

Fiscal Management Division
Expenditure Audit Section
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Post-Payment Audit of Texas Low-Level Radioactive Waste Disposal Compact Commission



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EXECUTIVE SUMMARY

Audit scope

All Texas Low-Level Radioactive Waste Disposal Compact Commission (Commission) purchase and travel transactions that processed through the Uniform Statewide Accounting System (USAS) during the period beginning Sept. 1, 2012, through Aug. 31, 2013, were audited to determine compliance with applicable state laws.

The audited agency or institution of higher education receives appendices with the full report that may include a list of the identified errors and a projection to estimate the amount of improperly paid transactions.

Copies of the appendices may be requested through a [Public Information Act](#) inquiry.

Texas law requires the Comptroller's office to audit claims submitted for payment through the Comptroller's office. All payment transactions are subject to audit regardless of amount or materiality.

The audit provides a reasonable basis for the findings set forth in this report. The Commission should implement the recommendations listed in the Detailed Findings of this report. It is the Commission's responsibility to seek refunds for all overpayments unless it determines it is not cost effective to do so. If necessary, the Texas Comptroller of Public Accounts (Comptroller's office) may take the actions set forth in Texas Government Code Annotated, Section 403.071(h) (Vernon 2013), to ensure that the Commission's documents comply in the future. The Commission must ensure that the findings discussed in this report are resolved.

The Commission is a joint entity between the states of Texas and Vermont, with board members from both states. All payments from the Commission are made from funds appropriated in the State Treasury of Texas. The Commission has no employees on its payroll; it hires private contractors to conduct the statutory requirements of the Commission.

Payments

Purchase transactions were audited for compliance with the General Appropriations Act (GAA), [eXpendit](#), the [State of Texas Procurement Manual](#) and other pertinent statutes.

Travel transactions were audited for compliance with the GAA, [Textravel](#) and other pertinent statutes. Due to the language in the Commission's contracts with its contractors, the contractor's travel transactions were audited for compliance with the GAA, Textravel and other pertinent statutes.

The audit identified:

- Five travel reimbursements to contractors that exceeded the General Services Administration (GSA) rate.
- Three travel reimbursements that did not include the prior approval of travel and one travel voucher that was not approved by the Commission before payment.

- Two travel reimbursements included expenses for another person's travel.
- One transaction included a purchase of food without statutory authority.
- Two payments were made past the prompt payment deadline and two payments were made without scheduling.
- Lack of conservation of state funds was identified for one rental car payment.

Security

The audit included a security review identifying any of the Commission board members who were no longer employed or whose security had been revoked but retained security in USAS or on the voucher signature cards. Upon termination or revocation, certain deadlines must be observed so that security can be revoked in a timely manner.

The audit identified:

- One board member who was left on the Commission's signature cards for 145 days after his resignation.

Internal control structure

The Commission's internal control structure was reviewed. The review was limited to obtaining an understanding of the Commission's controls sufficient to plan the audit and did not include tests of control policies and procedures.

The audit identified:

- One board member who can pick up warrants from the Comptroller's office and approve vouchers.

Commission Response

The Compact Commission is cognizant of Texas' significant interest in the operations of the Commission, given that Texas is the host state and that the Commission meets and has offices in Austin. As is reflected in the comments to each finding, the Commission wants to do what it can to assure the state of Texas that the money the Texas Legislature appropriates to the Commission is prudently spent. On the other hand, the Commission must act in accordance with its independent authority and its unique responsibility. The Commission believes that its response to the Comptroller's audit balances these interests.

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DETAILED FINDINGS — PAYMENT

Lodging Exceeds GSA Rate

Finding

We identified five travel payments to contractors which included lodging rates greater than the allowable limit. The contractor paid lodging amounts which exceeded the General Services Administration (GSA) allowable rate for the locations.

A state employee who travels within the continental United States shall be reimbursed for the actual cost of lodging; however, the reimbursement may not exceed the maximum lodging rate for the employee's duty point based on federal travel regulations as issued by the Comptroller's office. See GAA, 2009, Article IX, Section 5.06 (a) (IX-23). See also [Textravel – Meals and Lodging](#).

