State Auditor's Office

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An Audit Report on

Information and Communications Technology Cooperative Contracts at the Health and Human Services Commission

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Overall Conclusion

The Health and Human Services Commission (Commission) has processes designed to help ensure that purchases for information-technology-related goods and services (computers, computer devices, software, telecommunication devices, staffing services, and maintenance services) comply with applicable state purchasing laws, rules, and the Department of Information Resources' Information and Communications Technology Cooperative Contracts Program (Program) requirements.

From September 2011 through February 2013, the Commission reported that it made $367.3 million in total payments for information-technology-related purchases, and it made $147.3 million (40.1 percent) of those payments through the Program.

Opportunities exist for the Commission to strengthen its contract management processes to help ensure that (1) Program purchases provide best value in terms of the price paid for a Program good or service, (2) Program purchases are free from real or apparent conflicts of interest, and (3) monitoring of Program contracts helps to ensure the quality of goods and services delivered. Specifically:

> **Best Value.** The Commission should strengthen its processes to ensure that goods and services purchased through the Program provide best value. Texas Government Code, Section 2157.003, defines best value as the lowest overall cost for a Program good or service. The Commission did not maintain consistent documentation to support noncompetitive purchases for Program goods, services, and deliverables-based information services. In addition, while the Commission generally ensured that it paid for Program staffing services at rates that did not exceed the not-to-exceed rates established by the Department of Information Resources, it did not ensure that the rates paid for purchased Program goods and services included either the Department of Information Resources' negotiated discount rate or a higher discount rate.

The Information and Communications Technology Cooperative Contracts Program

The Information and Communications Technology Cooperative Contracts Program (Program) is a streamlined cooperative purchasing program managed by the Department of Information Resources (Department) that offers contracts for information-technology-related products and services including hardware, software, staffing services, maintenance, and other services with a high customer demand. The other services may include managed services and technology training services that may be used by state and local governments, public education entities, and other public entities in Texas, as well as public entities outside the state.

State and other public entities may further negotiate better pricing for volume purchases and otherwise tailor their purchases through entity-specific statements of work and service level agreements, according to individual customer needs, budgets, and projects.

The Program is established under Texas Government Code, Section 2157.068.

Source: The Department of Information Resources.

➢ **Conflicts of Interest.** The Commission should strengthen existing processes to help ensure that Program purchases are free from real or apparent conflicts of interest. The Commission did not have consistent documentation to support that procurement staff disclosed potential conflicts of interest or confirmed that none existed.

➢ **Vendor Performance.** The Commission should improve its monitoring and reporting of the quality of the Program goods and services delivered. Specifically:

- The Commission should establish standard agencywide monitoring processes for evaluating the quality of Program staffing services that contract workers provide. The Commission limited its monitoring to reviewing and approving only the contract workers' timesheets to verify the appropriateness of vendor payments.

- The Commission should report to the Office of the Comptroller of Public Accounts (Comptroller's Office) information on the performance of Program vendors from which it purchases goods and services. Title 34, Texas Administrative Code, Section 20.108, requires state agencies to report a vendor's performance on any purchase of $25,000 or more to the Comptroller's Office. However, the Commission did not comply with that requirement for the Program purchases tested.

- The Commission should ensure that its contract managers for Program contracts for deliverables-based information technology services complete the training that Texas Government Code, Section 2262.053, requires.

The Commission also should ensure that it (1) consistently processes a purchase order for its Program purchases and (2) records the purchase order or contract in its accounting system when processing payments for Program purchases. In addition to the $147.3 million in payments the Commission reported making on purchases through the Program from September 2011 through February 2013, auditors identified $19.2 million in payments for information-technology-related goods and services purchases for which the Commission did not record corresponding purchase orders in its accounting system. Auditors tested a sample of 29 payments that totaled $9.4 million and determined the following:

➢ The Commission did not record in its accounting system the associated purchase order or contract for 21 (72 percent) of 29 payments. Those 21 payments totaled $9.0 million. Six (29 percent) of those 21 payments resulted in overpayments (payments that exceeded the authorized purchase amounts) totaling $33,641.

➢ The Commission did not process a purchase order for 6 (21 percent) payments that it made totaling $49,297.

> ➢ Two transactions totaling $373,820 that initially appeared to be payments were not payments to vendors; instead, they were correcting accounting entries the Commission made in its accounting system.

Not recording the purchase order in its accounting system when processing payments increases the risk that the Commission may make payments on purchases that were not properly authorized or process overpayments (such as the six instances noted above).

The Commission has processes to identify and report new major information resources projects to the State's Quality Assurance Team in accordance with statute.

Auditors communicated other, less significant issues regarding the contract management process separately in writing to the Commission. Those issues were related to procurement and payment practices, compliance with certain administrative policies and procedures, and reporting practices for certain contracts and conflicts of interest.

Summary of Management's Response

The Commission agreed with the recommendations in this report.

Summary of Information Technology Review

Auditors performed a limited review of the general and application controls for two information systems the Commission used to manage purchase-related data for Program purchases and major information system projects:

> ➢ The HHSC Contract Administration and Tracking System, which is an application and database that manages the contract related procurement data.

> ➢ The Project Management Repository System, which is an application and database that manages project-related data, including data related to major information system projects.

Auditors reviewed controls over user access, password security, and change management and determined that those systems had adequately designed controls to ensure the reliability of data created in and processed by those systems. However, the Commission should strengthen certain user access controls to minimize the risk of alteration or deletion of data.

In addition, auditors assessed the reliability of accounting data based upon prior audit work performed for (1) the Health and Human Services Administrative System and (2) the Uniform Statewide Accounting System and determined that the data in these systems were reliable for purposes of this audit.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

➢ Determine whether selected state entities (1) made purchases through the Program when required to do so; (2) properly procured the contracts, including negotiating prices and deliverables as appropriate; (3) obtained information technology commodity goods and services as statutorily defined through the Program; and (4) managed and monitored contractors to help ensure that they performed in accordance with the terms of the contracts.

