



## LEGISLATIVE BUDGET BOARD

# Contracting Reporting and Oversight

**PRESENTED TO HOUSE APPROPRIATIONS COMMITTEE**

**LEGISLATIVE BUDGET BOARD STAFF**

**JANUARY 2019**

# PRESENTATION OVERVIEW

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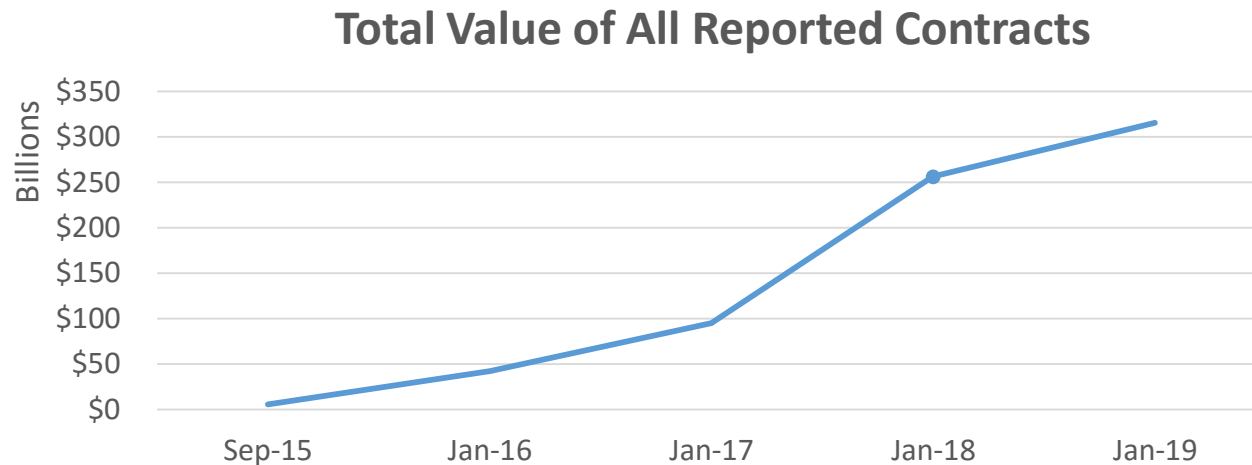
- **Trends in Reporting and State Contracting**
- **Issues Impacting Reporting**
- **LBB and CAT Contract Oversight**

# TRENDS: CONTRACT REPORTING

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

As of 1/23/2019:

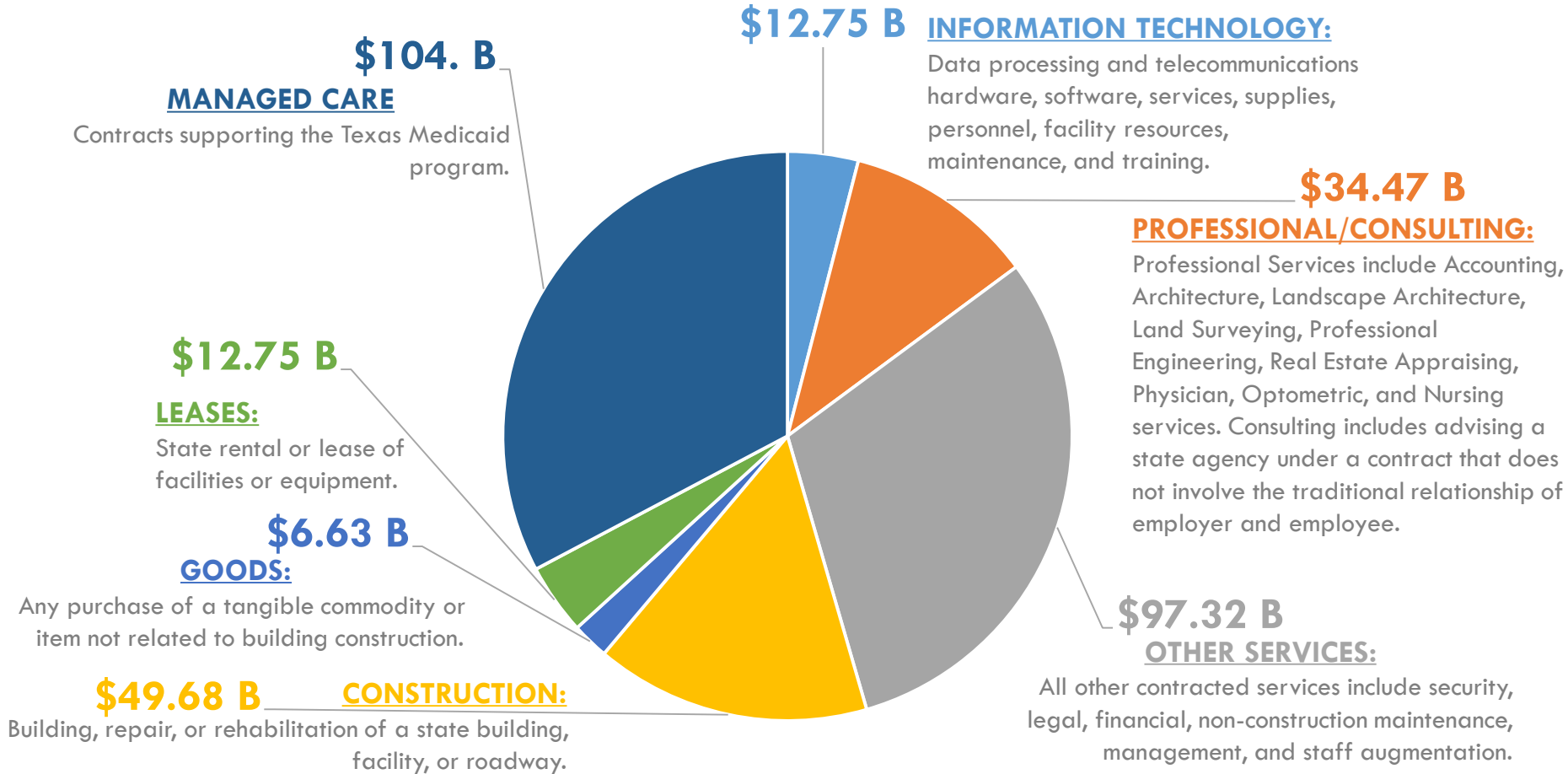
- 174 reporting entities
- Over 77,000 contract records submitted
- \$317.6 billion in contracts reported



