Chapter 11

Contract Administration

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## Chapter 11

## Contract Administration

#### Overview

##### Introduction

Contract administration concentrates on the relationship between the department and the supplier from contract award to contract closeout ensuring the supplier delivers the product and/or service in conformance with the purchase document requirements. The contract administrator must completely understand all aspects of the purchase document. This chapter describes the DGS/PD requirements and recommended practices associated with contract administration activities.

#### Topic 1 - Contract Administration Principles

##### 11.1.0 What’s in a name?

Personnel assigned to perform supplier performance and contract administration activities are often referred to as a “contract manager” or “contract administrator.” This chapter will refer to the person assigned to perform all contract administrative functions as a contract administrator.

##### 11.1.1 Buyers remain involved

Although contract administration assignments may be determined by departmental policies and procedures or the magnitude or complexity of the contract, it is critical that the buyer remains involved in the post award contract activities, including acting as the department’s contract manager or as a liaison between the contracting parties and the DGS/PD as warranted.

##### 11.1.2 Expectations of the contract administrator

Regardless of the title used, the person assigned contract administration functions must be made aware of the expectations and requirements of the position. A contract administrator must:

* Have sufficient knowledge of contracting principles as it relates to their responsibilities in administering the contract.
* Communicate with both the buyer and supplier on contractual issues.
* Maintain records or logs to turn over to the procurement office at the completion of the contract.
* Before approving the final payment on a contract or purchase order that includes a commitment to use DVBE subcontractors, refer to SCM 3.5.3 and follow the department policy and procedures regarding the receipt of the Prime Contractor’s Certification – DVBE Subcontracting Report (STD 817) and the associated withhold requirements.

##### 11.1.3 Establish the fundamentals

Once a purchase document has been executed, the contract administration responsibilities should be reviewed with the person assigned to the role. Any additional contract administration activities specific to the transaction should also be reviewed.

##### 11.1.4 Communication is key

A key factor in successful contract administration is communication. It is essential for contract administrators to understand the provisions of the purchase document, have the ability to communicate contract obligations to all parties involved, and maintain control over the contract performance.

##### 11.1.5 Post-award orientations

Buyers, prior to turning over contract administration functions, determine whether or not a post-award orientation with assigned contract administrators, project managers, and suppliers is warranted to achieve a clear and mutual understanding of all contract requirements and to identify and resolve potential problems prior to any contract performance.

##### 11.1.6 Post award orientation activities

Post-award orientations should include the following activities:

* Providing a complete copy of the authorized purchase document with all attachments to the involved parties.
* Identifying the key department and supplier personnel contacts and their responsibilities and authority.
* Reviewing any internal policies and procedures with all parties.
* Reviewing any contract reporting requirements with the contract administrator and/or the supplier.
* For a contract or purchase order that includes a commitment to use DVBE subcontractors, referring to SCM 3.5.3 and following the department policy and procedures regarding the receipt of the Prime Contractor’s Certification – DVBE Subcontracting Report (STD 817) and the associated withhold requirements.
* Reviewing the contract payment process, including review time, and processing time requirements to avoid payment penalties.
* Reviewing any acceptance criteria and review process as required by the contract.
* Reviewing the process for requesting an amendment/addendum/supplement/change.
* Reviewing the communication process for resolving disputes or any other contract issue.
* Reviewing documentation requirements for the purchase document audit files and retention.
* Reviewing and documenting supplier performance.

##### 11.1.7 Consider departments’ processes

In addition to information contained in the SCM, Vol. 3, departments are encouraged to develop contract administration policies and procedures that are unique to their department’s business needs or processes.

#### Topic 2 – The Do’s and Don’ts of Contract Administration

##### 11.2.0 Contract administration do’s

Effective contract administration activities include:

* Notifying the contractor to begin work.
* Monitoring contract activities for compliance with:
* Work progress to ensure services are performed according to the quality, quantity, objectives, timeframes, and manner specified within the contract.
* SB and DVBE contractors and/or subcontractors to ensure attainment of approved contract participation goals and ensuring no unauthorized substitutions occurs.
* Progress reports, status reports, and timesheets as required.
* Approving the final product/services by submitting a written document accepting the deliverables.
* Before approving the final payment on a contract or purchase order that includes a commitment to use DVBE subcontractors, refer to SCM 3.5.3 and follow the department policy and procedures regarding the receipt of the Prime Contractor’s Certification – DVBE Subcontracting Report (STD 817) and the associated withhold requirements.
* Providing any documentation to the department’s procurement office.
* Monitoring expenditures, ensuring funding availability when contract extends over multiple years.
* Verifying accuracy of invoices and approving invoices for payment.
* Requesting amendments/addendums/supplements/changes and/or contract renewals in a timely fashion as determined by departmental policies and complexity of the request (often three – six months in advance).
* Verifying all work is completed and accepted by the department prior to the contract expiration date.
* Performing contract close out activities:
* Completing Contractor Evaluation Report (STD. 4) for consulting services or in accordance with department policies and procedures.
* Notifying responsible parties when funds can be disencumbered.
* Reporting any contract disputes immediately to the department procurement office.
* Keeping an accurate auditable paper trail of contract administration.