➢ Determine whether state entities that purchase goods or services through the Program reported related major information resources projects to the Quality Assurance Team as required by law.

The scope of this audit covered information-technology-related procurements for which the Commission made a payment made from September 1, 2011, through February 28, 2013.

The audit methodology consisted of collecting and reviewing procurement and contract documentation and major information resources project documentation; conducting interviews with Commission management and staff; reviewing statutes, rules, Office of the Comptroller of Public Accounts' procurement requirements, and Commission policies and procedures; identifying and collecting information from other reports; and performing selected tests and other procedures.

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Detailed Results

The Commission Should Ensure That Its Purchases of Information Technology Goods and Services Provide the Best Value and Are Free of Real and Apparent Conflicts of Interest

The Health and Human Services Commission's (Commission) procurement processes are designed to help ensure that it complies with requirements that help to provide assurance that the State obtains best value on Department of Information Resources' Information and Communications Technology Cooperative Contracts Program (Program) purchases. (See text box for more information on the types of purchases agencies can make through the Program.) Texas Government Code, Section 2157.003, defines best value as the lowest overall cost for a Program good or service. (See text box for more information on best value.) However, opportunities exist for the Commission to strengthen assurance that the State receives best value for its Program purchases.

In addition, the Commission should ensure that its procurement staff consistently complete documents that provide assurance that information-technology-related purchases are free from real and apparent conflicts of interests.

The Commission should ensure that it obtains best value on its Program purchases.

For all 32 purchases of Program goods and services tested, the Commission did not have documentation to support that the purchase provided best value. Those 32 purchases totaled $26 million. Specifically:

- For 30 purchase orders tested for Program good and services, the Commission did not have documentation to show that it attempted to negotiate further discounts beyond the discounts offered by the Program contracts. The Commission accepted the initial vendor quote provided for those purchase orders, which totaled $25.4 million. The Department of Information Resources' Program contracts with vendors allow agencies to negotiate discount rates that exceed the discount rates in Program contracts.

Program Purchases

State agencies can make the following types of information-technology-related purchases through the Program:

- **Goods and services.** Examples include computers, computer devices, hardware, software, telecommunication devices, and maintenance services.

- **Staffing services.** Examples include temporary staff and contract workers that provide information-technology-related services.

- **Deliverables-based information technology services.** These are project-based or outsourced-based services for which a vendor is paid for the satisfactory delivery of agreed-upon deliverables such as the development of new information systems, assessments, or analyses.

Source: The Department of Information Resources.

Best Value

Texas Government Code, Section 2157.003, states that "best value" means the lowest overall cost of an automated information system. In determining the lowest overall cost for a purchase or lease of an automated information system, the statute specifies that following factors should be considered:

- Purchase price.

- Compatibility to facilitate the exchange of existing data.

- Capacity for expanding and upgrading to more advanced levels of technology.

- Quantitative reliability factors.

- Level of training required to bring persons using the system to a stated level of proficiency.

- Technical support requirements for the maintenance of data across a network platform and the management of the network's hardware and software.

- Compliance with applicable Department of Information Resources' statewide standards validated by criteria adopted by the Department of Information Resources by rule.

- Applicable factors listed in Texas Government Code, Sections 2155.074 and 2155.075.

- For 2 purchases tested for Program goods and services made without a purchase order, the Commission accepted the initial vendor quote provided for those purchases, which totaled $580,448.

In addition, auditors identified six purchases the Commission made without a purchase order. Those six purchases, which totaled $49,297, were for Program goods, services, and staffing services, and the Commission was unable to provide any procurement documentation for those purchases, including documentation supporting whether the price it paid provided best value. See Chapters 2 and 4 for more information on those six purchases.

The Commission should consistently document its best value justification for noncompetitive procurements for Program deliverables-based information technology services.

The Commission did not document the best value justification for 2 (29 percent) of 7 contracts tested for Program deliverables-based information technology services. Those 2 contracts totaled $250,190. The Commission's policies and procedures recommend the solicitation of three to five vendors to help ensure that it obtains best value. For each of those two contracts, the Commission solicited only one vendor. Specifically:

- One contract that totaled $160,000 was for Program deliverables-based information technology services to review and make recommendations on a request for offer for a data center. The Commission provided a copy of an executive action memo approved by executive management that authorized the procurement of the contract. However, the executive action memo neither disclosed that the contract was a sole source purchase nor included details describing how the Commission determined that the vendor provided best value.

- One contract that totaled $90,190 was for Program deliverables-based information technology services related to developing a Web site for a program. Commission staff obtained legal approval to make a sole source purchase. However, Commission documentation did not include details describing how the Commission determined the vendor provided best value.

Not documenting best value justification for noncompetitive procurements increases the risk that Program purchases may not provide best value.

The Commission should consistently verify that vendors apply Program discount rates to its purchases.

The Commission did not have documentation showing that it consistently verified that it received Program discounts for 29 (43 percent) of 68 Program purchases tested for goods and services and staffing services. Those 29 purchases totaled $26,255,085 and included:

- Twenty-five purchase orders for Program goods and services that totaled $24,674,417.

- Two Program purchases for goods and services made without a purchase order that totaled $850,288.

- Two Program purchases for staffing services made without a purchase order that totaled $730,380. In addition, for those two purchases, the Commission paid more than the Department of Information Resources' not-to-exceed rate for two contract workers. Specifically:

  - One contract worker was paid $90.00 per hour when the not-to-exceed rate was $88.51. As a result, that contract worker received $7,414 more in payments for services provided from February 2011 through July 2013. Auditors calculated the reported amount from the date of the rate change through the most current date.

  - One contract worker was paid $76.35 per hour when the not-to-exceed rate was $76.10. As a result, that contract worker received $128 more in payments from May 2012 through July 2012.

Not ensuring that vendors apply the appropriate discount rate to Program purchases increases the risk that the Commission may not receive the best value for its Program purchases.

