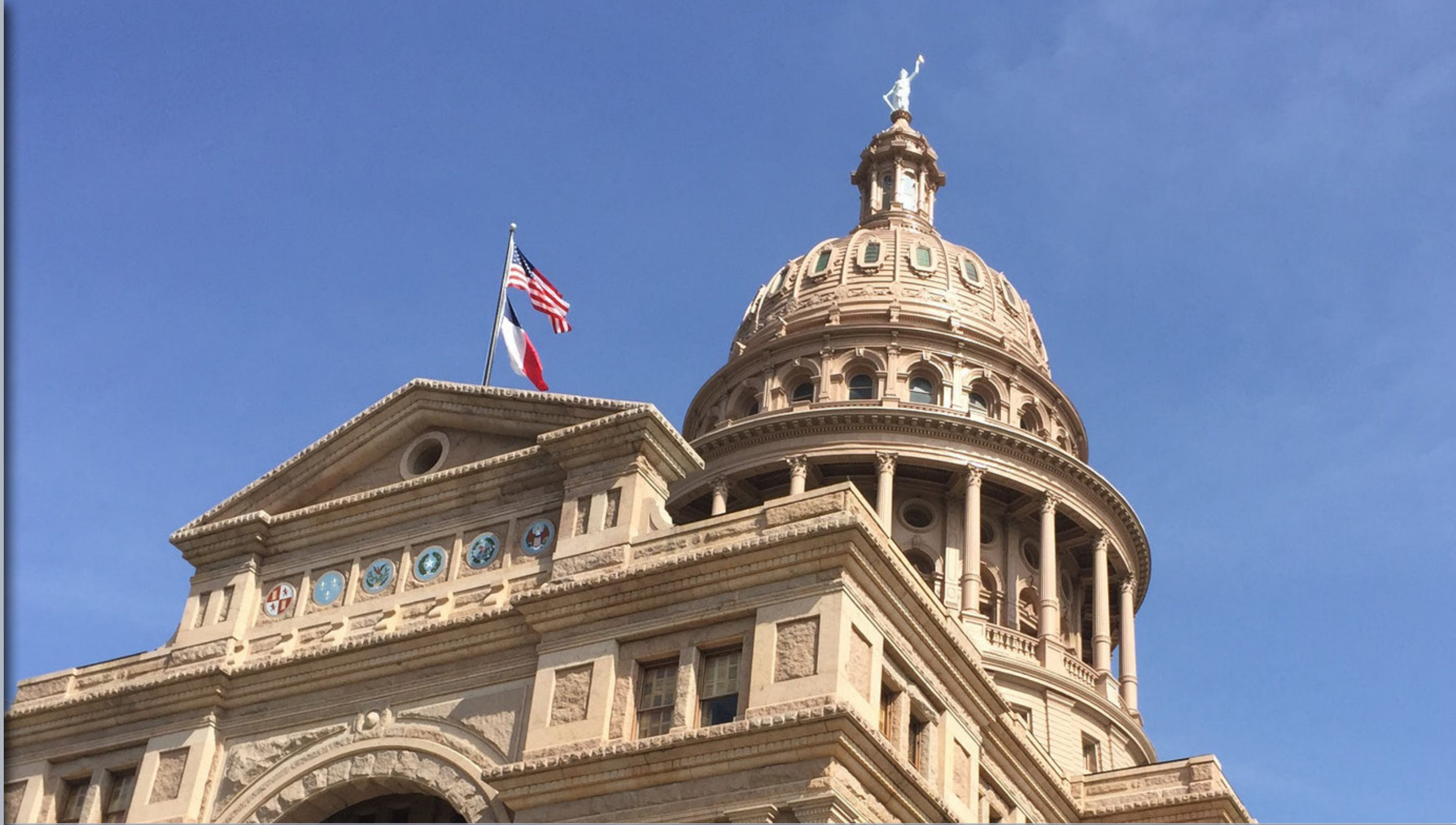

An Audit of the Texas Facilities Commission

Audit Report # 303-19-13

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Texas Comptroller of Public Accounts

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Executive Summary

Purpose and Scope

The objectives of the Texas Facilities Commission (Commission) 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 Dec. 1, 2017, through Nov. 30, 2018.

Background

The Texas Facilities Commission is the real estate representative for the state of Texas for purchasing buildings, grounds and property. The Commission holds title to and is responsible for these state assets. The statutory responsibilities for the Commission are:

- Strategic planning for state facility needs.
- Planning and assigning office space to departments of state government.
- Designing and constructing facilities for state agencies.
- Providing office space for state agencies through leasing services.
- Maintaining state-owned facilities in a secure and cost-efficient manner.
- Providing various support services to state agencies.

Texas Facilities Commission website
http://www.tfc.state.tx.us

Audit Results

The Commission generally complied with the General Appropriations Act (GAA), relevant statutes and Comptroller requirements. Auditors found no issues with property management records or systems security. However, the Commission should consider making improvements to its payroll, travel, contracting and internal control processes.

Auditors reissued one finding related to incorrect or incomplete direct deposit authorization forms from the last audit conducted at the Commission in November 2015. An overview of audit results is presented in the following table.

