



An Audit Report on

**The Vendor Performance Tracking  
System at the Office of the Comptroller  
of Public Accounts and Its Use by the  
Texas Workforce Commission and the  
Parks and Wildlife Department**

July 2019

Report No. 19-042

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## Overall Conclusion

Due to noncompliance with reporting **requirements, the State's Vendor Performance Tracking System (VPTS) cannot fulfill its goals of helping state entities evaluate vendor performance and reduce risk in the contract awarding process.**

The 84th Legislature, in Senate Bill 20, directed the Office of the Comptroller of Public **Accounts (Comptroller's Office) to establish a process in VPTS for state agencies to rate vendor performance using an A through F scale.** It also required state agencies to use VPTS to determine whether to award a contract to a vendor. Among the purposes of VPTS are to identify vendors that have exceptional performance and protect the State from vendors with unethical business practices.

However, auditors identified weaknesses in the **Comptroller's Office's administration of VPTS.** In addition, auditors reviewed two state **agencies' compliance with VPTS reporting requirements** and determined that both state agencies had not reported vendor performance for a significant number of contracts and purchase orders.

It should be noted that one of those agencies—the Parks and Wildlife Department—was among the top 10 agencies for the number of contracts reported to VPTS from September 1, 2017, through December 31, 2018, even though it did not report most of its contracts to VPTS. This indicates that noncompliance with VPTS reporting requirements may be a statewide issue.

If state agencies do not report vendor performance as required, the usefulness of VPTS will be limited, increasing the risk that vendors with a history of poor performance will continue to receive state contracting funds.

### Background

Senate Bill 20 (84th Legislature, Regular Session) updated Texas Government Code, Chapter 2262, to require the **Comptroller's Office to establish, by rule, an evaluation processes that rates vendor performance on an A through F scale.** It also required state agencies to use the Vendor Performance Tracking System (VPTS) to determine whether to award a contract to a vendor. The purpose of the bill was to reform state agency contracting by clarifying accountability, increasing transparency, and ensuring a fair and competitive process.

**The Comptroller's Office established rules in the Texas Administrative Code to set criteria for each letter grade.** It also required state agencies to submit a review of vendor performance no later than 30 days after the completion or termination of a purchase order or contract for \$25,000 or more.

Sources: The Texas Government Code and the Texas Administrative Code.

### **Comptroller's Office Administration of VPTS**

The Comptroller's Office should strengthen its controls over VPTS to help the system provide complete, accurate, and consistent information to assist state agencies make vendor selections. Specifically, the Comptroller's Office should:

- Improve controls related to key fields in VPTS to ensure that they do not contain unexpected or unreasonable entries.
- Ensure that user access to submit reports is appropriate.
- Improve its review of vendor performance reports to verify that state agencies included information in all key data fields and complied with the grading criteria.

### **The Texas Workforce Commission's Compliance with VPTS Requirements**

The Texas Workforce Commission (Commission) reported vendor performance for 1 contract and 6 purchase orders from September 1, 2017, through December 31, 2018. However, it should have reported vendor performance for a total of 29 contracts and 1,020 purchase orders during that time period. The Commission voluntarily submitted vendor performance reports for 1 other contract and 7 purchase orders that were exempt from VPTS reporting requirements.

In addition, the Commission should improve its processes to ensure that it reviews information from VPTS when selecting vendors, as required by statute.

### **The Parks and Wildlife Department's Compliance with VPTS Requirements**

The Parks and Wildlife Department (Department) reported vendor performance for 75 contracts from September 1, 2017, through December 31, 2018. However, it should have reported vendor performance for a total of 573 contracts during that time period. The Department voluntarily submitted vendor performance reports for 33 other contracts that were exempt from VPTS reporting requirements.

In addition, the Department should improve its processes to ensure that it reviews information from VPTS when selecting vendors, as required by statute.

Table 1 on the next page presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters/Subchapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating <sup>a</sup>
1-A	<b>The Comptroller’s Office Should Improve VPTS Controls to Ensure That Data is Valid and Access is Appropriate</b>	High
1-B	<b>The Comptroller’s Office Should Improve Its Processes for Reviewing Reports Submitted to VPTS</b>	High
2-A	The Commission Should Report All Required Contracts to VPTS and Follow Reporting Criteria	High
2-B	The Commission Should Ensure That It Reviews Information from VPTS Prior to Selecting Vendors as Required	High
3-A	The Department Should Report All Required Contracts to VPTS and Improve Compliance with VPTS Procedures When Submitting Vendor Reports	High
3-B	The Department Should Ensure That It Reviews Information from VPTS Prior to Selecting Vendors as Required	Medium

<sup>a</sup> A subchapter is rated Priority if the issues identified present risks or effects that if not addressed could critically affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A subchapter is rated High if the issues identified present risks or effects that if not addressed could substantially affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A subchapter is rated Medium if the issues identified present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A subchapter is rated Low if the audit identified strengths that support the audited entity’s ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.

Auditors communicated other, less significant issues separately in writing to the **Comptroller’s Office’s** management.

### **Summary of Management’s Response**

At the end of each chapter in this report, auditors made recommendations to address the issues identified during this audit. **The Comptroller’s Office generally** agreed with the findings and recommendations in this report. It noted that it does not have enough resources to review all grades of B or below; however, it agreed to initiate a system of edit checks in VPTS to reduce the risk that agencies will enter grades that do not align with the grading criteria.

The Commission and the Department agreed with the findings and recommendations in this report.

