

Texas Department of Family and Protective Services



Client Services Contractor Reference Guide Last Updated 3/26/09

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Section I: About DFPS

Introduction

The Texas Department of Family and Protective Services (DFPS) developed the Contractor Reference Guide (Guide) to provide a useful source of financial, programmatic, and overall compliance requirements for DFPS contractors. The Guide references applicable federal and state laws, rules, policies, and billing requirements, as well as information about various contracting procedures and expectations.

DFPS contractors should use this guide for assistance in meeting the requirements referenced above, and to better understand the contracting process and DFPS expectations. The contractor should make the Guide available to all staff members who have responsibility for program or service implementation and/or financial management.

The laws, regulations, contract, and incorporated DFPS policies take precedence over the information in this Guide in the event of any conflict or contradiction between:

- Guide and the DFPS contract;
- Guide and federal/state laws and regulations; or
- Guide and incorporated DFPS policies.

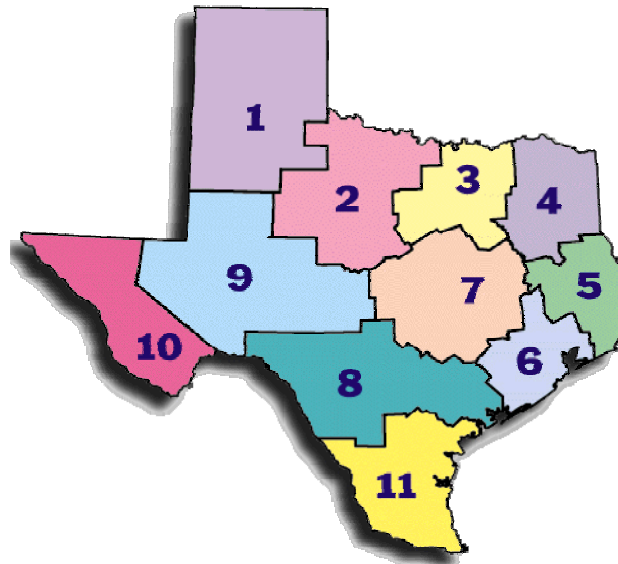
The Texas Department of Family and Protective Services (DFPS) has provided this guide for use by contractors and parties interested in learning about DFPS procurement and contracting activities and expectations. This guide is an overview of procurement and contracting information only and is not intended as a comprehensive review of all applicable state law or a substitute for legal counsel by a licensed attorney. The information provided in this guide is not legally binding and is subject to change without notice at any time.

DFPS Organization

DFPS serves the State's children, families, the elderly, and people with disabilities. The agency's mission is to protect children, the elderly, and people with disabilities from abuse, neglect, and exploitation by involving clients, families, and communities. We work to accomplish our mission through four programs: Child Protective Services (CPS), Adult Protective Services (APS), Child Care Licensing (CCL), and Prevention and Early Intervention (PEI).

The mission of the agency and the goals of the CPS, APS, CCL and PEI programs are supported through a wide variety of contracted goods and services. DFPS purchases goods and/or services for direct client use or benefit and for support services. Within the department, purchased client services are defined as the services provided by outside entities under contract.

Texas has 11 DFPS regions, with the DFPS state office located in Austin. Refer to the [DFPS website](#) for information about each of the four programs, each region, the DFPS Council, statistics and annual reports, the DFPS state plan, and other information.



Section II: Obtaining a DFPS Contract

Client Service Procurements

Procurements made by DFPS must be administered in a manner that ensures that the interests of both the client and the agency are clearly communicated and met. Procurement involves various DFPS staff, including those who perform purchasing and contract management functions to:

- identify client service needs;
- identify the most appropriate method to procure those services; and
- select the contractor or contractors whose bid or proposal for the services requested meets the client needs and provides the best value for the citizens of Texas.

DFPS procures its contracts as required by [state purchasing laws](#). Factors that influence the choice of a procurement method are:

- total dollar value of the procurement;
- complexity of the procurement;
- number of potential contractors;
- number of contracts to be awarded;
- if factors other than price or cost will be considered; and
- if negotiations will be required.

Procurement Methods

DFPS has several methods by which it obtains or procures its contracts. The most common methods are:

Small Purchase: DFPS uses small purchase procurements to purchase goods or services in situations when the total dollar amount that DFPS will spend in a service delivery area is not anticipated to exceed \$25,000 in any fiscal year and \$100,000 in the aggregate over the life of the contract.. The life of the contract includes the initial contract period and any subsequent renewals or modifications.

Provider (Open) Enrollment: Provider enrollment is a formal method of procurement in which DFPS contracts on a noncompetitive basis with ALL providers that meet qualifications or criteria for participation as specified by DFPS. Contracts are open to any potential provider who establishes through acceptable means (such as licensure or certification) that it meets all provider service standards and agrees to all terms and conditions set forth in a DFPS prescribed contract, including the established rates.

Provider enrollment is generally used to purchase client services when the following conditions apply:

- Services are readily available throughout a region of the state or similar services are available under equitable standards throughout the state.
- DFPS has the freedom to choose and obtain services through any provider qualified to perform the services.
- Services are those for which providers can be required to meet defined, accepted standards (including state licensure and/or certification) before enrollment.
- An equitable standard unit cost can be established for all contracts for the same service.

Competitive Negotiation/Request for Proposals (RFP): Competitive negotiation is a procurement process in which DFPS publicly requests proposals from a number of sources by soliciting responses to a RFP. Negotiations are conducted with one or more of the sources submitting offers after which DFPS awards either a unit rate or cost-reimbursement contract, as appropriate.

