

LBB Detailed Contract Reporting Requirements

MAJOR INFORMATION SYSTEMS CONTRACTS

State Agencies

State agencies are required to provide notice to the Legislative Budget Board (LBB) of a contract for a major information system¹ under the Information Resources Management Act.² The notice must be on a form prescribed by the LBB and filed not later than the 10th day after the date the agency enters into the contract.³

For the purposes of the Information Resources Management Act, “state agency” is defined as a department, commission, board, office, council, authority, or other agency in the executive or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education.⁴

A "major information system" includes: one or more computers that in the aggregate cost more than \$100,000; a service related to computers, including computer software, that costs more than \$100,000; and a telecommunications apparatus or device that serves as a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network and costs more than \$100,000.⁵

Lottery Division of the Texas Lottery Commission

The planning and procurement requirements of the Information Resources Management Act do not apply to the Lottery division of the Texas Lottery Commission.⁶

Institutions of Higher Education

A university system or institution of higher education must provide written notice to the LBB of a contract for a major information system only if the cost of the system exceeds \$1 million under the Information Resources Management Act.⁷ The notice must be on a form prescribed by the LBB and filed not later than the 10th day after the date the agency enters into the contract.⁸

¹ Section 2054.008(b), Government Code

² The Information Resources Management Act is the short title for Chapter 2054 of the Government Code. Section 2054.002, Government Code

³ Section 2054.008(b), Government Code

⁴ Section 2054.003(13), Government Code

⁵ Section 2054.008(a), Government Code

⁶ Section 2054.007, Government Code

⁷ Section 2054.008(c), Government Code

⁸ Section 2054.008(b), Government Code

“Institution of higher education” is defined as any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education.⁹

However, the Information Resources Management Act does not apply to public junior colleges or a public junior college districts, except as necessary for participation in the electronic government project.¹⁰

Exceptions

Exception 1: Activities of the Texas Military Department

The Texas Military Department¹¹ is exempt from the provisions of the Information Resources Management Act relating to the oversight of information resources and information resource manager provisions to the extent the National Guard Bureau and the United States Department of Defense provide information technology and communications to the department.¹²

Exception 2: State Preservation Board

The Information Resources Management Act does not apply to the State Preservation Board^{13, 14}

Exception 3: Operation of the Lottery

The Information Resources Management Act does not apply to a contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery.¹⁵

Exception 4: Administering Assets of the Teacher Retirement System of Texas

The Information Resources Management Act does not apply to the Teacher Retirement System of Texas^{16, 17}

Exception 5: Uniform Statewide Accounting

The Information Resources Management Act does not apply to contracts made under Subchapter C (Uniform Statewide Accounting), Chapter 2101(Accounting Procedures), Government Code.¹⁸

⁹ Section 61.003(8), Education Code

¹⁰ Section 2054.0075, Government Code

¹¹ Section 437.001(3), Government Code

¹² Section 437.109(a), Government Code

¹³ Section 443.001, Government Code

¹⁴ Section 443.0231, Government Code

¹⁵ Section 466.105(1), Government Code

¹⁶ Section 821.001(14), Government Code

¹⁷ Section 825.103(e), Government Code

¹⁸ Section 2101.039(3), Government Code

CONSTRUCTION CONTRACTS

The following agencies and institutions are required to provide written notice to the LBB of a contract for a construction project if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000 under Government Code provisions relating to the building construction and acquisition and disposition of real property: the Texas Facilities Commission¹⁹; the Texas Department of Transportation²⁰; state institutions of higher education²¹; the Texas Department of Agriculture²²; the Texas Parks and Wildlife Department²³; the Texas Commission on Environmental Quality²⁴; the Texas Department of Housing and Community Affairs²⁵; the Texas Veterans' Land Board²⁶; the Texas Historical Commission²⁷; and the Texas Department of Criminal Justice²⁸. The notice is required to be on a form prescribed by the LBB and filed not later than the 10th day after the date the agency enters the contract.²⁹

For the purposes of Chapter 2166, Government Code, "state agency" is defined as a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute; the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council; or a university system or an institution of higher education, except a public junior college.³⁰

"Project" means a building construction project that is financed wholly or partly by a specific appropriation, a bond issue, or federal money. The term includes the construction of: a building, structure, or appurtenant facility or utility, including the acquisition and installation of original equipment and original furnishings; and an addition to, or alteration, rehabilitation, or repair of, an existing building, structure, or appurtenant facility or utility.³¹