## *Audit Objectives and Scope*

The objectives of this audit **were to determine (1) whether the Comptroller's Office has processes and related controls to help ensure that information contained in VPTS is accurate and complete and (2) whether the Commission and the Department complied with state law regarding VPTS.**

The scope of this audit covered vendor performance reports in VPTS from September 1, 2017, **through December 31, 2018. It also covered the Commission's and the Department's information related to VPTS during that time period.**

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# Detailed Results

Chapter 1

## ***The Office of the Comptroller of Public Accounts Should Improve Controls and Its Administration of the Vendor Performance Tracking System to Ensure That Information Is Complete and Accurate***

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The goal of the State’s Vendor Performance Tracking System (VPTS), administered by the Office of the Comptroller of the Public Accounts (Comptroller’s Office), is to help state entities evaluate vendor performance and reduce risk in the contract awarding process (see text box for more information).

The Comptroller’s Office has implemented certain controls and procedures, such as controls within VPTS and reviews of selected vendor performance reports to ensure that report grades align with guidelines in the Texas Administrative Code, to help ensure that VPTS information presented to state agencies and the public is complete, accurate, and consistent. The Comptroller’s Office also sends monthly access and activity reports to state agencies and asks the agencies to review their users’ access to VPTS.

However, auditors identified opportunities for the Comptroller’s Office to improve its controls to help ensure that VPTS provides complete, accurate, and consistent information to assist state agencies in making vendor selections (see Figure 1 on the next page for a summary of the VPTS process).

### VPTS Goals

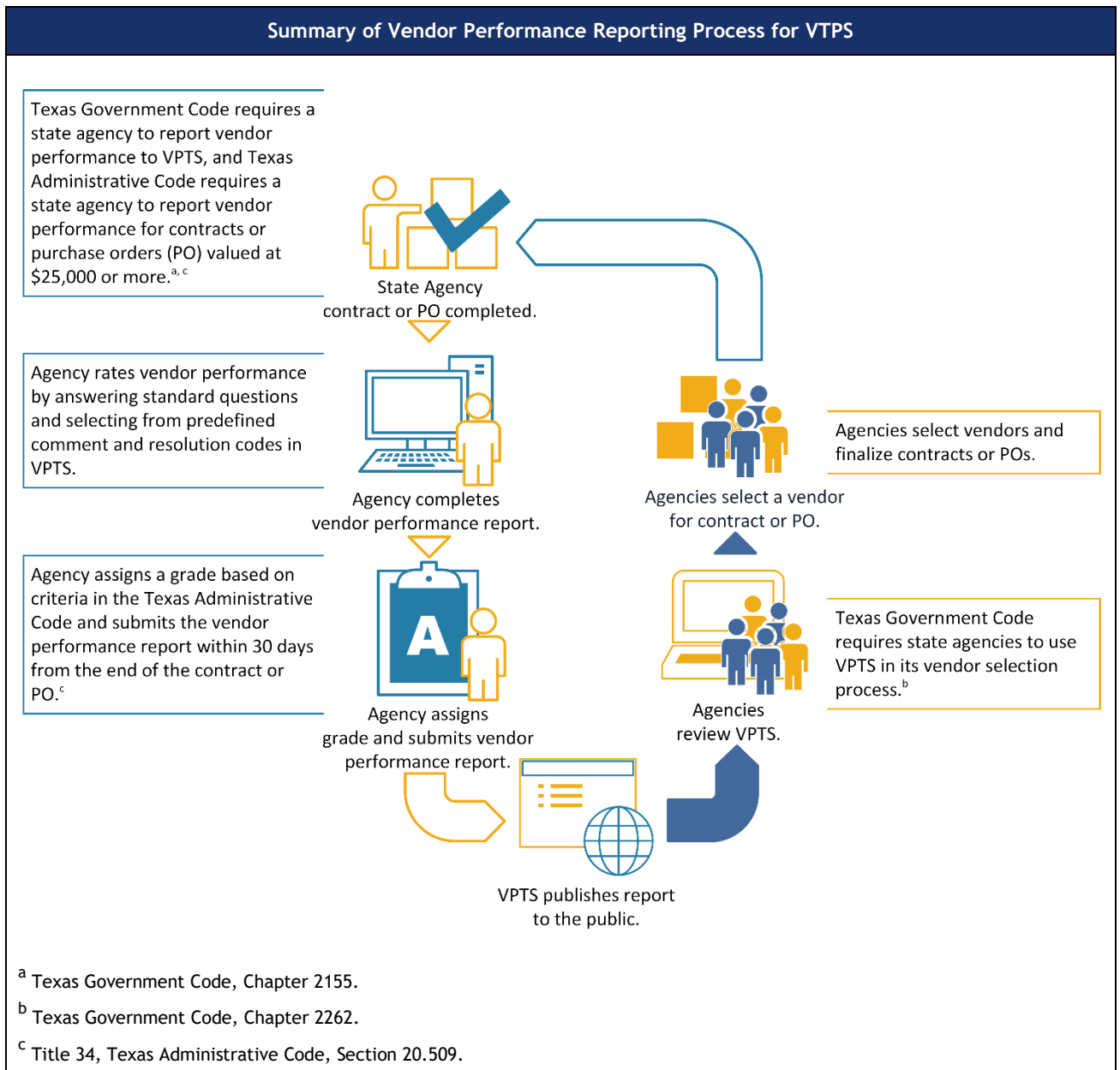
According to the Comptroller’s Office’s Web site, VPTS’s purpose is to:

- Identify vendors that have exceptional performance.
- Aid purchasers in making a best-value determination based on vendor past performance.
- Protect the State from vendors with unethical business practices.
- Provide performance grades (A-F) in five measurable categories for the Central Master Bidders List.
- Track vendor performance for delegated and exempt purchases.

The Comptroller’s Office created criteria for each vendor performance grades in Title 34, Texas Administrative Code, Section 20.509, and its policies and procedures related to VPTS.

