

# Finding Out How Tax Dollars are Spent: New Law in Effect January 1, 2020

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**PRACTICES** Anti-SLAPP and First Amendment Rights, Media and Entertainment Litigation, Media Entertainment and Sports

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After a series of court rulings, Texas went from one of the most transparent states to one of the least when it comes to finding out about how tax dollars are spent. The long awaited contracting transparency bill (SB 943) passed by the Texas Legislature last session went into effect on January 1, 2020. Here's a brief recap:

## **SB 943: Contracting Transparency**

SB 943, sponsored by Senator Kirk Watson (D–Austin) and Representative Giovanni Capriglione (R–Southlake) aims to improve transparency regarding government contracting, primarily addressing issues created by the 2015 Texas Supreme Court case, *Boeing Co. v. Paxton*, which significantly limited public access to information about government contracting under the Texas Public Information Act (TPIA).

The Court's decision in *Boeing* greatly expanded a TPIA exception that prevented the release of commercially-sensitive information regarding private companies' business dealings with government entities. First, *Boeing* held that private, third-party entities — not just a governmental entity — may claim this “competitive bidding” exception, overturning decades of Attorney General's opinions. Second, the Court concluded that this exception can foreclose public access to contracting information upon a showing that the release of requested information would result in a competitive disadvantage to the company asserting the exception, even if the governmental body has completed a competitive bidding process and awarded a final contract.

Since it was handed down in 2015, *Boeing* has been cited in more than 2,700 Attorney General opinions foreclosing access to information under the TPIA. Many of those rulings involved TPIA requests for information regarding final contracts, effectively foreclosing access to even the most basic information about government contracting and expenditures.

SB 943 reverses some of the harmful effects of *Boeing* and ensures that government entities will be obligated to reveal the core elements of their contracts with private companies — including the final dollar amount of the contract, key contract provisions, and line-item pricing.

Haynes Boone's Media and Entertainment team provides a full range of counseling and litigation services in all aspects of media and First Amendment law. Our lawyers have a practical understanding and knowledge of the particular problems and issues media clients face. We understand the high-stakes, multimillion-dollar nature of providing content, news, and entertainment to the masses.