The Commission stated that it approved the rate paid because it was not aware that the restriction applied to its contractors. However, the contractor's contract states that the contractor shall be reimbursed for travel at the rates generally applicable to state employees.

The Commission also stated that the intent of the contract was to be cost conscious but not to strictly follow state laws. As a result of this audit, the Commission has amended its current contracts with its contractors to state that they shall receive "reimbursement of the actual and necessary expenses of travel."

Recommendation/Requirement

The Commission should amend its contracts with its contractors to include travel limits or other controls on the reimbursable amount.

The Commission should seek reimbursement for the excessive amount unless it determines it is not cost effective to do so.

Commission Response

We appreciate the Comptroller's suggestion that we modify our contracts with our two contractors to include controls on reimbursable travel expenses. I have directed our legal counsel to work on that issue and propose some appropriate language. Given the total amount of lodging overage, the Commission has concluded that it would not be cost effective to seek reimbursement for them but instead will work on implementing controls going forward.

Missing Authorization for Travel

Finding

According to the contractor's contract with the Commission, the contractor may be reimbursed for travel expenses only if the travel is approved in advance by the chair of the Commission. We noted three travel payments in which the Commission could not provide written approval from the chair. The Commission stated that the chair knew about and verbally approved the contractor's travel, but did not document this approval in writing prior to the travel.

We also noted one travel reimbursement that was not approved by the chair of the Commission. All vouchers must be approved by the appropriate personnel before the reimbursement is made. The Commission stated that this was an oversight made when processing the voucher.

Recommendation/Requirement

The Commission must ensure that the chair approves all travel by the contractors before the travel takes place. This approval must be documented.

In accordance with the Commission's contract requirements, when a contractor's voucher is submitted for travel reimbursement, the chair of the Commission must review and sign the travel voucher before it is processed in USAS.

Commission Response

We appreciate the Comptroller's suggestion that we modify the procedures for the approval of contractor travel and will implement those suggestions.

Reimbursement of Travel for Other Persons

Finding

We noted two travel reimbursements where one person paid for and was reimbursed for another person's expenses. In one instance, a contractor paid for another contractor's expenses. In the other instance, a board member paid for meals for two contractors. Employees, including contractors, may only be reimbursed for travel expenses they personally incur.

The Commission stated that it believed this practice was allowable.

Recommendation/Requirement

Each board member and contractor may only be reimbursed for his or her own travel expenses. The Commission should consider direct billing by vendors for travel expenses if necessary.

Commission Response

We appreciate the Comptroller's suggestion that the Commission no longer reimburse a Commissioner or contractor for another person's travel and will make arrangements for each such person to handle his or her own travel expenses going forward.

Improper Purchase of Meals

Finding

During fieldwork, we identified one transaction where the Commission improperly processed a reimbursement for meal expenses for its commission members and contractors. The Commission reimbursed one board member for the entire amount of the meal expenses for every attendee, including commission members and contractors from Texas, and commission members from Vermont.

Commission members/contractors from Texas

Part of this payment was for meals for commission members and contractors residing in Texas who were travelling at the time. These individuals may be reimbursed for their meal expenses, but must pay for their meals individually and claim reimbursement on a state employee travel voucher for their expenses only.

Reimbursement of meals while not in travel status

Part of this payment was for meals for commission members residing in Vermont. Because these commission members were not travelling, their meal expenses are not reimbursable.

The Commission stated that this expense was a regular meal for its commission members and contractors who were in travel status during a trip to Vermont for a commission meeting.

According to the Commission, no direct business was conducted during the meal, but the Commission did use the meal as a networking session to improve relations between Texas and Vermont.

Recommendation/Requirement

The Commission must reimburse the state for the funds expended without legal authority.

The Commission may only reimburse commission members and contractors for meal expenses when they are travelling. The commission members and contractors must pay for their own meal expenses and be reimbursed on individual travel vouchers.

