

LBB Contract Reporting and Oversight Frequently Asked Questions

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QUESTIONS REGARDING CONTRACTS OVERSIGHT

1. What is the role of the LBB Contracts Oversight Team?

The LBB Contracts Oversight Team monitors procurements and conducts in-depth analysis of certain contracts. The team may request additional, targeted documentation beyond what is reported in the Contracts Database. The team’s goal is to work with state entities to help mitigate or remediate issues identified through in-depth analysis. LBB staff do not have an approval role but are required to notify the LBB, Governor, and Comptroller about any unmitigated risks. The team may also make budget and/or policy recommendations to improve the framework and requirements related to procurement or to individual agency’s processes for administration and oversight.

2. What is the LBB Contracts Database?

The Contracts Database is the single point of data entry for all contract information that state entities are required to report to the LBB either by statute or the General Appropriations Act (GAA).

3. How is data in the Contracts Database used?

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As required by statute, data is publicly available and can be queried in a number of ways and downloaded into Excel for analysis. LBB staff use the data to monitor compliance with reporting requirements, identify risks for certain contracts, and monitor the use of appropriations.

QUESTIONS REGARDING THE CONTRACTS DATABASE

4. Why and how is the LBB Contracts Database changing?

The LBB redesigned its Contracts Database to comply with reporting and oversight provisions of the GAA for the 2016-17 biennium, as well as to improve the quality and usefulness of the data. Important changes to the Contracts Database include:

- a larger and redefined set of data fields (all fields are also contained in CAPPS)
- a full selection of vendor names/IDs and purchase codes
- improved quality controls for the entry of contract amendments
- a new interface to simplify contract submissions

5. When will the new Contracts Database be available and what will happen to the old Contracts Database?

The new redesigned Contracts Database was made accessible September 1, 2015. The old Contracts Database stopped accepting data entry on August 15, 2015. However, it is still available for research purposes and to produce reports using historical data. Contracts in the old Contracts Database that continue into the 2016-2017 biennium were copied forward into the new Contracts Database and flagged for agency review and completion.

6. What is the internet address for the Contracts Database's webpage?

The internet address for the Contracts Database's webpage is <http://contracts.lbb.state.tx.us>

7. How does a user create a user ID and password for the Contracts Database?

To use the Contracts Database, a user must have a user ID and password issued by the LBB. If a user does not have a user ID and password, the user can request one online. To request a user ID or to add access for Contracts, click the Agencies Portal link from the LBB website (www.lbb.state.tx.us). Under Login Information, click the Agency Logon Request Form link and follow the instructions.

If a user already has access to other LBB applications such as ABEST, Fiscal Notes, or Revenue Survey, the user's ID and password for the Contracts Database will be the same. The user must request additional access for Contracts if access is not included in the user's current ID.

8. What is the relationship between the new Contracts Database and the Centralized Accounting Payroll/Personnel System (CAPPS)?

The new Contracts Database is made up of a subset of the data elements contained in CAPPS Central. The LBB and the Comptroller's Office have synchronized the new Contracts Database with CAPPS, so that data entered into CAPPS Central is automatically copied into LBB's new Contracts Database. This significantly reduces the required data entry for agencies participating in CAPPS Central.

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Please note that files (or documents) attached in CAPPs will not copy from CAPPs to the new Contracts Database. Therefore, documents such as contracts must be uploaded directly to the new Contracts Database. CAPPs agencies will also need to review entries transferred to the database to ensure all data is accurate and complete before submitting the record for public access.

QUESTIONS REGARDING CONTRACT REPORTING IN GENERAL

9. What contracts must be reported to the LBB?

Reporting requirements vary depending on contract type, dollar amount, and contracting entity. The *LBB Contract Reporting Guide* provides details on the types of contracts that must be reported to the LBB via the Contracts Database.

10. Is an agency or institution that has no contracts to report required to submit any information in the new Contracts Database?