The RFP process is used by DFPS when the following conditions exist:

- The service to be purchased cannot be quantified and specified in terms of price alone.
- Applicable law, rule, or regulation authorizes negotiation.
- Contractor is expected to provide innovative ideas.
- More than one potential contractor is capable of submitting an offer or proposal.

When RFP is chosen as the procurement method by DFPS:

- When the solicitation specifications permit, the respondent can suggest alternate or improved service delivery or product because the specifications outlined by DFPS in the RFP are general in nature.
- A committee using pre-determined evaluation criteria evaluates all offers received.
- DFPS awards the contract to one or more responsive respondents who after evaluation are shown to be responsible and have the best value offer consistent with the terms and conditions of the RFP.
- Negotiation of price or service is allowed within the limits of the solicitation document.

Competitive Sealed Bids/Invitation for Bid (IFB): This method of procurement allows DFPS to publicly solicit sealed bids from interested bidders if DFPS requirements can be clearly, accurately, and completely described..

The IFB process is used by DFPS when the following conditions exist:

- The requirements are clearly defined.
- Negotiations are not necessary.
- Price is the major determining factor for selection.
- Sufficient competition is expected.

When IFB is chosen as the procurement method by DFPS:

- There is no ability for the bidder to suggest alternate or improved service delivery requirements.
- All bids received are opened at the same time, read aloud, and recorded.
- DFPS awards the contract to the responsible bidder providing the lowest price within the pool of responsive offers..
- There is no negotiation of price or service.

Noncompetitive Negotiation: Noncompetitive negotiation is a method of procurement in which DFPS noncompetitively solicits an offer from one or more than one source. DFPS may only use noncompetitive negotiation when the award of a contract is not feasible under small purchase, competitive sealed bids, or competitive negotiation procedures or when exempted by statute or Office of Management and Budget ([OMB Circular A-102](#)). DFPS staff members conducting a noncompetitive procurement are required to obtain a formal waiver from competitive procurement requirements before proceeding.

Interagency and Interlocal Contracts: Other contracting methods that are occasionally used are Interagency Agreements that are authorized by the [Interagency Cooperation Act](#) and Interlocal Agreements that are authorized by the [Texas Government Code, Interlocal Cooperation Contracts](#).

Opportunities to participate in DFPS competitive procurements (RFPs and IFBs) and provider enrollments are posted on the [Comptroller's Electronic State Business Daily](#). Additional information on doing business with the state of Texas can be found at the [Comptroller's Window on State Government Procurement](#).

Renewals may be allowed for contracts procured by any of the above methods for up to 54 months.

Section III: DFPS Contract Information

Know Your Contract

Contract Terms and Conditions

DFPS contract terms and conditions are contained in standard boilerplates for purchased services or other appropriate contract documents specified by DFPS. These terms and conditions provide information on:

- Parties to the contract
- DFPS' authority to contract
- Governing law
- Contract Elements
- Financial limitations and considerations
- Reporting and copying requirements
- Additional responsibilities of contractor and subcontractor
- Service provisions
- Performance measures
- Budget or payment structure
- Exceptional costs
- Provisions for termination of contract and dispute resolution
- Effective dates of contract
- Execution of contract

Also, contract terms and conditions may have the following state and federal citations incorporated by reference depending on the services to be provided, and the funding for those services:

- Federal statutes and regulations including Office of Management and Budget [\(OMB\) Circulars](#) and Code of Federal Regulations [\(CFR\) citations](#);
- Applicable state statutes;
- Texas Uniform Grant Management Standards ([UGMS](#)); and
- DFPS Texas Administrative Code ([TAC](#)) rules.

It is the contractor's responsibility to become familiar with and understand the terms and conditions in their contract, including state and federal citations. Questions related to contract terms and conditions should be forwarded to the contract manager.

Contract Document

In addition to standard terms and conditions, DFPS contract documents may include a plan of operation, budget documents, and other required forms and documents. DFPS provider contracts usually contain the following documents:

- Detailed service description or plan of operation.
- Budget documents, if cost reimbursement
- Required forms and attachments, as required by DFPS, which may include:
 - Form 2031 - *Corporate Board of Directors Resolution* (or similar document for other entities)
 - Form 2046 - *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* [**Note:** Form 2046 is *not* required for Texas State agencies (and state universities); however, completion of the form *is* required for local government agencies.]
 - Form 2047e - *Certification Regarding Federal Lobbying*
 - Form 4732 - *Request for Determination of Ability to Contract*
 - Form 9003 Child Support Certification
 - Form 4733 Contractor Assurances
 - Form 2030 Budget for Purchase of Client Services (cost reimbursement contracts)
 - Budget Narrative

Documents Incorporated by Reference

Rather than include all contract related documents in the contract document DFPS may incorporate some of them by reference. These documents are on file with DFPS and are required to be on file with the contractor and subcontractors.

Subrecipient Determination

Prior to initiating a contract DFPS determines if the relationship with the contractor is classified as a vendor or subrecipient based on the services to be provided. This classification will determine which rules and regulations will apply to the contractor.

Characteristics that normally indicate a subrecipient relationship are the following:

- The contractor determines who is eligible to receive services/benefits.
- The contractor's performance is measured by whether the federal or state program objectives are met.
- The contractor has responsibility for programmatic decision making.

- The contractor has responsibility for adherence to applicable federal or state program compliance requirements.
- The contractor carries out all or part of a program.
- The principle purpose of the contract is to carry out a public purpose of support authorized by law.

In those programs where a contractor is considered a subrecipient, DFPS, the contractor, and any subrecipient subcontractors must meet all federal/state requirements and statutes. Subrecipient contractors are required to have a single audit when applicable (see section B single audit requirements for more information).

