

December 28, 2016

The Honorable Greg Abbott, Governor
The Honorable Dan Patrick, Lieutenant Governor
The Honorable Joe Straus, Speaker of the House
Members of the 84th Legislature

Ladies and Gentlemen:

In January 2005, the Legislative Budget Board made a recommendation in its *Staff Performance Report* to the 79th Legislature to recover certain state agency overpayments to vendors. As a result, the Texas Comptroller of Public Accounts is statutorily required by Texas Government Code, Chapter 2115, to contract with one or more consultants to perform overpayment recovery audits at certain state agencies spanning the state fiscal biennium ending August 31. The results are to be summarized and reported to the Legislature before January 1 of each odd-numbered year.

Since 2006, the Comptroller's office has only awarded two consultants a contract to conduct overpayment recovery audits. The last contract included two renewal options, with the latest expiring on August 31, 2015; however, only one renewal period was exercised and the contract ended August 31, 2014.

The Comptroller's office issued a request for proposal (RFP) on May 22, 2015, and solicited proposals from the 269 eligible vendors listed on the Centralized Master Bidders List. The requested services in the RFP included the detection, confirmation and collection of overpayments made by state agencies to vendors resulting from duplicate payments; invoice errors; pricing errors; failure to apply discounts, rebates, or other allowances; failure to comply with a purchasing agreement; or any other errors resulting in overpayments the Comptroller's office believes would create an economic benefit for the state if recovered. Additionally, the successful consultant was required to determine the causes of the overpayments, suggest recommendations to remedy those causes and issue formal reports to the Comptroller's office documenting the results of each audit performed. The consultant's compensation, by statute, was based on a percentage of the actual amount recovered from the overpayment recovery audit process.

By rule, certain payments were not eligible for recovery audit activities. Examples of ineligible expenses include: payroll, benefit and insurance payments to or for state employees, teachers or retirees; annuitant payments; investments, loans, bond debt service; unemployment compensation; judgments and settlements; and certain grant payments. Additionally, a provision in the Patient Protection and Affordable Care Act required states to establish a recovery audit contract program for Medicaid providers by April 1, 2011. The Health and Human Services Commission independently pursued a Medicaid recovery audit contract, eliminating Medicaid payments from the statewide recovery audit program beginning



December 28, 2016

Page Two

fiscal 2011. One of the Comptroller's previous consultants stated that with the exclusion of the Medicaid payments from the state agencies' potential audit population, it was no longer profitable to pursue the Comptroller's overpayment recovery audit contract. Despite these restrictions, it is estimated approximately \$13 to \$16 billion of payments were eligible for overpayment audit. However, for the RFP issued May 2015, the Comptroller's office received no responses from any qualified consultant, thus a contract was not awarded.

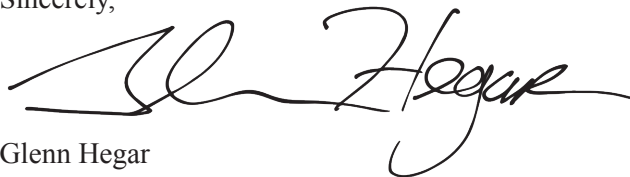
Additionally, the Comptroller's office has integrated various techniques and reports into the Comptroller's regular post-payment audit process based on our experience with the overpayment recovery audit consultants. For example, the Comptroller's office has upgraded its existing reports to find duplicate payments and created new reports to find price discount errors. The agency continues to search for ways to improve the expenditure audit program through the use of new data-analysis techniques.

The Comptroller's office will produce another RFP in fiscal 2017 to solicit an overpayment recovery audit consultant unless statute is changed by the 85th Legislature affecting the program. Recommendations to the overpayment recovery audit program include: allowing the Comptroller's office to determine the frequency of these audits based on what is in the best interest of the state and lowering the threshold of expenditures which would make more state agencies subject to these audits and increase the potential audit population.

Reports to the Legislature regarding the overpayment recovery audit program are [available online](#).

We hope this information is helpful. Please let us know if we can be of further assistance.

Sincerely,



Glenn Hegar