The Commission should ensure that its procurement staff consistently complete and sign conflict of interest statements and nepotism disclosure statements.

Auditors identified Commission procurement staff and members of the procurement evaluation team for Program purchases who did not consistently complete annual conflict of interest statements or nepotism disclosure statements when required for procurements made in fiscal years 2010, 2011, 2012, and 2013 (the fiscal years associated with the payments in the audit scope). Specifically:

- While all 16 purchasers tested completed conflict of interest statements for fiscal year 2013, the Commission did not have those statements for 5 purchasers for fiscal years 2010, 2011, and 2012. Specifically:

  - The Commission did not have conflict of interest statements for two purchasers for fiscal year 2012.

  - The Commission did not have a conflict of interest statement for one purchaser for fiscal year 2011.

  - The Commission did not have conflict of interest statements for four purchasers for fiscal year 2010.

(One purchaser tested did not have a conflict of interest statement completed for any of the fiscal years tested and is included in the count for each of the findings above.)

- For 4 (57 percent) of 7 contracts tested for Program deliverables-based information technology services, the Commission did not have completed and signed nepotism disclosure statements for certain procurement staff and evaluation team members as required by Texas Government Code, Section 2262.004 (b) (see text box for more information). Those 4 contracts totaled $13,277,495. Specifically:

> **Nepotism Disclosure Requirement**
>
> Texas Government Code, Section 2262.004 (b), states that "Before a state agency may award a major contract for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds $25,000, or other owner of the business entity…"

  - The Commission did not have a completed and signed nepotism disclosure statement for one evaluation team member for a contract totaling $7,426,338.

  - The Commission had incomplete nepotism disclosure statements for 1 contract totaling $3,636,000. While evaluation team members for that contract signed those forms, they did not indicate on the forms whether they were aware of any situations involving potential nepotism.

  - The Commission did not have a nepotism disclosure statement for the purchaser who managed the procurement for the two contracts previously discussed and for an additional contract totaling $1,587,549.

  - The Commission did not have completed nepotism disclosure statements for evaluation team members for a contract totaling $627,608.

Not ensuring that all procurement staff complete conflict of interest statements and nepotism disclosure statements increases the risk that the Commission's procurement decisions could be impaired or influenced by business, professional, or personal relationships.

Recommendations

The Commission should:

- Maintain documentation of the quoted prices and negotiated prices it obtains for Program purchases.

- Maintain documentation of its best value justification for Program contracts for deliverables-based information technology services.

- Verify that vendors apply proper discounts to Program purchases.

- Review and verify that purchasers and evaluation team members complete conflict of interest statements on an annual basis and complete nepotism disclosure statements when required.

Management's Response

HHSC Procurement and Contracting Services will communicate with program area contract managers to increase awareness and strengthen existing training to ensure sole source and best value determinations are documented and vendor discounts are verified and applied prior to payment.

While HHSC Procurement and Contracting Services staff currently, on an annual basis, complete conflict of interest statements required by the Comptroller of Public Accounts TPASS Division, it will ensure staff also complete a nepotism disclosure statement each year. In addition, as part of the HHSC new employee training, all new HHSC Procurement and Contracting Services employees will be required to complete conflict of interest and nepotism disclosure statements within 30 days of employment.

HHSC Procurement and Contracting Services will strengthen its policies and procedures to help ensure program area evaluation team members and contract managers complete any required conflict of interest statement and nepotism disclosure statements prior to their involvement in evaluating, awarding, and managing major contracts for the purchase of goods and services, then annually if applicable.

Estimated Completion Date:

September 2014

Title of Responsible Person:

Deputy Executive Commissioner for Procurement and Contracting

The Commission generally ensured that it monitored vendor performance for Program purchases and that it properly processed payments. The Commission also ensured that management properly supported and approved purchase order change orders and contract amendments. In addition, the Commission properly closed out completed contracts for Program deliverables-based information technology services in accordance with the recommendations of the *State of Texas Contract Management Guide*. However, auditors identified opportunities for the Commission to improve its monitoring efforts and certain payment processes.

The Commission should evaluate the quality of the Program staffing services it purchases.

For all 30 purchase orders tested for Program staffing services, the Commission did not have documentation to support that it periodically evaluated the quality of services that temporary staff and contract workers delivered. Those 30 purchase orders totaled $23.7 million.

The Commission limited its monitoring of the Program staffing services to reviewing and approving the timesheets for temporary staff and contract workers to ensure the appropriateness of vendor payments. The Commission did not have a documented agencywide process to periodically evaluate the quality of the staffing services being delivered. Assessing the performance of vendors is essential to ensuring that procured services are satisfactory and for the Commission to be aware of and address any substandard vendor performance. In addition, monitoring vendor performance would allow the Commission to justify instances in which it increases vendor rates or it decides to renew or extend existing purchase orders.

The Commission should ensure that it reports vendor performance for applicable Program purchases to the Office of the Comptroller of Public Accounts as required.

The Commission did not report to the Office of the Comptroller of Public Accounts (Comptroller's Office) information on vendor performance for Program purchases of at least $25,000 as required by Title 34, Texas Administrative Code, Section 20.108. Although the Commission has processes for reporting vendor performance to the Comptroller's Office, it did not report the vendor performance for the Program purchases that auditors tested. Those purchases included:

▪ Eighteen purchase orders for Program goods and services (excluding staffing services and deliverables-based information technology services) that totaled $25.3 million.

- Thirty purchase orders for Program staffing services that totaled $23.7 million.

- Seven contracts for Program deliverables-based information technology services that totaled $14.2 million.

Receiving vendor performance information allows the Comptroller's Office to collect information that the Department of Information Resources can use when it awards Program contracts.

The Commission should process purchase orders for all information-technology-related purchases and record the purchase order or contract number in its accounting system when it processes payments.