Table Summary

Area	Audit Question	Results	Rating
Payroll Transactions	Did payroll transactions comply with the GAA, pertinent statutes and Comptroller requirements?	• Missing prior state service verification. • Missing voluntary payroll deduction authorization documentation.	Compliant, Findings Issued
Travel Transactions	Did travel transactions comply with the GAA, pertinent statutes and Comptroller requirements?	• Missing travel documentation. • Noncompliance with the Commission's internal travel advance policy.	Compliant, Findings Issued
Purchase/ Contracting and Procurement Process	Did the Commission's contracting process and purchase transactions comply with the GAA, pertinent statutes and Comptroller requirements?	• Improper use of emergency purchase. • Missing or late submission of required contract disclosures. • Missing required contract clauses. • Lack of contract monitoring. • Missing vendor compliance verifications. • Improper reimbursement of unallowable expenses. • Noncompliance with Centralized Master Bidders List (CMBL) requirements.	Noncompliant
Prompt Payment and Payment Scheduling	Did the Commission comply with prompt payment and scheduling rules?	Interest lost to state's treasury and late payment without paying interest.	Compliant, Findings Issued
Payment Card Transactions	Did payment card purchase transactions comply with all pertinent statutes and Comptroller requirements?	No issues	Fully Compliant

Repeat Finding

Area	Audit Question	Results	Rating
Security	Are Commission employees who are no longer employed or whose security was revoked properly communicated to the Comptroller's office?	No issues	Fully Compliant
Internal Control Structure	Are incompatible duties segregated to the extent possible to help prevent errors or detect them in a timely manner and help prevent fraud?	Two employees with overlapping security access for multiple duties	Compliant, Findings Issued
Fixed Assets	Were tested assets in their intended locations and properly reported in the State Property Accounting system?	No issues	Fully Compliant
Targeted Analysis	Did the Commission comply with the federal mandate to handle payments involving the international movement of funds?	Incomplete and missing direct deposit authorization forms.	Noncompliant

Repeat Finding

Key Recommendations

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

- The Commission should consistently research, verify and document employees' prior state service.
- The Commission should consistently ensure employee authorizations for voluntary payroll deductions are complete, signed and retained.
- The Commission should consistently ensure it collects and retains travel vouchers and other documentation from employees in accordance with its policies.
- The Commission should strengthen its policies and procedures related to contracting and procurement to ensure it:
    - Makes emergency purchases appropriately.
    - Collects and submits contract disclosures on time and retains them in the file.

- Includes required clauses in contracts.
    - Has appropriate contract monitoring procedures in place.
    - Performs and documents vendor compliance verifications.
    - Reviews expenses incurred by a vendor before reimbursement.
    - Follows Centralized Master Bidders List (CMBL) requirements.
- The Commission should ensure it pays any late payment interest due and schedules payments to both avoid late payments and minimize interest loss to the state's treasury from early payments.
- The Commission should implement additional controls over expenditure processing that segregate each accounting task to the greatest extent possible.
- The Commission should consistently ensure all payees requesting direct deposit payments submit completed direct deposit authorization information.

Detailed Findings

Payroll Transactions

Auditors developed a sample of 209 payroll transactions totaling $367,285.04 from a group of 30 employees and a limited sample of 10 voluntary transactions to ensure the Commission complied with the GAA, [Texas Payroll/Personnel Resource (FPP F.027)] and pertinent statutes. Audit tests revealed the following exception in this group of transactions.

Missing Prior State Service Verification

Payroll documentation and personnel action forms were missing for three of the 30 employees in the payroll sample. With no documentation to confirm new hire dates and termination dates, auditors were unable to verify the employees' prior state service and the accuracy of the longevity payment.

The Commission's policy is to verify total state service to accurately calculate longevity payments. However, the Commission did not follow its procedures in this instance. The employees' separation and reemployment documentation were not included in their personnel files.

When an agency hires an employee, the agency must research whether the employee has previous state employment. If prior employment exists, the agency must confirm the amount of lifetime service credit and properly record it or risk underpaying longevity pay. See [Texas Payroll/Personnel Resource – Required Documentation].

Recommendation/Requirement

The Commission should consistently follow its existing policy to research and verify total prior state employment for its employees, as well as properly document and maintain the research in the personnel files.

Commission Response

The current HR team, as of July 2018, researches, verifies and properly documents all prior state service for incoming employees. This process begins after the onboarding process of new employees.

Missing Voluntary Payroll Deduction Authorization Documentation

Auditors identified four out of 10 instances where the Commission was unable to locate documentation in its personnel files to support the authorizations for voluntary employee payroll deductions.

Failing to retain voluntary deduction authorization documents increases the risk that the Commission may be making voluntary deductions against employees' pay incorrectly, or for the wrong amounts. See Texas Payroll/Personnel Resource – Voluntary Deductions.

Recommendation/Requirement

The Commission must consistently follow its existing policy to retain all employee authorizations for voluntary deductions in its personnel files and ensure that such documents are signed and dated by the employees. The Commission should consider establishing or enhancing control procedures to ensure it receives and retains each employee's authorization before setting up a voluntary deduction.

Commission Response

The current HR team, as of July 2018, has developed a practice of verbally explaining the forms relating to payroll deductions to each requester, auditing the forms for completion and for signature, and filing the form within the personnel file of the affected employee.

Travel Transactions

Auditors developed a sample of 20 travel transactions totaling $8,534.58 to ensure the Commission complied with the GAA, Textravel (FPP G.005) and pertinent statutes. Audit tests revealed the following exception in this group of transactions.

Missing Travel Documentation

Auditors identified one travel transaction lacking documentation to support the expense. The Commission reimbursed a commissioner $347.71 for mileage in a personal vehicle, but could not locate the travel voucher detailing this mileage expense or its business purpose.

According to the Commission, the documentation was missing because the employee responsible for processing travel vouchers did not follow procedures. The Commission indicated that it had taken disciplinary action against that employee. The Commission's travel policy requires accounting for all expenses incurred during travel and that travel vouchers be completed and processed in accordance with the Textravel resource. See Textravel – Mileage in Personal Vehicle and Textravel – Documentation Requirements.

Recommendation/Requirement

The Commission must consistently enforce its policies and procedures to ensure it maintains travel vouchers for all travel expense reimbursements, including those for non-employee officers (e.g., commissioners), in the appropriate files in accordance with the applicable records retention schedule.

Commission Response

Accounting will create a Travel Voucher documentation checklist that is used by the Travel Coordinator during the audit of the vouchers to ensure all documentation is included. It will then be reviewed by the voucher approver before release and included as part of the voucher documentation. It will be filed according to records retention schedule. Travel Policies and Procedures will also be updated to reflect accordingly. This will add an additional level of control in ensuring all documentation is maintained.

Travel Advance Account

Auditors also reviewed a limited sample of three months of bank statements and account reconciliations for the Commission's travel advance account and identified the following exception.

