

State of Michigan  
Administrative Guide to State Government

**POLICY 0510 Purchasing**

Issued: October 4, 1993  
Reviewed: January 9, 2012  
Revised: May 1, 2017

Executive Branch Departments and Sub-units shall acquire supplies, materials, services, insurance, utilities, third-party financing, equipment, printing or any other item for which the Legislature has not otherwise expressly provided, in compliance with applicable statutory and regulatory requirements concerning procurement. Procedures are being incorporated into the new Michigan Procurement Policy Manual.

Management and Budget Act, Public Act 431 of 1984, as amended, §261-264.

Michigan Procurement Policy Manual

- Chapter 1: Introduction and Overview of the Michigan Procurement Manual  
([http://www.michigan.gov/documents/micontractconnect/Chapter\\_1\\_\\_Introduction\\_and\\_Overview\\_of\\_the\\_Michigan\\_Procurement\\_Manual\\_512141\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_1__Introduction_and_Overview_of_the_Michigan_Procurement_Manual_512141_7.pdf))
- Chapter 2: Organizational Structure, Roles and Responsibilities, and Delegated Authority  
([http://www.michigan.gov/documents/micontractconnect/Chapter\\_2\\_526729\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_2_526729_7.pdf))
- Chapter 3: Strategic Sourcing and Category Management  
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- Chapter 4: Analyze the Need  
([http://www.michigan.gov/documents/micontractconnect/Chapter\\_4\\_Analyze\\_the\\_Need\\_561185\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_4_Analyze_the_Need_561185_7.pdf))
- Chapter 5: Pre-Solicitation  
([http://www.michigan.gov/documents/micontractconnect/Chapter\\_5\\_-\\_Pre-Solicitation\\_512068\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_5_-_Pre-Solicitation_512068_7.pdf))
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- Chapter 8: Evaluation and Negotiation  
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- Chapter 9: Award, Debrief, Protest, State Administrative Board  
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- Chapter 10: Contracting  
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- Chapter 11: Authorization to Begin Performance, Review and Acceptance, Invoicing and Payment  
([http://michigan.gov/documents/micontractconnect/Chapter\\_11\\_-\\_Performance\\_Review\\_Acceptance\\_Invoicing\\_Payment\\_512139\\_7.pdf](http://michigan.gov/documents/micontractconnect/Chapter_11_-_Performance_Review_Acceptance_Invoicing_Payment_512139_7.pdf))
- Chapter 12: Contract Management  
([http://www.michigan.gov/documents/micontractconnect/Chapter\\_12\\_-\\_Contract\\_Management\\_516308\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_12_-_Contract_Management_516308_7.pdf))
- Chapter 14: Training and Professional Development  
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State of Michigan  
Michigan Procurement Policy Manual

Issued: 09/16/2015  
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## CHAPTER 1 Introduction and Overview of the Michigan Procurement Policy Manual (MPPM)

### 1.1 General Overview

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#### 1.1.1 Management and Budget Act

Public Act 431 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-431-of-1984>), the Management and Budget Act, establishes the Department of Technology, Management & Budget (DTMB) as the unit of state government charged with providing centralized administrative purchasing services. See MCL 18.1101-1594 of The Management and Budget Act, Public Act 431 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-431-of-1984>).

#### 1.1.2 Department of Technology, Management and Budget – Central Procurement Services

The DTMB created Central Procurement Services to provide for the purchase and contracting of all items needed by state agencies. Central Procurement Services has the responsibility, in partnership with and in support of department and agency business needs, goals, and mission, to identify and carry out the state of Michigan's procurement laws, rules and regulations, objectives, policy, processes, procedures, training and other programs necessary to effectively and efficiently transact business as required under Public Act 431 of 1984.

### 1.2 Purpose and Application of the Michigan Procurement Policy Manual

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#### 1.2.1 Purpose

The Michigan Procurement Policy Manual (MPPM) is designed to provide various stakeholders, including procurement professionals, end users, contractors, and taxpayers, a transparent and enterprise-wide standardized procurement policy and process. The MPPM is the official source of policy for all purchases made pursuant to Public Act 431 of 1984.

#### 1.2.2 Deviations from Michigan Procurement Policy Manual

In limited situations, a deviation from the MPPM may be necessary where the prescribed policy or procedure is not appropriate. To maintain standardization of process, any deviation must be pre-approved by the Chief Procurement Officer, or a designee. A request for approval of a deviation must be requested by the state entity's procurement executive. The deviation request and approval must be documented.

Department policy must be approved by the Chief Procurement Officer, or a designee.

### **1.2.3 Michigan Procurement Policy Manual Revision Process and Communication**

The MPPM will be updated annually, unless immediate action is required. The procedure for updating the manual will include circulating proposed changes with the Procurement Leadership Team, and through the Administrative Guide review process. Revisions will be posted on the State's public-facing website at the Administrative Guide to State Government ([https://www.michigan.gov/dtmb/0,5552,7-358-82547\\_9347---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82547_9347---,00.html)) and on the intranet at Procurement (<https://stateofmichigan.sharepoint.com/teams/insidemil/for-your-job/purchasing>).

### **1.2.4 Questions**

Questions or comments concerning the MPPM should be addressed to Central Procurement Services at:

Central Procurement Services  
Department of Technology, Management & Budget  
PO Box 30026  
525 West Allegan St.  
Lansing, MI 48909  
517-284-7000  
855-647-8724  
Email: [DTMB-Procurement-General-Correspondence@michigan.gov](mailto:DTMB-Procurement-General-Correspondence@michigan.gov)

### **1.2.5 General Information**

Hyperlinks are imbedded throughout this document. If you find a hyperlink that is not active, please email [DTMB-Procurement-General-Correspondence@michigan.gov](mailto:DTMB-Procurement-General-Correspondence@michigan.gov).

## **1.3 Michigan Laws Impacting Procurement**

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### **1.3.1 Michigan Based Business**

All other things being equal, the state of Michigan must give preference to products manufactured or services offered by Michigan-based firms. See MCL Section 18.1261 (<http://legislature.mi.gov/doc.aspx?mcl-18-1261>) and Section 18.1268 (<http://legislature.mi.gov/doc.aspx?mcl-18-1268>).

### **1.3.2 Clean Corporate Citizen**

All other things being equal, the state of Michigan must give preference to products manufactured or services offered by facilities designated as clean corporate citizen under part 14 of the natural resources and environmental protection act. See MCL Section 18.1261 (<http://legislature.mi.gov/doc.aspx?mcl-18-1261>) and Section 18.1268 (<http://legislature.mi.gov/doc.aspx?mcl-18-1268>).

### **1.3.3 Biobased Products**

All other things being equal, the state of Michigan must give preference to biobased products whose content is sourced in this state. See MCL Section 18.1261 (<http://legislature.mi.gov/doc.aspx?mcl-18-1261>).

#### **1.3.4 Reciprocal Preference**

If a low bid for a State procurement exceeds \$100,000, and is from a business located in a state that applies a preference against out of state businesses, State of Michigan Procurement must prefer a bid from a Michigan business that meets the criteria in MCL Section 18.1268 (<http://legislature.mi.gov/doc.aspx?mcl-18-1268>) in the same manner in which the out-of-state bidder would be preferred in its home state.

#### **1.3.5 Assistance to Local Units of Government**

State of Michigan Procurement assists, on a fee basis, local units of government (i.e., a city, village, county, township, school district, intermediate school district, nonprofit hospital, institution of higher education or community college, recognized Indian Tribes, and certain designated authorities (a "MiDEAL" member) through extending of State contracts ("Extended Purchasing"). See MCL Section 18.1263 (<http://legislature.mi.gov/doc.aspx?mcl-18-1263>).

Additional information, such as a list of available contracts, and instructions on how to become a member are available on the MiDEAL Extended Purchasing Program internet site (<https://www.michigan.gov/localgov/>).

#### **1.3.6 Qualified Service-Disabled Veteran-Owned Businesses**

It is the goal of the State to award 5% of total state expenditures for construction, goods, and services to qualified service-disabled veteran-owned businesses. The State provides a 10% pricing preference for businesses owned by qualified-disabled veterans. See MCL Section 18.1241 (<http://legislature.mi.gov/doc.aspx?mcl-18-1241>) and Section 18.1261 (<http://legislature.mi.gov/doc.aspx?mcl-18-1261>).

#### **1.3.7 Recycled Supplies, Materials, and Equipment**

20% of all supplies, materials and equipment purchased by the State must be made from recycled materials if there is a readily identifiable source or market, and the cost does not exceed 110% of supplies, materials, and equipment not containing recycled materials. "Recycled materials" includes recycled paper products, structural materials made from recycled plastics, refined lubricating oils, reclaimed solvents, recycled asphalt and concrete, recycled glass products, retreaded tires, and ferrous and nonferrous metals containing recycled scrap metals. See MCL Section 18.1261a (<http://legislature.mi.gov/doc.aspx?mcl-18-1261a>).

#### **1.3.8 Recycled Paper**

50% of the total paper purchased must be made from recycled paper if the cost is not greater than 110% of the cost of paper that does not contain recycled fibers. The State must give preference to wood or paper products that derive from sustainably managed forests or procurement systems that are certified by an independent third party using an identified certificate program. See MCL Section 18.1261b (<http://legislature.mi.gov/doc.aspx?mcl-18-1261b>) and Section 18.1261c (<http://legislature.mi.gov/doc.aspx?mcl-18-1261c>).

### **1.3.9 Products Containing Mercury or Mercury Compounds**

If cost effective, the State will purchase products that do not contain mercury or mercury compounds over those that do. See MCL Section 18.1261d (<http://legislature.mi.gov/doc.aspx?mcl-18-1261d>).

### **1.3.10 Prequalified Vendors**

The State may limit a solicitation to prequalified vendors to meet statutory or licensing requirements applying to the solicitation or when the time necessary to verify vendor qualification would jeopardize timely award of contracts. In those cases, the State may screen potential vendors on a variety of factors including ability, expertise, experience, willingness to accept the State's legal terms, etc. Upon such prequalification, the State may solicit goods or services from that pool of vendors. See MCL Section 18.1262 (<http://legislature.mi.gov/doc.aspx?mcl-18-1262>).

### **1.3.11 Community Rehabilitation Organizations – Preferred Status for Certain Procurements**

To advance the employment of people with disabilities, community rehabilitation organizations have preferred status for the procurement of certain goods or services. A community rehabilitation organization is defined as a nonprofit charitable organization or institution incorporated in the state of Michigan that is operated to carry out a recognized program of employment and training services for people with disabilities.

A committee within the Department of Technology, Management and Budget coordinates and monitor the implementation of the Community Rehabilitation program. See MCL Section 18.1293 (<http://legislature.mi.gov/doc.aspx?mcl-18-1293>), MCL Section 18.1294 (<http://legislature.mi.gov/doc.aspx?mcl-18-1294>), and the Operations Manual ([https://www.michigan.gov/documents/micontractconnect/CRO\\_Operations\\_Manual\\_8-14-2012\\_395134\\_7.pdf](https://www.michigan.gov/documents/micontractconnect/CRO_Operations_Manual_8-14-2012_395134_7.pdf)).

### **1.3.12 Prevailing Wage**

If a project involves employing construction mechanics (e.g., asbestos, hazardous material handling, boilermaker, carpenter, cement mason, electrician, office reconstruction and installation, laborer including cleaning debris, scraping floors, or sweeping floors in construction areas, etc.) and is sponsored or financed in whole or in part by State funds, Public Act 166 of 1965 (<http://legislature.mi.gov/doc.aspx?mcl-Act-166-of-1965>) may apply. Additional information on the requirements of prevailing wage can be found on the Department of Licensing and Regulatory Affairs, Wage and Hour Division website (<https://www.michigan.gov/lara/0,4601,7-154-59886---,00.html>).

### **1.3.13 State Printing Act**

All businesses performing printing services (excluding legal publications ordered for or by elected state officers) must meet one of the following conditions (a) bear the label of the branch of the allied printing trades council of the locality in which it is printed; (b) have on file with the secretary of state, a sworn statement indicating that employees producing the printing are receiving the prevailing wage rate in the locality in which the work is performed; or (c) have a collective bargaining agreement in effect formed by an organization that is not

in any way influenced or controlled by management. See MCL Section 24.61 (<http://legislature.mi.gov/doc.aspx?mcl-24-61>) and Section 24.62 (<http://legislature.mi.gov/doc.aspx?mcl-24-62>).

#### **1.3.14 Iran Economic Sanctions Act**

The Iran Economic Sanctions Act requires any bidder submitting a proposal in response to a request for proposal to certify that it is not an Iran linked business. See MCL 129.311-316 of Public Act 517 of 2012 (<http://legislature.mi.gov/doc.aspx?mcl-Act-517-of-2012>).

#### **1.3.15 Prompt Payment Act**

The State will take all steps necessary to pay a contractor within 45 days after receipt of an undisputed invoice. Past due payments will be paid at no more than 0.75% of the payment due for the first month and each succeeding month or portion of a month the payment remains due. See Sections 17.51-57 Public Act 279 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-279-of-1984>).

#### **1.3.16 State Administrative Board**

Public Act 2 of 1921 (<http://legislature.mi.gov/doc.aspx?mcl-Act-2-of-1921>) the State Administrative Board Act, created the State Administrative Board. The Board exercises general supervisory control over the functions and activities of all administrative departments, State officers, boards, commissions and State institutions (agencies) for approval of funds, expenditures, including contracts, grants and leases; oversight of the State capital outlay process; claims against the state less than \$1,000; and approval of contracts for intellectual property. The Board functions through three standing committees that make recommendations to the Board. The standing committees are: (1) Finance and Claims (F&C); (2) Building; and (3) Transportation and Natural Resources (TNR). The Board and its committees meet at least twice a month, usually on alternate weeks. The expenditure threshold for Board approval of procurement contracts and grants is currently set by Board resolution at \$500,000 for contracts (with some exceptions) and \$250,000 for grants. Additional information about the Board can be found on the Contract Connect / State Administrative Board website ([https://www.michigan.gov/dtmb/0,5552,7-358-82550\\_85746\\_48756---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82550_85746_48756---,00.html)).

#### **1.3.17 Records Maintenance, Inspection, Examination and Audits**

Contracts for services must contain a requirement that the State and the auditor general, or their designees, may audit a contractor during the term of the contract and for three years after the later of the expiration or the final payment, to verify compliance with the contract. Additionally, the contract must indicate that the financial and accounting records associated with the contract must be provided upon request. See MCL Section 18.1470 (<http://legislature.mi.gov/doc.aspx?mcl-18-1470>).

#### **1.3.18 Nondiscrimination**

All State contracts must contain a nondiscrimination clause with reference to Public Act 453 of 1976 Elliott Larsen Civil Rights Act (<http://legislature.mi.gov/doc.aspx?mcl-Act-453-of-1976>) and Public Act 220 of 1976 Persons with Disabilities Civil Rights Act (<http://legislature.mi.gov/doc.aspx?mcl-Act-220-of-1976>).

### **1.3.19 Unfair Labor Practice**

The State may void any contract with a supplier, including a subcontractor who appears on the Unfair Labor Practice register. See MCL Section 423.324 (<http://legislature.mi.gov/doc.aspx?mcl-423-324>) of Public Act 278 of 1980 State Contracts with Certain Employers Prohibited.

### **1.3.20 Freedom of Information Act**

Public Act 442 of 1976 (<http://legislature.mi.gov/doc.aspx?mcl-Act-442-of-1976>), the Michigan Freedom of Information act (FOIA), allows a person to inspect, copy or receive a copy of nonexempt public record. Additional information on the FOIA or how to submit a FOIA request can be found on the Contract Connect / FOIA Request to Obtain Contract Information website( [https://www.michigan.gov/dtmb/0,5552,7-358-82550\\_85746\\_48677-57230--,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82550_85746_48677-57230--,00.html)). See Public Act 442 of 1976 (<http://legislature.mi.gov/doc.aspx?mcl-Act-442-of-1976>) MCL Section 15.231-246.

## **1.4 Ethical Standards and Professional Conduct for Purchasing Professionals**

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### **1.4.1 Purchasing Professional Defined**

A Purchasing Professional is any State employee issuing contracts, including issuing purchase orders and making sourcing decisions (a "Purchasing Professional").

