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Statewide Fiscal Services Dept.  
Expenditure Audit Section  
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Audit Report # 551-16-01  
October 25, 2016

# Post-Payment Audit of Texas Department of Agriculture



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## EXECUTIVE SUMMARY

### Audit scope

We audited a sample of the Texas Department of Agriculture (Department) payroll, purchase, travel and grant transactions that processed through the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS) during the period beginning June 1, 2014, through May 31, 2015, to determine compliance with applicable state laws.

The Department received appendices with the full report that included 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 Department should implement the recommendations listed in the Detailed Findings of this report. It is the Department'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 Department's documents comply in the future. The Department 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.

The audit identified:

- No issues were identified.

A limited sample of voluntary contributions was also audited.

- No issues were identified.

### Purchase transactions

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

The audit identified:

- Two contracts missing Central Master Bidders List (CMBL) solicitations.
- Purchase orders created after invoices in four transactions.

- Two transactions ignored a price discount offer.
- One transaction omitted a Texas Correctional Industries (TCI) waiver.
- Vendor performances on purchases of over \$25,000 not reported to Vendor Performance Tracking System (VTPS).
- Legislative Budget Board (LBB) contract reporting requirements are not followed.

### Grant transactions

A limited review of the Department's grant transactions consisted of verifying that payments did not exceed authorized amounts. The review of these payments did not include an investigation of the Department's procedures for awarding the grants or monitoring payments made to the payees; therefore, no opinion is being offered on those procedures. Grant transactions were also audited for compliance with the GAA, [eXpendit](#), the [State of Texas Procurement Manual](#), the [State of Texas Contract Management Guide](#) and other pertinent statutes.

The audit identified:

- Vendor performances on contracts over \$25,000 not reported to VTPS.
- LBB contract reporting requirements not followed.
- Five transactions over \$100,000 lacking Certified Texas Contract Manager (CTCM) / Certified Texas Procurement Manager (CTPM) direct oversight.

### Travel transactions

Travel transactions were audited for compliance with the GAA, [Texttravel](#) and other pertinent statutes. Our review identified minimal audit findings which were discussed during our exit conference meeting.

- No issues were identified.

### Prompt payment and payment scheduling transactions

We audited the Department's compliance with the prompt payment law and scheduling rules.

The audit identified:

- Seven purchase vouchers did not pay interest when due.
- Three purchase transactions were paid early.

### Security

The audit included a security review to identify any of the Department's employees with security in USAS, USPS 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 who retained the ability to expend funds after termination.
- Another employee retained system ability to expend funds after revocation.

As a routine part of our security review, we reviewed the Department's compliance with the requirement that all agency users of the Comptroller's statewide financial systems complete a Confidential Treatment of Information Acknowledgement (CTIA) form.

The audit identified the following issues:

- Department did not have the CTIA form for one employee.

### Internal control structure

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

- No issues were identified.

### Fixed assets

The audit included a limited number of fixed assets acquired by the Department during the audit period. Their physical existence and use for state business was verified.

- All assets tested were in their intended location and properly recorded in the State Property Account (SPA) System.

### Prior post-payment audit and current audit recurring findings

A prior post-payment audit of the Department's payroll, purchase and travel transactions was concluded on April 12, 2012.

During the current audit, no recurring findings were identified.

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## DETAILED FINDINGS — PURCHASE

### Missing Central Master Bidders List (CMBL) Solicitation

#### Finding

The Department did not perform a search on the CMBL of all eligible suppliers prior to awarding two contracts. The Department stated that due to an unintentional oversight they did not have the printed CMBL profile of all eligible suppliers dated prior to the date two contracts were awarded.

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 the authority of the Statewide Procurement division (SPD), formerly TPASS. The CMBL must also be used to gather information for non-competitive procurement processes and vendor performance data.

Agencies must print the awarded vendor's CMBL profile showing the expiration date for file documentation. See the [State of Texas Procurement Manual](#) (Procurement Manual) – The Procurement Cycle – CMBL. State of Texas government entities must obtain proof that the CMBL system was checked prior to any award or contract renewal. See Texas Government Code, Sections 2155.263-2155.264 and Texas Administrative Code, Chapter 34, Section 20.34(g).