The Commission did not consistently (1) process purchase orders for its information-technology-related purchases and (2) record corresponding purchase orders or contract numbers in its Health and Human Services Administrative System when it processed payments. For the period from September 2011 through February 2013, auditors identified $19.2 million in payments for information-technology-related purchases for which the Commission did not record the corresponding purchase order or contract number in the Health and Human Services Administrative System. Auditors tested a sample of 29 payments that totaled $9.4 million, and identified the following:

- The Commission did not record the corresponding purchase order or contract number in the Health and Human Services Administrative System when it processed 21 payments totaling approximately $9.0 million. Six (29 percent) of those 21 payments resulted in payments that exceeded the authorized purchase amounts that totaled $33,641.

- The Commission had not processed and approved a purchase order for 6 payments that it made totaling $49,297. See Chapters 1 and 4 for more information on those Program purchases.

- Two transactions totaling $373,820 that initially appeared to be payments were not payments to vendors; instead, they were correcting accounting entries the Commission made in its accounting system.

Not recording the corresponding purchase order or contract associated with each payment increases the risk that the Commission could inappropriately pay for an unauthorized purchase or pay more than the amount authorized for a purchase.

Recommendations

The Commission should:

- Develop and document:

  - An agencywide, standardized process, including performance criteria, to evaluate periodically the quality of Program staffing services that contract workers provide.

  - A process to report periodically to the Comptroller's Office the performance of contractors that provide Program goods and services with values of at least $25,000.

- Record the corresponding purchase order or contract in the Health and Human Services Administrative System when it processes payments for Program purchases.

- Process and approve purchase orders for all Program purchases.

Management's Response

SAO Recommendation:

The Commission should develop and document:

- *An agencywide, standardized process, including performance criteria, to evaluate periodically the quality of Program staffing services that contract workers provide.*

- *A process to report periodically to the Comptroller's Office the performance of contractors that provide Program goods and services with values of at least $25,000.*

Management Response:

A Contract Management Workgroup was formed in July to develop an enterprise-wide Contract Management and Risk Assessment Manual. The manual will contain comprehensive contract management policies and procedures, universal guidelines, best practices, and standards that will apply to all enterprise agencies in accordance with H.B. 3648 and S.B. 1681, 83rd Legislature, Regular Session, 2013. The manual will serve as a tool to facilitate more effective contract management practices, including establishing performance criteria and evaluating the quality of services provided.

While HHSC already utilizes the Comptroller's Vendor Performance Tracking System (VPTS) to report contractor performance, it will (a) revise and strengthen policies and procedures to ensure the VPTS is more consistently

used to report contractor performance and (b) incorporate additional guidance in the new Contract Management and Risk Assessment Manual about reporting contractor performance in VPTS.

Estimated Completion Date:

September 2014

Title of Responsible Person:

Deputy Executive Commissioner for Procurement and Contracting

<u>SAO Recommendation:</u>

The Commission should:

- *Record the corresponding purchase order or contract in the Health and Human Services Administrative System when it processes payments for Program purchases.*

- *Process and approve purchase orders for all Program purchases.*

Management Response:

HHSC Procurement and Contracting Services is in the process of revising the manual used to provide guidance to agency contract managers and staff who process and approve requisitions and payment requests to clarify:

- *The types of purchases that require (a) a requisition to be submitted and approved and (b) a purchase order or contract to be in place, before an associated payment may be processed.*

- *That business area managers are, by approving the request for payment, providing assurance that the amount requested for payment does not cause total payments against the purchase order or contract to exceed the authorized amount.*

HHSC Procurement and Contracting Services will reinforce this information during semi-annual training for agency staff who manage contracts and process requisitions and at a division directors meeting in December.

Effective immediately, HHSC IT will ensure a purchase order is in place before approving and submitting requests for information technology-related payments. Beginning in February 2014, Fiscal Management will return requests for payments to the requestor when a purchase order is not provided for those goods or services being purchased that require one. Requestors will be asked to obtain a purchase order before payment will be processed.

Estimated Completion Date:

February 2014   *Implement no purchase order payment hold*

March 2014   *Conduct semi-annual contract management training*

June 2014   *Issue Contract Management and Risk Assessment Manual*

Title of Responsible Person:

Deputy Executive Commissioner for Procurement and Contracting

Deputy Executive Commissioner for Financial Services

The Commission Should Ensure That Its Procurement Staff Obtain Required Training and Certifications

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Procurement Staff Training and Certification Requirements

Texas Government Code, Section 2155.078, requires that purchasing personnel attend training. The Comptroller's Office's Texas Procurement and Support Services (TPASS) administers that training and has established requirements for obtaining the Certified Texas Procurement Manager certification.

Texas Government Code, Section 2262.053, requires personnel with significant contract management duties to attend a three-level training program administered by TPASS. Personnel who complete that training can apply for the Certified Texas Contract Manager certification after they pass an examination. However, that certification is not required.

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The Commission ensured that its 18 purchasers obtained procurement training required by Texas Government Code, Section 2155.078. However, five contract managers for seven contracts tested for Program deliverables-based information technology services did not obtain contract manager training as required by Texas Government Code, Section 2262.053. (See text box for more information on these requirements.)

Although the Commission developed an in-house contract management training program to meet training requirements and the Comptroller's Office approved that program on February 2010, the five contract managers did not receive that training. Not ensuring that contract managers obtain required training increases the risk that the Commission's Program purchases may not be made and monitored in accordance with state requirements.

Recommendation

The Commission should develop and implement policies and procedures to ensure that its contract managers obtain required training prior to monitoring contracts for Program deliverables-based information technology services.

Management's Response

A Contract Management Workgroup was formed in July to develop an enterprise-wide Contract Management and Risk Assessment Manual. The manual will contain comprehensive contract management policies and procedures, universal guidelines, best practices, and standards that will apply to all enterprise agencies in accordance with H.B. 3648 and S.B. 1681, 83rd Legislature, Regular Session, 2013. The manual will serve as a tool to facilitate more effective contract management practices, including monitoring contracts for deliverables-based information technology services.