Contractors providing the following DFPS services are currently considered subrecipients:

- Community Youth Development
- Community Based Child Abuse Prevention
- Community Based Family Services
- Post-adoptive Services
- Services to At-Risk Youth
- Tertiary Prevention Services
- Texas Families: Together and Safe
- Family Strengthening
- Statewide Youth Services Network
- Youth Resiliency
- Title IV-E (CW - Financial) funded services
- Title IV-E (Legal) funded services

Note: State agencies are not considered subrecipients.

Characteristics that normally indicate a vendor relationship are the following

- The contractor provides goods and services within normal business operations.
- The contractor provides similar goods and services to many different purchasers.
- The contractor operates in a competitive environment.
- The contractor is not subject to federal compliance requirements.
- The contractor provides goods and services that are ancillary to the operation of the program.
- The primary purpose of the contract is to acquire goods and services for the direct benefit of the agency or a recipient.

Contractors providing the following DFPS services are currently considered vendors.

- Adoption
- Child Placing Agency
- Child Specific Residential Contract
- Claims Processing
- Community and Parent Group
- Community-Based Child Abuse Prevention
- County Staff Contribution
- Court Ordered Supervised Visitation
- Drug Testing
- Emergency Client Services
- Evaluation and Treatment
- Evaluation and Treatment Substance Abuse Treatment
- Family Group Decision-Making
- Family-Based Services
- Family-Bases Safety Services
- GRO Basic Child Care
- GRO Emergency Shelter
- GRO Therapeutic Camp
- Homemaker
- Independent Foster Home
- Intensive Psychiatric Transition Program
- Intermittent Alternate Care
- Interstate Compact for Placement of Children
- Medical and Mental Health Assessments
- Non-Financial Residential Care
- Parent/Caregiver Training
- Post-adoptive Services
- Preparation for Adult Living
- Program Directed Purchases
- Programmatic Consultation
- Purchase Order for Placement Services
- Residential Treatment Center
- Service Levels System
- Services to At-Risk Youth
- Social Studies
- Statewide Youth Services Network (SYSN)
- TJPC Foster Care
- TWC Child Care
- TYC Child Care
- Tertiary Prevention Services
- Texas Families: Together and Safe

- Title IV-E (Child Welfare – Financial) Funded Services
- Title IV-E (Child Welfare – Non-Financial)
- Title IV-E (Legal) Funded Services
- Title IV-E (University) Funded Services
- Training and Technical Assistance
- Unaccompanied Refugee Minor
- Youth Resiliency

Methods of Reimbursement

DFPS utilizes three primary methods of payment for client service contracts, which are noted below. The method of payment will be identified in the provider's contract, under Section X Budget.

Fee for Service

Contractors are paid an established fee per defined unit of service. Rates are negotiated with the individual contractor and may apply only to that contractor. An independent rate setting process does not exist for the contracted service.

Rate Based Payments

Contractors are paid at a pre-determined rate or fee per unit of service that was established through a formal rate setting process. The rate setting process typically applies to multiple contractors who provide the services.

Cost Reimbursement

Contractors are reimbursed for allowable approved budgeted expenses incurred and paid in the provision of services that are consistent with the terms of the contract.

Administrative Responsibilities

Internal Controls

Every contracting entity should have an adequate system of internal controls to make certain that:

- functions are segregated;

- purchases and other transactions are appropriately authorized and made;
- financial data are promptly and accurately recorded; and
- assets are safeguarded.

An entity derives its internal controls from the policies, procedures and practices it develops and implements to:

- ensure financial responsibility;
- reduce the opportunity for errors or dishonest acts to occur; and
- detect errors or dishonesty.

The extent to which internal controls are established or needed depends on the nature and size of the organization involved. A contractor's system of internal controls should include the four major concepts listed and explained below. These explanations illustrate the principles involved in developing methods of and procedures for internal controls.

Segregation of Functions - The segregation of functions or duties is an important element in any system of internal control. For accounting control purposes, incompatible functions are those that place any person in a position to both perpetrate and conceal errors or irregularities in the normal course of her/his job. For example, anyone who records disbursements could either intentionally or unintentionally fail to record a check. If the same person also reconciles the bank account, the omission could be concealed through a false or inaccurate reconciliation.

Proper Authorization - Controls ensuring that transactions are carried out as authorized require independent verification that authorization was properly issued and that transactions were carried out in the manner authorized. This may be accomplished by independent comparison of transactions with specific authorization documents. For example, requiring two signatures on a check allows more than one person to review and approve that expenditure.

Proper Recording of Transactions - Accounting controls should also ensure that transactions are:

- recorded in a timely fashion;
- recorded in the proper amounts;
- recorded in the accounting periods to which they apply; and
- classified in appropriate accounts.

This recording/classification is especially important in ensuring that the preparation of financial statements conforms with generally accepted accounting principles. An example of this type of accounting control is the

comparison, on a test basis, of canceled checks returned by the bank with the recorded disbursements to reveal any unrecorded checks.

Limited Access to Assets - Limiting access to assets to only those individuals having direct responsibility for them can be an important control in the safeguarding of those assets. Choosing the personnel to whom asset access is authorized should be guided by the asset's nature and its susceptibility to loss.

