**1. GENERAL ADMINISTRATION**

**1.1** **Purpose**

This guide is an overview of the basics of contract administration and management for Texas State departments involved in the oversight of major contracts, purchases or agreements (contracts) involving the acquisition of goods, services, or both by Texas State. Per UPPS 03.04.08 “Administration and Management of Major Contracts for Goods and Services”, each department charged with oversight of a major contract should develop and document detailed internal contract administration and management processes and procedures to monitor the performance of the contract and Contractor.

A major contract is normally considered one with a term of greater than 1 year and the total contract value for the contract term exceeds $ 100,000. Certain contracts not meeting these parameters may require some amount or degree of contract oversight if it is determined to be in Texas State’s best interest to do so. The amount or degree of contract administration and management oversight required depends on the nature, scope, value, complexity and risk of non-performance to Texas State.

**1.2** **Initiating a Major Contract, Order or Agreement**

Prior to initiating the contract, order or agreement processes, departments must ensure that all Texas State, purchasing and contract compliance requirements are met. The “best value” procurement justification utilized in the selection of the successful Contractor must be documented regardless of whether the services are secured through the issuance of a purchase order or a formalized contract or agreement execution process, or both.

1.2.1 Contracts, purchases and agreements are processed in accordance with [UPPS 03.04.04 “Processing, Approving and Executing Contracts, Purchases and Agreements”](http://www.txstate.edu/effective/upps/upps-03-04-04.html).

1.2.2 Individuals cannot contractually bind Texas State unless specifically authorized (see [UPPS 03.04.02 “Authority to Commit the University”](http://www.txstate.edu/effective/upps/upps-03-04-02.html)).

1.2.3 As part of the pre-award process an authorized department representative should be identified who, upon order award or contract execution, will assume the responsibility to oversee the administration and management of the contract as the department’s contract administrator, or an individual should be identified upon award or execution to assume this responsibility.

**2. GENERAL RESPONSIBILITIES**

**2.1** **Department Contract Administrator (DCA)**

The individual assigned as the DCA has certain responsibilities which may include, but are not limited to, the following:

2.1.1 *Requirements*: Ensure that the Contractor complies with all of the requirements, specifications, terms and conditions of contract. During the pre-award or procurement stage, the development of requirements must be coordinated with the Purchasing or Contract Compliance office, as well as other departments as appropriate. Any ambiguous provisions or requirements must be clarified prior to the initiation of contract. Upon request, the Purchasing or Contract Compliance office in conjunction with the DCA will conduct overview sessions of these requirements.

2.1.2 *Payment Verification*: Ensure that all billed contracted services or items have been received or delivered in accordance with the contract requirements, specifications, and terms and conditions prior to obtaining authorization for payment. Attempt to resolve any disputed invoices in a timely fashion.

2.1.3 *Revenue-Generating Agreements*: If the contract is revenue generating, ensure that all revenue generated pursuant to the terms of the business contract is paid in a timely fashion to Texas State.

**3. DOCUMENTATION AND RECORDS**

**3.1 General**

DCA’s are required to document and maintain information regarding contract records and Contractor performance. This information is kept in accordance with the Texas State record retention schedule.

3.1.1 Any material change or modification to the contract is accomplished through the preparation, processing and execution of a contract amendment or purchase order change notice.

3.1.2 The approval required to change or modify the contract’s specifications, terms or conditions depends on who is authorized to approve it (see UPPS 03.04.02 “Authority to Commit the University”).

**3.2 Performance Files**

The DCA is to prepare a computer file or file folder for each contract administered. If kept in an electronic file, the data should be stored on a departmental shared drive. This practice allows easy access to management information, such as expenditures, contract expirations, and contract renewals by concerned parties. Each contract file should include:

3.2.1 A copy of the executed contract and other pertinent documentation, such as a copy of the original contract request, the contract expiration date, contract renewal options, required insurance forms, deliverable schedule and any other applicable or pertinent information, documents or correspondence related to the contract;

3.2.1 The authorized Contractor representatives contact information, as well as identification of alternate contacts and how to contact them in the event the Contractor representative is unavailable; and,

3.2.3 A log of activities related to the contract, such as substantive communications and actions related to Contractor performance (e.g., both positive & negative).

**3.3 Payment File**

The DCA is to make sure all invoices submitted for payment by the Contractor are reviewed, verified and approved for payment in a timely fashion. Upon completion of the contract the DCA is responsible for coordination of any required contract close-out activities including release of any remaining encumbered funds.

3.3.1 *Proper Payment:*  Prepare a file for invoices related to the contract, and retain a copy of all invoices (with date of receipt noted) in this file for reference. It may also be helpful to prepare a spreadsheet related to contract expenditures. The spreadsheet can be a simple document showing the contract amount encumbered and the deduction for each invoice approved or processed for payment.

