



# TEXAS LOTTERY COMMISSION

## ADMINISTRATION DIVISION

### PROCEDURE

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<b>Effective Date:</b> February 15, 2023	<b>Approval Date:</b> February 15, 2023	<b>Review Date:</b>

### PROCEDURE NUMBER

AD-SS-PU-039 [Supersedes AD-SS-PU-024 effective September 16, 2020]

### PURPOSE

In accordance with Texas Government Code Section 2261.256, each state agency must develop and comply with a purchasing accountability and risk analysis procedure. This procedure outlines the agency's processes and guidelines for:

- 1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;
- 2) identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and
- 3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

### RESPONSIBILITY

The Contracts Management and Procurement Section of the Administration division has primary responsibility for this procedure.

### PROCEDURE

#### Assessing Risk:

The agency is committed to the prevention of fraud, abuse, and waste. The following is a list of processes, procedures, and guidelines used to assess the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts.

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1. Agency Policy P-001, **Fraud Policy** – The agency has established a fraud policy to enforce controls to aid in the prevention and detection of fraud against the agency. The policy applies to any fraud or suspected fraud involving employees, consultants, vendors, contractors, outside agencies, or persons doing business with the agency or in any relationship with the agency. All employees are expected to report any suspected fraudulent or dishonest acts.
2. Agency Procedure OC-FO-003, **Needs and Risk Assessment** – For each procurement, a comprehensive needs and risk assessment is completed. The needs and risk assessment is a decision-making tool to aid the agency in planning its contracts, evaluating new and current goods and services, and making sound financial decisions. It is used as a benchmark to judge the ongoing effectiveness of the agency’s expenditures and assist in determining actions that would be most beneficial for the agency and/or provide the best value for the State of Texas. The needs and risk assessment is a means to ensure there are clear contracting objectives, assumptions, and constraints. It can help gather data, quantify objectives and outcomes, and highlight the long-term effects of procurement decisions. The needs and risk assessment also identifies how the goods or services will integrate into the agency’s goals and objectives.
3. Agency Procedure AD-SS-PU-032, **Preparing a Request for Proposal** – The framework for conducting a formal procurement, the procedure outlines a number of steps designed to assess the risk of fraud, abuse, or waste in the contractor selection process and contract provisions; these include:
  - Establishing an evaluation committee, made up of subject matter experts, for each procurement.
  - Implementing Non-Disclosure and Conflict of Interest statements for all staff involved in the procurement process;
  - Conducting a financial soundness review of each proposer;
  - Conducting vendor reference checks for each proposer;
  - Ensuring legal review of each procurement and any resulting contract; and
  - Submitting certain procurements to CAT for review.
4. Internal Audit – The agency’s Internal Audit function evaluates the risk of fraud in the agency by conducting an annual risk assessment of all agency activities, and may investigate any suspected fraudulent acts.
5. EthicsPoint Fraud Reporting – EthicsPoint is a comprehensive and anonymous reporting tool to communicate possible fraud, abuse, misconduct, and promote a positive work environment. Addressing these issues early on helps prevent fraud and minimize losses and any potential financial impact to the agency, employees, vendors, and clients.

#### Enhanced Contract Monitoring:

Contract monitoring activities can be conducted in a variety of ways, as long as they are objective and address contract complexity, value, and risk. The agency has established minimum contract monitoring activities for all contracts regardless of risk, which includes:

- **Billing Validation:** Contract sponsors are responsible for reviewing each vendor invoice to determine if the rates and services are the same as allowed by the

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contract, and all supporting documentation (e.g. cost reports and third-party receipts for expenses) is provided. This includes confirmation that the goods and/or services being invoiced have been received and accepted by the agency. Invoices that are incorrect, lacking supporting documentation, or for which the goods/services have not been provided in accordance with the contract, will be disputed.

- **Contract Terms and Conditions:** Contracts Management and Procurement monitors all agency contracts for certain administrative reporting activities. These include vendor reporting of litigation, changes in ownership or financial status, and changes in key personnel.
- **Bonds and Insurance:** Contracts Management and Procurement is responsible for ensuring vendor compliance with all contract provisions for performance bonds and insurance.
- **Reporting Requirements:** Contract sponsors are responsible for ensuring vendor compliance with all contract reporting requirements included in the scope of work/specifications.
- **Receipt and Acceptance of Goods/Services:** Contract sponsors are responsible for ensuring the receipt and acceptance of goods and services in accordance with contract requirements (scope of services) and approval of invoices.

Additional enhanced monitoring (meaning greater frequency or more robust monitoring tools) may be required and will be determined by the administering division. Examples of enhanced monitoring activities may include:

- **On-Site Visit:** Monitoring of vendor facilities, personnel, live operations, service delivery, or other observable characteristics to objectively validate compliance with contract requirements. Site visits are often conducted as part of the procurement process. Contract sponsors are responsible for determining if subsequent site visits are required to ensure continued contract compliance.
- **Team Approach:** A team approach may be used for complex or large contracts. It may include the implementation of a contract management governance framework which includes formal structures to oversee contractors' obligations and objectives and ongoing communication to promote positive performance and adherence to the contract. All representatives of the review team should be on the same page regarding any issues and corrections, sanctions, or remedies.

The agency's contract for Lottery Operations and Services is an extremely large and complex contract with extended terms and extensive deliverables. This contract is integrated with all aspects of the agency's core business function. As such, the agency has determined that enhanced contract monitoring activities performed by a third-party vendor are required. Contract monitoring activities provided by the third-party vendor may include:

- **Deliverable Risk Assessment:** The agency and independent third-party vendor work together to identify and risk rank all contract deliverables. The risk assessment report establishes the compliance monitoring frequency and activities for each deliverable.
- **Compliance Monitoring:** The independent third-party vendor validates and verifies compliance with contract requirements. This monitoring may be conducted as either a site visit, desk review or both.

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Purchasing Accountability:

The agency has established clear levels of purchasing accountability and staff responsibilities related to purchasing. The following list of processes, procedures, and guidelines outline the levels of purchasing accountability and staff responsibilities:

1. Executive Order – Approval authority for all procurements are set forth in an Executive Order for delegated signature authority.
2. Purchasing Manual – Chapter 5 of the **Purchasing Manual**. All divisions purchase goods and/or services for their respective areas, however, three divisions have specific responsibilities and are directly involved in the procurement process every time a purchase is made: Executive, Office of the Controller, and Administration. A description of those divisions and their responsibilities are noted in the Purchasing Manual.
3. Annual Training – The Purchasing, Contracts Management and Procurement, and HUB Sections conduct annual training on the agency's purchasing, contracts, and HUB programs. All agency employees are encouraged to attend; however, training is mandatory for all staff authorized to use the e-requisition system and/or contract sponsors.
4. Evaluation Committee Member Guidelines – An evaluation committee is assigned by the Executive Director for each formal procurement (Request for Procurement, Request for Qualifications, etc.). These guidelines outline the responsibility of each staff person involved in the procurement process.