Commission Response

While we disagree with the Comptroller's analysis of the purchase of food for a meal of the Commissioners and contractors while all of them were in Vermont for a commission meeting, we will accede to the Comptroller's demand that the amount reimbursed for that meal be repaid. The check will be drawn on an account in which the State of Vermont has deposited funds so, in essence, Vermont will have paid – without contribution from its Texas partner – the actual and necessary costs of Commissioners travelling on TLLRWDCC business. Please let us know to whom the check should be made out and where it should be sent.

When the TLLRWDCC met in Vermont in October 2013, individual Texas Commissioners and the Compact's contractors reimbursed our Vermont host for their meals and then sought reimbursement from the Compact, as the meal was necessitated by their travel on Compact business. The TLLRWDCC and the Compact's contractors will employ this procedure in the future.

Comptroller Response

After further researching the issue of the local account used by the Commission to reimburse for expenses, we recommend that the Commission close this account and transfer the remaining funds to the State Treasury. The Commission should use Revenue Code 3578 and appropriated fund 0088 (GR Account – Low-Level Radioactive Waste) per Texas Health & Safety Code Annotated, Section 403.006, Article V, Section 5.01. See the [USAS User's Manual](#) for instructions on how to complete a State Treasury deposit. Please contact the Appropriation Control section if further assistance is needed.

Payments Past Prompt Payment Deadline and Payments Not Scheduled

Finding

Prompt payment

According to the prompt payment law, Texas Government Code Annotated, Section 2251.021 (a) (Vernon 2008), a governmental entity's payment is overdue on the 31st day after the later of:

- The date the governmental entity receives the goods under the contract;
- The date the performance of the service under the contract is completed; or
- The date the governmental entity receives an invoice for the goods or service.

The Comptroller's office computes and automatically pays any interest due under the prompt payment law when the Comptroller's office is responsible for paying the principal amount on behalf of the agency. See Texas Government Code Annotated, Section 2251.026 (Vernon 2010).

In our sample, we identified two purchase transactions that were paid late where interest was not paid to the vendors. These occurred because the Commission did not enter the payments into USAS in a timely manner. As a result of the finding, The Commission has created procedures to date stamp invoices and begin processing the invoices for payment the same day they are received.

Scheduling payment

Texas Government Code Annotated, Section 2155.382(d) (Vernon 2008), authorizes the Comptroller's office to allow or require state agencies to schedule payments that the Comptroller's office will make to a vendor. The Comptroller's office must prescribe the circumstances under which advance scheduling of payments is allowed or required; however, the Comptroller's office must require advance scheduling of payments when it is advantageous to the state.

We identified two purchase transactions that the Commission paid early, resulting in interest loss to the State Treasury. According to the Commission, it was not aware that payments over \$5,000.00 need to be scheduled. One of these transactions was a payment to a contractor. As a result of this finding, The Commission has amended the contracts with its contractors to eliminate the risk of having to schedule these payments in the future.

Recommendation/Requirement

The Commission must review its procedures to ensure that it submits payment information for processing as well as releasing the payment in a timely manner to avoid incurring interest liabilities.

In addition, the Commission must verify that proper due dates are entered to ensure that if interest is due, it is paid correctly to the vendors.

To minimize the loss of earned interest to the State Treasury, the Commission must schedule all payments that are greater than \$5,000.00 for the latest possible distribution and in accordance with its purchasing agreements as described in [Expendit — Prompt Payment](#). The Commission can pay according to the terms on the invoice only if those terms are included in the purchase agreement.

Commission Response

We appreciate the Comptroller's suggestion that the Commission alter its procedures to ensure that its vendors are paid by the prompt pay deadline and to minimize the loss of interest to the Texas State Treasury. We will implement those suggestions.

Lack of Conservation of State Funds

Finding

We noted one travel reimbursement for a rental car that included several non-mandatory charges. The charges included an upgrade to the vehicle and a fuel purchase option.

Texas Government Code, Section 660.007, states that “a state agency shall minimize the amount of travel expenses paid or reimbursed by the agency. The agency shall ensure that each travel arrangement is the most cost effective considering all relevant circumstances.”