# TRENDS: TYPES OF CONTRACTS

## VALUE OF CONTRACTS BY TYPE, IN BILLIONS\*

(Based on National Institute of Government Purchasing codes reported through 1/23/19)



\*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	30 days after award	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

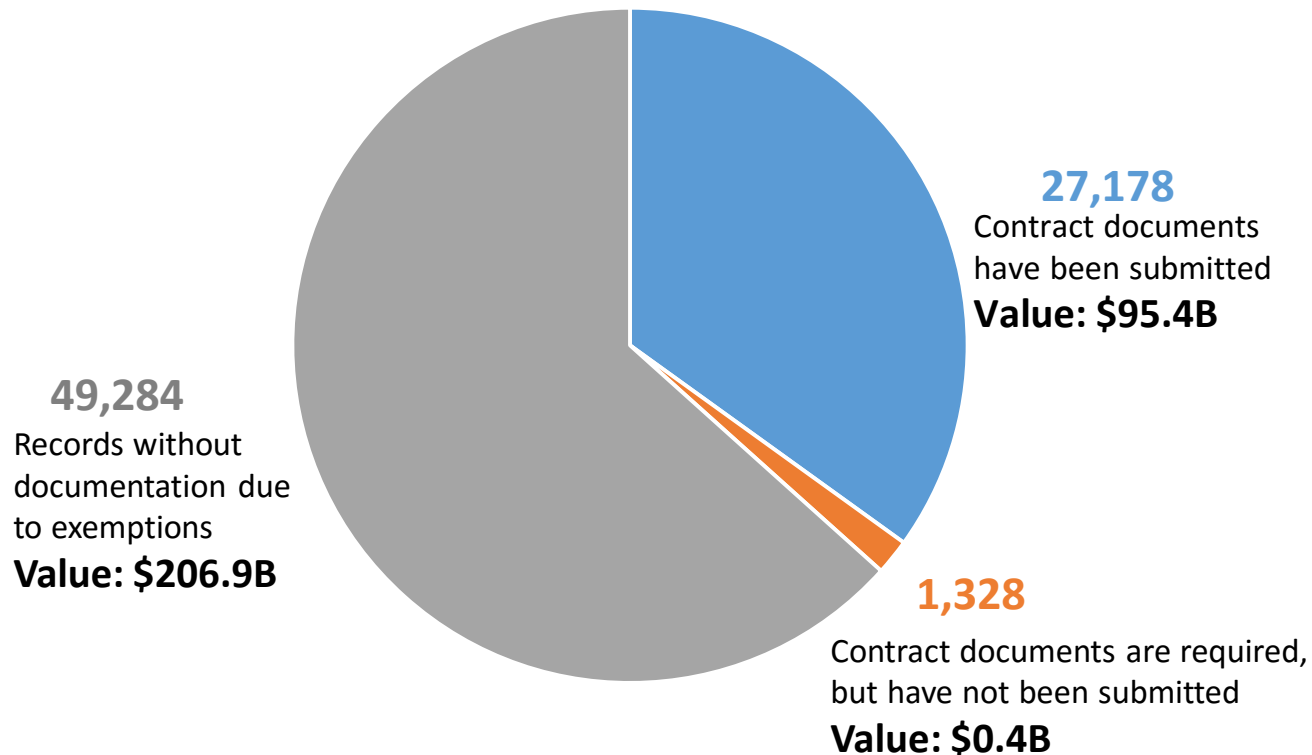
SOURCE: Legislative Budget Board.

*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.*

# GAPS IN REPORTING

While the database contains over 77,000 contract records, only 28,000 of them include the actual contract documents.

