



LEGISLATIVE BUDGET BOARD

Contract Reporting and Oversight

PRESENTED TO HOUSE APPROPRIATIONS COMMITTEE

LEGISLATIVE BUDGET BOARD STAFF

APRIL 2018

STATEMENT OF INTERIM CHARGE

Monitor the ongoing implementation of S.B. 20 (84R), S.B. 533 (85R), and S.B. 255 (85R). Study the processes by which state agencies award, execute, manage, and monitor state contracts, and make recommendations on whether any changes are necessary to safeguard the best interest of the public and state. Evaluate measures utilized to determine vendor performance, and make recommendations on how to improve vendor selection and performance. When reviewing the Health and Human Services Commission's (HHSC) managed care contracts, determine if HHSC has adequate data, staff, and processes to provide appropriately rigorous contract oversight, including but not limited to the use of outcome metrics. Consider whether HHSC properly enforces contractual sanctions when managed care organizations (MCOs) are out of compliance, as well as how HHSC uses Medicaid participants' complaints regarding access to care to improve quality.

PRESENTATION OVERVIEW

- SB 20 (84R)
 - Vendor Performance Tracking
 - Contract Reporting
- SB 533 (85R)
- SB 255 (85R)
- Article IX Reporting Requirements and Oversight

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.

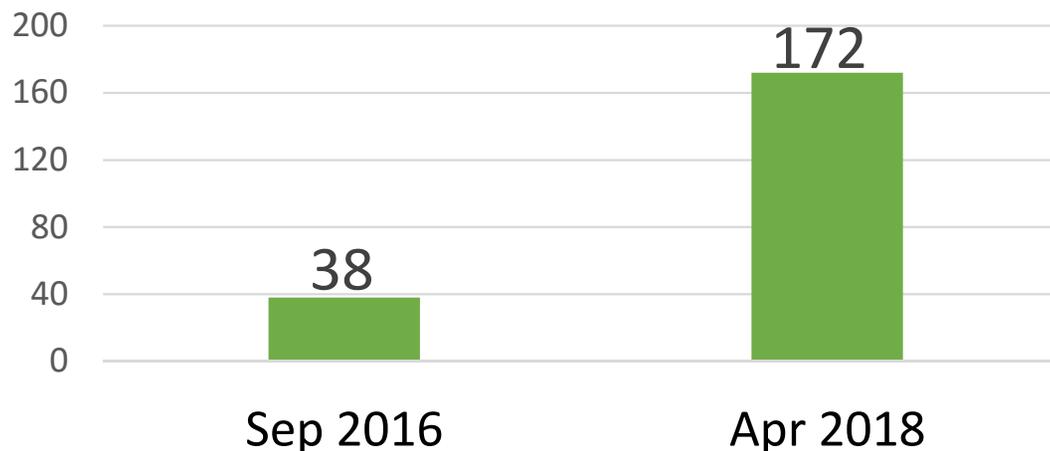
Contracts Reported to LBB Subject to VPTS Requirements	% of Those Contracts Where Vendor has VPTS Entry	Value of Eligible Contracts in LBB Database w/o VPTS entry
37,316	14.8%	\$179.3B

- LBB and Comptroller staff are working together to monitor and analyze the VPTS and will be surveying procurement personnel on its usage.

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 IHEs are statutorily exempt from uploading contract documents when submitting to the LBB Contracts Database and therefore are not required to post contract documents.

SENATE BILL 255 (85R)

SB 255 requires a state agency that spends more than \$5,000 in a state fiscal year for a training or education program for any individual administrator or employee to submit an annual report to the LBB detailing:

- a list of the administrators and employees participating in a training or education program;
- the amount spent on each administrator or employee; and
- the certification earned by each administrator or employee through the training or education program.

The first report is due August 31, 2018.

CONTRACT REPORTING

Statute and the General Appropriations Act (GAA) require agencies and institutions of higher education to report to the Contracts Database:

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	<u>30 days after award</u>	GAA Article IX, Sec 7.04
Non-Competitive/Sole Source	> \$1,000,000	<u>Prior to first payment, but no later than 30 days after award</u>	GAA Article IX, Sec 7.12
Emergency	> \$1,000,000	48 hours after payment	GAA Article IX, Sec 7.12
All	> \$10,000,000	<u>Prior to first payment, but no later than 30 days after award</u>	GAA Article IX, Sec 7.12

SOURCE: Legislative Budget Board.

Note: Changes made by the 85th Legislature are underlined and are effective September 1, 2017.

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.