Source: Comptroller’s Office Web site.

Figure 1



Source: The State Auditor’s Office created this figure based on information from the Comptroller’s Office.

From September 1, 2017, through December 31, 2018, the Comptroller’s Office published 11,225 vendor performance reports from 55 state agencies in VPTS. Ten agencies produced 95 percent of the total reports during that time period (see Table 2 on the next page).



Table 2

Number of Reports Published in VPTS by State Agency September 1, 2017, through December 31, 2018	
State Agency	Number of Reports Published in VPTS
Department of Transportation	4,663
Department of Criminal Justice	2,853
Department of Public Safety	1,051
Office of the Comptroller of Public Accounts	549
Health and Human Services Commission	473
Department of Information Resources	334
Office of the Attorney General	331
Commission on Environmental Quality	273
Parks and Wildlife Department	108
Texas Education Agency	63
All Other State Agencies (45 state agencies)	527
Total	11,225

Source: Vendor Performance Tracking System

Chapter 1-A  
Rating:  
High<sup>1</sup>

Chapter 1-A

**The Comptroller’s Office Should Improve VPTS Controls to Ensure That Data Is Valid and Access Is Appropriate**

Key VPTS Fields. **The Texas Administrative Code and the Comptroller’s Office’s VPTS User Guide** list data fields that state agencies are required to complete to submit a vendor performance report, which helps VPTS capture consistent vendor performance information that state agencies can use to make an informed vendor selection.

The Comptroller’s Office should improve controls related to key fields in VPTS. Auditors analyzed vendor performance reports submitted to VPTS from September 1, 2017, through December 31, 2018, and determined that 9 of 12 key data fields contained unexpected or unreasonable entries. Examples of those entries include blank vendor performance report grades and contract amount entries and unreasonable date and dollar amount entries. Errors in key VPTS fields increase the risk that state agencies will use inaccurate, inconsistent, or incomplete information to make vendor selection decisions. The Comptroller’s Office asserted that errors in key fields

<sup>1</sup> The risk related to the issues discussed in Chapter 1-A is rated as High because they present risks or results that if not addressed could substantially affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

occurred when it updated to a new version of VPTS. However, auditors identified errors in key fields that occurred after that update was complete.

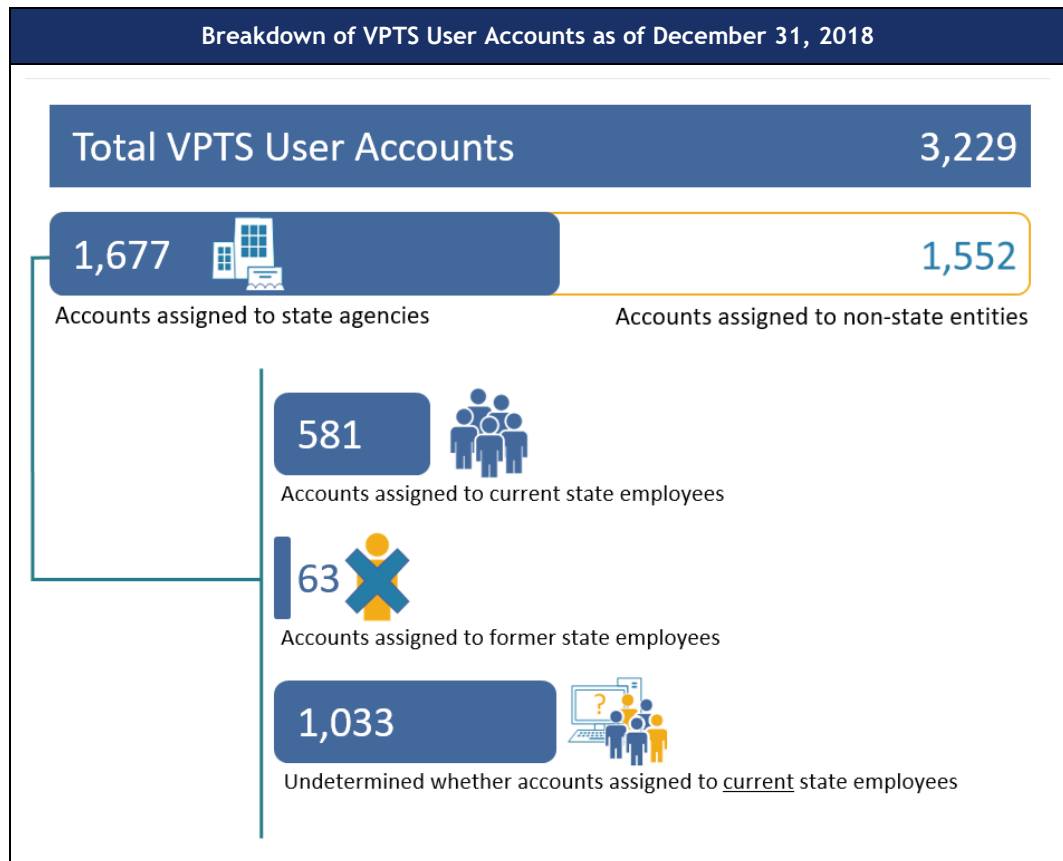
In addition, for completed contracts and purchase orders, VPTS does not require state agencies to enter the completion date. Capturing the contract or purchase order end date would help the Comptroller's Office determine whether state agencies submitted the vendor performance reports within the required timeframes.

