



Administering Overpayment Recovery Audits in the State of Texas

Fiscal 2010 through 2012

Report to the
83rd
Legislature



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Executive Summary

Introduction and Procurement Summary

The Comptroller of Public Accounts (Comptroller) is legally required to contract with one or more consultants to perform overpayment recovery audits at state agencies and to summarize to the Legislature before Jan. 1 of each odd-numbered year the audit results received during the state fiscal biennium ending Aug. 31 of the previous year.

The Comptroller issued a Request for Proposals (RFP) for recovery audit services on Dec. 2, 2011. The contract was signed on March 28, 2012, with Experis US, Inc. (Experis) for a contingency fee rate of 14 percent on all recovered funds. The state's negotiated rate was substantially lower than the industry average range of 20 to 40 percent, as cited in the Legislative Budget Board's (LBB) Staff Performance Report in January 2005. The contract included two renewal options, with the latest expiring on Aug. 31, 2015.

Project Scope

The recovery audit program consisted of:

- A review of qualifying agencies' accounts payable transactions;
- Verification of contract terms and conditions, invoices and discounts; and
- Related regulatory matters in order to identify overpayments on behalf of the state.

Experis will identify payment errors including but not limited to:	These payments are not eligible for inclusion:
<ul style="list-style-type: none"> ✓ Overpayments ✓ Duplicate payments ✓ Pricing errors ✓ Invoicing errors ✓ Missed rebates or discounts ✓ Contract pricing ✓ Contract terms ✓ Other recoveries that Comptroller determines create an economic benefit for the state 	<ul style="list-style-type: none"> ✓ State employee payroll and benefit payments ✓ Annuitant payments ✓ Insurance payments for state employees and teachers or retired state employees and teachers ✓ Investments, loans, bond debt service and related interest ✓ Payments on outstanding warrants ✓ Unemployment compensation ✓ Judgments and settlements ✓ Payments made under state receivership ✓ Payments already canceled or credited ✓ Certain grant payments ✓ Medicaid program payments ✓ Payments made by the state to any agency, court, school district or public school of this state ✓ Overpayments of state taxes or state fees ✓ Tax refunds, refunds of fees paid to the state and all other revenue refunds

Project Status

Twelve agencies were subject to an overpayment recovery audit of their accounts payable transactions based on qualifying criteria in Chapter 2115 of the Government Code. (See **Appendix I**.)

As of Dec. 1, 2012, letters of intent to audit have been initiated for all 12 agencies. Experis is required to complete the overpayment recovery audits within 18 months of the audit entrance conference, including fieldwork and collections. Transactions totaling \$1,438,704,501 have been analyzed, with \$71,950 recovered and deposited in the state treasury.

Issues Encountered During Contract Administration

- A provision in the Patient Protection and Affordable Care Act (PPACA) requires states to establish a recovery audit contractor (RAC) program for Medicaid providers by April 1, 2011.

- ➔ **Resolution:** Allow the Health and Human Services Commission (HHSC) to independently pursue a Medicaid RAC, eliminating this portion of the review from the statewide recovery audit program.

As of Dec. 1, 2012 no RAC audits have been performed. The contract was awarded to two suppliers, and the terms of the contracts are still being worked out.

If the recovery audit program continues in its current format, the Comptroller makes the following recommendations.

- State law does not define the frequency of these audits.
 - ➔ **Recommendation:** Allow the Comptroller to determine the frequency of auditing based on the state's best interests.
- The state receives no benefit from recovering state sales tax paid in error.
 - ➔ **Recommendation:** Remove Texas local sales taxes from the list of overpayment types included in the recovery audits.

Program Overview

Historical Information about Recovery Audits in Texas

In January 2005, the LBB issued a recommendation in its Staff Performance Report entitled “Recover Certain State Agency Overpayments to Vendors.” The LBB recommended that the Comptroller contract with a third-party firm to implement a recovery audit program for Texas. The LBB also recommended that only agencies with more than \$100 million in biennial expenditures from appropriated funds be included, and that each participating entity keep 50 percent of recovered money, from which it would pay the contracted third party firm.

According to the LBB report, the state loses about \$9 million in all funds annually on erroneous payments. This calculation was based on typical error rates found in state government agencies. According to LBB, private-sector recovery audit rates represent about 0.1 percent of a business’ expenditures in an audit, but public audits typically recover between 0.03 and 0.05 percent. LBB also reported that the typical recovery audit firm receives from 20 to 40 percent of recovered funds as payment for its services.

