Texas Department of Information Resources
House Committee on Government Transparency and Operation
February 2015

Cooperative Contracts

HB 1516 (79R) requires DIR to manage a catalog of technology Master Contracts that have been competitively bid and awarded, and meet all state procurement laws. Through this program DIR negotiates favorable prices for technology commodities and services based on the forecasted aggregate demand of customers. The bill also mandates that state agencies (excluding Institutions of Higher Education) purchase technology goods and services through these Master Contracts unless:

- A formal exemption is obtained from DIR.
- An agency declares an emergency purchase is needed due to specific circumstances (defined in statute).
- An agency declares a purchase is for a proprietary (ie: sole source) technology.
- A purchase is for an open enrollment purchase (see Gov Code 2155).

As of the beginning of the 84th Legislative Session, the program has 735 active Master Contracts that have been issued to 553 vendors, of which 277 are Historically Underutilized Businesses.

Counties, cities, institutions of higher education, assistance organizations, school districts, and other states are also permitted to use DIR cooperative contracts and account for approximately 75% of the purchases.

Aggregating the state's commodity purchases through common contract vehicles results in reduced information technology costs, decreased administrative costs, maximized value, common IT procurement processes, and an advocate on an enterprise level. The average cost recovery element for FY 2014 of this program was approximately 50 cents per one hundred dollars of purchased value (goods or services). This is based on the average DIR cost recovery fee paid to DIR by vendors for state agency purchases. The top 5 agencies using this program, in terms of purchases are:

- Health and Human Services agencies
- Comptroller of Public Accounts
- Department of Public Safety
- Department of Transportation
- Department of Criminal Justice

DIR establishes Master Contracts which are awarded through an open and competitive procurement process, beginning with a formal and public Request for Offers (RFO). DIR then evaluates the offers and negotiates for pricing, scope, and terms and conditions. Once DIR awards a Master Contract within the Cooperative Contracts program, agencies may issue purchase contracts directly with the vendor under that Master Contract (by reference). Agencies are encouraged to request quotes or Statements of Work from multiple Master Contracts when appropriate for a specific type of transaction. DIR encourages agencies to do so in order to further compete for best value for each individual purchase contract that an agency is preparing to issue.

There are three basic categories of cooperative contracts: IT commodities, staff augmentation, and IT services which include deliverables based information technology services.

Deliverables Based Information Technology Services (DBITS)

One type of service offered in the cooperative contracts program is deliverables based information technology services, known as DBITS. These contracts are project related services with acceptance criteria for each deliverable in a Statement of Work. DBITS does not include the purchase of software or hardware. DBITS is the only cooperative contract category with a purchase contract maximum established by DIR. The maximum is $10 million.

The nine categories of DBITS contracts include: Application Development; Business Intelligence and Data Warehouse; Enterprise Resource Planning; Service Oriented Architecture; Project Management; Technology Upgrade/Migration and Transformation; Information Technology Assessments and Planning; Application Development; and Independent Verification and Validation.

Example: DBITS Category Technology Migration/Upgrade
A customer needs assistance with upgrading 100 Microsoft Client Windows Vista to Microsoft Client Windows Version 8 for all their desktops located in Austin, Texas. The customer owns all of the Microsoft licenses. The customer includes one deliverable as completing the installation of 50 desktops by January 30, 2015, and the second deliverable as completing the installation of 50 desktops by March 2, 2015. Vendor will be paid for the completion of 50 installations at a time. The project ends after 100 desktops are successfully upgraded.

Contract Advisory Team

The Contract Advisory Team (CAT) is led by the Comptroller of Public Accounts with members from the DIR, Health and Human Services Commission, the Office of the Governor, Texas Facilities Commission, and a representative from a small state agency. The Legislative Budget Board and State Auditor's Office serve as technical advisors. The Office of the Attorney General services as legal counsel to the CAT.

The CAT's primary responsibility is to review the solicitation of any contract with an estimated value of more than $10 million.