An agency or institution that has no contracts to report is not required to submit any information in the new Contracts Database. However, an agency or institution that chooses to do so may login to the new Contracts Database using its LBB credentials, and click on the No Contracts button located near the top right-hand corner of the homepage. Additionally, the agency or institution may email contract.manager@lbb.texas.gov.

11. Do agencies or institutions need to report leases?

The term "contract" is not defined for purposes of the contract reporting requirements contained in the Government Code. Furthermore, while both sections 7.04 and 7.12, Article IX, GAA contain a list of items considered to be contracts, neither of these lists is exhaustive and do not provide a complete definition of the term "contract." Leases, which fall within the dictionary definition of the term "contract," are therefore contracts for the purpose of these contract reporting requirement provisions.

12. What types of construction projects are subject to the contract reporting requirements of Chapter 2166, Government Code?

Building construction projects that are financed wholly or partly by a specific appropriation, a bond issue, or federal money are subject to the contract reporting requirements of Chapter 2166, Government Code. Such projects include the construction of buildings, structures, or appurtenant facilities or utilities, including the acquisition and installation of original equipment and original furnishings; and an addition to, or alteration, rehabilitation, or repair of, existing buildings, structures, or appurtenant facilities or utilities.

13. How can a state entity ensure that it complies with the various reporting deadlines in statute and the GAA?

Contracts can be subject to reporting under multiple requirements with differing reporting deadlines. State entities can comply with the spirit of the requirements by establishing regular reporting routines.

14. How is a contract that is required to be reported to the LBB under two or more reporting requirements reported?

A contract that is required to be reported to the LBB under two or more reporting requirements needs only to be reported to the LBB once, under the most stringent of the requirements. When entering the contract

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data, be sure to indicate that the contract is subject to reporting under multiple requirements in the Reporting Requirement field.

15. Which agencies must provide copies of contract and solicitation documents to the LBB?

Government Code Section 322.020 requires agencies (other than the Texas Department of Transportation, health and human service agencies, and institutions of higher education and system offices) to provide the LBB with a copies of the contract and solicitation documents for:

1. a contract reportable to the LBB under the Government Code (i.e. Sections 2054.008, 2166.2551, 2254.006, and 2254.0301)
2. a contract not reportable to the LBB under the Government Code with a value that exceeds \$50,000 and that is not
 - a) a purchase order;
 - b) an interagency contract; or
 - c) paid with non-appropriated funds.

Please note: Section 322.020 does not excuse an agency from complying with other contract reporting provisions contained in the Government Code and the General Appropriations Act. Additionally, Section 322.020 does not preclude the LBB from requesting specific contracts, solicitations, or other supporting documents from state entities. Finally, if a contract is reportable to the LBB under two or more provisions, one of which is a Government Code provision (i.e. Sections 2054.008, 2166.2551, 2254.006, and 2254.0301), then the agency would need to provide a copy of the contract and the solicitation documents to the LBB via the Contracts Database.

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.

16. What information can agencies and institutions redact from contracts submitted via the new Contracts Database?

Agencies and institutions should only redact contract information that is exempt from disclosure under Texas statutes pertaining to public information (Chapter 552, Government Code) or other laws. The LBB's Contracts Oversight team can provide guidance in response to questions of a general nature pertaining to contract reporting requirements. If an agency or institution needs clarification with regards to the redaction of specific contract information, the LBB suggests that it consult its general counsel or the Texas Attorney General's Open Government Hotline (877-673-6839). Please note that the LBB may choose to request unredacted copies of specific contracts at a later time for purposes of internal review and analysis.

17. Does a state entity that is exempt from submitting contract or solicitation documents (under Section 322.020(f), Government Code) still need to submit an attestation letter as required by Section 7.12, Article IX, GAA?

Even if a state entity is exempt from submitting certain contract or solicitation documents, it is required to submit an attestation letter under Section 7.12, Article IX, GAA for a contract that is required to be reported under that section. All agencies and institutions are required to include the contract documents and solicitations as part of the attestation. There are no exceptions to this provision.

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18. When does a state entity have to provide an attestation form to be submitted under the notice requirement of Article IX, Section 7.12 of the General Appropriations Act?