Noncompliance With the Commission's Internal Travel Advance Policy

Auditors found multiple outstanding items on the travel advance account reconciliations that were up to a year old. The Commission was unable to consistently obtain travel documentation from its employees within five days of the end of travel, per its internal policy. This caused the Commission to be unable to complete "final accounting" with its employees, per ***Travel Advance Account and Petty Cash Account (APS 010)***(**FPP A.044**). This oversight significantly depleted the Commission's travel account balance and ability to make additional advances. As of September 2018, the travel advance account showed a balance of $523.62 out of the $5,000 imprest balance.

According to the Commission, some of the outstanding items were caused by employees not submitting travel documentation on time. Some employees felt that because their actual travel expenses were only a few dollars more than the advance they received, submitting documentation for a final settling was not worth the trouble. Some employees lost their documentation, while others submitted documentation to the Commission's travel coordinator, who subsequently lost it.

Since the travel advance account is funded by state funds, and replenishments into the account are also state funds, failure to settle the travel advances could potentially result in employees owing money to the state.

Recommendation/Requirement

Auditors recommend the Commission consistently enforce its travel advance policy, which requires employees to submit travel documentation within five days of the end of travel and disallows additional advances to employees who have not fully settled the previous advance. The Commission should also provide periodic training on its travel advance policies and procedures for all employees who may travel, as well as additional training for employees who exhibit a pattern of noncompliance with the travel advance policy.

Commission Response

Accounting has updated the Travel Advance training on the Fiscal Portal to include information regarding employees not allowed to receive a travel advance, if there is a prior travel advance that has not been fully settled.

Accounting will provide annual Travel Training classes in September for employees that travel.

Accounting will also include a check box on the Travel Advance form in the "Fiscal Use" section verifying no outstanding travel advance settlements exist.

Accounting will validate the Travel Advance requester against Travel Training class sign in sheet to verify the employee has taken the training before travel advance is issued.

Accounting will also notify Division Directors of staff that repeatedly do not turn in their travel advance settlements within 5 days of conclusion of travel.

Purchase/Contracting and Procurement Process

Contract	Amount	Type of Service	Procurement Cycle				
			Planning	Procurement Method Determination	Vendor Selection	Contract Formation/ Award	Contract Management
Contract A	$11,183,344	Uniformed Security Officer Services	No exceptions	Improper use of emergency purchase	No exceptions	• Missing or late submission of required contract disclosures. • Missing certain required contract clauses.	Lack of contract monitoring
Contract B	$9,054,498.95	Building Improvements	No exceptions	Noncompliance with CMBL requirements	No exceptions	• Missing or late submission of required contract disclosures. • Missing certain required contract clauses. • Missing certain vendor compliance verifications.	Improper reimbursement of unallowable expenses incurred by vendor

Auditors selected two contracts totaling $20,237,842.95 for review and developed a representative sample of 15 payment transactions to the two contracted vendors totaling $2,767,513.02 to ensure the Commission complied with the GAA, eXpendit (FPP I.005), the *State of Texas Procurement and Contract Management Guide* and pertinent statutes. In addition to payments on the two selected contracts, auditors also developed a representative sample of 30 purchase transactions totaling $8,039,627.46 for review. Audit tests revealed the following exceptions in this group of transactions and contracts.

Improper Use of Emergency Purchase

Auditors noted an emergency justification internal memo signed by the Commission's executive director in one of the contract files. Per the memo, the emergency was that the contract was ending, but the existing contractor was unwilling to briefly extend the contract while the Commission conducted the solicitation in a standard, non-emergency manner. Auditors determined this was not a proper or adequate justification for an emergency.

Since facilities management services are the statutorily mandated responsibility of the Commission, and the Commission was aware of the contract's expiration date, the Commission should have planned to procure the needed service in a timely manner. Advanced planning to avoid breaks in services is a standard best practice that all state agencies should use to avoid emergency purchases. See *State of Texas Procurement and Contract Management Guide* – Procurement Method – Statewide Procurement Division (SPD) Delegated Purchases, Emergency Purchases. Also see Texas Government Code, Section 2155.137 and 34 Texas Administrative Code Section 20.210.

According to the Commission, it needed the emergency justification memo to conduct a shorter Electronic State Business Daily (ESBD) posting time. The Commission agreed it could do a better job of managing the security contracts to allow more time to conduct the solicitation.

Recommendation/Requirement

The Commission should establish or clarify its internal guidelines and policies, and consider additional training for employees on the use of emergency purchases. Specifically, the Commission should ensure that purchasing personnel clearly understand what types of circumstances do and do not constitute an emergency, and must only use emergency purchase procedures for emergencies.

Commission Response

Procurement will work with program contract managers to put policies in place to better track contract expirations to allow time for proper planning and resources for solicitation process and award. Procurement will retrain staff on proper circumstances for use of emergency procurements and Procurement Director will more closely review requests for emergency procurements.

Procurement will also work with Legal to develop and incorporate contract clauses into contract templates to include 90-day extensions in future contracts in cases when a new solicitation results in no award or an awarded vendor refuses to begin Services after award.

Missing or Late Submission of Required Contract Disclosures

SAO Nepotism Disclosure

For one of the two contracts reviewed, auditors did not find the State Auditor's Office (SAO) nepotism disclosure form in the contract file. For the other contract reviewed, auditors noted that the SAO nepotism disclosure form was not completed and signed by the purchaser, and part 3 of the form was signed by the procurement director instead of the administrative head of the Commission.

According to the Commission, these errors were caused by purchaser oversight. Most other requirements for signature by the agency head allow the agency head to name a designee, and the Commission was operating under the assumption that the procurement director could sign the SAO form on behalf of the agency head. However, the statute does not allow this. The Commission will update its policy to require the executive director's signature on this form.

For contracts valued at $1 million or more, all purchasing personnel working on the contract must disclose any relationship with the selected vendor (or any employee, stockholder, contractor, etc.) to the administrative head of the agency on a form prescribed by the SAO. See ***State of Texas Procurement and Contract Management Guide***, Contract Award & Amendment – Agency Review of Required Disclosures, SAO Nepotism Disclosure Statement for Purchasing Personnel. Also see **Texas Government Code, Section 2262.004**.