Comptroller’s Implementation Timeline

The Comptroller began working on the recovery audit program as soon as applicable Texas law took effect on June 17, 2005. Milestones include:

March 2006	The Comptroller entered into a contract with Horn & Associates, Inc. for statewide recovery audit services.
October 2008	PRGX USA Inc. named subcontractor to audit Medicaid overpayments.
June through October 2010	Horn & Associates, Inc. contract expired. Collections continued through October 2010.
November 2010 through May 2011	The total amount recovered was \$13,637,186 (\$12,552,242 for Medicaid and \$1,084,944 for Accounts Payable). The payment to Horn & Associates for recoveries was \$1,841,020.11.
November 2010 to Present	The Comptroller researched the effectiveness of the recovery audit program and incorporated some of the procedures used by the recovery auditor in the agency’s post-payment audit program.
June 2011 through September 2011	Research and analysis was conducted to address the potential efficiencies gained through eliminating the Medicaid payments from the scope of this recovery audit program. It was determined that it is in the best interest of the state to allow HHSC to solely audit Medicaid overpayment and underpayments due to its special knowledge and skills of medical payments.
December 2011	The procurement process began again when the Comptroller issued RFP202d, <i>Overpayment Recovery Audit Services for the Comptroller of Public Accounts on Behalf of Participating State Agencies</i> .
January 2012	Comptroller staff evaluated three respondents.
April 2012	The Comptroller entered into a contract with Experis US, Inc., for statewide recovery audit services.
June through December 2012	Comptroller initiates recovery audits at all 12 qualifying agencies.

Implementation

Issues Encountered During Implementation

The Comptroller noted the following issues during the state's current recovery audit program.

Performance and Payment Bond Rebates

During the audit of the Texas Facilities Commission, performance and payment bond rebates became an issue. In those contracts where rebate ownership was silent, Experis requested a determination from the Comptroller of Public Accounts. According to Experis, performance bonds rebates are typically passed on to the client as credits to the job cost. Similar issues with general contractors related to construction contracts and bond rebates will be encountered at other state agencies.

- ➔ **Resolution:** An agency may solicit the Comptroller's opinion on whether a detected overpayment should be recovered. The Comptroller's office shall use its discretion when determining whether a payment should be recovered. The Comptroller's office has determined that performance and payment bond rebates are not a recoverable item for this audit because the contracts were silent and did not explicitly state that these rebates were to be refunded back to the state. We will work with all agencies to ensure that future contracts with performance and payment bonds address any rebates that are issued.

Multiple Versions of Medical Services Audits

The HHSC's Office of the Inspector General audits all five of the health and human service agencies' medical service programs and coordinates investigative efforts to recover Medicaid overpayments, particularly those due to fraud. Efforts include audits of third-party liabilities, service providers and tests of eligibility.

In 2011, the 82nd Legislature passed HB 1720 that required HHSC to establish a program to contract with one or more recovery audit contractors to identify and recover underpayments and overpayments under the Medicaid program. This program was also federally mandated under Section 6411 of the Patient Protection and Affordable Care Act. The Comptroller's office and HHSC held discussions to determine how to proceed with the reviews.

- ➔ **Resolution:** Both the Comptroller and HHSC agreed that the latter should solely audit Medicaid overpayment and underpayments due to its special knowledge and skills concerning medical payments.

Restricted Sources of Funding

Chapter 2115 of the Government Code requires state agencies to pay the Comptroller's contracted third party firm from recovered funds. Some of these funds, however, do not permit the payment of consultant fees. Bond covenant-protected funds and certain trust funds are examples of such funds included in the audit program. The Comptroller included these expenditures because overpayment recoveries are beneficial to the state and the programs using these funds.

- ➔ **Resolution:** When funds that were originally paid from restricted sources are recovered, agencies are instructed to compensate the consultant from any available administrative funds..

Agency Audits

The Comptroller's office uses data from the Uniform Statewide Accounting System (USAS) to determine the audit population for the state's recovery audit program. In an effort to create additional recovery opportunities for the state, the Comptroller included certain expenditure types in the qualifying calculation that the LBB had not included. Specifically, the Comptroller did not exempt certain grants to companies and individuals, public assistance payments, real property, lottery prize payments or travel reimbursements from recovery audit consideration.

