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Statewide Fiscal Services Dept.
Expenditure Audit Section
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Post-Payment Audit of the Texas Commission on Law Enforcement



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EXECUTIVE SUMMARY

Audit scope

We audited a sample of the Texas Commission on Law Enforcement (Commission) payroll, purchase and travel transactions that processed through the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS) during the period beginning Dec. 1, 2015, through Nov. 30, 2016, to determine compliance with applicable state laws.

The Commission 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 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 Comptroller's office may take the actions set forth in Texas Government Code, Section 403.071(h), to ensure that the Commission's documents comply in the future. The Commission 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.

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:

- Missing statutory authority for purchase.
- Missing receiving documentation.
- Purchase order created after invoice.
- Procurement process not used.

Travel transactions

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

The audit identified:

- Incorrect travel reimbursement.

Prompt payment and payment scheduling transactions

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

The audit identified:

- Interest loss to the State Treasury.
- Interest not paid.

Security

The audit included a security review to identify any of the Commission's employees with security in USAS, the Texas Identification Number System (TINS) 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 the ability to expend funds after termination/authority expired.

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 employee could pick up warrants from the Comptroller's office and approve vouchers.
- One employee could process and release payments through USAS.
- One employee could process and release payroll.

Direct deposit authorization form

A review was conducted of the Commission's procedures to comply with the federal mandate to properly identify and handle payments involving moving funds internationally.

The audit identified:

- One instance where the vendor failed to indicate whether the funds would be forwarded to a financial institution outside the United States.

Fixed assets

The audit included a limited number of fixed assets acquired by the Commission during the audit period. Their physical existence and use for state business was verified. All assets tested were in their intended location.

- No issues were identified.

Prior post-payment audit and current audit recurring finding

A prior post-payment audit of the Commission's payroll, purchase and travel transactions was concluded on July 27, 2012.

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

- Controls over expenditure processing.

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DETAILED FINDINGS — PURCHASE

Missing Statutory Authority for Purchase

Finding

We identified three transactions where the Commission did not have the legal authority to purchase promotional items. The Commission was of the opinion that it had the necessary authority to procure promotional items but could not provide documentation to substantiate that these purchases were necessary to fulfill its duties.

The distribution of promotional items at the Annual Conference for Law Enforcement appears to involve promotion or advertising the Commission. However, the Commission may not use appropriated funds in this manner because the agency does not have express or implied authority to spend appropriated funds on promotional items or advertising. See [eXpendit – Statutory Authority for Purchases](#). In addition, this activity does not appear to further a legitimate public purpose that justifies the use of public funds for private gain. See [Article III, Section 51, Texas Constitution](#) and [Attorney General Opinion JC-0350 \(2001\)](#).

Recommendation/Requirement

The Commission must update its policies and procedures to ensure that it does not purchase goods or services that it does not have the statutory authority to purchase or that do not appear to further a state purpose connected with the Commission's statutory responsibilities.

Commission Response

Since the audit, the agency has stressed the importance of not purchasing items that may be considered promotional. Policies and procedures will be updated to ensure compliance.

Missing Receiving Documentation

Finding

We identified six purchase transactions missing documentation to verify receipt of goods purchased. The Commission was unable to locate the documents needed to support the payments.

Without proper documentation, we could not determine whether the information entered into USAS was an accurate reflection of the intended purchases made. Proper documentation must be maintained to verify that payments are valid and to ensure a proper audit trail.

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

Supporting documentation must be made available to the Comptroller's office in the manner required. The types of supporting documentation that the Comptroller's office may require include purchase orders, requisitions, contracts, invoices and receipts. See [34 Texas Administrative Code Section 5.51\(e\)\(2\)-\(3\)](#).

Recommendation/Requirement

The Commission must ensure that no payment is made without sufficient supporting documentation. The Commission must also ensure that it creates and maintains supporting documentation for audit review. The Commission should review and update its procedures for maintaining proper supporting documentation for all purchases.

Commission Response

The agency agrees and has created a standardized receiving document. This document is utilized when a receiving document such as a packing slip is not received or when a service is received to document which goods/services were received and when.

Purchase Order Created After Invoice

Finding

We identified four instances where the purchase order (PO) was created after the invoice was received. The Commission's procedures mandate the creation of a PO before goods or services are ordered, but this practice was not followed in these instances due to an oversight.

Without a PO with the vendor at the time the goods or services were ordered, it becomes difficult for the vendor to ensure that the state agency obtained precisely the goods or services it agreed to purchase beforehand. See [34 Texas Administrative Code, 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 that 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 PO is not always required, documentation of the agreement must be prepared at the time the goods or services are ordered from the vendor. The PO must include the terms, conditions and specifications with which the vendor must comply in fulfilling its obligations to the agency, as well as any vendor exceptions that have been accepted. The PO identification number must be referenced on all bills of lading, packing slips, back orders, invoices and other transactional documents.

Commission Response

The agency agrees. We will ensure that documentation of the agreement is created at the time the goods or services are ordered from the vendor.