#### Recommendation/Requirement

In an effort to ensure adherence to the rules and laws that govern Texas procurement practices, all agencies and institutions of higher education must utilize the CMBL for all purchases, including services, for which competitive bidding or competitive sealed proposals are required. A copy of the CMBL 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.

#### Department Response

*TDA agrees that it would have been better to have printed the screen when the CMBL was checked, in order to provide auditable proof that step was performed timely. TDA has since made changes to its file development process to include a contents listing that serves as a reminder of CPA requirements for CMBL documentation. Please note that this documentation concern did not negatively impact the accuracy of the payment.*

## Purchase Order (PO) Created After Invoice

### Finding

We identified four instances where the PO was created after the invoice was received. The Department's procedures mandate the creation of a PO before goods or services are ordered, but this common practice was not followed in these transactions. The Department could not provide an explanation for how these errors occurred, as the identified instances predated the current administration and documentation could not be located.

Without a PO with the vendor at the time the goods or services were ordered, it becomes difficult to ensure the Department was not overcharged or billed for goods or services beyond those it agreed to purchase beforehand. See Texas Administrative Code, Chapter 34, Section 5.51(c)(1)(D), which states that it is the general 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."

All state agencies must deliver a PO to their successful goods and services offerors. The PO needs to include the terms, conditions and specifications to which the vendor must comply in fulfilling its obligations to the agency as well as any vendor exceptions which have been accepted. The PO number must be referenced on all bills of lading, packing slips, back orders, invoices, and other transactional documents. See [Vendor Guide](#) – Procurement Cycle - Contract Administration / Receipt of Purchase Order or Notice of Award.

### Recommendation/Requirement

All agencies must ensure the PO requirements are followed. The documentation of the purchase agreement needs to be prepared at the time the goods or services are ordered from the vendor.

### Department Response

*TDA generally agrees that a PO should be issued prior to invoice. TDA does not have a contract management system, and the purchasing system does not have any type of tickler system for expiring contracts. These instances were for recurring subscriptions for IT software routinely sent at the start of a new service period. It typically does not obligate TDA until the renewal tender has been accepted, and the requisition timing did not negatively affect payment.*

*We do not have explanatory context for the incidents in this finding as they predate current administration. However, we have initiated a tracking spreadsheet with expiration dates that can be easily reviewed for requisitioning prior to receiving the subscription's initiating invoice.*

## Discount Not Taken

### Finding

The Department failed to take advantage of a three percent, 14-day discount offered by a vendor amounting to \$9,238.25 for two transactions. Both of the transactions were processed with a requested payment date of five days before the discount period expired. According to the Department, state and agency policies should have been followed, but were not followed by the existing staff as these instances occurred during the transitioning between administrations.

Texas Government Code, Section 2251.030(d) states, “A state agency, when paying for goods or services purchased under an agreement that includes a prompt or early payment discount, shall submit the necessary payment documents or information to the Comptroller sufficiently in advance of the prompt or early payment deadline to allow the Comptroller or the agency to pay the vendor in time to obtain the discount.” When a prompt payment discount is available, it is the agency’s responsibility to determine whether scheduling the payment or taking the discount is the greatest benefit for the state.

### Recommendation/Requirement

The Department should review all invoices upon receipt to determine if they include a discount. Prior to processing the payment, the Department should compare the cost/benefits of early payment versus scheduling payments. If the Department determines that the discount is most beneficial to the state, it should route the invoice promptly through its payment process. If the discount is not beneficial to the state, the Department should schedule the payment in accordance with early payment discounts on [eXpendit](#). The Department should retain the supporting documentation of the cost/benefit analysis in its files. The Department should request a refund from the vendor for the full amount of the discount.

