

Fiscal Management Division
Statewide Fiscal Services Dept.
Expenditure Audit Section
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Post-Payment Audit of Texas Board of Nursing



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EXECUTIVE SUMMARY

Audit scope

We audited a sample of the Texas Board of Nursing's (Board) payroll, purchase, travel and refund of revenue transactions that processed through the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS) during the period beginning Sept. 1, 2014 through Aug. 31, 2015, to determine compliance with applicable state laws.

The Board receives appendices with the full report that includes a list of the identified errors. Copies of the appendices may be requested through a [Public Information Act](#) inquiry.

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

Texas law requires the Texas Comptroller of Public Accounts (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.

Payroll transactions and payroll deductions

Payroll transactions were audited for compliance with the General Appropriations Act (GAA), the [Texas Payroll/Personnel Resource](#) and other pertinent statutes.

- No issues were identified.

A limited sample of voluntary contributions was also audited.

- No issues were identified.

Refunds of Revenue

Revenue refunds were audited for compliance with the GAA, [eXpendit](#) and other pertinent statutes.

- No issues were identified.

Purchase transactions

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

The audit identified:

- Incorrect amounts paid.
- Purchase orders (POs) created after invoice.
- Incorrect procurement process.
- Missing procurement documentation.
- Missing payment documentation.

Travel transactions

Travel transactions were audited for compliance with the GAA, [Texttravel](#) and other pertinent statutes.

The audit identified:

- Airfare not charged to the state contracted travel card.
- Reimbursement of travel for other persons.

Fixed assets

The audit included a limited review of 10 fixed assets acquired by expenditures during our audit period to test for accurate reporting and to verify existence of the asset.

- Three assets were not properly tagged.

Internal control structure

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

The audit identified:

- Three employees had the ability to process and release payments through USAS, adjust payment instructions in TINS and approve paper vouchers.
- Two of the same employees can also process and release payrolls in USPS.

Security

The audit included a security review to identify any of the Board's employees with security in USAS or on the voucher signature cards who were no longer employed or whose security had been revoked. Upon termination or revocation, certain deadlines must be observed so that security can be revoked in a timely manner.

The review identified:

- One employee retained ability to expend funds after termination.

Direct deposit authorization forms

A review was conducted of the Board's procedure to comply with the federal mandate to properly identify and handle payments involving the movement of funds internationally.

The audit identified:

- No issues were identified.

Prior post-payment audit and current audit recurring findings

A prior post-payment audit of the Board's payroll, purchase and travel transactions was concluded on Aug. 23, 2012.

During the current audit, the following recurring finding was identified:

- Control weakness over expenditure processing.

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DETAILED FINDINGS — PURCHASE

Incorrect Amounts Paid

Finding

We identified two transactions where an incorrect amount was paid to the vendor. In one instance, the Board paid for an extra license exam that was invoiced but not performed by the vendor. In another instance, a rental service fee was charged at a higher percentage rate than the amount agreed upon in the contract. The Board explained the incorrect amounts paid were an oversight.

When the Board and a vendor agree to a certain rate or quantity, unless the vendor providing additional consideration properly amends the contract, any amount above that rate or quantity may not be paid. In addition, any amendments must be completed prior to the vendor providing goods or services.

Recommendation/Requirement

The Board must properly review and compare the invoices for completeness and accuracy and compare them to the purchase order/contract to ensure that payments do not exceed the amounts authorized in the contract and that contracted services are provided.

Board Response

The Board will continue to compare the invoice and purchase order/contract to make sure that payments correspond with the amounts in the contract and services have been performed.

Purchase Order Created After Invoice

Finding

We identified nine purchase transactions where the Board created POs after the invoice was received. The Board stated it was an oversight.

With no PO issued to the vendor at the time the goods were ordered, it would be difficult for the Board to ensure that it was not overcharged or billed for goods or services beyond those the Board agreed to purchase.

According to Texas Administrative Code, Chapter 34, Section 5.51(c)(1)(D), it is the responsibility of the state agency and its officers to “ensure for each purchase document, the agency maintains necessary documentation for proving that each payment resulting from the document is legal, proper, and fiscally responsible.”

