

LEGISLATIVE BUDGET BOARD

Overview of State Procurement and Contract Management

**PRESENTED TO THE HOUSE COMMITTEE ON GENERAL
INVESTIGATING AND ETHICS**

LEGISLATIVE BUDGET BOARD STAFF

MARCH 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:

- 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
 - Institutions of higher education
 - Certain construction projects
 - Professional and consulting services
 - Purchases from public utilities

Central Management

Department of Information Resources (DIR) 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

Central Management

Deliverables-Based IT Services (DBITS) contracts are a subset of the Cooperative Contracts program

- DBITS contracts are for project related services with acceptance criteria for each deliverable in a statement of work (SOW)
- Agencies are encouraged, but not required, to obtain prices from at least three vendors
- Pricing is negotiated by the agency and not DIR
- DIR limits the value of a single SOW to \$10 million

DIR Central Management - Exemptions

Statutory exemptions from the Cooperative Contracts program:

- Exemption granted by DIR:
 - Blanket exemptions
 - Emergency procurement
 - DBITS contracts in excess of \$10 million
 - Individually granted exemptions

Oversight

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 Assurance 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

- 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

- Regularly 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

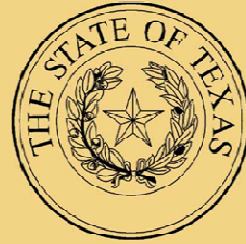
Section 7.12, Article IX of House Bill 1

- 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 million
 - Contracts in excess of \$1 million
 - 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:

- 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>



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Contact the LBB

Legislative Budget Board

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