Access to VPTS. The Comptroller's Office should improve its controls to ensure that access to VPTS is appropriate. Unauthorized access to VPTS increases the risk of unauthorized or inaccurate information being reported in VPTS. As of December 31, 2018, there were 3,229 user accounts with access to create vendor performance reports in VPTS. Of those, 581 accounts belonged to current state employees. In addition to those accounts, auditors determined that:

- 63 accounts belonged to former state employees.
- 1,033 accounts were assigned to state employees; however, auditors could not determine whether those users were current employees because the user account did not include a full name or the accounts had generic titles (for example, "TxCPA Agency for Testing"). Auditors provided the Comptroller's Office this information during the audit, and the Comptroller's Office has started researching those accounts to determine whether users were appropriate.
- 1,552 accounts belonged to non-state agency employees, such as city and county employees, for which the Comptroller's Office determined that access was appropriate.

Figure 2 on the next page shows a breakdown of VPTS user accounts.

Figure 2



Source: The State Auditor's Office created this figure based on information from VPTS.

State agencies are responsible for ensuring that they assign user accounts and determine whether the access is appropriate. The Comptroller's Office sends monthly access and activity reports to state agencies to help ensure that user accounts are appropriate. The Comptroller's Office asks the agencies to review their users' access to VPTS and respond with any updates or changes.

## Recommendations

### The Comptroller's Office should:

- Improve its controls over VPTS to ensure that state agencies include information in all key data fields.
- Determine the timeliness of vendor performance report submissions.

### Management's Response

*The Comptroller's office generally agrees with the recommendations and has already begun to initiate system edits that will ensure that that state agencies include information in all key data fields. Additionally, the Comptroller's office will initiate system changes that will require agencies to reflect an end date for the contract and will determine timeliness of submissions based on information provided by the submitting agency.*

*Responsible Party: Statewide Procurement and Information Technology Divisions*

*Implementation Date: August 31, 2020*

## The Comptroller's Office Should Improve Its Processes for Reviewing Reports Submitted to VPTS

The Comptroller's Office conducts VPTS outreach and training to state agencies, and it reviews some vendor performance reports that state agencies submit to VPTS. However, there are opportunities for the Comptroller's Office to improve its review processes.

VPTS Outreach and Training. The Comptroller's Office conducts outreach and training for state agencies—including for Certified Contract Managers and Certified Texas Contract Developers—to help ensure they understand how to complete vendor performance reports, properly grade vendor performance, and use VPTS. Auditors determined that the outreach and training materials aligned with guidance from the Texas Administrative Code.

Reviewing Report Grades. The Comptroller's Office should improve its processes for reviewing reports submitted to VPTS to help improve the accuracy and consistency of the information in VPTS that state agencies use to make vendor selection decisions (see text box for more information about submitting vendor performance reports). Texas Government Code, Section 2262.055, requires state agencies to use information in VPTS to help determine whether to award a contract to a vendor. To provide a framework for consistent grading, the Comptroller's Office has developed detailed criteria that state agencies should use to assign vendor performance report grades; that criteria is listed in Title 34, Texas Administrative Code, Section 20.509 (see Appendix 3 for more information about that criteria).

### Submitting Vendor Performance Reports

State agencies submit vendor performance reports to VPTS using the VPTS Web site. State agencies select from a list of comment codes and resolution codes to provide **context on vendors'** performance. Comment codes can be positive or negative, and resolution codes indicate whether negative comment codes were addressed during the contract period.

Title 34, Texas Administrative Code, Section 20.509, lists the criteria that state agencies should use to assign the vendor performance report grade.

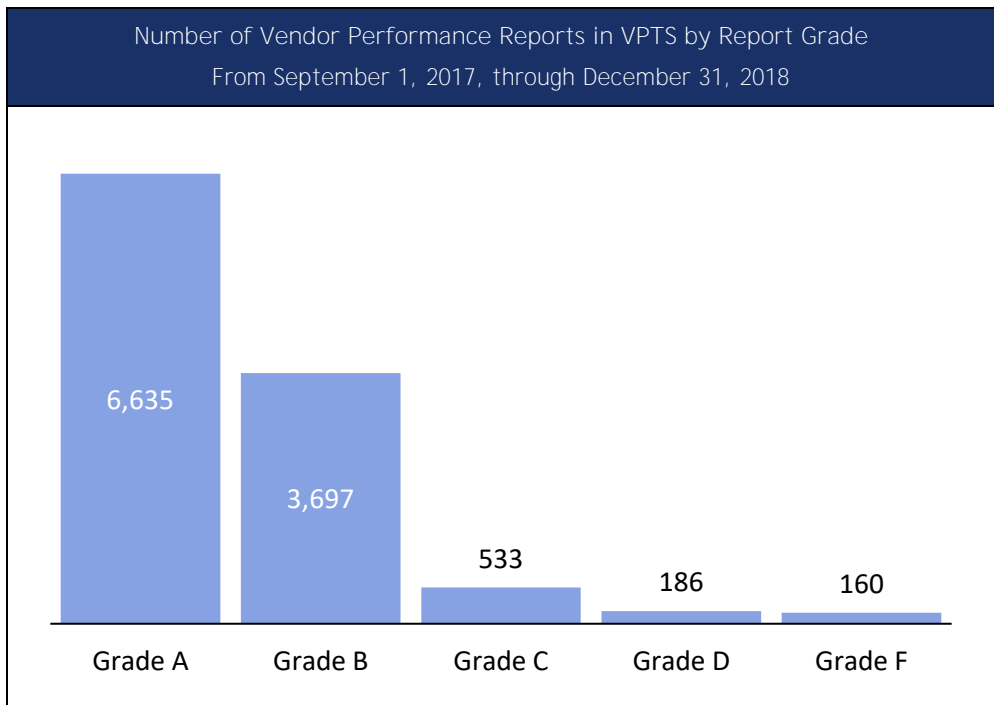
Source: The Comptroller's Office.