Quality Assurance Team

The Quality Assurance Team (QAT) is led by the Legislative Budget Board, with members from State Auditor's Office and DIR. The QAT is responsible for reviewing, approving, and monitoring "major information resource projects," which are defined as IT projects that cost more than $1 million, AND:

- requires more than one year to complete,
- involves more than one state agency, OR
- substantially alters work methods of the agency.

QAT members review information in project status reports and identify any inconsistencies or factors which may lead to cost or schedule overruns. If factors are identified, QAT will request agencies to provide clarification and/or mitigation strategies to reduce the risk of overruns. While the QAT may assist agencies in identifying risk factors, the agencies are responsible for implementing risk mitigation actions to avoid cost and schedule overruns. QAT members may also identify technology and project management trends and best practices and share those with agencies.

Good, consistent project management helps agencies successfully deliver projects on budget and on schedule. To make project management easier, DIR has collaborated with many statewide agencies to create the Project Delivery Framework templates. These tools are based on IT project management best practices. DIR provides regular and custom training for agencies on the Framework, and has developed informational videos to assist agencies in accessing if their project should be submitted to the QAT for monitoring.

Cooperative Contracts Purchase Orders by State Agencies

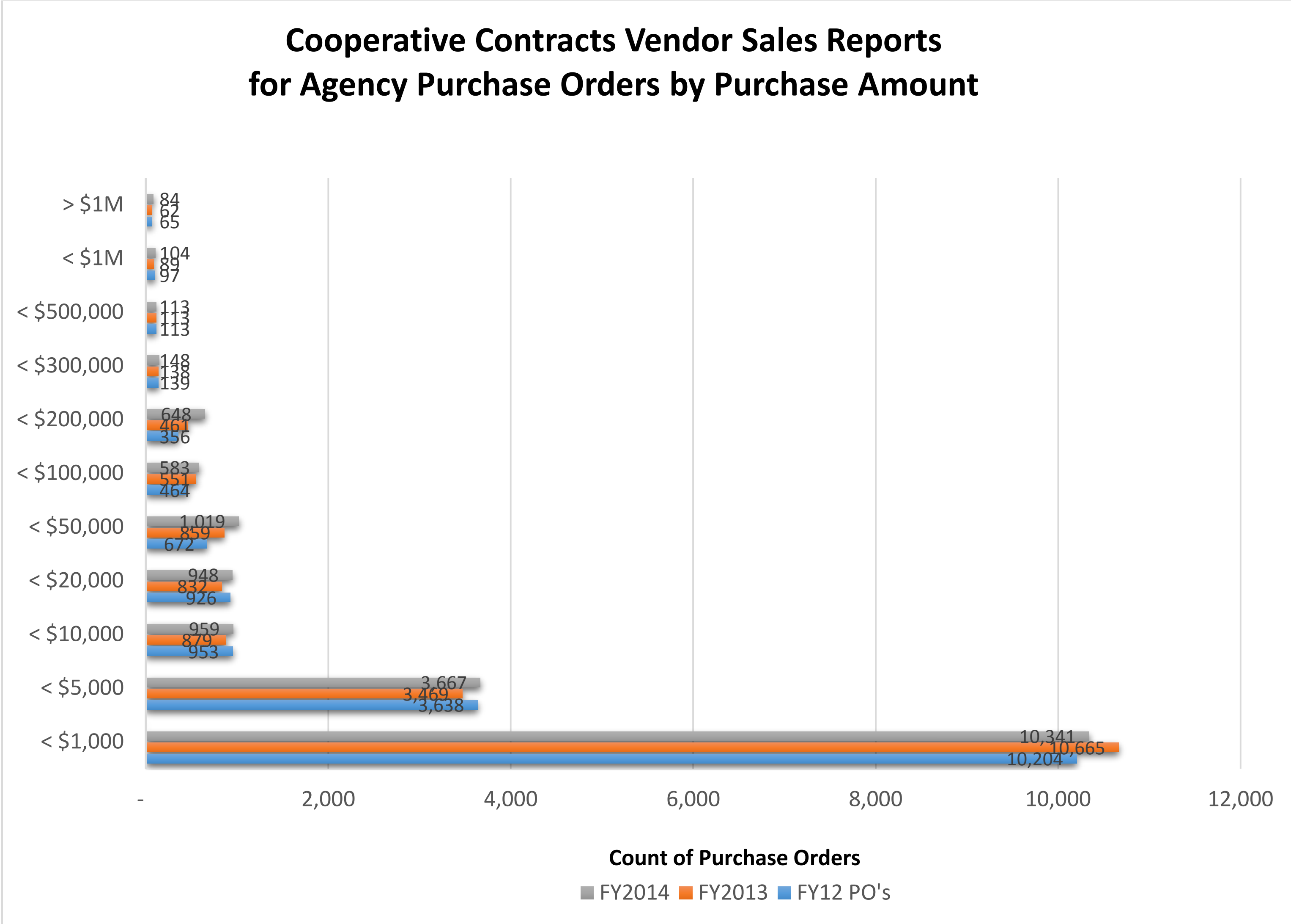
Fiscal Year	Total Purchase Orders	< $1,000	< $5,000	< $10,000	< $20,000	< $50,000	< $100,000	< $200,000	< $300,000
FY 12	17,627	10,204	3,638	953	926	672	464	356	139
FY 13	18,118	10,665	3,469	879	832	859	551	461	138
FY 14	18,614	10,341	3,667	959	948	1,019	583	648	148