Internal Control Structure Questionnaire (ICSQ)

DFPS designed the ICSQ as a questionnaire to assess each contracting entity's ability to detect and reduce fiscal errors and to reduce the opportunity for errors or dishonesty. The ICSQ is composed of several different sections which may include some or all of the following:

- **Financial Position** - Financial statements; ongoing concern questions
- **General/Accounting Controls** - File maintenance, record keeping; cash receipts, cash disbursements, authorization of expenditures, financial record keeping, safeguarding of assets; and federal/state regulations.
- **Allocation (if applicable)** - Allocation of shared costs between contracts/programs; state match for federal funds
- **Personnel** - File maintenance; cash disbursements; record keeping; and federal/state regulations
- **Travel** - Cash disbursements; file maintenance; federal/state regulations and record keeping
- **Equipment** - Cash disbursements; federal/state regulations, record keeping; and safeguarding of physical assets and physical inventory
- **Subcontractors** - Subcontracts and federal/state regulations
- **Related-Party Transactions** - Related-party transactions; conflict of interest; and federal/state regulations
- **Level of Care Payments (applicable only to ICSQ for Residential)** - Payments made for residential child care services; and record-keeping
- **Foster Care Maintenance Payments (applicable only to ICSQ for Residential)** - Payments made to foster families for residential child care services; and record-keeping

Submitting an ICSQ

The appropriate ICSQ to be completed and submitted will be included in the procurement package or sent by the contract manager with the contract package. The ICSQ must be returned with the procurement packet or by the due date set

by the contract manager. The contract manager maintains a copy of the ICSQ in the procurement file.

When an Internal Control Certification (ICC) form is required for contract renewals but at the contract manager's discretion a new ICSQ may be requested. The ICC form or new ICSQ are required to ensure the information is current and applicable to the new contract.

Because the ICSQ assesses the contracting entity's ability to detect and reduce fiscal errors and to reduce the opportunity for errors or dishonesty, it is crucial that the entity ensure that the ICSQ be accurate and complete.

Procurement Management

Contractors must establish written policies and procedures governing the procurement of goods and services. The contractor's procurement policies/procedures are subject to review by the DFPS contract manager to ensure that goods and services are being procured per contract requirements, the contractor's practices, and in a cost effective manner. Contractors may refer to the [State of Texas Contract Management Guide](#) for guidance on development of policies and procedures.

Contractors may make awards only to responsible providers who demonstrate the ability to perform successfully under the terms and conditions of procurement. Considerations to be included in the awarding of the subcontract should include, but are not limited to, the following:

- Ability/qualifications of the offeror to provide the service being procured
- Overall experience, as well as the record of the offeror's past performance; and
- Financial, technical, and staff resources of the offeror

As the lowest cost is not necessarily the best value for a procurement, contractors should review the [State of Texas Contract Management Guide](#) information for information regarding best value determination.

All procurement activities must be in compliance with [OMB Circular A-110](#), paragraphs 43-48 (for Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) or [OMB Circular A-102](#) (for State and Local Governments), whichever is applicable.

Subcontracts

Some DFPS contractors utilize subcontractors to provide the contracted goods/services agreed upon. **However, a contractor must request and receive prior written approval of the DFPS contract manager before**

purchasing subcontracted services. Contractors will be required to complete DFPS form 2033, Subcontractor Documentation and provide any additional information the contract manager determines is necessary for approval of the subcontract.

The contractor, not DFPS, is the responsible authority for all contractual and administrative issues arising out of procurements entered into in support of an award. This includes:

- disputes;
- claims;
- protests of award; or
- other matters of a contractual nature, such as subcontractor performance and billing issues.

After a contractor receives written approval to proceed with a subcontract from the contract manager, services may commence. The contractor must require its subcontractors to comply with all provisions of the subcontract, and with all applicable laws and regulations. A contractor is entirely responsible for the performance and contract compliance of its subcontractors.

Contractors are responsible for contract negotiation, ensuring all budget information is mathematically correct and complies with all state and federal regulations. Also, that all plan of operation and service documentation is accurate and consistent with the primary RFP and the primary contractor's plan of operation and service documentation.

Contractors must have written agreements with subcontractors that include, at a minimum, the following information:

- Name, address, and other identifying information of the subcontractor
- Goods or services to be provided, including the scope of the work to be performed
- Specifications regarding service delivery (for example, written reports/evaluations must be received x days after clients are assessed)
- Cost/price data and payment method
- A clause that the subcontractor is held to applicable requirements of the primary contractor.
- A clause providing for primary contractor access to the subcontractor's records relating to the subcontract, as well as a description of the method that will be used to monitor the subcontractor
- A clause which clearly indicates that a relationship exists between the contractor and subcontractor that allows for adequate checks and balances to assure that services are provided as contracted
- Remedies for violations and provisions for termination of the contractual agreement (optional for subcontracts of less than \$100,000.00)

- Completed DFPS Form 2046e - Certification Regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts
- Completed DFPS Form 2047E - Certification Regarding Federal Lobbying (optional for subcontracts of less than \$100,000.00)
- Applicable provisions of Appendix A to OMB Circular A-110;
- Any other terms, as requested by the contract manager

The contractor must retain sufficient rights and controls over its subcontractors to fulfill its contract responsibilities to DFPS. Subcontracting does not relieve the contractor of any responsibility to DFPS.

Monitoring Subcontractors

DFPS contract staff is not responsible for oversight of a subcontractor's performance, fiscally or programmatically.

A contractor must formally monitor the fiscal, programmatic, and administrative performance of its subcontractors, and must have a specific monitoring plan in place for this prior to the occurrence of any monitoring; the plan should include the implementation of any corrective action.

Subcontractor monitoring should be done on a periodic basis, as deemed appropriate by the contractor and as stated in its monitoring plan. Contractors must document and share monitoring results with DFPS, as well as corrective actions and follow up with subcontractors.

It is recommended that a contractor formally evaluate the risk of its subcontractors by considering various elements to assess at least the three risk factors which DFPS uses with its contractors of: (1) harm to clients; (2) inadequate services; and (3) diverted resources. Through its risk assessment process, a contractor may be able to develop less comprehensive monitoring procedures for subcontracts in amounts of less than \$100,000.