A state entity has to provide the notice required by Section 7.12, including an attestation form 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; or within 48 hours of making such a payment if the contract or purchase order was made as a result of an emergency or following an emergency procedure allowed by statute. For contract payments made prior to September 11, 2015, a state entity has to provide notice at least 10 days prior to making such payment or September 11, 2015, whichever is later; or within 48 hours of making such a payment if the contract or purchase order was made as a result of an emergency or following an emergency procedure allowed by statute. Once notice has been provided for the contract payment made on or after September 1, 2015, further notice is not required to be provided for the contract under which the payment was made unless the contract is amended, or an extension or renewal is exercised.

19. Can one attestation letter be used for multiple contracts?

A separate attestation letter must be signed by the designated official for each contract filed under Section 7.12, Article IX, GAA.

20. Is it proper for a state entity to make certifications for procurement processes for contracts executed in the past, at a time the executive director was not employed by the entity and for which the director has no direct knowledge?

Article IX, Section 7.12(c) of the GAA requires the executive director of the agency or other similar agency or institution administrator or designee of the agency or institution of higher education to make certain certifications regarding the procurement processes of contracts entered into by the agency or institution required to be reported under that section. There are no exceptions to this requirement. Accordingly, a director who was not employed by the state entity at the time the contract was procured and who does not have direct knowledge of the contract must take all necessary steps (e.g. reviewing the state entity's records, interviewing employees directly involved with the procurement process, etc.) to obtain the requisite knowledge to make the certifications in good faith. Alternatively, the director may delegate the duty to a designee to make the certifications on the director's behalf. After taking these steps, if the director still cannot make the certifications in good faith, the director may strike through any portions of the attestation form they cannot certify, attach to the certification a detailed explanation identifying the areas of the procurement process which he finds to be deficient.

21. How can a state entity make certifications for procurement processes that are statutorily exempt from the requirements of the Texas Procurement and Contract Management Guide?

The Texas Procurement and Contract Management Guide recognizes that some procurements are exempt from competitive bidding. Following the proper non-competitive procedures fulfills the requirements of the Procurement and Contract Management Guide. The state entity will still need to attest that the procurement followed all other applicable statutes, rules, policies, and procedures.

22. Do contracts reported to the Contracts Database need to include proposals and bid responses as attachments?

Unless proposals and bid responses are incorporated into the final contract (either explicitly or by

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reference), they do not initially need to be provided when reporting contract information to the new Contracts Database. However, these documents may be requested at a later time by the LBB on a case-by-case basis.

23. How is the contract amount calculated in determining whether a contract meets a reporting threshold?

The value which should be used in determining whether a contract meets a reporting threshold is the maximum contract value, which includes the value of the contract, amendments, and *all* extensions or renewals even if not exercised, i.e. the total amount both currently and potentially obligated. Maximum contract value can be distinguished from current contract value (a required field in the new Contracts Database), which includes the value of the contract, any amendments, and *any exercised* extensions or renewals, i.e. the total amount currently obligated.

24. Does a contract paid using funds not appropriated under the GAA need to be reported?

Although a copy of the contract does not need to be attached to the database entry under Section 322.020, Government Code, the contract will need to be reported if required by Sections 7.04 or 7.12, Article IX of the GAA or other statutory provisions. Copies of the contract documents and solicitations are required to be included as part of the attestation required by 7.12 effective 9/1/17.

25. Does a contract that required LBB approval prior to execution need to be reported?

A contract that required LBB approval prior to execution needs to be reported. There are no exceptions for such contracts from statutory or GAA reporting requirements. The LBB Contracts Database is the single portal for reporting contract information to the LBB.

26. Does a state entity have to report emergency or non-competitively bid contracts with a value greater than \$1 million and less than or equal to \$10 million under Article IX, Section 7.12 of the General Appropriations Act for which the entity is legally restricted to contracting with a specific entity?

A state entity is required to report emergency or non-competitively bid contracts with a value greater than \$1 million and less than or equal to \$10 million under Article IX, Section 7.12 of the General Appropriations Act for which the state entity is legally restricted to contracting with a specific entity.

