



LEGISLATIVE BUDGET BOARD

Contract Reporting & Oversight

PRESENTED TO THE HOUSE APPROPRIATIONS COMMITTEE

LEGISLATIVE BUDGET BOARD STAFF

FEBRUARY 2017

PRESENTATION OVERVIEW

- **Trends in Reporting and State Contracting**
- **Issues Impacting Reporting, and Options to Address**
- **LBB and QAT Contract Oversight**
- **Issues Impacting Contract Oversight, and Options to Address**

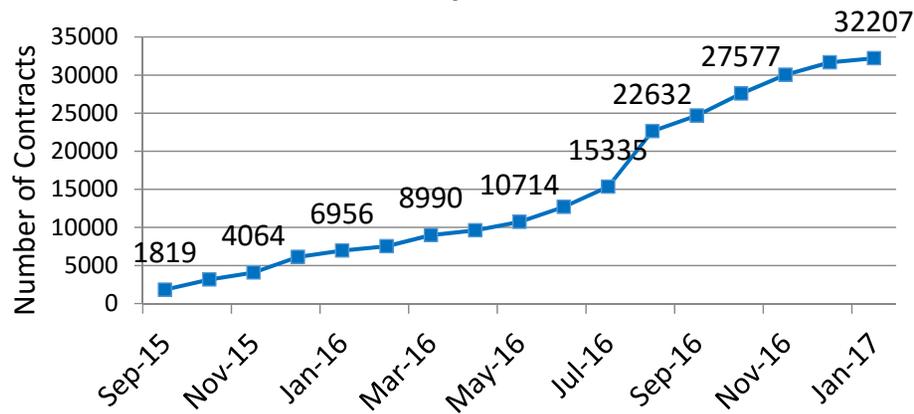
TRENDS: CONTRACT REPORTING

The updated Contracts Database has been populated by state agencies and institutions of higher education since 09/01/2015.

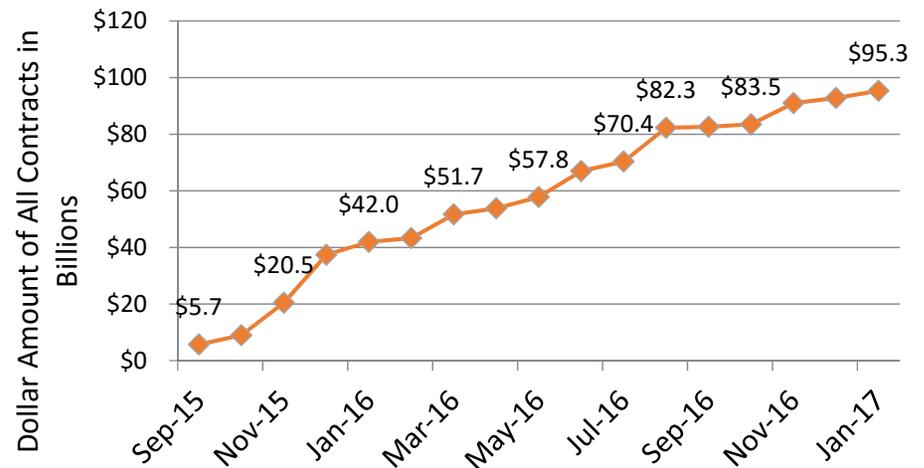
While some reporting is incomplete, as of 1/30/2017:

- 164 reporting entities
- Over 32,000 contracts submitted
- \$95.3 billion in contracts reported