Historically Underutilized Business (HUB) Program

The State of Texas HUB program is in place to encourage development of businesses that historically have not had the opportunity to compete for and be awarded contracts for goods and services.

Requirements:

Contractors who respond to a competitive solicitation for purchases greater than \$100,000 with subcontracting opportunities, as determined by the DFPS HUB coordinator, are required to submit a HUB subcontracting plan (HSP) with their response. The DFPS HUB coordinator will review and must approve the HUB subcontracting plan. The contractor should maintain business records

documenting its compliance with the approved HSP and will be required to submit monthly progress reports to the contract manager in a format required by the contract. Documentation of the contractor's compliance will be maintained by DFPS.

Good Faith Effort:

Contractors who are not required to have a formal HSP are encouraged to make every effort to contact HUBs when obtaining bids for goods/services necessary to carry out their DFPS contract.

Background Checks

To ensure the safety of the clients we serve, DFPS conducts background checks concerning criminal history and DFPS abuse/neglect history on potential and current contractors, their employees, subcontractors and volunteers.

Disclosure and Removal

DFPS requires potential contractors and current contractors who will have or currently have direct contact with clients and/or access to client records, prior to such contact or access, to disclose and release, or require its employees, subcontractors and/or volunteers to disclose and release, any allegation made against that employee, subcontractor or volunteer alleging:

- an act of abuse;
- neglect or exploitation of children, the elderly or persons with disabilities; or
- criminal history or any current criminal indictment.

In addition, contractors must remove any employee, subcontractor or volunteer from direct client contact and from access to client records if that employee, subcontractor or volunteer is alleged to have committed any of the following:

- Abuse, neglect or exploitation of children, adults or disabled persons
- An offense against the person
- Offenses against public health, safety or morals
- Offenses against public order or decency
- Offenses against property
- An offense against the family
- An offense under Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act)

- Any other act/offense that can reasonably be associated with potential risk of harm or loss to DFPS and/or its clients based on the job duties or contractual role(s) of the person in question.

Background Check process

Potential contractors and current contractors are required to submit a completed Form 2971c, Request for Criminal History and DFPS History Check, and a Form 2970c, Disclosure and Consent to Release of Information Regarding Criminal or Abuse/Neglect History, for individuals who have or may have direct access to clients or client records, such as:

- potential contractors
- employees;
- contractors;
- subcontractors; or
- volunteers.

Forms 2971c and 2970c must be completed for each individual and submitted to the contract manager every two (2) years. The forms must be completed and signed by the person(s) on whom background checks will be conducted. Background checks must be completed and cleared prior to applicants having contact with DFPS clients and their personal records. A new background check must be completed and cleared every two (2) years thereafter. The DFPS Automated Background Check System (ABCS) is used for entry of background check requests.

Risk Evaluation Process

In the event Forms 2971c, 2970c or subsequent background checks result in confirmation that any of the previously named alleged acts or offenses occurred, a determination will be made by the DFPS Centralized Background Check Unit (CBCU) as to whether the act(s) or offense(s) are an absolute bar to direct service provision or if a risk evaluation process is appropriate. If a risk evaluation process is appropriate, the CBCU will provide the contractor with a Form 2973c, Request for Risk Evaluation Based on Background Check Findings, and additional written direction regarding this process. If the contractor wishes to submit Form 2973c, it must be completed and returned to the CBCU for review. The CBCU will use the information to determine whether contractor employees, subcontractors or volunteers may have direct client contact or access to personal client records.

Note: If the contractor does not submit the request for Risk Evaluation with required documentation within thirty (30) days of notification by the

CBCU, the identified person must be temporarily removed from direct contact with DFPS clients and/or their records.

Reinstatement process

If a contractor's employee, subcontractor or volunteer is removed from direct client contact or client records, they may be assigned again to direct client contact with prior approval from the CBCU. However, DFPS contract staff must be notified within ten (10) days of the intent of the reassignment. Additionally, the contractor must provide DFPS with further information concerning the reasons for the reassignment upon request of DFPS.

Reporting

Contractors must submit service delivery reports, self-evaluations of performance and any other report according to DFPS reporting requirements. Reports must be submitted in the format and according to the timeline required by the contract.

Single Audit Requirements

A single audit is a coordinated, formal review of an organization's financial statements and internal controls, as well as compliance with federal regulations that govern federal financial assistance programs. An independent Certified Public Accountant (CPA) or federal, state or local government audit organization must conduct the single audit.

DFPS subrecipients must have a single audit conducted if the following expenditure thresholds are met during the subrecipient's fiscal year:

- Any contractor expending a total of \$500,000 or more in **federal funds** from DFPS and any other funding source as stipulated in [OMB Circular A-133](#).
- Local governments or non-profit organizations expending a total of \$500,000 or more of any **state funds** under federal block grants from DFPS and any other funding source in accordance with the provisions of the State of Texas Single Audit Circular as stipulated by [Section IV of the Uniform Grant Management Standards](#).

DFPS Responsibilities

OMB Circular A-133 and the State of Texas Single Audit Circular list specific information that a pass-through entity (DFPS) must provide to subrecipients. To ensure compliance with this requirement, the DFPS

single audit liaison will mail Federal and/or State Funding Reports which include Catalog of Federal Domestic Assistance (CFDA) numbers to each subrecipient contractor. Subrecipients with fiscal year reporting periods ending between January 1 and August 31 will receive reports in October. Subrecipients with fiscal year reporting periods ending between September 1 and December 31 will receive reports in February.