Recommendation/Requirement

While a formal purchase agreement is not always required, documentation of the agreement must be prepared at the time the goods or services are ordered from the vendor. Once the Board has made a final approved agreement with the vendor, the Board may not pay any amount in excess of the agreed-upon amount unless the agreement is amended due to the vendor providing a new benefit, i.e., consideration, to the Board.

Board Response

The Board has a formal requisition process in place. The requisition must be approved at three levels-the supervisor, the department director, and the budget analyst and only then will the PO process move forward to document the purchase agreement.

Incorrect Procurement Process

We identified nine instances where the Board did not use the correct procurement process as required by the *State of Texas Procurement Manual*. The Board did not use term contracts in four transactions and did not have supporting bidding documentation for the other five transactions.

Finding — Term Contracts Not Utilized

We identified four transactions where the Board did not utilize term contracts to purchase goods and services. The Board stated that it was unaware that these items were on the term contract.

State of Texas Procurement Manual, Section 2.6, Term Contracts states “In accordance with the delegations established by Texas Government Code Section 2155.132, and 34 Texas Administrative Code Sections 20.40 - 20.41, . . . state agencies are required to use the established term contracts for procurement of goods and services”.

Recommendation/Requirement

The Board must review the existing term contracts to determine if an item exists on the term contracts before procuring items. The term contracts can be viewed online at [TxSmartBuy](#).

The Board may inquire about registering for training related to this finding through the [Purchasing and Contracting Training and Certification](#) website.

Board Response

The Board has started using the Comptroller term contracts, if available for our specific needs. Our purchaser has registered for the Contract Manager training classes offered by the Comptroller of Public Accounts. We also have two other staff members that will be taking the Purchasing training class.

Finding — Bid and Evaluation Criteria Not Followed

We identified five transactions where the Board did not have documentation to prove that it followed procurement procedures by obtaining bids from multiple vendors and was missing bid tabulations.

The bid or proposal solicitation document is the first official evidence to the vendor community that an ordering entity intends to procure a good or service. The solicitation document serves as the official instructions explaining the ordering entity's requirements and how the vendor(s) will be selected. It is imperative that the agency include terms and conditions specific to the agency's solicitation, regardless of the type of solicitation document used. See Texas Administrative Code, Chapter 34, Section 20.35 and the [State of Texas Procurement Manual](#), Section 2.7.

The Board must use the open market informal solicitation method for all contracted services between \$5,000 and \$25,000. Open Market Formal Solicitation is used for agency-administered open market purchases of services greater than \$25,000 and for commodities if delegated by the Comptroller Statewide Procurement Division (SPD) or through statutory authority specific to an agency. See the [State of Texas Procurement Manual](#), Section 2.7.

Not obtaining bids from multiple vendors increases the risk of the Board paying more for services than necessary, and may also result in a more qualified vendor not being used.

Recommendation/Requirement

The Board must obtain bids from qualified vendors for all services exceeding \$5,000. It must ensure that all bids are tabulated and that documentation related to the procurement process is retained.

Board Response

The Board will obtain bids for services over \$5,000 and prepare a documentation file that contains bid responses. The main area where this was an issue was procuring a location to hold our Nursing Workshops. We are now working closely with the workshop staff to obtain the venues and services necessary to hold a public workshop.

Missing Procurement Documentation

We identified 30 instances where the Board could not provide the documentation necessary to support its procurement process:

- Six transactions did not have the required Department of Information Resources (DIR) exemption letter approving procurements outside of DIR contracts.
- One transaction did not have the State Procurement Division (SPD), formerly Texas Procurement and Support Services Division (TPASS), delegation letter for the procurement.
- Four transactions were missing proof that Centralized Master's Bidders List (CMBL) vendors were solicited.
- Five transactions did not meet the solicitation advertisement requirements for posting on the Electronic State Business Daily (ESBD).
- Thirteen transactions were missing System for Award Management (SAM) verification.
- One transaction was missing emergency justification letter.

Finding — Missing DIR exemption/SPD Delegation

Six transactions did not have the required DIR exemption letter approving procurements outside of DIR contracts and one transaction did not have the SPD delegation letter for the procurement.

Texas Government Code, Section 2157.068(i) requires state agencies to buy commodity items from DIR contracts unless the agency obtains an exemption from DIR. This statute is mandatory and not permissive.