Texas Ethics Commission (TEC) Form 1295

For one of the two contracts reviewed, the vendor signed the TEC Certificate of Interested Parties (Form 1295) after the contract was executed.

According to the Commission, it needed the contract executed as soon as possible to allow the vendor to hire new staff to perform the services required under the contract. The Commission received the form before the start of services.

Vendors are required to complete Form 1295, located on the TEC website, for certain contracts valued at $1 million or more that require an action or vote by a governing body, or are for services that would require a person to register as a lobbyist under Chapter 305 of the Texas Government Code. The vendor must submit a completed and signed form with the certificate of filing number and date to the agency before contract award. See ***State of Texas Procurement and Contract Management Guide*** – Contract Award – Agency Review of Required Disclosures – TEC Disclosure of Interested Parties (Form 1295). Also see **Texas Government Code, Section 2252.908**.

Attestation Letter to the Legislative Budget Board (LBB)

For one of the two contracts reviewed, the Commission did not provide an attestation letter to the LBB before the date the first contract payment was made, or within 30 calendar days of contract award. Based on the expected total contract value, the Commission should have submitted an attestation letter to the LBB after the initial contract was executed.

According to the Commission, it has now updated internal procedures to notify procurement personnel about required attestation letters.

An agency or institution of higher education may not expend funds to make payment on a contract or purchase order until it notifies the LBB, if the expected amount of the contract exceeds either:

- $10 million.

  –OR–

- $1 million if the contract or purchase:
  - Is the result of an emergency.
  - Follows an emergency procedure allowed by statutes.
  - Is awarded or made without a competitive bidding process as required by statute or rule.

See ***State of Texas Procurement and Contract Management Guide*** – Contract & Amendment Notifications – LBB Reporting. Also see **General Appropriations Act for the 2016-17 Biennium (84th Legislature), Article IX, Section 7.12**.

Conflict of Interest Disclosure

For one of the two contracts reviewed, the procurement file did not contain conflict of interest forms signed by the procurement director, historically underutilized business (HUB) director, and general counsel.

According to the Commission, those individuals were not on the evaluation committee or technical advisors, and the HUB director only scored the HUB subcontracting plan. However, auditors determined that the statutory language applies broadly to any agency personnel who are involved in the procurement process, including directors and legal counsel who may only be signing off on and approving certain steps in the process.

Per Texas Government Code, Section 2261.252(a), each state agency employee or official involved in procurement or contract management must disclose any potential conflict of interest to the agency. Texas Government Code, Section 2261.252(a-1) states that each agency employee or official must disclose any potential conflict of interest that is known by the employee or official at any time during the procurement process or the term of the contract. It is best practice for the nondisclosure and conflict of interest forms to be signed on a regular basis. The frequency of signing (e.g., every fiscal year, calendar year or employment date anniversary) may vary according to each agency's policy. See *State of Texas Procurement and Contract Management Guide* – Appendix 3 – Required Disclosure Statements.

Recommendation/Requirement

Auditors recommend the Commission modify its procedures to ensure:

- All Commission employees who work on or are involved with contracts valued at $1 million or more disclose any relationship with the selected vendor (or any employee, stockholder, contractor, etc.) to the administrative head of the Commission on a form prescribed by the SAO.
- All vendors selected by the Commission to be awarded contracts valued at $1 million or more or that require an action or vote by the Commission's commissioners complete and submit TEC Form 1295 before award and execution of the contract.
- For contracts with values reasonably expected to exceed the prescribed amounts, the Commission submits the attestation letter to the LBB before expending any funds to make a contract payment.
- All procurement and contract management personnel as well as the evaluation committee members and technical advisors complete and sign conflict of interest disclosures before engaging in procurement, evaluation or contract management activities.

Commission Response

Procurement will put policy in place to ensure Purchasing staff obtain all required signatures on Nepotism form prescribed by SAO, including staff who approve the recommendation for award.

Legal agrees with CPA's recommendations. Legal has a policy in place to ensure Form 1295 is received and verified by the agency prior to contract execution. Legal will update the Form 1295 policy that execution prior to contract award is required based on CPA's audit recommendations. Legal appreciates the clarification of timing requirements by CPA due to ambiguous terms on when execution should occur, pursuant Tex. Gov't Code, Section 2252.908 and 1 Tex. Adrnin. Code 46.

Policy is now in place to notify Procurement prior to execution of contract and at execution of contract of requirement for Attestation letter. Procurement Director will ensure letter is uploaded to LBB Contract Database site and stored in Network folder and Legal notified for inclusion in contract file.

Procurement and Legal team will renew policy to request Conflict of Interest disclosure forms from all agency staff involved in Procurement functions on an annual basis.

Missing Required Contract Clauses

For one of the two contracts reviewed, auditors did not find the following Texas Required Contract Clauses (see ***State of Texas Procurement and Contract Management Guide*** – Appendix 22) in the executed contract:

- Antitrust Affirmation: Texas Government Code, Section 2155.005. (However, this clause was found in the terms and conditions of purchase orders issued under this contract.)
- Excluded Parties: Executive Order No. 13224.
- Suspension and Debarment: Texas Government Code, Section 2155.077.

For the other contract reviewed, auditors did not find the following Texas Required Contract Clauses in the executed contract:

- Excluded Parties: Executive Order No. 13224.
- Prior Disaster Relief Contract Violation: Texas Government Code, Section 2155.006, 2261.053.
- Suspension and Debarment: Texas Government Code, Section 2155.077.

According to the Commission, the two contracts reviewed were procured with standard templates that did not contain these clauses. The Commission has updated its templates to ensure inclusion in future solicitations. In addition, the Commission indicated that these clauses have been or will be added to the contract via amendments.

Failure to include all Texas Required Contract Clauses increases the risk that the Commission's contracts will be in violation of federal or state statutes and rules, which in turn increases the risk that the contracts and the Commission will be subject to legal challenge or regulatory action.

