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State Auditor

An Audit Report on

**The Information and
Communications Technology
Cooperative Contracts Program
at the Department of Information
Resources**

October 2013

Report No. 14-007



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Overall Conclusion

The Department of Information Resources (Department) has designed and implemented adequate processes and related controls to help ensure that it procures contracts for its Information and Communications Technology Cooperative Contracts Program (Program) in accordance with applicable requirements. The Department also has a comprehensive contract renewal process for the Program that includes verification of vendors' compliance with statutory requirements.

However, the Department should make improvements in the areas of contract procurement, contract renewal and monitoring, cost-savings calculations, and information technology.

Contract Procurement. The Department has adequate processes that generally ensure that its requests for offers (RFO) for the Program and its evaluation of vendors' proposals meet statutory requirements, rules, Office of the Comptroller of Public Accounts' guidance, and Department procedures. However, the Department should make certain improvements to help ensure that its Program contract procurement processes are effective. Specifically:

- The Department should strengthen its efforts to ensure that its procurement process provides the best value for the State. For Program goods and services contracts, the Department generally negotiates with each vendor a percentage discount off of the manufacturer's suggested retail price (MSRP), rather than a not-to-exceed price. In addition, Program goods and services contracts do not prohibit vendors from increasing the MSRP at the time of a sale. In anticipation of House Bill 2472 (83rd Legislature, Regular Session), the Department has started to negotiate firm fixed prices for selected

Background Information

Texas Government Code, Section 2157.068, requires the Department of Information Resources (Department) to procure commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the Department determines that a reasonable demand exists in two or more state agencies.

Through its Information and Communications Technology Cooperative Contracts Program (Program), the Department establishes contracts for information resources technology products and related services. In addition to state agencies and higher education institutions, Texas Government Code, Section 2054.0565, allows local governments, school districts, assistance organizations, and out-of-state governmental entities to use those contracts to obtain discounts not generally available to single customers.

From September 1, 2011, through February 28, 2013, the Department had approximately \$2.4 billion in sales through Program contracts (see Appendix 2 for details).

The Department reported that cost savings from the Program totaled \$257.6 million for fiscal year 2012 and approximately \$125.2 million for the first two quarters of fiscal year 2013.

As of February 2013, the Department had approximately 659 active Program contracts, and 7 contract managers were responsible for the day-to-day monitoring of those contracts.

Source: The Department.

This audit was conducted in accordance with Texas Government Code, Section 321.0132.

For more information regarding this report, please contact Cesar Saldivar, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.

commodities. However, if the Department does not include the MSRP or a not-to-exceed price in other Program contracts, there is less assurance that customers will receive the intended, negotiated price.

- For Program goods and services contracts, the Department does not take advantage of statewide aggregate volume purchasing discounts in a way that would assist both large and small customers (because volume discounts are given per customer and per purchase order).
- The Department generally complies with statutory training requirements for its contracting staff. However, the Department should clarify its policies and procedures to ensure full compliance with training and certification requirements.

Contract Renewal and Monitoring. The Department has a comprehensive contract renewal process for the Program that includes verification of vendors' compliance with statutory requirements. However, the Department should improve its contract monitoring process. Specifically:

- The Department should verify the completeness and accuracy of monthly sales reports that Program vendors submit and administrative fees that vendors pay. The State Auditor's Office previously reported that same issue in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Office Report No. 12-004, October 2011). The Department also should ensure that vendors submit those reports and pay those fees in a timely manner.
- The Department should develop a process to enable its contract managers to easily monitor whether vendors provide customers with the discounts specified in their Program contracts.

Cost-savings Calculations. The Department's methodology to calculate Program cost savings does not align with performance measure guidance approved by the Legislative Budget Board. The Department's policies and procedures also do not offer sufficient guidance to ensure that the Department performs cost-savings calculations consistently. Auditors also identified the following:

- In calculating costs savings for Program goods and services contracts, the Department relies on vendor-reported information and does not consistently verify the accuracy of that information. The Department determines Program cost-savings rates based on a sample of items available through contracts. For 32 contracts tested, the sample of items represented 48 percent of total contract sales. The Department's review and approval process also does not ensure that calculations are performed consistently and are free of errors.
- The Department does not report cost savings for Program deliverables-based information technology services contracts.

- The Department used an incorrect formula to determine cost savings for Program staffing services contracts.

Information Technology. The Department has an adequate process to help ensure that monthly vendor sales report data is completely and accurately uploaded to its contract data warehouse. However, the Department should improve controls over the Program's contract data. In addition, the Department does not regularly review user access to its Contract Management System and it does not consistently remove unused user accounts that are still active. The Department also should ensure that its password policies align with the requirements in Title 1, Texas Administrative Code, Chapter 202, and that contract data warehouse passwords comply with requirements. Auditors also followed up on six information-technology-related recommendations in the State Auditor's Office's October 2011 report and determined that the Department had not implemented four of those recommendations.

Auditors communicated other, less significant issues regarding contract term negotiations, calculation of administrative fees, and contract managers' segregation of duties with regard to scoring of vendors' proposals and contract renewals to the Department's management in writing.

Summary of Management's Response

The Department agreed with the recommendations in this report.

Summary of Information Technology Review

Auditors examined the Department's Contract Management System, which the Department uses to track contract and financial information for each Program contract. As discussed above, the Department should strengthen certain user access and password controls to minimize the risk of unauthorized changes to Program data. The Department should ensure that its internal password policies comply with the requirements in Title 1, Texas Administrative Code, Chapter 202, and the password guidelines for state agencies on the Department's Web site. The Department also should strengthen other controls to help ensure that data in its Contract Management System is accurate and complete.

Summary of Objective, Scope, and Methodology

The audit objective was to determine whether the Department designed and implemented effective processes and related controls for the Program to help ensure that it procures contracts in accordance with applicable state laws, rules, and Department policies and procedures and that the State's interests are protected.

The scope of this audit covered contracts the Department established between September 1, 2011, and February 28, 2013. The scope also included (1) Program contracts established in fiscal year 2011 that were renewed between September 1, 2011, and February 28, 2013, and (2) Program staffing services contracts established in fiscal year 2010 and subject to renewal during fiscal year 2011. The audit concentrated on all phases of the contracting process (the contact function, planning, procurement, contract formation and cost-savings rate establishment, and contract oversight).

The audit methodology consisted of collecting and reviewing Program procurement documentation and contracts, vendor sales reports and corresponding administrative fees, and cost-savings reports; reviewing statutes, rules, Office of the Comptroller of Public Accounts' requirements, and Department policies and procedures; performing selected tests and other procedures; identifying and collecting information on the implementation of selected prior audit recommendations; and interviewing Department management and staff.

Auditors assessed the reliability of contract data in the Salesforce application the Department used to manage Program contracts; track sales, administrative fees, and cost savings rates; and calculate contract cost savings. Auditors determined that the Salesforce data was not sufficiently reliable for the purposes of this audit.

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Detailed Results

Chapter 1

The Department's Procurement Process for Program Contracts Generally Ensures Compliance with Requirements, But the Department Should Strengthen Efforts to Ensure That the State's Interests Are Protected

The Department of Information Resources (Department) has designed and implemented adequate processes and related controls to help ensure that it procures contracts for its Information and Communications Technology Cooperative Contracts Program (Program) in accordance with applicable requirements. However, the Department should ensure that the State's interests are protected by (1) better ensuring that Program contracts provide best value and (2) leveraging statewide purchasing power by negotiating aggregate volume discounts that benefit both small and large customers.

In addition to strengthening Program contract procurement, the Department should improve certain aspects of training for its contracting staff, efforts to identify statewide information technology needs, and certain terms in Program contracts.

Chapter 1-A

The Department's Procurement Process for Program Contracts Generally Ensures Compliance with Requirements, But the Department Cannot Fully Ensure That Program Contracts Provide Best Value

The Department has adequate processes that generally ensure that its requests for offers (RFO) for the Program and its evaluation of vendors' proposals meet statutory requirements, rules, Office of the Comptroller of Public Accounts' guidance, and Department procedures. However, the Department's procurement process cannot fully ensure best value because Program goods and services contracts do not include not-to-exceed prices. Furthermore, the Department does not negotiate Program contracts that include statewide aggregate volume purchasing discounts that would benefit both small and large customers.

The Department has an adequate process to ensure that Program RFOs generally comply with requirements.

The Department properly posted the four Program RFOs that auditors tested; those RFOs also included required information that complied with state laws and rules and Department policies and procedures. Auditors also reviewed the Department's vendor proposal evaluation process to determine whether the

Department applied that process consistently and scored proposals accurately. Auditors identified the following:

- For 1 (25 percent) of the 4 RFOs tested—or 9 (30 percent) of the 30 vendors tested—the Department did not accurately use the weighting specified in the RFO when it scored vendor proposals. However, that error did not affect the Department’s final selection of vendors.
- For 1 (25 percent) of the 4 RFOs tested—or 8 (27 percent) of the 30 vendors tested—the Department recorded inaccurate proposal scores for two criteria in its scoring matrix. However, that error did not affect the final selection of vendors.

Program goods and services contracts cannot fully ensure best value because they do not specify a not-to-exceed price.

Program goods and services contracts account for approximately 90 percent of Program sales (see Appendix 3). For those contracts, the Department generally negotiates with each vendor a percentage discount off of the manufacturer’s suggested retail price (MSRP), rather than a not-to-exceed price. In addition, Program goods and services contracts do not prohibit vendors from increasing the MSRP at the time of a sale.

Multiple Award Contract Schedule

Texas Government Code, Section 2155.501(3), defines a multiple award contract as an award of a contract for an indefinite amount of one or more similar goods or services from a vendor.

Texas Government Code, Section 2155.502, states that the Department may develop a multiple award contract schedule from contracts previously awarded under a competitive process by the federal government or any other governmental entity in any state.

Texas Government Code, Section 2157.068(e), requires the Department to compile and maintain a list of commodity items available through Program contracts that have a lower price than the prices for commodity items otherwise available to state agencies. Texas Government Code, Section 2155.504(b), also states that the price listed for a good or service under a multiple award contract schedule is the maximum price that a customer will pay (see text box for the definition of a multiple award contract schedule). However, Program customers do not know the price of goods and services because the Department does not specify MSRP or a not-to-exceed price in its contracts.¹ While Texas Government Code, Section 2157.003, does not specify not-to-exceed pricing as a factor in determining best value, it states that best value means the lowest overall cost of an automated information system, including consideration of the purchase price. However, the Department does not request price information during Program contract negotiations. While Program contracts may specify a percentage discount off of MSRP, that does not fully ensure that customers will obtain best value because not all contracts list MSRP or specify not-to-exceed prices.

¹ According to Texas Government Code, Section 2155.504 (b), and Program contracts, customers may negotiate more advantageous pricing.

**Excerpt from House Bill 2472
(83rd Legislature, Regular
Session)**

“The department shall, to the greatest extent practicable, negotiate a specific price for commonly purchased commodity items. If the department selects a vendor based on the vendor’s offer of a percentage discount from the list price of commodity items, the department shall document in writing how that arrangement obtains the best value for the state.”