Exception 1: Notice on Year 2000 Project Office Website

Subtitle D, Title 10, Government Code does not apply to contracts for goods or services between the Department of Information Resources and private vendors that may be necessary or appropriate to the fulfillment of the requirements of Section 147.083 (Notice on Year 2000 Project Office Website), Civil Practice and Remedies Code.³²

¹⁹ Section 2166.001(1-a), Government Code

²⁰ Section 2166.003(a)(1), Government Code

²¹ Section 2166.003(a)(2), Government Code

²² Section 2166.003(a)(3) and (c), Government Code

²³ Section 2166.003(a)(4), Government Code

²⁴ Section 2166.003(a)(8), Government Code

²⁵ Section 2166.003(a)(9), Government Code

²⁶ Section 2166.003(a)(10), Government Code

²⁷ Section 2166.003(a)(11), Government Code

²⁸ Section 2166.003(b), Government Code

²⁹ Section 2166.2551, Government Code

³⁰ Section 2151.002, Government Code

³¹ Section 2166.001(4), Government Code

³² Section 147.083(f), Civil Practice and Remedies Code

Exception 2a: Institutions of Higher Education

Subject to certain exceptions, Subtitle D, Title 10, Government Code does not apply to the acquisition of goods and services under Section 51.9335 (Acquisition of Goods and Services), Education Code³³ which authorizes an institution of higher education to acquire goods or services by the method that provides the best value.³⁴

Exception 2b: Component Institutions of the University of Texas at Houston

Subtitle D, Title 10, Government Code does not apply to the purchase of goods and services made under Section 73.115 (Acquisition of Goods and Services), Education Code³⁵ by a component institution of the University of Texas at Houston by the method that provides the best value to the institution.³⁶

Exception 2c: Component Institutions of the University of Texas Medical Branch at Galveston

Subtitle D, Title 10, Government Code does not apply to the purchase of goods and services made under Section 74.008 (Acquisition of Goods or Services), Education Code³⁷ by a component institution of the University of Texas Medical Branch at Galveston by the method that provides the best value to the institution.³⁸

Exception 3: Disaster Reservists under the Texas Disaster Act of 1975

Subtitle D, Title 10, Government Code does not apply to disaster reservists employed or contracted under the Texas Disaster Act of 1975³⁹ to support recovery operations in the aftermath of a disaster or major emergency.⁴⁰

Exception 4: State Preservation Board

Subtitle D, Title 10, Government Code does not apply to a purchase or lease under Chapter 443 (State Preservation Board), Government Code.⁴¹

Exception 5: Texas State History Museum Fund

Subtitle D, Title 10, Government Code does not apply to a purchase or lease made with money from the Bob Bullock Texas State History Museum fund^{42, 43}.

³³ Section 51.9335(d), Education Code

³⁴ Section 51.9335(a), Education Code

³⁵ Section 73.115(f), Education Code

³⁶ Section 73.115(a), Education Code

³⁷ Section 74.008(g), Education Code

³⁸ Section 74.008(a), Education Code

³⁹ The Texas Disaster Act of 1975 is the short title for Chapter 418 of the Government Code. Section 418.001, Government Code

⁴⁰ Section 418.045(b), Government Code

⁴¹ Section 443.023, Government Code

⁴² Section 445.012(a), Government Code

⁴³ Section 445.012(f), Government Code

Exception 6: Operation of the State Lottery

Subtitle D, Title 10, Government Code does not apply to a contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery.⁴⁴

Exception 7: Foreign Offices Maintained and Operated by the Texas Economic Development and Tourism Office

No provision of Subtitle D, Title 10, Government Code, except for Chapter 2175, applies to the operation and maintenance of foreign offices maintained by the Texas Economic Development and Tourism Office, or other authorized transactions relating to such foreign offices.⁴⁵

Exception 8: Certain Contracts Relating to the Employees Retirement System of Texas

Subtitle D, Title 10, Government Code does not apply to a contract between the board of trustees of the Employees Retirement System of Texas⁴⁶, or a third party administrator approved by the board, and a vendor qualified to participate in a deferred compensation plan (Section 609.505, Government Code) or to a contract the board of trustees enters into for necessary goods and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan (Section 609.509, Government Code).⁴⁷

Exception 9: Administering Assets of the Teacher Retirement System of Texas

Notwithstanding any other law, the Teacher Retirement System of Texas⁴⁸ has exclusive authority over the purchase of goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of the retirement system, and Subtitle D, Title 10, Government Code does not apply to the retirement system with respect to that money.⁴⁹

Exception 10: Uniform Statewide Accounting

Subtitle D, Title 10, Government Code does not apply to contracts made under Subchapter C (Uniform Statewide Accounting), Section 2101(Accounting Procedures), Government Code.⁵⁰

