



A Contracting Audit of the **Texas Department of Motor Vehicles**

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Executive Summary

Purpose and Scope

The objectives of the Texas Department of Motor Vehicles (Department) contracting audit were to determine whether:

- Contracts were solicited, awarded and managed according to the applicable state laws and Comptroller requirements.
- The Department acquired goods and services in an effective and efficient manner.
- Contract payments were processed according to applicable contract terms, state laws, Comptroller requirements and statewide automated system guidelines.
- Documentation to support the procurement and contracting activities and related payments was appropriately maintained.

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 Department of Motor Vehicles was created by the state Legislature in 2009 and became operational that year. The Department registers vehicles, regulates vehicle dealers, credentials buses and big trucks for intrastate and interstate commerce, issues oversize and overweight permits, and awards grants to law enforcement agencies to reduce vehicle burglaries and thefts.

Texas Department of Motor
Vehicles website

<https://www.txdmv.gov/>

Audit Results

The Department generally complied with the General Appropriations Act (GAA), relevant statutes and Comptroller requirements. However, the Department should consider making improvements to its contract formation and award processes.

An overview of audit results is presented in the following table.



Table Summary

Contract Transactions		
Audit Question	Results	Rating
Did the purchase/procurement and contract-related payments comply with the GAA, pertinent statutes and Comptroller requirements?	<ul style="list-style-type: none">• Failure to report to the VPTS.• Missing contract closeout documentation.• Contract not posted in CAPPs.• Lack of contract monitoring and oversight.• Failure to report to the LBB for contract renewal.• Missing warrant hold check.• Missing conflict of interest disclosure forms.• Missing nondisclosure agreements.• Missing written acknowledgement of compliance with the <i>State of Texas Procurement and Contract Management Guide</i>.	Compliant, Findings Issued

Key Recommendation

Auditors made one recommendation to help mitigate risk arising from control weaknesses: The Department must ensure that it keeps all documents relating to procurement and contracts on file.

Contract Transactions

Auditors reviewed four contracts totaling \$16,107,697. For three of the contracts, auditors developed a representative sample of six contract payments totaling \$75,086 to ensure the Department complied with the GAA, [eXpendit \(FPP I.005\)](#), the [State of Texas Procurement and Contract Management Guide](#) and pertinent statutes. For the fourth contract, the review was limited to ensuring that all required procurement documentation was maintained.

Contract	Amount	Type of Service	Procurement Cycle				
			Planning	Procurement Method Determination	Vendor Selection	Contract Formation/Award	Contract Management
Contract A	\$86,320	IT Staff Augmentation	No exceptions	No exceptions	No exceptions	No exceptions	<ul style="list-style-type: none">• Contract not posted in CAPPs.• Lack of contract monitoring and oversight.• Failure to report to the VPTS.• Missing contract closeout documentation.



Contract	Amount	Type of Service	Procurement Cycle				
			Planning	Procurement Method Determination	Vendor Selection	Contract Formation/Award	Contract Management
Contract B	\$30,000	Professional Services – Database	No exceptions	No exceptions	Missing warrant hold check	Failure to report to LBB for contract renewal	No exceptions
Contract C	\$672,600	Software Maintenance and Support	No exceptions	No exceptions	<ul style="list-style-type: none"> • Missing conflict of interest disclosure forms. • Missing nondisclosure agreements. • Missing written acknowledgement of compliance with the <i>State of Texas Procurement and Contract Management Guide</i>. 	No exceptions	No exceptions
Contract D	\$15,318,777	Document Imaging and Microfilm Conversion Services	**	**	**	**	**

**Limited Scope – Auditor ensured that the department maintained the required documentation for the contract, but did not conduct a detailed review of the agency's contracting requirements.



Detailed Findings

Failure To Report to the Vendor Performance Tracking System

Auditors identified one contract where the Department did not report vendor performance to the Vendor Performance Tracking System (VPTS) when the contract ended. According to the Department, the contract file did not contain the report due to an ineffective peer review process. [Texas Government Code, Section 2155.089](#) requires state agencies to report vendor performance reviews into the VPTS.

