



LEGISLATIVE BUDGET BOARD

LBB Contract Reporting & Oversight

Contracts Oversight Team

**PRESENTED TO THE COMMITTEE ON GOVERNMENT TRANSPARENCY & OPERATION
LEGISLATIVE BUDGET BOARD STAFF**

APRIL 2016

Statement of Interim Charge

Examine purchasing practices by state agencies to ensure such practices are efficient and transparent.

Items for Discussion:

1. Overview of contract reporting requirements
2. Contracts Database
3. LBB support to agencies
4. Monitoring risk and reviewing selected contracts
5. Preliminary observations

Contract Reporting Requirements

Two new provisions were adopted by the 84th Legislature that increase transparency in state procurements:

GAA Article IX, Section 7.04

- All contracts over \$50,000 to be reported regardless of funding source.
- “Contract” is widely construed to include grants, interagency agreements, and any purchase of goods or services.

GAA Article IX, Section 7.12

- All contracts over \$10 million are to be reported regardless of funding source, as well as emergency and sole-source contracts over \$1 million.
- **Attestation Letter:** A certification signed by the executive director of the agency must be provided that attests to the procurement’s compliance with the State of Texas Contract Management Guide, Procurement Manual, and all applicable statutes, policies, and rules related to procurement.

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

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.

SOURCE: Legislative Budget Board.

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Contract Reporting Requirements

Statute requires agencies provide copies of contracts and related solicitation documents to the LBB. Exemptions to this requirement include:

- Texas Department of Transportation
- Health and Human Service Agencies
- Institutions of Higher Education and System Offices
- Contracts paid for with non-appropriated funds

These exemptions do not preclude the LBB from requesting contract documents and other supporting documents from state entities.

LBB Contracts Oversight

The LBB maintains a Contracts Database:

- <https://contracts.lbb.state.tx.us>
- A single system for reporting contracts and contract documents to the LBB.
- Houses data that is publicly available and searchable.
- Will soon receive contract data directly from CAPPS.

LBB staff review contract data to ensure compliance with reporting requirements and assist agencies in reporting accurate and complete information.

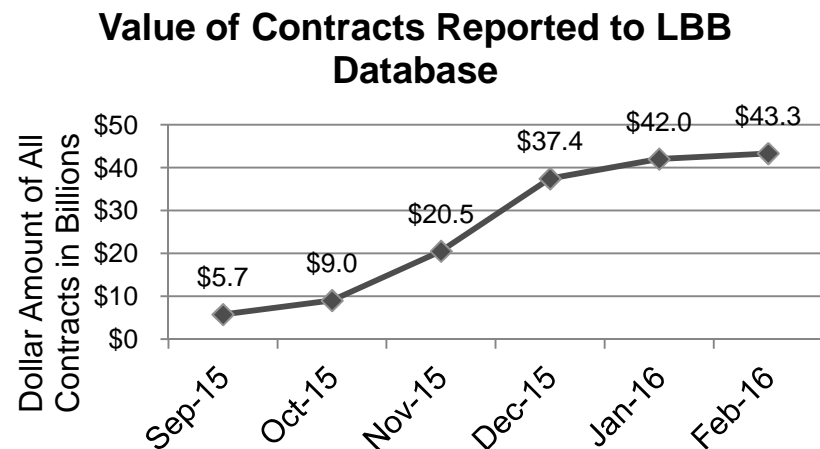
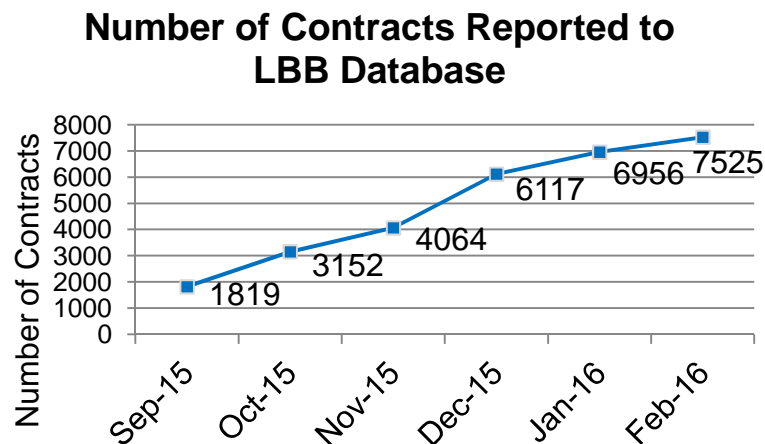
The screenshot displays the 'LBB Contracts Database' web application. At the top, the header reads 'LEGISLATIVE BUDGET BOARD' and 'LBB Contracts Database'. Below this, it states 'As Reported by State Agencies and Institutions of Higher Education'. The interface includes a navigation bar with links for 'LBB Home', 'Search/Exit', 'Help', and 'Logout'. The main section is titled 'Initial Contract Information' and contains several form fields for data entry. These include 'Agency' (a dropdown menu), 'Contract ID#', 'Reporting Code' (with a list of codes and their descriptions), 'Subject', 'Purchase Requirement', 'Agency Approval Date', 'Solicitation Posting Date', 'Award Date', 'Registration Date', 'Completion Date', 'Current Contract Value', 'Maximum Contract Value', 'Is this a revision generating contract?', and 'Number of Bids Received'. There are also sections for 'NGP Class Item', 'Purchase Category Code', and 'Vendor Information' (with search fields for Vendor ID, Vendor Name, and Vendor Email). At the bottom, there are buttons for 'Save', 'Submit to LBB', 'Cancel Contract', and 'Return'. A footer note mentions that the system is for reporting contracts to the LBB and that the data is publicly available.