##### 11.2.1 Contract administration don’ts

Contract administrators are not authorized to:

* Instruct the contractor to start work before the contract is fully executed.
* Change the scope of the contract without doing so through the formal purchase document amendment process.
* Direct the contractor to perform work that is not specifically described in and funded by the contract.
* Extend the time period of the contract without execution of an approved amendments/addendums/supplements/changes.
* Allow the contractor to incur any additional costs over the limit set by the contract.
* Sign a contract as the department’s authorized signator unless authorized in writing.
* Sign any contractor’s contract form.

#### Topic 3 - Ethical Decision Making and Contract Administration

##### 11.3.0 Work behaviors and awareness

Staff, other than buyers, that perform contract administration functions, not only need to understand how to administer a contract but are also expected to adhere to and conduct business by maintaining the same ethical standards as if they were a buyer.

##### 11.3.1 Review contract principles

Buyers that are turning over the contract administration functions to a person unfamiliar with the procurement process should review with that person the principles of conduct governing the acquisition process and its impact to the role of the contract administrator.

Contract administrators must:

* Conduct themselves in a professional manner, refraining from mixing outside friendships with business, not engaging in incompatible activities, conflicts of interest, or unethical behavior.
* Accurately account for expenditures and property received.
* Involve the department’s procurement and legal resources staff when questions arise regarding acceptable or unacceptable behavior when dealing with suppliers.

##### 11.3.2 Ethics review

Buyers and contract administrators are advised to review their department’s statement of incompatible activities, SAM section 3504 on ethics and prohibited practices, and refer to Chapter 2 – Procurement Planning.

Complete Form 700, Conflict of Interest Form, and department’s Statement of Incompatible Activities.

Additional information on ethics may also be found on the [Fair Political Practices Commission Website](http://www.fppc.ca.gov) at www.fppc.ca.gov.

#### Topic 4 – Record Retention and Contract Administration

##### 11.4.0 Good record keeping

Departments are responsible for maintaining records in sufficient detail to allow anyone to review documentation and understand how the procurement was requested, conducted, awarded, and administered.

Buyers shall provide contract administrators with the necessary instructions to maintain good record keeping activities and ensure the records are turned over to the procurement office at the completion of the contract term. The records maintained by the contract administrator are incorporated into the procurement file and retained for compliance and/or auditing purposes.

##### 11.4.1 Setting up a contract file

Contract administration responsibilities may also include establishing the department’s procurement file dependent upon the department policies and procedures as to who performs the contract administration duties.

Consequently, contract administrators should organize documentation according to department procurement processes in addition to the DGS/PD recommendations.

The DGS/PD recommends creating files by:

* Developing a user-friendly filing system. File by purchase document number or supplier name.
* Establishing a separate hard copy file for each purchase document administered.
* Developing a log sheet for a diary of activities. This may include dates and times of discussion and subject matter discussed.
* Developing spreadsheets for tracking expenditures, invoices, and/or timekeeping for the life of the transaction.
* Creating file dividers for:
* Original purchase document and all amendments/addendums/supplements/changes
* Work Authorizations
* Deliverables
* Correspondence – acceptance letters, termination notices, etc.
* Invoices
* SB/DVBE participation including department and DGS approved substitutions, all related supporting documentation, the Prime Contractor’s Certification – DVBE Subcontracting Report (STD 817) and payments made by prime contractors to the DVBE subcontractors when provided.

**Note:** The above information is specific to post award contract administration. Department purchasing authority transaction files will include all of the above as well as file documentation as referenced in Chapters 4, 5, and 6 dependent upon the specific purchasing category.

##### 11.4.2 Record retention requirements

The Attorney General’s Office has directed that in view of the need for purchase order and contract purchase files for antitrust litigation, such records should be retained for seven years from the end of the fiscal year in which encumbrance is liquidated. Destroy after the required seven years or when audited by the Bureau of State Audits or the Department of General Services, whichever comes first.

Since there are various sources that dictate records retention requirements (e.g., statute, policy, pending litigation, etc.) and the retention varies depending on document type and can vary by department, depending on their internal retention schedule, there is not a one size fits all retention rule. When in doubt, departments should retain for the longest period applicable.

Retain in the procurement file all records related to the Prime Contractor’s Certification – DVBE Contracting Report (STD 817) submittal, including payments made to DVBE subcontractors, for a minimum of six years from the receipt of the records.

#### Topic 5 – Post Evaluation for IT Services Contracts

##### 11.5.0 Post Evaluation for IT Services Contracts

1. **Policy**

Pursuant to Public Contract Code (PCC) Section 12102.3, state departments must complete, file, and submit a post evaluation for each contract for the acquisition of Information Technology (IT) services related to an IT project and totaling five hundred thousand dollars ($500,000) or more.  The state department receiving the services must complete the form and submit the form in accordance with the procedures outlined below.

State departments are encouraged to use (complete and keep internally) the Post Evaluation for IT Services Contracts (STD 971) form for all other IT services contracts under $500,000.