The Statewide Procurement Division (SPD) administers the VPTS for all ordering agencies per [34 Texas Administrative Code Section 20.115\(b\)](#). The VPTS relies on participation by ordering agencies to gather information on vendor performance. All agencies must report vendor performance on purchases over \$25,000 from contracts administered by the SPD or any other purchase over \$25,000 made through SPD-delegated authority. The SPD also encourages ordering entities to report vendor performance for purchases under \$25,000. See [State of Texas Procurement and Contract Management Guide](#) – Monitoring Methods – Vendor Performance Reports.

Agencies can share vendor information and make oversight of state contracts easier by accurately reporting contractor performance.

Recommendation/Requirement

The Department must report contracts and purchases to VPTS to:

- Identify vendors that have exceptional performance.
- Aid purchasers in making best-value determinations based on vendor past performance.
- Protect the state from vendors with unethical business practices.
- Provide vendor performance scores in five measurable categories for the Centralized Master Bidders List.
- Track vendor performance for delegated and exempt purchases.

See the [State of Texas Procurement and Contract Management Guide](#) – Contract Close-Out.

Department Response

The Department agrees with the recommendation. The Purchasing Section will develop a contract close out form to ensure completion of close out documents like vendor performance reporting. The Purchasing Section will also develop a report to identify contracts over \$5 million requiring annual reporting and develop a process to ensure the annual reporting is completed.



Missing Contract Closeout Documentation

Auditors identified one contract where the Department did not have contract closeout documentation. The Department must verify that both parties to the contract have fulfilled their contractual obligations. According to the Department, the contract file did not contain the documentation due to an ineffective peer review process.

As part of the contract closeout, the Department must compare actual performance against performance measures, goals and objectives to determine whether all required work has been completed. A contract is complete when:

- All goods or services have been received and accepted.
- All reports have been delivered and accepted.
- All administrative actions have been accomplished.
- All agency-furnished equipment and materials have been returned.
- All property inventory and ownership issues are resolved including disposition of any equipment or licenses purchased under the contract.
- Final acceptance from the project manager had been received.
- Final payment has been made to the contractor.

See [State of Texas Procurement and Contract Management Guide](#) – Contract Close-Out.

Recommendation/Requirement

The Department should enhance its procurement procedures to ensure the contract closeout is conducted and documented when the contract ends.

Department Response

The Department agrees with the recommendation. A close out process is addressed in the TxDMV Procurement & Contract Procedures Guide submitted to the Comptroller's Office in November 2020. The Purchasing Section will develop a contract close out form to provide contract monitors a checklist of the requirements and processes addressed in the guide.

Contract Not Posted in Centralized Accounting and Payroll/Personnel System

Auditors noted that one contract was not posted in the Centralized Accounting and Payroll/Personnel System (CAPPS). According to the Department, it was not aware of the requirement to post the contract in CAPPS.

Agencies using CAPPS must post solicitation and contract information according to Comptroller requirements. See [Texas Government Code, Section 2101.041\(a\)](#) and [34 TAC Section 5.302\(b\)](#).



Recommendation/Requirement

The Department must post contract information to CAPPs to fulfill the Legislature's enterprise resource planning requirements. See [State of Texas Procurement and Contract Management Guide](#) – Agency Reporting of Contracting Information in CAPPs.

Department Response

The Department agrees with the recommendation. The Purchasing Section implemented a Purchase Order Checklist in September 2020 to ensure its hard copy files were complete prior to issuing a purchase order. The Director of Purchasing will implement a complementary process to ensure the documents are attached to the purchase order in CAPPs. The Department will deploy workflow functionality in CAPPs to assist with the review of and compliance with this requirement. The Purchasing Section will apply these processes and ensure compliance on applicable contracts executed since September 2019.

Lack of Contract Monitoring and Oversight

Auditors noted that one contract did not have a contract monitoring and oversight mechanism in place. The Department required weekly reports to be submitted to the Quality Assurance section, but could not locate the reports when auditors requested them. The Department stated it required contract monitoring to occur at the division level but did not create processes to ensure contract monitors had all the necessary tools to monitor contracts.