As of May 2019, the Comptroller's Office did not review vendor performance reports that state agencies submitted with an A or B performance grade (see Figure 3 on the next page for the number of vendor performance reports in VPTS by report grade). Instead, VPTS automatically publishes those reports. However, automatically publishing vendor performance reports with A or B report grades without review creates a risk that inaccurate or inconsistent vendor performance report grades are published in VPTS.

The Comptroller's Office reviews submitted vendor performance reports with performance grades of C through F. However, those reviews did not always identify instances in which the assigned report grades did not align with the criteria.

<sup>2</sup> The risk related to the issues discussed in Chapter 1-B is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

Figure 3



Source: VPTS.

To determine whether the Comptroller’s Office’s review detects whether state agencies accurately and consistently assign grades based on grading criteria, auditors reviewed vendor performance reports published from September 1, 2017, through December 31, 2018.

The criteria for assigning grades B through F to vendor performance contain multiple factors, such as whether the state agency identified performance issues and whether those issues were resolved. Auditors tested a sample of 60 vendor performance reports with assigned grades B through F submitted from September 1, 2017, through December 31, 2018, and determined:

- Of the 49 vendor performance reports with an assigned grade of B, 45 (92 percent) did not align with the grading criteria.
- All 7 vendor performance reports with an assigned grade of C did not align with the grading criteria.
- All 4 vendor performance reports tested with an assigned grade of D or F aligned with the grading criteria.

Most incorrect letter grades that state agencies submitted to VPTS were off by 1 letter grade based on the criteria; however, 1 vendor performance report had a C report grade that should have been an A. Although the

Comptroller's Office has procedures to review vendor performance reports to verify that the assigned report grades adhered to the grading criteria, it did not ensure that reviewers followed those procedures. State agencies assigning and submitting report grades that are not consistent with grading criteria increases the risk that state agencies may use incorrect or inconsistent information to select vendors.

Because vendor performance reports assigned an A report grade should have no performance issues identified, auditors analyzed all 6,635 vendor performance reports submitted from September 1, 2017, through December 31, 2018, and determined that 6,596 reports (99 percent) complied with the grading criteria.

Reporting Best Value. Auditors analyzed the 192 vendor performance reports published in VPTS from September 1, 2017, through December 31, 2018, that indicated the vendor did not provide best value and identified 89 reports with a vendor performance grade that was higher than a D. According to the grading criteria in the Texas Administrative Code, vendors that did not provide best value should receive a performance grade of either a D or an F. According to the Comptroller's Office, VPTS had edit checks in place to ensure compliance with that criteria; however, those edit checks were not functioning from September 1, 2017, through December 31, 2018.

#### Recommendations

The Comptroller's Office should:

- Improve its processes to review vendor performance reports submitted by state agencies by:
  - ♦ Including vendor performance reports assigned a B report grade in its review.
  - ♦ Improving its processes to ensure that its reviews are consistently based on the grading criteria in the Texas Administrative Code.
- Improve edit checks in VPTS to prevent state agencies from assigning vendor performance grades higher than a D for vendors that did not meet the best value standard, as required.

## **Management's Response**

*The Comptroller's office acknowledges that the current system allows agencies to enter performance reports wherein the grade may not align with TAC rules for assigning grades. However, the Comptroller's office does not have enough resources to review all grades of B or below while continuing to allow individualized comments by each agency. To implement the recommendations, the agency will take the following actions:*

- *The Comptroller's office will initiate system edits to automatically calculate the vendor's grade based on objective responses within the system for all grades of C or better, thereby prohibiting responses that do not align with the grading criterion in TAC. This eliminates the necessity for a review for those submissions.*
- *The Comptroller's office will initiate system edits to allow individualized comments by the submitting agency only for a grade lower than a C.*
- *For those entries that have individualized comments, the Comptroller's office will review the grade to ensure it is consistent with the TAC.*
- *The Comptroller's office will initiate system edits to prohibit agencies from assigning vendor performance grades higher than a D for vendors that did not meet the best value standard was met.*

*Responsible Party: Statewide Procurement and Information Technology Divisions*

*Implementation Date: August 31, 2020*



## **The Texas Workforce Commission Should Improve Processes and Related Controls to Ensure That It Reports Vendor Performance and Considers Information from VPTS as Required**

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The Texas Workforce Commission (Commission) should improve its processes to ensure that it reports all required contracts to VPTS. It also should ensure that it uses information from VPTS when selecting vendors, in accordance with statute.

### Chapter 2-A

#### The Commission Should Report All Required Contracts to VPTS and Follow Reporting Criteria

Chapter 2-A  
Rating:  
High <sup>3</sup>

The Commission should report all required contracts in VPTS. **The Commission did not report all contracts to VPTS required by statute.** Specifically, from September 1, 2017, through December 31, 2018, the Commission reported vendor performance for 1 contract and 6 purchase orders. However, the Commission should have reported vendor performance for a total of 29 contracts and 1,020 purchase orders valued at \$25,000 or more that were completed or terminated during that same time period. Statute requires state agencies to submit reports on vendors' performance to VPTS. The Texas Administrative Code specifies that those reports should be for purchases totaling more than \$25,000 and should be submitted no later than 30 days after the completion or termination of the contract or purchase order.

The Commission voluntarily submitted vendor performance reports for 1 contract and 7 purchase orders that were exempt from VPTS reporting requirements.

The Commission had policies and procedures in place to address reporting vendor performance to VPTS, and the Commission updated its *Procurement & Contract Management Handbook* in September 2018 with more detailed procedures for submitting vendor performance reports. However, the Commission did not follow those procedures. Not reporting all required contracts to VPTS increases the risk that state agencies may use incomplete or inaccurate information to make vendor selection decisions.