Exception 11: Public and Private Facilities and Infrastructure

Chapter 2166 (Building Construction and Acquisition and Disposition of Real Property), Government Code does not apply to a qualifying project under Chapter 2267 (Public and Private Facilities and Infrastructure), Government Code.⁵¹

“Qualifying project” means any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently

⁴⁴ Section 466.105(2), Government Code

⁴⁵ Section 481.027(e), Government Code

⁴⁶ Section 609.001(1), Government Code

⁴⁷ Section 609.510(1), Government Code

⁴⁸ Section 821.001(14), Government Code

⁴⁹ Section 825.103(d), Government Code

⁵⁰ Section 2101.039(1), Government Code

⁵¹ Section 2267.065, Government Code

available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or any improvements necessary or desirable to real property owned by a governmental entity.⁵²

Exception 12: Trustees for Nursing or Convalescent Homes

Subtitle D, Title 10, Government Code does not apply to any payments made by a trustee under Subchapter D (Trustees for Nursing or Convalescent Homes), of Chapter 242 (Convalescent and Nursing Facilities and Related Institutions).⁵³

Exception 13: Telecommunications Facilities

Subtitle D, Title 10, Government Code does not apply to a procurement under Subchapter E (Telecommunications Facilities), Chapter 202 (Control of Transportation Assets), Transportation Code relating to certain agreements between the Texas Department of Transportation⁵⁴ and telecommunications providers.⁵⁵

Exception 14: Erection and Maintenance of Signs

Subtitle D, Title 10, Government Code does not apply to purchases of goods and services under Section 391.091 (Erection and Maintenance of Signs), Transportation Code⁵⁶ relating to contracts between the Texas Department of Transportation⁵⁷ and individuals, firms, groups, or associations in Texas to erect and maintain specific information logo signs and major shopping area guide signs at appropriate locations along an eligible highway.⁵⁸

Exception 15: Private Network Services

Subtitle D, Title 10, Government Code does not apply to a contract entered into under Subchapter G (Infrastructure Commitment to Certain Entities), Chapter 58 (Incentive Regulation), Utilities Code relating to private network services.⁵⁹

PROFESSIONAL AND CONSULTING SERVICES CONTRACTS

Professional Services

A state agency, including an institution of higher education, is required to provide written notice to the LBB of a contract for professional services other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract exceeds \$14,000⁶⁰ under the Professional Services

⁵² Section 2267.001(10), Government Code

⁵³ Section 242.099, Health and Safety Code

⁵⁴ Section 201.001(2), Transportation Code

⁵⁵ Section 202.095(a), Transportation Code

⁵⁶ Section 391.091(e), Transportation Code

⁵⁷ Section 201.001(2), Transportation Code

⁵⁸ Section 391.091(a), Transportation Code

⁵⁹ Section 58.255(d), Utilities Code

⁶⁰ Section 2254.006, Government Code

Procurement Act.⁶¹ The notice is required to be on a form prescribed by the LBB and filed not later than the 10th day after the date the agency enters the contract.⁶²

"Professional services" are defined as services: within the scope of the practice, as defined by state law, of: accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing.

"Professional services" are also defined as services provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.⁶³

Consulting Services

A state agency is required to provide written notice to the LBB of a contract for consulting services if the amount of the contract, including the amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice is required to be on a form prescribed by the LBB and filed not later than the 10th day after the date the entity enters the contract.⁶⁴

With regards to consulting services, "state agency" is defined as a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute; the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council; or a university system or an institution of higher education, except a public junior college.⁶⁵

The reporting requirement for consulting services contracts (Section 2254.0301(a), Government Code) does not apply to a university system or institution of higher education.⁶⁶

"University system" is defined as the association of one or more public senior colleges or universities, medical or dental units, or other agencies of higher education under the policy direction of a single governing board.⁶⁷

Exceptions

Exception 1: Institutions of Higher Education, including Public Junior Colleges

Subject to certain exceptions, Chapter 2254, Government Code does not apply to the acquisition of goods and services under Section 51.9335 (Acquisition of Goods and Services), Education

⁶¹ The Professional Services Procurement Act is the short title for **Chapter 2254** of the Government Code. Section 2254.001, Government Code

⁶² **Section 2254.006**, Government Code

⁶³ **Section 2254.002(2)**, Government Code

⁶⁴ **Section 2254.0301(a)**, Government Code

⁶⁵ **Section 2254.021(5)**, Government Code

⁶⁶ **Section 2254.0301(b)**, Government Code

⁶⁷ **Section 61.003(10)**, Education Code

Code⁶⁸ which authorizes an institution of higher education to acquire goods or services by the method that provides the best value.⁶⁹