The main reason is that institutions of higher educations and certain agencies are exempt from uploading contract documents to the database.



# SENATE BILL 20 (84R)

Senate Bill 20 (84R) modified various agency contract administration requirements, including:

- Increased record retention for contracts to seven years;
- Required additional information on contracts be included in the state accounting system;
- Established bid requirements and caps for DIR cooperative contracts;
- Required agencies use the CPA Vendor Performance Tracking System; and
- Required agencies post contracts to their website.

# SB 20: VENDOR PERFORMANCE TRACKING

SB 20 requires agencies to report vendor performance to the Comptroller's Vendor Performance Tracking System (VPTS) for purchases over \$25,000.

Interagency agreements are exempt.

- The purpose of the Vendor Performance Tracking System is to:
  - Identify vendors that have exceptional performance;
  - Aid purchasers in making a best-value determination based on vendor past performance;
  - Protect the state from vendors with unethical business practices; and
  - Provide performance grades (A-F) in five measurable categories for the Centralized Master Bidders List (CMBL) vendors.



# VENDOR PERFORMANCE TRACKING SYSTEM

- Updated VPTS requirements went into effect starting in FY 2016
- Usage of the VPTS in FY 2016 and FY 2017 has been low.

<b>Contracts Reported to LBB Subject to VPTS Requirements</b>	<b>% of Those Contracts Where Vendor has VPTS Entry</b>	<b>Value of Eligible Contracts in LBB Database w/o VPTS entry</b>
37,316	14.8%	\$179.3B

# SB 20: CONTRACT POSTING REQUIREMENTS

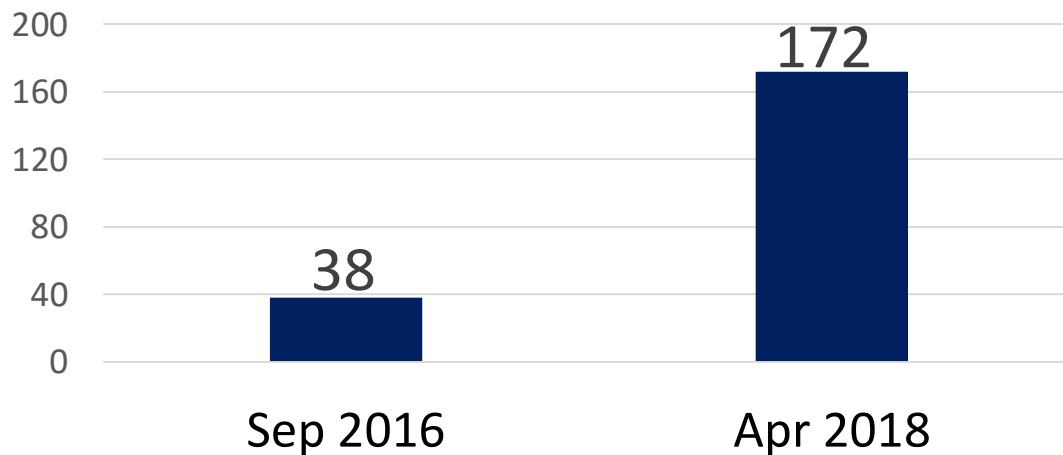
**The Government Code, as amended by SB 20, requires state agencies and institutions of higher education to post the following on their individual websites:**

- 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

# SENATE BILL 533 (85R)

- SB 20 (84R) required agencies to post every contract awarded to a private vendor on their agency website, starting in September 2015.
- Effective September 2017, SB 533 (85R) amended the SB 20 requirement by exempting agencies from posting contracts to their own website if they submitted the contract to the LBB Contracts Database.

State Entities Meeting SB 20 Contract Posting Requirements



Out of 234 state entities, some without reportable contracts

- HHSC, TXDOT, and Institutions of Higher Education are statutorily exempt from uploading contract documents when submitting to the LBB Contracts Database and therefore are not required to post contract documents.

# 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 and growth over time
- complexity
- issues identified by other oversight entity

When concerns are identified, the options include:

- working with the agency on a corrective action plan
- notifying the LBB, Governor, or Comptroller
- Recommending monitoring by LBB staff, auditing by SAO, or consultation with QAT or CAT

# OVERSIGHT: LBB STAFF IN-DEPTH REVIEWS

## LBB staff observations following 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: CONTRACT ADVISORY TEAM

The Contract Advisory Team (CAT), part of the Comptroller's Statewide Procurement Division, was created to assist state agencies in improving contract management practices by reviewing the solicitation of contracts with a monetary value of \$5 million or more. Section §2262.102 of the Texas Government Code lists the following members for the CAT:

- one member from the Comptroller of Public Accounts (CPA);
- one member from the Department of Information Resources (DIR);
- one member from the Health and Human Services Commission (HHSC);
- one member from the Office of the Governor (OOG);
- one member from the Texas Facilities Commission (TFC);



## LEGISLATIVE BUDGET BOARD

# Contact the LBB

Legislative Budget Board  
[www.lbb.state.tx.us](http://www.lbb.state.tx.us)  
512.463.1200