Fiscal Year	< $500,000	< $1M	< $5M	< $10M	> $ 10M
FY 12	113	97	61	3	1
FY 13	113	89	57	3	2
FY 14	113	104	80	3	1

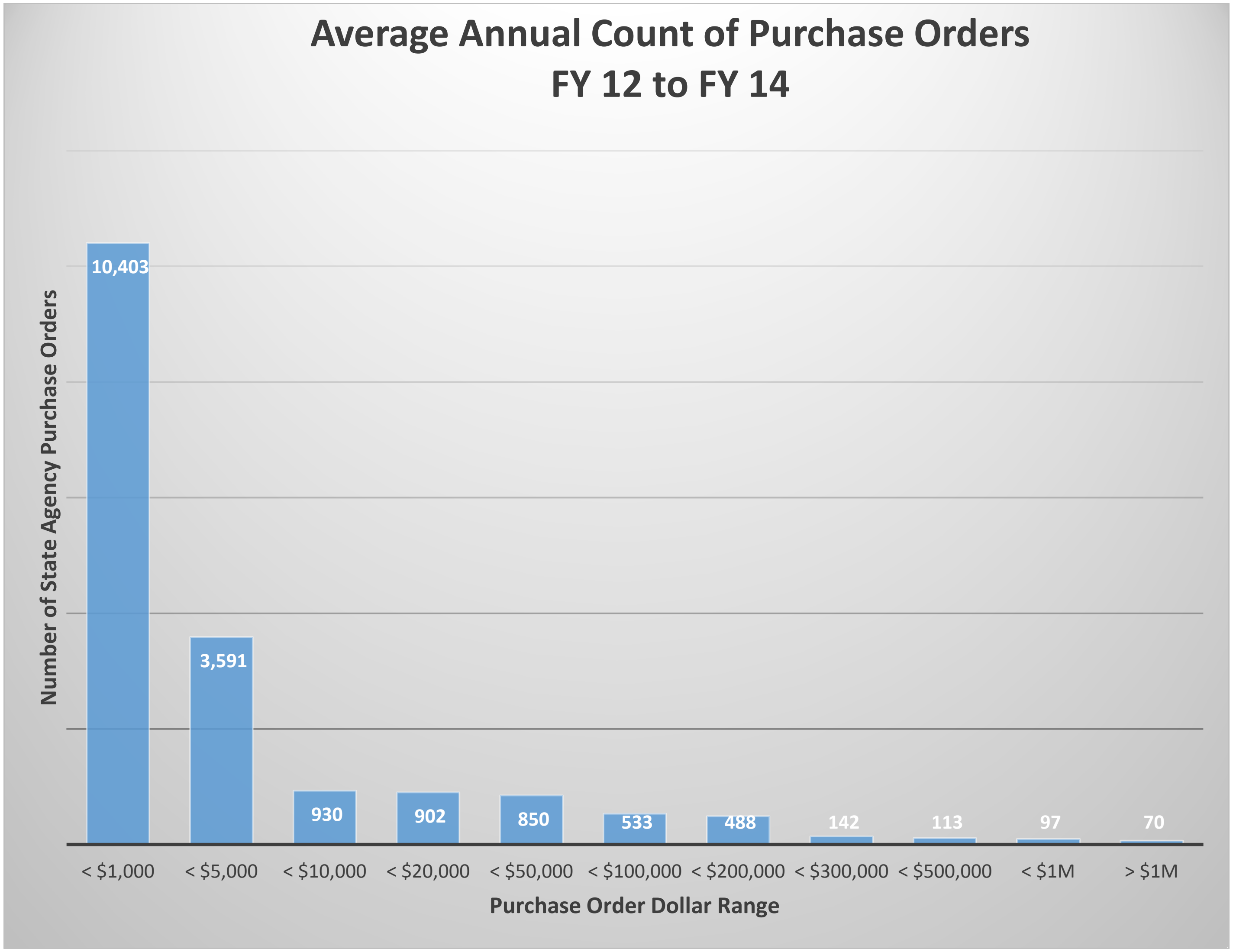
Cooperative Contracts Purchase Orders by State Agencies