The Commission stated that it was unaware that these charges were not reimbursable.

Recommendation/Requirement

The Commission must review all travel vouchers for non-mandatory charges before making the reimbursement.

The Commission must educate its contractors and board members on what constitutes non-mandatory charges and ensure they know these charges may not be reimbursed.

Commission Response

We appreciate the Comptroller’s suggestion that we educate our contractors and ourselves about “mandatory” and “non-mandatory” charges under the state of Texas’ travel guidelines. However, both the Commission and the Texas Health & Safety Code provide that the Commissioners are entitled to reimbursement for “actual and necessary expenses incurred in the performance of the duties of commissioner.” Texas Health & Safety Code, Section 403.004. We will, however, create guidelines to assist the Commissioners in determining what constitutes a “necessary” expense.

DETAILED FINDINGS — EXPENDITURE APPROVALS

Board Member Retained Ability to Expend Funds After Resignation

Finding

During the audit period, the Commission failed to notify the Comptroller's office about the termination of a board member who had been designated by the Commission to approve its expenditures. The board member remained listed on the Commission's voucher signature cards for 145 days after his termination date.

This means that the former board member could have approved vouchers that were submitted to the Comptroller's office on paper during that time. Any payment produced by a paper voucher that was approved by the board member would have constituted an unapproved expenditure. According to the Commission, the board member remained on the signature card due to oversight.

The Comptroller's formal rule pertaining to designating individuals to approve agency expenditures and revoking those designations was in effect during the audit period. Whenever a designated individual terminates employment with an agency, the Comptroller's office must receive notification of the employee's termination no later than the fifth day after the effective date of the employee's termination. See 34 Texas Government Code Annotated, Section 5.61 (2013). Any officer or employee may send the Comptroller's office that notification. See Section 5.61(k)(3)(B).

Section 5.61 does not specify how the Comptroller's office is to be notified about designated employees' terminations. Therefore, the Comptroller's office will accept emails, faxes, letters, memos or other writings so long as the writings indicate that a designated employee has terminated employment and the notification specifies the effective date of the employee's termination.

Recommendation/Requirement

The Commission must ensure compliance with the preceding requirements.

The Commission must also ensure that the person responsible for sending these notifications to the Comptroller's office is aware of the designated employee's or board member's termination on or before the termination becomes effective and follow through with the Comptroller's office to ensure the receipt of the notification and that the revocation occurred.

Commission Response

We particularly appreciate the Comptroller's clear description of the communications that are required and possible when a Commissioner leaves the Commission. We will designate a person to be responsible for informing the Comptroller's office of such a departure, and we will establish procedures, making the Commissioners aware of those procedures, for making that designated person aware of the termination of a Commissioner's departure from the Commission and the termination of any contractor's contract.

Control Weakness Over Expenditure Processing

Finding

As part of our planning process for the post-payment audit, we reviewed certain limitations that the Commission placed on its individuals' abilities to process expenditures. We reviewed the Commission's security in USAS, the Texas Identification Number System (TINS) and its voucher signature cards that were in effect on Oct. 7, 2013. We did not review or test any internal or compensating controls that the Commission may have relating to USAS or TINS security or internal transaction approvals.

One individual, the chair of the Commission, can pick up warrants from the Comptroller's office and approve vouchers. The Commission received a schedule of this finding during fieldwork — additional copies are available upon request.

To reduce risks to state funds, agencies should have controls over expenditure processing that segregate each accounting task to the greatest extent practical. Ideally, no individual should be able to pick up warrants from the Comptroller's office and approve vouchers without another person's involvement.

Recommendation/Requirement

The Commission should review the controls over expenditure processing and segregate each task to the extent possible to ensure that no individual is able to process payments without oversight.

We recognize that the small size of the Commission, along with the current vacancy in the vice-chair position, makes it difficult to separate these duties. We recommend that the Commission update its security to segregate these duties between two different board members.

Commission Response

We appreciate the Comptroller's suggestions to segregate accounting tasks and will implement the suggestion to segregate the duties of picking up warrants and approving vouchers between two different Commissioners.