Recommendation/Requirement

Auditors recommend the Commission consult its legal counsel and include all Texas Required Contract Clauses in its contract templates to better protect the interest of the state. Omitted required clauses must have clear justifications from counsel for why they were not needed or applicable to the particular contract, and the justification must be documented in the contract file.

Commission Response

Legal services has updated its templates to ensure inclusion in future solicitations. Legal will coordinate with Procurement to assure solicitations only utilize and attach updated templates in future solicitations. Legal will update its policy to require review of base contracts and all prior amendments for missing and required contract clauses during the amendment drafting process.

Lack of Contract Monitoring

For one of the two contracts reviewed, auditors noted that no contract monitoring or oversight mechanisms were in place during the audit period from Dec. 1, 2017, through Nov. 30, 2018. Specifically, the Commission did not conduct desk reviews or site visits or use third-party monitoring. The Commission paid vendor invoices without in-depth reviews before or auditing after payment. For the invoices that auditors selected for review, detailed timesheets for each individual providing services were consistently included. Auditors noted that, with one exception, the invoiced amounts corresponded to the hours of service provided, and the invoiced rates corresponded to the rates established in the contract. The exception was a specific invoice for September 2018, which also included billings for part of July and the entire month of August. Auditors requested documentation on this item, as well as records of the Commission's review of the invoices against the timesheets. However, the Commission was unable to provide such documentation and records. Auditors noted that, during this time, the Commission did not have a system in place to confirm whether services billed on the vendor's invoices were in fact being provided or whether the billings accurately corresponded to the services provided.

According to the Commission, this was because the previous contract manager lacked adequate staff to properly manage the contract, and lacked oversight and proper checks and balances.

Failure to have contract monitoring and oversight mechanisms in place greatly increases the risk that the Commission will:

- Not receive the services called for by the contract.
- Pay for services not received.
- Fail to carry out its statutory responsibilities.

Monitoring the contractor's performance is a key function of proper contract administration, both to ensure the contractor is performing all contract obligations and so the agency can be aware of and address any developing problems. See ***State of Texas Procurement and Contract Management Guide*** – Contract Management – Monitoring Methods. Also see **Texas Government Code, Section 2261.253** and **2261.254**.

Recommendation/Requirement

The Commission indicates it has implemented contract monitoring and oversight procedures and controls since September 2019. The Commission should continue to enforce these controls, and should refine and improve the controls or implement additional ones as necessary, depending on vendor performance. The Commission should also document the outcomes of any risk assessments, reviews, audits or other monitoring activities conducted on the contract and retain the documentation in the contract file.

More generally, the Commission should design appropriate monitoring procedures for each contract (or each type of contract) that it enters into and document those procedures in its procurement files.

Commission Response

Procurement will train agency contract managers to improve contract monitoring and documentation procedures to better manage agency contracts. Procurement will put policies in place to increase focus on contract monitoring objectives when developing specifications and drafting statements of work during solicitation development as well as contract drafting phases.

Procurement will work with program staff prior to renewals and solicitation development to define additional contract monitoring roles and procedures as needed and include in contracts. TFC division contract managers will ensure that contract files include all required documentation related to monitoring of its contracts.

Missing Vendor Compliance Verifications

Auditors identified 12 purchase transactions and one contract where the Commission was unable to provide a complete checklist of vendor compliance verification (VCV) documents.

Debarment Check

For one of the two contracts reviewed, and for eight out of the 30 purchase transactions sampled for testing, auditors noted the Commission did not search the debarred vendor lists before entering into the contract. The contract developer must check the debarred vendor list posted on the Comptroller's website to ensure the vendor has not been debarred by SPD. An agency must not award a contract to a debarred vendor. See Texas Government Code, Section 2155.077.

System of Award Management Check

In four of the 30 purchase transactions sampled for testing, the Commission did not search the System for Award Management (SAM) database before entering into the contract. A state agency must check the SAM database to verify the vendor is not excluded from grant or contract participation at the federal level. A contract cannot be awarded to a vendor named on the U.S. Treasury Department, Office of Foreign Assets Control's master list of specially designated nationals and blocked persons (with limited exceptions noted in the order). See **Presidential Executive Order 13224**.

Iran, Sudan and Foreign Terrorist List Organization Check

In three of the 30 purchase transactions sampled for testing, the Commission did not complete the Iran, Sudan and foreign terrorist list check before entering into the contract. Government entities may not contract with a company doing business with Iran, Sudan or a foreign terrorist organization. See **Texas Government Code, Sections 2252.001(2)** and **2252.152**. Each agency must check the divestment lists before award to see if the potential awardee is in violation of this requirement. The divestment lists are maintained by the Texas Safekeeping Trust Company and posted to the Comptroller's **Divestment Statute Lists** website. If a business is in violation, the contract may not be awarded to that vendor.

Boycott Israel Check

In three of the 30 purchase transactions sampled for testing, the Commission did not complete the boycott Israel check before entering into the contract. Government entities may not contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott Israel and will not boycott Israel during the term of the contract. See **Texas Government Code, Sections 2270.0001(3)** and **2271.002**. Each agency must check the divestment lists before award to see if the potential awardee is in violation of this requirement; see **Texas Government Code, Section 808.051**. The divestment lists are maintained by the Texas Safekeeping Trust Company and posted to the Comptroller's **Divestment Statute Lists** website. If the potential awardee is on the list, the contract may not be awarded to that vendor.

Warrant/Payment Hold Check

In seven of the 30 purchase transactions sampled for testing, the Commission did not complete the warrant/payment hold check before entering into the contract. Agencies and institutions must verify a vendor's hold status for transactions involving a written contract, payments made with local funds, and payment card purchases over $500. The agency cannot proceed with a purchase made with local funds or a payment card purchase over $500 until the warrant hold has been released. For transactions involving a written contract, the Commission must check for warrant holds no earlier than the seventh day before and no later than the date of contract execution. If a vendor is on warrant hold, the agency may not enter into a written contract with that vendor unless the contract requires the contract payments to be applied directly toward eliminating the vendor's debt or delinquency. This requirement applies to any debt or delinquency, regardless of when it arises. Although payments made through the Uniform Statewide Accounting System (USAS) are automatically checked for holds and the system identifies payments issued to persons with outstanding state debt, this does not relieve an agency from conducting the warrant hold status check. See **eXpendit – Restricted Expenditures – Persons Indebted to the State**. Also see **Texas Government Code, Section 2252.903**.