### **1.4.2 Ethical Standards and Professional Conduct for Purchasing Professionals**

All State employees must adhere to the ethical conduct rules established by the Civil Service Commission Rules ([https://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](https://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)) in Rule 2-8 Ethical Standards and Conduct, and Public Act 196 of 1973 (<http://legislature.mi.gov/doc.aspx?mcl-Act-196-of-1973>). A Purchasing Professional must, at all times, avoid the appearance of impropriety and unethical conduct. In addition to civil service rules and Public Act 196 of 1973, and determination made by the Chief Procurement Officer under the authority of Public Act 431 of 1984, Purchasing Professionals must not do any of the following:

- (1) Disclose, for financial gain for the Purchasing Professional or Purchasing Professional's grandparent, parent, parent-in-law, stepparent, sibling, spouse, child, or stepchild ("**Immediate Family**"), any confidential information that is not available to members of the general public.
- (2) Engage in or agree to engage in, for financial gain for the Purchasing Professional or a member of the Purchasing Professional's Immediate Family, any business transaction or private arrangement that accrues from or is based on the Purchasing Professional's official position or on confidential information gained by reason of the Purchasing Professional's position.
- (3) Solicit, accept, or agree to accept anything, including but not limited to a gift, money, loan, or meal of any kind, that is offered by an individual employed by, or directly or indirectly representing, any of the following:



- (a) A business, entity, or person that has a contract with the State that the Purchasing Professional had or has the authority to (1) award or recommend the award, extension, or renewal of the contract or (2) approve or authorize any payments under the contract.
  - (b) A business, entity, or person that is seeking a contract with the State for which the Purchasing Professional, as a part of the Purchasing Professional's official duties, had or has (1) the authority to develop, recommend, or approve the contract specifications or (2) the authority to recommend the purchase or award of the contract.
  - (c) A business, entity, or person that performs work for the State that is inspected or approved by the Purchasing Professional.
  - (d) A business, entity, or person whose financial records are audited by the Purchasing Professional.
  - (e) An employee or representative of a trade association if any member of the association is a business or entity described in subsections (a) through (d).
  - (f) A lobbyist who represents any business, entity, or person described in subsections (a) through (d).
- (4) Solicit, accept, or agree to accept anything under any circumstances that could reasonably be expected to influence the manner in which the Purchasing Professional performs work or makes decisions.
  - (5) Make available any consideration, treatment, advantage, or favor beyond that which is generally granted or made available to others under similar circumstances.
  - (6) Represent or act as an agent for any private interests, whether for compensation or otherwise, in any transaction in which the state has a direct and substantial interest and which could reasonably be expected to result in a conflict between the Purchasing Professional's private interests and official state responsibilities.
  - (7) Exercise any decision-making authority of the state regarding any purchasing with respect to any business or entity in which the Purchasing Professional or a member of the Purchasing Professional's Immediate Family has any financial interest.
  - (8) Fail to timely, fully, and accurately report, to the Purchasing Professional's procurement executive, pursuant to Section 1.4.3 annual Disclosure of Interest ([https://www.michigan.gov/documents/CS-1783\\_Disclosure\\_of\\_Interest\\_69421\\_7.pdf](https://www.michigan.gov/documents/CS-1783_Disclosure_of_Interest_69421_7.pdf)), any interest of the Purchasing Professional or the Purchasing Professional's Immediate Family in any business or entity with which the Purchasing Professional has direct contact while performing official duties.
  - (9) Accept or attend any entertainment venue, the expense of which is paid in whole or in part by a business, entity, or individual employed by, or directly or indirectly representing the entities identified in 3(a) – (f). Examples include, but are not limited to, golf outings, sporting events, non-work related conferences.

(10) Attend a conference or training session, the expense of which is paid in whole or in part, by a business, entity, or person identified in 3(a) – (f), unless all of the following are met:

- i. The Purchasing Professional's attendance is primarily for the benefit of the state.
- ii. The expenses paid are only meal expenses, which if paid by the Purchasing Professional, would be reimbursable items under the state of Michigan's standardized travel regulations. Travel and lodging expenses for a conference or training session must be approved and paid by the state of Michigan pursuant to the state of Michigan's standard travel regulations.
- iii. The Purchasing Professional's procurement executive determines that paid attendance would not reasonably be expected to improperly influence how the Purchasing Professional performs work or makes decisions.

A Purchasing Professional may accept *advertising items* (contractor promotional items that contain contractor logo) that have a fair market value of less than \$20.00. The aggregate fair market value of any advertising items must not exceed \$80.00 in any three-month period. The \$80.00 limit is an aggregate cap across all advertising items, from any combination of vendors. Any item that does not have a company logo on it is considered a gift and cannot be accepted. The Purchasing Professional must utilize due diligence in the determination of the value of the advertising item. If assistance is needed in determining due diligence, the Purchasing Professional can contact the procurement executive or Central Procurement Services.

Purchasing Professionals must not accept samples from contractors outside of the solicitation or contracting process. Any sample received during the solicitation or contracting process becomes a part of the contract file. Samples received outside of the solicitation or contracting process are considered a gift and must not be accepted.

#### **1.4.3 Annual Disclosure Statement**

All Purchasing Professionals must, at least annually, in addition to any agency reporting requirements, complete and submit the annual Disclosure of Interest ([https://www.michigan.gov/documents/CS-1783\\_Disclosure\\_of\\_Interest\\_69421\\_7.pdf](https://www.michigan.gov/documents/CS-1783_Disclosure_of_Interest_69421_7.pdf)). The department's procurement executive must ensure that this annual conflict of interest disclosure statement is completed annually for all Purchasing Professionals.

#### **1.4.4 Reporting Potential Conflicts of Interest and Violations of the Ethical Standards and Professional Conduct**

Purchasing Professionals must report any actual or alleged violation of the Ethical and Professional Conduct policy to the Chief Procurement Officer; and may also report to the Purchasing Professional's procurement executive, or appointing authority, as required under agency work rule or directive.

## **1.5 Fundamentals for Contractors**

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### **1.5.1 Getting Started**

The state of Michigan offers many resources to current and potential contractors. The Contract Connect website (<https://www.michigan.gov/micontractconnect>) is a contractor's guide to doing business with the state of Michigan. Contractors can find information on current contracts, and training opportunities.

Additionally, Central Procurement Services houses a Policy and Training Division, which is tasked with outreach to Michigan vendors and service-disabled veteran-owned businesses. Questions for the Policy and Training Division can be directed to:

Central Procurement Services  
Department of Technology, Management, and Budget  
PO Box 30026  
525 West Allegan St.  
Lansing, MI 48909  
517-284-7000  
855-647-8724  
Email: [DTMB-micontractconnect@michigan.gov](mailto:DTMB-micontractconnect@michigan.gov)

### **1.5.2 SIGMA Vendor Self Service**

SIGMA Vendor Self Service (VSS) (<https://www.michigan.gov/SIGMAVSS>) is the state of Michigan's online eProcurement solution. The portal contains a public listing of solicitations posted by the state of Michigan and some Michigan school districts, and community colleges. The system is an online tool to support various state purchasing functions, including registration of contractors, advertisements of contract opportunities, electronic bidding and contract management.

### **1.5.3 Contractor Registration**

Contractors must register on SIGMA VSS (<https://www.michigan.gov/SIGMAVSS>) to do business with the state of Michigan. Contractors can access SIGMA VSS (<https://www.michigan.gov/SIGMAVSS>) for detailed instructions on registration. Contractors must select at least one National Institute of Government Purchasing (NIGP) commodity code that reflects the goods and services that the contractor provides. The State can, and often does, use the SIGMA VSS system to notify registered contractors of new contracting opportunities based on commodity codes.

Each registering contractor is responsible for updating and maintaining key company, contact, and product/service information, etc. in the system.

For questions regarding registration support, account maintenance, or posting a quote, contractors can contact the SIGMA VSS help desk, available from 8:00 a.m. to 5:00 p.m. ET Monday to Friday at:

517-373-4111 (Lansing)  
1-888-734-9749  
[SIGMA-Vendor@michigan.gov](mailto:SIGMA-Vendor@michigan.gov)

#### **1.5.4 Anti-Competitive Behavior**

The Michigan Antitrust Reform Act, Public Act 274 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-274-of-1984>), was created to prevent business practices used to decrease competition in the economic marketplace. See Public Act 274 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-274-of-1984>), Sections 445.771 – 445.788. Contractors who bid on State contracts, or receive contract awards must not participate in anti-competitive behavior including any of the following:

**Bid Rigging:** Entering an agreement with a competitor that will result in a predetermined winner when bidding for a contract is taking place, agreeing to bid at a price so that the other competitor will win, or tailoring a contract so that a company is pre-determined to win a future bid.

**Price-Fixing:** Entering an agreement with a competitor on how much they will charge for a product or service.

### **1.6 Violations of the Michigan Procurement Policy Manual**

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#### **1.6.1 Reporting Potential Violations of the Michigan Procurement Policy Manual**

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Purchasing Professionals must report any actual or alleged violation of the Michigan Procurement Policy Manual to the Chief Procurement Officer.

State of Michigan  
Michigan Procurement Policy Manual

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## CHAPTER 2 Organizational Structure, Delegated Authority, and Roles and Responsibilities

### 2.1 Chapter Overview

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This Chapter describes the organizational structure of Enterprise Procurement, the working relationship of the department or agency director and the Chief Procurement Officer in procurement matters, the delegated authority program, auditing, and record retention policies.

### 2.2 Department of Technology, Management & Budget – Central Procurement Office

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Pursuant to MCL 18.1261, et seq. the Department of Technology, Management & Budget (DTMB) is charged with providing for centralized procurement services. The DTMB created the Central Procurement Office to provide for the purchase and contracting of all items needed by State agencies for which the legislature has not otherwise expressly provided. The Central Procurement Office is responsible for, including but not limited to, the following:

- Setting and executing the vision, direction, strategy, long term strategic goals and objectives for Enterprise Procurement
- Leading the “**Procurement Executives**”
- Establishing and executing policy, processes, procedures, training and other programs (“**Procurement Matters**”) necessary to effectively and efficiently transact business as required under Public Act 431 of 1984
- Approving exceptions from the Michigan Procurement Policy Manual
- Authorizing department and agency delegated authority

### 2.3 Executive Departments and Agencies – Procurement Executive

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To ensure statewide standardization in Procurement Matters, the director for each principal department and agency with personnel that perform procurement functions must identify a senior-level purchasing position (the “**Procurement Executive**”) accountable to the department or agency (responsible for the employment relationship with the Procurement Executive – a “solid-line” reporting relationship) and to the Chief Procurement Officer (responsible for directing statewide procurement operations – a “dotted-line” reporting relationship).

Table 2.3 outlines the roles and responsibilities of the Procurement Executive to the department or agency director and to the Chief Procurement Officer.

**Table 2.3. Roles and Responsibilities of Procurement Executive**

<b>Procurement Executive Roles and Responsibilities</b>	<b>To the Department or Agency Director</b>	<b>To the Chief Procurement Officer</b>
<b>Procurement Matters</b>	Accountable to department or agency management on Procurement Matters to support the needs and requirements of the department or agency.	Accountable to the Chief Procurement Officer on Procurement Matters to support the needs and requirements of the State.
<b>Liaison Between the Department or Agency, and the Chief Procurement Officer</b>	Responsible for providing the Chief Procurement Officer's perspective on Procurement Matters and important issues potentially impacting department or agency operations, State operations or its citizens.	Responsible for providing department or agency perspective on Procurement Matters and important issues potentially impacting department or agency operations, State operations or its citizens.  The Procurement Executive will serve as a member of the Procurement Leadership Team and attendance at the meeting is required.
<b>Statewide Procurement Aligned Objectives</b>	Responsible for ensuring that the necessary steps are taken to effectively execute and meet the statewide procurement aligned objectives.	Responsible for providing support to ensure that the procurement aligned objectives are met.
<b>Recruitment, Selection, and Training of Department or Agency Employees Who Perform Purchasing Functions</b>	Responsible for ensuring the recruitment, selection, and training of department or agency personnel, who perform procurement functions throughout the department or agency, in accordance with the guidelines provided by the Chief Procurement Officer.	Responsible for actively participating in establishing and executing enterprise-wide recruitment, selection and training guidelines for personnel who perform procurement functions.

## **2.4 Delegation of Authority**

In an effort to effectively and efficiently transact business, DTMB has exercised its ability to delegate purchasing activities. This does not apply when procuring goods and services for which procurement authority has been statutorily granted to an agency outside of Public Act 431 of 1984.

## **2.4.1 ISSUANCE OF STANDARD DELEGATED AUTHORITY**

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### **2.4.1.1 Non-IT related Purchases**

The DTMB delegates its procurement authority to all agencies for non-IT related purchases less than or equal to \$500,000.00 per contract, provided each agency fully complies with the provisions of this delegation of authority policy. All cumulative changes or one-time purchases exceeding \$500,000.00 require DTMB Central Procurement approval.

### **2.4.1.2 Direct Human Services**

The DTMB delegates its procurement authority to all agencies for the contracting of direct human services (e.g. physicians, dentists, psychologists, psychiatrists, social workers, adoption professionals, etc.) for an unlimited amount per contract.

### **2.4.1.3 IT Related Commodities and Commoditized Services Purchases**

The DTMB Financial Services unit is granted delegated authority for all IT-related commodities and commoditized services purchases less than or equal to \$500,000.00. DTMB Financial Services unit may issue directives providing guidance and/or authority to agencies for purchasing IT-related commodities and commoditized services. For all other IT purchases, all agencies must work with their assigned business relationship manager (BRM).

## **2.5 Exercising Delegated Authority**

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An agency may exercise its delegated authority as granted without further approval from DTMB (except as required herein) provided the agency:

1. Verifies that there is no active state-wide contract in Central Procurement for the subject good(s) or service(s).
2. Follows all policies and procedures published in the Michigan Procurement Policy Manual.
3. Properly uses commodity codes, CS-138, and cited authority within SIGMA.
4. Provides DTMB Central Procurement an email copy of the completed multi-year contract and change notice.
5. Does not divide larger purchases into sequential purchases of less than \$500,000 – order splitting.

## **2.6 Special Delegated Authority**

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An agency may request in writing special delegated authority from Central Procurement in excess of \$500,000.00 on a case-by-case basis. Central Procurement will review the request and approve or deny the request with five business days.

## **2.7 Executive Departments and Agencies – Roles and Responsibilities**

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Delegated authority is granted to the department or agency pursuant to the roles and responsibilities identified in Table 2.7.

**Table 2.7 Roles and Responsibilities Pursuant to Delegated Authority**

<b>Description of Roles and Responsibilities or Activities</b>	<b>Department or Agency Director Roles and Responsibilities</b>	<b>Chief Procurement Officer Roles and Responsibilities</b>
<b>Procurement laws, rules and regulations, objectives, policy, processes, procedures, and other programs</b>	Provide support to the Procurement Executives to ensure that personnel who perform procurement functions understand and adhere to procurement laws, rules and regulations, policy, processes, and programs.	Establish and provide statewide procurement policy, processes, procedures, and programs.  Ensure that all personnel who perform procurement functions understand and adhere to standardized rules and regulations, policy processes, procedures and other programs.
<b>Aligned Objectives</b>	Support the Procurement Executive in the execution of the State procurement aligned objectives.	Establish statewide procurement aligned objectives.  Obtain agreement from the Procurement Executive and support from the Executive Steering Committee on the statewide procurement aligned objectives on an annual basis.  Provide the department or agency and the Procurement Executive with the necessary support to ensure that the statewide aligned objectives are met.
<b>Forum to report out on important Procurement Matters</b>	Provide a forum for the Procurement Executive to report out to the department or agency director on important Procurement Matters.	Provide a forum for the Procurement Executive to report out to the Chief Procurement Officer on important Procurement Matters.
<b>Recruitment and selection of Procurement Executive position that is vacated</b>	Responsible for ensuring the recruitment and selection of the Procurement Executive.	Responsible for providing input and support on the recruitment and selection of the Procurement Executive.
<b>Performance of the Procurement Executive</b>	As necessary, provide the Chief Procurement Officer with feedback on the Procurement Executive's performance related to Procurement Matters.	Responsible for providing the department or agency director, on a regular basis, input on the Procurement Executive's performance as related to Procurement Matters.



<b>Description of Roles and Responsibilities or Activities</b>	<b>Department or Agency Director Roles and Responsibilities</b>	<b>Chief Procurement Officer Roles and Responsibilities</b>
<b>Recruitment, selection and training of department or agency personnel who perform procurement functions</b>	Supports the Procurement Executive in the recruitment, selection and training of procurement personnel.	Responsible for establishing relevant guidelines regarding the procurement functions to be included in position descriptions, and recruitment and training guidelines for personnel who perform procurement functions.

## 2.8 Auditing

The DTMB Central Procurement Office has the authority to audit all purchases made by the department or agency under delegated authority. Delegated authority may be withdrawn if the department or agency personnel fail to adhere to the requirements of the Michigan Procurement Policy Manual, or any other requirement (related to Procurement Matters) communicated by the Procurement Director, Chief Procurement Officer, or designee. The DTMB Central Office will work closely with agencies to monitor the procurement and contracting process, remedy issues, and monitor compliance of procurement policies and procedures.

Departments and agencies are encouraged to conduct self-audits to ensure compliance with the state of Michigan's procurement laws, the Michigan Procurement Policy Manual, processes, and procedures.

## 2.9 Record Retention

The State procurement related Retention and Disposal Schedules ([https://www.michigan.gov/dtmb/0,5552,7-358-82548\\_21738\\_31548---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82548_21738_31548---,00.html)) identify the records that are maintained by government agencies. The Schedules define how long records need to be retained, and specify when the records can be destroyed.