Effective September 1, 2013, House Bill 2472 (83rd Legislature, Regular Session) required the Department to negotiate a specific price for commonly purchased commodity items or document in writing how negotiating a percentage off of MSRP obtains best value for the State (see text box for additional details). The Department has started to negotiate firm fixed prices for selected commodities in anticipation of those requirements. However, if the Department does not include the MSRP or a not-to-exceed price in other Program contracts, there is less assurance that customers will receive the intended, negotiated price.

Program contracts do not include statewide aggregate volume purchasing discounts that would benefit both small and large customers.

For some Program contracts, the Department negotiates a volume discount that is given per customer and per purchase order. While that type of discount may benefit large customers, small customers do not have the purchasing power to benefit from those discounts.

The Department had a Program contract with a major vendor that included volume discounts based on total contract sales for selected customers (see Appendix 4 for list of major Program vendors). For that contract, the vendor added a 0.25 percent discount when selected customers’ total purchases exceeded \$600 million, \$1.2 billion, or \$1.6 billion. The Department asserted that the vendor documented that customers received the volume discounts, but the Department was not able to provide documentation to support that assertion. That contract’s term ended in January 13, 2013, and no other Program contracts offer volume discounts in a similar manner.

Recommendations

The Department should:

- Ensure that its review of vendor proposal scoring documentation is complete and accurate prior to approval.
- Require Program vendors to specify MSRP at the time of negotiation and include in its contracts either the MSRP amount or a not-to-exceed price.
- Include in Program contracts volume discounts that increase as total statewide purchases in the aggregate increase.

Management’s Response

Ensure that its review of vendor proposal scoring documentation is complete and accurate prior to approval.

The Department agrees with the recommendation. Currently contract managers enter proposal scores into spreadsheets manually. In Spring 2013, the Department researched for automated tools to improve accuracy and streamline processes. No off-the-shelf automated procurement and contract management system is currently available. The Department will implement procedures to ensure scoring documentation is complete and accurate prior to approval.

Responsible Party: *Manager, Contracts and Vendor Management*

Target Date: *August 31, 2014*

Require Program vendors to specify MSRP at the time of negotiation and include in its contracts either the MSRP amount or a not-to-exceed price.

The Department agrees with the recommendation. In January 2013, the Department began including specific pricing in its contracts where practicable. In March 2013 the Department began requesting MSRP and specific pricing to be submitted with vendor offers at the time of negotiation. This practice was subsequently enacted by HB 2472 (83R). In addition, the Department requires vendors to include specific pricing for DIR customers on the vendor web sites.

The Department's revised Request for Offer and contract templates are in the Contract Advisory Team review process. The revised contract templates do not require MSRP or a not-to-exceed price; however, the new contract templates include provisions that (1) define MSRP or List Price and (2) require vendors to request and receive approval for price changes, similar to provisions found in the Comptroller of Public Accounts' TPASS program.

Responsible Party: *Manager, Contracts and Vendor Management*

Target Date: *January 1, 2014*

Include in Program contracts volume discounts that increase as total statewide purchases in the aggregate increase.

The Department agrees with the recommendation. The Department will include in Program contracts, as appropriate, volume discounts that increase as total statewide purchases increase in the aggregate.

Responsible Party: *Manager, Contracts and Vendor Management*

Target Date: *January 1, 2014*

The Department's Training Policies and Procedures Do Not Provide Clear Guidance to Help Ensure That Employees Fully Comply with Training and Certification Requirements

The Department generally complies with statutory training requirements for its contracting staff. However, the Department's policies and procedures do not clarify (1) which staff, based on their position and functions, are required to attend training and obtain certifications; (2) the type of certifications staff must obtain; and (3) how soon after their hiring date staff must become certified.

Training requirements for Certified Texas Procurement Managers (CTPM). Texas Government Code, Section 2155.078, requires that purchasing personnel attend training. The Office of the Comptroller of Public Accounts' Texas Procurement and Support Services (TPASS) administers that training and has established requirements to obtain the CTPM certification. Texas Government Code, Section 2054.057, also requires the Department, with the cooperation of the Office of the Comptroller of Public Accounts and other state agencies, to develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

The Department's contract managers who work in contract establishment do not perform all of the purchasing activities defined in the Texas

Purchasing Activities

Title 34, Texas Administrative Code, Section 20.32(45), defines purchasing activities as "The development of specifications, receipt and processing of requisitions, review of specifications, advertising for bids, bid evaluation, award of contracts, and inspection of merchandise received. The term does not include invoice, audit, or contract administration functions."

Administrative Code (see text box). However, their role in the procurement and establishment of new Program contracts is significant because their responsibilities include developing contract specifications; reviewing specifications; evaluating bids; negotiating contract terms and conditions, prices, or MSRP discounts; and recommending to management the awarding of contracts. Fourteen (88 percent) of 16 Department contract managers who worked in contract establishment met training and certification requirements. One of the other two contract managers was not able to renew a certification as of January 1, 2013, due to insufficient training hours.

The remaining contracting manager, who worked in Program contracting from July 26, 2010, through August 31, 2012, did not attend the required training and did not obtain the certification. Texas Government Code, Section 2155.078(b), states that personnel who are required to attend training cannot participate in the procurement function until they have received the required training. The Department's job description for the position states that the employee will work to obtain the CTPM certification within a time frame established by the Department's contracts manager; however, that time frame was not established.

All 14 contract managers working in contract establishment who were required to be certified also maintained CTPM continuing education requirements. In addition to the 16 contract managers working in contract

establishment discussed above, auditors identified 4 Department employees who had been cross-trained in purchasing activities and obtained the CTPM certification even though they were not required to do so.

Training requirements for Certified Texas Contract Managers (CTCM). 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 CTCM certification after they pass an examination. However, that certification is not required.

Twelve (92 percent) of 13 performance contract managers responsible for the day-to-day monitoring of Program contracts completed the required three-level training program. Those contract managers also obtained the CTCM certification. An additional six Department employees attended that training, even though they were not required to do so; five of those employees also obtained the CTCM certification.

**Excerpts from House Bill 2472
(83rd Legislature, Regular
Session)**

“The department shall develop a policy for training department staff in contract management.”

“The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.”

If contracting staff do not comply with training and certification requirements, that increases the risk that Program contracts may not meet all statutory and Department contract requirements. As of September 1, 2013, House Bill 2472 (83rd Legislature, Regular Session) required the Department to establish a policy and identify employees, including executive management, who need to be trained in contract management (see text box for additional details).

Recommendations

The Department should:

- Develop and implement internal policies and procedures that clearly identify (1) the employees involved in contract establishment and contract management who need to attend training and obtain certifications and (2) the types of certifications the Department requires.
- Specify the time frame in which an employee involved in contract establishment and contract management is required to complete training and obtain the required certification.
- Implement a process to track employees’ training hours to ensure they comply with statutory requirements.

Management’s Response

Develop and implement internal policies and procedures that clearly identify (1) the employees involved in contract establishment and contract

management who need to attend training and obtain certifications and (2) the types of certifications the Department requires.

The Department agrees with the recommendation. The Department will develop and implement internal policies and procedures that clearly identify (1) the employees involved in contract establishment and contract management who need to attend training and obtain certifications and (2) the types of certifications the Department requires.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *January 1, 2014*

Specify the time frame in which an employee involved in contract establishment and contract management is required to complete training and obtain the required certification.

The Department agrees with the recommendation. The Department will specify the time frame for employee's to complete training and obtain the required certification. Currently, contract managers are not required by law to be certified but the Department encourages and funds contract manager training and certification.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *January 1, 2014*

Implement a process to track employees' training hours to ensure they comply with statutory requirements.

The Department agrees with the recommendation. The Department employees follow the Comptroller of Public Accounts' (CPA) process for tracking training hours for certification purposes. The Department will develop a process to review the training hours.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *January 1, 2014*

The Department Should Improve Its Efforts to Identify Statewide Information Technology Needs

Excerpt from Title 1, Texas Administrative Code, Section 213.1(10)

"Information technology--Any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term includes computers (including desktop and laptop computers), ancillary equipment, desktop software, client-server software, mainframe software, Web application software and other types of software, firmware and similar procedures, services (including support services), and related resources."

The Department makes an effort to contact some of the Program's customers to gauge their satisfaction with existing Program contracts and their future information technology needs (see text box for a definition of information technology). However, it does not do that as part of an organized effort to determine the statewide needs for future information technology contracts.

As part of the contract planning function, the Department conducted the following activities between September 2011 and February 2013 that helped it to identify statewide information technology needs:

- **Customer advisory committee.** In addition to state agencies and higher education institutions, the Program serves a variety of other types of customers (see Appendix 5). To understand customers' demands and needs, the Department established a customer advisory committee in March 2012 to assist it in focusing on the information technology needs of all of its customers. Minutes from that committee's meetings indicate that a committee member recommended that the Department implement a process to seek additional input from a broad range of information technology staff within agencies to facilitate innovative ideas and solutions. The minutes also indicate that the Department surveyed agencies prior to developing Program deliverables-based information technology services contract requirements that were set to expire in January 2013. The 10-member customer advisory committee includes representation from small and large state agencies, higher education institutions, and local governments. However, school districts, which are the Program's primary customer and accounted for 32.2 percent of total Program sales during the audit scope time period, are not represented on that committee.
- **New product and/or service request form.** The Department created a new product and/or service request form to identify the need for new products and services. According to Department policies and procedures, customers and vendors can complete that form and submit it for the Department's review and evaluation. The Department can then decide whether there is a need to procure a new contract. Auditors were not able to review that process because no customer or vendor submitted a new product and/or service request during the scope of this audit.
- **Surveys.** The Department asserted that it conducts surveys and seeks customer input. During the scope of this audit, the Department conducted two surveys. One survey focused on deliverables-based information technology contracts and obtained feedback from 26 entities; the other survey focused on cloud-computing needs and obtained feedback from 30

entities. The Department also provided documentation indicating that it seeks input from subject matter experts to assist in refining the RFO scope.

- **Exemption requests.** Texas Government Code, Section 2157.068 (f), requires state agencies to procure information technology through a Department Program contract unless they obtain an exemption from the Department. The Department maintains a log of those exemptions. During the audit scope, the Department received approximately 1,210 exemption requests and approved 1,086 (90 percent) of them. The Department tracks customers' reasons for requesting exemptions, and customers can specify more than one reason per request. Of the 1,086 approved requests, 542 (50 percent) specified that the good or service was not available through a Department contract. The Department also tracks the National Institute of Governmental Purchasing class code and item code reported on each exemption request. However, that information is not detailed enough to allow for easy identification of agencies' needs for new Program contracts.

Other sources of information regarding information technology are available to the Department.

Texas Government Code, Section 2054.001, specifies that one of the Department's purposes is to alleviate the risk that individual agencies could acquire uncoordinated and duplicative information technologies that are more appropriately acquired as part of a coordinated effort for maximum cost-effectiveness. Two sources of information the Department could use to identify statewide information technology needs are summarized below:

- Texas Government Code, Section 2054.1015, provides that the Department may require state agencies to submit a copy of their planned procurement schedules for commodity items. That statute also specifies that, if agencies submit that information, the Department "shall use that information to plan future vendor solicitations for commodity items." However, the Department asserted that it does not require agencies to submit that information.
- Texas Government Code, Section 2054.100, requires state agencies and higher education institutions to prepare biennial operating plans and submit them to the Department. Those plans describe current and proposed information technology projects and could be useful in identifying statewide trends and needs. However, the Department asserted that it does not review those plans.

