY 21. No purchases have been identified.

Delegated Purchase	Anticipated Value for FY21	Previous FY Value for same/similar purchase:	Name of current vendor:	Has the agency looked for the item on CPA or DIR contract? (Y/N)