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## CHAPTER 3 Strategic Sourcing and Category Management

### 3.1 Strategic Sourcing

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Strategic sourcing is a procurement approach to drive excellent customer service and efficient use of taxpayers' money. Unlike a transactional based purchasing approach that responds to a need by initiating a solicitation and executing a contract, a strategic sourcing approach proactively understands the goals and needs of the organization. In the broadest sense, strategic sourcing encompasses supplier management, category management, and operational management and achieves all of the following:

- improves supplier performance and relationships
- reduces total cost of ownership
- drives scale utilization through buy consolidation, specifications standardization, supply base optimization
- promotes data driven decision making
- develops commodity expertise
- enables operational efficiency
- facilitates continuous improvement, and
- generates new solutions and opportunities

### 3.2 Category Management

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Category Management is a critical part of Strategic Sourcing. It is the process of analyzing the total spend of the State and segmenting the goods and services purchased into discrete groups (categories) of similar or related products. This framework enables an enterprise approach in working collaboratively to optimize the inherent scale of the State in creating greater value for the State of Michigan.

Categories are reviewed and assigned a score based on various criteria such as (1) the annual spend, (2) business process impact, (3) pace of technological change of the goods or services within that category, (4) public safety concern, (5) multi-agency or single agency use of the goods or series, (6) supplier market risk, (7) leveragability, and (8) sensitivity (high profile, prone to compliance issues, etc.) The categories are then segmented into different levels based on the score. The State has identified four category groups with level 4 being the most strategic and level 1 being the least strategic.

### 3.3 Category Plans

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A **"Category Plan"** is the sourcing plan that details how a good or service will be procured within a category. The Category Plan describes the State's business strategy, supply base strategy, sourcing strategy, sourcing team member responsibilities, and category-specific terms. The Category Plan may have category-specific procurement requirements, exception criteria, and user guides for the goods or services covered under the plan.

The level of the category will drive the complexity and specificity of the Category Plan and the frequency the plans are reviewed and updated. The Central Procurement Office is responsible for identifying the categories that have a Category Plan, the order they will be developed, how often a Category Team will meet, and when the plans will be refreshed.

### **3.4 Category Teams**

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A “**Category Team**” is a cross-agency team of department and agency stakeholders responsible for developing and updating Category Plans, reviewing purchases within the category, and assessing the performance of suppliers within the category.

A Category Team is led by a Purchasing Professional and one or more business leads, and includes Subject Matter Experts. The roles and responsibilities of the team members are identified below.

#### **3.4.1 Category Team Members Roles and Responsibilities**

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##### **3.4.1.1 Category Sponsor**

Owner of the category, provides support and resources to Category Team, and is responsible for updating management and Procurement Leadership Team on progress of the team.

##### **3.4.1.2 Category Team Leader**

A purchasing professional assigned to chair the Category Team. The Category Team Leader is responsible for developing the Category Plan, project plans, and ensuring the Category Team members complete assigned tasks. The Category Team Leader is responsible for completing assigned tasks as well as chair the Category Team. The Category Team Leader may also serve as Category Sponsor.

##### **3.4.1.3 Business Lead**

The Business Lead is an individual from a department or agency that co-leads the Category Team and provides technical leadership from a business perspective to the Category Team. The Business Lead is responsible for assisting in the development of the Category Plan, represents the need of all departments and agencies, leads development of the Category Plan’s business strategy and communicates the teams plan to other departments and agencies.

##### **3.4.1.4 Subject Matter Experts**

A Subject Matter Expert is an individual with expertise in the content, or a portion of the content, of the category and participates in Category Team meetings, and completes assigned tasks.

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## CHAPTER 4 Analyze the Need

### 4.1 Need Identification

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#### 4.1.1 Identifying the Need

The procurement process begins with the identification of a purchasing need. The identification of the need may be made by an end user of the needed good or service, agency administration, information technology (IT) agency services, a subject matter expert, or the Purchasing Professional. A purchasing need may result from a new customer need, legislation, a desire to rebid an expiring contract, or guidance from a category plan.

The Purchasing Professional at the agency, or the Central Procurement Office where applicable, must provide assistance when a purchasing need is identified. Assistance may include providing guidance about the purchasing process, assisting with a written purchase request, and entering the purchasing need in the SIGMA system (a web-based tool for initiating and tracking state of Michigan purchases) on behalf of the non-procurement professional.

#### 4.1.2 Identification of High-Level Requirements

High-level requirements related to the purchasing need must be provided to the Purchasing Professional by the business owner or designee. Business requirements detail the business owner's needs and objectives for a project and include, but are not limited to, performance requirements, delivery requirements, business continuity issues, data archiving, user access/interface, reporting and implementation. Technical requirements identify the general framework in which a system or product must work. Examples include capacity requirements, documentation, audit, and backup or recovery. Technical requirements also identify any standards that must be met, security requirements, service levels and interfaces. Functional requirements identify what a product or system must do to enable performance of work tasks and any applicable service levels.

### 4.2 Market Research and Request for Information

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#### 4.2.1 Market Research

Once a purchasing need has been identified, the Purchasing Professional must partner with the requestor to ensure that market research and analysis regarding the need has been conducted. The extent to which market research is performed will vary based on the complexity of the purchasing need and the anticipated duration of the resultant contract. Market research may take the form of identification of:

- Industry trends
- The supply base
- Similar contracts in other states

- Similar contracts within the state of Michigan's portfolio and any associated problems or issues that may have arisen
- Useful life of needed good or service
- Risk management strategies
- Projected value of contract

Market research tools may include market indexes, industry reports, and informal vendor presentations.

#### **4.2.2 Request for Information**

A Request for Information (RFI) is a process to conduct market research about a purchasing need and collect information about the capabilities of various suppliers. It is not a solicitation process or document, but must be posted formally on SIGMA using the approved RFI template. An RFI may be publicized in any manner deemed appropriate provided the requirement for posting on the SIGMA system is met.

Feedback to an RFI may include, but is not limited to, best practices, industry standards and technology considerations. A Request for Information does not constitute a commitment, implied or otherwise, that the State will take a subsequent procurement action.

By statute (Public Act 268 of 6/29/2016 Enrolled House Bill No. 5294 (<http://www.legislature.mi.gov/documents/2015-2016/publicact/pdf/2016-PA-0268.pdf>)), specified State departments must not issue a Request for Proposal (RFP) for a contract in excess of an amount ranging from \$1,000,000 to \$5,000,000 (dependent on department) unless the department has first considered issuing an RFI to better enable the department to learn more about the market for the products or services that are the subject of the future RFP. The department must notify the Central Procurement Office (either through SIGMA or email) of the evaluation process used to determine if an RFI was not necessary prior to issuing the RFP. It is the responsibility of the State department to determine if an applicable statute pertains to their agency.

### **4.3 Existing State Contract**

After market research and/or an RFI has been conducted, a key question is whether a current contract exists to satisfy the purchasing need or whether the Procurement Professional will need to conduct a sourcing event.

#### **4.3.1 Mandatory Statewide Contracts**

Mandatory statewide contracts are established for use by all State agencies. By aggregating common purchasing needs of State entities, the most competitive levels of pricing and services for the State as a whole can be established. All State agencies must use a mandatory statewide contract unless approved, in writing, by the Chief Procurement Officer or designee.

A new sourcing event must not be performed if the good or service is available on an existing mandatory State contract. All State contracts issued for the purchase of products

and/or services, whether statewide or agency-specific, shall be interpreted and considered as mandatory use, unless otherwise specifically stated on the contract cover page or within a particular section of the signed contract agreement.

Contracts fall within one of three categories: 1) The entire contract is mandatory use for the products and/or services included; 2) The entire contract is one of several State contract "options" as identified on the cover page of each affected contract; or 3) A section or sections of a contract are specifically labeled as "optional" for a particular contract, either on the cover page of the agreement, or in the header of each affected section.

#### **4.4 Category Plan Procurement Guidance**

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Prior to conducting a sourcing event, the Purchasing Professional must determine if the needed product or service is contained within a contract Category Plan on the Contract Categories website (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/Contract-Categories-.aspx>). A Category Plan is the sourcing plan that details how a good or service will be procured within a category. Contact must be made with the Category Team Leader to determine if the applicable Category Plan has category-specific procurement requirements, exception criteria, and user guides for the goods or services covered under the plan.

#### **4.5 Pre-defined Programs**

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The State has established pre-defined (or prequalification) programs that limit the selection of a vendor or a solicitation to a pool of prequalified vendors. These programs have been and will continue to be established through a competitive bidding process.

A second-tier solicitation process is required for pre-defined programs. The solicitation document for the prequalification program describes the second-tier solicitation process.

The Procurement Professional must determine if a pre-defined program exists for the needed good or service. If a pre-defined program exists, a separate sourcing event should not be undertaken.

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## CHAPTER 5 Pre-Solicitation

### 5.1 Competitive Solicitation Requirements

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MCL 18.1261 (<http://legislature.mi.gov/doc.aspx?mcl-18-1261>), et seq. requires the use of competitive solicitation from the private sector when practicable to efficiently and effectively meet the State's needs. This Chapter describes the requirements for conducting competitive solicitation. Any deviation from the requirements identified in this Chapter must be approved by the Chief Procurement Officer.

### 5.2 Competitive Solicitation Defined

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Competitive solicitation is the formal or informal process of obtaining quotes, bids or proposals from vendors to determine contract award based on factors such as pricing, product cost, supply situation, quality, timeliness, and best value from responsive and responsible vendors. Some of these concepts are defined below:

**Best value** is determined by analyzing the components of the proposal such as price, quality, expertise, schedule, terms and conditions, product cost, supply situation, timeliness, expertise, etc. and identifying the vendor who provides the best overall offer to the State.

A “**Responsive**” proposal is one that is submitted in accordance with the solicitation instructions and meets all mandatory requirements identified in the solicitation.

“**Responsible Vendor**” is a vendor that demonstrates it has the ability to successfully perform the duties identified by the solicitation.

If the good or service is in scope of a current State contract, the Purchasing Professional must utilize the contract. If the good or service is not available on a current State contract, the Purchasing Professional must obtain the good or service by utilizing one of the solicitation methods identified in Section 5.3.

Depending on the purchase, the solicitation method may be informal or formal, but must always be conducted in an open and fair environment that promotes competition among potential contractors. The competitive solicitation methods required for purchases made pursuant to MCL 18.1261, et seq. are identified in Section 5.3.

### 5.3 Competitive Solicitation Methods

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#### 5.3.1 Formal Competitive Bidding

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- Posted on SIGMA
- Request for Proposal (5.4.1)
- Invitation to Negotiate (5.4.2)
- Competitive Proof of Concept (5.4.3)
- Must obtain a minimum of 1 bid or proposal

#### 5.3.2 Informal Competitive Bidding

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- Posting on SIGMA not required
- Request for Quote (5.5.1)
  - Reasonable effort must be made to obtain 3 viable quotes
- Direct Solicitation (5.5.2)
  - Contact must be made with all vendors that provide the good or service.

#### 5.3.3 Alternative Competitive Bidding

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- Posting on SIGMA not required
- Verbal, Electronic, or Online Method (5.6.1)
- No minimum quote requirement; however, due diligence must be made to ensure best pricing is obtained including obtaining multiple bids when practicable.

#### 5.3.4 Competitive Solicitation Method Requirements Based on Dollar Value

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The appropriate competitive solicitation method is based on the dollar value of the purchase, and are identified in the following table:

Anticipated Value	Formal Competitive Bidding	Informal Competitive Bidding	Alternative Competitive Bidding
Greater than \$10,000	Required	Acceptable Alternative is a Direct Solicitation	N/A
\$10,000 - \$5,000.01	Acceptable Alternative	Required	N/A
Less than or equal to \$5,000	Acceptable Alternative	Acceptable Alternative	Required

### 5.4 Formal Competitive Bidding

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Formal solicitations must be posted on the SIGMA system, unless written approval is obtained from the Chief Procurement Officer or designee. The three types of formal competitive bidding methods are as follows.



#### **5.4.1 Request for Proposal**

A formal competitive bidding process (posted, as identified in Chapter 7, Section 7.2.2., on SIGMA). The Request for Proposal (RFP) may be designed in a manner that provides the vendor with the specific goods or services needed, and a request is made for pricing, or designed in a manner that identifies critical business and technical requirements. A responding vendor must provide their qualifications, an approach, details about the solution, and pricing information.

#### **5.4.2 Invitation to Negotiate**

A formal competitive bidding process (posted on SIGMA for at least 7 calendar days) used when the purchase of the good or service is proprietary in nature, is based on compatibility with existing infrastructure, or on a licensing exclusivity.

Examples include, but are not limited to, situations where the vendor is the only vendor holding the license, patent, copyright or trademark allowing them to provide the commodity or service; where the vendor has exclusive rights to the manufacturing, distributing, or selling of the good or service; where the warranty, repair or maintenance rights are limited to a selected vendor pool; or where a proprietary item is required and the compatibility of equipment, accessories, or replacement parts is the paramount consideration.

This method is intended to advise vendors of the State's desire to purchase, and provide an opportunity to enter into negotiations with the State. A contract award will be based on a vendor's ability to meet mandatory minimums, such as the legal rights to sell a product or service.

Written approval must be obtained from the Chief Procurement Officer, or designee, prior to using this solicitation method. Approval to use this method will be based on business requirements, factors considered in award recommendation, and detailed assessment to establish fair and reasonable pricing.

#### **5.4.3 Competitive Proof of Concept**

A formal competitive bidding process (posted on SIGMA VSS for at least 7 calendar days) to solicit proposals from prospective suppliers to perform a proof of concept for a good or service that the State wishes to try out before fully implementing. This method is used when the purchase can be tested or given a "trial" run, at low or no cost to the State.

The State may select one or more of the submitted proposals and award a contract to cover the proof of concept period. The State's solicitation materials may also disclose that the resulting proof of concept contract may evolve into a separate, full implementation contract at the State's discretion.

Examples include, but are not limited to, situations where agencies wish to try several off-the-shelf options over a period of time before deciding which option to fully implement. Alternately, an agency may have a general idea of a product or service needed, and may wish to give suppliers an opportunity to propose solutions that may be tested in practice.

Written approval must be obtained from the Chief Procurement Officer, or designee, prior to using this solicitation method. Approval to use this method will be based on how the requirements fit into a larger overall program, any actions taken or to be taken to foster competition for the good or service, and whether this method represents an effective and reasonable option for obtaining a solution to meet the State's needs.

### **5.5 Informal Competitive Bidding**

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Informal solicitations do not have to be posted on SIGMA; however, SIGMA should be utilized whenever practical. There are two types of informal competitive bidding methods:

#### **5.5.1 Request for Quote**

A request for quote (RFQ) is an informal process used to determine fair and reasonable pricing for the purchase of a good or service. The Purchasing Professional must make a reasonable effort to contact a minimum of three viable vendors that provide the good or service, and obtain viable written quotes (e.g., fax, email, mailed, online). The written quotes must describe the good or service being purchased, deliverables, the applicable milestones, and payment stream.

#### **5.5.2 Direct Solicitation**

An informal process used when the good or service is only available from a select number of vendors. The State may identify those vendors and solicit proposals from them directly, but there is not a requirement to post on SIGMA.

Written approval must be obtained from the Chief Procurement Officer, or designee, prior to using this solicitation method. Approval to use this method will be based on business requirements, factors considered in award recommendation, and detailed assessment to establish fair and reasonable pricing.

### **5.6 Alternate Competitive Bidding**

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An alternative competitive bidding method may be utilized for purchases where the anticipated value is less than or equal to \$5,000.

### **5.6.1 Verbal, Electronic, or Online**

A verbal (telephone or in person), electronic (email), or online purchasing method may be used for any purchase less than or equal to \$5,000, that is not on a master agreement, or on a purchase order contract. There is no minimum quote requirement for this competitive bidding method; however, due diligence must be made to ensure best pricing is obtained including obtaining multiple bids when practicable.

## **5.7 Competitive Solicitation Exceptions**

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Competitive solicitation, as identified in Section 5.3, is required for all purchases, regardless of dollar value, unless one of the following applies:

### **5.7.1 Protection of Public Health or Safety**

As determined by the Chief Procurement Officer, or designee, competitive solicitation is not required if the purchase is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety. See MCL 18.1261(3)(a).

### **5.7.2 Emergency Repair or Construction**

Competitive solicitation is not required if the purchase is for emergency repair or construction caused by an unforeseen circumstances and is necessary to protect life or property. See MCL 18.1261(3)(b).

### **5.7.3 Declared State of Emergency or State of Disaster**

Competitive solicitation is not required if the purchase is in response to a declared state of emergency or state of disaster and identified in the Emergency Management Act, 1976 PA 390, MCL 30.401 to 30.421; 1945 PA 301, MCL 10.31 to 10.33; or 1982 PA 191, MCL 10.81 to 10.89. See MCL 18.1261(3)(c)(d)(e).

### **5.7.4 As Otherwise Provided By Statute**

Competitive solicitation is not required if a statute, or the provider of the funds for the good or service, imposes clear and specific restrictions on the use of the funds in a way that requires that the State contract with only one vendor.