Estimated Completion Date:

September 2014

Title of Responsible Person:

Deputy Executive Commissioner for Procurement and Contracting

The Commission Should Process Purchase Requisitions for Program Purchases and Obtain Verification and Approval of Exemptions for Certain Purchases

The Commission generally ensured that it made purchases for needed information-technology-related goods and services, staffing services, and deliverables-based information technology services and that it made those purchases through the Program when required.

However, auditors identified Program purchases for which the Commission did not have documentation to support that the purchases were requested and approved in accordance with Commission policies and procedures. Auditors also identified purchases for which the Commission did not maintain documentation to support that it obtained or met exemptions that allowed it to make information-technology-related purchases outside of the Program. In addition, the Commission did not consistently ensure that it developed the statements of work it used to procure contracts for Program deliverables-based information technology services in accordance with the *State of Texas Contract Management Guide*.

The Commission should consistently process purchase requisitions for Program purchases.

The Commission did not have documentation showing that it completed needs assessments and purchase requisitions for 6 (21 percent) of 29 information-technology-related purchases it made without a purchase order. The payments tested for those 6 purchase orders totaled $49,297. For those six Program purchases, the Commission was unable to provide documentation to support that a purchase requisition had been submitted, approved, and processed. See Chapters 1 and 2 for more information on those Program purchases.

The Commission requires the submission of a purchase requisition that has been completed and appropriately approved by management when making purchases. In addition, Title 1, Texas Administrative Code, Section 391.713, emphasizes that the procurement record serves as the primary source of information regarding a purchase for purposes of audit. Without the original purchase order and supporting documentation, there is no evidence that procurement requirements were met. Not ensuring that all Program purchases are properly processed increases the risk that the Commission could make unnecessary or inappropriate Program purchases.

The Commission did not always have documentation showing that it obtained or met Program exemption requirements that allow agencies to make certain information-technology-related purchases outside of the Program.

Auditors tested 24 purchase orders for information-technology-related purchases that the Commission made outside of the Program and identified 4

(17 percent) for which the Commission did not have documentation showing that it ensured that the Department of Information Resources approved or allowed the purchase. Those 4 purchase orders totaled approximately $17,931.

The Department of Information Resources allows agencies to make information-technology-related purchases outside of the Program if the purchases meet certain blanket exemptions defined by the Department of Information Resources or if agencies obtain prior approval from the Department of Information Resources after justifying the need to purchase outside of the Program. See Appendix 3 for more information on blanket exemptions.

Not ensuring that it meets criteria for information-technology-related purchases made outside of the Program increases the risk that the Commission's purchases may not comply with state and Program requirements.

The Commission should define statements of work in accordance with the *State of Texas Contract Management Guide*.

The Commission did not define the statements of work in accordance with the *State of Texas Contract Management Guide* for 3 (43 percent) of 7 contracts for deliverables-based information technology services tested. Those 3 contracts totaled $3,886,190. Specifically:

- The Commission did not define the assumptions and constraints in the scope of work for one contract that totaled $3,636,000. The *State of Texas Contract Management Guide* emphasizes that identifying assumptions and constraints is an important step to ensuring that there is a clear understanding of the contract objectives, which is essential to the success of the contract.

- The Commission did not develop a statement of work for one contract that totaled $160,000.   Instead, the statement of work was based on information taken from the vendor's proposal. As emphasized in the *State of Texas Contract Management Guide*, the statement of work forms the basic framework of the resulting contract; it provides a detailed description of what the agency requires of the vendor to satisfactorily perform the work.

- The Commission did not define the roles and responsibilities of the vendor or project risks in the statement of work for one contract that totaled $90,190.

Clearly defining the statement of work is essential in helping to ensure that vendors understand the requirements to satisfactorily deliver Program purchases.

Recommendations

The Commission should:

- Process and approve a purchase requisition for all Program goods and services that it purchases.

- Maintain documentation showing that it obtains exemptions from the Department of Information Resources for purchases it makes outside of the Program.

- Consistently develop and include a statement of work in its solicitations of Program deliverables-based information technology services.

Management's Response

HHSC Procurement and Contracting Services will strengthen:

- *The procurement requisition process and continue to provide requisition training to HHS agency staff to ensure program purchases are processed with a requisition and sourced to a purchase order and contract.*

- *Processes to ensure it obtains DIR exemptions, when appropriate, and documents the exemption in the procurement file.*

- *Processes to ensure consistent development and inclusion of statements of work in solicitations for deliverables-based information technology services.*

Estimated Completion Date:

September 2014

Title of Responsible Person:

Deputy Executive Commissioner for Procurement and Contracting

The Commission Properly Developed and Approved Its Contracts for Deliverables-based Information Technology Services

The Commission generally ensured that it properly developed and approved its contracts with Program vendors for deliverables-based information technology services. The Commission's legal counsel reviewed the seven deliverables-based information technology services contracts tested, and those contracts included all essential clauses recommended by the *State of Texas Contract Management Guide*. Those 7 contracts totaled $14.2 million and are listed in Table 1.

Table 1

Deliverables-based Information Technology Services Contracts For Which Auditors Tested Essential Contract Clauses			
Vendor Name	Contract Start Date	Contract End Date	Initial Contract Value [a]
Cooper Consulting Group	August 19, 2011	August 31, 2012	$7,426,338
The Greentree Group	April 23, 2010	February 28, 2014	3,636,000
Cooper Consulting Group	February 17, 2012	August 31, 2014	1,587,549
Cooper Consulting Group	August 16, 2012	December 31, 2012	679,510
Cooper Consulting Group	February 24, 2011	August 31, 2011	627,608
The Gartner Group	December 6, 2011	August 31, 2012	160,000
Brightleaf Group	April 19, 2012	August 31, 2014	90,190
		Total	$14,207,195

[a] The amount shown does not represent all purchase orders associated with the contracts auditors tested and is limited to payments identified during the audit scope.

Source: The Commission and the Health and Human Services Administrative System.

