



An Audit of the **Twelfth Court of Appeals**

Audit Report #232-23-01
August 18, 2023

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Executive Summary

Purpose and Scope

The objectives of this audit were to determine whether the Twelfth Court of Appeals (Court):

- Processed payments according to applicable state laws, Comptroller requirements and statewide automated system guidelines.
- Maintained documentation to support those payments.
- Properly recorded capital and high-risk assets.

This audit was conducted by the Texas Comptroller of Public Accounts (Comptroller's office), and covers the period from Sept. 1, 2021, through Aug. 31, 2022.

Background

The Twelfth Court of Appeals is a three-justice court that has jurisdiction of appeals from the trial courts located in a 17-county district. The Court serves the Tyler, Texas area and consists of the following counties: Anderson, Angelina, Cherokee, Greg, Henderson, Houston, Nacogdoches, Rains, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Upshur, Van Zandt and Wood.

Twelfth Court of Appeals website
<https://www.txcourts.gov/>


Audit Results


The Court largely complied with the General Appropriations Act (GAA), relevant statutes, and Comptroller requirements. Auditors found no issues with the travel processes. Auditors found that the Court should consider making improvements to its payroll and purchase processes.

The auditors reissued one finding from the previous audit conducted at the Court related to incorrect state effective service dates. Auditors originally issued this finding in August 2013. 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?	<ul style="list-style-type: none">Missing documentation. Incorrect state effective service date.	Compliant, Findings Issued
Purchase Transactions	Did purchase transactions comply with the GAA, pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none">Incorrect procurement method used.Missing vendor compliance verifications.	Compliant, Findings Issued
Travel Transactions	Did travel transactions comply with the GAA, pertinent statutes and Comptroller requirements?	No issues	Fully Compliant

 Repeat Finding

Key Recommendations

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

- Retaining required documents in employees' human resource files.
- Recording correct state effective service date for employees and enhancing internal controls to prevent incorrect longevity payments.
- Following state procurement policies and procedures, and obtaining and maintaining the appropriate waivers or exceptions in the procurement file.
- Conducting all vendor compliance verifications and retaining results from each check in the procurement file.



Detailed Findings

Payroll Transactions

Auditors developed a sample totaling \$142,523.32 from a group of 15 employees involving 29 payroll transactions to ensure the Court complied with the GAA, [Texas Payroll/Personnel Resource \(FPP F.027\)](#) and pertinent statutes. Audit tests revealed the following exceptions in this group of transactions.

Missing Documentation

Auditors identified one instance where the Court did not have an employee job application in the personnel file. The Court indicated that the cause of the missing documentation is unknown.

Agencies are required to maintain specific documentation to support the legality, propriety and fiscal responsibility of each payment made from the agency's funds. The Comptroller's office may require the documentation to be made available during a post-payment audit, pre-payment audit, or at any other time. See [Texas Payroll/Personnel Resource – General Provisions – Required Documentation](#). Per the Court's retention schedule on file with the Texas State Library and Archives Commission, applications for employment of hired employees are required to be retained until termination of employment plus five years.

Recommendation/Requirement

The Court must ensure it retains documents in the employees' human resource files as required by the state retention schedule.

Court Response

As a result of the instant audit, the Clerk of the Court intends to maintain all human resource documentation. As an aside, the missing documentation was from the 1990's, prior to the current Clerk of the Court's supervision and the documentation could not be reproduced.

Incorrect State Effective Service Date

Auditors identified one employee with incorrect state effective service dates in the Court's payroll/personnel system. The Court did not enter service time for previous state service that was verified by another state entity. The incorrect state effective service date resulted in an underpayment of longevity pay of \$320. The Court stated that the employment verification process for this employee was done during the prior administration.



When an agency hires an employee, the agency must research whether the employee has previous state employment. If prior state employment exists, the agency must confirm the amount of lifetime service credit and properly record it or risk incorrect longevity payments. See [Texas Payroll/ Personnel Resource – Non-Salary Payments – Longevity Pay](#).

Recommendation/Requirement

The Court must correct the state effective service dates for the employee and compensate the employee for the underpaid amount. The Court should also review its internal controls and make necessary enhancements to prevent incorrect longevity payments.

Court Response

The subject employee was hired in 2015, prior to the current Clerk of the Court's supervision. Once verification of prior state service was received, it was immediately entered into the CAPPS system and the employee was paid \$320 in longevity payment on their July paycheck. The current Clerk of the Court and Chief Deputy Clerk will ensure that verification of prior state service is performed on each newly hired employee from here forward.

Purchase Transactions

Auditors developed a sample of 10 purchase transactions totaling \$12,637.84 to ensure that the Court complied with the GAA, [eXpendit \(FPP I.005\)](#), and pertinent statutes. Audit tests revealed the following exceptions in these transactions.

Incorrect Procurement Method Used

Auditors identified four transactions where the Court did not use the correct procurement method for the purchases. The Court purchased products directly from the vendors and did not check to see if the goods were available using a state contract. In all four instances, the Court purchased products that were available through WorkQuest and/or Department of Information Resources (DIR) Contracts. The court did not obtain the required waivers or note any allowable exceptions on the purchase order.

