



Review of Contract Solicitation and Selection Processes

Project #2020.06
July 2021

Executive Summary

We reviewed agency processes and controls over contract solicitation and selection activities for fiscal years 2018 and 2019. The review focused on all executed contracts with a value of more than \$25,000 and included various solicitation procurement methods.

The primary objective of the review was to determine whether the agency's contract solicitation and selection processes ensured compliance with established policies and procedures, as well as applicable requirements, laws, and regulations. We also evaluated timelines associated with key processing milestones.

Overall, we found that controls have been established to provide assurance that the agency's contract solicitation and selection processes comply with established procedures, and applicable requirements, laws, and regulations. Specifically:

- Controls exist to ensure the appropriate procurement method was selected.
- Processes have been developed and implemented to ensure solicitations contained the required information.
- The required values and timelines were met for posting contracts to the appropriate online directories, listings, and registers.
- Minimum vendor qualifications were satisfied in accordance with the evaluation procedures published in the solicitations.

However, we also noted that certain processes should be developed and implemented, or strengthened in some instances, to further ensure the agency's compliance with the established policies and procedures, and applicable requirements, laws, and regulations. For example:

- Existing processes should be strengthened to ensure that the selection of evaluation committee members occurs prior to the receipt of responses for competitive procurements, and non-disclosure forms are consistently signed as required by the agency's contracting policies and procedures.
- A process should be developed and implemented to ensure Vendor Performance Tracking System checks are performed for competitive procurements.
- Controls should be strengthened to ensure requirements are met, and certain best practices are implemented, over the evaluation committee recommendation process for competitive procurements.
- Timelines and goals for processing solicitations should be formalized and measured.

Background

The Texas Water Development Board (TWDB) uses various types of solicitation procurement methods to promote fair competition for contract and grant funds. The primary methods include Requests for Qualification (RFQ), Requests for Proposal (RFP), Requests for Offer (RFO), and Requests for Application (RFA).

Texas state agencies are required to process procurement contracts in accordance with Texas Government Code, Chapter 2155, Chapter 2261, and Chapter 2262. These procurement laws outline certain requirements and restrictions relating to the processing of contract solicitations, including the determination of the appropriate procurement method, evaluation, scoring, and selection. Additionally, the Texas Procurement and Contract Management Guide (TPCMG), published by the Texas Comptroller of Public Accounts (CPA), provides the framework for implementing statutory procurement and contracting requirements¹.

The TWDB Contracting Policies and Procedures outline the agency's internal solicitation and selection policies and procedures to ensure that solicitations are properly approved, published appropriately, and selections are made according to applicable requirements².

Organizationally, the Procurement and Contract Services Division (PCS), in consultation with General Counsel and agency leadership, provides oversight and administration of the solicitation and selection processes for contracts and is responsible for ensuring the agency's continued compliance with the state's procurement laws³. Subject matter experts from the various offices and specific program areas also participate in the solicitation and selection processes.

During fiscal years 2018 and 2019, the agency administered 59 solicitations for contracts with a value of more than \$25,000 consisting of the following procurement methods:

Procurement Method	Number of Procurements	Total
RFQ	32	\$14,860,601.00
RFP	1	\$300,00.00
RFO	6	\$733,466.00
RFA	20	\$7,600,863.80
Total	59	\$23,494,910.80

A sample of eight solicited transactions was selected from the Contract Administration System (CAS) to perform tests to determine whether the agency's contract solicitation and

¹ These procurement laws and TPCM requirements apply to competitive procurement methods, e.g., RFQ, RFO, RFP.

² These requirements apply to all of the agency's solicitation procurement methods, including RFA.

³ Formerly Contract Administration Division.

selection processes ensured compliance with established procedures, requirements, laws, and regulations. The sample included: four RFQ's, one RFP, one RFO, and two RFA's.