27. How should a blanket contract be reported?

A blanket contract is a contract for a good or service for which agencies have a repetitive need on an "as-required" basis. A blanket contract has a maximum contract value AND may be awarded to multiple vendors. Such a contract should be reported when it is executed.

28. How should a fee-for-service or subscription contract be reported?

A zero dollar contract is a contract that does not contain a maximum contract value. Such a contract should be reported when actual cumulative expenditures meet one of the reporting requirements established by statute or Article IX, Sections 7.04 or 7.12 of the GAA. The LBB will work with state entities with a large number of zero dollar contracts that may exceed reporting thresholds to establish reporting schedules.

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29. How should a contract with periodic payments and no completion date (e.g. telephone contracts, utilities contracts, subscription services) be reported?

A contract with periodic payments and no completion date should be reported to the LBB Contracts Database at the beginning of each fiscal year as a separate contract entry, not as an amendment. An agency should estimate the cost of the goods or services during the fiscal year and enter this value in both the "Current Contract Value" and "Maximum Contract Value" fields.

30. How should Texas Smart Buy purchases be reported?

Texas Smart Buy purchases are made through a statewide contract negotiated by the Comptroller's Office. Such a purchase should be reported if it meets one of the reporting requirements established by statute or Article IX, Sections 7.04 or 7.12 of the GAA. When reporting these contracts, the "Yes" response should be selected in the field asking if the contract was competitively bid.

31. How should purchases under DIR Cooperative Contracts be reported?

Master contracts awarded by the Department of Information Resources should not be reported to the Contracts Database. However, state entities that buy goods or services under such contracts should report the purchases to the Contracts Database if the purchases meet one of the reporting requirements established by statute or Article IX, Sections 7.04 or 7.12 of the GAA. DIR Cooperative Contracts are competitively bid by qualified vendors and negotiated with DIR for ease of procurement by eligible customers; therefore LBB Contracts Database reporting of this type of agreement should be indicated in the Competitive/Non-competitive field with a positive "Yes" response.

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32. Is there a way to bulk upload contract information to the new Contracts Database through the use of a spreadsheet program such as Microsoft Excel?

Due to duplicate entries and other problems relating to the integrity of Contracts Database records, the LBB does not currently offer a bulk upload feature in its new Contracts Database. However, the LBB and the Comptroller's Office have synchronized the new Contracts Database with CAPPs Central. If a state entity is a high volume contractor, the LBB will work with the state entity to establish a schedule for contract information submission.

33. How should a contract amendment that does not affect the contract term, maximum value, or other data elements in the new Contracts Database be reported?

When a contract is amended but none of the fields previously reported to the Contracts Database are affected by the change, report the amendment by using the amend feature in the database. Do not change any of the data fields, but do attach the new amendment to the contract record. This will ensure that the public database displays the contract and all contract documents and amendments.

34. How is contract information reported for a vendor that is not listed in the new Contracts Database?

The LBB obtains a vendor list from the Comptroller's Office for use in its database. If a vendor cannot be located in LBB's Contracts Database, try again the following day as LBB receives updates from the Comptroller's office on a daily basis. If the vendor still cannot be located in the Contracts Database the following day, please contact LBB staff for assistance. Institutions of higher education can enter vendors

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unique to their institution after searching the vendor list and indicating that the vendor did not exist in the data set.

35. What number should be entered in the Contracts Database's "Purchase Requisition #" field if there is no purchase requisition?

If there is no purchase requisition associated with the contract, enter the number the agency or institution uses to internally track the contract. Note that this number may be the Contract ID number.

36. What date should be entered in the new Contracts Database's "Requisition Date" field if there is no purchase requisition?

If there is no purchase requisition associated with the contract, enter the date the agency or institution internally decided to contract for the goods and/or services, prior to the execution of the contract.

