



An Audit of the Texas Department of Licensing and Regulation

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Executive Summary

Purpose and Scope

The objectives of the Texas Department of Licensing and Regulation (Department) audit were to determine whether:

- Contracts were procured according to applicable state laws and Comptroller requirements.
- Payments were processed according to applicable state laws, Comptroller requirements and statewide automated system guidelines.
- Documentation to support those payments was appropriately maintained.
- Capital and high-risk assets were properly recorded.
- Appropriate security over payments was implemented.

This audit was conducted by the Texas Comptroller of Public Accounts (Comptroller's office), and covers the period from March 1, 2017, through Feb. 28, 2018.

Background

The Department's governing board, the Texas Commission of Licensing and Regulation, is composed of seven members appointed by the governor with the consent of the Texas Senate. The Department serves as the oversight agency for a wide range of occupations, businesses, facilities and equipment to ensure Texans are served by qualified professionals.

Texas Department of Licensing
and Regulation website



<https://www.tdlr.texas.gov/>

Audit Results

The Department generally complied with the General Appropriations Act (GAA), relevant statutes and Comptroller requirements. Auditors found no issues with refunds of revenue transactions, system security or property management processes. However, the Department should consider making improvements to its payroll, purchase and contracting, travel and internal control structure.

The auditors reissued two findings from the last audit conducted at the Department related to missing documentation and internal control structure. Auditors originally issued these findings in April 2014. An overview of audit results is presented in the following table.

Table Summary

Area	Audit Question	Results	Rating
<u>Payroll Transactions</u>	Did payroll transactions comply with the GAA, pertinent statutes and Comptroller requirements?	One employee was underpaid longevity pay.	Compliant, Findings Issued
<u>Purchase/ Procurement Transactions</u>	Did purchase transactions comply with the GAA, pertinent statutes and Comptroller requirements?	One payment card transaction missing statutory authority for the purchase.	Compliant, Findings Issued
<u>Travel Transactions</u>	Did travel transactions comply with the GAA, pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none"> • Three instances of lack of conservation of state funds. • One early check-in fee not payable. 	Compliant, Findings Issued
Refunds of Revenue	Did refunds of revenue comply with the GAA, pertinent statutes and Comptroller requirements?	No issues	Fully Compliant
<u>Contract Transactions</u>	Did contract transactions comply with all pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none"> • Noncompliance with procurement method selection. •  Missing procurement and contract documentation. • Incorrect amount paid. 	Compliant, Findings Issued
Security	Did all system access over payment comply with all the Comptroller security guidelines?	No issues	Fully Compliant
<u>Internal Control Structure</u>	Are duties segregated to the extent possible to help prevent errors or detect them in a timely manner and help prevent fraud?	<ul style="list-style-type: none"> •  Two employees with overlapping security access for multiple duties. 	Compliant, Findings Issued
Fixed Assets	Were tested assets in their intended location and properly reported in the State Property Accounting System?	No issues	Fully Compliant



Repeat Finding



Key Recommendations

Auditors made several recommendations to help mitigate risk arising from control weaknesses. Key recommendations include:

- The Department must make the required leave accrual adjustments and compensate the employee for the underpayment of longevity pay. In addition, the Department must continue to review the payroll/personnel records for all current and new employees to ensure any prior state service is properly verified and documented to prevent incorrect payments of longevity pay.
- The Department must update its policies and procedures to ensure that it does not purchase goods or services that it does not have statutory authority to purchase. The Department must reimburse the state's treasury for the funds expensed without legal authority.
- The Department must ensure its expenditures are fiscally responsible and allowable, accurately select applicable procurement methods, obtain proper delegation of purchasing authority and adhere to state procurement practices.
- The Department should maintain appropriate documentation and perform applicable reviews, procurement activities verifications as required by the [*State of Texas Procurement and Contract Management Guide*](#).
- The Department must properly review and compare the invoices for completeness and accuracy, and compare them to the contract to ensure that payments do not exceed the amounts authorized in the contract. Any amendments to the original contract must be documented.
- To reduce risks to state funds, the Department should continue to review the controls over expenditure processing and segregate each accounting task to the maximum extent possible.



Detailed Findings

Payroll Transactions

Auditors developed a representative sample from a group of 25 employees involving 90 payroll transactions totaling \$309,841.50 to ensure the Department complied with the GAA, the [Texas Payroll/Personnel Resource \(FPP F.027\)](#) and pertinent statutes. Additionally, a limited sample of 10 voluntary contribution transactions were audited. Audit tests revealed the following exceptions in the payroll transactions.