### **5.7.5 Cooperative Agreements and Other State Contracts**

As approved by the Chief Procurement Officer, or designee, the State may sign a participating addendum or similar document to participate in a competitively bid cooperative contract. Such a contract must contain a provision allowing for other entities to join the contract and the underlying solicitation must have language notifying bidders that the resultant contract is subject to purchases by other entities, or the State must have cooperated with the issuing entity at the outset of the competitive solicitation. The use of General Services Administration (GSA) contracts must be approved by the Chief Procurement Officer or designee.

#### **5.7.6 Existing State Contract**

An existing contract may be amended to add a good or service that is reasonably related to the goods or services initially purchased. Increasing the amount of goods or services obtained through a contract, expanding the number of agencies served, and adding goods or services to extend the useful life of a previous purchase are non-exhaustive examples of what may be considered reasonably related to the initial purchase. The Chief Procurement Officer, or designee, must approve any amendments made pursuant to this provision.

#### **5.7.7 State Administrative Board**

Due to the immediate nature of an emergency purchase, as identified in Sections 5.7.1 – 5.7.3, approval by the State Administrative Board is not required, but requires the agency to report in writing to the Administrative Board within thirty (30) days of execution.

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## CHAPTER 6 Solicitation Development

### 6.1 Chapter Overview

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Subsequent to completing the pre-solicitation steps identified in Chapter 5 Pre-Solicitation ([https://www.michigan.gov/documents/micontractconnect/Chapter\\_5\\_-\\_Pre-Solicitation\\_512068\\_7.pdf](https://www.michigan.gov/documents/micontractconnect/Chapter_5_-_Pre-Solicitation_512068_7.pdf)), solicitation documents must be constructed and prepared for competitive solicitation. This Chapter focuses on the steps in the solicitation development stage.

### 6.2 Solicitation Development Team

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The Solicitation Development Team consists of individuals responsible for ensuring the solicitation documents contain all information needed to procure the goods or services, or solve the problem. The roles and responsibilities of the Solicitation Development Team are described below.

#### 6.2.1 Business Owner

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The agency leader (e.g., department or agency director, or designee) who is the owner of the procurement need.

#### 6.2.2 Procurement Executive

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The Procurement Executive or designee is responsible for, including but not limited to, the following:

- Ensuring the documents prepared for the solicitation contain all information needed to procure the goods or services, or solve the problem.
- Verifying that sensitive data (e.g., social security numbers, driver license numbers, financial account numbers, information that would jeopardize the security or safety of persons or property of custodial or penal institutions, security plans, security codes, passwords, etc.) is not contained in solicitation documents.
- Identifying the agency Solicitation Manager who will be responsible for addressing agency concerns related to the solicitation.
- Ensuring prior approval (CS-138) from the Michigan Civil Service Commission for the disbursement of funds to pay for services. (Additional information is on the Michigan Civil Service Website (<https://www.michigan.gov/mdcs>)).

#### 6.2.3 Solicitation Manager

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The Solicitation Manager is the Purchasing Professional responsible for the following:

- Coordinating communications related to the solicitation
- Developing the Statement of Work (SOW) with assistance and input from Program Manager, and Subject Matter Experts

- Constructing the solicitation
- Developing evaluation criteria with assistance and input from Program Manager and Subject Matter Experts
- Verifying that sensitive data (e.g., social security numbers, driver license numbers, financial account numbers, information that would jeopardize the security or safety of persons or property of custodial or penal institutions, security plans, security codes, passwords, etc.) is not contained in solicitation documents
- Compiling the solicitation documents
- Managing and facilitating the solicitation process
- Ensuring that the Procurement Executive agrees that the solicitation documents reflect the goods or services needed or the problem to be solved

#### **6.2.4 Subject Matter Experts**

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A Subject Matter Expert is an individual with expertise in the content, or a portion of the content, of the solicitation and participates in the procurement process, including but not limited to assisting with drafting any part of the solicitation, documenting the business and technical requirements, evaluating the responses received, or assisting in negotiation of any resulting contract.

#### **6.2.5 Program Manager**

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The Program Manager is the individual identified by the business owner, or designee, who is responsible for the technical oversight and direction of the day-to-day administration of the contract, and all other duties as identified in Section 12.2 of Chapter 12. The Program Manager is a subject matter expert and should be identified in the solicitation development stage.

### **6.3 Solicitation Tools**

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The State utilizes SIGMA and various solicitation tools to standardize the solicitation process.

#### **6.3.1 SIGMA**

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The SIGMA system is a tool used by Purchasing Professionals to provide public notice of the solicitation. Unless otherwise approved by the Chief Procurement Officer or designee, all solicitations greater than \$10,000 must be posted on the SIGMA system. At the discretion of the Solicitation Development Team, solicitations \$10,000 or less may be posted on the SIGMA system.

#### **6.3.2 Templates**

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Unless otherwise approved, the Purchasing Professional must use the approved Proposal Instructions and Vendor Questions Worksheet and Standard Contract Terms templates when developing the solicitation. The Statement of Work and Pricing templates are available, but not required to be used in developing the solicitation.

The most current version of the documents can be found on the Procurement website (<https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/Pages/default.aspx>) under the icon for Purchasing Documents (<https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/Pages/Purchasing-Documents.aspx>). The templates include instructions (read and delete sections) that assist the procurement professional in preparing the solicitation. If aspects of a template do not make sense for a particular purchase, beyond what may be removed in accordance with the read and delete sections, seek approval from the Policy and Training Division to modify the template. Blind adherence to a template rarely makes for a good business document.

To ensure that the most recent documents are used for each solicitation, download the newest templates from the intranet, rather than utilizing a saved document.

#### **6.4 Constructing the Solicitation – Request for Proposal (RFP)**

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A Request for Proposal (RFP) is a formal solicitation method used for a purchase over \$10,000. The Solicitation Manager, in consultation with the Solicitation Development Team, is responsible for constructing the RFP using the approved solicitation templates. The following subsections provide guidance in the development of an RFP. The templates used in the RFP process include the following:

<b>Section</b>	<b>Document</b>
6.4.1	Proposal Instructions and Vendor Questions Worksheet
6.4.2	Schedule A - Statement of Work
6.4.3	Schedule B - Pricing
6.4.4	Additional Schedules and Attachments
6.4.5	Contract Terms and Conditions

##### **6.4.1 Proposal Instructions and Vendor Questions Worksheet**

The Purchasing Documents (<https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/Pages/Purchasing-Documents.aspx>) intranet site contains a link under Developing a Request for Proposal (RFP) to the “Proposal Instructions and Vendor Questions Worksheet” (<https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/Pages/Purchasing-Documents.aspx>) template, which is used to communicate the State’s instructions to the vendor community and solicit company information from the vendor. The document contains a list of questions intended to obtain information to assist the Solicitation Manager in determining if the vendor is Responsible (Responsible is defined in Chapter 5, Section 5.2 and Chapter 8). The information required in the Solicitation Instructions is noted in Section 6.4.1 below. The Solicitation Manager may add additional questions as needed or remove questions that are not applicable to the solicitation.

##### **6.4.1.1 Anticipated Timeline**

Solicitation timelines are organized by a schedule of events, a list of activities and corresponding dates. Each solicitation, at a minimum, will have an issue date and a closing date. Additional scheduled activities may include receiving and answering vendor questions or conducting a pre-proposal meeting, and oral presentations, etc.

#### **6.4.1.2 SIGMA Posting Requirements**

The Solicitation Manager must determine the number of days the solicitation will be posted on SIGMA.

- Solicitations over \$10,000 must be publicly posted on SIGMA, unless otherwise approved by the Chief Procurement Officer or designee.
- Solicitations with an estimated value greater than \$50,000 must be posted for a minimum of 14 calendar days unless exception is obtained from the Chief Procurement Officer or designee.

In determining the appropriate posting period, the Solicitation Manager should consider the complexity of the solicitation, and the appropriate period of time for a vendor to review the solicitation, ask questions, and prepare a sufficient response.

#### **6.4.1.3 RFP Document List**

The Solicitation Instructions should identify all documents included in the solicitation.

#### **6.4.1.4 Vendor Questions**

It is recommended that each solicitation identify a period of time for vendors to submit written questions prior to the close of the solicitation as well as a deadline for the State to respond to the questions. The Solicitation Manager may also elect to propose questions to prospective bidders to address in the question and answer period.

#### **6.4.1.5 Pre-Proposal Meeting**

The Solicitation Manager may conduct a **"Pre-Proposal Meeting"** (in person or by conference call) prior to the closing date of the solicitation. An on-site Pre-Proposal Meeting is conducted for the purpose of allowing vendors to visit the physical location where services will be performed. The solicitation must identify the meeting location, date, time, and state whether the vendor's attendance is mandatory. Additional relevant information (e.g., driving directions, information about available parking, whether an ID is required, or whether preclearance is required) should also be included in this section.

#### **6.4.1.6 Samples**

The solicitation may require the submission of product work samples, descriptive literature, or technical data and may require inspection or testing of a product before award. If samples are desired, the solicitation should state the requirement.

#### **6.4.1.7 Delivery of Proposal**

All solicitation responses must be submitted using the SIGMA VSS system. In addition to requiring an electronic proposal submission, the Solicitation Manager may request a hard copy from the bidders if determined necessary.

#### **6.4.1.8 Evaluation Method**

The Solicitation Manager, in collaboration with the Program Manager and Subject Matter Experts, is responsible for identifying the evaluation method the State will use to evaluate proposals. There are two types of **"Evaluation Methods"**:



- Evaluation conducted by the Solicitation Manager in collaboration with the Program Manager and Subject Matter Experts
- Evaluation conducted by Joint Evaluation Committee

Chapter 8 provides additional information related to the Evaluation Teams roles and responsibilities.

#### **6.4.9 Evaluation Criteria**

The Solicitation Manager, in collaboration with the Program Manager and Subject Matter Experts, is responsible for determining the criteria that will be used to evaluate proposals.

#### **6.4.10 Award Type**

The Solicitation Manager, in collaboration with the Program Manager and Subject Matter Experts, should determine the type of contract award desired, whether single, split or multiple awards, and identify the anticipated award type in the solicitation.

#### **6.4.11 Protest Period**

The Solicitation Manager in collaboration with the Program Manager must identify the appropriate protest period that will be applicable to the contract award recommendation resulting from the solicitation.

### **6.4.2 Statement of Work**

The Solicitation Manager, in collaboration with the Program Manager and Subject Matter Experts, is responsible for translating the business and technical requirements into the Statement of Work. The **"Statement of Work"** is the document that defines specific objectives, activities, requirements, deliverables and respective timelines.

The Solicitation Manager should use concise language when drafting the solicitation. Use the words "must" or "is required" to identify mandatory (essential) requirements (use the same term throughout the solicitation). Avoid using the word "shall" as it can be ambiguous. The words "may" or "should" may be used to identify optional (or desirable) requirements.

**Statement of Work Schedule A** below provides the Solicitation Manager with guidance on how to develop a Statement of Work.

The Purchasing Documents (<https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/Pages/Purchasing-Documents.aspx>) intranet site provides templates that may be used in drafting a Statement of Work. The templates contain sample language that a Solicitation Manager may find useful in developing the Statement of Work. These templates are not intended to be a fill-in-the-blank format, and must be modified to the specific needs of the procurement. The Statement of Work may be developed in Excel or in Word in an outline or table format. The Solicitation Manager should develop the Statement of Work in a way that will assist the Evaluating Team in easily evaluating the proposals. The Statement of Work typically addresses these subjects:

#### **6.4.2.1 Background**

This section is typically short in length and provides an overview of the need for the procurement and why we are doing this project. This may include the business objective, and any concurrent projects, systems or programs impacted.

#### **6.4.2.2 Scope**

This section briefly states the work to be done. The information should be limited to what is necessary to convey the intent of the resulting contract. It may include a statement of the extent of work to be performed, a brief overview of the steps involved with the project, and a short description of the methodology to be used.

#### **6.4.2.3 Location of Work**

This section describes where the work is to be performed.

#### **6.4.2.4 Delivery Schedule / Timeline for Performance**

This section describes the delivery schedule and timeline for performance.

#### **6.4.2.5 Funding Source and Compliance Requirements**

This section identifies any State or federal requirements and state of Michigan specific standards that must be met or adhered to.

#### **6.4.2.6 Acceptance Criteria**

This section specifies how the State will determine if the good(s) or service(s) are acceptable. Contract Terms may have general acceptance language, but the language may need to be modified for the specific procurement.

#### **6.4.2.7 Transition Requirements**

If transition will be required to implement the new contract, describe in detail the transition plan and timeline. Contract Terms may have general transition language, determine if the language should be modified.

#### **6.4.2.8 Training**

This section describes any training requirements.

#### **6.4.2.9 Reporting**

This section describes the reporting requirements.

#### **6.4.2.10 Business and Technical Requirements and Specifications**

This section lists the business and technical requirements, and specifications.

The requirements and specifications describe what is needed, the technical issues that need to be resolved, how the deliverable will function, the activities to keep the deliverables functioning, and the expected results or performance of a product or service. The requirements and specifications may classify or describe the product needed, may specify the classification in groups (i.e., type, grade, class, composition,

style, color, form, weight and size) and may also include minimum acceptable levels of performance.

It may be necessary to identify a business and technical requirement, or specification as a "Mandatory Requirement" that a vendor must meet to be considered for an award. However, a business and technical requirement, or specification must not be written to restrict competition. The Solicitation Manager must ensure that there is sufficient justification for any Mandatory Requirement identified in a solicitation. Examples of a Mandatory Requirement include:

- Pre-proposal meeting attendance
- Minimum qualifications
- Performance requirement
- Licensure or certifications
- Prior experience of similar scope and size of the solicitation

The solicitation may indicate that an approved alternate to the identified business and technical requirement, or specification will be accepted.

As approved by the Procurement Executive, or designee, an approved brand list may be used; however, the Solicitation Manager should note that using brand or trade names tend to restrict competition.

#### **6.4.2.11 Service Level Agreements**

Service Level Agreements establish a framework for payment when a schedule is not met. These are required for Category 4 and 5 contracts (recommended for Category 3). To determine the category level please see the Category Level List under "additional documents" on the [Inside.Michigan/Purchasing Documents](https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/Purchasing-Documents.aspx) page (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/Purchasing-Documents.aspx>).

#### **6.4.2.12 Integrity of Third Party Transactions**

This section describes the ongoing reporting requirements for all contracts encompassing third party transactions regardless of category levels.

### **6.4.3 Developing Pricing**

The Solicitation Manager, in collaboration with Program Manager and Subject Matter Experts, is responsible for developing a pricing schedule. "**Schedule B – Pricing**" refers to the document the vendor will complete to identify the price of the requested goods, services, or problem to be solved. It should clearly identify the unit of measure, and the specific items to be priced. Consideration should be given to the useful life of the purchase; anticipate warranty, maintenance, and support services needed beyond the initial purchase; volume discounts; and milestone and deliverable-based pricing models. The intent of Schedule B - Pricing is to obtain structured pricing responses to allow the State to compare multiple responses during evaluation.

Schedule B - Pricing should describe the type of contract that will be awarded. Examples of contract types include, but are not limited to, the following:

#### **Fixed Price Contracts**

- Fixed price by unit cost or by hour
- Fixed price by total cost or lump sum (requirement, milestone and deliverable-based)
- Fixed price with incentive or commission
- Fixed price with or without price increase or decrease provision

#### **Cost Reimbursable Contracts**

- Cost reimbursable with fixed fee
- Cost reimbursable with percentage fee
- Cost reimbursable with incentive fee
- Cost reimbursable with award fee
- Time and materials

#### **6.4.4 Additional Schedules and Attachments**

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Title any additional documents with the appropriate heading name and schedule reference beginning with Schedule A, or Attachment 1, 2, 3, etc. As noted in Section 6.4.2., the Statement of Work must be titled as **Schedule A** and Pricing must be titled as Schedule B.

#### **6.4.5 Contract Terms and Conditions**

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Sections 6.4.5.1 and 6.4.5.2 identify the approved contract terms (template) that must be included with a solicitation, and the considerations used to select the appropriate terms

##### **6.4.5.1 Contract Terms and Conditions – Non-IT (information technology)**

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**Standard Contract Terms** – The Standard Contract Terms must be used if the contract:

- Is critical to State operations, or the public
- Would jeopardize persons, property or the state of Michigan if the goods or services are not provided
- Would allow the vendor to process, store, transfer or touch sensitive State data
- Requires transition from one vendor to a new vendor
- Allows the vendor access to State IT systems
- Requires the vendor to process citizen credit card data
- Is for printing services as the primary purpose of the contract
- Requires the vendor to pay prevailing wage rates
- Will be utilized by Extended Purchasing participants
- Will have Administrative Fee language

**Short Form Terms** – If the contract for goods or services does not fall into one of the Standard Contract Terms requirements identified above, the Short Form Terms may be used.

If the Solicitation Manager is unsure which contract terms should be utilized, he or she should contact the Policy and Training Division in Central Procurement Services.

#### **6.4.5.2 Contract Terms and Conditions – IT Related**

**Custom Software Development Terms** – This template is used when the State engages a vendor to custom develop a software solution.

