



**OFFICE OF PUBLIC UTILITY COUNSEL**  
**Contract Management Handbook**

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## **INTRODUCTION**

The purpose of this Contract Management Handbook, as required by Texas Government Code, §2261.256, is to establish contracting policies and practices consistent with the Comptroller of Public Accounts (CPA) *State of Texas Contract Management Guide (Guide)* and *State of Texas Procurement Manual (Manual)* to be followed by the Office of Public Utility Counsel (OPUC). The activities contained in this document will occur as applicable to a specific contract. The OPUC Contract Management Handbook, *Manual*, and *Guide* are intended to promote the efficient use of resources and to provide transparency and accountability of OPUC's expenditure of public funds.

The contents of this handbook are subject to change. The contents are not intended in any way to grant any entitlement or right to any individual or entity. This handbook does not constitute a basis for contesting any bid, offer, proposal, or contract made, granted or awarded by OPUC.

## **ETHICAL POLICIES AND STANDARDS**

### **Ethics Policy**

A special responsibility is imposed on everyone who is entrusted with the disposition of state funds. State officials and state employees are entrusted with the safety and welfare of the citizenry. In return for their confidence in state government, citizens expect that state employees' private interests will not conflict with public business. It is the policy of OPUC to maintain the highest level of agency and personal standards in the performance of our official duties and to comply with all state laws and policies regarding the ethical behavior of state employees.

Purchasing processes and OPUC employees shall remain independent and free from the perception of impropriety. An OPUC officer or employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties.

### **Conflict of Interest**

Texas Government Code §2261.252 governs OPUC employees or officials who are involved in procurement or in contract management. Texas Government Code §2261.252 requires OPUC employees or officials to disclose potential conflicts of interest. OPUC will evaluate any potential conflicts and eliminate or otherwise adequately address the effect of disclosed conflicts.

Any OPUC employee or official involved in the development, execution, contract management, or approval process of a contract must sign a Conflict of Interest Form for each contract that is entered into certifying that they do not have an actual or reasonably foreseeable conflict of interest. In addition, all purchasing staff and the head of the agency sign an annual Conflict of Interest Statement which states that they must not have an interest in or in any manner be connected with a contract or bid for a purchase of goods or services.

OPUC may not enter into a contract for goods and services with a private vendor with whom the Public Counsel, the Special Counsel, the Director of Administration, and the agency's Certified Contract Specialist has a financial interest as defined in Texas Government Code §2261.252(c). Additionally, OPUC may not enter into a contract for goods and services with a private vendor with whom a family member related to an employee or official described above within the second degree by affinity or consanguinity has a financial interest.

## **CONTRACT MANAGEMENT**

The Contract Management process includes planning, procurement, contract formation and contract execution phases. OPUC utilizes CPA's Contract Management Guide for guidance in achieving contract success. OPUC Contract Management key activities include, but are not limited to:

1. Identifying needs;
2. Analyzing risk;
3. Planning;
4. Creating Scope of Work;
5. Soliciting offers;
6. Evaluating offers;
7. Awarding contracts; and
8. Managing performance.

The Public Counsel approves and signs all purchase orders and contracts. The Public Counsel may delegate to the Special Counsel signature authority consistent with State law through a signed delegation of authority letter. Only the Public Counsel or his/her designee has the authority to bind the agency to a contract or commit agency funds.

## **PURCHASING ACCOUNTABILITY AND STAFF RESPONSIBILITIES**

### **Policy**

OPUC will maintain sound, ethical contracting and procurement practices consistent with state and federal laws. OPUC is committed to transparent procurement procedures that provide for accountability, risk analysis and the prevention of fraud, waste, and abuse of public funds.

The Certified Contract Specialist, the Director of Administration, and the Special Counsel are encouraged to work as a team with each other and with other employees of OPUC to implement this procedure. All OPUC staff working on procurements and/or contracts shall perform their responsibilities with the highest integrity throughout the contract life cycle.

### **Procedures**

The Certified Contract Specialist adheres to the pertinent procedures for contracting and procurement as outlined in:

1. Texas Statutes
2. Texas Administrative and Government Codes
3. State of Texas Procurement Manual
4. State of Texas Contract Management Guide
5. Department of Information Resources (DIR) Rules
6. Federal and State Law
7. General Appropriations Act
8. OPUC Contract Management Guide
9. OPUC Procurement Plan

The Certified Contract Specialist and the Director of Administration have primary responsibility for developing and maintaining internal policies and procedures to maximize purchasing accountability.