Number of Contracts Reported to LBB Database



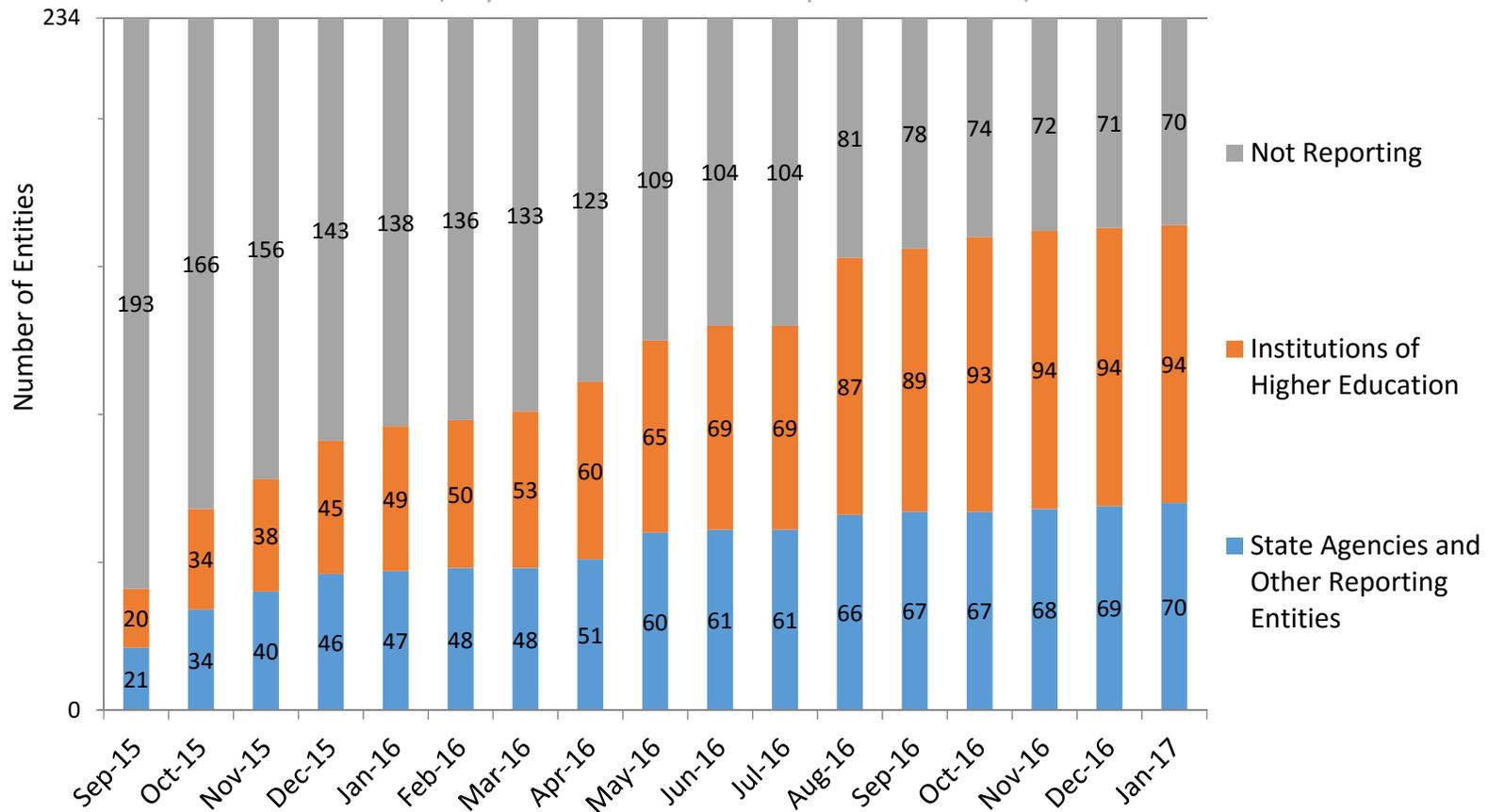
Value of Contracts Reported to LBB Database