**Software as a Service (SaaS) Contract Terms** – This template is used when the State will have access to a predefined software environment that is maintained by the vendor. These applications are accessible from various devices such as a web browser, and the State does not manage or control the underlying infrastructure including network, servers, operating systems, storage or even individual application capabilities.

In these situations, the State is granted a subscription-based license to use the application during the term of the contract, which expires upon termination or expiration of the contract.

**Commercial off the Shelf (COTS) Contract Terms** – This template is used for fully functional software applications where modifications to the source code are not required (the template allows for configuration). A configuration is defined as State specific changes made to the software without source code or structural data model changes occurring.

The Attorney General's office is responsible for selection of the appropriate contract terms template to include with an IT-related solicitation. The Attorney General's office will determine if changes are necessary based on the specific goods, equipment or services to be provided. The Solicitation Manager must follow established procedures to engage the Attorney General's office at the onset of the solicitation.

#### **6.4.6 Goods or Services with an IT Component**

If the solicitation for goods or services includes an IT component, contact must be made with the agency's Department of Technology, Management & Budget (DTMB) Business Relationship Manager (BRM). An **IT component** can come in three different forms:

(a) **products/goods/commodities** (e.g., hardware, laptops, keyboards, monitors, equipment with embedded software (printer or copier)); (b) **services** (e.g., consulting, staff augmentation, education/training, support and maintenance); and (c) **software license/subscription agreements** (e.g., Adobe Acrobat, Gongwer, IBISWorld, ProPurchaser, Microsoft Word). Generally, a purchase has an IT component if it involves one or more of the following:

- developing, designing, or customizing software
- database access/development
- transfer of data between two systems
- accessing information via the internet
- anything touching the State's network

## **6.5 Constructing the Solicitation – Invitation to Negotiate (ITN)**

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An Invitation to Negotiate (ITN) ([https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/\\_layouts/15/WopiFrame2.aspx?sourcedoc=%7Bec508a26-e3fa-42fb-8f0c-73aabeafb784%7D&action=default](https://stateofmichigan.sharepoint.com/teams/insidemil/Purchasing/_layouts/15/WopiFrame2.aspx?sourcedoc=%7Bec508a26-e3fa-42fb-8f0c-73aabeafb784%7D&action=default)) is an optional formal solicitation method used for a purchase over \$10,000 when research supports there is only one vendor. If the Solicitation Manager is aware of more than one vendor that can provide the good or service, this solicitation method should not be used. Prior to using this solicitation method the Solicitation Manager must obtain approval from the Chief Procurement Officer or designee.

The Solicitation Manager is responsible for developing and drafting the request and justification for utilizing this solicitation method. The information required to obtain approval to use the Invitation to Negotiate is noted below.

### **6.5.1 Constructing the Invitation to Negotiate**

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#### **6.5.1.1 Description of the Purchase**

The ITN must describe the purchase, and the Solicitation Manager must attach a detailed list of business and technical requirements, and specifications.

#### **6.5.1.2 Commodity Code Reference**

The appropriate commodity codes applicable to the purchase must be identified on the ITN document.

#### **6.5.1.3 Name of Potential Vendor**

The name of the potential vendor, address, and contact information must be identified on the ITN document.

#### **6.5.1.4 Justification**

Provide justification for using an ITN solicitation method by describing why the potential vendor identified is the only product or service provider. This may require explaining how the requirement fits into a larger overall program. Discuss any market research conducted and describe results. "Market Research" is an exercise used to determine any vendors capable of satisfying the State's requirements. Market research should be focused not only on identifying alternative sources, but also on alternate goods, services or other substitutes that might fill the State's needs with only minor modifications. If no market research was conducted, it must be stated and the rationale provided. Regardless of the approach used, the results should provide a high level of confidence that no other qualified sources exist. If no market research was conducted, it must be stated and the rationale provided. Describe any actions taken or to be taken to foster competition for future purchases of the goods or services.

## **6.6 Constructing the Solicitation – Competitive Proof of Concept (CPC)**

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A Competitive Proof of Concept (CPC) is an optional formal solicitation method to solicit proposals from prospective suppliers to perform a proof of concept for a good or service that the State wishes to try out before fully implementing. Proposed proof of concepts may last no longer than twelve months and may result in the establishment of a separate implementation

contract. Prior to using this solicitation method the Solicitation Manager must obtain approval from the Chief Procurement Officer or designee.

The Solicitation Manager is responsible for developing and drafting the request and justification for utilizing this solicitation method. The information required to obtain approval to use the CPC is noted below.

### **6.6.1 Constructing the Competitive Proof of Concept and Justification**

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#### **6.6.1.1 Description of the Purchase**

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The Solicitation Manager is responsible for describing the needed good or service and should include its intended use, quantity, estimated time frame, and anticipated number of proof of concept awards that will be made.

#### **6.6.1.2 Justification**

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The Solicitation Manager must provide the justification for using a CPC by describing why a CPC is in the State's best interest, how a CPC meets the needs of the program, and any actions taken or to be taken to foster competition for this good or service.

Once approved, the Solicitation Manager must develop the CPC documents. The CPC documents include:

- Solicitation for Proof of Concept Proposals
- Contract Terms (see Section 6.4.5.)
- Any additional schedules and attachments

### **6.7 Constructing the Solicitation – Request for Quote**

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A Request for Quote (see Chapter 5 Pre-solicitation ([https://www.michigan.gov/documents/micontractconnect/Chapter\\_5\\_-\\_Pre-Solicitation\\_512068\\_7.pdf](https://www.michigan.gov/documents/micontractconnect/Chapter_5_-_Pre-Solicitation_512068_7.pdf))) is an informal solicitation method used for the purchase of a good or service with a value of \$5,000.01 – \$10,000. The Solicitation Manager is responsible for making reasonable effort to contact a minimum of three viable vendors and must document the vendors contacted. The Solicitation Manager is not required to, but may, develop a formal solicitation document, or post the solicitation on SIGMA. Communication with the vendors should include a discussion regarding the resulting contract period, (one time purchase, single or multi-year contract term), delivery requirements, shipping terms, warranty info, etc.

### **6.8 Constructing the Solicitation – Direct Solicitation (DS) and Justification**

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A Direct Solicitation (see Chapter 5 Pre-solicitation ([https://www.michigan.gov/documents/micontractconnect/Chapter\\_5\\_-\\_Pre-Solicitation\\_512068\\_7.pdf](https://www.michigan.gov/documents/micontractconnect/Chapter_5_-_Pre-Solicitation_512068_7.pdf))) is a solicitation method used for a purchase over \$10,000 when there is more than one vendor, but the pool is limited, or when posting on SIGMA would not provide sufficient response from the vendor community. Chief Procurement Officer or designee approval is needed to use this solicitation method.

The Solicitation Manager is responsible for developing and documenting the justification needed to obtain approval. The information required to obtain approval to use the Direct Solicitation is noted below.

### **6.8.1 Constructing the Direct Solicitation and Justification**

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#### **6.8.1.1 Description of the Purchase**

The Solicitation Manager is responsible for developing the detailed list of business and technical requirements, and specifications, for the purchase.

#### **6.8.1.2 Commodity Code Reference**

The appropriate commodity codes applicable to the purchase must be identified.

#### **6.8.1.3 Potential Vendors**

The name, address, and contact information for all known vendors who can provide the service must be identified.

#### **6.8.1.4 Justification**

The Solicitation Manager must provide the justification for using a DS solicitation method by describing why the potential vendors identified are the only providers that can meet that State's needs, or why posting on SIGMA would not provide sufficient response from the vendor community. The request must describe any market research conducted. "Market Research" is an exercise used to determine the sources capable of satisfying the State's requirements exist or can be modified so that they will satisfy the State's needs. Market research should be focused not only on identifying alternative sources, but also on alternate goods, services or other substitutes that might fill the State's needs with only minor modifications. If no market research was conducted, it must be stated and the rationale provided.

Once approved, the Solicitation Manager must develop the Direct Solicitation documents. The Direct Solicitation documents include:

- Solicitation Instructions and Vendor Questions Worksheet (see Section 6.4.1)
- A Statement of Work that contains the detailed list of the business and technical requirements, and specifications used in obtaining the approval from the Chief Procurement Officer
- Contract Terms (see Section 6.4.5.)
- Any additional schedules or attachments

### **6.9 Contract Period**

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The contract period for any resulting contract must be identified in the solicitation. When determining the appropriate contract period, the Solicitation Manager, in collaboration with the Program Manager and Subject Matter Experts, must consider the needs of the State, the total cost of ownership, useful life, and expected costs. The contract term should be for a period of time that is in the best interest of the State. An **"Evergreen Contract"** is a contract that is automatically renewed after the completion of an identified period unless canceled by either



party. Only the Chief Procurement Officer or designee is authorized to approve an Evergreen Contract.

#### **6.10 Compiling the Solicitation Documents**

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The solicitation documents may be posted on SIGMA individually, or as a single document. If a single document is used, all headings for each section must be kept intact (e.g., do not eliminate titles such as Solicitation Instructions and Vendor Question Worksheet, or Standard Contract Terms, etc.) and assembled in the following order:

<b>Section</b>	<b>Document</b>
6.4.1	Proposal Instructions and Vendor Questions Worksheet
6.4.2	Schedule A - Statement of Work
6.4.3	Schedule B - Pricing
6.4.4	Additional Schedules and Attachments
6.4.5	Contract Terms and Conditions

#### **6.11 Review and Approval of the Solicitation Documents**

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The Solicitation Development Team must review the documents to ensure there is consensus that the solicitation documents reflect all information needed to procure the goods or services, or solve the problem.

The following items are required before the Solicitation Manager will publish the solicitation on the State's bid posting system, SIGMA, or otherwise communicate it to the vendor community:

- Solicitation documents which have been approved by the relevant stakeholders
  - For commodities and services procurements: Business Owner/designee or project sponsor, Procurement Executive, Program Manager, Solicitation Manager, IT Agency Services Business Relationship Manager (for commodities and services with an IT component only) and Attorney General representative (as required)
  - For IT services and commodities procurements: Business Owner/designee or project sponsor, IT Agency Services Business Relationship Manager, Project/program Manager, Solicitation Manager, and Attorney General representative (as required)
- An approved written or SIGMA purchase request
- A project timeline for the solicitation which has been mutually developed and approved by the Solicitation Manager and agency business owner/designee or the IT Agency Services Business Relationship Manager as required

#### **6.12 Solicitation Containing Sensitive State Information**

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If the solicitation documents contain information that should not be released without a signed nondisclosure agreement from interested vendors, the Solicitation Manager should note this and complete a modified version of the solicitation for public posting. The vendor community must be notified of the requirements to sign a non-disclosure agreement prior to releasing the complete solicitation.

State of Michigan  
Michigan Procurement Policy Manual

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## CHAPTER 7 Administrative Process Related to the Solicitation

### 7.1 Public Notice

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MCL18.1261, et seq. requires the use of Competitive Solicitation for the purchase of goods and services. "**Competitive Solicitation**" is the formal or informal bidding process of obtaining quotes or proposals from responsible and responsive bidders to determine contract award.

The formal competitive bidding process begins with public notice of the solicitation. SIGMA Vendor Self Service (VSS) is the source of public notice for vendors to access information about all solicitations that are required to be competitively bid as identified in Chapter 5 in this manual. Solicitation methods that require formal competitive bidding include the following:

- Request for Proposal
- Invitation to Negotiate
- Competitive Proof of Concept

Informal competitive bidding does not require the use of the SIGMA system; however, SIGMA should be used whenever practical. The informal competitive bidding methods including the following:

- Request for Quote
- Direct Solicitation

### 7.2 Posting Requirements

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#### 7.2.1 Commodity Codes

The Solicitation Manager must utilize the commodity code(s) specific to the purchase to ensure that all potential contractors registered in SIGMA receive notification of the posting.

#### 7.2.2 SIGMA Posting Requirements

**Request for Proposal (RFP).** A solicitation over \$10,000 must be publicly posted on SIGMA. A RFP with an estimated amount greater than \$50,000 must be posted for a minimum of 14 calendar days unless an exception is obtained from the Chief Procurement Officer or designee.

**Invitation to Negotiate (ITN).** The ITN document, described in Chapter 6, Section 6.4 Constructing the Solicitation, must be posted on the SIGMA system for a minimum of seven (7) calendar days unless otherwise approved by the Chief Procurement Officer or designee.

**Competitive Proof of Concept (CPC).** The CPC solicitation documents, described in Chapter 6, Section 6.5 Constructing the Solicitation, must be posted on the SIGMA system for a minimum of seven (7) calendar days unless otherwise approved by the Chief Procurement Officer or designee.

### **7.3 State and Vendor Communications**

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Once the solicitation is published, communication with vendors regarding the content of the solicitation must be limited. Strict State and vendor communication protocol is essential to ensure a fair and competitive purchasing environment. State and vendor communication protocol is as follows:

#### **7.3.1 Communication with Vendors – Providing Notice of Solicitation**

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The Solicitation Manager, Program Manager, and Subject Matter Experts are encouraged to provide notice (written or verbal) of the solicitation to potential vendors. Communication to vendors must be limited to the posting date of the solicitation and must not include specific details of the solicitation to prevent giving one vendor an advantage over another.

#### **7.3.2 Communication with Vendors – Solicitation Process through Contract Award**

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The Solicitation Manager is the individual responsible for leading and facilitating all aspects of the solicitation process through contract award, and will serve as the point of contact for potential vendors during this period. Once the solicitation is released, all communication with vendors must be through only the Solicitation Manager. Only written answers by the State will become an official part of the solicitation process.

Any technical questions regarding the SIGMA system may be directed to the Office of Financial Management Help Desk.

#### **7.3.3 Communications with Vendors – Question and Answer Period**

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All vendor questions must be submitted in writing to the Solicitation Manager and in accordance with the instructions in the solicitation. State answers to vendor questions must be posted on SIGMA. If a State answer requires a revision to the solicitation, the revision will act as an addendum to the original solicitation.

### **7.4 Pre-Proposal Meetings and Inspections**

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If identified in the solicitation, or in any addendum provided in the solicitation, the State may conduct a pre-proposal meeting or allow vendors to inspect the location where the work will be performed. When applicable, the solicitation will identify whether a pre-proposal meeting or inspection will be held. The Solicitation Manager, or designee, is responsible for facilitating the pre-proposal meeting.

It is best practice for the Solicitation Manager, or designee to document all attendees. The "Pre-Proposal Meeting form" is an optional tool used to document contract information, date, and time of the vendors who attended the meeting. If the pre-proposal meeting or inspection is mandatory, the Solicitation Manager, or designee, is responsible for ensuring that attendance is documented, and that the form is maintained as part of the solicitation file.

Open dialog from potential vendors and the State is encouraged during the pre-proposal meeting or inspection – vendor questions may assist the State in identifying potential gaps in the solicitation and provide valuable information a vendor may need to submit an accurate proposal. Statements made by the Solicitation Manager or designee at a pre-proposal meeting or inspection are not considered revisions or additions to the solicitation. Any changes made to

the solicitation following a pre-proposal meeting must be made in writing and will act as an addendum to the original solicitation in SIGMA.

#### **7.5 Revising the Solicitation**

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The Solicitation Manager is responsible for identifying and posting in writing any corrections or revisions to the publically posted solicitation. A revision is considered a solicitation addendum and must be posted on SIGMA.

#### **7.6 Cancelling the Solicitation**

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The State may withdraw or cancel a solicitation at any time.

#### **7.7 Proposal Submission**

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To be eligible for evaluation and negotiation, the vendor's entire proposal, and all attachments, must be submitted according to the instructions of the solicitation by the closing date and time. SIGMA VSS does not allow the submission of bids after the closing date and time. Except in limited circumstances, such as technology issues not related to the vendor, or other reasons as identified in the solicitation, a response received after the solicitation closing date and time must be rejected.

State of Michigan  
Michigan Procurement Policy Manual

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## CHAPTER 8 Evaluation and Negotiation

### 8.1 Chapter Overview

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This Chapter describes the evaluation and negotiation stage of the solicitation process. This stage includes administering the evaluation and negotiating process, including but not limited to, managing communication with the vendor, conflict of interest concerns, educating evaluators on roles and responsibilities, evaluating bids/proposals, conducting negotiations, and finalizing contract discussions. This Chapter applies to the following solicitation methods:

- Request for Quote
- Direct Solicitation
- Invitation to Negotiate
- Request for Proposal

The State is bound by the terms of the solicitation, and any addendum. The evaluation method, scoring criteria, and award types identified in the solicitation must be utilized in the evaluation and negotiation process.

### 8.2 Vendor Communications

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The Solicitation Manager serves as the point of contact for vendors during the evaluation and negotiation process, and is responsible for leading State communication with vendors regarding clarification requests, negotiations, reference checks and contract discussions.

### 8.3 Evaluation and Negotiation Team Preparation Process

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#### 8.3.1 Code of Conduct Acknowledgment Form

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Prior to the evaluation of any solicitation over \$10,000, the Solicitation Manager is responsible for obtaining a signed Code of Conduct form from all individuals who have or will be participating in the solicitation evaluation, and award process. The signed Code of Conduct Acknowledgement form (or email acknowledgement of the form) must be maintained in the solicitation file.