The Commission should comply with the grading criteria in the Texas Administrative Code. **The Commission reported incorrect grades for 4 (27 percent) of 15 vendor performance reports it submitted to VPTS from September 1, 2017, through December 31, 2018.** The Commission reported that the vendors for

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<sup>3</sup> The risk related to the issues discussed in Chapter 2-A is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

those four reports completed services with no issues; however, the commission incorrectly reported a B grade for those four reports instead of an A grade as required based on the Texas Administrative Code criteria. According to the Commission, its practice is to report vendor performance as a B if it did not receive vendor performance monitoring notes from contract managers, even if there were no service issues reported. Incorrectly reporting vendor performance to VPTS could increase the risk that state agencies may rely on incomplete information to make vendor selection decisions.

The Commission should report vendor performance within 30 days after contracts have ended as required by the Texas Administrative Code. **For 3 (43 percent) of the 7 required vendor performance it submitted from September 1, 2017, through December 31, 2018, the Commission did not submit the reports within 30 days after the completion or termination of a purchase order or contract as required. Those reports were submitted from 96 days to more than 1 year late. The Commission's policies do not address the required timeframes for reporting vendor performance. Submitting vendor performance reports after required timeframes increases the risk that vendor performance information in VPTS may contain untimely or inaccurate.**

The Commission should retain supporting documentation for all vendor performance grades in contract files. **The Commission did not retain support for 14 (93 percent) of 15 vendor performance reports submitted from September 1, 2017, through December 31, 2018. As a result, the Commission could not demonstrate that the reported performance was accurate.**

## Recommendations

### The Commission should:

- Report vendor performance to VPTS as required by:
  - ♦ Following its procedures to report vendor performance for all completed/terminated contracts and purchase orders of \$25,000 or more.
  - ♦ Developing and implementing controls to ensure that it submits vendor performance reports within 30 days after completion of a contract or purchase order.
- Retain vendor performance information in contract files to document support for reported performance.

## Management's Response

*Management agrees with the State Auditor's finding that for the period audited--September 1, 2017, to December 1, 2018--TWC did not timely submit Vendor Performance Tracking System (VPTS) Reports on all agency purchases subject to the reporting requirement.*

*Management agrees with the recommendations made by the State Auditor that the Texas Workforce Commission (TWC) can improve its vendor performance reporting by following its procedures and developing and implementing controls to ensure that reports are submitted timely.*

*TWC Procurement and Contract Services Department (PCS) has revised its VPTS reporting procedure to improve the agency's compliance with its VPTS reporting policy and timely submittal of VPTS reports.*

*The revised procedure addresses the recommendations made by the State Auditor.*

*To address the issue of timeliness, the revised procedure includes an internal data collection timetable to ensure that vendor performance is reported not later than thirty days after the completion or termination of a purchase order or contract over \$25,000. The first working day of the month, the two reports are generated from the agency contract repository. One is of all purchase orders over \$25,000 that show receiving was completed in the prior month and the other is a copy of all contracts over \$25,000 expiring in the upcoming month. The purchaser order report is provided to Procurement staff to inquire from the assigned contract manager or customer as to whether there have been any performance issues with the contract or purchase. The report on expiring contracts is provided to the contract manager of record to provide feedback on vendor performance. An agency form has been created to capture the vendor performance feedback. After PCS staff enters the report into the Comptroller's system, staff files an electronic copy of the contract performance report form in the electronic purchase order or contract file, and notes in the electronic file that the vendor performance report is complete.*

*To address the use of the Comptroller's reporting criteria, the TWC reporting procedure recites the reporting grade definitions from the Comptroller's rules. It was PCS's interpretation that so in the absence of a positive review from the customer or contract manager vendor performance was adequate and a grade B was assigned. State Auditor staff interprets the grading criteria to require a grade of A in the absence of any information reported by a customer. TWC amended its procedure to comport with that interpretation.*

***The Director of Procurement and Contract Services is the party responsible for ensuring that TWC complies with state procurement and contract management requirements. The Director of Procurement and Contract Services will ensure implementation of the revisions to agency VPTS reporting policy and procedure as described above. The policy and procedure have been revised effective June 1, 2019. The reports will be implemented July 1, 2019.***

Chapter 2-B  
Rating:  
High <sup>4</sup>

Chapter 2-B  
The Commission Should Ensure That It Reviews Information from VPTS Prior to Selecting Vendors as Required

For 21 (78 percent) of 27 contracts and purchase orders tested that started between September 1, 2017, through December 31, 2018, the Commission did not have documentation showing that it reviewed VPTS information prior to vendor selection as required. The Texas Government Code and Commission policy require vendor performance information in VPTS to be considered when determining whether to award a contract. Not reviewing VPTS as required creates a risk that the Commission may select a vendor with reported performance issues and may not receive best value.

Recommendation

The Commission should ensure that it reviews VPTS prior to selecting vendors as required and retains documentation of those reviews.

#### **Management's Response**

*Management acknowledges that TWC can improve its processes to ensure that there is evidence that VPTS has been reviewed when selecting vendors, as required by statute. The State Auditor found that many procurement files did not contain evidence that VPTS had been checked prior to vendor selection. TWC's Procurement File Checklist is now revised to clearly state that documentation of review of the VPTS must be maintained in the procurement file.*

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<sup>4</sup> The risk related to the issues discussed in Chapter 2-B is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

***The Director of Procurement and Contract Services is the party responsible for ensuring that TWC complies with state procurement and contract management requirements. The Director of Procurement and Contract Services will ensure that the Purchasing staff retains documentation in the procurement file that the VPTS is reviewed prior to vendor selection. The checklist has been revised effective June 1, 2019.***

## ***The Parks and Wildlife Department Should Improve Its Processes and Related Controls to Ensure That It Reports Vendor Performance and Considers Information from VPTS as Required***

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The Parks and Wildlife Department (Department) should improve its processes to ensure that it reports all required contracts to VPTS according to statute and the Comptroller's Office's procedures. The Department also should consistently create and maintain documentation showing that it reviewed information from VPTS to select vendors as required.