Exception 2: Component Institutions of the University of Texas at Houston

Chapter 2254, Government Code does not apply to the purchase of goods and services made under Section 73.115 (Acquisition of Goods and Services), Education Code⁷⁰ by a component institution of the University of Texas at Houston by the method that provides the best value to the institution.⁷¹

Exception 3a: Regulatory Cooperation by the Banking Commissioner of Texas

Chapter 2254, Government Code does not apply to a contract or agreement entered into under Section 151.105 (Regulatory Cooperation), Finance Code⁷², relating to cooperation by the Banking Commissioner of Texas (or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority)⁷³ with another state, federal, or foreign governmental agency⁷⁴, or organizations the membership is made up of state or federal agencies⁷⁵, to efficiently and effectively administer and enforce the Money Services Act⁷⁶.

Exception 3b: Regulatory Cooperation by the Banking Commissioner of Texas relating to Trust Companies

Chapter 2254, Government Code does not apply to contracts entered into by the Banking Commissioner of Texas, to carry out the purpose of Subtitle F (Trust Companies), Chapter 187 (Multistate Trust Business), Finance Code, with another supervisory agency having concurrent regulatory or supervisory jurisdiction to engage the services of the agency for reasonable compensation to assist with the banking commissioner's performance of official duties under Subtitle F or other law, or to provide services to the agency for reasonable compensation in connection with the agency's performance of official duties under the law.⁷⁷

Exception 3c: Regulatory Cooperation by the Banking Commissioner of Texas relating to Bank Holding Companies and Interstate Bank Operations

Chapter 2254, Government Code does not apply to contracts entered into by the Banking Commissioner of Texas, to the extent permitted by federal law, with another banking supervisory agency or functional regulatory agency having concurrent regulatory or supervisory jurisdiction to engage the services of the agency for reasonable compensation to assist in connection with the commissioner's performance of official duties under Subtitle G (Bank Holding Companies; Interstate Bank Operations), Chapter 201 (General Provisions), Finance Code or other law, or to

⁶⁸ Section 51.9335(d), Education Code

⁶⁹ Section 51.9335(a), Education Code

⁷⁰ Section 73.115(f), Education Code

⁷¹ Section 73.115(a), Education Code

⁷² Section 151.105(e), Finance Code

⁷³ Section 151.102(5), Finance Code

⁷⁴ Section 151.105(a), Finance Code

⁷⁵ Section 151.105(b)(1), Finance Code

⁷⁶ The Money Services Act is the short title for Chapter 151, Finance Code. Section 151.001, Finance Code

⁷⁷ Section 187.301(3), Finance Code

provide services to the agency for reasonable compensation in connection with the agency's performance of official duties under law.⁷⁸

Exception 4: Disaster Reservists under the Texas Disaster Act of 1975

Chapter 2254, Government Code does not apply to disaster reservists employed or contracted under the Texas Disaster Act of 1975⁷⁹ to support recovery operations in the aftermath of a disaster or major emergency.⁸⁰

Exception 5: Operation of the Lottery

Chapter 2254, Government Code does not apply to a contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery.⁸¹

Exception 6: Certain Contracts Relating to the Employees Retirement System of Texas

Chapter 2254, Government Code does not apply to a contract between the board of trustees of the Employees Retirement System of Texas⁸², or a third party administrator approved by the board, and a vendor qualified to participate in a deferred compensation plan (Section 609.505, Government Code) or to a contract the board of trustees enters into for necessary goods and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan (Section 609.509, Government Code).⁸³

Exception 7: Uniform Statewide Accounting

Chapter 2254, Government Code does not apply to contracts made under Subchapter C (Uniform Statewide Accounting), Section 2101 (Accounting Procedures), Government Code.⁸⁴

Exception 8 (applies only to consulting services contracts): Honorarium Relating to the Cancer Prevention and Research Institute of Texas

Subchapter B (Consulting Services), Chapter 2254 (Professional and Consulting Services), Government Code does not apply to an honorarium made to a member of a scientific research and programs committee under Chapter 102 (Cancer Prevention and Research Institute of Texas), Health and Safety Code.⁸⁵

Exception 9: Certain Purchases Made by the Board of Directors of the Nacogdoches County Hospital District

Chapter 2254, Government Code does not apply to purchases of goods and services made by the board of directors of the Nacogdoches County Hospital District⁸⁶ under Section 1069.106(Purchasing and Accounting Procedures), Special District Local Laws Code.⁸⁷

