Overview of State Procurement and Contract Management

PRESENTED TO THE HOUSE COMMITTEE ON APPROPRIATIONS
LEGISLATIVE BUDGET BOARD STAFF
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Procurement Overview

■ Central management with exemptions & delegations
  • Texas Procurement and Support Services (TPASS)
  • Department of Information Resources (DIR)
  • Many exemptions from TPASS & DIR

■ Oversight shared by multiple entities

■ Limited centralized reporting
Central Management

Texas Procurement and Support Services Division (TPASS) at the Texas Comptroller of Public Accounts:

- Manages statewide contracts
- Publishes procurement manual & contract management guide
  - Government Code requires that agencies comply with the guide
  - Government Code requires the model provisions in the guide to “provide sufficient flexibility” to agencies
- Conducts training
- Operates procurement databases and lists
Central Management - Delegation

Many exceptions to TPASS central management:

- Delegated authority
  - Statute delegates authority for purchases of less than $15,000 to the purchasing agency
  - TPASS rules delegate authority for commodity purchases of less than $25,000 and services purchases of less than $100,000 to the purchasing agency
  - Purchases that exceed these amounts may be submitted to TPASS for review and approval by an agency for the agency to make the purchase itself
  - Emergency purchases require documentation and are subject to audit
Central Management - Exemptions

- Statute exempts certain agencies and specific types of goods and services from TPASS.

- Exemptions are listed in the Texas Procurement Manual and include:
  - Health and Human Service Agencies (except the purchase of certain agency commodities)
  - Institutions of higher education
  - Certain construction projects
  - Professional and consulting services
  - Purchases from public utilities
Central Management

Department of Information Resources (DIR) Programs:

- Cooperative Contracts
  - Statewide negotiated pricing for IT commodities and services
  - DIR is authorized to require state agencies to purchase IT commodity items through these contracts
  - Local governments, public school districts, institutions of higher education, and nonprofit organizations can participate voluntarily

- Telecommunication Services

- Data Center Services
Statutory exemptions from the Cooperative Contracts program:

- Exemption granted by DIR:
  - Blanket exemptions
    - Emergency procurement
    - Outsourced deliverables based system integration or application development projects in excess of $10,000,000
  - Individually granted exemptions

- Express prior approval from the Legislative Budget Board
Oversight distributed across several entities

- TPASS & Comptroller of Public Accounts
  - Conducts audits
  - Monitors agencies with delegated authority
- Contract Advisory Team
  - Interagency team to review solicitation documents >$10 million
  - Voluntary compliance
  - Exemptions for institutions of higher education and TxDOT
- Quality Advisory Team
  - Reviews & approves major information resource projects
  - Comprised of State Auditor’s Office (non-voting), LBB, and DIR
  - Exemption for institutions of higher education
Oversight (Continued)

Oversight distributed across several entities

■ Governor’s Office
  • Consulting services
    o Consulting services that exceed $15,000 require a notification to LBB and a finding of fact by the Governor’s Office that the consulting services are necessary

■ Legislative Budget Board
  • Budget monitoring and review of agency budget requests

■ State Auditor’s Office
  • Audits compliance with procurement laws and contract management guide
Reporting Mechanisms

Reporting Requirements:

■ Electronic State Business Daily
  • Posting is required regardless of TPASS delegation or exemption
  • Exemption for institutions of higher education

■ Central Master Bidder List
  • Online directory that must be used for all competitive procurements
  • Exemption for institutions of higher education

■ Procurement plans
  • Submitted to TPASS by agencies annually
Reporting Mechanisms (Continued)

■ Contracts Database

- Government Code requires agencies to report “major contracts” to the LBB
- GAA requires agencies to report over $50,000 to the LBB
- Copies of contracts are also provided
  - Statutory exemptions for health and human service agencies, institutions of higher education, and TxDOT

■ Vendor Performance Tracking System

- This system applies to purchases in excess of $25,000 regardless of TPASS exemption or delegation
- Exemption for certain grant funded activities
- CPA can remove a vendor from the bidder’s list for a failure to meet specifications
- CPA maintains a “Debarred Vendor List for firms with history of improper conduct
New Article IX Rider

Section 7.12, Article IX of House Bill 1

▪ State agencies and institutions of higher education can not expend funds to award a contract or make a purchase without providing extensive notice to the LBB, SAO, and Legislative leadership for the following:

  ▪ Contracts in excess of $10,000,000
  ▪ Contracts in excess of $1,000,000
    ▪ Made as a result of an emergency
    ▪ Made without the competitive bidding process

▪ Provisions cover all sources of funds and methods of finance

▪ CPA shall not allow the expenditure of funds for a contract if the LBB provides notice that these requirements have not been met
Resources

For more information about this topic:

- Senate Committee on Government Organization, December 2014 Interim Report
- Texas State Contracts Database, available at [http://contracts.lbb.state.tx.us](http://contracts.lbb.state.tx.us)
Contact the LBB

Legislative Budget Board
www.lbb.state.tx.us
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