Incorrect State Effective Service Date/Longevity Payments

Auditors identified one employee with a missing Prior State Service Verification form. The employee was identified in a report generated outside the sample that listed prior state service. This resulted in an incorrect state effective service date and longevity underpayment of \$160. The employee had disclosed the previous employment to the Department.

When an agency hires an employee, the agency must research whether the employee has prior state employment. If prior employment exists, the agency must confirm the amount of lifetime service credit and properly record it or risk incorrectly paying longevity pay. Also, an employee may receive longevity pay for the month in which he or she has accrued 24 months of lifetime service credit only if the employee's anniversary falls on the first day of the month. Otherwise, the employee begins receiving longevity pay on the first of the following month. See [Texas Payroll/Personnel Resource – Non-Salary Payments – Longevity Pay](#).

Per the Department, the human resources and payroll officer usually audits the Prior State Verification forms submitted by employees against the application submitted by the employee. This instance was an oversight. As a result of the audit, the Department requested a Prior State Service Verification form and corrected its internal system to reflect the accurate state effective service date.

Auditors provided the Department with the schedule of incorrect longevity payment amounts during fieldwork. This is not included with this report due to confidentiality concerns.

Recommendation/Requirement

The Department must make the required leave accrual adjustments and compensate the employee for the underpayment of longevity pay. In addition, the Department must continue to review the payroll and personnel records for all current and new employees to ensure any prior state service is verified and documented to prevent incorrect payments of longevity pay.



Department Response

As a part of the onboarding process, new employees are given a Prior State Service form to be completed where they list all agencies or institutions of higher education they have been employed with. This information is compared to their application work history. Additionally, the new State of Texas Employment History Application is utilized for verification of any applicable state service. The required leave accruals and employee compensation were completed Sept. 3, 2018.

Purchase/Procurement Transactions

Auditors developed a representative sample of 15 purchase and procurement transactions totaling \$895,242.08 to ensure the Department complied with the GAA, [eXpendit \(FPP I.005\)](#), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. Additionally, the audit included a review of payment card transactions. Audit tests revealed the following exceptions in the purchase transactions.

Missing Statutory Authority for Purchase

In a report generated outside of the sample, auditors identified one transaction totaling \$990 where the Department paid for a team building exercise held at an escape room venue without legal authority. The team building expense was for 18 attendees. The Department stated that the purchase was an oversight.

The Department must have specific or implied statutory authority to make a purchase for a good or service. The Department has implied statutory authority to purchase a good or service only if it is necessary for the Department to fulfill its specific statutory duties. See [eXpendit – General Provisions – Statutory Authority for Purchases](#).

Recommendation/Requirement

The Department must update its policies and procedures to ensure that it does not purchase goods or services that it does not have statutory authority to purchase. The Department must reimburse the state's treasury for the funds expended without legal authority.

Department Response

TDLR has Standard Operating Procedures in place that address allowable/legal authority of purchases. Additionally the associated policy states "Contracting and Procurement Services will follow a purchase order creation process that is compliant with the rules and regulations set forth in the State of Texas Procurement and Contract Management Guide." Significant turnover in this area is providing opportunity for new training on policies and procedures. The reimbursement of the payment has not been completed yet. TDLR is working with the Comptroller's office to get the procedures for performing this type of transaction.



Travel Transactions

Auditors developed a representative sample of 25 travel transactions totaling \$3,674.95 to ensure the Department complied with the GAA, [eXpendit](#), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. Audit tests revealed the following exceptions in the travel transactions.

Lack of Conservation of State Funds

Auditors identified three transactions within the sample where the Department did not conserve state funds when reimbursing employees for mileage incurred.

In the first instance, the Department reimbursed the traveler for approximately 33.55 more miles incurred than what the online mapping service showed based on the employee's itemization. Per the Department, every traveling employee is spot checked on mileage calculations at least once a year. The Department stated that it is unable to check 100% because that would require an additional FTE. In the second instance, the employee was driven to and from a car rental facility in a personal car by a family member to pick up and drop off a rental car. The Department reimbursed the employee for miles incurred by the family member driving the personal car to the residence after the drop off. Per the Department, this was an oversight during the review of processing payment and the employee did not understand then that mileage could be claimed only when he was in the vehicle. In the third instance, the Department reimbursed the traveler for the longest route shown in the online mapping service without a justification noted on the employee's travel voucher. Per the Department, they were unaware of the requirement for employee justification.

[Texas Government Code, 660.007\(a\)](#) requires a state agency to minimize the amount of travel expenses paid or reimbursed by the agency. The agency must ensure that each travel arrangement is the most cost effective considering all relevant circumstances. Agencies must ensure that all travel reimbursements are examined before payment to ensure compliance with all applicable regulations and limitations. See [Textravel – General – Responsibilities](#).

