
IMPROVE THE USE OF VENDOR PERFORMANCE DATA IN STATE PROCUREMENT

Texas state agencies and institutions of higher education award billions of dollars in contracts every year. During fiscal year 2018, the state awarded more than 28,927 new contracts, worth \$173.2 billion. Ensuring that state agencies and institutions properly assess potential vendors' past performance is critical to making sound procurement decisions. Considering how a vendor performed on previous contracts has been part of the contracting best value statute since 1979, and it is a *State of Texas Procurement and Contract Management Guide* best practice.

The Eighty-third Legislature, Regular Session, 2013, established the Texas Vendor Performance Tracking System as a central resource for all state agencies and institutions of higher education to report and view vendor performance data. The Comptroller of Public Accounts maintains the system, and agencies and institutions are required to report vendor performance within 30 days after the termination or completion of a contract or purchase order of more than \$25,000. Senate Bill 20, Eighty-fourth Legislature, 2015, required agencies to consider this data when making award decisions. Despite these legislative requirements, agencies and institutions are not utilizing the Vendor Performance Tracking System consistently.

FACTS AND FINDINGS

- ◆ According to Legislative Budget Board staff analysis of data collected in July 2018, 18.4 percent of contracts reported to the state contracts database had a related vendor score in the Vendor Performance Tracking System.
- ◆ Most state agency staff who responded to a Legislative Budget Board survey indicated that their agencies do not consistently enter vendor performance in the system, nor do they utilize the system consistently when making purchasing decisions.
- ◆ Statute requires vendor performance to be reported after a contract concludes, without regard to the contract's length or renewals. As of May 2018, agencies had reported 9,034 contracts, worth more than \$138.2 billion, in the Legislative Budget Board's contract database that had been active for more than

a year. A vendor report is not required for any of these contracts until they conclude.

- ◆ Institutions of higher education are not required to submit vendor performance reports when making purchases pursuant to the Texas Education Code authority. Statute also does not require that institutions of higher education use the Vendor Performance Tracking System data when making contract award decisions.

CONCERNS

- ◆ Agencies and institutions of higher education do not consistently report vendor performance to the Vendor Performance Tracking System in a timely manner.
- ◆ Agencies and institutions of higher education do not consistently consider Vendor Performance Tracking System data when making procurement decisions.

OPTIONS

- ◆ **Option 1:** Amend the 2020–21 General Appropriations Bill, Article IX, Section 7.04, to direct Legislative Budget Board staff to submit an annual report to the Legislature and the Comptroller of Public Accounts comparing contracts in the state contracts database to performance reports in the Vendor Performance Tracking System.
- ◆ **Option 2:** Amend the 2020–21 General Appropriations Bill, Article IX, Section 7.12, to require that state agencies and institutions of higher education annually submit vendor performance reports to the Vendor Performance Tracking System for contracts that reach the Article IX, Section 7.12, thresholds and require that executive management certify that these reports will be completed in the attestation letter required by this provision.
- ◆ **Option 3:** Amend statute to require that state agencies and institutions of higher education submit a performance report to the Vendor Performance Tracking System before renewing or extending a contract.

- ◆ **Option 4:** Amend statute to require institutions of higher education to report to the Vendor Performance Tracking System and use the system data when making contract award decisions.

DISCUSSION

Past vendor performance has been an official factor in state procurement decisions since the Sixty-sixth Legislature, 1979, included it in the statute for contracting best value standards. Incorporating vendor performance into procurement decisions is a best practice stressed throughout past and current versions of the Comptroller of Public Accounts’ (CPA) State of Texas Procurement and Contract Management Guide and on CPA’s public website.

The Vendor Performance Tracking System (VPTS) is the state’s centralized tool for collecting institutional knowledge about vendor performance across agencies and institutions of higher education. VPTS has existed since at least 2005 when the Texas Building and Procurement Commission adopted administrative rules to document vendor performance among its contracts. After the state shifted toward a decentralized purchasing model, the Eighty-third Legislature, Regular Session, 2013, codified VPTS and instructed CPA to maintain the system. In response to state contracting issues, the Eighty-fourth Legislature, 2015, passed Senate Bill 20, which requires state agencies to populate VPTS directly and to use the data to inform contract award decisions. The legislation also requires CPA to assign letter scores to vendors.

Figure 1 shows how vendor performance data is intended to be collected and utilized.