37. What amount should be entered in the new Contracts Database's "Current Contract Value" field?

The amount to be entered in the new Contracts Database's "Current Contract Value" field should include the value of the contract, any amendments, and *any exercised* extensions or renewals, i.e. the total amount currently obligated. Current contract value can be distinguished from the maximum contract value (used for determining whether a contract meets a reporting threshold), which includes the value of the contract, amendments, and *all* extensions or renewals, i.e. the total amount both currently and potentially obligated.

38. What amount should be entered in the new Contracts Database's "Maximum Contract Value" field?

The amount to be entered in the new Contracts Database's "Maximum Contract Value" field should include the value of the contract, amendments, and all extensions or renewals, i.e. the total amount both currently and potentially obligated. The maximum contract value should be used for determining whether a contract meets a reporting threshold. Maximum contract value can be distinguished from current contract value, which includes the value of the contract, any amendments, and any exercised extensions or renewals, i.e. the total amount currently obligated.

39. What should be entered in the new Contracts Database's "Solicitation Date" field if the contract does not have a solicitation date?

If a contract does not have a solicitation date, leave the "Solicitation Date" field blank and check the box marked "N/A" next to the field.

40. What should be entered in the new Contracts Database for a contract that is awarded without bids?

If a contract is awarded without bids, enter "1" in the "# of Bids Received" field and check the "N/A" box next to the blank "Solicitation Date" field.

41. Does the "completion date" field need to be updated in the new Contracts Database for a contract that is completed before its completion date?

The contract "completion date" field does not need to be updated in the new Contracts Database if a contract is completed before its completion date. However, if a contract is amended, the amended contract should reflect the updated completion date at the time of the amendment.

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42. What should be entered in the new Contracts Database if none of the purchase category codes apply to the contract?

If none of the purchase category codes are applicable to the contract, select "0" from the drop-down menu contained in the "Purchase Category Code" field.

43. How are required documents associated with the contracts submitted in the new Contracts Database?

Use the "add attachments" feature of the new Contracts Database to attach documents associated with contracts. The required documents can be collated and submitted as a single file, or can be submitted as multiple files. The Contracts Database does not currently have a feature to specify document type and no naming conventions for files have been specified, however agencies should submit PDFs of the documents that are searchable and using a naming convention that readily identifies the content of the files (e.g. attestationletter.pdf, contract.pdf, amendment1.pdf, requestforproposal.pdf, invitationtobid.pdf, etc.). The required documents do not have to be submitted in a particular order.

44. What attachment formats are allowed in the new Contracts Database?

Attachments in Excel, Word, or PDF format are welcomed in the Contracts Database. PDF files should be in a searchable (non-scanned) format.

45. How should multi-year contracts be reported in the new Contracts Database?

When a user enters a contract's award and completion dates, the Contracts Database calculates the effective term of the contract. The new Contracts Database requires users to report the estimated allocation of the current contract value for each year of the contract. Note that the sum of amounts for each of the years must equal the total current contract value. Estimates for allocated funds by year do not need to be updated unless the contract is amended.

46. How should contract renewals be reported in the new Contracts Database?

When a contract is renewed, find the original contract in the new Contracts Database and amend the contract by updating any data fields that have been changed by the renewal. Additionally, attach any required documents (e.g. the contract for renewal). Be sure to report only renewals that *have been executed*, not options to renew contained in the contract.

47. How should a contract that is terminated be reported in the new Contracts Database?

A contract that has been terminated has to be amended in the new Contracts Database to reflect the termination, including the attachment of documents indicating the termination of the contract.

48. How should contracts that have been transferred from one state entity to another be reported in the new Contracts Database?

Contracts that have been transferred from one state entity to another will be addressed on a case-by-case basis. Please contact LBB staff for assistance with reporting such contracts.

49. Are contracts that expire deleted from the new Contracts Database?

Contracts that expire are not deleted from the new Contracts Database; they are maintained both for historical and data analysis purposes.

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50. How should an error in data entry for contract information submitted to the LBB via the new Contracts Database be corrected?

If a technical correction needs to be made to a submitted entry, do not use the amend feature to modify the contract information. Please contact the LBB for assistance either by calling staff at (512) 463-1200 or emailing us at Contract.Manager@lbb.texas.gov.