During fiscal years 2018 and 2019, the agency administered 26 unsolicited transactions for contracts with a value of more than \$25,000 consisting of the following procurement methods:

Procurement Method	Number of Procurements	Total
DBITS ⁴ Purchase	2	\$158,152.00
DIR ⁵ Contract	2	\$150,000.00
Interagency/Interlocal Contracts	22	\$28,241,051.57
Total	26	\$28,549,203.57

Also, a sample of three unsolicited transactions from the CAS were validated to ensure that a solicitation was not required and in compliance with laws rules and regulations.

The following application was used in administering contracts:

Systems	Description
The Contract Administration System (CAS)	System is used for administering and tracking agency contracts, including those using state grant funds.

Objectives, Scope, and Methodology

Objectives

The objectives of this engagement were to:

1. Determine whether contract solicitation and selection processes ensured compliance with established agency policies and procedures, as well as applicable requirements, laws, and regulations.
2. Identify opportunities to improve efficiency and effectiveness of contract solicitation and selection processes.

⁴ DBITS is a Deliverables-based Information Technology Services master contract that provides project-based IT services and is available for use by state agencies. Therefore, these were processed using a purchase order.

⁵ Department of Information Resources (DIR) contracts, including DBITS, are awarded through an open competitive procurement process, beginning with a formal and public RFO.

Scope and Methodology

The scope of the audit covered fiscal year 2018 and 2019. The audit was limited to contract solicitation and selection activities for executed contracts with a value of more than \$25,000. Applicable requirements were evaluated based on the solicitation procurement method.

The methodology for the audit consisted of a review of the following information:

- TWDB Contracting Policies and Procedures, Oct 2017.
- State of Texas Procurement & Contract Management Guide (Version 1.3), Dec 2019.
- Texas Government Code, Chapters 2155, 2161, 2262.
- Solicitation files, including advertisements, applications, and response documentation.
- Non-disclosure forms and conflict of interest forms.
- Evaluation committee procedures and evaluation scoresheets.
- Contracts and contract initiation forms.
- Contract Administration System (CAS) data.

Tests and procedures included the following:

- Conducted interviews with management and staff.
- Reviewed applicable statutes, rules, and requirements.
- Reviewed state contract guidance, agency policies and procedures, and solicitation files and contracts.
- Tested a sample of solicited transactions and validated compliance with applicable procedures, requirements, laws, and regulation.
- Tested a sample of solicited transactions and documented dates that key processing milestones were met, and deliverables were received.
- Reviewed contract information from the Contract Administration System (CAS).
- Inspected documentation to determine whether controls were operating as designed.

This engagement was conducted in accordance with *Generally Accepted Government Auditing Standards* and the *International Standards for the Professional Practice of Internal Auditing*. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

The audit team consisted of:

Michelle Cooper, CFE, CGAP, CICA

Nicky Carter, CICA

Nicole Campbell, CIA, CISA

Detailed Results

- 1. Existing processes should be strengthened to ensure that the selection of evaluation committee members occurs prior to the receipt of responses for competitive procurements, and non-disclosure forms are consistently signed as required by the agency's contracting policies and procedures.**

The Texas Procurement and Contract Management Guide (TPCMG) states that the selection of evaluation committee members should occur prior to receipt of the responses⁶.

Additionally, the agency's contracting policies and procedures state that reviewers must sign non-disclosure forms prior to receiving applications or responses for review⁷.

Procurement and Contract Services stated that the selection of the individuals to serve on an evaluation committee was hallmarked through the collection of non-disclosure forms and the documentation of those reviewers in the master scoring matrix.

Our review noted that documentation of the date the evaluation committee members received the responses from Procurement and Contract Services was not maintained in the contract file. Therefore, we could not validate whether the evaluation committee members signed their non-disclosure forms prior to receiving the responses. We also noted in one instance a non-disclosure form was not completed for one of three evaluation committee members, and in one instance a non-disclosure form did not include the signed date.

Recommendation

Management should:

- a) Strengthen existing processes to ensure that the selection of the evaluation committee members occurs prior to the receipt of responses for competitive procurements and documentation is maintained.
- b) Strengthen existing processes to ensure that non-disclosure forms are consistently signed, as required by the agency's contracting policies and procedures.