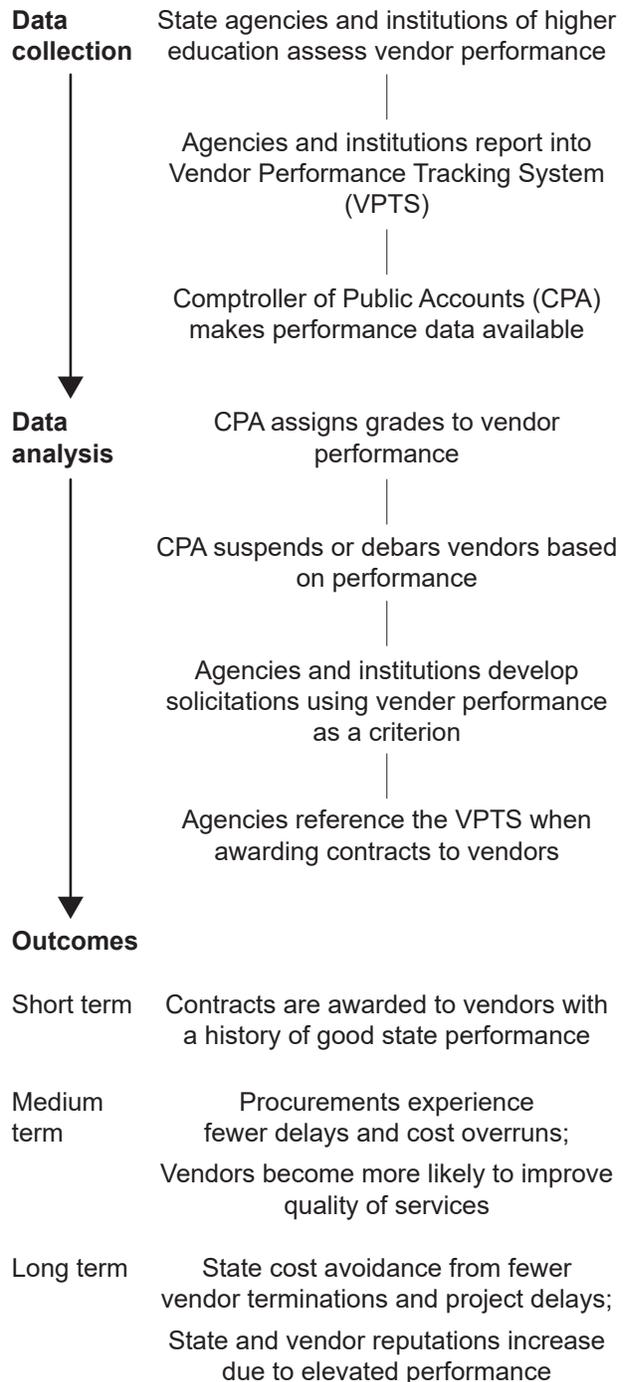
LIMITED AGENCY REPORTING OF VENDORS

Despite the requirement to review vendors for all completed state contracts valued at more than \$25,000, agencies and institutions vary in their reporting. Analysis comparing contracts reported by state entities to the Legislative Budget Board (LBB) contracts database and submissions to VPTS demonstrate the extent of this issue. At most, 22.0 percent of all eligible contracts reported to the LBB have a related vendor performance report submitted to VPTS. Figure 2 shows this analysis by General Appropriations Act article.

LBB staff analysis found that more than 80.0 percent of required performance data is not entered in VPTS, indicating widespread noncompliance with reporting requirements.

Option 1 would amend the 2020–21 General Appropriations Bill, Article IX, Section 7.04, to direct LBB staff to submit an

**FIGURE 1
VENDOR PERFORMANCE TRACKING SYSTEM’S ROLE IN
TEXAS AGENCY PROCUREMENTS, FISCAL YEAR 2018**



SOURCE: Legislative Budget Board.

annual report to the Legislature and CPA comparing contracts in the state contracts database to performance reports in the Vendor Performance Tracking System. The

FIGURE 2
VENDOR PERFORMANCE TRACKING SYSTEM (VPTS) SCORING RATES FOR VENDOR CONTRACTS REPORTED TO THE LEGISLATIVE BUDGET BOARD (LBB), FISCAL YEARS 2016 TO 2017

ARTICLE	ELIGIBLE CONTRACTS REPORTED TO LBB	PERCENTAGE OF REPORTED CONTRACTS WITH VPTS ENTRY	INITIAL VALUE OF REPORTED CONTRACTS WITHOUT VPTS ENTRY (IN MILLIONS)
I	712	58.7%	\$570.0
II	3,604	1.8%	\$1753.5
III	5,767	0.8%	\$4197.0
IV	19	0.0%	\$3.1
V	2,519	67.1%	\$354.9
VI	766	23.5%	\$548.4
VII	2,572	21.7%	\$5,143.8
VIII	212	5.6%	\$29.7
Total	16,170	18.4%	\$12,600.4

NOTE: Vendor Performance Tracking System (VPTS) entries with completion dates from September 1, 2015, to August 31, 2017, are included. Value is based on the original value of the contract and excludes any contract amendments. Because some contracts were amended and extended, these contract values are estimates. Data excludes interagency agreements and provider enrollment contracts. Vendor reports were matched based on whether an agency made a VPTS entry for a vendor with either a matching vendor identification or vendor name. Data includes contracts with blank completion dates if the contract was awarded before September 1, 2014.

SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

Legislature could use this report to track VPTS compliance, and CPA could work with underreporting agencies to improve reporting.

AGENCY BARRIERS TO USING THE VENDOR PERFORMANCE TRACKING SYSTEM

To better understand potential barriers against VPTS utilization, LBB staff administered a survey to a random sample of registered VPTS users. The sample included representatives from across state government that have various procurement and contracting responsibilities. The results of this survey are consistent with LBB staff analysis indicating that state agencies and institutions of higher education are not submitting data to VPTS consistently.

A majority of the respondents, 56.3 percent, indicated that their agencies or institutions do not submit performance reports to VPTS consistently. Among those respondents, 15.6 percent never submit any vendor performance scores to VPTS. Respondents indicated that inadequate resources and insufficient vendor performance monitoring were key barriers to reporting data. Concerns about inadequate resources are supported by a 2016 CPA statewide purchasing study that states that approximately 1,700 state purchasing staff oversee more than 800,000 transactions per fiscal year. Among the 108 agencies included in this study, 44 have less

than 1.0 full-time-equivalent position performing purchasing and contracting duties.

Furthermore, agencies are not incorporating VPTS data into contract award decisions. A majority of respondents, 57.1 percent, indicated that their agencies or institutions do not incorporate VPTS data into contracting decisions consistently. The most cited reason was that VPTS lacked a performance report for vendors they were considering.

The results of this survey show that a lack of comprehensive vendor performance reporting was the main limitation to VPTS's usefulness.

Option 2 would amend the 2020–21 General Appropriations Bill (GAB), Article IX, Section 7.12, to require that agencies and institutions of higher education annually submit vendor performance reports to VPTS for contracts that reach the Article IX, Section 7.12, thresholds and require that executive management certify that these reports will be completed in the attestation letter required by this provision.

Multiple survey respondents indicated that inadequate resources were a reason for not reporting to VPTS. Therefore, this option is intended to ensure that management is aware of and supportive of fulfilling VPTS reporting requirements for the high-value contracts that reach Article IX, Section 7.12, thresholds. Additionally, these contracts often last for

years before they conclude and a vendor report is completed. Amending the GAB section would ensure that the performance of vendors with high-value contracts is reported periodically during the life of the contract.

TIMELY REPORTING OF CONTRACTS

Statute requires state agencies to report vendor performance after the contract is finished. However, if a contract is extended or renewed, the reporting deadline also is extended. CPA urges state entities to report regularly before contracts conclude, although it is not required. This extension of reporting requirements often results in vendor performance reports not being submitted until years after contracts begin.

As of May 2018, 9,034 contracts worth more than \$138.2 billion had been active for more than one year. The average length of these contracts is more than five years. Many of these contracts have been renewed one or more times. Yet vendor reports are not required for these contracts because they have not concluded.

Option 3 would amend statute to require that state agencies and institutions submit performance reports before renewing or extending a contract. Agencies should be assessing vendors' performance before extending contracts, which also is an appropriate time to submit a vendor performance report. A lack of relevant vendor performance reports was the primary reason agency staff cited for not utilizing VPTS when making contract award decisions. Adding more vendor performance reports will make the system more useful for other agencies during procurements.

AMBIGUOUS REPORTING REQUIREMENTS

Another reason that VPTS reporting numbers are low for institutions of higher education is a lack of a clear VPTS reporting requirement. The Texas Administrative Code requires state agencies to report to VPTS when a purchase is made pursuant to the authority in the Texas Government Code. However, institutions can make purchases using authority granted in the Texas Education Code. Because educational institutions have the discretion to make purchases pursuant to either statute, their reporting to VPTS is largely voluntary. Additionally, the statutory requirements to consider VPTS data when making a purchase applies to state agencies and not to institutions.

Option 4 would amend the Texas Government Code, Sections 2155.089 and 2262.055, and the Texas Education Code, Section 51.9335, Subchapter D, to require institutions of higher education to report to the Vendor Performance

Tracking System and use the system data when making contract award decisions.

FISCAL IMPACT OF THE OPTIONS

Options 1 to 4 would have no significant fiscal impact to the state. These options would improve information available to state agencies and institutions when selecting vendors for contract awards. Increasing public access to information about vendor performance also would encourage vendors and agencies to address performance deficiencies in a timelier manner.

LBB staff could implement Option 1 using existing resources.

Option 2 could increase the frequency of VPTS reporting for certain high-value contracts. It is assumed that the additional costs would be minimal and could be absorbed by state agencies and institutions of higher education within existing resources.

Option 3 could increase the frequency of VPTS reporting for certain contracts. It is assumed that the additional costs would be minimal and could be absorbed by agencies and institutions of higher education within existing resources.

Option 4 would expand requirements for institutions of higher education to use VPTS. It is assumed that any resulting costs could be absorbed within existing resources.

The introduced 2020–21 General Appropriations Bill includes modifications to a rider to implement Option 2.