Recommendations

The Department should:

- Ensure that primary customer groups are represented on the customer advisory committee.
- Evaluate its new product and/or service request form and whether the information on that form is valuable in identifying information technology needs. The Department should then educate its customers on using that form and encourage them to communicate their needs through that form.
- Establish a process to collect input from all Program customers in a manner that allows the Department to consolidate that information and establish new Program contracts based on that information.
- Review its exemption request log and determine whether requesting more specific information would enable the Department to identify the need to establish new Program contracts. The Department also should determine whether implementing an electronic exemption request process would be beneficial.
- Require state agencies to prepare and submit procurement schedules for information technology commodities they are planning to purchase in a prescribed format that the Department can use to identify statewide needs and establish new Program contracts.
- Review biennial operating plans to identify proposed information technology projects for which the Department could establish new Program contracts.

Management's Response

Ensure that primary customer groups are represented on the customer advisory committee.

The Department agrees with this recommendation. In accordance with Texas Government Code 2054.033, the DIR Board must authorize advisory committees. To comply with the recommendation, the Department will revise its Customer Advisory Committee charter for approval by the DIR Board.

Responsible Party: *Director, Technology Planning, Policy and
Governance
DIR Board*

Target Date: *June 1, 2014*

Evaluate its new product and/or service request form and whether the information on that form is valuable in identifying information technology needs. The Department should then educate its customers on using that form and encourage them to communicate their needs through that form.

The Department agrees with the recommendation. In order to improve efforts to identify state IT needs, the Department will evaluate the form, continue to educate customers about the form and encourage them to use it.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: June 1, 2014

Establish a process to collect input from all Program customers in a manner that allows the Department to consolidate that information and establish new Program contracts based on that information.

The Department agrees with the recommendation. The Department collects input from customers using various mediums (e.g., surveys, customer forums). The Department will ensure that this collection and consolidation process is formalized in the internal policies and procedures manual.

Responsible Party: Manager, Contracts and Vendor Management
Manager, Enterprise Contracts

Target Date: June 1, 2014

Review its exemption request log and determine whether requesting more specific information would enable the Department to identify the need to establish new Program contracts. The Department also should determine whether implementing an electronic exemption request process would be beneficial.

The Department agrees with the recommendation. The Department will continue to research whether information included on the exemption request forms, such as commodity code class and item numbers, could be used to identify products that are frequently purchased through exemptions by state agency customers.

The Department has determined that an electronic exemption request process would be beneficial and developed requirements for automating the exemption request process in May 2012. The Department will prioritize this project based on available resources.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: June 1, 2014

Require state agencies to prepare and submit procurement schedules for information technology commodities they are planning to purchase in a prescribed format that the Department can use to identify statewide needs and establish new Program contracts.

The Department agrees with the recommendation to identify statewide needs in order to establish new Program contracts. The Department will continue to work with state agencies to identify contract needs for potential new contract establishment.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *June 1, 2014*

Review biennial operating plans to identify proposed information technology projects for which the Department could establish new Program contracts.

The Department agrees with the recommendation to review biennial operating plans to identify proposed information technology projects in order to establish new contracts. As required by House Bill 3093, (83R) the Department will work with LBB to evaluate the biennial operating plan to improve the usefulness of the information contained in the plan.

Responsible Party: *Manager, Contracts and Vendor Management
Director, Technology Planning, Policy and
Governance*

Target Date: *June 1, 2014*

Chapter 1-D

Program Contracts Include Essential Contract Terms, But the Department Should Improve Other Contract Terms

The Department has an adequate process to ensure that its Program contract templates and executed contracts contain the 20 essential contract terms that the *State of Texas Contract Management Guide* requires. However, the Department should improve other contract terms.

Major Contracts

Texas Government Code, Section 2262.001(4), defines a major contract as any contract having the monetary value of at least \$1 million.

Texas Government Code, Section 2262.101, requires agencies to submit their major contract solicitations to the State's Contract Advisory Team for its review (see text box for definition of a major contract). The purpose of that review is to assist agencies in improving their contract management practices. The Department complies with that requirement by having the Contract Advisory Team review its Program contract templates. Auditors tested 13 Program contract

templates and 30 Program contracts and determined that they contained all 20 essential contract terms that the *State of Texas Contract Management Guide* requires. However, the Department should improve other contract terms. Specifically:

- As discussed in Chapter 1-A, Program goods and services contracts include a percentage discount off of MSRP, rather than a not-to-exceed price. Those contracts do not prevent vendors from increasing MSRP. That increases the risk that customers may not receive the intended price the Department negotiated.
- The Department adequately revised a term in its Program contracts to allow vendors to fulfill outstanding customer purchase orders after the contract expiration date. The State Auditor's Office had recommended revising that term in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Office Report No. 12-004, October 2011). All 30 Program contracts that auditors tested included that term. However, the Department has not fully addressed two other recommendations from that prior audit report. Specifically:
 - ♦ Only 15 (54 percent) of 28 contracts tested included a recommended corrective action term and consequences to address situations in which vendors do not submit monthly vendor sales reports on time. In addition, none of the contracts tested included a consequence term to address situations in which vendors do not submit administrative fees on time.
 - ♦ Initial Program contracts do not include a recommended late fee penalty that the Department can impose when vendors do not comply with administrative fee payment or reporting requirements. The Department asserted that, during the annual contract renewal process, it determines whether the vendor complied with administrative fee payment and reporting requirements and, at that time, it determines whether to add late fee penalty terms to the contract (see Chapter 2 for additional details).

Not consistently including adequate terms in Program contracts prevents the Department from enforcing requirements for vendors to submit reports and administrative fees on time.

In addition, 25 (83 percent) of 30 Program contracts tested contained (1) documentation of management and contract attorney review prior to vendor signature and (2) the final signatures of the contract attorney and chief operation officer. For 1 of those 30 contracts, the Department did not use the required approval routing template, and there is no evidence that the contract was reviewed and approved by required staff prior to vendor signature; that contract did, however, include the required final signatures. Four of those 30

contracts did not have the final signature of the contract attorney (to indicate approval), as required by the Department's policies and procedures. The Department asserted that it suspended that requirement between April and June 2012. Not following established procedures increases the risk that the Department may enter into a contract that does not fully comply with all requirements and, therefore, may not adequately protect the State's interest.

Recommendations

The Department should:

- Fully implement prior audit recommendations regarding terms for corrective action and late fees in its Program contracts.
- Ensure that all contracts (1) are reviewed and approved by required staff prior to vendor signature and (2) include required signatures in accordance with Department policies and procedures.

Management's Response

Fully implement prior audit recommendations regarding terms for corrective action and late fees in its Program contracts.

The Department agrees with the recommendation. Recently the Department revised its Program contract templates to describe the circumstances under which the late fee may be assessed and the amount of the fee. These templates are currently in the Contract Advisory Team review process.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: November 1, 2013

Ensure that all contracts (1) are reviewed and approved by required staff prior to vendor signature and (2) include required signatures in accordance with Department policies and procedures.

The Department agrees with the recommendation. All contracts are reviewed and approved by required staff prior to signature and include required signatures in accordance with the Department's internal policies and procedures.

Responsible Party: Director, Technology Sourcing Office

Target Date: Implemented June 2013

The Department Has a Comprehensive Program Contract Renewal Process, But It Should Verify Vendor Sales Reports, Administrative Fees Paid, and Discounts Provided

The Department has a comprehensive contract renewal process for the Program that includes verification of vendors' compliance with statutory requirements. However, the Department should improve certain aspects of its ongoing contract monitoring process for the Program. Specifically, the Department does not have a process to verify whether vendors (1) report complete and accurate sales information and administrative fees and (2) provide the discounts specified in their Program contracts.

The Department does not have a process to verify the completeness and accuracy of monthly sales reports that vendors submit and administrative fees that vendors pay.

Excerpts from the Department's Procedures

Section 4.140 Vendor Sales Compliance Audit.

Purpose: To ensure that vendor sales reporting and invoicing are monitored in a consistent manner.

Contract manager conducts periodic and a spot check during annual reviews and prior to extending contract through amendments to ensure compliance. ... [T]his review includes verifying information reported in the monthly vendor sales report against the invoice, including price and discounts.

The Department has an adequate process to capture in its Contract Management System (1) the sales that Program vendors report and (2) the administrative fees that Program vendors pay to help fund the Department's administration of the Program (see Chapter 4-C for additional information on the quality of Program data). However, the Department does not have a process to verify the completeness and accuracy of that information as required by Department procedures (see text box). The State Auditor's Office previously identified that same issue in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Office Report No. 12-004, October 2011).

Not having a monitoring process to review the accuracy and completeness of vendor-provided information prevents the Department from (1) ensuring that vendors comply with contract requirements and (2) ensuring that it uses reliable sales data to assess and set Program administrative fee rates, determine the correct amount of administrative fees it should collect, and calculate and report Program cost savings.

The Department does not have a monitoring process to help ensure that vendors provide contracted discounts.

The Department does not have a monitoring process to help ensure that vendors provide the discounts specified in their Program contracts, and vendors are not required to provide that information in their monthly sales reports. Furthermore, as of December 2011, the Department removed from its ongoing contract monitoring policies and procedures a specific requirement for its contract managers to verify that vendors provided contracted discounts. Not performing that verification increases the risk that discounts that Program

vendors provide to customers are not consistent with the discounts specified in their contracts.

The Department's monitoring process is not sufficient to help ensure that vendors submit their monthly sales reports and pay administrative fees in a timely manner.

The Department has established a process to identify, follow up on, and assess and collect a late fee penalty when vendors submit their monthly sales reports and pay administrative fees after the due date. However, the Department does not follow that process consistently. Auditors tested 6 of the 12 monthly sales reports that each of 31 Program contract vendors submitted prior to their contract renewal dates. Auditors selected those 31 contracts based on professional judgment and determined that the Department's process was not always effective. Specifically:

- Monthly sales reports. Program contracts require vendors to submit monthly sales reports even if they had no sales for the reporting month. However, 10 (32 percent) of the 31 vendors tested did not always submit their monthly sales reports by the due date; in those cases, reports were late by at least one day, and one vendor never submitted a monthly sales report. Three of those 10 vendors submitted 3 or more monthly sales reports late.
- Administrative fees. Of the 31 contracts selected, 4 vendors reported no sales for all months selected for testing; therefore, no administrative fees were due. Of the 27 remaining contracts:
 - ♦ Vendors for 4 (15 percent) contracts consistently paid their administrative fees on time for the period tested.
 - ♦ Vendors for 23 (85 percent) contracts delayed their payment of administrative fees for time periods that ranged from 1 day to 591 days (as of June 19, 2013). That included 5 vendors that had not paid a total of \$5,539 in administrative fees for seven monthly sales reports that auditors tested.

As the State Auditor's Office recommended in 2011, the Department established policies and procedures to identify, follow up on, and assess and collect a late fee penalty when vendors do not submit their monthly sales reports and pay administrative fees on time. However, testing during this audit determined that vendors do not always submit their monthly reports and administrative fees in a timely manner. Furthermore, the Department does not follow its policies and procedures consistently. For example, the procedures require contract managers to document their monitoring of vendor compliance with contract requirements, including the requirement to submit monthly sales reports and pay administrative fees. However, the Department did not have sufficient evidence of the results of that monitoring for the 31 Program contracts that auditors tested.