Additionally, the Comptroller aimed to protect agencies from the cost of participating in a recovery audit outweighing the agency's anticipated gains from the audits. After establishing a baseline of expenditures to be included in the recovery audit, the Comptroller used totals from those expenditures and the center point of the LBB's research on anticipated recoveries (.04 percent) to compute anticipated gains. Using this computation, the Comptroller exempted agencies whose population of expenditures subject to the audit is less than \$62.5 million (where anticipated gains were less than \$25,000) to prevent loss to the state.

The Comptroller also exempted the following from recovery audit efforts because recovering the funds would not be beneficial to the state:

- State sales tax
- Payments made to other state entities
- Payments made under receiverships
- Payments recorded by agencies on behalf of other governmental units (such as the Texas Boll Weevil Foundation and Texas Workforce Commission's Local Workforce Development Boards)

The Recovery Audit Program

The audits begin with entrance conferences at each agency being audited. The Comptroller's recovery audit team participates in the conferences so that the team can observe how the audits are conducted and which controls are being assessed.

Recovery audits are data-driven audits. Audit fieldwork at an agency begins only after the agency provides the necessary data for digital review. The contractor's audit fieldwork is limited to six months aggregate time spent at any one agency. The Comptroller along with the affected agency may agree to consider extending fieldwork at an agency if the Comptroller believes that it is cost beneficial to do so.

The entire audit, including collections that occur after fieldwork is completed, is limited to a period of 18 months from the day the audit begins. Because the duration of the audit in its entirety is 18 months, the Comptroller requires the contractor to provide final management review reports not later than one month after the fieldwork phase ends at each agency.

Integration with Comptroller Post-Payment Audits

The Comptroller uses data-mining techniques to target compliance issues and concurrently participates in recovery audit activities. The Comptroller has been making good use of what was learned from the previous recovery audits. For example, the expenditure audit team has incorporated the statement analysis technique used by the previous contractor during its review into the Comptroller's audit program. (Statement analysis is a review method used by recovery auditors to determine if vendors have unused credits of which customers might not be aware.)

In addition, the Comptroller's office has upgraded existing reports meant to find duplicate payments and created new reports to find pricing discounts errors. The agency continues to search for ways to improve the expenditure audit program through the use of new data-analysis techniques.

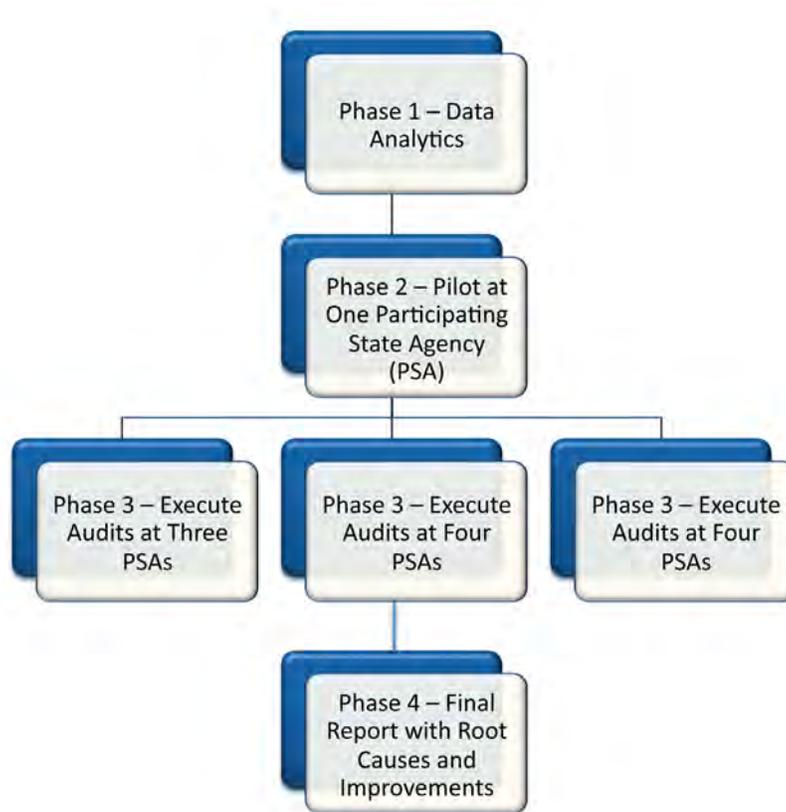
All Agencies Audited Concurrently

The Comptroller initiated two agencies' contracted recovery audits to begin the statewide program: Texas Facilities Commission and Texas Parks and Wildlife Department. Experis staff developed a risk assessment to determine these initial assignments.