### Chapter 3-A

The Department Should Report All Required Contracts to VPTS and Improve Compliance with VPTS Procedures When Submitting Vendor Reports

The Department should strengthen its processes to comply with VPTS reporting requirements. **The Department did not consistently report all contracts to VPTS required by statute. Specifically, from September 1, 2017, through December 31, 2018, the Department reported vendor performance to VPTS for 75**

**contracts. However, it should have reported vendor performance for a total of 573 contracts valued at \$25,000 or more that were completed or terminated during that same time period. Statute requires state agencies to submit reports on vendors' performance to VPTS. The Texas Administrative Code specifies that those reports should be for purchases totaling more than \$25,000 and should be submitted no later than 30 days after the completion or termination of the contract or purchase order.**

The Department voluntarily submitted vendor performance reports for 33 contracts that were exempt from VPTS reporting requirements (see text box for more information on contracts that are exempt from VPTS reporting).

The Department's documented policies and procedures specified the contracts required to be reported to VPTS. However, as discussed above, the Department did not ensure that its staff complied with those policies by submitting vendor performance reports to VPTS. In addition, the Department did not report vendor performance for some contracts because it incorrectly considered certain contract types, including infrastructure contracts, to be exempt from VPTS requirements; however, those contract types are not exempt according to the Comptroller's Office. Not reporting all

Chapter 3-A  
Rating:  
High <sup>5</sup>

#### Contracts Exempt from VPTS Reporting Requirements

In addition to contracts valued less than \$25,000, the Comptroller's Office has exempted from VPTS reporting requirements inter-agency contracts, inter-local agreements, memorandums of understanding, subcontracts, and grants

Source: The Comptroller's Office.

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<sup>5</sup> The risk related to the issues discussed in Chapter 3-A is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

required contracts to VPTS increases the risk that state agencies may use incomplete or inaccurate information to make vendor selection decisions.

The Department should comply with reporting procedures when submitting vendor performance reports with an F grade. **The Department followed the Comptroller's Office's VPTS reporting procedures for the 20 vendor performance reports tested with a grade from A to D; however, the Department did not follow those procedures for the two reports it submitted with an F grade. Specifically, the Department did not select a factor for potential debarment when submitting those two vendor performance reports (see text box for information about debarment factors). The VPTS reporting procedures require state agencies submitting F report grades to indicate a factor for potential debarment. The Comptroller's Office is responsible for determining whether a vendor should be debarred, which would exclude a vendor from contracting or subcontracting with state agencies. If a state agency does not include debarment factors in vendor performance reports with an F grade, the Comptroller's Office may have incomplete information when making debarment decisions. It also increases the risk that state agencies may contract with vendors that should be barred from participating in state contracts.**

#### Debarment Factors

The Comptroller's Office requires state agencies that give a vendor grade of "F" to indicate a factor for potential debarment in accordance with Texas Government Code, Section 2155.077. Debarment factors that state agencies can report to VPTS include:

- Material misrepresentation.
- Material breach of contract.
- Fraud.

Source: The Comptroller's Office.

The Department should report vendor performance within the required timeframe. **The Department submitted 36 (48 percent) of 75 vendor performance reports from September 1, 2017, through December 31, 2018, more than 30 days after completion or termination of the contract. Those reports were submitted from 1 day to more than 2 years late. The Texas Administrative Code requires state agencies to submit vendor performance reports to VPTS within 30 days after the completion or termination of a purchase order or contract. However, the Department's procedures required VPTS reports to be submitted no later than 45 days after contract close out. But the Department also did not ensure compliance with that policy: 25 of the 36 late vendor performance reports were submitted more than 45 days after completion or termination of the contract. Submitting vendor performance reports after the required timeframe increases the risk that vendor performance information in VPTS may contain untimely or inaccurate information.**

The Department should retain supporting documentation for all vendor performance grades in contract files. **The Department did not retain adequate support for 4 (18 percent) of 22 vendor performance reports tested. As a result, the Department could not demonstrate that the report grades assigned to the vendors were accurate. From September 1, 2017, through December 31, 2018, the Department's contract management procedures did not require vendor performance documents to be retained in contract files.**

## Recommendations

### The Department should:

- Report vendor performance to VPTS as required, by:
  - ♦ Following its procedures to report vendor performance for all completed/terminated contracts and purchase orders of \$25,000 or more, including infrastructure and term contracts.
  - ♦ Developing and implementing controls, including revising its procedures, to ensure that it submits vendor performance reports within 30 days after completion of a contract or purchase order.
  - ♦ Submitting debarment factors for vendor performance reports with an F grade.
- Retain vendor performance information in contract files to document support for reported performance.