According to the Commission, this was a training issue. Performing these checks is part of the Commission's procurement policies and checklist, but the checklist was not used in these instances.

Failure to perform vendor compliance verifications increases the Commission's risk of entering into a contract with a vendor who has been debarred or is in violation of statute, and could cause the Commission to not receive the best value from its procurement.

Recommendation/Requirement

The Commission should provide additional training to relevant personnel to ensure staff consistently follows its procurement policies and checklist, performs all VCVs before any purchase, contract award, extension or renewal, and retains a dated copy of the results in the procurement file.

Commission Response

Policy in development to verify all required vendor compliance checks prior to award recommendation by the Procurement Director for all formal solicitations. Procurement staff will be retrained on importance of vendor compliance checks and inclusion of all vendor checks in informal and spot purchase documentation and will be held accountable for any missing compliance checks.

Improper Reimbursement of Unallowable Expenses

For one of the two contracts reviewed, auditors identified two payments that included reimbursements of unallowable expenses. The Commission reimbursed the contracted vendor for travel expenses that exceeded the allowable travel amount and/or were prohibited by the contract specifications, such as:

- Tips for meals: $33.31.
- Meal expenses exceeding daily allowable amount: $18.83.
- Meal expenses without documentation or that could not be traced to documentation supporting expense (meal receipts): $83.01.

- Out of $132.90, auditor was unable to determine unallowable amounts paid and/or meals exceeding daily allowable amounts due to the contractor's method of combining meal expenses for "team meetings," which include meal expenses for individuals who are not listed as travelers conducting authorized business away from their permanently assigned cities.
- Sales tax for supplies: $193.66.

According to the Commission, the staff responsible failed to ensure the receipts were reviewed appropriately and did not contact the vendor regarding receipts.

Reimbursing contracted vendors for unallowable expenses or for expenses not supported by documentation causes the Commission to be in noncompliance with the state's statutes. In addition, failing to consistently follow contract terms prevents the Commission from receiving the best value for the contract.

From the miscellaneous provisions listed in the purchase order, section 12.17, Liability for Taxes, specifies that the vendor will pay all taxes resulting from the purchase order.

The contract includes specifications for allowable expenses, and in section 4.3, Maximum Reimbursable Expenses, says reasonable lodging and travel expenses are reimbursable for personnel who are away from their permanently assigned cities to conduct authorized business related to the contract. Maximum reimbursable expenses are set by the Comptroller and outlined in Textravel, and reimbursement requests must be documented.

Recommendation/Requirements

The Commission should clarify its procedures and train responsible staff to ensure it reviews the contractor's documentation of incurred costs for allowability under the contract terms and for compliance with all applicable regulations and limitations, before processing payments.

Commission Response

Construction Accounting, Accounts Payable, and Facilities Design and Construction (FDC) will confer and collaborate regarding invoice processing and define clear guidelines and responsibilities as to the role each will perform. An area of focus will be contract review and management for validity of requirements and costs incurred within the contractor invoice documentation. Construction Accounting will clarify its responsibility and document accounting payment processing procedures, including Texas Government Codes and internal procedures. Responsible staff will be trained and procedures will be updated as new findings appear. Training materials will be provided to newly hired personnel and update materials will be provided annually.

Noncompliance with Central Master Bidders List (CMBL) Requirements

Auditors identified 10 purchase transactions and one contract where the Commission did not follow the proper CMBL solicitation process.

For one of the two contracts reviewed, the Commission failed to obtain approval from its agency head or designee to add non-CMBL vendors to the final solicitation list, and was unable to provide a dated CMBL search printout. Without the dated printout, auditors could not determine whether all matching CMBL vendors were solicited for the procurement process.

For eight purchase transactions, the Commission was unable to provide a dated CMBL solicitation printout. For one of these, the Commission also failed to obtain approval from its agency head or designee to add non-CMBL vendors to the final solicitation list. For two purchase transactions, the Commission was unable to provide evidence that it sent the solicitation notification email(s) to all vendors on the CMBL that match the advertised commodity codes.

According to the Commission, the missing approval from the agency head to supplement the CMBL was an oversight by the purchaser. Additionally, regarding the undated CMBL printouts, the Commission stated that it checked with the Comptroller's office, but there was no period when spreadsheet downloads were not printing the date. The Commission believes the date was not captured because of the way staff was extracting the data from the CMBL. The Commission also stated that the email notification to vendors was missing from the procurement file.

Failure to retain documentation of the agency head's approval to supplement the CMBL, of the agency's CMBL search, or of the solicitation announcements could increase the Commission's exposure to complaints or litigation from CMBL vendors.

Recommendation/Requirement

The Commission should consistently follow procurement procedures to ensure it obtains approval from its agency head or designee before adding non-CMBL bidders to the final solicitation list, and must retain evidence of that approval in the procurement file. In addition, to ensure adherence to state procurement statutes and rules, all agencies and institutions of higher education must attempt to use the CMBL for all purchases, including services for which competitive bidding or competitive sealed proposals are required. The Commission must ensure that a copy of the dated CMBL search results and the solicitation notification (email) to qualified CMBL vendors are included in the procurement file as evidence that it attempted to use the CMBL.

Commission Response

Delegation is obtained from the Executive Director and kept on file for approval of CMBL supplement by the Procurement Director. Retraining will be provided to Procurement staff of proper download of dated CMBL list to capture vendor pool. Additionally, a policy and procedure will be developed to verify the CMBL and ensure these CMBL supplement records are filed and kept in the Procurement file.

