Overview of State Procurement and Contract Management

PRESENTED TO THE HOUSE COMMITTEE ON GOVERNMENT TRANSPARENCY & OPERATION

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 (CPA):

- Manages statewide contracts
- Publishes procurement manual & contract management guide
  - Government Code requires agencies comply with the guide
  - Government Code requires the guide to “provide sufficient flexibility” to agencies
- Conducts training
- Operates procurement databases and lists
Many exceptions to TPASS central management:

- **Delegated authority**
  - 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 TPASS for the agency to make the purchase itself

- **Exemptions**
  - Statute exempts certain agencies and specific types of goods and services from TPASS.
Central Management

Department of Information Resources (DIR) Purchasing Programs:

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

- **Telecommunication Services**
DIR Central Management - Exemptions

Statutory exemptions from the Cooperative Contracts program:

- Exemption granted by DIR:
  - Blanket exemptions
    - Emergency procurement
    - Outsourced deliverables based projects in excess of $10,000,000
  - Individually granted exemptions
Oversight distributed across several entities

- **TPASS & Comptroller of Public Accounts**
  - Conducts audits
  - Monitors agencies with delegated authority

- **Contract Advisory Team (CAT)**
  - Interagency team to review solicitation documents >$10 million
  - Voluntary compliance
  - Exemptions for Institutions of Higher Education and TxDOT

- **Quality Assurance Team (QAT)**
  - Interagency team to review & approve major information resource projects
  - 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 (LBB)
  • Budget monitoring and review of agency budget requests

■ State Auditor’s Office (SAO)
  • 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 procurements authorized in statute
  • 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 the Department of Transportation

■ 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
2007 LBB Staff Recommendations

Reduce Risks Associated with
State Contract, Management

Government Effectiveness & Efficiency Report
Concerns (2007)

- Centralized oversight focused on preparation of solicitation documents and vendor selection
- Oversight entities did not have authority to require changes to contracts
Recommendations (2007)

- Create an office to review and approve state contracts exceeding $10 million or posing identified risks, at each of three stages of the contract management process.

- Allow the office to cancel high risks contracts with approval by the LBB and Governor’s Office.
Changes Since Report

- The Legislature transferred procurement responsibilities to the Comptroller of Public Accounts and established the Texas Procurement and Support Services Division (TPASS).

- In 2013, the Legislature enacted legislation to improve the state’s procurement and contract management:
  
  - Required agencies to comply with CAT recommendations or submit written explanation as to why the recommendation was not applicable.
  
  - Required certification of contract managers and contract training for governing bodies.
  
  - Required more formal coordination between TPASS and DIR and collection of comparable procurement data.
  
  - Required Sunset Commission to evaluate the State’s overall approach to procurement and contracting in 2021.
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)

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