	< $1,000	< $5,000	< $10,000	< $20,000	< $50,000	< $100,000	< $200,000	< $300,000
Average	10,403	3,591	930	902	850	533	488	142
Percent of Total	57.41%	19.82%	5.13%	4.98%	4.69%	2.94%	2.70%	0.78%
Cumulative Percent	57.17%	77.23%	82.37%	87.35%	92.04%	94.98%	97.67%	98.45%

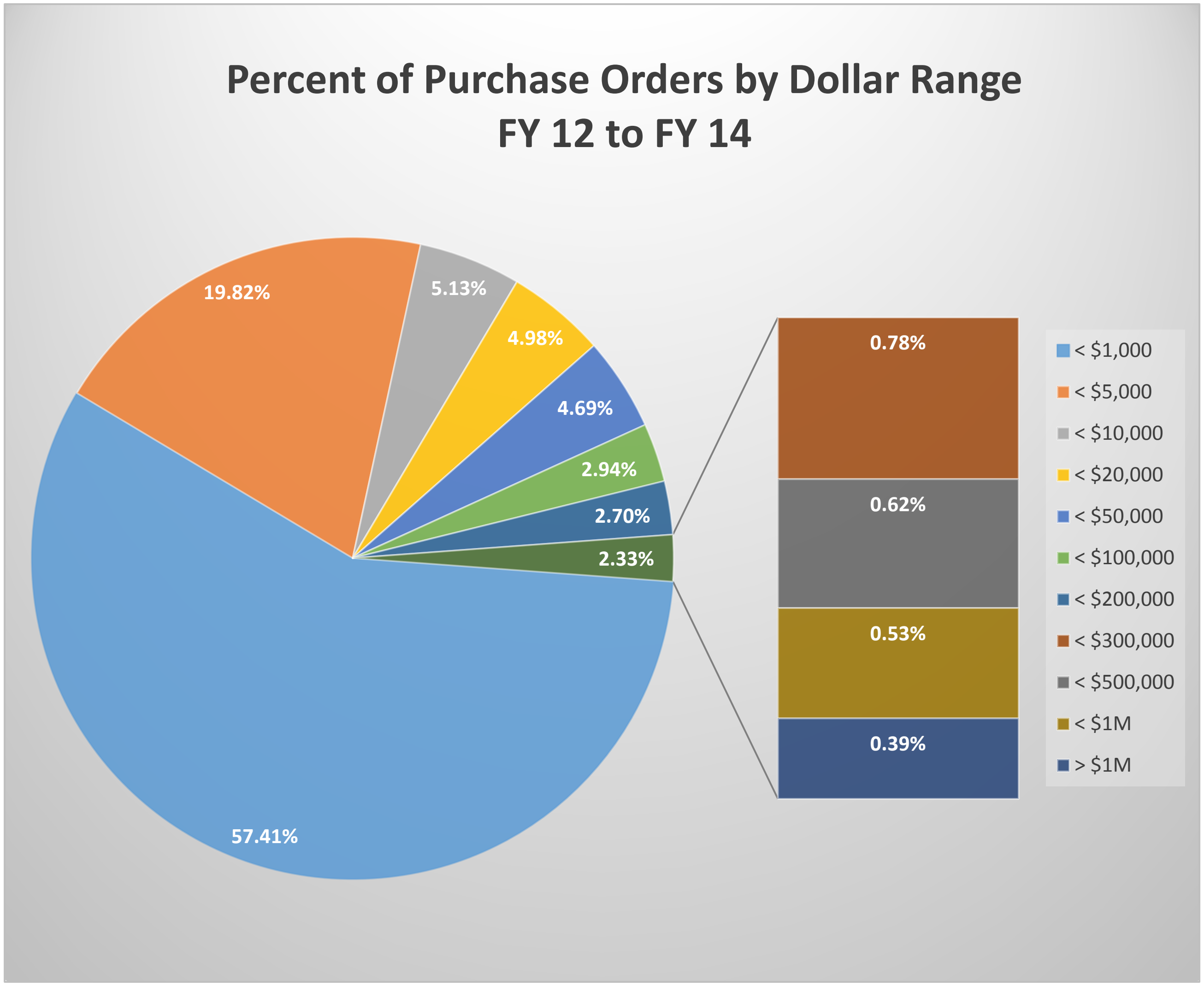
	< $500,000	< $1M	< $5M	< $10M	> $ 10M
Average	113	97	66	3	1
Percent of Total	0.62%	0.53%	0.36%	0.02%	0.01%
Cumulative Percent	99.08%	99.61%	99.98%	99.99%	100%



The chart above reflects state agency purchase orders by dollar range for FY 12 through FY 14. The chart excludes voluntary customers (Higher Education, local governments, assistance organizations, and other eligible customers). The source for this data is from the DIR Cooperative Contracts data warehouse, which compiles the monthly vendors' sales reports, as reported by the Cooperative Contracts vendors to DIR.



The chart above reflects the average number of state agency purchase orders by dollar range for FY 12 through FY 14. The chart excludes voluntary customers (Higher Education, local governments, assistance organizations, and other eligible customers). The source for this data is from the DIR Cooperative Contracts data warehouse, which compiles the monthly vendors' sales reports, as reported by the Cooperative Contracts vendors to DIR.



The pie chart above reflects the percent of state agency purchase orders by dollar range for FY 12 through FY 14. The pie chart excludes voluntary customers (Higher Education, local governments, assistance organizations, and other eligible customers). The source for this data is from the DIR Cooperative Contracts data warehouse, which compiles the monthly vendor's sales reports, as reported by the Cooperative Contracts vendors to DIR.