TRENDS: CONTRACT REPORTING

OVERALL CONTRACT REPORTING ACTIVITY 9/1/15 to 1/30/17

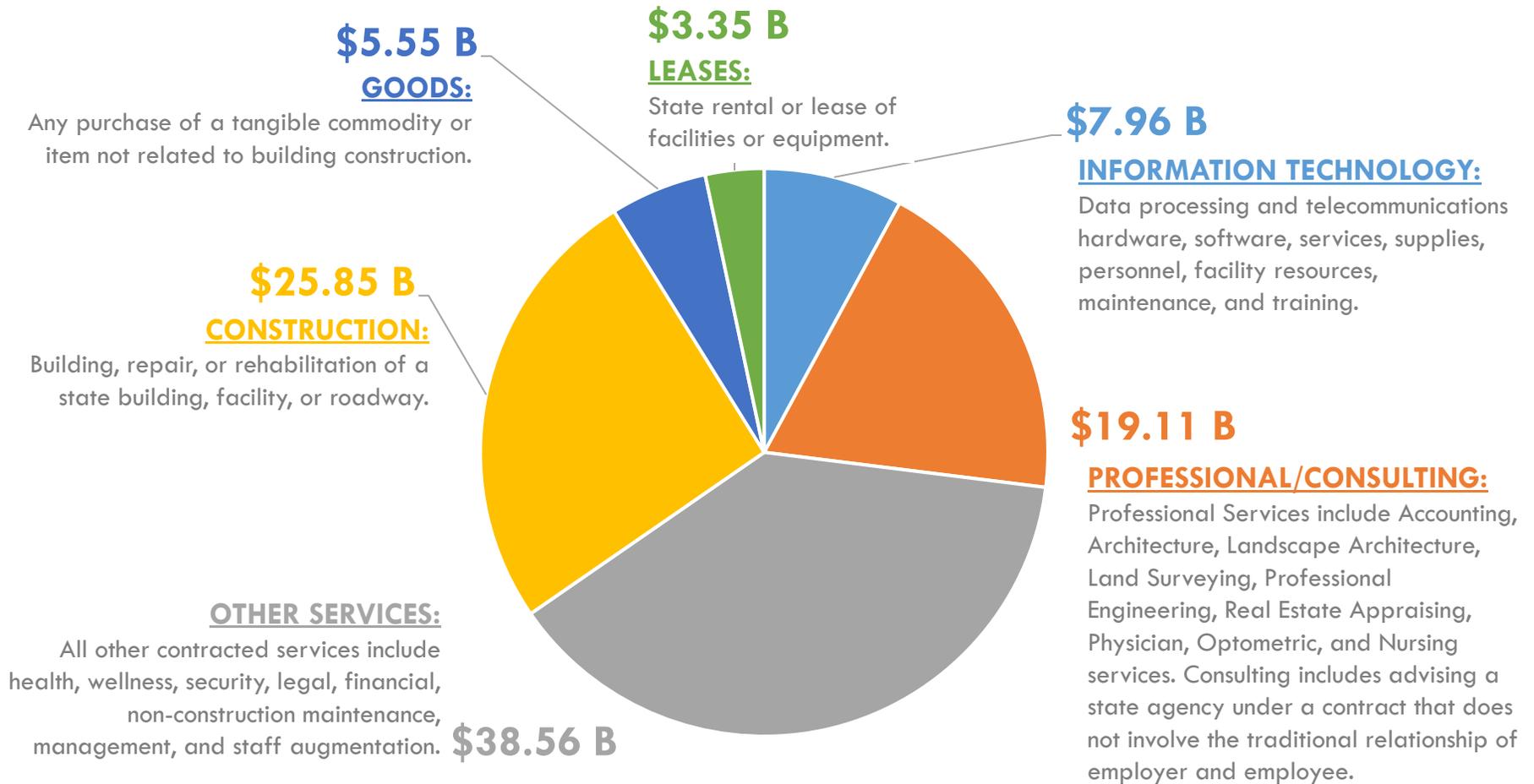
(May include entities without reportable contracts)



TRENDS: TYPES OF CONTRACTS

VALUE OF CONTRACTS BY TYPE, IN BILLIONS*

(Based on National Institute of Government Purchasing codes reported through 1/30/17)