⁷⁸ Section 201.005(3), Finance Code

⁷⁹ The Texas Disaster Act of 1975 is the short title for Chapter 418 of the Government Code. Section 418.001, Government Code

⁸⁰ Section 418.045(b), Government Code

⁸¹ Section 466.105(1), Government Code

⁸² Section 609.001(1), Government Code

⁸³ Section 609.510(3), Government Code

⁸⁴ Section 2101.039(2), Government Code

⁸⁵ Section 102.151(d), Health and Safety Code

⁸⁶ Section 1069.001(1),(3), Special District Local Laws Code

⁸⁷ Section 1069.106(f), Special District Local Laws Code

Exception 10a: Comprehensive Development Agreements Relating to Bids and Contracts for Highway Projects

Chapter 2254, Government Code does not apply to a comprehensive development agreement entered into under Subchapter E (Comprehensive Development Agreements), Chapter 223(Bids and Contracts for Highway Projects), Transportation Code.⁸⁸

Exception 10b: Comprehensive Development Agreements under the Regional Tollway Authority Act⁸⁹

Chapter 2254, Government Code does not apply a comprehensive development agreement entered into under Subchapter H (Comprehensive Development Agreements), Chapter 366 (Regional Tollway Authorities), Transportation Code.⁹⁰

Exception 10c: Comprehensive Development Agreements under the Regional Mobility Authority Act⁹¹

Chapter 2254, Government Code does not apply to a comprehensive development agreement entered into under Section 370.305 (Comprehensive Development Agreements), Transportation Code.⁹²

GENERAL APPROPRIATIONS ACT, ARTICLE IX, SECTION 7.04

A state agency or institution of higher education is required to report to the LBB, in the manner prescribed by the LBB, contracts with expected values exceeding \$50,000, before the 30th calendar day after awarding such contracts or granting amendments, modifications, renewals or extensions with regards to such contracts.⁹³ This requirement does not apply to certain major information systems⁹⁴, construction⁹⁵, professional services⁹⁶, and consulting services⁹⁷ contracts that have to be reported to the LBB under the Government Code.⁹⁸

The General Appropriations Act does not apply to self-directed, semi-independent state agencies; the Act applies only to state agencies and institutions of higher education receiving appropriations under the Act.

GENERAL APPROPRIATIONS ACT, ARTICLE IX, SECTION 7.12

⁸⁸ Section 223.203(o), Transportation Code

⁸⁹ The Regional Tollway Authority Act is the short title for Chapter 366 of the Transportation Code Section 366.001, Transportation Code

⁹⁰ Section 366.402(o), Transportation Code

⁹¹ The Regional Mobility Authority Act is the short title for Chapter 370 of the Transportation Code Section 370.001, Transportation Code

⁹² Section 370.306(o), Transportation Code

⁹³ General Appropriations Act, Article IX, Section 7.04(d)

⁹⁴ Section 2054.008(a), Government Code

⁹⁵ Section 2166.2551, Government Code

⁹⁶ Section 2254.006, Government Code

⁹⁷ Section 2254.0301, Government Code

⁹⁸ General Appropriations Act, Article IX, Section 7.04(b)

An agency or institution of higher education is prohibited from expending any funds to make payment on a contract until providing the LBB with notice prior to the date on which the first payment under the contract will be made, but no later than 30 calendar days after the date on which the contract is awarded if the value of the contract exceeds or may reasonably be expected to exceed \$10 million; or \$1 million if the contract was awarded or made without issuing a request for proposal, request for bid, or other similar process common to participation in the competitive bidding processes as required by statute, rule, or ordinary and commonly recognized state policies and procedures.⁹⁹

An agency or institution of higher education that expends any funds to make payment on a contract that exceeds or may reasonably be expected to exceed \$1 million and that was made as a result of an emergency (i.e. such a contract must be necessary to avoid a hazard to life, health, safety or the welfare of humans, or to avoid hazard to property) or following an emergency procedure allowed by statute is required to provide the LBB with notice of such contract within 48 hours of making (the first) payment on the contract.¹⁰⁰

Additionally, Article IV, Section 7.12 of the GAA requires that all agencies and institutions to include the contract documents and solicitations as part of the attestation for all contracts exceeding \$10 million and all non-competitive contracts over \$1 million. There are no exceptions to this provision.

The General Appropriations Act does not apply to self-directed, semi-independent state agencies; the Act applies only to state agencies and institutions of higher education receiving appropriations under the Act.

⁹⁹ General Appropriations Act, Article IX, Section 7.12(b), (c)

¹⁰⁰ General Appropriations Act, Article IX, Section 7.12(b), (c)