Subrecipient Responsibilities

Subrecipients will receive a letter from HHSC-OIG prompting the contractor to complete the on-line Single Audit Determination (SAD) form. If the SAD form determines that a single audit is required, contractors must submit a single audit report to the Health and Human Services Commission Office of Inspector General at the address indicated below within nine months of the end of the subrecipient's fiscal year to which the single audit applies:

Health and Human Services Commission
Office of the Inspector General
Attn: David Mahoney
Compliance/Audit
PO Box 85200, Mail Code 1326
Austin, Texas 78708

Subrecipients must also send a copy of the annual single audit report to the DFPS contract manager.

Subrecipients must follow up on single audit findings and be responsive to HHSC-OIG notices of non-compliance letters.

Contractors that do not submit SAD forms or required A-133 Audits in a timely manner may be subject to contract sanctions.

Reimbursement for Single Audit

The cost of a single audit may be allowable for reimbursement by DFPS, and reimbursement is coordinated with the contract manager. Subrecipients may not include the single audit costs allocable to their DFPS contract in the contract budget or incorporate the allocable cost into a unit rate.

It is important to note that required single audit costs are paid outside of the contract through the use of a State of Texas purchase voucher. Costs not conducted in accordance with OMB Circular A-133 and/or UGMS Single Audit Circular requirements will not be reimbursed.

Request for reimbursement for single audit costs must be coordinated with the contract manager. The contract manager will request an estimate and supporting documentation of the pro rata amount that the subrecipient plans to bill to DFPS. This amount may be negotiated, especially if the subrecipient is subject to single audit requirements based on award of state and/or federal funds from other entities in addition to DFPS.

Single audit costs will be reimbursed only if:

- funding is available and reimbursement is permitted by applicable funding sources;
- HHSC finds the audit to be acceptable; and
- If the single audit is required and the audit and reimbursement request follow DFPS policies and procedures.

Financial Responsibilities

DFPS holds its contractors to a high level of financial accountability. It is DFPS's responsibility to ensure that contract funds are expended according to the contract terms and state and federal laws and regulations. Contractors must establish financial management systems that will provide the information necessary to establish that funds are used in accordance with the contract and applicable laws and regulations.

Accounting and Financial Systems and Records

A contractor's accounting system must conform to Generally Accepted Accounting Principles (GAAP) applicable to recipients of state and federal funds and comply with UGMS, Subpart C, Section 20 – Standards for Financial Management Systems if applicable.

An effective accounting system will:

- identify and record all valid transactions;
- record transactions to the proper accounting period in which transactions occurred;
- describe transactions in sufficient detail to permit proper classification;
- maintain records that permit the tracing of funds to a level of detail that establishes that the funds have been used in compliance with contract requirements;
- adequately identify the source and application of contract funds; and
- generate current and accurate financial reports in accordance with contract requirements.

Accounting records must identify, assemble, classify, record and report an entity's transactions and maintain accountability for the related assets and liabilities.

Minimum records must include:

Books of Original Entry that include the following journals and ledgers:

- Cash disbursements journal
- Cash receipts journal
- General journal
- Payroll journal
- Payroll expense distribution (of each employee) for each pay period to support journal entries
- General ledger (with control accounts and sub-ledgers as applicable)

Permanent Records that include the following documents:

- Individual employee earnings records
- Bank statements and canceled checks
- Original vendor invoices and supporting documentation such as price quotes, authorization, purchase orders, receiving reports, etc.
- Executed contracts
- Accounts payable detail
- Accounts receivable detail
- Payroll authorizations, W-4's (employee federal income tax withholding information form), job descriptions, confidentiality statements, applications, transcripts, I-9's (proof of citizenship) and other related documents
- Individual employee time sheets
- Journal entries - including all documentation and calculations necessary for understanding and independent evaluation

A contractor must allow DFPS and all relevant federal and state agencies or their representatives to inspect, monitor, or evaluate accounting records. The contractor and its subcontractors must make these documents available at reasonable times and for reasonable periods.

Records Retention

The contractor must maintain accounting records and records pertinent to billings submitted as well as other contract related documents during the contract period for a minimum of five years after the termination of the contract period, or for five years after the end of the federal fiscal year in which services were provided. If any litigation, claim, or audit involving these records begins before the five year period expires, the contractor must keep the records and documents for not less than five years or until all litigation, claims, or audit findings are resolved. The situation is considered resolved when a final order is issued in litigation, or a written agreement is entered into between DFPS and the contractor.

Contracts That Require Matching Funds

Some DFPS programs require that the contractor provide matching funds. Match must comply with requirements found in the applicable OMB circulars. Matching funds may requires a cash outlay, such as all or a portion of a staff person's salary, although "in-kind" match may be allowable for certain contracted programs.

In-kind matching funds may include, but is not limited to, volunteer hours (see [OMB Circulars A-110](#), for calculation of costs for this item), donated building space, donated materials and supplies, donated professional services and so on.

In-kind match may also include depreciation and use fees for buildings or equipment purchased before the start of the contract period and used in the program. Such fees qualify as an in-kind contribution only when based on established cost and depreciation records maintained by the contractor.

In-kind matching funds may not be:

- included as match for any other program, whether that program be federally funded, funded by DFPS, or another entity; or
- paid with federal monies from another program.

In-kind matching funds must be:

- necessary and reasonable for proper and efficient accomplishment of project or program objectives;
- allowable under the appropriate cost principles; and
- applicable to the period to which the matching requirement applies.

In-kind matching funds should be supported by the following:

- a full description of the item or service;
- if building space, a statement of the value per square foot of the area, along with the rationale for the determination of that value;
- the name of the contributor;
- the dates when the donations were made, along with a description of the donation or services performed on each date;
- the fair market value of the contribution and the rationale for the determination of that value; and
- in the case of a discount given, the contributor's signature on an affidavit of worth and a statement that the discount is based on the nature of the project and is not available to the general public.

