

LEGISLATIVE BUDGET BOARD

Overview of State Procurement and Contract Management

**PRESENTED TO THE HOUSE COMMITTEE ON GOVERNMENT
TRANSPARENCY & OPERATION**

LEGISLATIVE BUDGET BOARD STAFF

FEBURARY 2015

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

TPASS Central Management – Delegation & Exemptions

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

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

- 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

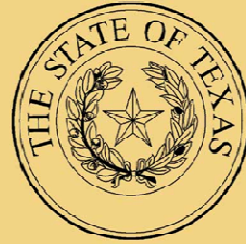
Changes Since Report

- 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:

- Texas Procurement Manual, available at <http://www.window.state.tx.us/procurement/pub/manual>
- Texas Contract Management Guide, available at <http://www.window.state.tx.us/procurement/pub/contractguide>
- Senate Committee on Government Organization, December 2014 Interim Report
- Texas State Contracts Database, available at <http://contracts.lbb.state.tx.us>
- A report on Recent Contracting Audits (SAO), available at <https://www.sao.state.tx.us/reports/report.aspx?reportnumber=15-019>



LEGISLATIVE BUDGET BOARD

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