Management Response:

Management agrees with the recommendations and will adopt robust operational processes to ensure evaluation committee members are named prior to the receipt of responses and that supporting documentation, including selection date, is maintained. In addition, management will ensure that signed and dated non-disclosure forms are received and maintained in solicitation files.

Responsible Party: *Rebecca Trevino, Chief Financial Officer*

Implementation Date: *03/01/2022*

⁶ Texas Procurement and Contract Management Guide - Version 1.3 | 73

⁷ TWDB Contracting Policies and Procedures, Chapter 4, Section 4.3 Solicitation and Grant Practices, Requests for Applications, Qualifications, Proposals and other Solicitations, pg. 70

2. A process should be developed and implemented to ensure a Vendor Performance Tracking System check is performed for competitive procurements.

Texas Government Code, Sec. 2262.055(d), and the TPCMG require state agencies to use the vendor performance tracking system (VPTS) to determine whether to award a contract to a vendor reviewed in the tracking system⁸.

Procurement and Contract Services stated they use the vendor performance tracking system for vendors that have been reviewed in the tracking system to ensure that they are eligible for the contract award. However, our review noted that documentation of this check was not maintained in the contract file.

We also noted that the agency's policies and procedures did not address this requirement, and did not provide guidance on the related process for completing the check.

Recommendation

Management should:

- a) Develop and implement a process to ensure a Vendor Performance Tracking System check is performed for competitive procurements to determine whether to award a contract to a vendor reviewed in the tracking system, as applicable.

Management Response:

Management agrees with the recommendation and will develop and implement a Vendor Performance Tracking System process that includes documentation that a vendor performance check is completed. Vendor performance for prior or existing contracts will be considered before awarding additional contracts to any vendor when applicable.

Responsible Party: Rebecca Trevino, Chief Financial Officer

Implementation Date: 03/01/2022

3. Controls should be strengthened to ensure requirements are met and certain best practices are implemented over the evaluation committee recommendation process for competitive procurements.

The TPCMG states that the committee chair will prepare, sign, and date the master scoring matrix. Once that occurs, the committee chair may proceed with a recommendation to either the highest ranked respondent without discussion, or tentatively award to the highest ranked respondent subject to successful completion of negotiations or not award the solicitation⁹.

⁸ Texas Procurement and Contract Management Guide - Version 1.3 | 76

⁹ Texas Procurement and Contract Management Guide - Version 1.3 | 77

The TPCMG also recommends that each committee member review the master scoresheet to verify the accuracy of the scoring¹⁰.

The agency's contracting policies and procedures state that "after the reviewers complete their evaluations, the scores are entered into a master scoresheet by Contract Administration to determine the top ranked applications/respondents¹¹." However, they did not provide guidance regarding the designation of the evaluation committee chair. Additionally, the agency's contracting policies and procedures did not require the chair to sign and date the master scoring matrix. The procedures also did not require that each committee member review the master scoresheet to verify the accuracy of the scoring.

Auditors reviewed evaluation committee documentation and determined that the highest ranked respondents were recommended; however, documentation did not exist to validate that the committee chair signed and dated the master scoring matrix. The agency used a spreadsheet as the master scoring matrix, which did not include a method for documenting a signature. Additionally, documentation did not exist to validate that each committee member reviewed the scoresheet for accuracy.

The TPCMG emphasizes that particular care should be taken to ensure that the raw data is accurately transcribed into the mathematical formulas and that the mathematical formulas are properly loaded into electronic spreadsheets/workbooks when such electronic aids are used.

Recommendation

Management should:

- a) Strengthen controls over the evaluation committee recommendation process for competitive procurements to ensure the committee chair signs and dates the master scoring matrix, and evaluation committee members review the scoresheet for accuracy as a best practice.

Management Response:

Management agrees with the recommendation and will strengthen controls over the evaluation committee recommendation process to ensure the committee chair signs and dates the master scoring matrix as applicable. In addition, evidence will be maintained that the evaluation committee members review the scoring.