Procurement Process Not Used

We identified one transaction where the Commission did not use the procurement process as required by the [State of Texas Procurement Manual](#). The following items were missing from the contract file:

- Proof that Centralized Master Bidders List (CMBL) vendors were solicited.
- Supporting bid documentation.
- Missing System for Award Management (SAM) search documentation.
- Missing Electronic State Business Daily (ESBD) posting documentation.

Finding – Missing CMBL Solicitation Documentation

We identified one transaction where the Commission could not provide the documentation necessary to support its procurement process. The Commission was unable to provide proof that CMBL vendors were solicited. The Commission stated it was aware that the documentation related to the procurement process is retained. The Commission also stated that it was an emergency purchase done years ago, for the initial procurement, for which it appears the bidding process was followed. However, the Commission failed to follow the procurement process for future purchases when it was time for a new contract.

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 the awarded vendor's CMBL profile showing the expiration date for file documentation. See [State of Texas Procurement Manual](#), Section 2.24. 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 [34 Texas Administrative Code Section 20.107 \(b\) and \(c\)](#).

Recommendation/Requirement

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 Commission 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.

Commission Response

The agency agrees. We will ensure that the CMBL is utilized for all goods/services that require competitive bidding. Additionally, the agency will ensure the maintenance of bid tabulations, SAM searches, ESBD documentation and other supporting bid documentation.

Agency staff will receive purchasing training available through the Comptroller of Public Accounts.

Finding – Bid and Evaluation Criteria Not Followed

We identified one contract where the Commission did not have documentation to prove that it followed procurement procedures by obtaining bids from multiple vendors and was missing bid tabulations. The Commission stated it was aware that it must ensure all bids are tabulated and documentation related to the procurement process is retained. The Commission also stated that it was an emergency purchase done years ago, for the initial procurement, for which it appears the bidding process was followed. However, the Commission failed to follow the procurement process for future purchases when it was time for a new contract.

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.

The Commission 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 Statewide Procurement Division or through statutory authority specific to an agency. See [State of Texas Procurement Manual](#), Section 2.7.

Not obtaining bids from multiple vendors increases the risk of the Commission paying more for a good or service than necessary, not selecting the best good or service or the most qualified provider the market can offer.

Recommendation/Requirement

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

Commission Response

The agency agrees. We will obtain bids for all services exceeding \$5,000 for which there is not an existing contract available through the Council on Competitive Government, Comptroller of Public Accounts or the Department of Information Resources.

Agency staff will receive purchasing training available through the Comptroller of Public Accounts.

Finding – Missing System for Award Management Search

We identified one transaction where the Commission did not provide the required SAM search printouts dated prior to its respective contract awards. The Commission stated it will ensure printouts are performed and documented in the procurement file, which should prevent future findings. The Commission also stated that it was an emergency purchase done years ago, for the initial procurement, for which it appears the bidding process was followed. However, the Commission failed to follow the procurement process for future purchases when it was time for a new contract.

Agencies must not award contracts to vendors who have been barred from contracting by the federal government. 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 purchase, award or contract renewal being made by state of Texas government entities. See [State of Texas Procurement Manual](#), Section 2.30.

Recommendation/Requirement

The Commission must conduct a SAM search prior to any purchase, award or contract renewal. Since 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 Commission 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 and must be included in the contract file.

Commission Response

The agency agrees that a SAM search must be conducted prior to a purchase, contract award, or contract renewal. We will ensure that SAM searches are completed and retained.

Finding – Missing ESBDB Posting

We identified one transaction where the Commission did not meet the solicitation advertisement requirements. The procurement file did not contain proof or verification of the posting on the ESBDB for contracts over \$25,000. The Commission also stated that it was an emergency purchase done years ago, for the initial procurement, for which it appears the bidding process was followed. However, the Commission failed to follow the procurement process for future purchases when it was time for a new contract.

SPD requires each agency to post notices for all solicitations expected to exceed \$25,000, or more on ESBDB. State agencies are required to advertise a complete solicitation package (including all parts, exhibits and attachments) for a minimum of 14 or 21 days for procurements where the entire solicitation package cannot be posted if it is very lengthy or complex. See [State of Texas Procurement Manual](#), Section 2.23.

In accordance with [Texas Government Code, Section 2155.083](#) and [34 Texas Administrative Code Section 20.110](#), the requirement to advertise solicitations by posting on the ESBDB 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

The Commission 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 Commission must ensure it retains adequate supporting documentation for all expenditures prior to processing the payment.

Commission Response

The agency will ensure that solicitation advertisement requirements will be met and further ensure adequate documentation is retained.

Agency staff will receive purchasing training available through the Comptroller's office.

DETAILED FINDINGS — TRAVEL

Incorrect Travel Reimbursement

Finding

We identified three instances where travel reimbursements were incorrectly processed. One traveler was reimbursed the wrong amount for mileage and was underpaid by \$10.85. Another traveler was reimbursed the wrong amount for meals on two separate occasions. The traveler was overpaid \$22 and \$24. The Commission did not detect the errors when processing the travel reimbursement. According to the Commission, these errors were due to oversights.