The Court indicated that the purchasing staff had received limited training from previous staff and were unaware of these requirements. See [State of Texas Procurement and Contract Management Guide](#) – Procurement Methods and Procurement Methods – Automated Information Systems – DIR Contracts. These sections of the guide provide procurement method requirements for the various types of state purchases. It notes that incorrect procurement methods do not provide best value to the state and can be more expensive and less efficient than using the correct method. It may also result in a void contract that must be resolicited.



Recommendation/Requirement

The Court must follow the procedures outlined in the [State of Texas Procurement and Contract Management Guide](#) for these goods. The Court must ensure that if a product is offered by WorkQuest or DIR, appropriate waivers or exceptions are included in the procurement file if a different vendor is used.

Court Response

Court staff received limited training from previous staff and was unaware of purchasing training offered by the Comptroller's office. The Clerk of the Court and Chief Deputy Clerk have since taken every available purchasing training, including the SPD and Expenditure Assistance training classes. However, the quantity requirements of WorkQuest and Texas SmartBuy are typically in excess of what the agency needs; therefore, the agency utilizes Ables-Land, Inc., as a HUB vendor. The Clerk of the Court and Chief Deputy Clerk have since taken every available purchasing training, including the Basic Purchaser training.

Missing Vendor Compliance Verifications

The Court was unable to provide documentation that it performed the vendor compliance verifications (VCV) for five purchase transactions reviewed. The Court must provide dated proof to show it performed each verification. The Court indicated that the purchasing staff had received limited training from previous staff and were unaware of these requirements.

Iran, Sudan and Foreign Terrorist Organization List Check

The Court did not document that it performed the Iran, Sudan, and foreign terrorist check for five purchase transactions before procuring the services. Government entities may not contract with a company doing business with Iran, Sudan or a foreign terrorist organization, per [Texas Government Code, Sections 2252.001, 2252.151\(4\) and 2252.152](#). Before awarding a contract, the Court must check the divestment lists to confirm the potential awardee is not in violation of this requirement. The divestment lists are maintained by the Texas Treasury Safekeeping Trust Company and posted to the Comptroller's [Divestment Statute Lists](#) webpage. If the business is in violation, the Court may not award the contract to that vendor.

Debarment Check

The Court did not document that it searched the debarred vendor list for five purchase transactions before procuring the goods or services. The contract developer (purchaser) must check the [Debarred Vendor List](#) posted on the Comptroller's website to confirm the vendor has not been debarred by the Statewide Procurement Division (SPD). See [State of Texas Procurement and Contract Management Guide](#) – Debarment Check.



[Texas Government Code, Section 2155.077](#) states that an agency must not award a contract to a debarred vendor. SPD may bar a vendor from participating in state contracts for substandard performance, material misrepresentations, fraud, breach of contracts with the state, repeated unfavorable performance reviews under [Texas Government Code, Section 2155.089](#) or repeated unfavorable classifications under [Texas Government Code, Section 2262.055](#). If a vendor is barred, SPD determines the period of debarment.

System for Award Management (SAM) and Office of Foreign Asset Control (OFAC) Check

The Court was unable to provide evidence that staff conducted timely SAM and OFAC database checks before awarding a contract for five transactions. The Court stated that these searches were conducted, and it provided the documentation. However, the documentation provided was not dated and auditors could not confirm the searches were performed before contract execution or purchases. Agencies must check the SAM database before awarding a contract 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). See [Executive Order 13224](#).

Recommendation/Requirement

The Court must conduct all VCVs before any purchase, contract award, extension or renewal. The Court must retain dated results from each specified website and include them as evidence in the procurement file.

Court Response

Court staff received limited training from previous staff and was unaware of purchasing training offered by the Comptroller's office. The Clerk of the Court and Chief Deputy Clerk have since taken every available purchasing training, including the Basic Purchaser training. Also, the agency utilizes the SAM.gov website, which at the time did not date-stamp the printed report, but has since been enabled to do so. Additionally, the agency maintains a monthly list of Iran, Sudan and Foreign Terrorist Checks and Debarment Checks to verify vendors as the court's expenses are paid.

Travel Transactions

Auditors reviewed four travel vouchers totaling \$2,964.60 processed during the audit period to ensure the Court complied with the GAA, [Textravel \(FPP G.005\)](#), and pertinent statutes. Audit tests revealed the no exceptions in these transactions.



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 the Twelfth Court of Appeals (Court) payroll, purchase and travel transactions that processed through USAS and SPRS from Sept. 1, 2021, through Aug. 31, 2022, to determine compliance with applicable state laws.

The Court 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.

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 Court should implement the recommendations listed in the Detailed Findings of this report. It is the Court'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 Court's documents comply in the future. The Court 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.

Audit Team

Amanda Price, CFE, CTCD, CTCM, Lead Auditor

Ken Johnson, CPA, CIA, CISA, CTCD, CTCM, MBA



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.