Recommendation/Requirement

The Department must exercise caution in its use of state funds and ensure its expenditures are fiscally responsible. The Department should update its policies and procedures to implement a cost analysis policy to ensure it uses the most cost efficient method of travel.



Department Response

Travel policies and procedures will be updated to reflect Texas Government Code Section 660.007 and requirements of conserving state funds. TDLR will continue training employees on all policies and procedures related to travel, in addition to monitoring expenditures for fiscal responsibility during the internal prepayment auditing process. Comprehensive updates to new policies and procedures will go into effect Sept. 1, 2019.

Early Check-In Fee Not Payable

Auditors identified one transaction within the sample and one transaction outside the sample where the Department reimbursed an employee who claimed two early check-in fees for a commercial airline. The Department allows the use of early check-in fees by industrialized housing and buildings inspectors. The Department initially pays for the expenses using state appropriated funds and then seeks travel expense reimbursement from the manufacturer that requested the inspection. Per the Department, it contacted the Comptroller's office and was told that it was up to the Department to make the determination to reimburse the employee, and that the traveler would have to be able to prove the state received a benefit or it was a necessary expense. However, the Department should have a policy in place justifying the practice and emphasizing the benefit in view of the expense. The Department provided documentation supporting the travel expense reimbursement by the manufacturer. However, the initial expense was still made from state appropriated funds and therefore the disbursement was subject to state expenditure laws.

[Texas Government Code, 660.007\(a\)](#) requires a state agency to minimize the amount of travel expenses paid or reimbursed by the agency. The agency must ensure that each travel arrangement is the most cost effective considering all relevant circumstances.

Recommendation/Requirement

The Department must exercise caution in its use of state funds and ensure its expenditures are fiscally responsible. The Department should update its policies and procedures to ensure it does not reimburse employees for travel expenses it does not have statutory authority to pay.

Department Response

Travel policies and procedures will be updated to reflect the reimbursement of travel expenses, indicating unauthorized charges may not be paid by the Department. TDLR will continue training employees on all policies and procedures related to travel, in addition to monitoring expenditures for fiscal responsibility during the internal prepayment auditing process. Comprehensive updates to new policies and procedures will go into effect Sept. 1, 2019.



Refund of Revenue Transactions

Auditors developed a representative sample of three refund of revenue transactions totaling \$6,725 to ensure the Department complied with the GAA, [eXpendit](#) (FPP 1.005), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. Audit tests revealed no exceptions for this group of transactions.

Contract Transactions

Auditors selected two contracts totaling \$851,101 for review of the Department's postcard printing and mail services and program migration services. Auditors developed a representative sample of seven contract payments from both contracts totaling \$167,120.25 to ensure that the Department complied with the GAA, [eXpendit](#), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. Audit tests revealed the following exceptions in the contract transactions.

The [State of Texas Procurement and Contract Management Guide](#) provides a framework for navigating the complexities of Texas procurement law, and offers practical, step-by-step guidance to ensure agencies acquire goods and services in an effective and efficient manner.

Noncompliance with Procurement Method Selection

In the contract for mailing and printing services, the Department failed to select the proper procurement method when drafting the solicitation. The solicitation was drafted as a Request for Offer (RFO) when it should have been an Invitation for Bid (IFB) or a Request for Proposal (RFP). The Department also included the National Institute of Governmental Purchasing (NIGP) codes related to the mailing portion of the procurement but failed to include the NIGP codes applicable to the printing portion of the procurement. According to the Department, using "offer" instead of "proposal" was likely an editing mistake not intended to modify the actual procurement method. In addition, the Department noted that the purchase category code used for the purchase was not one that would be used for an RFO.

The most commonly used competitive procurement methods are IFB, RFO, RFP and Request for Qualifications (RFQ). There are certain advantages and disadvantages to every procurement method, and it is necessary to consider them in the context of what is being procured. When drafting the solicitation, the contract developer must be careful to ensure that the solicitation aligns with the applicable procurement method. See [State of Texas Procurement and Contract Management Guide](#) – Procurement Method Determination – Solicitation Process.



The importance of selecting the proper procurement method cannot be overstated. The correct procurement method must be identified early in the procurement process. If an incorrect procurement method is selected, the purchase may not result in best value to the state and will most likely be more expensive and less efficient than if the correct method were used, and, in the worst case, may result in a void contract that must be resolicited. See the [State of Texas Procurement and Contract Management Guide](#) – Procurement Method Determination – Procurement Method Identification Process. In addition, lack of NIGP codes describing the intended purchase could lead to the agency advertising the proposal to an incomplete or incorrect Centralized Master Bidders List (CMBL).