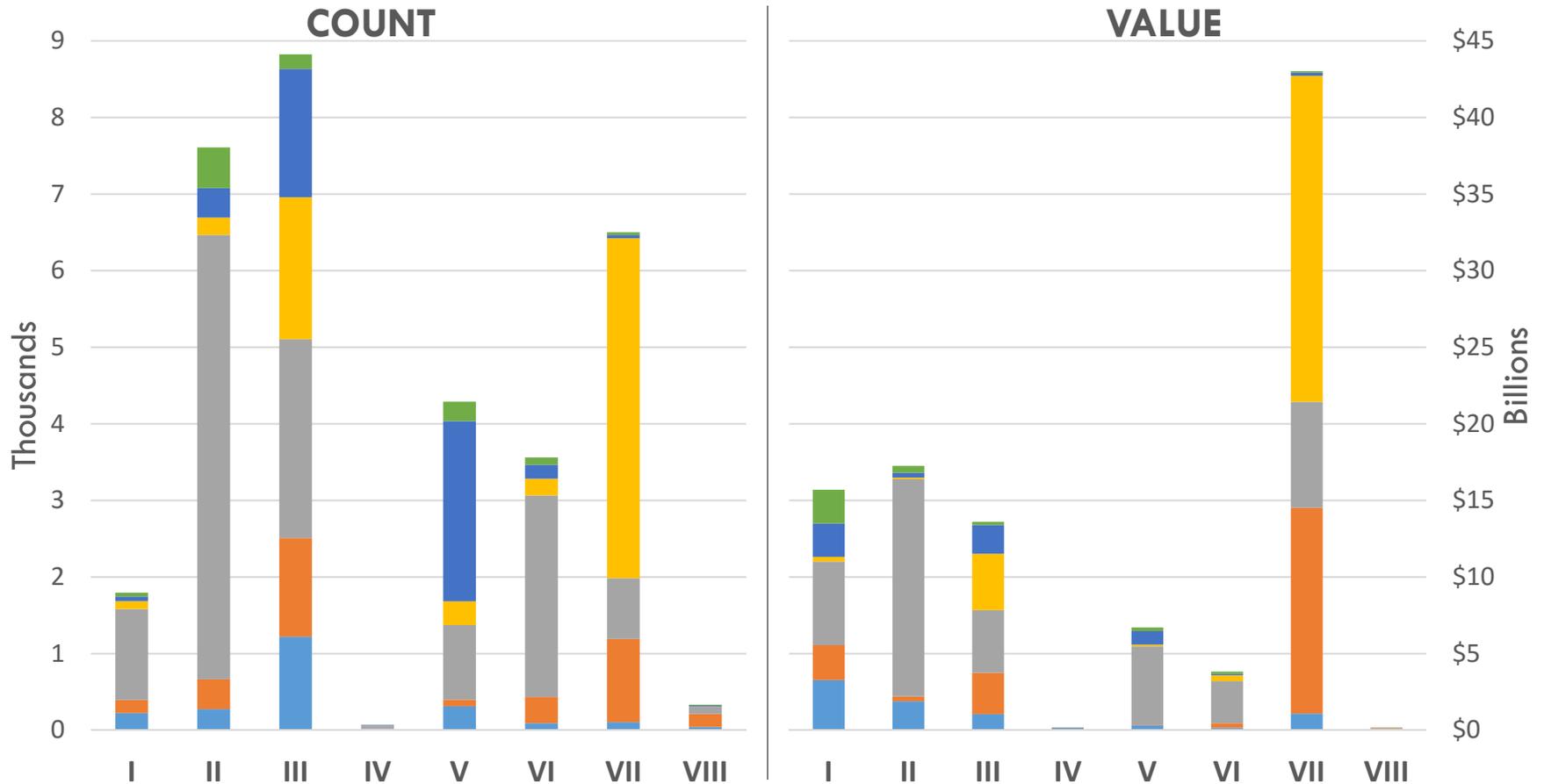
*NOTE: Some contracts contain multiple NIGP code types which results in duplicates