Agencies must ensure that all travel reimbursements are examined prior to payment to ensure compliance with all applicable regulation and limitations. See [Texttravel](#) – Agency Responsibilities.

Recommendation/Requirement

The Commission should caution its employees and approval staff to verify that all totals submitted for reimbursement are correct. The Commission must obtain a reimbursement from the overpayment to the traveler. In addition, a payment should be processed for the underpayment unless it's determined it is not cost effective to do so.

Commission Response

The agency agrees. Employees and approval staff will verify that totals submitted for reimbursement are correct. The agency is assessing the cost effectiveness of a reimbursement or the processing of an underpayment.

DETAILED FINDINGS — PROMPT PAYMENT AND PAYMENT SCHEDULING ISSUES

Prompt Payment

Finding

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 Commission paid vendors \$14.10, of prompt payment interest.

In our sample, we identified one transaction that was paid late but interest was not paid to the vendor totaling \$27.50. According to the Commission, this error occurred due to an oversight.

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 Treasury.

We identified eight transactions where the Commission paid early, resulting in interest loss to the State Treasury of \$38.56. According to the Commission, these errors occurred due to an oversight.

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 any interest due 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, for the latest possible distribution and in accordance with its purchasing agreements as described in [eXpendit](#) — Payment Scheduling.

Commission Response

The agency agrees. We will ensure the timely submission of payment processing and payment release actions to avoid incurring interest liabilities.

Agency staff will receive training available through the Comptroller's office on prompt payment and payment scheduling.

DETAILED FINDINGS — SECURITY

Failure to Notify Comptroller to Remove Employee from Signature Card

Finding

During the audit period, the Commission failed to notify the Comptroller's office timely about the termination of one Commission employee designated to approve its expenditures. The request to remove the employee from the signature card was sent 1,571 days late. This means that the former employee could have approved paper vouchers that were submitted to the Comptroller's office during that time. Any payment produced by a paper voucher that was approved by the terminated employee would have constituted an unapproved expenditure. We researched our archived files and determined no unapproved documents were processed during the audit period. The Commission has procedures to notify the security coordinator of personnel actions. In these instances, the security coordinator did not follow procedures.

Whenever a designated employee 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. Any officer or employee may send the Comptroller's office that notification. See [34 Texas Administrative Code Section 5.61\(k\)\(3\)\(B\)](#).

Recommendation/Requirement

The Commission must ensure compliance with the terminated employee security revocation requirements. It must also ensure that the person responsible for sending the revocation notifications to the Comptroller's office is aware of the employees' terminations on or before the dates the revocations become effective, and follows up with the Comptroller's office to ensure receipt of the notification and that the revocation occurred.

Commission Response

The agency has a form for all exiting employees to ensure that all access is revoked in a timely manner. The agency will ensure compliance with terminated employee security revocation requirements, and also ensure that the person responsible for sending the revocation notifications to the Comptroller's office is aware of employee terminations on or before the dates the revocation become effective, and follow up with the Comptroller's office to ensure receipt of the notifications and the revocation occurred.

DETAILED FINDINGS — INTERNAL CONTROL

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 accounting staff's ability to process expenditures. We reviewed the Commission's security in USAS, USPS, TINS and voucher signature cards that were in effect on April 16, 2017. We did not review or test any internal or compensating controls that the Commission may have relating to USAS, USPS or TINS security or internal transaction approvals.

The Commission has one employee who can process and release payments through USAS, pick up warrants from the Comptroller's office, approve paper vouchers and process and release payroll in USPS without oversight. The Commission explained that due to its accounting staffing limitations it had some overlapping responsibility in its transaction approval process. The Commission 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 possible. Ideally, no individual should be able to process transactions within the statewide systems without another person's involvement.

We ran a report to see whether any of the Commission's payment documents were processed through USAS during the audit because of the action of only one person; no issues were identified.

Recommendation/Requirement

To reduce risks to state funds, agencies should have controls over expenditure processing that segregate each accounting task to the greatest extent practicable. Ideally, no individual should be able to process transactions without another person's involvement.

We strongly recommend that the Commission implement the following recommendations:

1. The Commission must limit access at the time it is set up (96A screen) by limiting user access to either enter/change vouchers or release/approve batches.
2. The Commission should elect to have the document tracking control edit on the Agency Profile (D02) set to either:
 - Prevent a user from releasing a batch that the same user entered or altered for the agency
 - OR–
 - Warn the user when the same user attempts to release his or her own entries or changes. See [USAS Accounting and Payment Control \(FPP B.005\)](#).

3. The Commission must work with Comptroller's Statewide Fiscal Systems Security staff to set up user profiles that separate the entry and approval of payroll transactions in USPS.
4. The Commission must limit user access by removing the user from the Agency Authorization for Warrant Pickup list or by removing the ability to release/approve vouchers in USAS from the user.

Commission Response

The agency will utilize the document tracking control edit on the Agency Profile (D02) set to warn the user when the same user attempts to release their own entries in accordance with USAS Accounting and Payment Control FPP B.005.

The agency will additionally review access at the time of set up on the 96A screen as well as a review of Agency Authorization for Warrant Pickup.