### Department Response

*TDA agrees that discounts should be taken when available. TDA does not have a financial or other internal AP related system, but relies on USAS and spreadsheets for all of its analysis and scheduling of payments. TDA does not have a contract management system for easy access to payment terms and conditions. We do not know if the lack of automation contributed to the cited incidents as they predate current management. But, we assume that the prior administration was hampered by this deficiency as is the current administration.*

*TDA is scheduled to implement CAPPS in 2019. Until then, TDA has developed a contract repository on its shared network to make contracts accessible to all agency staff with contract management responsibilities.*

*TDA will also request a refund or credit from the vendor.*

## Missing Texas Correctional Industries (TCI) Waiver

### Finding

We identified one purchase for printing services that did not follow the required procurement procedures. The Department used outside vendors for printing services without obtaining bids from the TCI or state print shops. TCI and state print shops were not given an opportunity to bid because the Department violated proper procedures due to an oversight. The Department did not provide a waiver to support this transaction or documentation to authenticate using another vendor for the purchases.

The Prison Made Goods Act, Texas Government Code, Section 497.024, and Texas Administrative Code, Chapter 34, Section 20.41, pertaining to delegated purchases for less than \$5,000 require that agencies purchase goods made and services offered by TCI.

If the goods or services are acquired from a source other than TCI as outlined in its catalog, a state agency must obtain a waiver from TCI. In addition, a state agency is allowed to opt to use a state print shop as a secondary source, only if TCI is unable to complete the job or the agency can show evidence that best value can be achieved by using another vendor. As a next step, if and only when state print shops are unable to complete a task efficiently and after formally obtaining a waiver, the Department may utilize outside vendors. See the [Procurement Manual](#), Section 2.5.2 – TCI - Texas Department of Criminal Justice (TDCJ) Institutional Division.

### Recommendation/Requirement

The Department must follow the procedures outlined in the *Procurement Manual* for these services. The Department must ensure that if a product or service is offered by TCI, but the agency opts to purchase it from a source other than TCI, a waiver from TCI is obtained and made a part of the particular procurement process file.

### Department Response

*TDA agrees with the recommendation and uses the state printing procedures. This incident was on behalf of a agriculture producer's group needing printed ballots for an organization vote. The vendor had been used for a similar producer vote in the past and was familiar with the balloting requirements. The next time ballots were needed, TDA treated this purchase like its internal printing jobs, and was able to obtain a more competitive price through the state's printing services process.*

*The amount of the invoice (\$6,378.76) was the correct amount paid, and the purchase was funded by the producer group. There was no impact to state finances for this administrative error.*

## Prompt Payment and Payment Scheduling Errors

### Finding

#### Prompt Payment

According to the prompt payment law, Texas Government Code, Section 2251.021(a), 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, Section 2251.026.

During the audit period, the Department paid vendors \$9,130.89 in prompt payment interest. In our sample, we identified seven purchase transactions that were paid late but interest of \$1,994.26 was not paid to the vendors as well as one purchase transaction where the interest was underpaid by \$46.76 because incorrect dates were recorded in USAS. According to the Department, state and agency policies should have been followed, but were not by the existing staff when processing the payments.

#### Payment Scheduling

Texas Government Code, Section 2155.382(d), 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 three purchase transactions where the Department paid early, resulting in interest loss to the State Treasury of \$66.38. The Department was unable to provide an explanation as the identified instances predated the current administration and documentation could not be located.

#### Recommendation/Requirement

The Department 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 Department must verify that proper due dates are entered to ensure that, if interest is due, it is paid correctly to vendors. See [eXpendit](#) – Prompt Payment and FPP I.005. Also, to minimize the loss of earned interest to the State Treasury, the Department must follow prompt payment law and schedule all payments that are greater than \$5,000 for the latest possible distribution and in accordance with its purchasing agreements as described in [eXpendit](#) – Payment Scheduling.

**Department Response**

*TDA agrees with the recommendation, and while we do not have context for the errors made prior to this administration, recent retirement/turnover by Accounts Payable (AP) staff has provided the opportunity to restructure the team lead/coordinator roles for more effective processing. Work flow adjustments to the AP workload also provides more time for staff processing of invoices.*

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## DETAILED FINDINGS — PURCHASE & GRANTS

### Failure to Report to the Vendor Performance Tracking System (VPTS)

#### Finding

The Department failed to report contracts and purchases over \$25,000 to Statewide Procurement division (SPD), formerly TPASS, VPTS either as part of its purchase or grant procedural operations due to omission.