3.3.2 Upon receipt of invoice for payment of services performed, forward the invoice in a timely fashion with an approval to pay to Accounts Payable only if there is no unresolved dispute regarding the contractor’s performance and the invoice is substantively correct. This process ensures no interest charges accumulate to the department as a result of the Texas Prompt Payment Law (Texas Govt Code, Chp. 2251).

3.3.3 *Disputed Payments*: Should any invoice be disputed, contact the Contractor and the Accounts Payable Office immediately. For dispute resolution, see Section 4.3 below.

3.3.2 Upon final payment and close-out of the contract, ensure all required contract deliverables have been received and any remaining or unspent funds are unencumbered. This should be completed in a timely manner to release unspent funds for use for other purposes within the current fiscal year, if possible.

**4. SPECIFIC MONITORING OF PERFORMANCE**

**4.1 Fair & Consistent Administration**

The Contractor should be monitored and assessed systematically, consistently and fairly by the DCA to verify compliance to the contract requirements and obligations. The following should be done:

4.1.1 Monitor and document the performance of contracted services accordingly. Attempt to identify and resolve any issues in a timely fashion.

4.1.2 Promptly notify the Contractor of any concerns, issues or non-compliance. Attempt to allow the Contractor a reasonable time to correct any noted deficiencies.

4.1.3 Keep in mind that Texas State is also a party to the contract and it is just as critical that Texas State meet all of its responsibilities and obligations. It is difficult to hold the Contractor accountable for contract performance if Texas State fails to meet material or substantive obligations or responsibilities of its own.

**4.2 Performance Documentation**

Keep copies of all pertinent correspondence with the Contractor.

4.2.1 All communications about the contract or the Contractor should be in writing, or confirmed in writing, with a copy placed in the contract file. This “best practice” better protects the University in the event of legal problems or an audit.

4.2.2 Document the Contractor’s performance, regardless of whether it is exceptional or non-compliant.

**4.3 Resolving Issues or Disputes**

The State of Texas requires contract disputes follow the procedures set forth in Texas Govt Code Chp. 2260 “Resolution of Certain Contract Claims Against the State”.

4.3.1 *Departmental Resolution*: If the assigned DCA experiences a relatively minor problem or difficulty with a Contractor, the DCA should contact the Contractor directly and attempt to informally resolve the problem. This may include failure to perform by the date specified and any unacceptable difference(s) between the contract requirements and the service (or merchandise) received.

The performance or contract compliance issue needs to be documented by the DCA, as well as any steps taken in an attempt to resolve it. The Contractor should be required to reply in writing to the complaint and identify corrective actions taken or provide a corrective action plan. The length of time allowed for a Contractor’s response should consider the urgency of the need to address an issue and the risk of non-performance to Texas State.

4.3.2 *Assistance from the Purchasing or Contract Compliance Departments*: If issues cannot be resolved in an informal fashion to the department’s satisfaction, major problems are encountered during the term of the contract, performance standards not met are habitual, or payment is disputed *for any reason*, immediately contact either the Purchasing or Contract Compliance office as appropriate. Remember, adequate documentation of the issues and the attempts to resolve them in a timely fashion are essential to the resolution of any contract dispute.

4.3.3 The Purchasing or Contract Compliance office, as appropriate, will prepare and transmit official Texas State correspondence to the Contractor, (specifically concerning contract non-compliance or performance).

4.3.4 Letters to Contractors should outline any identified problems related to non-compliance or non-performance and identify the affected contract terms and specifications so that there is no doubt about the issues regarding the performance or delivery of the contacted services. Copies of all official correspondence sent, or Contractor correspondence received, should be sent to all concerned Texas State parties and must be included in the DCA’s contract files.

4.3.5 Timely notification by the DCA to Accounts Payable of instances of Contractor of non-compliance or non-performance is essential to avoid inappropriate payments or accrual of “Prompt Payment” interest.

**5. Additional notes on Contractor insurance**

Questions concerning insurance requirements such as the collection, review, and maintenance of any required certificates of insurance, worker's compensation insurance, and bonds, should be directed to the Office of Environmental Health, Safety and Risk Management (EHS&RM).

**6. Additional contract management resources**

The “State of Texas Contract Management Guide”, prepared by the Texas Procurement and Support Services (TPASS) Division of the State Comptroller’s Office, should be reviewed by individuals tasked by a department with the administration and management of a major service contract. This guide should be considered “best practices” which are identified by the State for contract administration and management.

An online version of the guide is found at:

<http://www.window.state.tx.us/procurement/pub/contractguide/CMG_Version_1.5.pdf>

TPASS also offers contract management training and certification. For more information go to:

 <http://www.window.state.tx.us/procurement/prog/training-cert/cmt/>