For contracts greater than \$100,000, SPD has the discretion to make the procurement on behalf of the agency or allow the agency to make the procurement. If SPD allows the agency to make the procurement, it will send a delegation of purchase letter to the agency. See section 2.10 of the [State of Texas Procurement Manual](#). The Board stated that it was unable to locate the original documentation to support SPD inquiries and show that proper procedures were followed.

Recommendation/Requirement

The Board must ensure that it contracts for goods or services offered by a DIR-contracted vendor when a DIR-contracted vendor is available, or obtain a written exemption from DIR allowing it to use a non-contracted vendor.

The Board must contact the SPD division of the Comptroller's office whenever it estimates that a contract will exceed \$100,000. If SPD delegates the authority to the Board, the Board must obtain a delegation purchase letter from SPD.

Board Response

The Board is working closely with IT staff to make sure all IT related purchases are obtained from a DIR vendor if available or obtain a written exemption from DIR.

The Board will contact the SPD division when contracts are estimated to exceed \$100,000 and follow the required guidelines.

**Finding — Missing Centralized Master’s Bidders List (CMBL)
Solicitation Documentation**

We identified four transactions where the Board could not provide the documentation necessary to support its procurement process. The Board was unable to provide proof that Centralized Master’s Bidders List (CMBL) vendors were solicited. The Board stated it was unaware that these documents were missing from the contract file.

The CMBL is a database of registered vendors who have provided contact information, as well as a list of the goods and services they offer. Vendors pay a nominal annual fee to receive notification of opportunities for solicited commodities and/or services through an Invitation for Bid, Request for Proposal, Request for Offer or Request for Qualifications. Unless exempted by law, the CMBL must be used for all procurements subject to statewide procurement authority. The CMBL must also be used to gather information for noncompetitive procurement processes. Agencies must print out the awarded vendor’s CMBL profile showing the expiration date for file documentation. Proof that the CMBL system was checked prior to any award or contract renewal being made by state of Texas government entities must be maintained. See Texas Government Code, Sections 2155.263 and 2155.264, and Texas Administrative Code, Chapter 34, Section 20.34(g).

Recommendation/Requirement

To ensure adherence to the rules and laws that govern Texas’ procurement practices, all agencies and institutions of higher education must use the CMBL for all purchases, including services for which competitive bidding or competitive sealed proposals are required. The Board must maintain evidence that the CMBL vendors were contacted and include it in the contract file, as well as the bid tabulation that supports the contracted vendor selection.

Board Response

The Board will use the CMBL vendors listing when making purchases and maintain documentation for bid tabulation and vendor selection.

Finding — Missing Electronic State Business Daily (ESBD) Posting Documentation

We reviewed five contracts where the Board did not meet the solicitation advertisement requirements. The procurement file did not contain proof or verification of the posting on the ESBD for contracts over \$25,000. The Board stated that it was not able to locate documentation supporting the ESBD posting.

SPD requires each agency to post notices for all solicitations expected to exceed \$25,000 or more on ESBD. State agencies are required to advertise a complete solicitation package (including all parts, exhibits and attachments) for a minimum of 14 days or 21 days for procurements where the entire solicitation package cannot be posted if it is very lengthy or complex.

In accordance with Texas Government Code, Section 2155.083 and Texas Administrative Code, Chapter 34, Section 20.212, the requirement to advertise solicitations by posting on the ESBD applies to all purchases exceeding \$25,000 regardless of source of funds used for procurement. This requirement includes delegated purchases, emergency, construction projects, professional or consulting services, proprietary purchases or purchases exempt from Statewide Procurement purchasing authority.

Recommendation/Requirement — ESBD

The Board must strengthen its controls to ensure that any contract over \$25,000 is posted for the proper duration. Failure to post a qualifying purchase for the mandatory duration of time could void the entire contract.

Supporting documentation for a purchase must be made available in an audit to justify the validity of the payment. The Board must ensure it retains adequate supporting documentation for all expenditures prior to processing the payment.

Board Response

The Board will monitor any proposed contracts that may be over \$25,000 and post on the ESBD. Documentation will be maintained in the contract file.

