

LEGISLATIVE BUDGET BOARD

# Overview of State Procurement and Contract Management

PRESENTED TO THE SENATE FINANCE COMMITTEE

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:

- 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) Programs:

- 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
- Telecommunication Services
- Data Center Services

# DIR Central Management - Exemptions

---

Statutory exemptions from the Cooperative Contracts program:

- Exemption granted by DIR:
  - Blanket exemptions
    - Emergency procurement
    - Outsourced deliverables based system integration or application development 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

- 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

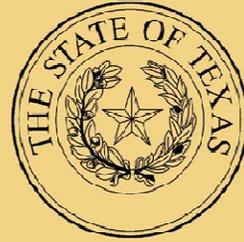
- State agencies and institutions of higher education can not expend funds to award a contract or make a purchase without providing extensive notice to the LBB, SAO, and Legislative leadership for the following:
  - Contracts in excess of \$10,000,000
  - Contracts in excess of \$1,000,000
    - Made 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

# 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

### **Contact the LBB**

Legislative Budget Board

[www.lbb.state.tx.us](http://www.lbb.state.tx.us)

512.463.1200