After the first two audits began, Experis determined that it would be most beneficial to initiate all agencies' audits concurrently. Working on all agencies' duplicate payments review would expedite recovery of funds. Based on the results of that review, Experis suggested the order of remaining work to be performed among the agencies. Remaining work involved detailed contract reviews and documenting the results of any additional data analysis tests that were performed. In August 2012, the Comptroller agreed to initiate the 10 remaining agencies' audits over a three-month period.

Recovery Audit Plan and Process

The audit process included but was not limited to:



Phase 1:

Data analytics to determine which participating state agency (PSA) would be chosen for the pilot audit. Considered mid-level expenditures at a less complex PSA in order to develop the cadence, integration, reporting and recovery identification process. (See table detailing the ranking results on page 8.)

Phase 2:

Field audit to:

- Conduct interviews with stakeholders,
- Review invoices and other documents to validate potential overpayments, and
- Audit contracts to ensure client is paying to terms and conditions.

Tools include the high-level audit plan, interview script/questionnaire and audit steps.

Phase 3:

Schedule audits for remaining 11 PSAs in three stages for a manageable work schedule (three audits followed by four audits and then the final four audits or 3-4-4).

Phase 4:

Provide final report and identify types of errors and root causes along with suggested improvement recommendations.

Risk Model and Ranking Factors

In Phase 1, Experis analyzed data the Comptroller's office downloaded from USAS and assigned risk to the 12 agencies subject to the overpayment recovery audit. The Vendor Score below follows a risk range of 1 – 5, with a 5 indicating the highest amount of risk.

Experis Risk Model and Ranking Results

Agency Number and Name	Risk Score	Vendor Count	Vendor Score	Vendor Payments	Vendor Payment Score
601 Texas Department of Transportation	500	17,707	5	\$9,500,795,760	5
696 Texas Department of Criminal Justice	455	5,843	5	\$2,525,930,776	5
802 Texas Department of Parks & Wildlife	395	13,889	5	\$202,052,802	3
405 Texas Department of Public Safety	370	3,119	4	\$592,795,267	4
401 Adjutant General's Department	330	2,290	3	\$179,578,504	3
582 Texas Commission on Environmental Quality	300	2,875	3	\$194,649,386	3
313 Texas Department of Information Resources	265	347	1	\$550,481,584	4
694 Texas Youth Commission*	265	3,748	4	\$103,296,917	2
739 Texas Tech University Health Sciences Center	230	1,333	2	\$89,555,967	1
303 Texas Facilities Commission	215	1,045	2	\$127,134,701	2
304 Texas Comptroller of Public Accounts	185	1,258	2	\$124,802,748	2
771 Texas School for the Blind & Visually Impaired	145	734	1	\$62,004,776	1
Totals		54,188		\$14,253,079,188	

Experis Risk Model and Ranking Results (continued)

Agency Number	Transaction Count	Transaction Score	Reversal Amount	Reversal Score	Penalty Amount	Penalty Score
601	567,263	5	(\$4,459,969)	5	\$251,163	5
696	506,764	5	(\$728,482)	4	\$3,298	3
802	353,442	4	(\$213,765)	3	\$41,364	4
405	150,397	4		1	\$175,600	5
401	54,892	3	(\$539,257)	4	\$43,541	4
582	56,208	3	(\$111,275)	3	\$7,505	3
313	11,513	1	(\$9,828,256)	5	\$38,592	4
694*	72,259	3		1	\$1,686	2
739	60,713	3	(\$6,293,834)	5	\$903	1
303	27,141	2	(\$66,331)	2	\$3,455	3
304	33,426	2	(\$95,481)	2	\$951	1
771	10,471	1	(\$155,047)	3	\$1,994	2
Totals	1,904,489		(\$22,491,697)		\$570,052	

*The Texas Youth Commission is now included in Texas Juvenile Justice Department (Agency 644).