Finding — Missing System for Award Management (SAM) Search Documentation

We identified 13 transactions where the Board did not provide the required SAM printouts dated prior to its respective contract awards. According to the Board, missing SAM printouts were an oversight based on time constraints of last-minute purchases. The Commission also stated that its procurement section has established, in coordination with the budget analyst and the CFO, a timeline with department directors for purchase requests, which should prevent any future findings.

Agencies must not award contracts to vendors who have been barred from contracting by the federal government. The SAM is the electronic database of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs that identified those vendors excluded throughout the U.S. government (unless otherwise noted) from receiving federal contracts or certain subcontracts and from certain types of Federal financial and non-financial assistance and benefits. The SAM system must be checked seven days prior to any award or contract renewal being made by state of Texas government entities. See [State of Texas Procurement Manual](#), Section 2.30.

Recommendation/Requirement-SAM

The Board must conduct a SAM search after bid tabulations. Because SAM may update these databases more than once in a 24-hour period, a final check of the Special Designated Nationals (SDN) listing must be made prior to any contract award to ensure the Board does not award contracts to any person or vendor whose name appears on the SDN list. A copy of the SAM search results from the specified website must be used as evidence of the vendor search being performed by the agency and must be included in the contract file.

Board Response

The Board is now checking the SAM database and including a print out in the voucher documentation.

Finding — Missing Emergency Justification Letter

We identified one transaction that was missing the emergency letter signed by the authorized agency representative. The Board explained that it was an oversight.

In a situation in which compliance with normal procurement practices is impractical or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to the state. Emergency purchases require a letter of justification signed by the purchasing director or an authorized representative as provided in the agency's procurement plan, documenting the emergency and at a minimum addressing the following:

- The nature of the emergency such as hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state, and what caused the emergency situation; and
- The estimated impact or damage, financial or otherwise, that will occur by following normal procurement practices (general statements of loss or nominal damage are not acceptable).

See [State of Texas Procurement Manual](#), Section 2.12.

Recommendation/Requirement

The Board must ensure that its emergency purchases are properly justified and that necessary supporting documentation for all emergency purchases is maintained in the purchasing file.

Board Response

The Board will follow procedures if emergency purchases are necessary and maintain the proper documentation.

Missing Payment Documentation

Finding

We identified three transactions where the Board could not provide the original purchase documentation. One transaction did not have a supporting PO, one transaction was missing the contract documentation, and one transaction did not have a receiving document. The agency explained that the documents have been lost.

Without these documents, we could not determine whether the original purchases were an allowable expense and whether the information entered into USAS was an accurate reflection of the intended purchases.

Proper documentation must be maintained to verify that the payments are valid as well as to maintain a proper audit trail.

As provided by Texas Administrative Code, Chapter 34, Section 5.51(c)(1)(D), it is the responsibility of a state agency and its officers and employees to ensure “for each purchase document, the agency maintains necessary documentation for proving that each payment resulting from the document is legal, proper, and fiscally responsible.”

Recommendation/Requirement

Supporting documentation for a purchase document must be made available in an audit to justify the validity of the payment. The Board must ensure that it has adequate supporting documentation for all expenditures prior to processing the payment.

Board Response

The Board will follow procedures for maintaining purchase documentation as required to justify payment.

DETAILED FINDINGS — TRAVEL

Airfare Not Charged to State Contract Travel Card

Finding

We identified five travel transactions where employee airfare was paid with a personal credit card instead being charged to a state issued travel credit card. The mandatory form of payment for all airline fares is the state issued corporate travel charge card account. The Board explained that the travelers made their own airline reservations and charged the airfare to their personal credit cards.

State Travel Card procedures state that contract travel services for airfare shall be charged to state travel credit cards. See Texas Administrative Code, Chapter 34, Section 20.308 (a).

Recommendation/Requirement

The Board must ensure that all of its future airfare service is charged to the state issued travel credit card.

Board Response

The Board requires airfare to be charged to the state issued travel credit card, unless the employee can provide documentation that the airfare they wish to purchase is discounted and would be a lower cost to the State.

Comptroller Response

Texas Administrative Code, Chapter 34, Section 20.308 (a) states that contract travel services for airfare shall be charged to state travel credit cards and does not provide any provision for discounted \lower costs. The Board will be non compliant if it allows employees to use their own credit card.