LBB Contracts Oversight

The LBB Contracts Database (effective 9/01/2015) provides richer data for oversight and improved accuracy for increased transparency.

While some agencies and institutions reporting is incomplete, as of 3/1/2016:

- 90 reporting entities
- \$43.3 billion in contracts reported
- Over 7,500 contracts submitted



LBB Contracts Oversight

The new LBB Contracts Database replaces and improves on the old database in a number of important areas:

- More reportable data fields for a more comprehensive view of contracts.
- Data is searchable and downloadable for agency or public use.
- Enhanced data entry controls to reduce duplicate or inaccurate entries.
- Data management practices allow for rapid response to information queries.
- In-house design and implementation provides flexibility and responsiveness.

The screenshot displays the 'LBB Contracts Database' search tool. At the top, the 'LEGISLATIVE BUDGET BOARD' logo is visible. Below it, the title 'LBB Contracts Database' is followed by the subtitle 'As Reported by State Agencies and Institutions of Higher Education'. Navigation links for 'LBB Home', 'Search', 'Help', and 'Login' are provided. The 'Search' section features a 'Search Tool' with the instruction 'Search for contracts by agency, vendor, value and/or contract ID'. The search criteria are organized into four sections: 'Fiscal Year' with a dropdown menu and a 'Search' button; 'Agency' with a text input field, a dropdown menu, and a 'Search' button; 'Vendor' with two input fields for 'Search vendor by Vendor ID' and 'Or by Vendor Name (at least 3 characters)', each with a 'Search' button; and 'Contract Value' with input fields for 'Minimum Value' and 'Maximum Value'. A 'Contract Id' section at the bottom has a single input field and a 'Search' button. A disclaimer at the bottom states: 'AD-77: Contract information maintained by the LBB and included in this report is from information submitted by each state agency. Although every effort was made to correct obvious errors and to avoid duplicate entries, this information has not been verified by the LBB, and some inaccuracies may exist.' The footer of the page reads 'Legislative Budget Board'.

LBB Contracts Oversight

Newly established LBB Contracts Oversight Team (COT) maintains the Contracts Database and monitors reported contract information:

- Currently working with high-volume agencies to complete reporting.
- COT has prioritized contracts subject to Article IX 7.12 for reporting, followed by remaining current fiscal year contracts and then fiscal year 2015 contracts.
- To support agency reporting, COT has provided training, both initially upon deployment of the new database and on an ongoing basis as necessary with agencies.
- COT maintains updated training materials and detailed reporting instructions on its website.

LBB Contracts Oversight

In addition to maintaining the Contracts Database, COT monitors state contracting to identify and mitigate risks:

- Establish protocols for assessing risk across all procurements submitted to the LBB Contracts Database.
- Offer a web form for individuals, vendors, or employees to report potential contracting issues.
- Conduct in-depth reviews of certain contracts with a goal of working with state entities to help mitigate or remediate risk.
- Make budget and/or policy recommendations to improve the framework and requirements related to procurement or to individual agency's processes for administration and oversight.

The screenshot shows the 'Report A Contract Issue Form' on the Legislative Budget Board website. The header includes the LBB logo and navigation links: HOME, BUDGET, PUBLICATIONS, FISCAL NOTES, ABOUT THE LBB, EXTERNAL LINKS, and AGENCIES PORTAL. A maintenance notice states: 'From March 25 - 27, 2016 The LBB website as well as our web based applications will be offline due to planned maintenance. Service will resume March 28, 2016'. The form instructions state: 'This form has been provided by the Legislative Budget Board (LBB) Contracts Oversight Team (COT) to help vendors, citizens, state employees and others report issues in state contracting. Issues that could be reported include practices inconsistent with the Texas Contract Management Guide, as well as noncompliance with any state contracting regulations. You are welcome to report contracting issues anonymously.' The form fields include: 'What entity is involved in the contracting issue you are reporting?' (text box), 'Describe the contracting issue you are reporting:' (text box), 'Have you reported this contracting issue to law enforcement entities? If so which one(s)?' (text box), 'If you wish to remain anonymous, please select "No" below and press the submit button.' (checkbox), 'If you are open to being contacted, please provide the LBB with a personal email address or personal telephone number. The COT will follow up as needed with any questions regarding your submission. Personal email addresses or phone numbers are not subject to open records requests, and will allow you to remain anonymous (see Government Code Section 552.137). Note that the LBB cannot accept anonymous submissions to state employees who report on this webpage. If you wish to receive whistleblower protections, please report your contracting issue to law enforcement. You may also wish to report the issue to the SAO Fraud Hotline.' (checkbox), 'First Name:' (text box), 'Last Name:' (text box), 'Email:' (text box), '(Area Code) Phone:' (text box), 'Can we contact you if necessary?' (radio buttons for Yes/No), and 'Preferred method of contact?' (radio buttons for Email/Phone).

LBB Contracts Oversight

Preliminary COT observations following initial contract reviews and interaction with agencies:

- Agencies and institutions of higher education sometimes conflate the contract posting requirements of SB 20 with other statutory and GAA contract reporting requirements.
- Agencies do not always have ready access to documentation related to a vendor's selection.
- Risk to the state is often introduced during the solicitation and contract formulation phases of procurement.
- Negotiation with vendors over a contract's terms and conditions can weaken protections for the state.
- Outsourcing a function or system development can limit an agency's flexibility in reallocating resources when priorities shift.



LEGISLATIVE BUDGET BOARD

Contact the LBB

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