#### 8.3.2 Joint Evaluation Committee Process Overview

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If a Joint Evaluation Committee (JEC) is used, the Solicitation Manager is responsible for, prior to the first JEC meeting, communicating, educating, and distributing to the JEC members the Joint Evaluation Committee Project Package, and advising the members of meeting ground rules, scheduling, and the evaluation process. The **"Joint Evaluation Committee Member Process Overview"** is information that describes the roles and responsibilities of the evaluators, the Code of Ethics, and the evaluation and negotiation process that will be used for the solicitation.

### **8.3.3 Distribute Vendor Names to Subject Matter Experts**

The Solicitation Manager is responsible for communicating, to the evaluators, the names of the vendors submitting proposals in response to a solicitation, and obtaining verification from the evaluators that a conflict of interest does not exist.

## **8.4 Evaluation and Negotiation Process**

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All formal and informal solicitations must be evaluated in accordance with the terms of the solicitation. There are eight steps in the evaluation and negotiation process:

- Step 1 - Identification of statutory considerations
- Step 2 - Identification of responsive vendor
- Step 3 - Identification of responsible vendors
- Step 4 - Conducting the Technical Evaluation
- Step 5 - Conducting the Price Evaluation
- Step 6 - Negotiations
- Step 7 - Reference checks
- Step 8 - Evaluation Synopsis and Award Recommendation

### **8.4.1 Step 1 – Statutory Considerations**

The Solicitation Manager is responsible for identifying and understanding the application of any statutory considerations that apply to the solicitation, including, but not limited to, the following sections of the Michigan Procurement Policy Manual (MPPM) Chapter 1: ([http://www.michigan.gov/documents/micontractconnect/Chapter\\_1\\_\\_Introduction\\_and\\_Overview\\_of\\_the\\_Michigan\\_Procurement\\_Manual\\_512141\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_1__Introduction_and_Overview_of_the_Michigan_Procurement_Manual_512141_7.pdf))

- Michigan Based Business Preference (MPPM Chapter 1, Section 1.3.1)
- Clean Corporate Citizen (MPPM Chapter 1, Section 1.3.2)
- Reciprocal Preference (MPPM Chapter 1, Section 1.3.4)
- Service-disabled veteran-owned business preference (MPPM Chapter 1, Section 1.3.6)
- Community Rehabilitation Organization (MPPM Chapter 1, Section 1.3.11)

### **8.4.2 Step 2 – Determining if a Vendor is Responsive**

Prior to initiating the evaluation and negotiation process, the Solicitation Manager is responsible for reviewing the vendor proposals to ensure that the proposal is responsive. A “**responsive**” proposal is one that is submitted in accordance with the solicitation instructions and meets all mandatory requirements identified in the solicitation.

If a vendor, or an employee of a vendor, participates in the solicitation preparation process, the vendor is not permitted to receive an award on a contract resulting from that solicitation.

If necessary, the Solicitation Manager may request assistance from the Subject Matter Experts in determining if a mandatory requirement is met.

Any proposal that is not responsive, as determined by the Solicitation Manager, and in consultation with the Procurement Executive, may not move to Step 3.

### **8.4.3 Step 3 – Determining if a Vendor is Responsible**

The Solicitation Manager must next determine if the vendor submitting a proposal is responsible. A responsible vendor is a vendor that demonstrates it has the ability to successfully perform the duties identified by the solicitation. In determining if a vendor is “**responsible**” the Solicitation Manager should consider the following, or similar factors:

- Documented and investigated Vendor Performance
- Vendor debarment, suspension, or disqualification from bidding or contracting with a governmental entity
- Vendor involvement in litigation against the State
- Vendor default or termination for cause on a government contract, including the state of Michigan within the past five years
- Vendor default or termination for cause on a private contract by any private entity in which similar services or products being provided within the past five years
- Vendor’s financial stability
- Vendor meets all certification requirements on SIGMA Vendor Self Service (VSS)
- Vendor is able to comply with all legal requirements identified in the solicitation
- Vendors answers to the Vendor Question Worksheet
- Vendor history on State Contract Compliance Reports

Any vendor that is not responsible, as determined by the Solicitation Manager, and in consultation with the Procurement Executive, may not move to Step 4.

### **8.4.4 Step 4 – Conducting the Technical Evaluation**

Note: The evaluation and steps for an **Invitation to Negotiate and Competitive Proof of Concept** are located in 8.5 and 8.6 below.

The Solicitation Manager is responsible for (1) distributing the list of names, of the proposals for the vendors that are responsive and responsible, to the evaluators, (2) requesting confirmation from the evaluators that a conflict of interest does not exist, and (3) distributing vendor proposals to Subject Matter Experts that do not have a conflict of interest.

The Solicitation Manager is responsible for distributing a scoring matrix meeting the solicitation requirements, if applicable, and if a Joint Evaluation Committee is used, the Joint Evaluation Committee Process Overview to the Subject Matter Experts at this time.

The evaluation team, led by the Solicitation Manager, is responsible for leading and facilitating the evaluation process. The evaluation process must be in accordance with the evaluation method identified in the solicitation. As prescribed, the evaluation will be conducted either by the Solicitation Manager in collaboration with the Subject Matter Experts, or the Joint Evaluation Committee.

**Prior Experience** - During the evaluation process the Solicitation Manager must lead and facilitate the process of evaluating the vendor’s past experience in performing similar work (i.e., similar scope of work or size of the project) to what has been requested by the State.

The evaluation Team is responsible for providing expertise that will assist the State in identifying the proposal(s) that offer the best value to the State. The evaluation team is responsible for the following:

#### **8.4.4.1 Solicitation Manager in Collaboration with Subject Matter Experts**

##### **Solicitation Manager:**

- Collaborates with Subject Matter Experts on a portion of the proposal to determine if proposal meets the *solicitation requirements*
- Documents Technical Score for the evaluation criteria if applicable, and any best value components of the vendors solicitation on evaluation synopsis
- Documents proposals that meet solicitation requirements, and any best value components of the vendor's solicitation on evaluation synopsis

##### **Subject Matter Experts:**

- Collaborates with Solicitation Manager on a portion of the proposal to determine if proposal meets the solicitation requirements

#### **8.4.4.2 Joint Evaluation Committee**

##### **Solicitation Manager:**

- Leads and facilitates Joint Evaluation Committee in evaluating proposals based on the *scoring criteria* identified in the solicitation
- Documents Joint Evaluation Team's Technical Score for the evaluation criteria, and any best value components of the vendors solicitation on the evaluation synopsis

##### **Joint Evaluation Committee:**

- Review and independently score proposals based on evaluation matrix prior to the JEC meeting
- Attend and participate in JEC proposal evaluation and negotiation meetings

#### **8.4.4.3 Deficient, Unclear or Conflicting Portion of the Solicitation**

**Deficiency Report.** If the Solicitation Manager determines, after the deadline to submit proposals, that a portion of the solicitation was deficient, unclear, or conflicting, the Solicitation Manager may issue, to the vendors that submitted a responsive bid and are responsible, a "**Notice of Deficiency**." The Notice of Deficiency amends the original solicitation. If a Notice of Deficiency is issued, the Solicitation Manager must also provide all bidders with a question and answer period, and sufficient time to modify their proposal.

If, in the sole discretion of the Procurement Executive, the Notice of Deficiency would likely solicit new vendors who may not have initially responded to the solicitation, the Solicitation Manager must open the solicitation to the entire vendor community.



#### 8.4.4.4 Vendor's Response Contains Conflicting or Ambiguous Information

**Clarification Request.** If the Solicitation Manager determines that a vendor's response contains conflicting information or is so ambiguous that it is possible for a reasonable person to attribute different meaning to the response, the State may seek clarification from a vendor by issuing a written "**Clarification Request.**"

A vendor is not permitted to materially change the response, but instead is only permitted to clarify conflicting information or provide clarity around a subject addressed in the bidder's proposal.

#### 8.4.4.5 Oral Presentations, Product Demonstrations, and Inspection of Vendor Operations

The Solicitation Manager is also responsible for scheduling and facilitating **oral presentations, product demonstrations** (in person, phone conference, web conference, etc.) and **inspection of vendor operations** (plant, warehouse, or offices). If samples are required, the Solicitation Manager is responsible for ensuring that the samples provided are evaluated consistently and by the appropriate Subject Matter Expert.

Proposals meeting mandatory requirements, or receiving the minimum technical score will move to Step 5.

#### 8.4.5 Step 5 – Conducting the Price Evaluation

**Price** - The Solicitation Manager is responsible for leading and facilitating the Evaluation Team in the review and discussion of the pricing proposal in accordance with the solicitation instructions.

The Solicitation Manager is responsible for determining if a vendor is a **Service-Disabled Veteran-Owned Business**. If a vendor represents Service-Disabled Veteran-Owned Business (SDVOB) status (additional information regarding SDVOB is located in MPPM Chapter 1 ([http://www.michigan.gov/documents/micontractconnect/Chapter\\_1\\_Introduction\\_and\\_Overview\\_of\\_the\\_Michigan\\_Procurement\\_Manual\\_512141\\_7.pdf](http://www.michigan.gov/documents/micontractconnect/Chapter_1_Introduction_and_Overview_of_the_Michigan_Procurement_Manual_512141_7.pdf)), Section 1.3.5, the Solicitation Manager is responsible for reviewing the submitted documents and verifying SDVOB status by performing the following:

- **Determine proof of ownership** – To qualify for the SDVOB preference the business entity must be 51% or more owned by one or more veterans (not a separate legal entity) with a service-connected disability. To determine ownership the Solicitation Manager is responsible for identifying the vendor's legal business name and company status (i.e., ABC, Inc. a Michigan corporation; XYZ, LLC a Texas limited liability company; Jane Doe doing business as (dba) Jane Doe Cleaning). The Solicitation Manager is responsible for verifying the information with the applicable State entity the business is registered in. Typically this information can be confirmed on a state's business entity look-up website or corporation and securities website (example: the State of Michigan's business entity search website ([http://www.dleg.state.mi.us/bcs\\_corp/sr\\_corp.asp](http://www.dleg.state.mi.us/bcs_corp/sr_corp.asp))). Next, the Solicitation Manager must determine proof of ownership. Proof of ownership may be verified by

appropriate legal documents setting forth the ownership of the business entity submitting the proposal for example, operating agreements.

- **Determine veteran status** – “Veteran” means a person who served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable. Proof of service can be verified with a copy of a DD 214.
- **Determine service connected disability status** – “Service Connected Disability” means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16). Proof of conditions of discharge can be verified with a copy of a DD 214 if the disability was documented at discharge or a Veterans Administration Rating Decision letter if the disability was documented after discharge.

In lieu of the documentation identified above, the vendor may also provide a copy of the business entities National Veterans Business Development Council (NVBDC) certification.

If the SDVOB status is confirmed, the Solicitation Manager is responsible for reviewing the pricing on all proposals advancing beyond Step 3 and determining if the SDVOB is the low bid based on the 10% SDVOB preference. If the SDVOB price is no more than 10% higher than the lowest price, the SDVOB must receive the contract award. For example:

Lowest price from bidders passing Step 3	\$100,000
Lowest SDVOB price from bidders passing Step 3	\$109,000

The SDVOB price is within 10% of the lowest non-SDVOB price. Although the State would normally make a best value consideration in awarding the contract, the State is required to award the contract to the SDVOB at the price quoted in the proposal.

**Request for Quote** - If the solicitation is conducted by a Request for Quote, and terms were not previously provided, this is the time the Solicitation Manager should provide the Responsible and Responsive vendor with a copy of the Terms and Conditions applicable to the resulting contract. If exceptions are requested by the vendor, complete the steps identified in Step 1 and Step 5.

If a SDVOB preference is not applied, the State must then move to Step 6 and begin negotiating.

#### **8.4.6 Step 6 – Negotiations**

The Solicitation Manager is responsible for leading and conducting negotiations (one or more rounds) with vendors. If the solicitation identified a limit to a predefined number of top ranked vendors based on technical score, the Solicitation Manager may only negotiate with the predefined top vendors.

The process of negotiation includes soliciting improvements from a vendor in all areas of the solicitation and vendor response (this includes negotiating price). **Negotiations may not be used to modify or delete mandatory requirements of the solicitation.** The goal is to obtain a proposal that offers the best value to the State. All revisions to a vendor's

response resulting from negotiations must be in writing and included in the resulting contract. Additional Oral Presentation and Product Demonstrations may be requested during Step 6; however, the information collected is used for negotiation purposes, and the scoring of the proposals should not be modified.

**Terms and Conditions** - When evaluating the price proposal, additional consideration must be given to *exceptions* taken to the proposed Contract Terms and Conditions. The Contract Terms and Conditions of a resulting contract are intended to mitigate risk to the State. A vendor's exceptions to the Terms and Conditions will likely increase risk to the State, and in turn increase cost. A low bid with several exceptions to the Terms and Conditions may result in a higher contract price than a bid with no Terms and Conditions exceptions.

The negotiation of Contract Terms must be completed with the vendor in this Step of the Negotiation process.

The Solicitation Manager is responsible for developing and incorporating all negotiated requirements into the final contract.

#### **8.4.7 Step 7 - Reference Checks**

The Solicitation Manager must lead and facilitate the process of conducting reference checks. A "**reference check**" refers to the process of contacting a vendor's current or previous client to solicit information regarding the client's business experience with the vendor. A vendor's client references can provide insight into the vendor's level of work experience as well as the quality of past performance. Subject Matter Experts must participate in the reference check process. The method and questions used to conduct reference checks must be consistent with all reference checks, and when possible, should be performed by the same Evaluation Team Members with the Solicitation Manager leading and facilitating the process.

The type of questions to ask client references will vary depending on the State's purpose in requesting references; however, some sample questions include the following:

- Nature and duration of the work
- Quality of supplies delivered or services rendered
- Timeliness of performance
- Cost or price in terms of control – including changes and claims
- Business integrity – including behavior with subcontractors
- Willingness to cooperate, especially when confronted with unexpected issues
- Effective management of the project and internal practices

A list of questions for the references must be prepared in advance and the same questions should be asked of all references. Responses from references must be documented in writing and shared with each evaluation committee member.

#### **8.4.8 Step 8 – Evaluation Synopsis and Award Recommendation**

The Solicitation Manager is responsible for documenting the evaluation criteria utilized in evaluating proposals, and the justification used to identify the potential vendor eligible for

award (best value justification). The "Award Recommendation and Evaluation Synopsis" template should be used to draft the Evaluation Synopsis – see Chapter 9.

## **8.5 Invitation to Negotiate Evaluation and Negotiation Process**

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### **8.5.1 Evaluation Process**

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If the State receives a response to the posted Invitation to Negotiate, the Solicitation Manager is responsible for, in collaboration with Subject Matter Experts, reviewing the response and determining if the vendor can provide a viable alternative. If the source offered cannot meet the State's needs, the Solicitation Manager must develop a notice to the vendor explaining why it is not a viable alternative. Documentation of the response, and the letter must be sent to the Chief Procurement Officer, or designee, for review and approval prior to proceeding into negotiations (Steps 6-8 above) with the named vendor.

If the source offered is a viable alternative, the Solicitation Manager must notify the Chief Procurement Officer or designee of the determination and then process the solicitation through a separate competitive bidding process (e.g., Direct Solicitation, Invitation to Bid, or Request for Proposal). If a Direct Solicitation method is used, the Solicitation Manager must first obtain approval from the Chief Procurement Officer or designee. The Solicitation Manager is responsible for processing the solicitation through Steps 6-8 above.

If the State does not receive a response to the posted Invitation to Negotiate, the Solicitation Manager is responsible for, in collaboration with Subject Matter Experts, to enter negotiations, as identified in Section 8.4, directly with the named vendor.

## **8.6 Competitive Proof of Concept Evaluation and Negotiation Process**

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### **8.6.1 Evaluation Process**

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The evaluation team, led by the Solicitation Manager, is responsible for leading and facilitating the evaluation process utilizing the Competitive Proof of Concept evaluation criteria, and if appropriate, selects one or more proposals for award. A contract is negotiated and executed in accordance with the Administrative Guide and the Michigan Procurement Policy Manual.

After the proof of concept(s) have been conducted and evaluated, the State may at its discretion enter into negotiations with the successful vendor(s) to utilize the full implementation option of the contract. In such cases, the State will establish a separate implementation contract with the awarded vendor(s). The specifications in the implementation contract must be within scope of the initial request to purchase approved by the Chief Procurement Officer or designee.