Department policies and procedures also state that if a vendor is “habitually late” in complying with reporting requirements, then during the annual review for contract renewal the Department will consider adding late fee penalty language as a contract amendment. However, Department policy does not define what is considered “habitually late” and contract managers have the option not to include late fee penalty language as a contract amendment.

As discussed in Chapter 1-D, the Program’s initial contracts with vendors do not include a late fee penalty that the Department can impose when vendors do not comply with reporting requirements. This hinders the Department’s monitoring process and its authority to enforce vendor compliance and help ensure that it receives the information it needs to collect Program fees and calculate cost savings in a timely manner.

The Department has a comprehensive contract renewal process that includes verification of vendors’ compliance with statutory requirements.

The Department’s review process prior to contract renewal adequately verifies vendors’ compliance with statutory requirements. Of the 31 contracts tested, 5 were deliverables-based information technology services contracts that were not renewed during the scope of this audit. The Department adequately reviewed all of the remaining 26 contracts prior to contract renewal. That review included checking each vendor’s tax status with the Office of the Comptroller of Public Accounts, determining whether each vendor was on the federal government’s Excluded Parties List System, on a terrorism list, or on a vendor debarment list; and reviewing information regarding each vendor in the Office of the Comptroller of Public Accounts’ Vendor Performance Tracking System. Department management reviewed and approved all 26 renewed contracts, and those contracts included required signatures.

The Department has made certain improvements that the State Auditor’s Office recommended in October 2011.

The Department fully implemented five recommendations related to Program contract monitoring that the State Auditor’s Office made in October 2011. Specifically:

- The Department implemented a standard administrative fee and amended Program contracts to ensure that they reflected the current administrative fees. The Department asserted that it changed its administrative fee to 0.5 percent of the purchase price or lower, effective February 2011, for all of its Program contracts. Auditors reviewed the administrative fee rate specified in Salesforce (the Department’s contract management application) for 454 contracts that were within the scope of this audit and determined that 453 (nearly 100 percent) contracts reflected an administrative fee of 0.5 percent or lower. The administrative fees in the hard-copy contracts also matched the administrative fees in Salesforce for 30 contracts tested.

- The Department revised the format of vendors' monthly sales reports to require Program vendors to report the MSRP for products and services at the time of purchase. Although the monthly sales report was not revised to include the customer discount applied to the purchase as recommended, it includes sufficient information to calculate the customer discount.
- The Department's new accounting system, the Centralized Accounting and Payroll/Personnel System (CAPPS), is capable of recording both the contract number and reporting period for the administrative fees the Department collects. For the 27 contracts tested, the Department documented the contract number and the reporting period in the State's Centralized Accounting and Payroll/Personnel System (CAPPS).

Recommendations

The Department should:

- Develop and implement a process for regularly verifying the completeness and accuracy of monthly sales reports that Program vendors submit and the administrative fees that Program vendors pay.
- Revise the monthly sales reports that Program vendors submit to require vendors to report (1) the discounts they agreed to in their contracts and the actual discounts the vendors provided to customers and (2) any other information the Department determines would enable its contract managers to monitor whether vendors provided the discounts specified in their Program contracts.
- Restore its policies and procedures that require contract managers to review Program vendors' monthly sales reports and monitor whether vendors provide customers the discounts specified in their Program contracts.
- Comply with its policy requiring contract managers to fully document their review of vendors' compliance with requirements for the submission of monthly sales reports and payment of administrative fees in a timely manner, and follow up on those reviews as necessary.
- Clearly define in its policies and procedures how contract managers should determine vendors' compliance with reporting requirements and how to proceed when they identify noncompliance.
- Include in all Program contracts a provision for a late fee penalty that the Department can impose when vendors do not comply with requirements regarding administrative fee payment and monthly sales reporting.

Management's Response

Develop and implement a process for regularly verifying the completeness and accuracy of monthly sales reports that Program vendors submit and the administrative fees that Program vendors pay.

The Department agrees with the recommendation. In addition to the verification and validation that is currently performed on the submitted monthly vendor sales reports, additional processes will be examined to regularly verify the completeness and accuracy of the reports. For instance the Department's Internal Audit staff will be auditing vendor sales reports as part of its audit plan for fiscal year 2014.

Responsible Party: Manager, Contracts and Vendor Management
Director, Internal Audit

Target Date: August 31, 2014

Revise the monthly sales reports that Program vendors submit to require vendors to report (1) the discounts they agreed to in their contracts and the actual discounts the vendors provided to customers and (2) any other information the Department determines would enable its contract managers to monitor whether vendors provided the discounts specified in their Program contracts.

The Department agrees with the recommendation. The Department has performed an initial analysis to determine the business requirements and effort required for needed programming changes. Further analysis will be performed to determine the full impact and costs for implementing the changes in this recommendation.

Responsible Party: Director, Technology Sourcing Office

Target Date: June 1, 2014

Restore its policies and procedures that require contract managers to review Program vendors' monthly sales reports and monitor whether vendors provide customers the discounts specified in their Program contracts.

The Department agrees with this recommendation. The Department will restore the description of the monitoring requirement for the monthly vendor sales reports.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: December 1, 2013

Comply with its policy requiring contract managers to fully document their review of vendors' compliance with requirements for the submission of monthly sales reports and payment of administrative fees in a timely manner, and follow up on those reviews as necessary.

The Department agrees with this recommendation. The Department will fully document the procedures for review of vendors' compliance with submission of monthly sales reports and follow up as necessary.

The Department will investigate options to enhance procedures to monitor timely submission of administrative fee payments.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: June 1, 2014

Clearly define in its policies and procedures how contract managers should determine vendors' compliance with reporting requirements and how to proceed when they identify noncompliance.

The Department agrees with this recommendation. The Department will add clarity regarding how a contract manager will determine vendor compliance and how to proceed when noncompliance is identified.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: June 1, 2014

Include in all Program contracts a provision for a late fee penalty that the Department can impose when vendors do not comply with requirements regarding administrative fee payment and monthly sales reporting.

The Department agrees with the recommendation. Recently the Department revised its Program contract templates to describe the circumstances under which the late fee may be assessed and the amount of the fee. These templates are currently in the Contract Advisory Team review process.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: November 1, 2013

The Department's Methodology to Calculate Program Cost Savings Does Not Align with Performance Measure Guidance, and Errors in the Department's Calculation Process Prevented Auditors from Verifying the Accuracy of Those Cost Savings

The Department's methodology for calculating Program cost savings does not align with performance measure guidance approved by the Legislative Budget Board. The Department's policies and procedures also do not offer sufficient guidance to ensure that Department staff perform cost-savings calculations consistently. In addition, the Department regularly depends on vendor-provided information to determine cost savings, and it does not consistently verify the accuracy of that information.

The Department has established a process for its management to review and approve each of its cost-savings calculations; however, that process is not sufficient to help ensure that those calculations are performed consistently and are free of mathematical errors.

Auditors were unable to determine whether the Department accurately reported Program cost savings because:

- The Department does not verify the completeness and accuracy of Program sales it uses to calculate cost savings.
- The Department does not report cost savings for deliverables-based information technology contracts or verify vendor prices.
- There were a significant number of errors in the Department's process for calculating Program cost savings.

**Key Performance Measure:
Total Contract Savings and Cost
Avoidance Provided through DIR
Contracts**

Definition: Measure compares the difference in the final negotiated price for products and services with the appropriate benchmark price.

Methodology: The sum of the final negotiated prices for goods and services is subtracted from the sum of the appropriate benchmark prices. The final negotiated price includes the Department's administrative fee.

Data Source: The final negotiated bid price for contracts across all product lines and the sources for benchmark comparisons.

Source: Automated Budget and Evaluation System of Texas (ABEST).

Chapter 3-A

The Department's Program Cost-savings Calculation Methodology Does Not Align With Performance Measure Guidance

The Department is required to report Program cost savings information as a key performance measure (see text box). In addition, Rider 3, pages I-75 through I-76, the General Appropriations Act (82nd Legislature), required the Department to report Program cost savings in its annual financial report.

To comply with those requirements, the Department calculates a cost-savings rate for most of its Program contracts, and it then applies that rate to vendor-reported contract sales to determine total Program cost savings. However, the Department's methodology for calculating Program cost savings does not align with the performance measure definition, methodology, and data source guidance in the Automated

Budget and Evaluation System of Texas (ABEST).

Goods and Services Contracts

For goods and services contracts, which account for 90 percent of Program total sales and cost savings (see Appendix 3), the Department calculates each Program contract's cost-savings rate based on a sample of items available through the contract. Auditors selected a sample of 32 contracts (15 newly established contracts and 17 renewed contracts) to analyze the number of items per contract the Department used to calculate cost-savings rates. On average, the Department selected 11 items from each of the 32 contracts, and the items it selected represented 48 percent of total contract sales. However, performance measures guidance does not indicate that the Department can project cost savings based on a sample of items available through a contract. The Department's calculations may overestimate or underestimate cost savings because (1) discounts can vary widely among goods and services available through a contract and (2) more than 50 percent of contracts sales were not included in the Department samples that auditors tested.

Auditors also selected a sample of 31 contracts to analyze the Department's methodology and process for calculating cost-savings rates. For 12 (39 percent) of those 31 contracts, the Department determined the cost-savings rate by averaging discounts from multiple sources (usually 3 sources), rather than by comparing the Department's price to the source with the lowest price. However, an average cost-savings rate does not accurately represent savings to a customer because, if the Department does not offer the good or service through a Program contract, the customer may procure it from the source that offers the lowest price. Therefore, in those instances, the Department's methodology will overstate reported cost savings.

Staffing Services Contracts

For staffing services contracts, which include 129 information technology staff categories, the Department did not benchmark against current market salary rates or other cooperatives that offer similar services to determine cost-savings rates. Instead:

- The Department calculated a cost-savings rate for each of the 129 categories by comparing current prices to past, not-to-exceed prices. However, the formula it used to determine cost-savings rates was incorrect because the formula mixed not-to-exceed prices from 2001, 2006, and 2009.
- The Department calculated an overall cost-savings rate of 20.29 percent by averaging 123 of the 129 individual cost-savings rates for staffing services contracts. The Department then used the 20.29 percent cost-savings rate to determine and report Program savings. However, individual categories of cost-savings rates ranged between 0.00 percent

and 36.96 percent. The Department did not perform any analysis to determine whether the 20.29 percent cost-savings rate was representative of total staffing services cost savings.

- The Department calculated cost-savings rates in 2009 for staffing services contracts, but it has not verified whether those cost-savings rates remained valid as of fiscal year 2013.

Deliverables-based Information Technology Contracts

For deliverables-based information technology contracts, the Department does not report any Program cost savings. While those contracts include a clause requiring the vendors to provide cost-savings information upon the Department's request, the Department does not request that information. The performance measure definition in ABEST does not exclude deliverables-based information technology contracts from the performance measure reporting requirements.

Recommendation

The Department should seek guidance and work with the Legislative Budget Board to update, implement, and follow an agreed-upon methodology for calculating Program cost savings for all contracts.

Management's Response

The Department should seek guidance and work with the Legislative Budget Board to update, implement, and follow an agreed-upon methodology for calculating Program savings for all contracts.