Recommendation/Requirement

The Department must follow procurement procedures to accurately and effectively select the procurement method that best achieves the identified business requirements and procurement objectives. The Department must also ensure all NIGP codes applicable to the purchase are included in the procurement method determination process to ensure all vendors listed in the CMBL that provide the goods or services are notified of the upcoming procurement opportunity.

Department Response

TDLR has Standard Operating Procedures (SOP) in place that address procurement method selection along with a flow chart which guides staff on delegated authority and purchase method.

Additionally the associated policy states "Contracting and Procurement Services will follow a purchase order creation process that is compliant with the rules and regulations set forth in the State of Texas Procurement and Contract Management Guide."

The [State of Texas Procurement and Contract Management Guide](#) describes the following most commonly used competitive procurement methods:

- **IFB** – Generally used for routine purchases in which products and services are standardized or uniform. Negotiations are not allowed if there is more than one responsive bidder and contract award is generally based on lowest bidder who met all specifications. Failure to use this method could potentially lead to more complex evaluations, greater lead times for procurement, and best value not based on lowest bid.
- **RFO & RFP** – RFOs are generally used for information technology and telecommunications purchases. RFPs are generally used for all other complex purchases. Negotiations are allowed under both methods and contract award is generally made on the best value based on considerations in addition to price. Failure to use these methods could potentially lead to the exclusion of innovative ideas, customized proposals, and negotiations.
- **RFQ** – Generally used for professional services. Contract awards based solely on the vendor's skills and qualifications; price is not a factor until after vendor is selected. Failure to use this method could potentially lead to awarding a vendor who does not meet the competency and experience required.



The Department's SOP currently indicates the requirement of purchasers to finalize sourcing strategies. This process lends itself to ensuring qualifying data such as the NIGP codes are accurately included.

Significant turnover in this area is providing opportunity for new training on policies and procedures.

Missing Procurement and Contract Documentation

For both contracts, the Department did not provide the specific required procurement documentation noted below. The Department indicated that its purchasers were not trained by their previous team lead to perform formal solicitations or other administrative tasks needed to document their compliance with purchasing rules and statutes. In addition, procurement processes followed were documented by annotating a quality assurance checklist. The Department also indicated it could not locate other procurement documentation due to oversight and because the documentation was maintained by an individual who no longer works for the Department.

Per the Department, it began printing documentation showing evidence of the procurement process and preserving time stamps as of Sept. 1, 2017. The Department also stated that it further refined the documentation requirements using the Master Contract File Checklist in the [State of Texas Procurement and Contract Management Guide](#) as of June 4, 2018.

Missing Delegation of Purchase Authorization

The contract file for the mailing and printing services was missing the Comptroller's Statewide Procurement Division's (SPD) delegation of purchase letter, which is required for any contracted service over \$100,000. According to the Department, this was an oversight.

Agencies do not have delegated authority for the procurement of services with an estimated purchase price or contract value exceeding \$100,000. For such contracts, the submission of a delegation request and its solicitation through the Procurement Oversight and Delegation portal is mandatory. See the [State of Texas Procurement and Contract Management Guide](#) – SPD Review and Delegation Process – Delegation Request for Services Exceeding \$100,000. Agencies are also required to adhere to [Texas Government Code, Chapter 2155](#).

Recommendation/Requirement

The Department must obtain proper delegation of purchasing authorization for the service contracts that are in excess of its delegated authority. Unless the Department receives such delegation in writing from SPD, it should not proceed with the solicitation because such contract may be rendered voidable.



Department Response

TDLR has Standard Operating Procedures (SOP) in place that address delegated authority along with a flow chart which guides staff on delegated authority and purchase method. Additionally the associated policy states "Contracting and Procurement Services will follow a purchase order creation process that is compliant with the rules and regulations set forth in the State of Texas Procurement and Contract Management Guide."

The Texas Procurement and Contract Management Guide, which provides a checklist of procurement requirements, shall be referenced prior to the commencement of any procurement activities.

Missing CMBL Solicitation Documentation

Neither contract file contained evidence that the Department sent the solicitation to all vendors on the CMBL for the advertised commodity codes. The Department provided an email showing the solicitation announcement without the vendor email addresses for the first contract and indicated that the vendors were blind copied to maintain compliance with privacy regulations regarding email addresses. According to the Department, the solicitation announcement for the second contract was missing from the electronic file.