Recommendations for Improving Cooperative Contracts

	LEGISLATIVE RECOMMENDATIONS	PROS	CONS
1	Limit cooperative contracts use by mandatory agencies (state agencies) to a maximum purchase amounts up to $1M, except where DIR coordinates a bulk purchase on behalf of multiple state agencies. This should be considered individually for select contract types: commodities, IT services, and staff augmentation.	(HIGH) Forces increased Request for Offer activity and associated transparency, accountability, and competition.	(HIGH) Decreases organizational efficiency by extending amount of time needed to procure. Increases cost to agency to acquire goods and services. Decreases productivity of FTE's with efforts focused on administrative processes and not agency mission processes. Possible reduction in competition from the vendor community as a result of increased cost of sales.
2	Build reporting and approval tiers for purchases between $50K and $1M for use by mandatory agency customers.	(HIGH) Creates improved transparency and accountability and should ensure transactions with higher values receive further competition.	(MEDIUM) Likely acquisition delays as new additional approval process is implemented. Possible impact to agency mission if delays exceed normal planning horizon.
3	Build alternative limits based on percent of budget for mandatory agency customers, ie: purchases maximum limit at 1% of budget, with increasing reporting and approval tiers between 1/10 % of budget and 1% of budget.	(HIGH) Same as #1 above but this fits within agency appropriation pattern to ensure normalized treatment regardless of agency size	(HIGH) same as #1 above