TRENDS: TYPES OF CONTRACTS

CONTRACTS BY TYPE AND GAA ARTICLE*

(Based on National Institute of Government Purchasing codes reported through 1/30/17)

IT Professional/Consulting Other Services Construction Goods Leases



*NOTE: Some contracts contain multiple NIGP code types which results in duplicates

CONTRACT REPORTING REQUIREMENTS

Several provisions require agencies and institutions of higher education to report contracts to the LBB:

TYPE OF CONTRACT	VALUE THRESHOLD	REPORTING TIMEFRAME	LOCATION
Professional or Consulting Services	> \$14,000	10 days after award	2254.006, 2254.0301 Government Code
Construction	> \$14,000	10 days after award	2166.2551 Government Code
Major Information Systems	> \$100,000	10 days after award	2054.008 Government Code
All	> \$50,000	End of fiscal year	GAA Article IX, Sec 7.04
Non-Competitive/Sole Source	> \$1,000,000	10 days before payment	GAA Article IX, Sec 7.12
Emergency	> \$1,000,000	48 hours after payment	GAA Article IX, Sec 7.12
All	> \$10,000,000	10 days before payment	GAA Article IX, Sec 7.12

SOURCE: Legislative Budget Board.

Note: The Government Code requirements are subject to numerous exceptions and exemptions, However, the GAA provisions apply to all entities receiving appropriations, regardless of method of finance or source of funds used for the contract.