Centralized Master Bidders List (CMBL)

The CMBL is a database of registered vendors that includes contact information and a list of the goods and services each offers. 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 and to gather information for noncompetitive procurement processes and vendor performance data.

Agencies must maintain the solicitation announcement in the procurement file showing all vendors on final bid list receiving the announcement. See the [State of Texas Procurement and Contract Management Guide](#) – Solicitation – Advertisement. Proof that the CMBL system was checked before any award or contract renewal by Texas state government entities must be obtained. See [Texas Government Code, Section 2155.263-2155.264](#).

Recommendation/Requirement

To adhere to the rules and laws that govern state procurement practices, all agencies and institutions of higher education must use the CMBL for services requiring competitive bidding or competitive sealed proposals. The Department must maintain evidence that the CMBL vendors were contacted and include it in the contract file.



Department Response

TDLR has Standard Operating Procedures (SOP) in place that address procurement method selection along with a flow chart which guides staff on delegated authority and purchase method. Additionally the associated policy states "Contracting and Procurement Services will follow a purchase order creation process that is compliant with the rules and regulations set forth in the State of Texas Procurement and Contract Management Guide."

The procurement section is responsible for obtaining all required documentation prior to awarding any orders for goods or services. Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Missing Record of Bid Proposal Receipts

The contract file for the mailing and printing services did not contain evidence of timely and complete receipt of proposals during the bid process. Responses must be received on or before the due date and time designated in the solicitation. To ensure fairness to all respondents, no submitted responses should be opened or reviewed before the due date and time has passed. See the [State of Texas Procurement and Contract Management Guide](#) – Solicitation – Receipt and Control of Responses. Without evidence of when proposals were received, auditors could not determine if the proposals were opened in a fair and timely manner. According to the Department, these documents were missing from the electronic file.

Recommendation/Requirement

The Department must conduct a managerial review immediately after the proposal deadline for the contract. The review should include a check for records of proposal receipts indicating time and date.

Department Response

TDLR has Standard Operating Procedures that address bid receipt and evaluation. The purpose of this procedure is to ensure that all contracting, procurement, and purchasing activities follow a documented standardized process that is subject to regular review and quality control checks.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.



Missing Required Disclosure Statements

The contract file for the mailing and printing services did not contain non-disclosure agreements and conflict of interest forms signed by the procurement and contract management personnel and the evaluation committee. According to the Department, the disclosure forms were missing from the electronic file.

[Texas Government Code, Section 2261.252\(a\)](#) states that each state agency employee or official who is involved in procurement or in contract management for a state agency must disclose to the agency any potential conflict of interest specified by state law or agency policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor by the agency.

Additionally, [Texas Government Code, Section 2261.252\(a-1\)](#) requires a state agency employee or official to disclose any potential conflict of interest specified by state law or agency policy that is known by the employee or official at any time during (1) the procurement process, from the initial request for bids for the purchase of goods and services from a private vendor until the completed final delivery of the goods or services, or (2) the term of a contract with a private vendor.

In order to safeguard the integrity of the evaluation process, individuals serving on an evaluation committee or as technical advisors must sign a non-disclosure agreement before receiving the responses or participating in evaluation committee activities. The agency must also conduct a due diligence inquiry into the evaluation committee members' and technical advisors' actual and potential conflicts of interest related to the submitted responses. See the [State of Texas Procurement and Contract Management Guide](#) – Non-Disclosure Agreements and Conflict of Interest Disclosures.

It is best practice for the Non-Disclosure and Conflict of Interest Certification for Contract Developers and Purchasers to be signed on a regular basis. When the certification must be signed on a periodic basis (e.g., every fiscal year, calendar year, and employment date anniversary) may vary according to each agency's policy. See the [State of Texas Procurement and Contract Management Guide](#) – Appendix 3 – Required Disclosures.

Recommendation/Requirement

The Department must follow procurement procedures to ensure that procurement and contract management personnel as well as the evaluation committee members or technical advisors complete and sign non-disclosure agreements and conflict of interest disclosures before engaging in procurement or evaluation committee activities.



Department Response

TDLR has Standard Operating Procedures that address non-disclosure and conflict of interest forms. It specifically states, "all staff are required to complete the Non-Disclosure Agreement and Conflict of Interest form before participating in any evaluation activities." TDLR also follows the Texas Procurement and Contract Management Guide, which provides a checklist of required documents that shall be referenced prior to the commencement of procurement activities.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Missing Administrative Review of the Responses

The contract file for the mailing and printing services did not contain evidence that the Department completed an administrative review of the responses. According to the Department, the documentation is missing from the electronic file.