### **Certified Contract Specialist Responsibilities**

The Certified Contract Specialist is responsible for overall compliance with procurement laws relating to the purchase of goods and services and compliance with OPUC policies and procedures related to purchasing as well as maintaining proper Certified Texas Procurement Manager (CTPM) and Certified Texas Contract Manager (CTCM) certifications. The Certified Contract Specialist coordinates and manages all aspects of the procurement process for goods and services, and may perform the following functions:

1. Participates in the creation of clearly defined contract deliverables, develops specifications and contract management activities to be performed throughout the procurement process.

2. Performs contract start-up activities.
3. Works with stakeholders within the context of performing ongoing contract management activities to meet contract requirements.
4. Monitors contract activities and measures performance to ensure that OPUC business objectives are met throughout the life of the contract.
5. Establishes, implements, maintains, and manages contract management processes documented in the *Guide*.
6. Manages internal and external communication.
7. Coordinates with the Special Counsel when appropriate.

#### Director of Administration's Responsibilities

The Director of Administration is responsible for budget oversight and overall compliance with state laws applicable to payment processes, and may perform the following functions:

1. Ensures that funds are available for all purchases and contracts.
2. Reviews invoices and payment vouchers.
3. Issues payments and ensures compliance with the Prompt Payment Act.
4. Validates and approves method of finance.
5. Maintains procurement and contract file documents.
6. Maintains records of training and certifications.
7. Coordinates with the Special Counsel when appropriate.

### **CONTRACT MONITORING**

Contract monitoring ensures effective and efficient contract performance in accordance with contract terms and conditions. The type of contract monitoring required is dependent on the dollar value, complexity, or risk level associated with the contract.

## **RISK ANALYSIS PROCEDURE AND IDENTIFICATION OF CONTRACTS THAT REQUIRE ENHANCED MONITORING**

### **Policy**

It is the policy of OPUC to have a procedure for risk assessment to identify procurement contracts for goods or services from a private vendor that require enhanced contract or performance monitoring.

### **Procedure**

OPUC will complete a risk assessment to evaluate whether enhanced contract or performance monitoring may be required for contracts with a value estimated to be greater than \$150,000. For contracts of a lesser value, OPUC may complete a risk assessment to evaluate whether enhanced contract or performance monitoring is indicated.

The risk assessment may consider some or all of the following risk factors as appropriate:

- Cost of the contract
- Complexity of the contract
- Type of contract
- Payment type
- The experience OPUC staff has with the type of procurement
- Time constraints or the expected duration of the contract
- Risk of loss to the agency under the contract
- Risk of fraud, waste, or abuse
- Scope of the goods or services provided
- Availability of agency resources
- Business process impact of failure or delay
- Vendor past performance
- Whether vendor is a foreign or domestic person or entity

Additional risk factors may be considered when appropriate.

The Certified Contract Specialist will notify the Public Counsel immediately of any potential issue or risk that is identified with respect to a contract determined to require enhanced contract monitoring.

This procedure does not apply to a memorandum of understanding, interagency contract, interlocal agreement or a contract for which there is not a cost.

## **CHANGE MANAGEMENT**

Modifications made to any contract are done so through an amendment agreed to and signed by both parties. Contract amendments are required to be associated with the original contract and subject to the competitive process, if required, underlying the original contract.

Substantive changes that require a contract amendment may include, but are not limited to, the following changes:

1. Price
2. Delivery schedule (term)
3. Quantity
4. Scope
5. Terms and Conditions

## **CONTRACT CLOSE-OUT**

The purpose of contract close-out is to verify that both parties to the contract have fulfilled their contractual obligations. Pursuant to Texas Government Code §2155.089 contracts over \$25,000 are reported into the CPA's Vendor Performance Tracking System (VPTS).

## **RECORDS RETENTION**

The following records retention schedule will be followed for all OPUC contracts, leases and agreements:

1. Contracts and purchase orders executed, renewed or amended on or after 9/1/2015 will be retained for a period of seven (7) years after the contract expires, terminates, or is completed or until any litigation issues are resolved.
2. Contracts and purchase orders executed, renewed or amended before 8/31/2015 will be retained for a period of four (4) years after the contract expires, terminates, or is completed or until any litigation issues are resolved.