For purposes of this policy and procedure, IT personal and consulting services contracts are collectively referred to as “IT Services Contracts”.

For purposes of this policy and procedure, “contractor” is defined as the prime contractor.

PCC Section 12102.3(b) requires that DGS and the California Department of Technology (CDT) jointly develop a standard form(s) and procedures to implement § 12102.3. Therefore, modifications to the STD 971 form and related processes cannot be made without prior agreement and approval of both the Department of General Services, Procurement Division (DGS/PD) and CDT.  DGS/PD and CDT shall jointly gather feedback from stakeholders in the IT industry prior to finalizing, approving, and implementing changes.

CDT shall act as a central depository for all state departments submitting post evaluations. CDT shall provide a copy of any post evaluation submitted pursuant to PCC 12102.3, including any contractor responses to the contracting manager or contracting officer of any state department, upon request. Failure by a state department to complete and submit a post evaluation to CDT’s central depository may be grounds for rejection of future delegation of IT projects pursuant to Section 11546 of the Government Code.

Completed STD 971 Post Evaluation for IT Services Contracts forms, as well as any contractor responses, are exempt from the California Public Records Act (PRA).  While other components of a contract file may not be exempt from the PRA, neither this post evaluation nor contractor response is a public record and therefore must not be provided in response to a PRA request.

1. **Procedure**

The procedures below apply to IT personal and consulting services contracts totaling five hundred thousand dollars ($500,000) or more, and acquired in connection with an IT project as defined in Section 4819.2 of the State Administrative Manual.

State departments must use form STD 971 Post Evaluation for IT Services Contracts and adhere to the following procedures:

| **Step** | **Task** | **Timeframe** |
| --- | --- | --- |
| 1 | Complete the STD 971 Post Evaluation for IT Services Contracts1. Post evaluations are completed by the state department receiving the services.  If the DGS/PD or the CDT execute a contract on behalf of a state department, the state department receiving the services must complete the Post Evaluation for IT Services Contracts form STD 971 and adhere to the procedures identified herein.
2. Post evaluations shall include objective facts and be supported with program and contract performance data. Metrics appropriate to the nature of the IT services and project type shall be included.
3. State departments may attach additional sheets to the STD 971 form in order to provide details about the unsatisfactory performance.
4. The evaluator who signs the STD 971 Post Evaluation for IT Services Contracts confirms:

(1) That they are a public official and employee of the State of California. (2) The accuracy of the information provided in the STD 971 and any attached document.1. A public official is defined as the state employee performing the evaluation, also known as the “evaluator.” The evaluator is any public official who oversees the performance and payment of a contract. Examples of working titles that may apply to an evaluator include: the contract manager, project manager, program manager, etc.
 | Within 60 calendar days of the completion of the contract.  Contract completion is defined as the contract term end date, including all amendments. |
| 2 | Submit a copy of the completed STD 971 Post Evaluation for IT Services Contracts to CDT electronically to the address indicated on the STD 971 form.  | Within 5 working days of the completion of the STD 971. |
| 3 | If submitting an unsatisfactory post evaluation to CDT, the department shall also send a copy to the contractor. 1. A copy must be sent electronically to the contractor.
2. The copy sent to the contractor serves as the notification.
3. The electronic notification must include the following information and instructions to the contractor:

(1) The notification is being provided pursuant to PCC Section 12102.3(f)(1)(2) Pursuant to PCC Section 12102.3(f)(2), the contractor may comment on a negative post evaluation. (3) There is no formal review, ruling, or appeal process for post evaluations.(4) Negative post evaluation contractor comments shall be submitted to CDT at Form971@state.ca.gov and the state department receiving the services at the specified email address.(5) Contractor is required to identify the contract number in all communications related to the negative post evaluation. | No later than 15 calendar days after STD 971 submission to CDT.  |
| 4 | Post evaluations shall remain on file at the office of the state department receiving the services for a period of no less than 36 months following contract completion.1. Contract completion is defined as the contract term end date, including all amendments.
2. After the 36-month period, a state department may remove the post evaluation for any reason (i.e. at the request of the contractor or in accordance with a records retention schedule).
 | No less than 36 months.  |
| 5 | A contractor may comment on a negative post evaluation. Any contractor comments in response to a negative post evaluation shall be submitted to the state department and the CDT. State departments, upon receipt of comments from a contractor, must attach the comment(s) to the original STD 971 and keep on file. |  |
| 6 | A contracting manager or contracting officer desiring information on a contractor’s record shall submit their request through CDT’s central depository established for all state departments at:Form971@state.ca.gov. |  |

1. **Legal Reference**

Public Contract Code (PCC) Section 12102.3

AB 971, Salas (Ch 496, Stats 2019)

1. **Related Policy, Procedures, & Resources**

Technology Letter (TL) 19-02

Broadcast Bulletin (BB) P-15-19

State Administrative Manual (SAM) Section 5230.3

1. **Attachments**

STD 971 Post Evaluation for IT Services Contracts (The STD 971 is located on the [Statewide Forms Directory](https://www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx) found through DGS’s homepage.)