After the responses are opened and recorded, the contract developer must determine whether the submitted responses are responsive to the solicitation. Only responses that are responsive to the solicitation are evaluated. The administrative review is conducted on a "pass/fail" basis. It is recommended that the contract developer use a checklist to document the results of the administrative review. See the [State of Texas Procurement and Contract Management Guide](#) – Vendor Selection – Administrative Review of Responses.

Recommendation/Requirement

The Department must follow procurement procedures to ensure an administrative review of the responses is completed. The Department should maintain the administrative review documentation as part of the contract file.

Department Response

TDLR has Standard Operating Procedures that address administrative review, specifically stating, "The Contract Developer performs an administrative review of the bids to determine responsiveness. It is performed as a 'pass/fail' with results documented on a checklist."

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.



Missing Vendor Historically Underutilized Business (HUB) Plan Review

Agencies considering entering into a contract expected to exceed \$100,000 are required, before soliciting bids, proposals, offers or any other applicable expression of interest, to determine whether subcontracting opportunities are probable under the contract. See the [State of Texas Procurement and Contract Management Guide](#) – Appendix 30. If such opportunities are available, the agency's solicitation documents are required to convey that probability and require a HUB subcontracting plan (HSP).

The contract file for the mailing and printing services contained the vendors' HSPs submitted with their proposals, but did not include documentation of the Department's review of the HSPs before awarding the contract. [34 Texas Administrative Code Section 20.285\(e\)](#) requires an HSP to be reviewed and evaluated prior to contract award. If accepted, the plan becomes a provision of the state agency's contract. Review of the HSP is not intended to affect the score of one vendor's proposal against another. However, reviewing the HSP ensures each vendor has made (or plans to make) a good-faith effort to contribute to state HUB contracting goals. Documentation of this review shows the agency considered the vendor's HSP and made a determination of the vendor's good-faith efforts to consider HUBs and subcontracting, even if the vendor chooses not to subcontract. Without the review, auditors could not be sure good faith was established at the time the contract was awarded. According to the Department, the documentation was missing from the electronic file.

Recommendation/Requirement

The Department must abide by the procurement procedures in the [State of Texas Procurement and Contract Management Guide](#) section on HSP requirements to determine whether subcontracting opportunities are probable under the contract. If so, that probability must be clearly stated and the Department must require a HSP. The Department must enhance its procurement process to ensure adequate documentation is maintained to meet all procurement requirements.

Department Response

TDLR has Standard Operating Procedures that addresses intent of HUB opportunity. It specifically states, "TDLR actively promotes sourcing strategies that increase HUB vendor participation in agency purchases. Purchaser is required to provide 'best effort' to meet all HUB requirements in the State Guide and agency HUB goals." In addition, the administrative review process includes the check and evaluation of a HUB Subcontracting Plan if applicable to the procurement.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.



Missing Evaluation Committee Requirements

The contract file for the mailing and printing services did not contain evidence that the Department's evaluation committee completed a quality control review on the bid tabulation/master evaluation score sheet, nor that approval for contract award was given before awarding the contract. According to the Department, the documentation was missing from the electronic file.

Once the evaluation process is completed, the committee chair prepares, signs and dates the master scoring matrix, and recommends to either award the contract to the highest-ranked respondent without discussion, tentatively award the contract to the highest-ranked respondent subject to successful completion of negotiations, or cancel the solicitation. It is recommended that each committee member review the master scoring sheet to verify its accuracy. Care should be taken to ensure that the raw data is accurately transcribed into the mathematical formulas and that the mathematical formulas are properly loaded into electronic spreadsheets and workbooks when such electronic aids are used. See the [State of Texas Procurement and Contract Management Guide](#) – Evaluation Committee Recommendation.

Recommendation/Requirement

The Department must follow procurement procedures and update its policies and procedures to ensure evaluation committee members perform a quality control review and approve a contract award. The Department should maintain the quality review and approval documentation as part of the contract file.

Department Response

TDLR has Standard Operating Procedures that address quality control reviews. The purpose of the procedure is to ensure that all contracting, procurement, and purchasing activities follow a documented standardized process that is subject to regular review and quality control checks.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Missing Vendor Performance Tracking System Check

Neither contract file contained evidence that the Department evaluated vendor performance reports in the Vendor Performance Tracking System (VPTS) before awarding the contracts. The Department indicated that for the first contract the pre-award check occurred but was documented by annotating a quality assurance checklist. According to the Department, the VPTS check on the second contract was missing from the electronic file.