Work Streams

Work Stream 1	Work Stream 2
<p>Use data from USAS to provide a series of data-analytic reports to determine potential overpayment recovery opportunities due to duplicate payments, systems or data errors.</p> <p>Reports to be generated include but are not limited to:</p> <ul style="list-style-type: none"> ✓ Duplicate invoice dates ✓ Multiple vendors ✓ Data errors ✓ Appropriation funds ✓ Document numbers 	<p>Review high-spend high-risk contracts to ensure the agencies are paying vendors according to the terms and conditions of their contracts.</p> <p>This activity requires review of:</p> <ul style="list-style-type: none"> ✓ Paper or electronic copies of the contracts selected ✓ Any amendments or change orders ✓ Invoices ✓ Job cost ledgers ✓ Purchase orders ✓ Other relevant information

Recoveries to Date

On Sept. 12, 2012, the first recovered funds under the new contract were received in the Comptroller's Treasury Operations Division. The state's first payment to Experis was made in October 2012.

As of Dec. 1, 2012, \$71,950 has been recovered and deposited in the state treasury. Recoveries were due to overpayments. (See **Appendix II**.)

Appendices

Appendix I: Agencies Subject to Mandatory Recovery Audits

Agency Number and Name	Total Expenditures	Vendor Payments	Vendor %	Projected Savings (Based on 0.04% of Vendor Payments)
601 Texas Department of Transportation	\$14,655,431,884	\$9,500,795,760	65.07%	\$3,814,532
696 Texas Department of Criminal Justice	\$7,179,794,505	\$2,525,930,776	35.61%	\$1,022,795
405 Texas Department of Public Safety	\$3,052,516,644	\$592,795,267	19.73%	\$240,850
582 Texas Commission on Environmental Quality	\$986,915,987	\$194,649,386	20.15%	\$79,555
802 Texas Parks & Wildlife Department	\$742,717,121	\$202,052,802	28.10%	\$83,488
313 Department of Information Resources	\$598,381,914	\$550,481,584	92.48%	\$221,349
304 Texas Comptroller of Public Accounts	\$574,862,747	\$124,802,748	22.03%	\$50,664
694 Texas Youth Commission*	\$517,327,984	\$103,296,917	20.52%	\$42,459
739 Texas Tech University Health Sciences Center	\$386,433,690	\$89,555,967	25.34%	\$39,169
401 Adjutant General's Department	\$280,034,401	\$179,578,504	68.92%	\$77,200
303 Texas Facilities Commission	\$262,751,571	\$127,134,701	48.72%	\$51,203
771 Texas School for the Blind & Visually Impaired	\$109,829,425	\$62,004,776	58.16%	\$25,553
Totals	\$29,346,997,872	\$14,253,079,188		\$5,748,815

*The Texas Youth Commission is now included in Agency 644 Texas Juvenile Justice Department.

Appendix II: Contractor's Overpayment Recovery Audit Status Report (Nov. 30, 2012)

Note: Source of all funding is 100 percent state appropriated funds

							Summary of Non-Recovery Amounts & Reasons	
Agency Number and Name	Number of Payments Reviewed	Amount of Payments Reviewed	Over-payments Identified	Cause of Over-payment	Targeted Recovery Date	Actual Amount Recovered	Payments Disputed by Agency	Payments Disputed by Vendor
303 Texas Facilities Commission	27,141	\$127,134,701	\$64,450	Cost Overbill	9/30/12	\$41,148	\$16,841	\$16,841
802 Texas Parks & Wildlife Department	353,442	\$200,052,802	\$30,802	Reduced Pricing	9/30/12	\$30,802		
771 Texas School for the Blind & Visually Impaired	10,471	\$62,004,776						
401 Adjutant General's Department	54,892	\$179,578,504						
313 Department of Information Resources	11,513	\$550,481,584						
304 Texas Comptroller of Public Accounts	33,426	\$124,802,748						
405 Texas Department of Public Safety	Start in Jan.							
582 Texas Commission on Environmental Quality	56,208	\$194,649,386						
694 Texas Youth Commission	TBD							
601 Texas Department of Transportation	TBD							
696 Texas Department of Criminal Justice	TBD							
739 Texas Tech University Health Science Center	TBD							
Totals		\$1,438,704,501	\$95,252			\$71,950	\$16,841	\$16,841

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