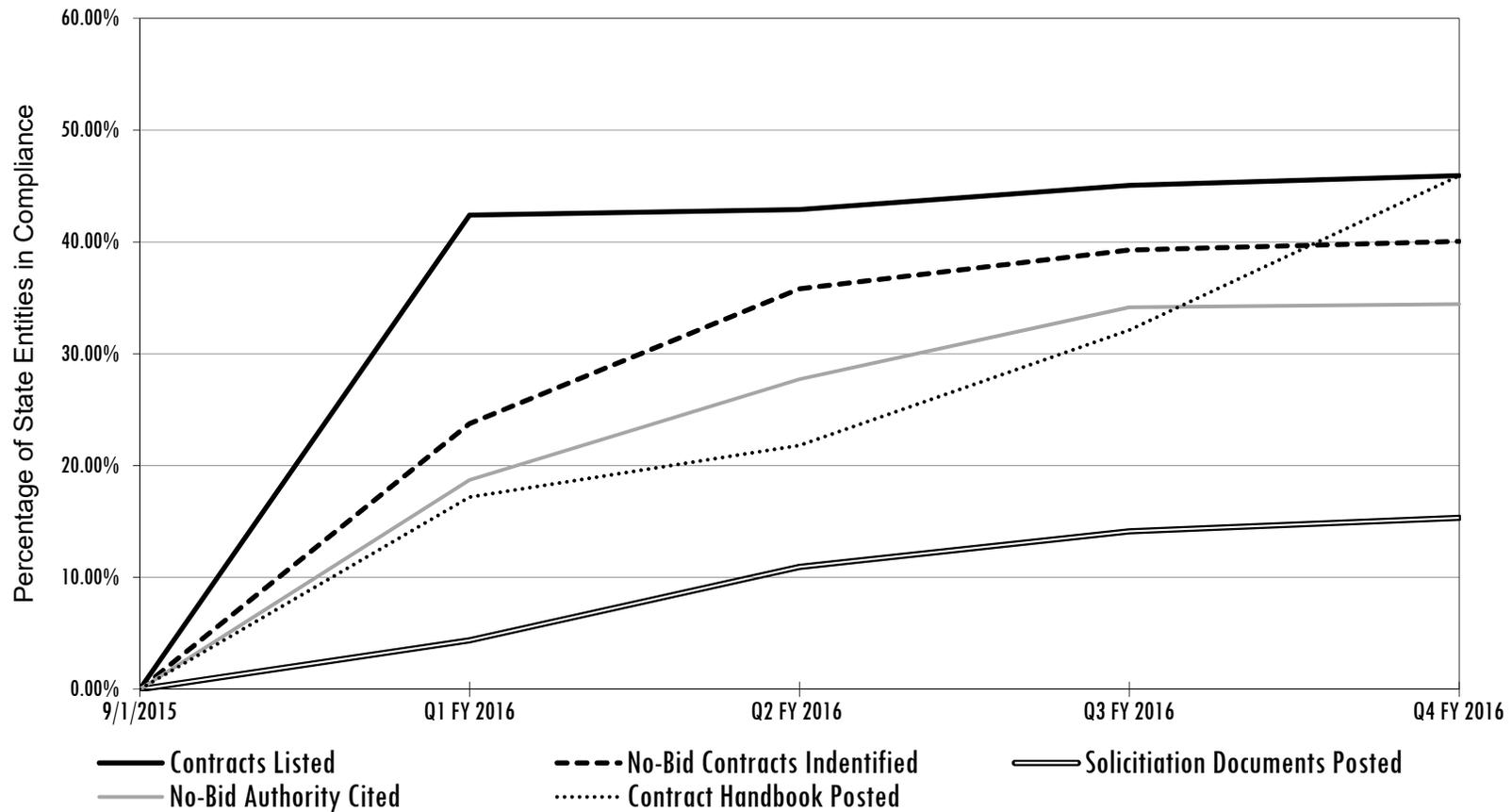
SB 20 CONTRACT POSTING REQUIREMENTS

The Government Code, as amended by SB 20, requires state agencies and institutions of higher education to post the following on their individual websites:

- List of contracts with signed contract documents
- Solicitation (RFP) documents for competitively-procured contracts
- List of non-competitively procured contracts, along with the statutory justification for each non-competitive procurement
- Contract management and risk management guide

SB 20 CONTRACT POSTING REQUIREMENTS

COMPLIANCE RATE OF GAA ENTITIES WITH SB 20 POSTING REQUIREMENTS FY 16



CONTRACT REPORTING CONSOLIDATION

The following options are presented in the LBB staff report “Consolidate Contract Reporting Requirements to Increase Statutory Compliance and Improve Transparency”

- Consolidate multiple existing requirements into one
- Establish standardized timeframe and value thresholds
- Clarify definition of contract
- Make Contracts Database the state’s single repository of contracts

Some of these could be implemented through General Appropriations Act riders, while others would require statutory change.

OVERSIGHT: LBB STAFF IN-DEPTH REVIEWS

Contracts executed by agencies and institutions of higher education across all GAA Articles have been reviewed.

Reviews are driven by various risk factors, including:

- project cost
- growth over time
- complexity
- issues identified by other oversight entities

OVERSIGHT: LBB STAFF IN-DEPTH REVIEWS

Preliminary LBB staff observations following initial contract reviews and interaction with agencies and institutions of higher education:

- There is not always ready access to documentation related to a vendor's selection, notably "best value" standards and selection criteria.
 - *Vendor evaluation does not always follow established procedures.*
- Risk to the state is often introduced during the solicitation and contract formulation phases of procurement.
 - *Major procurements for services do not always compete on price.*
- Amendments and change orders can introduce significant risk, leading to scope creep and cost increases.
 - *Poor planning results in increased but avoidable costs for the state.*

OVERSIGHT: QUALITY ASSURANCE TEAM

LBB staff contract oversight compliments the work of the Quality Assurance Team (QAT). QAT consists of representatives from the LBB, the SAO, and DIR.