The Department agrees with the recommendation. The Department will seek guidance and work with the Legislative Budget Board to update, implement, and follow an agreed-upon methodology for calculating Program savings for all contracts. The Department will use its Strategic Plan submission as a mechanism for revising the Program savings calculations.

Responsible Party: Chief Financial Officer
Director, Technology Sourcing Office

Target Date: August 1, 2014

Department Staff Do Not Always Follow Cost-saving Calculation Policies and Procedures, and Those Procedures Are Not Detailed Enough to Help Ensure That Calculations Are Performed Consistently and Accurately

The Department developed procedures and a template to calculate cost-savings rates for Program goods and services contracts. However, Department staff do not always follow those policies and procedures. Furthermore, those policies and procedures do not offer sufficient and clear guidance to ensure that the Department performs the calculations consistently and accurately. For staffing services contracts, the Department documented the process it used to determine its 2009 cost-savings rate, but it has not incorporated information about that process in its official procedures. The State Auditor's Office *Guide to Performance Measure Management - 2012 Edition* (State Auditor's Office Report No. 12-333, March 2012) states that performance measures results should be reliable and provide accurate and consistent information over time.

Weaknesses that auditors identified in the Department's procedures to calculate cost-savings rates are discussed below.

All Program Contracts

Department policies require contract managers to conduct a spot check to verify the completeness and accuracy of monthly Program sales reports that vendors submit to the Department. The Department uses information from those reports to calculate Program cost savings. However, as discussed in Chapter 2, the Department does not have a process to verify that information.

Goods and Services Contracts

Excerpts from the Department's Cooperative Contract Management Procedures

Section 4.200 Cost Avoidance:

1. Identify which products to research

a. Top Selling Products:

i. Request the vendor to provide information on its top selling products.

ii. Review sales reports, if applicable, for most frequently sold part numbers, product names.

d. Identify the number of products to request for the sample:

i. Depends on the scope of the products being researched:

1. Large scope would require a larger sampling.

2. Small scope would require a smaller sampling.

For goods and services contracts, the Department's procedures require staff to "request the vendor to provide information on its top selling items" (see text box). However, the procedures do not clarify that staff should do this only for newly established contracts when contract historical sales data is not available. The Department's procedures also require staff to review the most frequently sold products, but the procedures do not clarify that the requirement applies to cost-savings calculations performed upon contract renewal, when historical contract sales data is available (see text box).

As discussed in Chapter 3-A, for a sample of 32 contracts, the sample of items the Department selected to calculate cost-savings rates represented approximately 48 percent of total sales. For the 17 renewed contracts in that sample, the items the Department selected to calculate cost-savings rates represented 46 percent of total sales (which was lower than the percentage for newly established contracts). Department staff asserted that they relied on vendor-provided data instead of using available historical sales information as required by the

Department's procedures. Not using historical data to recalculate cost-savings for renewed contracts prevents the Department from ensuring that its calculations are as accurate and representative of contract activity as possible.

The Department's procedures do not provide sufficient guidance for staff to (1) determine how many items per contract they should use to calculate cost-savings rates and (2) ensure that the items they select are representative of total contract sales. As discussed in Chapter 3-A, for 32 contracts that auditors analyzed, on average, the Department used 11 items per contract to calculate cost-savings rates. Department procedures suggest using a "large or small sample" if it is a "large or small scope," but the procedures do not define those phrases.

The Department created a template for staff to use to calculate cost-savings rates. That template includes two formulas: one formula represents the Department's negotiated discount percentage and the other formula represents the cost-savings rate used to determine Program savings when the Department benchmarks against other cooperatives. However, the Department's procedures do not address the purpose of those two formulas. The procedures also do not address how to proceed when items selected for benchmarking are not available through other cooperatives (in those instances, Department staff use the Department's negotiated discount percentage). Mixing the results of those two formulas results in the calculation of an incorrect cost-savings rate, and auditors determined that occurred for 20 (65 percent) of 31 cost-savings rate calculations tested.

Staffing Services Contracts

For staffing services contracts, the Department documented the process it used to determine its 2009 cost-savings rate, but it did not incorporate information on that process in its official policies and procedures. The information on the process the Department used also is not detailed enough to document the logic the Department used in calculating cost-savings rates.

Recommendations

The Department should:

- Obtain formal approval for all Program cost-savings calculation procedures and formally incorporate the approved procedures into its policies and procedures.
- Ensure that contract managers follow established policies and procedures to calculate Program cost savings.
- After seeking performance measure clarification and guidance from the Legislative Budget Board, update its policies and procedures to align with the cost-savings performance measure definition, methodology, and data

source guidance in ABEST and ensure that its procedures are detailed enough to enable the Department to perform calculations consistently. This should include establishing clear guidance on how to use the cost-savings calculation template and clarification of the purpose of all formulas.

Management's Response

Obtain formal approval for all Program cost-savings calculation procedures and formally incorporate the approved procedures into its policies and procedures.

The Department agrees with the recommendation. The Department will work with the Legislative Budget Board to develop an agreed-upon methodology for calculating Program savings for all contracts. The Department will then incorporate revised procedures into its policies and procedures.

Responsible Party: Chief Financial Officer
Director, Technology Sourcing Office

Target Date: August 1, 2014

Ensure that contract managers follow established policies and procedures to calculate Program cost savings.

The Department agrees with the recommendation. Recent improvements include multiple levels of review of the cost savings calculations, which are included in applicable contract files. The Department will ensure use of the established policies and procedures.

Responsible Party: Manager, Contracts and Vendor Management
Manager, Enterprise Contracts

Target Date: December 1, 2013

After seeking performance measure clarification and guidance from the Legislative Budget Board, update its policies and procedures to align with the cost-savings performance measure definition, methodology, and data source guidance in ABEST and ensure that its procedures are detailed enough to enable the Department to perform calculations consistently. This should include establishing clear guidance on how to use the cost-savings calculation template and clarification of the purpose of all formulas.

The Department agrees with the recommendation. After seeking performance measure clarification and guidance from the Legislative Budget Board (LBB), the Department will update its policies and procedures to align with the cost-savings performance measure definition, methodology, and data source guidance in ABEST as recommended by the LBB and ensure that its

procedures are appropriately detailed to enable the Department to perform calculations consistently.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *August 1, 2014*

Chapter 3-C

The Department's Process to Review and Approve Program Cost-savings Calculations Is Not Adequate to Help Ensure That Calculations Are Supported, Performed Consistently, and Free of Errors

The Department implemented a process to help ensure that management reviews and approves each Program cost savings calculation as required by

Department policy (see policy sections 11 and 12 in the text box). However, that process is not sufficient to ensure that cost-savings calculations are supported, performed consistently, and free of mathematical errors. The State Auditor's Office *Guide to Performance Measure Management - 2012 Edition* (State Auditor's Office Report No. 12-333, March 2012) states that agencies "should institute all necessary processes to ensure that performance measures information is accurate."

Goods and Services Contracts

For 25 (81 percent) of the 31 goods and services contract cost-savings calculations auditors tested, the Department could not provide evidence that it verified the vendors' reported MSRP, which it used to determine the Department's price and then benchmark against other cooperatives. Department policy requires staff to determine contract price and document MSRP, list price, or other bases for determining contract price (see policy section 3 in the text box).

Of the 31 Department cost-savings calculations that auditors tested, 25 were associated with contracts that specified a vendor discount rate. However, for 11 (44 percent) of those 25 cost-savings calculations, the Department's calculations used vendor

discount rates that differed from the vendor discount rates specified in the contracts. Consequently, the Department used an incorrect price to benchmark and to determine the cost-savings rate. Department policy (specifically, Section 3.20(3) Contract Assembly) requires that cost-savings calculations be updated based on final contract pricing.

Excerpts from the Department's Cooperative Contract Management Procedures

Section 4.200 Cost Avoidance:

3. Determine the DIR Contract price for each of the products listed in Step 1

a. Screen prints from internet documenting MSRP, List Price, or other basis for determining DIR Contract price.

11. Prepare Cost Avoidance Package:

- a. Cost avoidance spreadsheet (template).
- b. Supporting documentation collected.

12. Routing Cost Avoidance Package to Division Director:

- a. Division Director review process:
 - i. Review spreadsheet and supporting documentation.
 - ii. Provide necessary comments.
 - iii. Fill in applicable details on Approval Routing Slip.
- iv. If not acceptable, route back to Contract Manager for clarification or correction.

Of the 31 Department cost-savings calculations that auditors tested, the Department did not benchmark 15 contracts against other cooperatives because it asserted that no other cooperatives offered the same goods and services. For 3 (19 percent) of the 16 contracts that the Department did benchmark against other cooperatives, contract managers did not document whether they verified other cooperatives' prices.

For 5 (16 percent) of the 31 Department cost-savings calculations that auditors tested, auditors identified mathematical errors, such as erroneously excluding items from the denominator.

Staffing Services Contracts

As discussed in Chapter 3-A, for staffing services contracts, the Department used an incorrect formula to calculate cost-savings rates because the formula mixed prices from 2001, 2006, and 2009. The Department also could not provide sufficient documentation to support its calculations.

Recommendations

The Department should:

- Develop and implement a process that includes a full review of supporting documentation for Program cost-savings calculations, including a review of the mathematical accuracy of the calculations, before obtaining management approval.
- Ensure that contract managers follow established policies and procedures to calculate Program cost savings, including verifying and documenting all information the Department uses to calculate cost-savings rates.

Management's Response

Develop and implement a process that includes a full review of supporting documentation for Program cost-savings calculations, including a review of the mathematical accuracy of the calculations, before obtaining management approval.

The Department agrees with the recommendation. The Department will develop and implement a process that includes a full review of supporting documentation for Program cost-savings calculations, including a review of the mathematical accuracy of the calculations.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *June 1, 2014*

Ensure that contract managers follow established policies and procedures to calculate Program cost savings, including verifying and documenting all information the Department uses to calculate cost-savings rates.

The Department agrees with the recommendation. The Department will ensure use of the established policies and procedures.

Responsible Party: *Manager, Contracts and Vendor Management
Manager, Enterprise Contracts*

Target Date: *December 1, 2013*

The Department Should Improve Certain Information Technology Controls

Contract Management System Data Flow

Department contract managers enter selected Program contract data into an application on Salesforce.com (SalesForce), a cloud service the Department uses to capture contract and vendor information.

The Department stores Program contract data on cloud-hosted vendor servers as part of the Salesforce services to which the Department subscribes. The Department downloads Program contract data on a daily basis and uploads monthly Program sales data that vendors provide into its own contract data warehouse. The Department generates reports to manage the Program using data from those sources.

The Department also maintains Program contract documents and related data on servers and shared drives that it controls at the State Data Center.

Therefore, the Department's Contract Management System encompasses the following:

- Salesforce, the contract management application.
- The Department's contract data warehouse database and servers.
- Department shared drives.

Source: The Department.

The Department should improve access controls over its Program contract data in all environments where that data resides (see text box for a description of the Department's Contract Management System). Auditors identified weaknesses related to user access and password controls that the State Auditor's Office previously identified in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Report No. 12-004, October 2011). Auditors determined that the Department had not implemented four of the six information technology-related recommendations from the October 2011 report.

Auditors also tested the completeness and accuracy of data in Salesforce, a component of the Department's Contract Management System, and determined that data was not sufficiently reliable for the purposes of this audit and for management to make informed decisions.