The Commission Identified and Reported New Major Information Resources Projects to the State's Quality Assurance Team as Required

Business Case and Statewide Impact Analysis

Texas Government Code, Section 2054.303, requires that, for each proposed major information resources project or major contract, an agency must prepare:

- A business case providing the initial justification for the project or contract, including the anticipated return on investment in terms of cost savings and efficiency for the project or contract; and

- A statewide impact analysis of the project's or contract's effect on the State's common information resources infrastructure, including the possibility of reusing code or other resources.

An agency must file the documents with the Quality Assurance Team when it files its legislative appropriations request.

The Commission properly identified and reported 16 new major information resources projects that totaled $304.6 million to the State's Quality Assurance Team. Texas Government Code, Section 2054.003, defines a major information resources project as any information resources technology project identified in an agency's biennial operating plan for which development costs exceed $1 million and that:

- Requires one year or longer to reach operations status;

- Involves more than one state agency; or

- Substantially alters work methods of state agency personnel or the delivery of services to clients; and

- Any information resources technology project designated by the legislature in the General Appropriations Act as a major information resources project.

For each of its 16 major information resources projects, the Commission developed and submitted a business case and a statewide impact analysis to the Quality Assurance Team as required. (See text box for more informaton on reporting requirements.)

The Commission Should Strengthen the Reliability and Security of Data in Certain Information Systems

Auditors reviewed three primary information technology systems the Commission used to manage data related to its purchasing, payment, and monitoring of Program purchases:

- The Health and Human Services Administrative System, which is an application and database that manages procurement- and financial-related data.

- The HHSC Contract Administration and Tracking System, which is an application and database that manages contract-related procurement data.

- The Project Management Repository System, which is an application and database that manages project-related data, including data related to major information system projects.

For the Health and Human Services Administrative System, auditors relied on prior audit work performed and concluded that purchasing data was reliable. For the HHSC Contract Administration and Tracking System and the Project Management Repository System, auditors reviewed controls over user access, password security, and change management and determined that each information system contained adequately designed controls to ensure the reliability of transactions created and processed. However, auditors also identified certain weaknesses summarized below.

The Commission should correct certain access control and security weaknesses.

Although the Commission has processes for managing the access of user accounts to its information systems, auditors identified weaknesses in access for the HHSC Contract Administration and Tracking System and the Project Management Repository System. Specifically:

- Password controls. Auditors identified weaknesses in the Commission's password controls over both information systems. To minimize risks associated with disclosure, auditors communicated the details of those weaknesses separately in writing to the Commission's management.

- User access. Auditors identified 26 unneeded system accounts, 11 user accounts assigned to former contract workers, and 6 user accounts assigned to former staff who no longer needed access to the Project Management Repository System.

- Unknown user accounts. Auditors identified two active user accounts to the HHSC Contract Administration and Tracking System for which the Commission was unable to determine whether they belonged to current or former staff or contract workers.

The weaknesses auditors identified increase the risk of inadvertent or unauthorized alteration or deletion of data. In addition, Title 1, Texas Administrative Code, Section 202.25, requires state agencies to ensure that security safeguards for information systems are in place for access rights, the confidentiality of data and systems, and the authenticity of access for each user.

Recommendations

The Commission should develop, document, and implement processes to help ensure that:

- Information system password requirements comply with industry best practices.

- Its periodic user access reviews verify that users have a business need for access to procurement-related applications and databases.

- It disables user accounts for former employees or employees who no longer need access to the HHSC Contract Administration and Tracking System or the Project Management Repository System.

Management's Response

HHSC Contract Administration and Tracking System (HCATS)

HHSC has an initiative to transition to an Enterprise Identity Access Management System. Once the transition is complete, HCATS password requirements will comply with industry best practices and HHS Enterprise Information Security Standards and Guidelines regarding password length, complexity, re-use, expiration timeframes, change requirements, and encryption.

Once transitioned, this system will control a user's access authority through a self-service request process that includes automated workflow with multi-level approvals and monitoring of a user's access level. In addition, the system will automatically suspend employees' account access based on daily CAPPS terminations and when the application has not been accessed in 90 days.

In the interim, HHSC will strengthen periodic user access reviews to identify and remove all former employees, contract staff, and employees who no longer have a business need for access to HCATS.

Project Management Repository System (PMRS)

HHSC will reinforce the policy with staff requiring that complex passwords are used when accessing IT systems, and strengthen periodic user access

reviews to identify and remove all unnecessary PMRS accounts such as those for former employees or contract staff.

Estimated Completion Date:

March 2014   *Strengthen periodic user access reviews and reinforce complex password requirements*

August 2015   *Implement Enterprise Identity Access Management System for HCATS*

Title of Responsible Person:

Deputy Executive Commissioner for Information Technology

Appendices

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether selected state entities (1) made purchases through the Information and Communications Technology Cooperative Contracts Program (Program) when required to do so; (2) properly procured the contracts, including negotiating prices and deliverables as appropriate; (3) obtained information technology commodity goods and services as statutorily defined through the Program; and (4) managed and monitored contractors to help ensure that they performed in accordance with the terms of the contracts.

- Determine whether state entities that purchase goods or services through the Program reported related major information resources projects to the Quality Assurance Team as required by law.

Scope

The scope of this audit covered information-technology-related procurements for which the Health and Human Services Commission (Commission) made a payment from September 1, 2011, through February 28, 2013.

Methodology

The audit methodology consisted of collecting and reviewing procurement and contract documentation and major information resources project documentation; conducting interviews with Commission management and staff; reviewing statutes, rules, Office of the Comptroller of Public Accounts' procurement requirements, and Commission policies and procedures; identifying and collecting information from other reports; and performing selected tests and other procedures.

<u>Sampling</u>

To test compliance with training requirements for staff who perform purchasing duties, auditors obtained from the Commission a list of all staff who performed those duties for information-technology-related purchases. Auditors identified staff who performed contract management functions for contracts for Program deliverables-based information technology services and tested those staff for compliance with training and certification requirements.