Reimbursement of Travel for Other Persons

Finding

We noted one travel reimbursement where one person paid for and was reimbursed for another person's expenses. In this instance, a board member paid and was reimbursed for a parking fee for two different vehicles. The Board explained that it did not notice the payment of a parking fee was not for the same vehicle and stated the other board member did not request a reimbursement for the cost of parking.

Employees, including board members, may only be reimbursed for travel expenses they personally incur.

Recommendation/Requirement

Each employee or board member may only be reimbursed for his or her own travel expenses. The Board should closely monitor its travel reimbursement requests in order to ensure that its employees and board members only receive reimbursement of allowable travel expenses.

Board Response

This was an oversight by the Board. We will continue to closely monitor the travel reimbursements.

DETAILED FINDINGS — EXPENDITURE APPROVAL

Control Weakness Over Expenditure Processing

Finding

As part of our planning process for the post-payment audit, we reviewed certain limitations that the Board placed on its accounting staff members' abilities to process expenditures. We reviewed the Board's security in USAS, USPS, Texas Identification Number System (TINS) and voucher signature cards that were in effect on Feb. 16, 2016. We did not review or test any internal or compensating controls that the Board may have relating to USAS, USPS or TINS security or internal transaction approvals.

The Board has three employees who can process and release payments through USAS, and can adjust payment instructions in TINS and approve paper vouchers. Two of those employees can also process and release payroll in USPS. The Board explained that due to its personnel limitations it had some overlapping responsibility, in its transaction approval process. The Board was provided with a schedule of this finding during fieldwork.

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 process transactions within the statewide systems without another person's involvement.

We ran a report to determine whether any of the Board's payment documents processed through USAS during the audit period because of the action of only one person. There were one USAS and three USPS documents that were either entered and approved, or altered and approved, by the same person without another person's electronic oversight. These documents resulted in payments totaling \$652,860.66. The documents were reviewed during the fieldwork phase of the audit and were determined to be valid expenditures. We provided the Board with a copy of this report during fieldwork.

Recommendation/Requirement

The Board should continue to 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 recommend that the Board change its current warning-preventive control to a fatal-preventive control in order to completely disallow the release of a document that the same individual entered or altered. See [USAS Accounting and Payment Control \(FPP B.005\)](#) about reducing risks to state funds.

Board Response

Due to the limited size of the Board's accounting department, separation of duties can sometimes be difficult. We do separate daily tasks to the greatest extent possible.

The Board will look into changing the expenditure preventive control to fatal, so that the same staff member cannot enter, alter and release a payment.

Employee Retained Ability to Expend Funds After Termination

Finding

During the audit period, the Board did not notify the Comptroller's office about the termination of one employee designated by the Board to approve its expenditures. The Board stated the error occurred due to an oversight.

The lack of timely notification meant the employee remained listed on the Board's voucher signature cards for 376 days after termination. The employee could have approved paper vouchers submitted to the Comptroller's office during that time. Any payment produced by a paper voucher approved under the employee's expired authority would have constituted an unapproved expenditure. We ran a report to determine whether any vouchers indeed were approved by the employee. There were no paper vouchers approved by the former employee after the employee's termination date.

Whenever a designated employee terminates employment with an agency, the Comptroller's office must receive notification of the employee's termination. See Texas Administrative Code, Chapter 34, Section 5.61(k). Any officer or employee may send the Comptroller's office notification of termination or revocation. See Texas Administrative Code, Chapter 34, Section 5.61(k)(3)(B). Additionally, this citation does not specify how the Comptroller's office must be notified about designated employees' terminations. Therefore, the Comptroller's office will accept emails, faxes, letters, memos or other writings in advance of the expiration date, as long as the writings indicate that the designated employee has terminated employment, had security revoked or will experience either a termination or a revocation in the near future, and the notification specifies the effective date of the termination/revocation.

Recommendation/Requirement

The Board must enhance its controls to ensure compliance with the preceding requirements. The Board must also ensure that the person responsible for sending these notifications to the Comptroller's office is aware of the designated employee's termination on or before the termination becomes effective and follow up with the Comptroller's office to ensure that the notification was received and the revocation occurred.

Board Response

This was an oversight by the Board. This employee was terminated from all online system access, however we did not realize this employee was on the signature card.