The SPD administers a vendor performance tracking system for use by all ordering agencies per Texas Administrative Code, Chapter 34, Section 20.108. VPTS relies on participation by ordering agencies to gather information on vendor performance. All agencies “shall report vendor performance on purchases over \$25,000 from contracts administered by the SPD or any other purchase over \$25,000 made through delegated authority granted by SPD. Ordering entities are also encouraged to report vendor performance for purchases under \$25,000.” The requirement also calls for the provision of supporting documentation. The Vendor Performance Form (VPF) is submitted electronically, by the agency, utilizing the SPD Web Applications Portal. See the [State of Texas Procurement Manual](#) – The Procurement Cycle – Contract Administration / Vendor Performance.

#### Recommendation/Requirement

The Department must begin reporting contracts and purchases to VPTS in order to be able to identify vendors demonstrating exceptional performance, aid purchasers in making a best value determination based on vendor past performance, protect the state from vendors with unethical business practices, identify vendors with repeated delivery and performance issues, provide performance scores in four measurable categories for CMBL vendors, and track vendor performance for delegated and exempt purchases. See the [Contract Management Guide](#) – Contract Close-out and Grant Close-out.

#### Department Response

*TDA agrees with the recommendation, and is developing an internal process for reporting information from contract managers in program areas to purchasing staff who are responsible for reporting to the VPTS system.*

*It is important to note that grantee performance under award agreements is monitored in the program areas, and in some circumstances reported as a performance measure to the Legislative Budget Board.*

## Failure to Report to the Legislative Budget Board (LBB)

### Finding

The Department stated that it had not been reporting grant award contracts to LBB either as part of its purchase or grant procedural operations.

According to the General Appropriations Act (GAA), section 7.04(c), “a state agency or institution of higher education shall report to the Legislative Budget Board in the manner prescribed by the Legislative Budget Board all contracts to which the agency or institution was a party during the prior fiscal year.” This requirement applies to all contracts greater than \$50,000.

### Recommendation/Requirement

The Department must begin reporting grant award contracts and purchases to the LBB in order to be in full compliance with section 7.04 of the GAA and the LBB [Contract Reporting Guide](#).

### Department Response

*TDA agrees with the recommendation, and reports its purchasing contracts through its Automated Budget and Evaluation System of Texas (ABEST), the LBB’s repository for contracts.*

*Purchasing: Prior to 2015, purchasing contracts were not consistently present in ABEST. Purchasing staff present in 2013-14 said that the LBB upgrade to its contract database resulted in some inadvertent gaps between TDA’s archived contracts and re-entry of renewals. TDA has since undertaken identification of any contracts not in ABEST but currently active, and has entered them into ABEST. To further reduce risks of incomplete submission, TDA has also sought clarification on reporting contracts negotiated and executed by other agencies such as the Texas Facilities Commission, on behalf of TDA, and has reviewed reports for expenditures over \$50,000 as an additional quality assurance activity.*

*Grants: TDA had not been reporting grant awards through ABEST at the time of the audit fieldwork but current program management has assured that grant agreements for 2015 have been entered and the entry process will continue going forward.*

## No Certified Texas Contract Manager (CTCM) or Certified Texas Procurement Manager (CTPM) on Staff

### Finding

We identified grant-related contracts of over \$100,000 where the Department failed to have both a CTCM and a CTPM on staff with direct oversight due to omission. The Department stated that it does not have a certified contract or procurement manager as part of its grant division staff. The particular procurement process conditions of each grant contract shapes the requirements the Department has to follow in order to determine the level of training, experience, and certification of its grant workers.

The state of Texas requires that contract management personnel be trained and certified to the extent required by SPD. See Texas Government Code, Sections 2262.052 – 2262.0535. A grant coordinator is a person employed by a state agency and has procurement and/or contract management duties as determined by the agency in consultation with the state auditor. See the [State of Texas Procurement Manual](#) – Training & Certification, for State Auditor’s Office classifications as a reference to help identify those employees who must receive SPD procurement and/or contract management training.