Reviewing the vendor performance report before awarding a contract allows the Department to identify vendors that have exceptional performance and met all their contract obligations, and it protects the state from vendors with unethical business practices. The Department must include information from the on-line VPTS to evaluate vendors before awarding a contract. See [Texas Government Code 2262.055\(d\)](#) and [34 Texas Administrative Code Section 20.217\(a\)](#). The Department must consider all the information collected and evaluated prior to awarding a contract.

Recommendation/Requirement

The Department should ensure that vendor performance reports are evaluated before awarding a contract. A dated copy of the review results from the specified website must be retained as evidence and included in the procurement file.

Department Response

TDLR has Standard Operating Procedures that address vendor performance tracking system checks. As part of the administrative review, the Contract Developer is required to include the vendor performance reviews. This process is completed prior to contract award.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Missing Vendor Compliance Verifications

In the contract for program migration services, the Department was unable to provide a complete checklist of vendor compliance verification (VCV) documents. There was no documentation of debarment check, System for Award Management (SAM) check, or the warrant payment hold check. The Department must provide a screen print documenting verification. According to the Department, the verifications were completed but compliance was documented by annotating a quality assurance checklist.

The Department must check the [Debarred Vendor List](#) to establish that a vendor has not been debarred by the SPD. An agency may not award a contract to a debarred vendor, according to [Texas Government Code, Section 2155.077](#).

Additionally, the purchaser must check the SAM database before any purchase, award or contract renewal to verify that the vendor is not excluded from grant or contract participation at the federal level. Since SAM may update these databases more than once in a 24-hour period, a copy of the SAM search results from the specified website must be retained and included in the contract file. A contract cannot be awarded to a vendor named on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons. See [Presidential Executive Order 13224](#).



The purchaser must also check vendor warrant hold status if the transaction involves a written contract, if payment is made with local funds, or if a payment card purchase is over \$500. For transactions involving a written contract, the warrant hold check must be performed not earlier than the seventh day before and no later than the date of contract execution. Although payments made through the Uniform Statewide Accounting System (USAS) are automatically checked for holds, this does not relieve the Department from conducting the warrant hold status check, in accordance with [Texas Government Code, Section 2252.903](#). See the [State of Texas Procurement and Contract Management Guide](#) – Warrant/Payment Hold Check.

Recommendation/Requirement

The Department must conduct each VCV search before any purchase, contract award, extension or renewal. Results from each specified website must be retained as evidence and included in the procurement file.

Department Response

TDLR has Standard Operating Procedures that address vendor compliance verifications. The procedure specifically states, "Prior to finalizing the vendor selection, purchasers must perform pre-award 'Vendor Compliance Verifications' on all purchases. See Page 85 of the PCMG for links and further information. Compliance with the verifications is determined by screen prints maintained in the purchase order file."

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Incorrect Amount Paid

Auditors identified one transaction in which the Department paid for printing services at a rate higher than the contracted rate due to oversight.

When a state agency and a vendor agree to a certain rate or quantity, any amount above the rate or quantity may not be paid unless the contract is amended by the vendor providing additional consideration. In addition, any amendments must be completed before the vendor provides goods or services. The [State of Texas Procurement and Contract Management Guide](#), Contract Management – Contract Manager Responsibilities states that the contract manager is responsible for ensuring contract requirements are satisfied, goods and services are delivered in a timely manner, and the financial interests of the agency are protected.



Recommendation/Requirement

The Department must review and compare the invoices for completeness and accuracy, and compare them to the contract to ensure that payments do not exceed the amounts authorized in the contract. Any amendments to the original contract must be documented.

Department Response

TDLR has Standard Operating Procedures that address contract payments and contract budget monitoring. The purpose of the procedure is to ensure that all contract related payment requests are properly processed and paid in accordance with the Texas Prompt Payment Act and the State of Texas Contract Management Guide. This includes reviewing payment requests against terms of the contract and established budgets. During the contract budget monitoring process, if it is determined that projected costs may exceed the established budget, an amendment to the contract can be recommended.

Purchasing is required to scan applicable documents and attach them to designated folders within the division's shared drives.

Security

The audit included a security review to identify Department 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. Audit tests revealed no security exceptions.

Internal Control Structure

The review of the Department's internal control structure was limited to obtaining reports identifying current users' access. The review did not include tests of existing mitigating controls. Audit tests revealed the following exceptions in user access.

Control Weakness over Expenditure Processing

As part of the planning process for the post-payment audit, auditors reviewed certain limitations that the Department placed on its accounting staff's ability to process expenditures. Auditors did not review or test any internal or compensating controls that the Department might have relating to USAS or the Texas Identification Number System (TINS) security or internal transaction approvals.