State of Michigan  
Michigan Procurement Policy Manual

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## CHAPTER 9 Award, Debrief, Protest, State Administrative Board

### 9.1 Chapter Overview

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After completing the evaluation and negotiation steps identified in Chapter 8, the Solicitation Manager is responsible for completing the following steps:

- Drafting Award Recommendation and Evaluation Synopsis
- Communicating notice of the contract award
- Conducting vendor debrief sessions
- Participating in protest review activities
- Submitting award recommendation information to the State Administrative Board when required
- Notifying vendors of contract award

### 9.2 Award Recommendation and Evaluation Synopsis

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The Solicitation Manager is responsible for drafting and publishing an “**Award Recommendation and Evaluation Synopsis**” after the Evaluation and Negotiation stage of the solicitation. The Award Recommendation and Evaluation Synopsis is required for any contract award made from a direct solicitation or request for proposal over \$10,000. The decision-making rationale for a contract (including a purchase order contract) \$5,000 - \$10,000 must be documented in the solicitation file. The Award Recommendation and Evaluation Synopsis must be published on the SIGMA system, or sent to the solicited vendors if a Direct Solicitation was used, and the solicitation was not published on SIGMA. The “Award Recommendation and Evaluation Synopsis” is a document that describes items such as the following:

- The vendor selected for contract award
- The vendors that responded to the solicitation
- The evaluation process and method used in the solicitation
- The mandatory minimum requirements identified in the solicitation
- Technical evaluation results for each vendor, and summary for all vendors
- Pricing proposal summary
- State Administrative Board requirements
- Vendor debrief options

Contract negotiations, including the negotiation of price, terms and conditions, and contract requirements must be completed and documented prior to the issuance of the Award Recommendation and Evaluation Synopsis.

### 9.3 Vendor Debrief Meeting

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The Solicitation Manager is responsible for conducting, at the request of a vendor that submitted a proposal, a “**Vendor Debrief Meeting**.” A Vendor Debrief Meeting is a meeting intended to provide the State with an opportunity to explain the Evaluation Synopsis with the

vendor, provide feedback to the vendor on how to strengthen future proposals, and answer vendor questions related to the award. The Vendor Debrief Meeting must be honored and conducted (in person or conference call) as soon as possible after the request is made.

The State must have legal representation in any Vendor Debrief Meeting where the vendor has an attorney present. The Solicitation Manager must request the vendor to confirm if an attorney will be in attendance.

#### **9.4 Vendor Protest**

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A "**Vendor Protest**" is written communication from a vendor that submitted a proposal, but was not selected for award. Vendor Protests received by the deadline to submit a protest as identified in the solicitation instructions must be investigated. A Vendor Protest must be processed as follows:

**Central Procurement Solicitation** – Central Procurement Services' Relationship Management Division is responsible for conducting the review and investigation of a Vendor Protest received for a solicitation processed in the Central Procurement Services.

**Delegated Authority Solicitation** - The agency procurement executive is responsible for conducting the review and investigation of a Vendor Protest received for a solicitation processed under delegated authority. The agency procurement executive must forward the Vendor Protest to the Relationship Management Division for review and approval of the resolution.

#### **9.5 State Administrative Board**

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The Solicitation Manager is responsible for submitting, to the Secretary of the State Administrative Board, information related to the execution of a new State Contract, including Purchase Order Contracts, meeting the designated threshold. An existing Vendor Protest must be resolved prior to the Finance and Claims Committee approval date.

#### **9.6 Finalize Contract**

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The Solicitation Manager is responsible for finalizing the contract agreement, and obtaining the authorized Contractor signature, if applicable. Chapter 10 provides details on contracting, including contract development and execution.

State of Michigan  
Michigan Procurement Policy Manual

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## CHAPTER 10 Contracting

### **10.1 Contract Defined**

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A contract is an agreement between two or more parties that creates a legal obligation to do, or not to do, a particular activity. A contract sets expectations for the parties. For purposes of this section, the terms “agreement” and “contract” have the same meaning.

### **10.2 Authority to Contract**

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The Chief Procurement Officer is the State agent authorized to enter into contracts on behalf of the State. The Chief Procurement Officer has the authority to delegate this authority. Only authorized State personnel designated by the Chief Procurement Officer have the authority to bind the State.

### **10.3 Procurement Contracts**

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#### **10.3.1 Contract Types**

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There are three types of contracts utilized by the State: (1) multi-year contracts, (2) contracts that are issued for goods or services for one year or less, and (3) contracts that are issued for a one-time purchase. Other than the exceptions stated in Section 10.3.2, all purchases of goods or services must be made through one of the methods identified in this Section 10.3.

##### **10.3.1.1 Multi-Year Contract**

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A multi-year contract is a written contract issued for a good or service to be provided for more than one year, or a State contract that contains an option year(s) that extends the contract beyond the one year.

Note: A purchase order release, or any other ordering document, issued subsequent to the execution of a multi-year contract is not a contract, but rather it is the ordering method used for a multi-year contract.

##### **10.3.1.2 Purchase Order Contract (One Year or Less Purchase)**

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If a multi-year contract is not issued, a one-year contract for the purchase of goods or services may be made through a written contract most commonly known as the purchase order contract. Some agencies may use terminology different than a “purchase order contract”; however, the process to procure the goods or services for these purchases is the same.

### **10.3.1.3 Purchase Order Contract (One-Time Purchase)**

If a multi-year contract is not issued, a *one-time purchase* of a good or service may be made through a written contract most commonly known as the purchase order contract. Some agencies may use terminology different than a “purchase order contract” however, the process to procure the goods or services for these purchases are the same.

The contract types noted above include **third party contracts** – a contract that requires a contractor to provide a good or service, and payment for the good or service is made through fees paid by a third party; and **revenue generating contracts** – a contract where the contractor is providing the good or service, and the State will receive revenue from the contractor based on its use of the good or service (e.g., procurement card contract which provides a rebate to the State based on usage, prisoner phone system that provides a rebate to the State, infant formula program).

### **10.3.2 Alternative Purchasing Methods – Exception to Standard State Contract**

In limited circumstances, as identified below, a standard state contract is not required for a purchase.

#### **10.3.2.1 Procurement Card**

A procurement card can be used to purchase goods for \$5,000 or less. Any purchase above \$5,000 will require advance written approval. Procurement card purchases must be made in accordance with Administrative Guide 0510.17 Procurement Card ([https://www.michigan.gov/documents/dmb/0510.17\\_182489\\_7.pdf](https://www.michigan.gov/documents/dmb/0510.17_182489_7.pdf)) and the Procurement Card Program cardholder and agency manuals on the PCard website (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/PCard.aspx>).

#### **10.3.2.2 Non-Standard State Contract Purchase**

A verbal (telephone or in person), electronic (email), or online purchasing method may be used for any purchase less than or equal to \$5,000, that is not on a multi-year, or on a purchase order contract.

*Note: Policy regarding payment methods is located in Chapter 11.*

#### **10.3.2.3 Memorandum of Agreement and Memorandum of Understanding**

A memorandum of agreement and memorandum of understanding are not appropriate contracting vehicles for purchases made pursuant to Public Act 431 of 1984. Furthermore, a memorandum of agreement and memorandum of understanding must not be used to circumvent Public Act 431 of 1984 and the competitive bidding process.



## **10.4 Essential Components of a Standard State Contract**

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### **10.4.1 Essential Components of Standard State Contracts**

All contracts must include, and clearly identify the following:

#### **10.4.1.1 Parties to the Contract**

The legal business name of the parties to the contract must be identified in the contract.

#### **10.4.1.2 Contract Term**

The contract term – the initial contract term (fixed start and end date), and option years, if applicable, and the renewal process must be identified in the contract.

#### **10.4.1.3 Specifications or Statement of Work**

The specifications or statement of work must clearly define the scope of the work to be performed or provided by the contractor and the State, the responsibilities of the parties, the deliverables, the milestones and timeline for performance, acceptance criteria, applicable service level agreements, and the associated payment stream.

#### **10.4.1.4 Contract Price, Delivery Terms, Payment Methods, and Payment Terms**

The contract price must be clearly articulated in the contract, and if appropriate, any index-based pricing formula and mechanism. This will minimize risk, prevent overpayment and reduce contractor payment disputes, and in the event of a breach, the price will be used in determining damages. The contract price may be expressed, for example, as a unit, an hourly price, or a firm fixed price.

The contract must also include delivery terms (e.g., carrier, freight charges, place of delivery, and time of delivery), the ordering method, for example, telephone or email orders, and the method in which the vendor will receive payment (e.g., electronic funds transfer, or procurement card).

The contract payment schedule must be identified and written to maximize value to the State and minimize risk. Payment for goods or services should be made when the State has received value – receives and accepts the goods or services.

#### **10.4.1.5 Terms and Conditions**

All provisions in the contract, including attachments, addendums, schedules, etc. are considered contractual terms or requirements. Each term gives rise to a contractual obligation, breach of which can result in litigation. Contracts will also include a “Terms and Conditions” section, and may be titled, for example, “Standard Contract Terms”, “Software as a Service Terms”, or “Custom Software Development Terms.” The “Terms and Conditions” section of the contract define legal and business terms associated with the specific purchase.

#### **10.4.1.6 Authority to Bind the State**

An individual's authority to contract is limited to those who have been authorized in writing by the Chief Procurement Officer to purchase on behalf of the State.

## **10.5 Contract Development and Execution**

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### **10.5.1 Contract Development**

At the conclusion of a solicitation and prior to the contractor's performance, the State and contractor must execute a contract, as described in 10.5.2 Contract Assembly and Execution, which encompasses the entire agreement. The documents must reflect the negotiated requirements, milestones, timeline for performance, associated payment stream or price, and the applicable "Terms and Conditions."

*All documents* provided by a contractor in the solicitation process must be reviewed and evaluated to determine if the contractor's documents or revised language will be attached or merged into the final contract. "All documents" include subscription agreements, licensing agreements, participating addendums, disaster recovery plans, etc.

Any negotiation to the "Terms and Conditions" provided in the solicitation must be performed by an individual having the authority to modify "Terms and Conditions." The Central Procurement Office is responsible for the review and approval of contractor exceptions to the terms and conditions in the formal competitive bidding process (see Chapter 5), and will provide assistance, at the request of an agency, for the negotiation of terms and conditions in an informal bidding process.

### **10.5.2 Contract Assembly and Execution**

Contracts must only be processed and executed by the State procurement professional and contractor personnel who have authority to purchase. The contract assembly and execution process is determined by the contract type (i.e., multi-year contract, and purchase order contract).

#### **10.5.2.1 Multi-year Contract**

The documentation for a multi-year contract must contain and be assembled as follows:

1. Cover Sheet and Signature Page (State and Contractor signatures are required on all contracts)
2. Terms and Conditions
3. Schedule A - Statement of Work or Specifications
4. Schedule B - Pricing – When possible use a matrix to link milestones; deliverables; timeline for performance; payment schedule; and pricing.
5. Attach any additional documents and title them as appropriate - Schedules C, D, etc.
6. Once the contract is assembled it must be sent to the contractor for review and signature. After receipt of the signed contract, the State will countersign. The contract is considered executed when the contract is signed by the State; however, the contractor must not begin performance until the State provides the contractor with notice to begin performance, as identified in the contract. The contract must be fully executed no later than ninety (90) days after approval by the State Administrative Board. If the contract is not executed, the underlying

solicitation will be cancelled. The State and the contractor may mutually agree in writing to extend the 90-day period and the reason for the extension must be stated. Contractor submitted documents received after contract execution will not be incorporated into the final contract unless approved by the purchasing professional, in writing, and incorporated into the contract by the execution of a change notice.

#### **10.5.2.2 Purchase Order Contracts**

The documentation for a purchase order contract must contain and be assembled is as follows:

1. Purchase Order Contract
2. Terms and Conditions
3. Additional Documents (including statement of work, quote, etc.)

Once the contract is assembled it must be sent to the contractor for review and, if applicable, contractor signature.

### **10.6 Establishing the Multi-Year Contract and Purchase Order Contract in SIGMA**

#### **10.6.1 Contract Transactions in SIGMA**

The transaction process associated with multi-year contracts and purchase order contracts for commodities and services is located in Administrative Guide Policy 1210 Accounting ([https://www.michigan.gov/documents/dmb/1210\\_182706\\_7.pdf?20150828163403](https://www.michigan.gov/documents/dmb/1210_182706_7.pdf?20150828163403)), Accounting Part II – Accounting and Financial Reporting Policies, Chapter 23 of the Financial Management Guide.

#### **10.6.2 Commodity Codes**

Regardless of the dollar value, all contracts (by line item) must be coded with the applicable commodity code related to the good or service. Commodity codes specified in category plans must be used where a category plan is in place. Information on Category Plans and commodity codes can be found on the Procurement website (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/default.aspx>) under the Contract Categories (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/Contract-Categories-.aspx>) button.

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## CHAPTER 11 Authorization to Begin Performance, Review and Acceptance, Invoicing and Payment

### 11.1 Authorization to Begin Performance

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The State contract must include the mechanism, such as a purchase order release or otherwise specified method that authorizes the contractor to begin performance. This Chapter applies to multi-year contracts and purchase order contracts (as defined in Chapter 10) and does not apply to the Alternative Purchasing Methods that are identified in Chapter 10, Section 10.3.2.

### 11.2 State Review and Acceptance

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The delivery of goods, services and other contract deliverables does not constitute State acceptance. All goods, services, and other contract deliverables are subject to the inspection, testing, and other appropriate review outlined in the State contract.

#### 11.2.1 Delivery of Goods – Shipping Terms – Loss or Damage in Transit

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The standard shipping term is **FOB destination**. This means that the risk of loss remains with the contractor during transit and up to State acceptance. Any claim for loss or damage incurred before State acceptance must be made by the contractor to the carrier directly.

#### 11.2.2 Inspection and Acceptance - Goods

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Goods delivered by the contractor must be inspected and either accepted or rejected. Inspection should be completed as soon as possible, but at a minimum in accordance with the contract terms. Acceptance constitutes the State's acknowledgment that the goods conform to the quality and quantity requirements identified in the contract.

Inspection of used equipment should be performed prior to the purchase to validate the value before acceptance.

#### 11.2.3 Inspection and Acceptance - Services

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For service contracts, inspection and acceptance may be upon the completion of stated tasks or timely achievement of milestone events defined in the contract. Acceptance constitutes the State's acknowledgment that the services conform to the quality and other requirements identified in the contract.

### 11.3 Contractor Invoicing

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The State is responsible for the payment of all invoices for goods and services in accordance with the payment terms of the State contract. The State must not pay any invoice, unless an exception applies (see Administrative Guide Policy 1210 Accounting ([https://www.michigan.gov/documents/dmb/1210\\_182706\\_7.pdf?20150828163403](https://www.michigan.gov/documents/dmb/1210_182706_7.pdf?20150828163403)), Part II – Accounting and Financial Reporting Policies, Chapter 23 of the Financial Management Guide)

without a corresponding State contract and the State's affirmative receipt and acceptance of the good or service.

### **11.3.1 Invoicing and Billing Requirements**

The State contract must describe the appropriate invoice requirements. The contractor's invoices and statements should include the following information:

- Contractor name, address, and FEIN
- Purchase order contract or multi-year contract number
- Name and address of the ordering State agency, and zip code
- Itemized and detailed list of goods, quantities, agreed prices
- Invoice number and total price
- Contracted payment remit date
- Discount, if applicable
- Date of order and shipping date, and
- Back order amount, if any and shipping date

### **11.3.2 Taxes**

The State is exempt from all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State upon request; the State will provide the contractor with a Michigan Sales and Use Tax Certification of Exemption form ([https://www.michigan.gov/documents/taxes/3372\\_216612\\_7.pdf](https://www.michigan.gov/documents/taxes/3372_216612_7.pdf)). Contact can be made with the Department of Treasury, Sales and Use Tax Technical Services Division at 517-636-4357 with any questions regarding taxes.

## **11.4 Payment**

State contracts must have an appropriate payment stream (i.e., payment schedule that has the appropriate payment at the time of major milestones and only after the acceptance of deliverables, etc.). Payment for goods or services must be made after the State's affirmative acceptance that the goods or services conform to the contract requirements. The business area or program manager must serve as a resource to the State entity's accounts payable personnel to ensure that all invoices comply with the terms and conditions of the contract, that the contractor is only billing for goods or services received and accepted by the State, and that the total payments do not exceed the contract limits and do not include exempt taxes. The business area or program manager must also ensure that applicable deductions for credits are applied. The payment of any invoice must be made pursuant to (see Administrative Guide Policy 1210 Accounting ([https://www.michigan.gov/documents/dmb/1210\\_182706\\_7.pdf](https://www.michigan.gov/documents/dmb/1210_182706_7.pdf)), Part II – Accounting and Financial Reporting Policies, Chapter 23 of the Financial Management Guide.

The following subsections provide additional policy governing the payment.

#### **11.4.1 Prompt Payment – Net 45**

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Unless otherwise provided in writing, the State will take all steps necessary to pay a contractor within 45 calendar days after receipt of an undisputed invoice, or the State's receipt and acceptance of the goods or services, whichever is later.

#### **11.4.2 Late Fees**

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If payment is past due, the State will pay the contractor a late fee as may be required by Public Act 279 of 1984 (<http://legislature.mi.gov/doc.aspx?mcl-Act-279-of-1984>), MCL 17.51. *et seq.* The late fee will be 0.75% of the payment due for the first month and each succeeding month or portion of a month the payment remains due. This late fee shall not be assessed if payment is overdue because 1) there is a good faith disagreement with the contractor and it has not been resolved in the contractor's favor; 2) there is an executive order budget cut; or 3) the State has already paid a penalty charged by the contractor.