### Recommendation/Requirement

The Department must employ necessary staff to provide administrative support and monitor grant contracts and agreements. The Department must also ensure that the agency’s grant employees complete the training required by state law. SPD offers a variety of training and certification opportunities. See the [State of Texas Procurement Manual](#), Section One – Procurement Authority.

### Department Response

*TDA agrees that training and monitoring requirements should be met.*

*CTCM: At the time of the audit, TDA had difficulty in obtaining CTCM training for all contract management positions due to the high demand for CPA training across all state agencies. Some key program staff in TDA’s grant programs have now taken the required contract management training and others are in the process of registering/taking training as it becomes available.*

*CTPM: Purchases of goods or services with grant funds are requisitioned through TDA Purchasing, which has certified purchasing staff. The Contract Management Guide (Chapter 6 - Contract Formation) recognizes that granting funds for a public purpose is not in the nature of a procurement by stating that the grant-specific section of the Guide prevails over procurement requirements, and directs staff to the Uniform Grant Management Standards and applicable federal or state grant funding source law/regulation. While grant awards are not purchases, TDA uses the same purchasing approval system for grant agreements as for procurement contracts. This system allows TDA to leverage its certified purchasing and contract management staff for a more cost-effective grant oversight and administration.*

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## DETAILED FINDINGS — SECURITY

### Employees Retained Ability to Expend Funds After Termination / Confidential Treatment Information Acknowledgment (CTIA) Form Missing

#### Finding

During the audit period, the Department did not notify the Comptroller's office about the revocation of one employee and the termination of another designated by the Department to approve its expenditures. The Department stated these errors represent oversights.

The lack of timely notification meant these two employees retained USAS security for one day after revocation and seven days after termination, respectively. The employees could have approved expenditures submitted to the Comptroller's office during that time. Any expenditure that was approved under the employee's expired authority would have constituted an unapproved expenditure. We ran a report to determine whether any expenditure was approved by either or both of these two employees. There were no expenditures submitted by them after the revocation and termination dates. When an employee's authority to approve an agency's expenditures is revoked for any reason, the employee's USAS security profile must be changed not later than the effective date of the revocation or termination to prevent the employee from executing electronic approvals for the agency past the employee's actual employment date. See Texas Administrative Code, Section 5.61(k)(5)(A)-(B).

An agency must notify the Comptroller's office whenever a designated employee switches jobs or terminates employment. See Texas Administration 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, 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 revocation or termination in the near future, and the notification specifies the effective date of the revocation and termination.

As a routine part of our security review, we evaluated the Department's compliance with the requirement that all agency users of Comptroller statewide financial systems must complete a CTIA form. When a new user needs access to Comptroller statewide financial systems, the agency's security coordinator must first have the user read and sign the CTIA form. A reviewing official also signs the form, which the agency's security coordinator keeps on file for as long as the user has access to the systems, plus five years. In our review, we identified one CTIA form missing.

### Recommendation/Requirement

The Department must enhance its controls to ensure compliance with the system users' revocation and termination requirements. The Department must also ensure that the person responsible for sending these notifications to the Comptroller's office is aware of the designated employee's revocation and termination on or before the revocation and termination becomes effective and follow through with the Comptroller's office to ensure that both the notification is received and the revocation and termination is timely, taking into account any special circumstances.

The Department should enhance its procedures to ensure that no user gains access to the statewide financial systems without a timely and properly completed CTIA form. As a result, the Department should immediately have the employee whose form is missing sign a new one.

### Department Response

*TDA agrees that systems access control is critical for reducing the risk of unauthorized access and, that however small, even one or two delayed requests presents a risk.*

*Human Resources sends an email to areas without processing responsibilities, and to further reduce risk, TDA improved its help desk ticket system. Notification, receipt, tracking and closure of requests is now more visible and efficient. As backup, Information Resources added a hard copy tickler system maintained in a secure file cabinet.*

*The missing CITA form has been replaced.*