

Questions submitted to Treasury regarding the Right-to-Know Project

Requests

Are Right to Know requests limited in scope as to what someone can request?

The Right-to-Know Law, Act 3 of 2008 (RTK), defines the information subject to public disclosure, specific exceptions to its general rules, and procedures by which the public requests access to information and agencies provide their responses. Individual agencies should consult with their respective legal counsel about particular questions regarding application of RTK.

Do the requests come directly to the agencies?

In general, a requester submits requests to the agency he or she believes possesses the information he or she is seeking. Chapter 17 of RTK requires the Treasury Department (Treasury) to create and administer an Internet-based publicly accessible database that requesters can also utilize to obtain information about certain contracts entered into by agencies subject to the provisions of RTK. Requesters may seek contract information subject to RTK from either, or both, the originating agency and Treasury.

Will a designated administrative user be identified for each agency?

No and administrative user will not be designated at the agency level. Treasury will be responsible for all administrative functions. At this point an administrative user will not be identified.

Is the agency RTK contact email address given to the public?

The Treasury RTK website will contain a list of RTK officers for each agency subject to RTK.

May an agency designate email address to be provided to the public?

Yes, an agency's designation of RTK contact information can contain an email address to be utilized for inquiries and requests.

What if an agency RTK contact for responding to contract requests made to the Treasury website goes on vacation for two weeks?

Treasury recommends that a general email address be developed, and that several individuals within an agency be made responsible for responding to requests. Treasury will make available on the website contracts initially submitted by agencies on the third business day after receiving a request for access unless Treasury receives a revised contract from the agency prior to that time.

Does uploading summary of contract satisfy the 10-day execution?

No.

Fiscal Review Process

Are agencies required to send contracts to Fiscal Review (pre-audit), as well as the RTK repository?

Agencies are to submit a separate copy of each covered contract to the RTK contract repository, redacted in accordance with RTK. Agencies will also be required to submit a copy of the unredacted contract to Fiscal Review (pre-audit) as they have in the past.

Does this mean Fiscal Review will no longer be sending contracts to Bureau of Contracts?

Yes, Fiscal Review will be no longer providing contracts to the Bureau of Contracts

How many separate usernames and passwords will be required for uploading documents?

Each agency will require at a minimum one user name and password to utilize the manual process of uploading contract documents. In addition, an agency electing to utilize our FTP process to upload contract documents will require a separate user name and password.

Repository (Usage)

When the July 1, 2008 deadline is here, will Treasury have an individual available to answer questions as they arise?

Yes.

Regarding the list of attachments and the ability to add and remove, will agencies have the ability to remove if they enter something by mistake?

No, they will have to contact Treasury to have the document removed.

Will successful loads be emailed to users utilizing the FTP process?

No. The large volume of contracts that agencies will upload using this process makes it impractical to confirm successful loads by email.

If there is an error in uploading, will the error be identified to the user?

In most cases the error will be identified to the user that uploads the contract documents.

What document formats will the system except?

Word (all versions), PDF, Excel (all versions), Tiff

Does an XML file have to be typed out manually or is there a template?

It is recommended that agencies that do not have an XML program not use this upload process.

Does an FTP need a header page?

Yes, an example of the header file is located on within the FTP specifications. The FTP specification can be found on this page.

Can you search by contracting parties?

Yes.

What is the difference between the add and remove keys?

The add key used to add additional contract documents (files). The remove key will remove the particular file.

Will there be OCR capability?

The uploaded contracts will undergo OCR for keyword search capability, for a limited redaction screening functionality.

Your documentation states that we are to provide Treasury our method of uploading contracts by June 6. If we start out by using the website method and want to switch at a later date to the FTP method, what would the process be to notify Treasury and test the new method?

You would notify Dennis Louwarse, Treasury Project Manager, via email. His email address is referenced on this page. In the future you will have to contact a designated system administrator.

Our imaging section wants to know if it is a problem if we send documents that have been compressed for viewing. Apparently we shrink legal size documents when imaging them. We didn't think it would be an issue so long as it was readable but we wanted to get Treasury's opinion. He tells me that If it was printed it would fit on 8 1/2 x 11 paper and on the screen it could be viewed larger if needed.

The system has the ability to accept compressed images as long as they are word, excel, tiff, or PDF.

Redaction

Will “redacting guidelines be provided by Treasury?

No. Agencies will be required to follow the redaction guidelines provided in RTK.

How is imbedded Metadata presented to the public?

Imbedded Meta data is not presented to the public. It is the responsibility of agencies to remove imbedded Meta Data from their documents during the redaction process.

Contracts (General)

Must standard terms and conditions be included in the uploading of the contracts?

Yes.

Must large documents such as blueprints and engineering projects be submitted?
Treasury will have the capability to accept large documents but it will be up to the discretion of the individual agency. There is no size limit on documents being submitted to the system.

How are grants (in SAP a grant = fund commitment) classified? **Grants or fund commitments when using SAP, are classified as contracts.**

A grant was set to be executed in October 2007 but the execution date was moved to July 2008, will this need to be placed in the repository?