Match should be verifiable by detailed and complete records, and must be shown in the contractor's budget. If match is required by the contract, those costs are subject to DFPS monitoring as per the guidelines for monitoring other budgeted costs. Cost items entered as match not required by the contract may also be subject to DFPS monitoring.

Billing

Bills or claims for services should be submitted within:

- 30 days from the last day of the month in which the expense was paid; or
- 30 days from the last day of the month in which the service was provided, in the case of fee for service/unit rate contracts; or

- according to the time frame as stated in the contract.

Expenses are incurred at the time a service is provided, but should not be billed to DFPS until after the cost of the item/service has been both incurred and paid. In no case should billing for items/services cross contract periods. For example, if the contract period is September through August and an item/service is provided in August but the cost is not paid until September, the cost of the item should be billed as an August expense to avoid billing an item/service provided in one contract year to the next contract year.

Billing forms completed by the contractor will include some or all of the following, depending on the type of service provided:

- Form 4116x, *Purchase Voucher*
- Form 2014, *Purchased Services Expenditure Report*
- Form 2016, *Delivered Services Input* (supplemental to pre-bill)
- *Pre-bill for Delivered Services* forms (generated by the Form 2054 Service Authorization)
- Monthly billing summary document(s)

Other billing forms may be applicable instead of or in addition to the above, depending upon the specific program. The DFPS contract staff will provide detailed information on completion of the billing forms, and on supporting documentation that is required with the billing forms.

After a billing or claim is submitted to DFPS contract staff, it is reviewed for accuracy, completion, and appropriate signatures. If approved, it is then signed by contract staff and processed for payment. Most billings are processed through the DFPS Information Management Protecting Adults and Children in Texas (IMPACT) automated system. DFPS contract staff enters billing into IMPACT from data submitted by the contractor. If a DFPS client service authorization form was required for the service, IMPACT checks the billing information against the client authorization.

It is essential that contractors complete the billing forms correctly. A billing must be accurate in all respects before the reimbursement process can begin. If no errors are noted, the IMPACT system validates and approves the billing, sends the information through an additional automated system, the Health and Human Services Administrative System (HHSAS), and then on to the Comptroller of Public Accounts for payment. Most payments are made by direct deposit into a contractor's bank account.

There are some programs where billing and payment processes have not been converted to the IMPACT system. For these programs, billings are submitted to DFPS designated staff and are reviewed and approved. Claims are then forwarded to and reviewed by the DFPS fiscal and budget divisions and, if no

errors or questionable items are noted, are sent on to the Comptroller of Public Accounts for payment.

DFPS staff may find it necessary to require a contractor to resubmit a billing when problems with expenses previously disallowed or other problematic situations have been resolved. Rebilling should be completed and submitted as soon as all issues are resolved. These claims should be clearly marked **Rebill**.

A contractor may find it necessary to submit a supplemental bill or claim when additional expenses are identified and a claim for the month the expenses were paid has already been submitted. Supplemental claims must be submitted immediately upon discovery of the additional expense and within the required timeframe. Contractors should make every effort to avoid having to submit supplemental claims but when they are submitted they should be clearly marked **Supplemental** and numbered within each month.

Receiving Payment

If billings have no errors or problems, processing takes a **minimum** of 2-3 weeks after receipt and approval by DFPS contract staff before payment is made. Billings that are problematic and require corrections take longer to process, as do billings that are processed manually.

The Texas Government Code Chapter 2251 provides for automatic interest on payments to contractors for goods and services if the payment is not made in a timely manner. This law requires DFPS to document the date that a **correctly completed** billing is received from a contractor. This date generates a prompt payment date that is used to calculate the interest due on the payment if reimbursement is made more than 30 days past that date.

Changing Your Contract

DFPS may make limited modifications to a contract to meet unanticipated needs at any point during the life of the contract. Either the contractor or DFPS may identify the need for such a change to be made. Most post-award changes to contracts require a documented request and prior written approval.

Any post-award contract change must be within the scope of the original procurement. If the change requested is outside the scope of the procurement the request will be denied or a new procurement is required. Examples of changes that may be outside the scope of the procurement include:

- Providing new or additional services that were not described in the original procurement; or
- Providing services in geographic areas not defined in the original procurement.

The procurement and contract documents serve as the primary guide in establishing whether or not a change is allowable. There are two types of contract modifications: Plan Changes and Amendments.

Plan Changes

Plan changes are informal, procedural changes within the established scope of the contract. They revise any part of the Plan of Operation, budget narrative, or an authorized transfer of funds between line items of the budget established in the contract that are within the scope of the procurement. Contractors must receive prior approval from DFPS before making any plan change. Contact your contract manager to initiate a plan change, and to obtain approval.

Amendments/Renewals

An amendment is a formal document used to incorporate substantial changes into the existing contract agreement or change the term of the contract. An amendment is required when changes modify any of the essential terms of the contract; affect the rights or one or both parties under the contract or change the term of the contract. If needed, contact your contract manager to initiate an amendment to your contract.

A contract renewal is an arrangement to extend the term of an existing contract. Contract renewals take the form of a contract amendment to modify the terms and conditions of the existing contract, but do not alter the scope of the procurement. Consequently, renewals should not cause the total contract period to exceed limitations established within the procurement, contract document, or in any applicable statutes or agency rules. The original contract and procurement must include a provision that allows a contract to be renewed in order for a renewal to take place.