For the samples discussed below, auditors applied a non-statistical methodology. The sample items generally were not representative of the entire population and, therefore, it would not be appropriate to extrapolate results to the population. Auditors selected the following samples:

- To test compliance with state purchasing and contract management requirements for Program purchases and other information-technology-related purchases that were not made through the Program, auditors used professional judgment to select 30 purchase orders for Program goods and services and 30 purchase orders for Program staffing services for which the Commission made a payment during the audit scope. For Program purchases related to deliverables-based information technology services, auditors selected all seven contracts identified for which the Commission made a payment during the audit scope. For purchases that were not made through the Program, auditors used professional judgment to select 30 purchase orders for information-technology-related purchases.

- To test compliance with State purchasing requirements for Program purchases that the Commission made and for which it did not record a corresponding purchase order or contract, auditors used professional judgment to select 30 payments the Commission made during the audit scope. Testing for one payment selected, which was identified as a procurement card transaction, was limited to testing compliance with state payment and approval requirements. The other 29 payments selected were tested for additional applicable attributes.

- To test processing controls for payments made for Program purchases, auditors used professional judgment to select 158 payments the Commission made during the audit scope.

- To test compliance with reporting requirements for new major information resources projects, auditors used professional judgment to select 18 projects for which the Commission reported planned completion dates during or after the audit scope.

Data Reliability

Auditors assessed the reliability of data in the Commission's purchasing-related systems. To assess data reliability, auditors:

- Interviewed the Commission's management and staff.

- Reviewed audits of information technology systems, as applicable.

- Reviewed the Commission's user manuals and policies and procedures related to processing and security controls.

- Reviewed user access to certain data.

- Reviewed system password configurations.

- Reviewed change management logs.

- Tested the accuracy of data elements significant to the audit scope.

Auditors also performed a limited review of the general and application controls over two information systems the Commission used to manage the purchase-related data for Program purchases and major information system projects:

- The HHSC Contract Administration and Tracking System, which is an application and database that manages contract-related procurement data.

- The Project Management Repository System, which is an application and database that manages project-related data, including data related to major information system projects.

Auditors reviewed controls over user access, password security, and change management and determined that those systems had adequately designed controls to ensure the reliability of data created in and processed by those systems.

Auditors assessment of the reliability of procurement data from the Health and Human Services Administrative System relied on prior audit work performed. Auditors determined that the procurement data from the Health and Human Services Administrative System was sufficiently reliable for the purposes of this audit.

Auditors' assessment of the reliability of vendor payment data from the Uniform Statewide Accounting System for the Commission relied on prior audit work performed. Auditors determined that vendor payment data from the Uniform Statewide Accounting System was sufficiently reliable for the purposes of this audit.

Information collected and reviewed included the following:

- Vendor payment data from the Uniform Statewide Accounting System.

- Procurement and financial transactions from the Commission's Health and Human Services Administrative System.

- Quality Assurance Team annual reports.

- Commission and Department of Information Resources policies and procedures.

- Contracts and purchase orders between the Commission and vendors.

- The Commission's *Biennial Operating Plan* and *Information Technology Detail* reports.

- Office of the Comptroller of Public Accounts information on certified procurement and contracting professionals.

- Office of the Secretary of State business registration records.

- Commission procurement and contract files, including purchase requests, planning documentation, bidder proposals, purchase orders, approvals, and other supporting documentation.

- Commission payment documentation, including vendor invoices, timesheets, approvals, and other supporting documentation.

- Commission user manuals for applicable information systems.

- Commission organizational charts.

- Prior State Auditor's Office reports.

- Commission internal audit reports.

Procedures and tests conducted included the following:

- Interviewed Commission management and staff.

- Reviewed procurements for proper approval.

- Tested whether the Commission's purchases represented actual purchases and whether the Commission adequately supported its purchases.

- Tested whether the Commission obtained exemptions from the Department of Information Resources for purchases it made outside of the Program.

- Tested whether the Commission obtained Program discounts or negotiated better discounts.

- Tested whether the Commission properly documented its best value decisions.

- Tested whether the Commission performed and documented a purchase request and needs assessment, when applicable.

- Tested whether the Commission's purchasers and contract managers obtained required training and certifications.

- Reviewed conflict of interest statements and nondisclosure agreements, as applicable.

- Tested whether the Commission adequately supported change orders and contract amendments and whether change orders and contract amendments changed the scope of work.

- Tested whether the Commission properly documented bid evaluation criteria and evaluation scores.

- Tested whether the Commission properly documented contracts and included requirements in contracts to help ensure vendor accountability.

- Reviewed contracts, purchase orders, and payments for appropriate support and approval.

- Reviewed the Commission's purchasing and contract monitoring activities.

- Reviewed selected information technology access and security controls.

- Tested whether the Commission properly identified and reported to the State's Quality Assurance Team proposed major information resources projects in accordance with statutory requirements.

Criteria used included the following:

- Texas Government Code, Chapters 2054, 2155, 2157, 2251, 2252, 2166, 2261, and 2262.

- Title 1, Texas Administrative Code, Chapters 202, 212, 216, 217, and 391.

- *State of Texas Retention Schedule*, Section 5.3.077.

- *State of Texas Procurement Manual*.

- General Appropriations Act (82nd Legislature).

- Quality Assurance Team *Policy and Procedures Manual*.

- *State of Texas Contract Management Guide,* Office of the Comptroller of Public Accounts, Version 1.9 (December 2011).

- Department of Information Resources policies and procedures.

- Commission policies and procedures.