Chapter 4-A

The Department Should Improve User Access to Its Program Contract Data

The Department has not implemented four of six information technology-related recommendations the State Auditor's Office made in October 2011 (see Appendix 8 for details on the prior recommendations and implementation status). Specifically, the Department does not adequately secure access to Program data at any of the levels auditors tested. The Department also does not have an adequate process to help ensure that it promptly removes inappropriate user accounts (such as user accounts for individuals whose employment has been terminated or unused user accounts) from its server and databases. That increases the risk of unauthorized changes to Program data. Specifically:

- Two programmers had inappropriate administrator rights to Salesforce, and those rights do not provide for adequate segregation of duties. After auditors brought this issue to the Department's attention, it reported that it will not remove or disable those programmers' administrator rights because no other staff can perform the required administrative functions.
- The Department had not disabled the user accounts of two former employees who had administrator rights to contract data.
- The Department had not disabled two system accounts with access to contract data when those accounts were no longer used or needed.

- Four users had inappropriate access to the shared drive where the Department maintains contract supporting documentation.

The Department reported that it locked 8 of the 10 user accounts described above.

Recommendation

The Department should regularly review access to Program contract data to help ensure that (1) it limits access only to current employees whose job duties necessitate access and (2) only required user accounts are active on servers, databases, applications, and shared drives.

Management's Response

The Department should regularly review access to Program contract data to help ensure that (1) it limits access only to current employees whose job duties necessitate access and (2) only required user accounts are active on servers, databases, applications, and shared drives.

The Department agrees with the recommendation. The Department recently established additional steps in the Employee Separation Process to ensure appropriate access controls are in place. The Department's Information Technology Systems (ITS) monitors each case record to make sure all appropriate physical or logical access to Department systems, infrastructure, or facilities has been responded to and accomplished before closing the case record.

Responsible Party: Assistant Director, EGovernment – Information Technologies

Target Date: Implemented

Chapter 4-B

The Department Should Improve Password Controls to Protect Program Data

The Department should ensure that its internal password policies comply with the requirements in Title 1, Texas Administrative Code, Chapter 202, and the password guidelines for state agencies on the Department's Web site. Specifically, the Department's password policy did not specify the requirements for password length and complexity.

Auditors identified instances in which Department password controls for Salesforce and the Department's contract data warehouse did not comply with

the Texas Administrative Code and guidelines for state agency passwords on the Department's Web site. Not having adequate password controls increases the risk of unauthorized changes to Program data. The State Auditor's Office identified a similar issue in October 2011.

For SalesForce servers and databases, auditors reviewed a report from a project conducted under the Statement on Standards for Attestation Engagements (SSAE) No. 16.² That report covered the time period from May 1, 2012, through October 31, 2012, and did not identify any significant issues.

Recommendations

The Department should:

- Ensure that its password policies and procedures comply with Texas Administrative Code requirements and the password guidelines for state agencies available on the Department's Web site.
- Implement its updated password policy on all environments where Program data resides.

Management's Response

Ensure that its password policies and procedures comply with Texas Administrative Code requirements and the password guidelines for state agencies available on the Department's Web site.

The Department agrees with the recommendation. Department ITS Staff has reviewed all Information Technology Systems to verify that current passwords comply with the password guidelines in Texas Administrative Code Chapter 202.

Responsible Party: Assistant Director, EGovernment – Information Technologies

Target Date: Implemented May 2013

Implement its updated password policy on all environments where Program data resides.

The Department agrees with the recommendation. The Department ITS Staff has reviewed all Information Technology Systems to verify that current

² The American Institute of Certified Public Accountants issued SSAE No. 16, Reporting on Controls at a Service Organization, effective June 15, 2011. SSAE16 serves as the authoritative guidance for reporting on service organizations' controls and the effectiveness of those controls.

password policies have been implemented. ITS management and ISO will periodically review the need to update or augment internal access policies.

Responsible Party: Assistant Director, EGovernment – Information Technologies

Target Date: Implemented May 2013

Chapter 4-C

The Department Should Implement a Quality Review Process to Improve the Quality of Program Data

The Department reported to the State Auditor's Office in November 2012 that it had fully implemented policies and procedures, including a quality review process, to verify the completeness and accuracy of its Contract Management System, as the State Auditor's Office had recommended in October 2011 (see Appendix 8 for details on that recommendation). However, newly adopted policies and the current review process are not sufficient to help ensure the Salesforce data is complete and accurate. Specifically:

- The Department did not have a documented review process for contract data entered into Salesforce prior to January 2013. The Department added section 4.20 to its policies and procedures to formally document a review process for Program data entered into Salesforce (see text box for additional details). Although the new procedures clarify that the establishing contract manager is responsible for entering contract data into Salesforce and that the performance contract manager assigned to monitor the contract is responsible for verifying the completeness and accuracy of that data, the procedures do not include a process to verify data completeness and accuracy when a performance contract manager renews or amends a contract and Salesforce data is updated. That increases the risk that Salesforce data will not be consistently and accurately updated upon contract renewal or amendment. The Department does not have a process that requires performance contract managers to document their review of contract data completeness and accuracy after contracts are initially established in Salesforce. That limits the Department's ability to monitor whether staff are performing these procedures.
- The Department has not established a quality assurance process to verify the completeness and accuracy of contract data as the State Auditor's Office had recommended in October 2011.

Excerpts from Section 4.20 of the Department's Data Review Procedures, effective January 2013

4.20 Administrative Review: Procedures to ensure Salesforce is accurate and complete:

- 1) Establishing contract manager inputs new contract data into Salesforce and the contract is assigned to a contract manager for performance monitoring.
- 2) Prior to the vendor orientation meeting, the contract manager for performance monitoring will review the new contract information in Salesforce against the contract documents to ensure that the information is accurate and complete. Contract manager will correct or complete information as needed.

Auditors tested data in SalesForce for 30 contracts. The significant number of errors identified in key fields illustrates the need for a structured and consistent review process and a quality assurance process. The following errors were identified:

- Sixteen (53 percent) of the 30 contracts had inconsistent formats for the contract end month field.
- Eight (27 percent) of the 30 contracts did not include the correct vendor tax identification number.
- Six (20 percent) of the 30 contracts did not include a proper amendment date.
- Of the 30 contracts tested, 11 contracts were deliverables-based information technology contracts, and the Department does not calculate a cost-savings rate for that type of contract. For the remaining 19 contracts, 5 (26 percent) had an incorrect cost-savings rate.
- Three (10 percent) of the 30 contracts tested had an incorrect administrative fee start date.
- Two (7 percent) of the 30 contracts had an incorrect contract start date.

Auditors identified other SalesForce fields with less significant error rates in the sample of 30 contracts tested.

In addition to the above errors, auditors identified other discrepancies in SalesForce data through other audit testing procedures. Below are discrepancies with an error rate of 5 percent or more:

- Twenty-one (5 percent) of 454 contracts had inaccurate or missing cost-savings rates. Auditors identified those errors while performing population completeness procedures.
- Seven (23 percent) of 31 contracts had inaccurate cost-savings rates. Auditors identified those errors while reviewing the Department's cost-savings rate methodology and process to calculate those rates.

While auditors identified the errors described above, the Department has made certain improvements. Specifically:

- The October 2011 State Auditor's Office report recommended that the Department ensure that its Contract Management System was capable of recording both current and prior fees for each Program contract. Based on testing work performed, auditors determined that the Department had fully implemented that recommendation.

- Auditors tested the Department’s process to capture and upload monthly vendor sales report data and determined that process was adequate to help ensure that Program sales were completely and accurately uploaded to the Department’s contract data warehouse. That is important because the Department uses sales data to calculate and report Program cost savings to the Legislative Budget Board. The Department also uses sales data to calculate the administrative fees it needs to collect. However, as discussed in Chapter 2, the Department does not have a process to verify the completeness and accuracy of sales data that Program vendors report.

Because of the number of errors identified in Salesforce, the lack of a quality review process, and the lack of verification of vendors’ sales data, auditors determined that Program contract data was not sufficiently reliable for the purposes of this audit. That also increases the risk that the Department could report inaccurate or incomplete information to decision makers.

SalesForce Automation Controls and Edit Checks

Edit Checks

Edit checks are used to help assure that data are complete, accurate, valid, and recorded in the proper format. Edits can include programming to identify and correct invalid field lengths or characters, missing data, incorrect data, or erroneous dates.

Source: U.S. Government Accountability Office.

Auditors also reviewed Salesforce automation controls or edit checks (see text box) and identified opportunities to minimize manual data entry errors in the following areas:

- Use of drop-down lists to limit entry options (for example, state name).
- Requiring selected key data fields to be populated before data can be saved (for example, requiring that the cost-saving rate be entered even if it is zero and requiring a contract expiration date).
- Auto-population of selected fields based on the data entered into another field (for example, populating the contract expiration date with a date that is four years after the contract effective date).
- Implementation of edit checks (for example, date formatting and limiting administrative fees 2 percent or less, as required by Rider 3, pages I-75 and I-76, the General Appropriations Act (82nd Legislature)).

Recommendations

The Department should:

- Require staff to document their reviews of contract data completeness and accuracy.
- Document and implement a process to help ensure that it updates and reviews Salesforce data when a Program contract is renewed or amended.

- Implement a quality review process to help ensure that Salesforce data is free of manual data entry errors.
- Add automation controls and edit checks to Salesforce to assist in minimizing errors.

Management's Response

Require staff to document their reviews of contract data completeness and accuracy.

The Department agrees with the recommendation. In January 2013 a contract management procedure was added that requires staff to review information input into Salesforce by another contract manager. Additionally, the Department will review and consider additional steps to enhance the completeness and accuracy of contract data.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: March 1, 2014

Document and implement a process to help ensure that it updates and reviews Salesforce data when a Program contract is renewed or amended.

The Department agrees with the recommendation. Additionally, the Department will review and consider other steps to enhance the completeness and accuracy of contract data.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: March 1, 2014

Implement a quality review process to help ensure that Salesforce data is free of manual data entry errors.

The Department agrees with the recommendation. Additionally, the Department will review and consider other steps to enhance the completeness and accuracy of contract data.

Responsible Party: Manager, Contracts and Vendor Management

Target Date: March 1, 2014

Add automation controls and edit checks to Salesforce to assist in minimizing errors.

The Department agrees with the recommendation. Additionally, the Department will review and consider other steps to enhance the completeness and accuracy of contract data.

Responsible Party: *Manager, Contracts and Vendor Management*

Target Date: *March 1, 2014*

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The audit objective was to determine whether the Department of Information Resources (Department) designed and implemented effective processes and related controls for the Information and Communications Technology Cooperative Contracts Program (Program) to help ensure that it procures contracts in accordance with applicable state laws, rules, and Department policies and procedures and that the State's interests are protected.

Scope

The scope of this audit covered Program contracts the Department established between September 1, 2011, and February 28, 2013. The scope also included (1) Program contracts established in fiscal year 2011 that were renewed between September 1, 2011, and February 28, 2013, and (2) Program staffing services contracts established in fiscal year 2010 and subject to renewal during fiscal year 2011. The audit concentrated on all phases of the contracting process (the contract function, planning, procurement, contract formation and cost-savings rate establishment, and contract oversight).