As a result, the Department did not have mechanisms in place to validate whether services billed on the vendor's invoices were provided, or whether the billings accurately corresponded to the services provided. The Department paid vendor invoices with no in-depth review beforehand, and with no audit after payment. While the vendor's invoices included detailed timesheets for specific personnel providing services, auditors found that the Department was not reviewing or auditing the timesheets.

The lack of contract monitoring and oversight mechanisms greatly increases the risk that the Department will not receive services it contracted for, will pay for services not received and will fail to carry out its statutory responsibilities.

Monitoring the contractor's performance is a key function of proper contract administration to ensure the contractor performs 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, [Texas Government Code, Section 2261.253](#) and [2261.254](#).



Recommendation/Requirement

The Department should design appropriate monitoring procedures for each contract (or each type of contract) that it awards. The Department should document the outcomes of any risk assessments, reviews, audits or other monitoring activities conducted on each contract and retain the documentation in the procurement file.

Department Response

The Department agrees with this recommendation and affirms it has implemented processes and forms to ensure compliance. The Purchasing Section completed a series of contract monitoring training for department contract monitors. These training sessions occurred during the months of June 2019, September 2019, November 2019, December 2019, and August 2020. The Department's Internal Audit Division reviewed the training and the progress of each session. The Department's Internal Audit Division assessed the training and determined the training was effective. As part of this training, contract monitoring forms were developed and included in the training provided to contract monitors.

Failure To Report to Legislative Budget Board for Contract Renewal

Auditors identified one consulting service contract where the Department failed to report the contract renewal to the Legislative Budget Board (LBB). The Department stated that it did not report this contract to the LBB due to an ineffective peer review process. However, the Department did post the contract renewal to the LBB website during fieldwork.

According to [Texas Government Code, Section 2254.0301](#), a state agency must provide written notice to the LBB of a contract for consulting services if the amount of the contract, including any amendment, modification, renewal or extension, exceeds \$14,000. The notice must be on a form prescribed by the LBB and filed no later than the 10th day after contract execution.

Recommendation/Requirement

The Department must report to the LBB awarded contracts for consulting services that exceed \$14,000. The Department must also report any amendment, modification, renewal or extension of these contracts to the LBB for full compliance with [Texas Government Code, Section 2254.0301](#).



Department Response

The Department agrees with the recommendation. The Department has documented procedures to ensure compliance with LBB reporting. The Purchase Order Checklist was updated and implemented in September 2020 to include the LBB reporting requirement to ensure compliance at the creation of the purchase order. To ensure compliance, quality check reviews were implemented prior to the final update of procedures and checklists. In September 2019, the Chief Financial Officer instituted a quarterly quality review team comprised of Finance & Administrative Services staff outside of the Purchasing Section. Effective January 2020, the Department established key performance measures for the Purchasing Section including one focused on LBB's reporting requirements. In Fiscal Year 2021, the measure was updated to specifically address the 10-day requirement for consulting and professional services contracts. The Director of Purchasing is responsible for the monthly reporting of this performance measure, thus further enhancing the oversight and reporting to the LBB as required by Texas Government Code.

Missing Warrant Hold Check

Auditors noted one contract where the Department failed to verify the vendor's warrant hold status before contract execution. The Department must provide a screen print documenting the verification. According to the Department, the contract file did not contain the warrant hold check due to an ineffective peer review process.

State agencies are required to check the vendor's warrant hold status if the transaction involves a written contract. [Texas Government Code, Section 2252.903\(a\)](#) requires agencies to determine whether a payment law prohibits the Comptroller from issuing a warrant or initiating an electronic funds transfer to a person before entering into a written contract, and to make that determination no earlier than the seventh day before and no later than the date of the contract.

Recommendation/Requirement

The Department must conduct the warrant hold check before any purchase, contract award, extension or renewal, and must retain results in the procurement file.

Department Response

The Department agrees with the recommendation. The Purchasing Section implemented a Purchase Order Checklist in September 2020 to ensure procurement files are in compliance with all requirements prior to issuing a purchase order.