Project Information

Audit fieldwork was conducted from June 2013 through August 2013. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Willie J. Hicks, MBA, CGAP (Project Manager)

- Lauren Godfrey, CIA, CGAP (Assistant Project Manager)

- John Boyd, CIDA

- Jeffrey D. Criminger

- Kels Farmer, MBA, CISA

- Eric Ladejo, MPA

- Bansari Patel, CPA

- Anthony W. Rose, MPA, CPA, CGFM

- Shelby Rounsaville

- Charles Wilson, MPAff

- Dana Musgrave, MBA (Quality Control Reviewer)

- Cesar Saldivar, CGAP, CICA (Audit Manager)

Information on Program Purchases Made From September 1, 2011, Through February 28, 2013

Table 2 summarizes Information and Communications Technology Cooperative Contracts Program (Program) purchases and related payments the Health and Human Services Commission (Commission) recorded from September 1, 2011, through February 28, 2013.

Table 2

Summary of Commission Program Purchases September 1, 2011, through February 28, 2013			
Type of Contract	Total Number of Program Purchase Orders or Contracts	Total Procurement Amount	Total Payment Amount [a]
Equipment and Services	728	$127,339,547	$90,551,148
Staffing Services	225	100,050,814	45,691,280
Deliverables-based Information Technology Services	7	14,207,196	11,070,256
Purchases Made Outside of the Program	565	438,228,561	200,733,596
Payments for Program Purchases Made Without a Purchase Order	2,328 [b]	Unknown [c]	19,226,052
Totals	3,853	$679,826,118	$367,272,332

[a] Payment amounts are from the Uniform Statewide Accounting System and do not include payments for certain telecommunications-related goods and services.

[b] This is the number of payment transactions auditors identified in the Uniform Statewide Accounting System using information-technology-related financial codes.

[c] Because some payment transactions did not have matching purchase order numbers, auditors were unable to determine the total procurement amounts associated with those payments.

Source: The Commission's Health and Human Services Administrative System.

Blanket Program Exemptions for Certain Information-technology-related Purchases

The Department of Information Resources established blanket exemptions for certain information-technology-related purchases that agencies are not required to make through the Information and Communications Technology Cooperative Contracts Program (Program). If an agency decides to purchase an information-technology-related good or service under a blanket exemption, it must make the purchase in accordance with the exact scope, terms, and requirements specified in the blanket exemptions. Table 3 lists the Department of Information Resources' blanket exemptions as of February 2013.

Table 3

Blanket Exemptions from the Program	
Exemption	Description
Emergency Procurement Exemption	State agencies are granted an exemption from the requirement to purchase information-technology-related goods and services through a Program contract if a situation arises in which compliance with Section 2157.068, Texas Government Code, and/or Title 1, Texas Administrative Code, Chapter 212, is impractical or contrary to the public interest, and an emergency procurement is warranted to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the State. The scope and duration of the purchases shall not exceed the duration of the emergency.
Critical Need Exemption	State agencies are granted an exemption from the requirement to purchase information-technology-related goods and services through a Program contract if an unforeseeable circumstance occurs that requires immediate attention, but does not qualify as an emergency procurement as defined in Title 1, Texas Administrative Code, Section 113.2(21). This exemption is for procurements not to exceed $1,500 and that are necessary to restore operation or to correct severely impaired operations due to an equipment failure.
Texas Industries for the Blind and Handicapped Set-aside Exemption	State agencies are granted an exemption from the requirement to purchase information-technology-related goods and services through a Program contract if those items are offered in the Texas Industries for the Blind and Handicapped catalog as a product that is set aside from competitive bidding and offered through a Texas Procurement and Support Services term contract.
Outsourced Deliverables-based Projects	Information-technology-related services do not include deliverables-based, outsourced systems integration or application development projects greater than $10 million. Therefore, state agencies are granted an exemption from the requirement to purchase through a Program contract when purchasing these types of services when greater than $10 million.
Minimum Threshold Procurements	State agencies are granted an exemption from the requirement to purchase information-technology-related goods and services through a Program contract for procurements not to exceed $250.

Blanket Exemptions from the Program	
Exemption	**Description**
Seat Management Lease Established Prior to September 1, 2005	An exemption for a seat management agreement established prior to September 1, 2005, is valid through the initial term of the agreement, but no extensions or renewals are allowed.
Technology Lease Established Prior to September 1, 2005	An exemption for a hardware or software lease established prior to September 1, 2005, is valid through the initial term of the agreement, but no extensions or renewals are allowed.
Computer/Office Accessories and Consumables Exemption through August 31, 2013	State agencies are granted an exemption for certain computer/office accessories and consumables.
Software Maintenance Exemption through August 31, 2013	State agencies are granted an exemption for certain software maintenance if the software maintenance is proprietary or is not available from one of the contracted vendors listed on the Department of Information Resources' software Web site.
Training Services Exemption through August 31, 2013	State agencies are granted an exemption for certain training services if the training is not available from one of the contracted vendors listed on the Department of Information Resources' training Web site.
Subscription Services Exemptions through August 31, 2013	State agencies are granted an exemption for certain database subscription service not offered under any current Program contract.
Job Posting Services Exemptions through August 31, 2013	State agencies are granted an exemption for certain Internet job posting not offered under any current Program contract.
Accessibility-Related Commodity Items and Services Exemption through August 31, 2013	State agencies are granted an exemption for assistive technology hardware, software, and related services as set forth below. This exemption is valid only when the product or service does not exist on a Program contract and is for the use and benefit of consumers or staff that are blind or visually impaired. This exemption will include licenses for assistive software if the publisher is not listed on a Program contract.
Telecommunications Services Exemptions through September 30, 2013	State agencies are granted an exemption for the procurement of telecommunications services that are not a part of Tex-AN or the Capitol Complex Telephone System.

Source: The Department of Information Resources.

Related State Auditor's Office Work		
Number	**Product Name**	**Release Date**
14-012	An Audit Report on Information and Communications Technology Cooperative Contracts at the Commission on Environmental Quality	December 2013
14-007	An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources	October 2013

Copies of this report have been distributed to the following:

Legislative Audit Committee
The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Harvey Hilderbran, House Ways and Means Committee

Office of the Governor
The Honorable Rick Perry, Governor

Health and Human Services Commission
Dr. Kyle Janek, Executive Commissioner