CONTRACT REPORTING

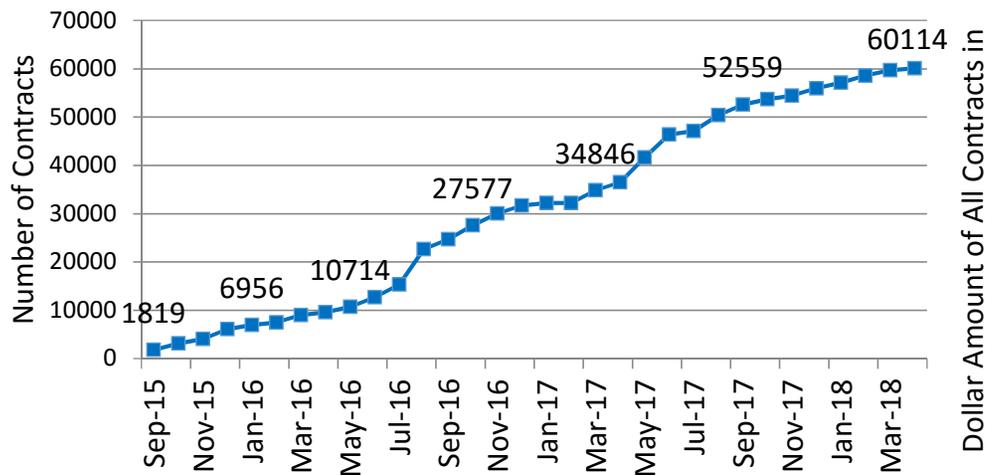
Contract Reporting Riders 2018-19 GAA, Article IX, Sections 7.04 and 7.12

As of April 2018:

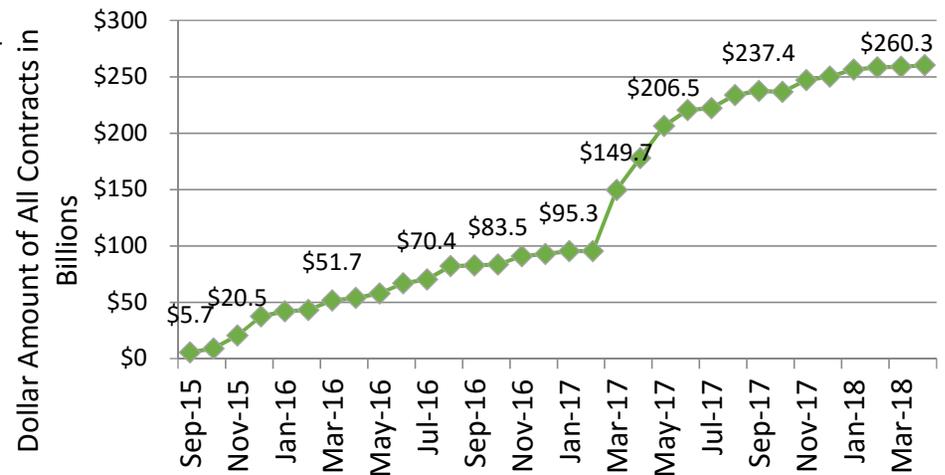
- 172 reporting entities
- Over 60,000 contracts submitted
- \$260.3 billion in contracts reported

Contracts span multiple fiscal years, and some may have been completed since they were reported.

Number of Contracts Reported to LBB Database



Value of Contracts Reported to LBB Database



ATTESTATION LETTERS

- Art IX, Sec. 7.12 of the GAA requires a letter, signed by the executive commissioner or designee, for each procurement over \$10.0 million and non-competitive procurement over \$1.0 million attesting that:
 1. The procurement complied with all applicable statutes, rules, and policies;
 2. The agency has an effective process to verify vendor performance and deliverables;
 3. The good or services being procured are necessary; and
 4. There is a continuing duty to report any changes to the information provided.

CONTRACT REPORTING

10% Amendment Rider 2018-19 GAA, Article IX, Section 7.04(g)(h)

- Between September and November of 2017, 61 agencies and institutions of higher education reported 1,424 amendments to the Contracts Database that met the value threshold for Section 7.04(g)(h). **Together, the 1,424 amendments increased their initial contracts' values by over \$18 billion, from all funding sources.**
- **385 of these 1,424 amendments (27%) changed the original contract's value by \$1 million or more.**