The Department had one employee who could enter and release payment vouchers in USAS, create and update vendor profiles and direct deposit information in TINS and approve paper vouchers. Another employee could pick up warrants from the Comptroller's office and approve paper vouchers. The Department received a schedule of this finding during fieldwork. The Department stated that these issues occurred as on oversight.

Auditors ran a report to determine if any of the Department's payment documents processed through USAS during the audit period because of the action of only one person. There were no documents that processed without oversight.

As a result of the audit, on Aug. 8, 2018, the Department submitted a security request to the Comptroller's office to change the first employee's TINS access to PTINS02, inquiry only access. On the same date, the Department also submitted an updated Agency Authorization for Warrant Pickup list to the Comptroller's office requesting the second employee's removal.

Recommendation/Requirement

To reduce risks to state funds, The Department should continue to review the controls over expenditure processing and segregate each accounting task to the maximum extent possible. Ideally, no individual should be able to process transactions without another person's involvement.

Department Response

The items identified in the audit have been resolved. Careful consideration is given when access changes are initiated to ensure appropriate controls are maintained.

Additionally, a semiannual verification of users' security access levels is performed.

Fixed Assets

The audit included a review of a limited number of fixed assets acquired by expenditures during the audit period to test for proper tracking in the Department's internal system. All assets tested were in their intended location and properly tagged.



Appendices

Appendix 1 — Objectives, Scope, Methodology, Authority and Team

Audit Objectives

The objectives of this audit were to:

- Ensure payments are documented so a proper audit can be conducted.
- Ensure payment vouchers are processed according to the requirements of any of the following:
 - Uniform Statewide Accounting System (USAS),
 - The Uniform Statewide Payroll/Personnel System (USPS),
 - The Standardized Payroll/Personnel Report System (SPRS) or
 - The Human Resource Information System (HRIS).
- Verify payments are made in accordance with certain applicable state laws.
- Verify assets are in their intended locations.
- Verify assets are properly recorded for agencies and institutions of higher education that use the State Property Accounting (SPA) system.
- Verify voucher signature cards and systems security during the audit period are consistent with applicable laws, rules and other requirements.

Audit Scope

Auditors reviewed a sample of the Texas Department of Licensing and Regulation (Department) payroll, purchase and travel transactions that processed through USAS and USPS during the period from March 1, 2017, through Feb. 28, 2018, to determine compliance with applicable state laws.

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

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.

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.



Audit Methodology

The Expenditure Audit section uses limited sampling to conduct a post-payment audit.

Fieldwork

Each auditor in the Expenditure Audit section approaches each audit with an appropriate level of professional skepticism based on the results of the initial planning procedures.

If an auditor suspects during an audit that fraud, defalcation or intentional misstatement of the facts has occurred, the auditor will meet with his or her supervisor, the Statewide Fiscal Oversight manager, or both, to decide what action or additional procedures would be appropriate.

Audit Authority

State law prohibits the Comptroller's office from paying a claim against a state agency unless the Comptroller's office audits the corresponding voucher.

- Texas Government Code, Sections 403.071(a), 403.078, 2103.004(a)(3).

State law allows the Comptroller's office to audit a payment voucher before or after the Comptroller's office makes a payment in response to that voucher.

- Texas Government Code, Section 403.071(g)-(h).

In addition, state law authorizes the Comptroller's office to conduct pre-payment or post-payment audits on a sample basis.

- Texas Government Code, Sections 403.011(a)(13), 403.079, 2155.324.

Audit Team

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Appendix 2 — Definition of Ratings

Compliance Areas

Definition	Rating
Agency complied with applicable state requirements and no significant control issues existed.	Fully Compliant
Agency generally complied with applicable state requirements; however, control issues existed that impact the agency's compliance, or minor compliance issues existed.	Compliant, Findings Issued
Agency failed to comply with applicable state requirements.	Noncompliant
Restrictions on auditor's ability to obtain sufficient evidence to complete all aspects of the audit process. Causes of restriction include but are not limited to: <ul style="list-style-type: none">Lack of appropriate and sufficient evidentiary matter.Restrictions on information provided to auditor.Destruction of records.	Scope Limitation

Internal Control Structure/Security Areas

Definition	Rating
Agency maintained effective controls over payments.	Fully Compliant
Agency generally maintained effective controls over payments; however, some controls were ineffective or not implemented. These issues are unlikely to interfere with preventing, detecting, or correcting errors or mitigating fraudulent transactions.	Control Weakness Issues Exist
Agency failed to effectively create or implement controls over payments.	Noncompliant

Repeat Finding Icon Definition



This issue was identified during the previous post-payment audit of the agency.