Section IV: DFPS Monitoring

Contract Monitoring

DFPS contract staff periodically monitor contracts to ensure that the contracts goals and objectives are met, that funds are expended appropriately and that there is compliance with state and federal regulations. The goals of contract monitoring are to:

- find opportunities to work with the contractor to improve service provision;
- ensure that expected outcomes are met;
- assess progress toward meeting program goals;
- ensure compliance with regulations/policies; and
- manage risk.

DFPS staff determine the level of risk of each contractor by completing a Risk Assessment Instrument (RAI) annually. Risk is defined as the measurement of the likelihood that a contractor's goals and objectives will or will not be achieved according to the terms of the contract. The schedule of contract monitoring is determined by using the results of this RAI, along with consideration of various other factors.

There are other risk factors that do not necessarily indicate the potential for individual contractor issues such as:

- high dollar amount;
- amount of funding expended by subcontractors;
- payment type (for example cost reimbursement, fee for service, unit rate)
- multiple contracts with governmental entities;
- significant changes in key personnel in the past year; or
- subrecipient status.

DFPS staff conducts programmatic, fiscal, and administrative monitoring.

Programmatic monitoring focuses on determining the contractor's adherence to the contract Plan of Operation, outcome/output measures, eligibility, client files, and ensuring that client needs have been met.

Fiscal monitoring focuses on ensuring that contractors maintain the financial records necessary to adequately account for their use of funds and that costs are reasonable, allowable and properly allocated to the program.

Administrative monitoring may be conducted in conjunction with either monitoring type selected. This is accomplished through completion of the appropriate administrative tool.

Monitoring Findings

All material errors or questionable items found in fiscal and/or programmatic monitoring or the administrative review will be addressed in the monitoring report. The contractor is then required to provide a response or complete a corrective action plan that explains the cause for deficiencies noted, the corrective actions that have been or will be taken, and the time frame for implementation. The contract manager must approve this plan.

DFPS will make follow-up contact with the contractor to determine if all necessary actions have been taken to correct the identified deficiencies. If a contractor fails to complete the required corrective action plan, or fails to adhere to the plan, adverse action may be taken by DFPS contract staff.

Programmatic Findings

DFPS staff may question a contractor's service delivery and/or related documentation. This happens when it appears that the contractor has not complied with contract terms and other applicable program and legal requirements. A corrective action plan may be established that requires the contractor to act to resolve programmatic findings according to an established timeline.

Fiscal Findings

DFPS staff may question a contractor's costs and/or reimbursements. This happens when it is determined that a contractor has submitted billings and it appears that there has been an overpayment, or that costs are not allowable. Specific instances resulting in questioned costs include, **but are not limited to**, the following:

- Contractor over bills for a specific client in a fee for service or unit rate contract and the mistake is later identified and reported by the contractor or by DFPS contract staff during monitoring.
- DFPS may question a cost or payment made based on the contractor's failure to comply with a contract term (for example, a contractor may provide an authorized service to a client, but in a county in which it is not authorized to provide services).
- Contractor records are inadequate to justify the cost(s) or the cost is otherwise deemed unallowable for expenses billed to a DFPS cost reimbursement contract.
- Contractor has no time sheets or activity reports for an employee whose time has been billed to a DFPS cost reimbursement contract, or time sheets do not reconcile to the amount billed to the contract..

When there are questioned costs DFPS will share the findings with the contractor and give a timeline for the contractor to provide necessary documentation to support the expense.

If DFPS determines that a cost/payment is disallowed the contractor will be informed and reimbursement to DFPS will be expected. Refer to the Collection Section below for more information.

Corrective Action

Contractors may be required to implement a corrective action plan, approved by the contract manager, to address findings resulting from programmatic, fiscal or compliance monitoring. DFPS contract managers will follow up to determine that actions identified in the plan have been taken and that deficiencies have been corrected. DFPS may take adverse action against contractors who fail to complete or adhere to the corrective action plan up to and including termination of the contract..

Collection

Routine contract management, billing review, and monitoring activities may indicate that a contractor has been overpaid because of improper billing, accounting practices or failure to comply with contract terms. Any determination of overpayment will be verified based on federal, state, and local laws and rules, department procedures, contract provisions or statistical data compiled from paid claims.

When a determination of overpayment to a contractor is made and verified, DFPS contract management staff will initiate a collection process to recover the identified overpaid amount. The contractor will be notified in writing of the types of discrepancies that resulted in the identified overpayment, the method of computing the dollar amount to be refunded and any other actions that DFPS may take.

Collection methods may include one of the following:

- Adjustment of a future invoice
- Contractor repayment of the full amount of overpayment by check or money order
- Establishment of a DFPS-approved repayment plan depending on specific circumstances.

Adverse Action/Alternative Dispute Resolution

Adverse action is any action in which DFPS, before the contract expiration date, denies, terminates or suspends a contract or payments to a contractor. Refusing

to place children with a contractor, disallowing previous costs or collection of improper payments is considered an adverse action.

DFPS contract managers have the responsibility for making reasonable attempts to keep contractors informed of compliance issues and resolving, whenever possible, compliance issues through corrective action before formal adverse action becomes necessary. In certain circumstances, DFPS is not required to implement corrective actions before taking an adverse action.

The contractor will be sent a notice of adverse action. The notice will include information on the contractor's noncompliance with the provisions of the contract or other basis for the adverse action. The notice also will inform the contractor that it has the right to a hearing to contest the adverse action by sending a written request to DFPS's Hearings Department.

Alternative dispute resolution is a term that refers to a number of processes that can be used for resolving a contract dispute without having a state or federal judge or jury decide the dispute in a trial. DFPS contracts require that this dispute resolution process as described in [Chapter 2260](#) of the Texas Government Code be used to resolve contract disputes.