The RTK requires contracts involving any property, real, personal or mixed of any kind or description or a contract for personal services where the consideration is \$5,000 or more that are fully executed on or after July 1, 2008, to be filed with Treasury. Treasury believes this definition should be given broad application consistent with the objectives of the RTK. An agency uncertain about the application of this requirement to particular documents should consult with its counsel.

Are Memorandums of Understanding considered contracts?

The RTK requires contracts involving any property, real, personal or mixed of any kind or description or a contract for personal services where the consideration is \$5,000 or more that are fully executed on or after July 1, 2008, to be filed with Treasury. Treasury believes this definition should be given broad application consistent with the objectives of the RTK. An agency uncertain about the application of this requirement to particular documents should consult with its counsel.

Are labor agreements considered contracts?

The RTK requires contracts involving any property, real, personal or mixed of any kind or description or a contract for personal services where the consideration is \$5,000 or more that are fully executed on or after July 1, 2008, to be filed with Treasury. Treasury believes this definition should be given broad application consistent with the objectives of the RTK. An agency uncertain about the application of this requirement to particular documents should consult with its counsel.

An agency does not currently have a contract numbering system; do they need to develop one?
Yes.

If an execution date is prior to July 1, 2008 but the goods will not be delivered till after July 1, 2008, does this contract need to be uploaded to the repository?

Treasury would not interpret the RTK to require such a contract to be filed for inclusion in the publicly-accessible database.

How does Treasury (and the e-Library system) treat contracts for which the uploading agency checks the "okay to use as is" box on the upload page? More specifically, when do contracts so designated during the uploading process become available to public users of e-Library?

An agency user uploading a contract and placing a check in the "The following document(s) is/are redacted and ready for public inspection" box on the Contract Summary Data page is agreeing that the document is fully redacted, that the agency

does not need to review the document for possible additional redactions in the event it is requested by public users, and that the document is suitable for immediate viewing by public users who select the summary associated with it. The contract will in fact be immediately available for viewing in e-Library in response to such a selection by public users. Agency users should therefore not check the "ready for public inspection" box if any one or more of the premises described here is not correct. This same decision regarding readiness for public inspection must be made during the uploading of purchase orders or amendments that relate back to previously uploaded contracts.

In any instance where the agency user did not check the "ready for public inspection" box on the Contract Summary Data page at the time that a contract was uploaded, the e-Library system will present a public user viewing the summary corresponding to the contract with a "Request Contract" button rather than a link to the contract itself. If the user then requests the contract, the e-Library system will automatically send an email notifying the relevant agency RTK officer of the request. The e-Library system will automatically offer a link from the corresponding summary that will allow public users to immediately view the originally uploaded contract beginning at the close of the second business day following the email notification, unless the agency earlier provides an alternative version (presumably containing additional redactions). If the agency provides an alternative version in a timely fashion, e-Library will make that version immediately available for public viewing following its upload.

Can agencies upload summaries for contracts without uploading the actual contract?

No. Compliance with the relevant provisions of the Right-to-Know Law is not established unless the actual contract is filed with Treasury within ten days of final execution. Submission of summaries, an additional step that Treasury has required under the law to facilitate public users' ability to find information, is necessary but not sufficient alone to comply with the statutory requirement.

Where a contract states the relevant amount in another currency, should the foreign currency or the equivalent amount in dollars be provided in the summary? In the contract that is uploaded to the system?

Agencies should enter the value for the contract in dollars, converted to that from the foreign currency as of the time of uploading, in the "Amount" field. Agencies may utilize the Subject Matter field to state the value in terms of the foreign currency actually provided for in the contract. The contract itself should be uploaded unchanged from its execution version, with the value stated in terms of the foreign currency.

Holding

Is there a specific timeframe for Treasury to hold contracts? And will Treasury purge contracts at the end of that time?

The RTK requires Treasury to maintain every contract filed with it pursuant to Chapter 17 for a period not less than four years after the end date of the contract.

How long will the documents stay active on the site? Is there an archive plan?

The RTK requires Treasury to maintain every contract filed with it pursuant to Chapter 17 for a period not less than four years after the end date of the contract. Treasury does not currently plan to maintain contracts in any form longer than the statutory period.

Amendments

Your documentation refers to a record type called an ‘amendment’. Contracts can be amended (we call these ‘amendments’) and Purchase Orders can be amended (we call these ‘change orders’). If we send both contract & PO amendments to you as ‘amendments’ – how can you tell the difference?

A contract amendment should be classified on our system as an amendment. An amendment to a stand alone purchase order should be classified as an amendment. An amendment to a purchase order issued off an existing contract should be classified as a purchase order and be linked to the original contract.

Are amendments added to the original document? How are amendments added?

Yes. If original contract executed before July 1, 2008 is amended after that date, the original contract and new amendment must both be uploaded to the repository. Amendments will be added to the original contracts through the Amendment and PO section of the repository. (A contract number will be needed to add Amendment).