Prompt Payment and Payment Scheduling

Auditors reviewed the Commission's compliance with the prompt payment law and scheduling rules. Audit tests revealed the following exceptions.

Interest Loss to State's Treasury and Late Payment Without Paying Interest

Auditors identified two purchase transactions that did not abide by the prompt payment law and payment scheduling rules and regulations. Specifically:

- One purchase transaction was paid early, resulting in $24.71 of interest loss to the state's treasury.
- One purchase transaction was paid late with late payment interest of $117.37 not paid to the vendor.

According to the Commission, the late payment occurred because the payment due date was calculated incorrectly, and the early payment resulted from a clerical error in assigning a due date when the accountant accidently recorded the due date one week early.

Auditors also identified four instances of late payment to the Commission's payment card provider, totaling $2,224.36, and three instances of late payment to the Commission's travel card provider, totaling $46.71.

According to the Commission, these errors were caused by three accounts payable employees who did not process the procurement cards statements on time. The Commission indicated that it had taken disciplinary action against these employees.

During the audit period, the Commission paid vendors $4,969.18 in prompt payment interest.

Failure to adhere to the prompt payment law increases costs to the state due to late payment interest owed to vendors. Moreover, making payments late potentially damages the state's reputation and increases the risk that fewer vendors will be willing to do business with the state. Processing early payments causes a loss in interest to the state's treasury.

According to the prompt payment law, [Texas Government Code, Section 2251.021(a)], a state government entity's payment is overdue on the 31st day after the later of:

- The date the government entity receives the goods under the contract.
- The date the performance of the service under the contract is completed.
- The date the government 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. In addition, the Comptroller's office may allow or require state agencies to schedule payments that the Comptroller's office will make to a vendor. The Comptroller's office prescribes the circumstances under which advance scheduling is allowed or required, and requires advance scheduling when it is advantageous to the state. See eXpendit, **Prompt Payment** and **Payment Scheduling**. Also see **Texas Government Code, Sections 2251.026** and **2155.382(d)**.

Recommendation/Requirement

The Commission should review its procedures to ensure it both submits payment information for processing and releases payments in a timely manner to avoid incurring interest liabilities or causing interest loss to the state's treasury. In addition, the Commission should update its training for relevant personnel to ensure that, if payment to the vendor is being made after the 30-day period, late payment interest to the vendor is calculated and paid at the same time as the principal payment and not being refused with the "Agency Discretion" code. Also, late payments to the travel card provider must use the proper interest control reason code to force interest to be paid. This is because USAS does not automatically generate late payment interest on travel-related expenditure object codes. See the following references:

- **USAS Coding Instructions**
- **USAS Reference**
- **Prompt Payment – Reference: COBJ Defaults for Automatic Interest**

Commission Response

AP staff are required to attend the Comptroller's Prompt Payment training in the first six months of their positions. They are also required to attend the training every three years.

AP Team Lead sends out reminder emails through our APS system to receiving report reviewers and approvers every Monday. Receiving Reports that are due within one week get reminder emails sent to them everyday until the receiving report has been completed and is ready for the AP staff to process. Receiving reports that are due within *a week also get emails from the Accounting Director to the Approvers to process them as quickly as possible to avoid late payment interest penalties. Vouchers are processed based on due dates, in order to ensure that we do not pay the late payment interest. This process was implemented in FY2018.*

Accounting added procedures to include the instructions from the Comptroller regarding late payment interest. Accounting has also included instructions to not use the "RAD" flag when refusing interest. Both of these procedures have been recently implemented.

Additional instructions have been recently added to procedures in using the "RAF" flag on travel card payments if they are paid late.

Payment Card Transactions

Auditors developed a sample of 10 payment card transactions to ensure the transactions were valid and supported by appropriate documentation. Audit tests revealed no exceptions for this group of transactions.

Security

The audit included a security review to identify Commission 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 met so that security can be revoked in a timely manner. Audit tests revealed no exceptions in these transactions.

Internal Control Structure

The review of the Commission's internal control structure was limited to obtaining reports identifying current users' access and testing existing mitigating controls. The audit test conducted revealed the following exception 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 Commission placed on its accounting staff's ability to process expenditures. Auditors reviewed the Commission's security in USAS, the Uniform Statewide Payroll/Personnel System (USPS), the Texas Identification Number System (TINS) and the voucher signature cards in effect on Sept. 26, 2019. Auditors also tested a compensating control that the Commission has in place related to USAS and TINS security or internal transaction approvals.

The Commission had two employees with multiple security capabilities. Both employees had the following security access:

- Enter/edit payment voucher in USAS and create/edit a vendor profile or direct deposit information in TINS.
- Release/approve payment in USAS and create/edit a vendor profile or direct deposit information in TINS.
- Edit/update a vendor or direct deposit information in TINS and were on the agency's signature card, allowing employees to approve paper vouchers.
- Enter/edit payment voucher in USAS and change the warrant hold status of a vendor in TINS.
- Change the warrant hold status of a vendor in TINS and were on the agency's signature card (could approve a paper voucher for expedite).

According to the Commission, it has a compensating control in place to mitigate the risk from the lack of segregation of duties, "to identify any activity made directly into TINS, since there is no secondary approval process in TINS, like there is in USAS. The Chief Accountant checks the Daily PAYSUBS/TINS reports to verify that Vendor set ups or edits submitted in GFAS [this is the Commission's internal accounting system that is able to submit TINS transactions via a batch process] processed correctly. ***They also verify if there were any unapproved direct entries made into TINS***. These reports only print if there is activity in PAYSUBS/TINS. GFAS also has controls in the Expenditure module. The AP staff are given entry authority only and the person releasing/approving the payment voucher only has the ability to approve the payments and not update."

Auditors ran a report from TINS to test this control with a date range from Dec. 1, 2017, to Jan. 31, 2020, displaying all transactions submitted by the two Commission employees with the multiple security capabilities noted above. The resulting report showed that only one of the two employees had submitted TINS transactions directly. Auditors selected a limited sample of 30 transactions out of 114 for testing.