FIGURE 1: AMENDMENTS REPORTED IN Q1 2018 BY GAA ARTICLE

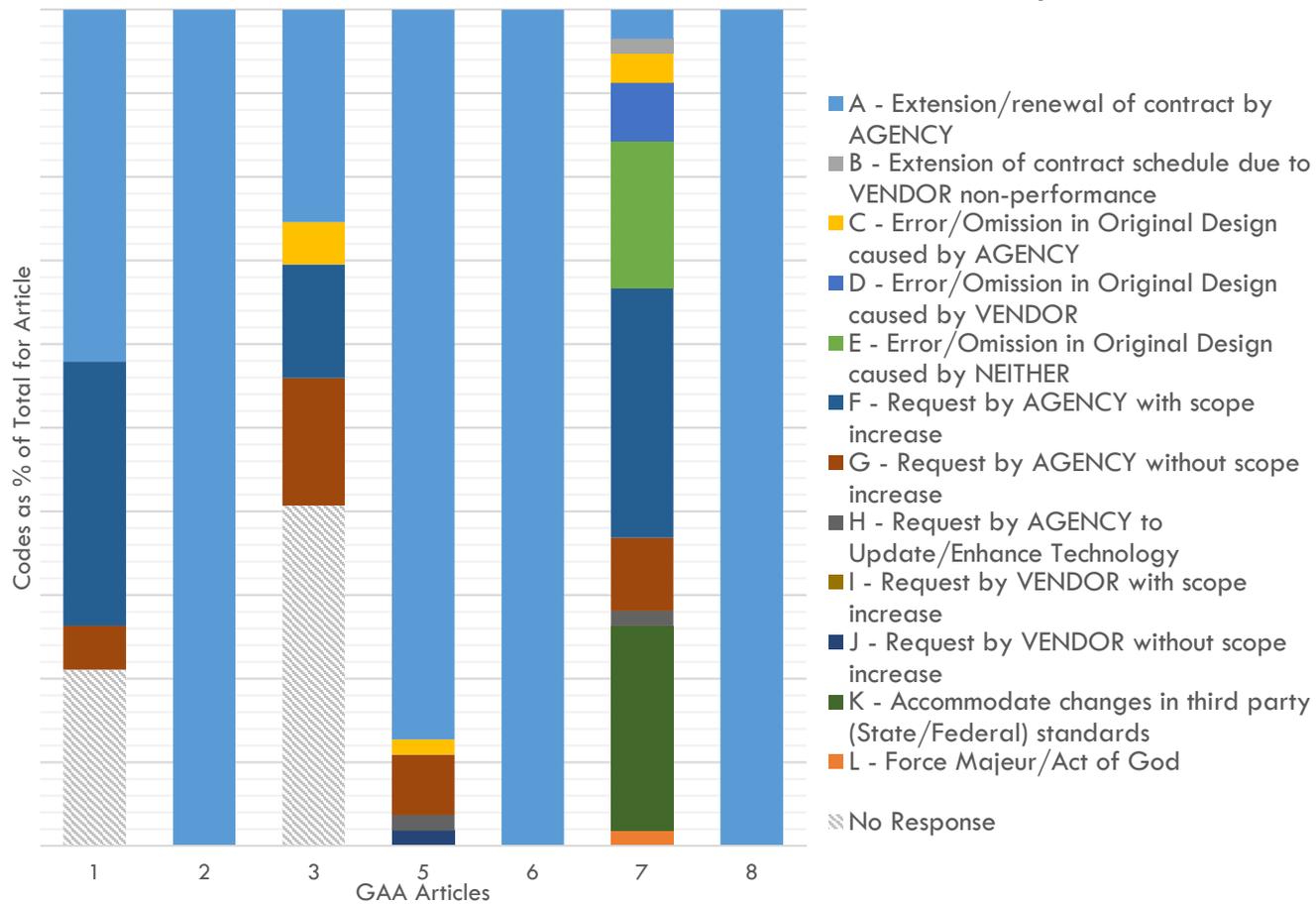
	Number of Amendments	\$ Increase (Millions)
Article I: General Government	99	\$306.5
Article II: Health and Human Services	402	\$16,337.2
Article III: Education	420	\$600.7
Article IV: Judiciary	4	\$0.2
Article V: Public Safety	174	\$413.1
Article VI: Natural Resources	38	\$14.1
Article VII: Economic Development	278	\$339.9
Article VIII: Regulatory	9	\$4.5
TOTALS	1,424	\$18,016.2

Source: Legislative Budget Board

CONTRACT REPORTING

10% Amendment Rider

Reasons For Amendments Over \$1 Million By GAA Article



CONTRACT OVERSIGHT

LBB Staff Contract Reviews

2018-19 GAA, Article IX, Sections 7.04(f) and 7.12(f)

- LBB staff are authorized to conduct reviews of contracts to ensure compliance with best practices from:
 - The State of Texas Contract Management Guide;
 - The State of Texas Procurement Manual; and
 - Any applicable statutes, rules, policies, and procedures.
- The Director of LBB may provide confidential written notification to the Comptroller, the Governor, and/or the Legislative Budget Board of any unresolved violations identified.
- The written notification may include enforcement mechanisms based on existing legislative authorities, including:
 - Enhanced monitoring by LBB staff;
 - SAO audit;
 - Required consultation with Quality Assurance Team or the Contract Advisory Team; and
 - Recommendation to cancel the contract.

CONTRACT OVERSIGHT

Contract Cost Containment Rider 2018-19 GAA, Article IX, Section 17.10

- “It is the intent of the Legislature that all agencies and institutions of higher education find savings in contracted goods and services”
- Appropriations across state agencies were reduced by \$34 million, and strategies were identified to assist agencies in achieving those savings.
- Progress reports are due to the Legislature and the Governor by:
 - September 30, 2018 for fiscal year 2018; and
 - August 31, 2019 for the 2018-19 biennium.

CONTRACT OVERSIGHT

Quality Assurance Team Contract Reviews 2018-19 GAA, Article IX, Section 9.01 (d)

- Agencies are required to submit Major Information Resource Project contracts valued over \$10 million to QAT for review and approval.
- Submitted contracts must be the final draft version, and be signed by the vendor but not the agency.
- Contracts will not be valid without QAT's written approval.



LEGISLATIVE BUDGET BOARD

Contact the LBB

Legislative Budget Board

www.lbb.state.tx.us

512.463.1200