At present when adding an amendment to the contract, an agency may use the contract number plus –01 or .01, is this acceptable?

Yes

Are change orders considered amendments? If so and DGS is procuring, is the agency responsible for submitting the change orders?

Treasury interprets any change order that modifies any term or condition of an existing contract to be an amendment and subject to the filing requirements of RTK. Agencies uncertain about the legal characterization of a change order should consult with its counsel.

Purchase Orders

In regards to Purchase Orders, was there an amendment made to the legislation since the bill was enacted?

No.

Will all Purchase Orders have to be posted to the system, including materials and supplies?

The RTK requirement to file with Treasury does not apply to a purchase order evidencing fulfillment of an existing contract but does apply to a purchase order evidencing new obligations. An agency uncertain about the application of the requirements regarding purchase orders should consult with its counsel.

Who will be uploading statewide contracts (i.e. DGS)? And will the system be differentiating between the statewide contract amount and the PO amount? Does the PO need to be connected to the statewide contract? Why?

The Department of General Services is currently working with Treasury to load all active statewide contracts to our system. DGS will enter the estimated amount of the statewide contract. The agency uploading a PO against a statewide contract will be required to upload only the amount of their PO. The system will not keep a running total of purchases made against the statewide contract. Yes, the PO needs to be connected to the statewide contract. This functionality was explained in the conceptual design document provided to agencies.

SRM and SAP (IES) create Purchase Orders, why can these systems not automatically upload these to the Treasury repository?

At this point in time, IES and Treasury are examining whether this capability can be developed, but it will not be ready for July 1, 2008.

Several agencies expressed concern that the summary of a PO will take longer than to create than actual PO. Why is summary data not enough for Purchase Orders?

The RTK requires filing of all covered contracts. Submission of purchase orders alone does not satisfy the statutory requirement.

Will IES be completing Purchase Orders for all Commonwealth agencies?

No.

How do agencies submit amendments to a purchase order? Example: Some agencies disencumber funds at the end of the fiscal year not using all monies and leaving them below the \$5000 threshold.

Dollar amounts identified in a contract should not be considered to be synonymous with the actual amounts that are eventually paid to a vendor under a contract. There are many reasons why the Commonwealth might not pay a vendor the total maximum amount authorized by a contract, even in the absence of a formal amendment. In any event, accounting practices – such as encumbering and unencumbering contracts– are not themselves legally cognizable amendments to contracts.

Does a Purchase Order have to be submitted if not related to contract?

Yes, a stand alone purchase order \$5,000.00 or greater would have to be submitted to the system. This purchase order would be classified as a contract in the Treasury System.

What about Purchase Orders issued written off of no value contracts?

If the consideration involved, either in the original contract, the purchase order, or both in aggregate, is less than \$5,000, neither document needs to be filed with Treasury.

Purchase Order for \$4,000 is made then eighteen months later a \$2,000 Purchase Order is made, are they required to be placed in the system? **No, but if an amendment was made to the original Purchase Order that placed the PO over the \$5,000 threshold then the PO would have to be uploaded to the repository.**

Questions posted May 22, 2008

My agency does not enter into “contracts” like, for example, DGS with Staples, Ikon, PIBH, etc. All of our procurement activities are done via either use of the PCard or Purchase Orders. In that regard, would this process apply to us?

Section 1701(a) of Act 3 of 2008 explains that the requirement to file contracts with Treasury “shall not apply to a purchase order evidencing fulfillment of an existing contract but shall apply to a purchase order evidencing new obligations.” We interpret that language to require purchase orders for statewide requirements contracts, such as with commodities vendors, to be filed. Individual agencies using the Commonwealth’s SAP System will be required to submit redacted versions of Purchase Orders generated in SAP/SRM.

We have a Terms and Conditions document and a Nondiscrimination document that are not stored in PeopleSoft, but do accompany each PO when it is faxed to the vendor. The Terms and Conditions document is revised, when necessary, so a revision date is noted at the bottom of the page so that we have a version history. Neither document is currently imaged with the PO. Would we be required to supply these documents as part of the PO file?

Treasury is relying on each individual agency to determine what documents, attachments, appendices, etc., constitute the actual contract. If the language within a contract incorporates by reference or otherwise makes any separate document(s) part of the contract, then Treasury believes that such identified documents are required to accompany the contract to be submitted to Treasury.

How long will the documents stay active on the site? Is there an archive plan?

Pursuant to Section 1701(b) of Act 3 of 2008, documents will be maintained on the website for four years after the end date of the agreement.

I notice these documents do not include SAP as an option to submit Summary data to Treasury for you to hold until the agency logs in to your system to upload the contracts?

Agencies using the Commonwealth’s SAP/SRM/R3 System make up a small percentage of organizations submitting contract documents to Treasury. Treasury will hold specific discussions regarding this process with agencies utilizing SAP, representatives from IES, and the Office of Information Technology.

(updated Sept. 17, 2008)