QAT monitors information resource projects whose development costs exceed \$1 million, or as designated by the Legislature. Monitoring includes:

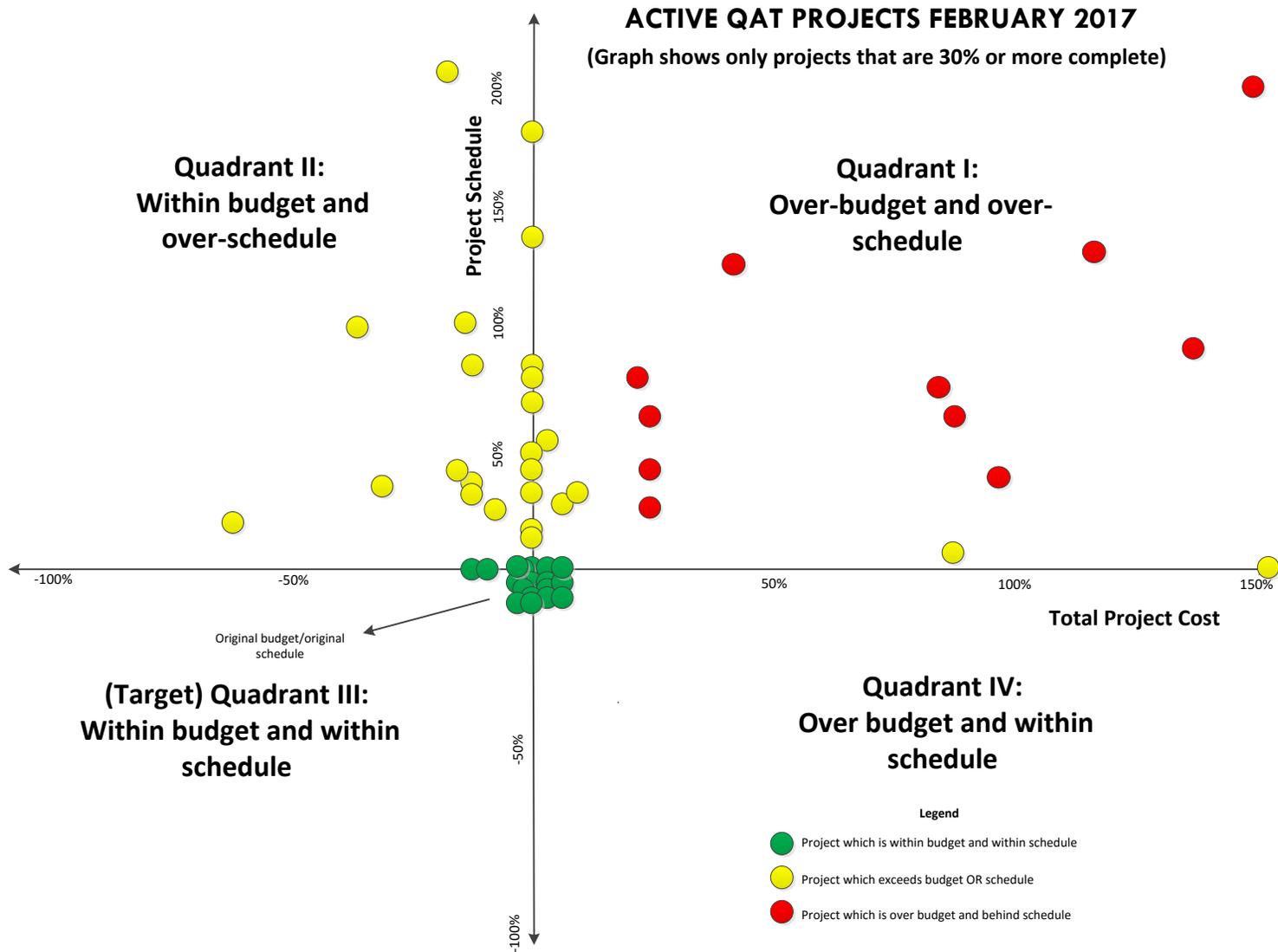
- Reviewing project risks and approving the expenditure of appropriated funds
- Reporting to state leadership on the status of projects
- Requesting detailed project information, QAT Framework deliverable updates, audits, or assistance as necessary
- Reviewing and approving of contract amendments whose costs exceed 10 percent of the contract amount