#### **11.4.3 Prompt Payment Discounts**

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Prompt payment discount refers to a reduction in the invoice price due to the State's payment of the invoice in advance of the payment due date. If the State is entitled to a discount, but the invoice does not reflect the existence of a prompt payment discount, and the State pays the invoice, the State is entitled, upon demand, to a credit in the amount of such discount.

#### **11.4.4 Withholding Payment and Payment Disputes**

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In an effort to protect the interest of the State, in the appropriate circumstances determined by the purchasing professional, it may be necessary to withhold payment from contractors. Examples of circumstances, if not contained in the contract, where it may be necessary to withhold payment, include:

- A material breach of the contract by the contractor
- Errors in the invoice
- Unsupported or undocumented costs
- To remedy previous overpayments on the same contract
- Contractor's performance is nonconforming or unacceptable
- Invoices for travel that are not in compliance with Michigan's travel regulations

Any circumstance justifying withholding payment should be documented by the State in writing and maintained as part of the procurement file.

#### **11.5 Payment Methods**

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Contractors providing goods or services to the State will be paid through electronic funds transfer. In limited situations a contractor may receive payment through other methods. Furthermore, to ensure timely payment to the Contractor and the collection of appropriate spend data, the acceptable payment method must be identified in every State contract. The payment methods are described below.

### **11.5.1 Electronic Funds Transfer**

Contractors must register for electronic funds transfer (EFT) on SIGMA Vendor Self Service (VSS) (<http://www.michigan.gov/SIGMAVSS>). Contractors must provide a tax identification number, banking information, and other information when registering. Registration on this system must be completed prior to contract award.

### **11.5.2 Procurement Card**

#### **11.5.2.1 Payment for Single Purchase \$5,000 or Less**

A procurement card may be used for any single state purchase \$5,000 or less in compliance with Administrative Guide 0510.17 Procurement Card ([https://www.michigan.gov/documents/dmb/0510.17\\_182489\\_7.pdf](https://www.michigan.gov/documents/dmb/0510.17_182489_7.pdf)) and the PCard website (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/PCard.aspx>), Procurement Card Program cardholder and agency manuals.

#### **11.5.2.2 Payment for Purchase on Existing State Contract**

With advance written approval from the Central Procurement Office, the procurement card may also be used for the payment of goods obtained under an existing State contract.

Procurement card purchases must be made in accordance with Chapter 5 of the Michigan Procurement Policy Manual, Administrative Guide 0510.17 Procurement Card ([https://www.michigan.gov/documents/dmb/0510.17\\_182489\\_7.pdf](https://www.michigan.gov/documents/dmb/0510.17_182489_7.pdf)) and the Procurement Card Program cardholder and agency manuals found on the PCard website (<https://stateofmichigan.sharepoint.com/teams/insidemi/Purchasing/Pages/PCard.aspx>).

### **11.5.3 Warrant**

In limited circumstances, with the approval of the Office of Financial Management, a paper check may be issued to a contractor for payment of a good or service.

## **11.6 Processing of Contract Payments – Recording Expenditures in SIGMA**

In accordance with Chapter 23, Section 100 of the State of Michigan Financial Management Guide, and to ensure the collection of appropriate spend data, payments made to contractors must be properly processed in the State's financial accounting system (SIGMA). SIGMA consists of the State's procurement system and the State's accounting, budgetary control, and financial reporting software system.

### **11.6.1 SIGMA – Processing of Contract Payments – Reference to State Contract**

All contract payments must be processed by issuing a SIGMA voucher or a SIGMA direct voucher. Each payment must identify the State contract number referenced.

### **11.6.2 SIGMA Processing – Exceptions to Section 11.6.1. Reference to State Contract Requirements**

In limited situations, as identified in Chapter 23, Section 100 of the State of Michigan Financial Management Guide, or upon approval of the Office of Financial Management and

the Chief Procurement Officer, a payment can be made to a contractor directly through the accounting system. The agency should maintain a system to accumulate expenditure data associated with these specific transactions to ensure accurate annual reporting of contractual personal service expenditures to the legislature.



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## CHAPTER 12 Contract Management

### 12.1 Contract Management

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Contract management is the process of actively managing State contracts to ensure compliance with the requirements of an executed contract. This chapter outlines the State's roles and responsibilities for managing contracts, and describes activities that are necessary for effective contract management.

### 12.2 Contract Management Team

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The **Contract Management Team** is the team of individuals responsible for, including but not limited to, ensuring compliance with the contract requirements, including terms and conditions, documenting agreed upon contract changes, addressing contractor performance issues, and maintaining the contract file. The Contract Management Team and roles and responsibilities, at a minimum, are described below.

#### 12.2.1 Contract Management Team Members

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##### 12.2.1.1 Business Owner

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The agency leader (e.g., department or agency director, or designee) who is the owner of the procurement need. The business owner is responsible for, including but not limited to, the following:

- Ensuring that the contractor is delivering and performing in accordance with the contract requirements
- Identifying the Program Manager who will be responsible for the day-to-day oversight of the contract, contractor delivery, and performance requirements

##### 12.2.1.2 Contract Administrator

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The purchasing professional, as identified by Procurement Executive, who is responsible for, including but not limited to, the following:

- Administering the contract
- Leading and facilitating contract kickoff and progress meetings
- Providing statewide or department-wide announcements of a new contract
- Monitoring the contractor's performance throughout the life of the contract
- Scheduling and facilitating progress or performance meetings
- Resolving contract performance issues
- Maintaining the contract file

- Assisting the Program Manager in understanding the contract and responsibilities of the State and the contractor
- Assisting the Program Manager in understanding the Program Manager's role and responsibility related to contract management

#### **12.2.1.3 Program Manager**

The individual identified by the business owner, or designee, who is responsible for, including but not limited to, the following:

- The technical oversight and direction of the day-to-day administration of the contract
- Monitoring the contractor's performance throughout the life of the contract, including ensuring that the contractor is meeting all milestones and is in compliance with service levels identified in the contract
- Serving as the day to day contact for contractor questions, and engaging Contract Administrator's assistance when necessary
- Understanding contract and payment terms, including payment stream, early pay discounts, applicable holdbacks, etc.
- Reporting to the Contract Administrator contractor's failure to meet service level agreements
- Reviewing and approving invoices by ensuring accuracy and alignment with contract payment stream (e.g., milestone and deliverables associated with payment stream)
- Understanding what is considered a Minor Contract Issue (see Section 12.5)
- Following all steps required to resolve Contract Issues

### **12.3 Contract Kick-Off Meeting and Announcement**

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A "**Contract Kick-off Meeting**" is a conference of the parties (Contract Administrator, Program Manager, contractor, and other individuals as determined by the parties) who are responsible for administering the contract. The Procurement Executive should decide if a Contract Kick-off Meeting is necessary. If a contract kick-off meeting is necessary, it should be held after the contract award, but before the contractor begins performance.

The Contract Kick-off Meeting can be held in person, by video or conference call. The Contract Administrator is responsible for scheduling and facilitating the kick-off meeting with the contractor, and recording communications of the meeting on the "**Contract Kick-off Meeting Record**" form. The Contract Kickoff Meeting Record should be maintained in the contract file.

Prior to the kick-off meeting, the Contract Administrator may conduct a kick-off planning session with the contract Program Manager and appropriate end users.

### **12.4 Contract Announcements**

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The Contract Administrator is responsible for announcing the new contract to all applicable users, including department and agency staff responsible for the payment of invoices.

## **12.5 Contract Issue Resolution**

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There may be circumstances when the contractor and the State disagree over contract performance (a **"Contract Issue"**). There are two types of Contract Issues: (1) minor contract issue, and (2) major contract issue. The two types of Contract Issues are defined as follows:

A **"Minor Contract Issue"** is a Contract Issue that can be easily resolved with a call or email. If the issue has not been resolved within 30 calendar days, or is repetitive, it then becomes a Major Contract Issue.

A **"Major Contract Issue"** is a Minor Contract Issue that has not been resolved within 30 calendar days, is repetitive, or a Contract Issue that substantially impacts the performance of the contract, or immediately impacts the needs of the State.

Each Contract Issue should be resolved by the Contract Administrator and Program Manager in accordance with the **"Contract Issue Resolution Process"** described below.

### **12.5.1 Step 1 – Identify and Document Issue**

#### **12.5.1.1 Minor Contract Issue**

##### **Contract Administrator:**

Provide the support to Program Manager as requested or as Contract Administrator determines necessary.

##### **Program Manager:**

Document issue on the Issue Tracking Log.

The **"Issue Tracking Log"** is a form intended to track Minor Contract Issues and document the steps taken to resolve the identified Contract Issue.

#### **12.5.1.2 Major Contract Issue**

##### **Contract Administrator:**

Document issue as a Vendor Performance in SIGMA.

The **"Vendor Performance"** is a tracking system in SIGMA that is intended to document, in a central location, Minor and Material Contract Issues and document the steps taken to resolve the issue.

##### **Program Manager:**

Provide support to Contract Administrator.

### **12.5.2 Step 2 – Evaluate**

#### **12.5.2.1 Minor Contract Issue**

##### **Contract Administrator:**

Assist the Program Manager when necessary.

**Program Manager:**

Review all the facts and understand if the issue conflicts with the requirements and terms and conditions of the contract. Investigate the factors that contributed to the allegations and whether the State has contributed to the issue. Determine the appropriate course of action, and document on the Issue Tracking Log or Vendor Performance in SIGMA. Assist Contract Administrator when necessary.

**12.5.2.2 Major Contract Issue**

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**Contract Administrator:**

Review all the facts and understand if the issue conflicts with the requirements and terms and conditions of the contract. Investigate the factors that contributed to the allegations and whether the State has contributed to the issue. Determine the appropriate course of action, and document on the Issue Tracking Log or Vendor Performance in SIGMA. Assist Contract Administrator when necessary.

**Program Manager:**

Assist Contract Administrator when necessary.

**12.5.3 Step 3 – Discuss with Contractor**

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**12.5.3.1 Minor Contract Issue**

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**Contract Administrator:**

Assist the Program Manager when necessary.

**Program Manager:**

Discuss the issue with the contractor and obtain feedback. Document, on the Issue Tracking Log or on the Vendor Performance, the steps for corrective action to be taken by the contractor and the State, as applicable, and timeline for performance. This information must be formalized in a written document and provided to the contractor. Resolution steps should be completed in no more than 30 calendar days, or as otherwise agreed.

*The State should respond promptly to all contractor inquiries. Failure to address contractor questions or concerns timely may result in adverse consequences to the State.*

**12.5.3.2 Major Contract Issue**

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**Contract Administrator:**

Discuss the issue with the contractor and obtain feedback. Document, on the Issue Tracking Log or on the Vendor Performance, the steps for corrective action to be taken by the contractor and the State, as applicable, and timeline for performance. This information must be formalized in a written document and provided to the contractor. Resolution steps should be completed in no more than 30 calendar days, or as otherwise agreed.

*The State should respond promptly to all contractor inquiries. Failure to address contractor questions or concerns timely may result in adverse consequences to the State.*

**Program Manager:**

Assist the Contract Administrator when necessary.

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**12.5.4 Step 4 – Dispute Resolution Activities Identified in the Contract**

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**12.5.4.1 Minor and Major Contract Issue**

**Contract Administrator/Program Manager:**

If the issue is not resolved within the time period identified in the written notice issued under **Step 3**, the State must consider additional dispute resolution steps such as issuing a right to cure letter or a stop work order, or terminating the contract. Dispute resolution steps required under the contract must be followed.

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**12.6 Contract Compliance Reports and Ongoing Reporting**

At least yearly, the Contract Administrator and the Program Manager should complete an evaluation of the contractor's performance and document the evaluation on a "**Contract Compliance Report**." The Contract Compliance Report provides a summary of the contractor's performance over the last twelve months. The Contract Compliance Report must include a copy of any Issue Tracking Log maintained by the Program Manager. Any outstanding Contract Issues must be addressed with the contractor and resolved prior to the Contract Administrator certifying and maintaining the Contract Compliance Report in the contract file.

Contractors holding Category 4 or 5 contracts (See Category Level List to determine level) will be entered into a database which will allow notifications to be sent automatically to Contract Administrators anytime the vendor is reported for ethical or conflict issues. Contract Administrators should investigate these notifications upon receipt.

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**12.7 Contract Progress Meetings**

The **Contract Administrator** is responsible for scheduling and facilitating Contractor Progress Meetings. A "**Contract Progress Meeting**" is intended to assist the State and contractor in, including but not limited to, reviewing the Contract Compliance Report, addressing outstanding items on the Issue Tracking Log and Vendor Performance in SIGMA, reviewing overall contract compliance, discuss market trends that will assist the State in understanding changes in the industry, and solicit contractor recommendations for increasing contract efficiency and reducing costs.

Contract Progress Meetings can be held (in person or by conference call) at any time, but at a minimum the Contract Administrator should hold a Contract Progress Meeting at least yearly. The Contract Administrator, Program Manager and any individual identified by the parties should participate.

## 12.8 Change Management

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It may be necessary to make changes to the contract. Contract changes must be documented on a Contract Change Notice, and signed by the Contract Administrator for the State and contractor. A **"Contract Change Notice"** is a form used to document State and contractor agreed modifications to the contract. A Contract Change Notice must be maintained in the contract file.

A contract change includes, but is not limited to, the following:

- Change in State or contractor address
- Corrections of typographical errors not affecting the substance of the contract
- Changes in personnel assigned to administer the contract
- Increase in the value of a contract with no scope change
- Change in the price(s) of the contract deliverable, or increasing the value of a fixed price contract
- Change in delivery schedule
- Change to the statement of work
- Change of any of the "Terms and Conditions"
- Exercising an option year, or extending the contract term
- Changes to Tax ID or Contractor Name
- Change in subcontractor

*Note: Any document received from the contractor that alters the contract, or requires a signature from the State must be sent to the Contract Administrator for review, approval, and signature.*

The Contract Administrator is responsible for ensuring that the appropriate agency approval, if required, is obtained prior to finalizing a change request. If a change requires a modification to the approved CS-138, the agency responsible for obtaining the initial approval is responsible for obtaining any subsequent approvals. In addition, any State Administrative Board requirements must be met.

## 12.9 Contract Closeout Activities

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A contract is completed when all goods, equipment, or services have been received and accepted; all reports have been delivered and accepted; all State furnished equipment and material has been returned; and final payment has been made to the contractor. Prior to approving the final contractor invoice, the program manger should ensure that all outstanding issues have been resolved and that both parties to the contract have fulfilled their contractual obligations.

The Contract Administrator, with assistance of the Program Manager, should complete a Contract Closeout Report and maintain in the contract file. The **"Contract Closeout Report"** is a checklist that assists the Contract Administrator in ensuring that the contractor has provided all deliverables and performed all contract requirements, that all outstanding Contract Issues are resolved, and that all State property has been returned to the State. The Contract Closeout Report must be maintained as part of the contract file.

The Contract Administrator may hold a Contract Closeout Meeting prior to closing out the contract. A **“Contract Closeout Meeting”** is a meeting (in person or by telephone) to verify the requirements identified on the Contract Closeout Report. The Procurement Executive should decide if a Contract Closeout Meeting is necessary.

## CHAPTER 14 Training and Professional Development

### 14.1 Chapter Overview

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This Chapter describes training and professional development opportunities available to Enterprise Procurement staff and the vendor community.

### 14.2 Central Procurement – Training – Roles and Responsibilities

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#### 14.2.1 Enterprise Procurement Training – State of Michigan Employees

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The Chief Procurement Officer is responsible for establishing training programs to effectively and efficiently transact business as required under PA 431 of 1984. The Enterprise Procurement Training Team, led by Central Procurement and comprised of procurement team members from the department and agencies, is responsible for establishing and maintaining a training program (e.g., a multi-year plan), and developing and administering training to the Enterprise Procurement team. Training will cover an array of procurement subjects from state-specific such as purchasing policies and freedom of information act to procurement skill-specific such as negotiations and statement of work.

#### 14.2.2 Enterprise Procurement Training – Business Development, Policy and Compliance Section

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The Enterprise Procurement Business Development, Policy and Compliance Section is responsible for developing and administering procurement-related training to existing and potential vendors doing business with the state of Michigan.

### 14.3 Procurement Executive – Roles and Responsibilities

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The department or agency Procurement Executive, or designee, is responsible for actively participating in the development and execution of enterprise-wide training for personnel who perform procurement functions. The agency Procurement Executive is also responsible for ensuring that department or agency personnel who perform procurement functions receive training in accordance with the training guidelines.

### 14.4 Training Class Notification and Registration

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Central Procurement is responsible for providing notice of the training classes. The Procurement Executive is responsible for ensuring that department or agency participants are registered in accordance with the training class notification.

### 14.5 Attendance at Training Sessions

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Each training notice will state whether the training is applicable to specific procurement job classifications or to all Enterprise Procurement staff, and whether participation is mandatory or optional.