Responsible Party: Rebecca Trevino, Chief Financial Officer

Implementation Date: 03/01/2022

¹⁰ Texas Procurement and Contract Management Guide - Version 1.3 | 77

¹¹ TWDB Contracting Policies and Procedures, Chapter 4, Section 4.3 Solicitation and Grant Practices, Requests for Applications, Qualifications, Proposals and other Solicitations, pg. 70

4. Timelines and goals for processing solicitations should be formalized and measured.

Solicitation and evaluation documents, as well as date information recorded in the Contract Administration System (CAS), was reviewed in order to gauge the progress and achievement of critical milestones relating to the agency's solicitation and selection processes.

Our review attempted to calculate the total number of days from drafting the solicitation to the final scoring, ranking, and selection of the response. However, a determination of the length of time taken could not be quantified, as the dates the draft solicitation began were not recorded.

While the agency's contracting policies and procedures did not specify timelines or goals for processing solicitations, the TPCMG includes a procurement lead time template to assist with documenting timelines and goals expected for each milestone task that occurs during the planning process¹². The guide also states that an internal calendar of events must be included in the acquisition plan or other procurement monitoring tool. This calendar should include the milestone dates of activities or events occurring pre- and post- solicitation identified by the agency to be critical to the success of the procurement, and should be used as a gauge to keep the procurement on schedule¹³.

The agency included a schedule of events in each solicitation. The schedule of events varied, but in general, listed the expected dates for certain critical milestone dates of activities or events, such as the expected date of award of contract and the expected contract start date.

To gauge whether solicitations were processed on schedule, we evaluated the expected contract start date in each solicitation's schedule of events to the actual date that milestone was reached by comparing the date documented on the contract initiation form to the same date recorded in the Contract Administration System (CAS) for accuracy and consistency.

Our review found that contract initiation forms were not always completed in a consistent manner. For example, not all dates were documented, and a specific date was not always listed on the form. We also noted instances where the dates documented on the forms did not match the same date recorded in CAS.

The TPCMG lead time template recommends approximately 39 days for the portion of the solicitation process from "response deadline" to contract execution". However, we noted that five of the six competitive procurements reviewed took over the recommended 39 days from the response deadline to contract execution. Additionally, we noted that the two RFA's reviewed, though not subject to TPCMG guidelines, took an average of 139 days from the response deadline to contract execution.

¹² Texas Procurement and Contract Management Guide - Version 1.3 | 47

¹³ Texas Procurement and Contract Management Guide - Version 1.3 | 48

The agency's contract policies and procedures did not define the specific activities or events that represent a certain date for critical milestones. Without a clear definition of which dates are representative of each critical milestone, staff may interpret and document the critical milestone dates differently, which prevents accurate and meaningful measurement of progress made toward timelines and goals.

Recommendation

Management should:

- a) Establish and document formal timelines and performance goals for processing solicitations.
- b) Develop and implement a process to consistently measure the formal metrics in order to gauge progress and achievement. This should include (1) ensuring contract documentation, and data in CAS, are completed and entered in a consistent manner to strengthen the integrity of the information, and (2) defining critical milestone dates and communicating the information to the appropriate staff.

Management Response:

TWDB initiates both simple and complex solicitations. Regardless of the complexity, Management agrees that solicitation timelines should be established and documented during a planning phase. This practice will be defined and included in the agencies policies and procedures. Management will ensure that solicitations include defined timelines and critical milestones and will develop a process to modify timelines if appropriate. Training and standard communication methods will be adopted to ensure stakeholders have clear information regarding expected timelines. Formal documentation will be enhanced, maintained, and entered accurately and consistently to ensure performance metrics are captured and monitored.

Responsible Party: Rebecca Trevino, Chief Financial Officer

Implementation Date: 03/01/2022

Closing

We would like to express our appreciation to all of the management and personnel for their cooperation and assistance provided to the internal audit staff during this review. For questions or additional information concerning this report, please contact Nicole Campbell at (512) 463-7978.

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