OVERSIGHT: QAT PROJECTS BY ARTICLE

ARTICLE	NUMBER OF PROJECTS	TOTAL VALUE (in millions)	AVERAGE VALUE (in millions)	AVERAGE DURATION (in years)	LONGEST DURATION (in years)
I	15	\$553.8	\$63.8	2.2	9.3
II	34	\$444.4	\$13.1	2.2	9.0
III	1	\$114.9	\$114.9	5.6	5.6
V	8	\$51.1	\$6.4	2.1	3.3
VI	2	\$3.6	\$1.8,	2.0	2.0
VII	18	\$159.9	\$8.9	2.1	6.6
VIII	2	\$6.1	\$3.0	2.7	2.7

QAT currently monitors 80 major information resources projects totaling \$1.3 billion.

OVERSIGHT: QAT PROJECTS BY RISK



OVERSIGHT: ISSUES IN CONTRACTING

Gaps in preliminary reviews on the highest risk contracts

Contract Advisory Team recommendations are non-binding and lack a mechanism for regular monitoring

Contract oversight efforts are limited to certain points in contract development and execution

Contracting best practices are not consistently used

OVERSIGHT: PRELIMINARY REVIEWS

Gaps exist in preliminary reviews of contracts:

DELEGATED:	PLANNING	SOLICITATION	FORMATION	MANAGEMENT
IT	DIR (SOW \$50k-\$1m)	CAT (RFP > \$10m)		QAT (Amend. > 10%)
SERVICES				
CONSTRUCTION				
COMMODITIES				



NOTE: Preliminary reviews are shown in black above.

CAT: Contract Advisory Team

DIR: Department of Information Resources

IT: Information Technology

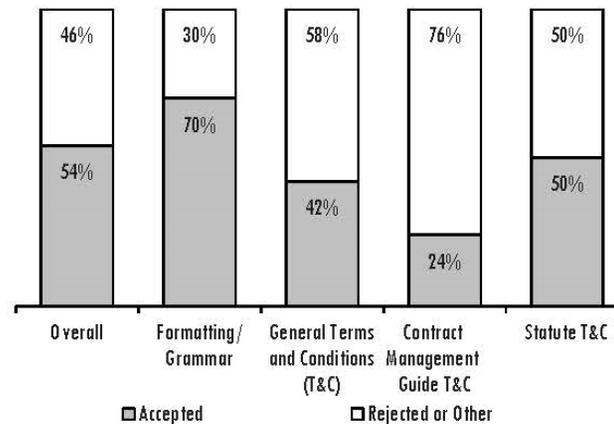
RFP: Requests for Proposals

QAT: Quality Assurance Team

OVERSIGHT: CONTRACT ADVISORY TEAM

Contract Advisory Team recommendations are non-binding and lack regular monitoring for implementation:

AGENCY ACCEPTANCE RATE OF STATE CONTRACT
ADVISORY TEAM RECOMMENDATIONS
SEPTEMBER 1, 2015, TO JUNE 29, 2016



SOURCES: Legislative Budget Board; Contract Advisory Team.

Statute requires an agency or institution of higher education to either implement CAT's findings, or to return a written response explaining why they are not applicable.

OVERSIGHT: OPTIONS

The following options are presented in the LBB staff report “Support and Enforce Contracting Best Practices”

- Require the Contract Advisory Team to share its reviews, as well as agency responses, with LBB staff to assist in monitoring.
- To address a gap in how the riskiest contracts are executed, enhance the Quality Assurance Team’s review of Information Technology contracts valued over \$10 million.
- Codify LBB responsibilities to review contracts, submit recommendations, and pursue corrective action.
- In the event significant noncompliance with existing procurement rules, provide the Legislative Budget Board with a range of enforcement mechanisms based on existing statutory authorities.

Some of these could be implemented through General Appropriations Act riders, while others would require statutory change.



LEGISLATIVE BUDGET BOARD

Contact the LBB

Jacob Pugh
Manager, Contracts Oversight and Technology Team

Richard Corbell
Supervisor, Contracts Oversight and Technology Team

Contract.Manager@lbb.state.tx.us
512.463.1200