4	Require Certification for customer agency purchasing personnel. This would include training on how to use DIR Cooperative Contracts.	(LOW) DIR offers training but cannot force agencies to take training or certify knowledge. This would require specific program use training in addition to existing required CPA training.	(LOW) Does not directly result in protection from bad behavior.
5	Modify Quality Assurance Team (QAT) requirement to review all information technology projects and not just software development projects.	(MEDIUM) Expands oversight provided by QAT to cover all IT projects. Does not require new procedures. Leverages existing processes so low cost to implement.	(HIGH) Will require more volunteer resources at QAT to absorb higher project review workload. Additional workload may result in reduced quality of review.
6	Adopt a definition of a "deal" in order to limit the ability of a mandatory agency customer to procure a large commitment in a series of small increments over time.	(MEDIUM) Develops consistent approach to total cost and financial encumbrances when purchase commitment is made. Eliminates hidden purchase extensions. Eliminates growth through change orders.	(LOW) None
7	Require DIR (or CPA or State Auditor's Office) to monitor mandatory agency customer purchase transactions (18,614 purchase orders in FY 14) that are executed under a Cooperative Contracts Master Contract. This will require additional headcount to analyze all transactions for compliance with state guidelines for purchasing and contracting. This could be based on transactions reported from CPA financial systems (USAS, CAPPS) and the newly authorized entity would have authority to review all agency transaction supporting	(HIGH) Provides additional oversight to ensure pattern of purchases (timing, amounts, vendor) is consistent with appropriate competition. Provides increased access to specific purchase support materials will ensure compliance. Improved accountability to state leadership from authorized party.	(MEDIUM) Potential staffing increase to assume additional duties. Vesting transaction verification authority with DIR may be lacking adequate checks and balances.

	documentation (bids, Statements of Works, responses, scoring, etc.) for any particular purchase (not a procedure audit but a transaction verification). If authority is given to DIR it places greatly increased accountability for ensuring technology purchasing is within the letter and the spirit of the law and makes it easier to hold a single organization accountable for both the award of Master Contracts and the use of the Master Contracts. This should be considered individually for select contract types: commodities, IT services, and staff augmentation. Statutory authority would be needed for DIR or CPA to investigate a specific transaction state agency purchases. Texas Government Code, Section 2157.068, effective September 1, 2005, requires State agencies to buy commodity items, in accordance with contracts developed by DIR unless the agency obtains an exemption from DIR. This statute could be expanded to provide DIR with audit authority.		
8	Require DIR to adopt by rule a new methodology for Cooperative Contract awards. The current methodology used is the "competitive break" methodology which produces a large portfolio of awards. Require DIR to use a methodology that restricts awards to some percentage (e.g. no more	(HIGH) Reduces portfolio size and therefore workload with resulting staffing reallocation opportunity. Helps ensure master awards more competitive and *likely* produce deeper initial discounts Makes awards more meaningful to vendors.	(LOW) Vendor negative feedback about not getting opportunity to do business. Possible reduction in competition at the purchase negotiation due to smaller number of awarded vendors and larger minimum discounts up front.

	than 35%) of total responses accepted. This recommendation, in conjunction with #7, could result in reallocating headcount from Contract Manager positions to Contract Performance positions and offset the additional headcount contemplated in #7 should it be adopted by itself. This should be considered individually for select contract types: commodities, brand, and IT services.		