Methodology

The audit methodology consisted of collecting and reviewing Program procurement documentation and contracts, vendor sales reports and corresponding administrative fees, and cost-savings reports; reviewing statutes, rules, Office of the Comptroller of Public Accounts' requirements, and Department policies and procedures; performing selected tests and other procedures; identifying and collecting information on the implementation of selected prior audit recommendations; and interviewing Department management and staff.

Sample Selection

To test compliance with training requirements for staff who perform contract management functions, auditors asked the Department to identify those staff. Auditors also used the Office of the Comptroller of Public Accounts' guidance and job descriptions to determine which staff needed to be trained and certified. Auditors identified staff who performed contract management functions and tested those staff for compliance with training and certification requirements.

For the sample selections 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.

- To test compliance with contract procurement requirements, auditors judgmentally selected 4 of the 15 requests for offers (RFOs) the Department posted for the Program during the audit scope time period. Auditors randomly selected 30 vendor proposals from the 4 RFOs selected to test vendor proposal requirements.
- To test compliance with contract formation requirements, auditors judgmentally selected 30 executed Program contracts and 13 contract templates the Department used during the audit scope time period.
- To test compliance with contract oversight, renewal, and amendment requirements, auditors judgmentally selected 30 Program contracts that the Department renewed or amended within audit scope time period.
- To analyze the Department's methodology to determine cost savings for goods and services contracts and to test the accuracy of the Department's cost-savings rate calculations, auditors judgmentally selected 16 contracts established and 15 contracts renewed during the audit scope time period.
- To analyze the Department's methodology to determine cost savings for staffing services contracts and to test the accuracy of the Department's cost-savings rate calculations, auditors randomly selected a sample of 30 staffing positions available through staffing services contracts.
- To test the completeness and accuracy of the uploading of Program vendors' monthly sales reports to the Department's data warehouse and the calculation of administrative fees based on reported sales, auditors judgmentally selected 35 contracts. Using professional judgment, auditors selected one monthly sales report that included sales for each contract in the sample.
- To determine the percentage of total contract sales represented by the goods and services the Department selected to calculate a cost savings rate, auditors judgmentally selected 15 contracts established and 17 contracts renewed during the audit scope time period.

Data Reliability

Auditors assessed the reliability of contract data in the Salesforce application the Department used to manage Program contracts; track sales, administrative fees, and cost savings rates; and calculate contract cost savings. Auditors determined that the Salesforce data was not sufficiently reliable for the purposes of this audit.

To determine the completeness and accuracy of contract data, auditors judgmentally selected 30 contracts within the audit scope. Auditors then selected 22 data fields for testing based on professional judgment and identification of key data fields. For SalesForce servers and databases, auditors reviewed the Statement on Standards for Attestation Engagements (SSAE) No. 16 report, which covered the period from May 1, 2012, through October 31, 2012. That report did not identify any significant issues. Auditors used Uniform Statewide Accounting System (USAS) data to test vendors' deposits of administrative fees; auditors relied on prior work performed by the State Auditor's Office and determined that USAS data was reliable.

Information collected and reviewed included the following:

- Department board meeting minutes.
- Department Customer Advisory Committee meeting minutes.
- The Department's strategic plan.
- The Department's *Contract Management Procedures*, versions 2.0 thru 2.3.
- Department procurement files, including contract templates, planning documentation, bidders' proposals, evaluation scoring results, and other supporting documentation.
- Selected monthly vendor sales reports, corresponding administrative fees, and other supporting documentation.
- Department procurement and contract manager training and certification records and conflict of interest statements.
- Job descriptions for selected Department staff.
- Selected Department Program cost savings calculations and supporting documentation.
- Emails and other documentation that supported information provided in interviews with Department personnel.
- *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Office Report No. 12-004, October 2011).

Procedures and tests conducted included the following:

- Interviewed Department management and staff.

- Reviewed contract templates and executed contracts to determine whether they included selected contract terms listed in the *State of Texas Contract Management Guide*.
- Tested whether the Department followed applicable planning guidelines in the *State of Texas Contract Management Guide* for contracts and amendments.
- Reviewed contracts and amendments for appropriate authorization.
- Reviewed contract monitoring activities, including the timely submission of monthly vendor sales reports and the collection of corresponding administrative fees.
- Tested whether Department staff who performed purchasing functions and contract management functions met the Office of the Comptroller of Public Accounts' training and certification requirements.
- Reviewed the Department's process to calculate Program cost savings.
- Reviewed selected information technology controls.
- Reviewed the implementation status of selected audit scope related recommendations in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor's Office Report No. 12-004, October 2011).

Criteria used included the following:

- Texas Government Code, Chapters 2054, 2155, 2156, 2157, 2261, and 2262.
- Title 1, Texas Administrative Code, Chapters 202 and 217.
- Title 34, Texas Administrative Code, Chapter 20.
- General Appropriations Acts (82nd Legislature).
- Contracts between the Department and Program vendors.
- *State of Texas Contract Management Guide*, Office of the Comptroller of Public Accounts, versions 1.8 and 1.9.
- Performance measure guidance for the performance measure Total Contract Savings and Cost Avoidance Provided through DIR Contracts.
- Department information technology policies and procedures.

Project Information

Audit fieldwork was conducted from January 2013 through June 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:

- Ileana Barboza, MBA, CGAP (Project Manager)
- Serra Tamur, MPAFF, CIA, CISA (Assistant Project Manager)
- Kristina Aguilar
- Kelsey Arnold, MEd
- Michael Karnes, MBA
- Robert G. Kiker, CGAP
- Scott Labbe
- Matthew Owens, CFE
- Sonya Tao, CFE
- Dana Musgrave, MBA (Quality Control Reviewer)
- Cesar Saldivar, CGAP (Audit Manager)

Total Program Sales and Audit Coverage

The Department of Information Resources (Department) had approximately \$2.4 billion in sales for its Information and Communications Technology Cooperative Contracts Program (Program) between September 1, 2011, and February 28, 2013. Table 1 presents information on sales that this audit covered.

Table 1

| Program Sales and Audit Coverage September 1, 2011, through February 28, 2013 | | |
|---|------------------------|------------------------|
| Category | Sales ^{a b} | Percent of Total Sales |
| Sales related to contracts not covered by this audit | \$ 2,004,420,315 | 83.8% |
| Sales related to contracts covered by this audit | 387,962,122 | 16.2% |
| Totals | \$2,392,382,437 | 100.0% |
| <p>^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013.</p> <p>^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565.</p> | | |

Source: Unaudited data from the Department.

Total Program Sales by Contract Type

The Department of Information Resources' (Department) Information and Communications Technology Cooperative Contracts Program (Program) offers three types of contracts: goods and services, staffing services, and deliverables-based information technology services. As Table 2 shows, goods and services contracts accounted for approximately \$2.2 billion (90 percent) of Program total sales between September 1, 2011, and February 28, 2013.

Table 2

| Program Sales by Contract Type September 1, 2011, through February 28, 2013 | | |
|---|------------------------|------------------------|
| Contract Type | Sales ^{a b} | Percent of Total Sales |
| Goods and services | \$ 2,151,993,785 | 90.0% |
| Staffing services | 148,132,979 | 6.2% |
| Deliverables-based information technology services | 92,255,673 | 3.8% |
| Totals | \$2,392,382,437 | 100.0% |
| <p>^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013.</p> <p>^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565.</p> | | |

Source: Unaudited data from the Department.

Total Program Sales by Vendor

Table 3 presents the top 10 vendors for the Department of Information Resources' (Department) Information and Communications Technology Cooperative Contracts Program (Program) between September 1, 2011, and February 28, 2013. As Table 3 shows, the top three vendors were responsible for nearly 50 percent (approximately \$1.2 billion) of Program sales.

Table 3

| Program Sales by Vendor September 1 2011, through February 28, 2013 | | |
|---|------------------------|------------------------|
| Vendor | Sales ^{a b} | Percent of Total Sales |
| Dell Marketing LP | \$ 726,470,205 | 30.4% |
| Apple Inc. | 239,529,450 | 10.0% |
| Hewlett-Packard Company | 227,303,707 | 9.5% |
| INX LLC, a Presidio Company | 87,022,396 | 3.6% |
| Oracle America, Inc. | 63,926,286 | 2.7% |
| Calence Physical Security Solutions, LLC | 62,783,798 | 2.6% |
| Netsync Network Solutions | 45,927,653 | 1.9% |
| SHI Government Solutions, Inc. | 39,681,922 | 1.7% |
| Xerox Corporation | 37,365,023 | 1.6% |
| EMC Corporation | 32,337,100 | 1.3% |
| Totals for top 10 vendors | \$1,562,347,540 | 65.3% |
| All other vendors | \$ 830,034,897 | 34.7% |
| Totals for all vendors | \$2,392,382,437 | 100.0% |
| <p>^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013.</p> <p>^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565.</p> | | |

Source: Unaudited data from the Department.

Total Program Sales by Customer Type

Table 4 presents the Department of Information Resources' (Department) Information and Communications Technology Cooperative Contracts Program's (Program) total sales by customer type between September 1, 2011, and February 28, 2013.

Texas Government Code, Section 2054.0565, specifies the types of entities that can make purchases through Program contracts. As Table 4 shows, K-12 schools were the Program's largest customer, followed by state agencies; those two customer types had 58.1 percent of Program sales.

Table 4

| Program Sales by Customer Type September 1, 2011, through February 28, 2013 | | |
|---|------------------------|------------------------|
| Customer Type | Sales ^{a b} | Percent of Total Sales |
| K-12 schools | \$ 769,578,194 | 32.2% |
| State agencies | 619,573,666 | 25.9% |
| Local governments | 527,783,204 | 22.0% |
| Higher education | 456,565,885 | 19.1% |
| Assistance organizations ^c | 15,618,301 | 0.7% |
| Out-of-state entities | 3,263,187 | 0.1% |
| Totals | \$2,392,382,437 | 100.0% |
| <p>^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013.</p> <p>^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565.</p> <p>^c Texas Government Code, Section 2175.001(1), defines assistance organizations as: (A) a nonprofit organization that provides educational, health, or human services or assistance to homeless individuals; (B) a nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals; (C) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance office of the Agency for International Development; (D) a group, including a faith-based group, that enters into a financial or nonfinancial agreement with a health or human services agency to provide services to that agency's clients; (E) a local workforce development board created under Section 2308.253; (F) a nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters; (G) the Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Agriculture Code; (H) a nonprofit computer bank that solicits, stores, refurbishes, and redistributes used computer equipment to public school students and their families; and (I) a nonprofit organization that provides affordable housing.</p> | | |

Source: Unaudited data from the Department.

Total Program Sales by Customer

Table 5 presents the top 15 customers for the Department of Information Resources' (Department) Information and Communications Technology Cooperative Contracts Program (Program) between September 1, 2011, and February 28, 2013.