Missing Conflict of Interest Disclosure Forms

Auditors found that one contract did not have the required conflict of interest disclosure forms. The Department stated that employees involved in the procurement did sign the conflict of interest disclosure forms, but they were not found in the procurement file.

State agency personnel must disclose any potential conflict of interest during the procurement process or term of a contract with a private vendor. See [Texas Government Code, Section 2261.252\(a\)](#) and [\(a-1\)](#).

Recommendation/Requirement

The Department must ensure all procurement and contract management personnel complete and sign conflict of interest disclosure statements before initiating purchases. See [Texas Government Code, Section 2261.252](#). These forms must be retained in the procurement file.

Department Response

The Department agrees with this recommendation. The Purchasing Section implemented a Procurement and Contract File Checklist for contracts requiring evaluation committees in November 2020 to ensure compliance with required documentation such as the conflict of interest disclosure forms. The Director of Purchasing or contract manager ensures compliance with the necessary form requirements during the approval process prior to dispatching the purchase order. The form is part of the Department's Procurement and Contract Procedures Guide submitted to the Comptroller's Office on November 30, 2020.

Missing Nondisclosure Agreements

Auditors identified one contract where the Department failed to provide a nondisclosure agreement for all evaluation committee members. Department staff stated that personnel involved in the procurement did sign nondisclosure agreements, but they were not found in the contract file or emails.

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



Recommendation/Requirement

The Department must follow procurement procedures to ensure evaluation committee members and technical advisors complete and sign nondisclosure agreements before engaging in evaluation committee activities. The Department should maintain the nondisclosure agreement as part of the contract file. See [Texas Government Code, Section 2261.252](#).

Department Response

The Department agrees with this recommendation. The Purchasing Section implemented a Procurement and Contract File Checklist for contracts requiring evaluation committees in November 2020 to ensure compliance with required documentation such as the nondisclosure forms. The Director of Purchasing or contract manager ensures compliance with the necessary form requirements during the approval process prior to dispatching the purchase order. The form is part of the Department's Procurement and Contract Procedures Guide submitted to the Comptroller's Office on November 30, 2020.

Missing Written Acknowledgement of Compliance With Contract and Procurement Guide

Auditors identified one contract where the contract manager did not acknowledge in writing that the Department complied with the [State of Texas Procurement and Contract Management Guide](#). The Department was unaware of this requirement.

Per the [State of Texas Procurement and Contract Management Guide](#) – Agency Verification of Use of Best Value Standards, the contract manager or procurement director of the Department must provide a written acknowledgement of compliance with the Department's contract management guide and the [State of Texas Procurement and Contract Management Guide](#).

Recommendation/Requirement

The Department should ensure that the contract manager or procurement director provides a written acknowledgement of compliance with the Department's contract management guide and the [State of Texas Procurement and Contract Management Guide](#) for all future contract purchases.

Department Response

The Department agrees with the recommendation. The Department implemented a Purchase Order Checklist in September 2020 to demonstrate and acknowledge by signature the review by the contract manager or procurement director prior to dispatching a purchase order in CAPPs. The Department will update its Purchase Order Checklist to include a statement that the signature on the form is the written acknowledgment of compliance by the contract manager or procurement director. This form update will be completed in February 2021.



Appendices

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

Audit Objective

The objective of this audit was to ensure contracting processes and payments comply with state laws and regulations.

Audit Scope

Auditors reviewed four contracts awarded by the Texas Department of Motor Vehicles (Department) that were processed through the Uniform Statewide Accounting System (USAS) and the Centralized Accounting and Payroll/Personnel System (CAPPS) 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 Department received appendices with the full report, including a list of 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 Department should implement the recommendation made in the Detailed Findings section of this report. It is the Department's responsibility to seek refunds for all overpayments unless it determines it is not cost effective to do so. If necessary, the Comptroller's office may take the actions set forth in [Texas Government Code, Section 403.071\(h\)](#), to ensure the Department's documents comply in the future. The Department must ensure 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

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Appendix 2 — Definition of Ratings

Compliance Areas

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

Internal Control Structure/Security Areas

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

Repeat Finding Icon Definition



This issue was identified during the previous audit of the agency.