Auditors noted that six transactions did not have documentation to evidence the chief accountant's review. Based on this result, auditors determined that while the Commission's compensating control is appropriately designed, it is not operating effectively.

Auditors also ran a report to determine whether any of the Commission's payment documents processed through USAS during the audit period because of only one person's actions. No issues were identified.

The two individuals' current access permissions could potentially enable them to modify vendor information in TINS without another person's involvement, then release/approve a payment in USAS (or request an expedited paper voucher) to that vendor. This could result in inaccurate or fraudulent payments being made by the state.

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 enter or alter and then release payments or other accounting transactions within the statewide financial systems without another person's involvement. See **USAS Accounting and Payment Control (FPP B.005)**.

Recommendation/Requirement

The Commission should review the controls over expenditure processing and segregate each task to the maximum extent possible to ensure that no individual is able to modify vendor profile information or status without oversight. Auditors strongly recommend that the Commission implement the following:

- Limit the access of users who can process or approve electronic or paper vouchers to view only access in TINS (PTINS02). An individual must not be able to create or change a vendor profile, create a payment and approve the payment.
- Limit user access by removing the users from the Agency Authorization for Warrant Pickup list or by removing the users from the agency's signature card.

Alternatively, if the Commission opts to mitigate the risk of the lack of segregation of duties with a compensating control, it must ensure the control procedure is operating effectively and executed consistently.

Commission Response

Segregation of duties were changed at the beginning of February 2020, after the auditors' concerns were communicated. The AP Voucher Approver's TINS access was changed to Inquiry Only. The AP staff were given add/edit access and required to attend TINS training, which they completed in March 2020.

The GFAS vendor set ups are reviewed by the Chief Accountant before being released for transmission to TINS. Any vendor ID set ups directly entered into TINS are verified by the Chief Accountant in TINS from the Vendor Forms.

Fixed Assets

The audit included a review of a limited number of fixed assets acquired by expenditures during the audit period to test for accurate reporting. All assets tested were in their intended locations and properly recorded in the State Property Accounting (SPA) system. Audit tests revealed no exceptions in these transactions.

Targeted Analysis

The audit included a review of various special reports run for the Commission outside the sample. One of the special reports allowed auditors to review the Commission's procedure to comply with the federal mandate to properly identify and handle payments involving the international movement of funds. Auditors reviewed 10 direct deposit authorizations. Audit tests revealed the following exception.

Incomplete and Missing Direct Deposit Authorization Forms

The Commission was unable to provide a Direct Deposit Authorization form for three of the 10 direct deposit setups or modifications selected for review. All three were for vendors. From the remaining seven, which were for employees, there were three instances of incomplete international payments verification sections (section five) of the forms. Auditors also noted that an extra form the Commission provided for one of the seven employees, while not part of the sample, did not have section five completed.

According to the Commission, the loss of the vendors' completed Direct Deposit Authorization forms was caused by a single employee who was responsible for processing the forms but did not follow procedures and repeatedly misplaced documentation. That responsibility was transferred to other staff. The seven employee direct deposit forms missing verification were not fully audited by the previous human resource administration.

The Office of Foreign Assets Control (OFAC) requires that all direct deposit payments transmitted outside the United States be identified and monitored. To avoid potential federal penalties, each state agency must:

- Show due diligence in processing all direct deposit payments.
- When possible, ensure the direct deposit payments it issues to accounts at U.S. financial institutions are not ultimately transferred to financial institutions outside the United States.

International automated clearing house transactions (IATs) are payments destined for a financial institution outside of the United States. The Comptroller's office does not participate in IATs. If a payee informs an agency that a payment is destined for a financial institution outside the United States, the agency may not set up that payee for direct deposit.

Without properly completed direct deposit forms, the Commission would not be able to fully comply with the Comptroller's rules regarding electronic funds transfers and the federal mandate regarding international movement of funds. In addition, setting up direct deposit for payees who did not respond to the international payments verification section of the form increases the risk that the state may become subject to federal penalties if an electronic funds transfer payment is forwarded to a financial institution outside the United States. See **34 Texas Administrative Code Section 5.13**.

Recommendation/Requirement

The Commission must consistently ensure completion of all applicable sections of the Direct Deposit Authorization forms, including international payments verification, and ensure that the forms are signed and dated. This procedure should be consistently applied to all forms, whether submitted by new employees during onboarding, current employees making changes to their direct deposit setup, vendors making an initial direct deposit setup, or vendors making changes to their direct deposit setup. The Commission should also consistently ensure all forms received from employees and vendors are maintained in the appropriate files after processing, in accordance with the applicable records retention schedule.

Commission Response

The AP staff were required to take TINS training, which they completed in March 2020. The AP staff are required to verify all fields on the Vendor Direct Deposit forms are completed and the form is signed and dated. The procedures have been updated to include independent verification with the vendor of the Direct Deposit submission/change.

The GFAS Vendor Direct Deposit set ups are reviewed by the Chief Accountant before being released for transmission to TINS. Any Vendor Direct Deposit set up/change directly entered into TINS are verified by the Chief Accountant in TINS from the completed Direct Deposit Form.

After the confirmation, the form is initialed and dated and filed in a dedicated file cabinet for Vendor and Direct Deposit forms.

The Employee Direct Deposit form is received in HR from the employee, checked for completion and then data entered. The form is also placed in the personnel file as documentation.

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),
    - Uniform Statewide Payroll/Personnel System (USPS),
    - Standardized Payroll/Personnel Reporting System (SPRS),
    - Human Resource Information System (HRIS) or
    - The Centralized Accounting and Payroll/Personnel System (CAPPS).
- 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 Texas Facilities Commission (Commission) payroll, purchase, procurement and travel transactions that processed through USAS and USPS from Dec. 1, 2017, through Nov. 30, 2018, to determine compliance with applicable state laws.

> ***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 Commission received 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.

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.

Audit Methodology

The Expenditure Audit section uses limited sampling to conduct a post-payment audit, and relies on professional judgment to select areas the auditor considers high risk.

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.

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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: • 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.