Table 5

| Program Sales by Customer September 1, 2011, through February 28, 2013 | | |
|--|------------------------|------------------------|
| Customer | Sales ^{a b} | Percent of Total Sales |
| Health and Human Services Commission | \$ 171,748,165 | 7.2% |
| Department of Transportation | 67,073,940 | 2.8% |
| Department of Public Safety | 66,840,816 | 2.8% |
| Houston Independent School District | 63,917,914 | 2.7% |
| City of Austin | 59,355,504 | 2.5% |
| Department of State Health Services | 55,254,805 | 2.3% |
| The University of Texas at Austin | 54,091,579 | 2.3% |
| City of San Antonio | 54,040,160 | 2.3% |
| Dallas Independent School District | 47,569,600 | 2.0% |
| Office of the Comptroller of Public Accounts | 36,178,883 | 1.5% |
| City of Houston | 36,141,382 | 1.5% |
| The University of Texas M. D. Anderson Cancer Center | 33,981,247 | 1.4% |
| Department of Information Resources | 31,703,887 | 1.3% |
| Texas A&M University System | 28,046,719 | 1.2% |
| Department of Aging and Disability Services | 25,512,812 | 1.0% |
| Totals for top 15 customers | \$ 831,457,413 | 34.8% |
| All other customers | \$ 1,560,925,024 | 65.2% |
| Totals for all customers | \$2,392,382,437 | 100.0% |
| ^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013. | | |
| ^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565. | | |

Source: Unaudited data from the Department.

Total Program Sales by Customer and Contract Type

Goods and Services

Table 6 presents the top 10 customers that procured goods and services through the Department of Information Resources' (Department) Information and Communications Technology Cooperative Contracts Program between September 1, 2011, and February 28, 2013. The Health and Human Services Commission was the Program's primary customer for goods and services, accounting for approximately \$121.3 million (5.6 percent) of goods and services sales.

Table 6

| Top 10 Customers for Program Goods and Services September 1, 2011, through February 28, 2013 | | |
|--|------------------------|------------------------|
| Customer | Sales ^{a b} | Percent of Total Sales |
| Health and Human Services Commission | \$ 121,291,392 | 5.6% |
| Houston Independent School District | 62,450,196 | 3.0% |
| City of San Antonio | 51,892,345 | 2.4% |
| The University of Texas at Austin | 51,563,285 | 2.4% |
| City of Austin | 50,414,489 | 2.3% |
| Dallas Independent School District | 47,360,510 | 2.2% |
| Department of Transportation | 44,000,558 | 2.0% |
| Department of Public Safety | 38,145,629 | 1.8% |
| Department of State Health Services | 37,126,161 | 1.7% |
| City of Houston | 30,596,627 | 1.4% |
| Totals for top 10 customers | \$ 534,841,192 | 24.8% |
| All other customers | \$ 1,617,152,593 | 75.2% |
| Totals for all customers | \$2,151,993,785 | 100.0% |
| ^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013. ^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565. | | |

Source: Unaudited data from the Department.

Staffing Services

Table 7 presents the top 10 customers that procured staffing services through the Program between September 1, 2011, and February 28, 2013. The Health and Human Services Commission was the Program's top customer for staffing services, accounting for approximately \$41.0 million (27.7 percent) of staffing services sales.

Table 7

| Top 10 Customers for Program Staffing Services September 1, 2011, through February 28, 2013 | | |
|--|----------------------|------------------------|
| Customer | Sales ^{a b} | Percent of Total Sales |
| Health and Human Services Commission | \$ 40,991,833 | 27.7% |
| Department of Public Safety | 19,343,676 | 13.1% |
| Department of State Health Services | 13,609,798 | 9.2% |
| Department of Transportation | 10,836,092 | 7.3% |
| Texas Department of Aging and Disability Services | 10,093,226 | 6.8% |
| Texas Education Agency | 9,694,408 | 6.5% |
| City of Austin | 6,827,966 | 4.6% |
| Department of Criminal Justice | 4,856,451 | 3.3% |
| Texas Workforce Commission | 3,768,509 | 2.5% |
| Department of Family and Protective Services | 3,049,539 | 2.1% |
| Totals for top 10 customers | \$123,071,498 | 83.1% |
| All other customers | \$ 25,061,481 | 16.9% |
| Totals for all customers | \$148,132,979 | 100.0% |
| ^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013. | | |
| ^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565. | | |

Source: Unaudited data from the Department.

Deliverables-based Information Technology Services

Table 8 presents the top 10 customers that procured deliverables-based information technology services (DBITS) through the Program between September 1, 2011, and February 28, 2013. The Department of Transportation was the Department's top customer for DBITS, accounting for approximately \$12.2 million (13.3 percent) of sales.

Table 8

| Top 10 Customers for Program Deliverables-based Information Technology Services Sales September 1, 2011, through February 28, 2013 | | |
|--|----------------------|------------------------|
| Customer | Sales ^{a b} | Percent of Total Sales |
| Department of Transportation | \$ 12,237,290 | 13.3% |
| Health and Human Services Commission | 9,464,939 | 10.3% |
| Department of Public Safety | 9,351,511 | 10.1% |
| The University of Texas M. D. Anderson Cancer Center | 7,952,918 | 8.6% |
| Department of Information Resources | 5,923,009 | 6.4% |
| Commission on Environmental Quality | 5,127,167 | 5.6% |
| Department of State Health Services | 4,518,846 | 4.9% |
| Texas Education Agency | 4,066,335 | 4.4% |
| Office of the Comptroller of Public Accounts | 3,719,555 | 4.0% |
| City of Houston | 3,026,322 | 3.3% |
| Totals for top 10 customers | \$65,387,892 | 70.9% |
| All other customers | \$ 26,867,781 | 29.1% |
| Totals for all customers | \$92,255,673 | 100.0% |
| ^a Program sales were self-reported by vendors as of February 28, 2013. Additional sales may have occurred that vendors may not have reported as of February 28, 2013. | | |
| ^b Sales include only sales to eligible customers. Eligible customers include state agencies, higher education institutions, and other entities as defined Texas Government Code, Section 2054.0565. | | |

Source: Unaudited data from the Department.

Implementation Status of Prior Audit Recommendations

Table 9 summarizes the status of 18 selected recommendations from the 39 recommendations in *An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources* (State Auditor’s Office Report No. 12-004, October 2011). Auditors selected those 18 recommendations for follow up because they were within the scope of this audit. Based on testing performed, auditors determined that:

- The Department of Information Resources (Department) had fully implemented nine recommendations.
- The Department had substantially implemented four recommendations.
- The Department’s implementation of one recommendation was incomplete/ongoing.
- The Department had not implemented four recommendations.

Implementation Status Definitions

Fully Implemented - Successful development and use of a process, system, or policy to implement a prior recommendation.

Substantially Implemented - Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.

Incomplete/Ongoing - Ongoing development of a process, system, or policy to address a prior recommendation.

Not Implemented - Lack of a formal process, system, or policy to address a prior recommendation.

Table 9

| Status of Implementation of Prior State Auditor’s Office Recommendations | | |
|--|---------------------------|---|
| Recommendation | Implementation Status | Auditor Comments |
| 1 The Department should restore, revise, and comply with its previous policies and procedures to ensure that it verifies the accuracy, completeness, and timeliness of the [Information and Communications Technology Cooperative Contracts Program] (Program) fees it collects. | Incomplete/Ongoing | The Department has a process to identify and collect administrative fees, but it has not established a process to verify the accuracy and completeness of those fees. |
| <p>The Department should develop, document, and implement policies and procedures that:</p> <ul style="list-style-type: none"> ▪ Establish processes for contract managers to identify and collect past-due monthly vendor sales reports. | Substantially Implemented | The Department established a process to identify and collect past-due monthly vendor sales reports. However, Department contract managers do not consistently follow up with vendors when vendors do not submit their reports in a timely manner. Department contract managers also do not document the results of their monthly reviews of vendors’ reports and administrative fees. |

Status of Implementation of Prior State Auditor's Office Recommendations

| Recommendation | Implementation Status | Auditor Comments |
|---|---------------------------|---|
| 3 <ul style="list-style-type: none"> ▪ Ensure that the Department amends Program contracts to reflect fee changes in a timely manner. | Fully Implemented | |
| 4 <ul style="list-style-type: none"> ▪ Establish processes to assess and collect penalties when vendors submit Program fees late. | Substantially Implemented | The Department's policies and procedures do not clearly identify when late fees should be applied. In addition, late fees are not applied during a contract's first year, and Department contract managers have the option to decide whether or not late fee language will be included in a contract during the contract renewal process. |
| 5 Review and revise the format of its vendor sales report to require Program vendors to report (1) the manufacturer's suggested retail price for products and services at the time of purchase and (2) the customer discount applied to the purchase. | Fully Implemented | |
| 6 The Department should ensure that its Program contracts include provisions that define (1) the corrective actions and (2) late fee penalties the Department may assess for non-compliance with payment and reporting requirements. | Substantially Implemented | Initial Program contracts do not include a late fee penalty that the Department can impose when vendors do not comply with administrative fee payment or reporting requirements. Contracts do not always include a corrective action provision and consequences to address situations in which vendors do not submit monthly vendor sales reports on time. None of the contracts that auditors tested included a consequence contract provision to address situations in which vendors do not submit administrative fees on time. |
| 7 The Department should revise survival provisions in Program contracts to include provisions that establish a time limit for how long after the contract expiration date a vendor has to fulfill a customer order. | Fully Implemented | |
| 8 The Department should establish a standard fee for Program contracts. Because of the variety of products and services offered through the Program, the Department should consider establishing standard fees by product and service type. | Fully Implemented | |
| 9 The Department should record in its accounting system both the contract number and reporting period for all Program fees it collects. | Fully Implemented | |
| 10 The Department should ensure that the Contract Management System can record both current and prior fees for each Program contract. | Fully Implemented | |
| The Department should develop, document, and implement policies and procedures that: | | |
| 11 <ul style="list-style-type: none"> ▪ Establish and implement a quality assurance process, including a review process, to verify that all data entered into the Contract Management system is accurate and complete. | Substantially Implemented | The Department has documented and established a process to enter and review data in its Contract Management System. However, it has not implemented a process to ensure that it updates Salesforce data upon contract renewal. |

Status of Implementation of Prior State Auditor's Office Recommendations

| Recommendation | Implementation Status | Auditor Comments |
|--|-----------------------|--|
| 12 ▪ Establish and implement a process to ensure that amended Program fees are updated in the Contract Management System in a timely manner. | Fully Implemented | |
| The Department should establish and implement processes to ensure that: | | |
| 13 ▪ The Department deactivates and removes all former employees' access to the Contract Management System in a timely manner. | Not Implemented | Auditors identified similar issues during the current audit. |
| 14 ▪ Only program staff can add, change, and delete Program-related information in Data Warehouse. | Not Implemented | Auditors identified similar issues during the current audit. |
| 15 ▪ The Department reviews, and changes as necessary, the user access rights of non-Program staff. | Not Implemented | Auditors identified similar issues during the current audit. |
| 16 ▪ The Department changes the password to the administrative account in Data Warehouse on a periodic basis. | Not Implemented | Auditors identified similar issues during the current audit. |
| 17 ▪ Each employee is assigned an individual user account. | Fully Implemented | |
| 18 ▪ All active user accounts are assigned to specific staff. | Fully Implemented | |

Related State Auditor's Office Work

| Related State Auditor's Office Work | | |
|-------------------------------------|---|--------------|
| Number | Product Name | Release Date |
| 13-026 | An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Businesses Program and the State Use Program | March 2013 |
| 12-004 | An Audit Report on the Information and Communications Technology Cooperative Contracts Program at the Department of Information Resources | October 2011 |

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