### Management's Response

*TPWD Agrees. Management has already sent reminders to purchasing and contracting staff to ensure vendor performance reports are being submitted for all contracts over \$25,000, including infrastructure contracts. TPWD will update procedures to ensure vendor performance reports are submitted no later than 30 days after completion of a contract, as required. Additionally, copies of vendor performance reports will be kept in the contracting file for documentation purposes.*

*TPWD procedures will also be updated to address the required information to be included in a vendor performance report and any additional requirements, to include debarment factors, when a grade of F is given. System prompts requiring additional information or forcing the user to select debarment when giving an F grade would help in these situations.*

*TPWD's responsible party for implementation of the VPTS recommendations will be the Purchasing and Contracting Director/HUB Coordinator, and the implementation process has begun and will be completed by December 31, 2019.*



Chapter 3-B  
Rating:  
Medium <sup>6</sup>

#### Chapter 3-B

### The Department Should Ensure That It Reviews Information from VPTS Prior to Selecting Vendors as Required

The Department could not provide documentation showing that it reviewed VPTS information prior to selecting vendors for any contracts and purchase orders that started between September 1, 2017, through December 31, 2018. Both the Texas Government Code and Department policy require vendor performance information in VPTS to be considered when determining whether to award a contract; and the Department asserted that it consistently complied with that policy. However, the Department stated that it did not document its reviews of VPTS information. Not reviewing VPTS information prior to selecting a vendor creates a risk that the Department may select a vendor with reported performance issues and may not receive best value.

#### Recommendation

The Department should ensure that it reviews VPTS prior to selecting vendors as required and create and retain documentation of those reviews.

#### Management's Response

*TPWD agrees and has established procedures to help ensure compliance. TPWD management has sent instructions to purchasing and contracting staff to ensure the VPTS is checked prior to award and that a copy of the report be attached to the contract for documentation purposes.*

*Because the current vendor performance tracking system has limitations when reporting on services including; contracts, construction and technology related services, TPWD purchasing and contracting staff perform a comprehensive evaluation of a vendor's past performance. These evaluations confirm a vendor's ability to successfully complete a project and include such measures as reviewing vendors past projects with corresponding references and experience and qualifications to assist in determining best value for award.*

*TPWD's responsible party for implementation of the VPTS recommendations will be the Purchasing and Contracting Director/HUB Coordinator, and the implementation process has begun and will be completed by December 31, 2019.*

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<sup>6</sup> The risk related to the issues discussed in Chapter 3-B is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### Objectives

The objectives of this audit were to determine (1) whether the Office of the Comptroller of Public Accounts (Comptroller's Office) has processes and related controls to help ensure that information contained in the Vendor Performance Tracking System (VPTS) is accurate and complete and (2) whether the Texas Workforce Commission (Commission) and the Parks and Wildlife Department (Department) complied with state law regarding VPTS.

### Scope

The scope of this audit covered vendor performance reports in VPTS from September 1, 2017, through December 31, 2018. It also covered the Commission's and the Department's information related to VPTS during that time period.

### Methodology

The audit methodology included reviewing criteria relevant to VPTS; assessing data reliability for key systems; conducting interviews with management at the Comptroller's Office, Commission, and Department; testing contracting files; and analyzing the Comptroller's Office's vendor performance data.

### Data Reliability and Completeness

Auditors assessed the reliability of data used in the audit and determined the following:

- For vendor performance data that the Comptroller's Office maintains in VPTS, auditors reviewed key data elements and tested key information system controls to determine whether VPTS included accurate data. Auditors identified missing, inaccurate, and inconsistent information in key fields resulting in unreliable data in VPTS. The audit objective included determining whether information contained in VPTS is accurate and complete, and this audit report recommends that the Comptroller's Office address the identified weaknesses resulting in the unreliable data (see Chapter 1-A).

- For contract information that the Commission maintains in its Enterprise Contract Procurement System and Contract Administration and Tracking System, auditors reviewed key data elements and tested key information system controls based on the audit objective. Auditors determined that data from those information systems were sufficiently reliable for the purposes of this audit.
- For contract information that the Department maintains in its Business Information System, auditors reviewed key data elements and tested key information system controls based on the audit objective. Auditors determined that data from those information systems were sufficiently reliable for the purposes of this audit.

#### Sampling Methodology

Auditors applied a nonstatistical sampling methodology to select, primarily through random selection, the following samples:

- To test whether state agencies reported vendor performance in compliance with Title 34, Texas Administrative Code, Section 20.509, auditors selected a sample of 60 vendor performance reports with assigned grades from B to F.
- To test whether the Commission reviewed VPTS information prior to selecting a vendor, auditors selected a sample of 27 contracts and purchase orders that had a start date during the audit scope (September 1, 2017, through December 31, 2018).
- To test whether the Department reported vendor performance correctly, auditors selected a sample of 22 contracts that the Department reported to VPTS during the audit scope (September 1, 2017, through December 31, 2018).

Test results for the samples listed above may be projected to the population, but the accuracy of the projection cannot be measured.

Information collected and reviewed included the following:

- Applicable criteria, contract management guides, user guides, and agency policies and procedures.
- Contract data from VPTS, the Department's Business Information System, and the Commission's Enterprise Contract Procurement System and Contract Administration and Tracking System.
- Department and Commission contract files.

Procedures and tests conducted included the following:

- Interviewed key staff at the Comptroller's Office, the Commission, and the Department to gain an understanding of procedures and controls related to submitting vendor performance reports to VPTS.
- Analyzed data in VPTS, the Department's Business Information System, and the Commission's Enterprise Contract Procurement System and Contract Administration Tracking System to determine validity and reliability.
- Interviewed Department and Commission staff and reviewed contract documents to determine the extent to which they considered vendor performance reports in VPTS when selecting vendors.
- Compared the Department's and Commission's contract files with information in VPTS to test the accuracy of the agencies' vendor performance reporting.
- Compared the Comptroller's Office's VPTS user access list to the current and former statewide employees listed in the Uniform Statewide Payroll/Personnel System, the Standardized Payroll/Personnel Reporting System, and the Human Resource Information System to determine whether access to VPTS was appropriate.
- Analyzed vendor performance reports with a grade of A to determine whether state agencies reported vendor performance in compliance with the criteria in Title 34, Texas Administrative Code, Section 20.509.
- Tested all reports that the Commission reported to VPTS during the audit scope to determine whether the Commission reported vendor performance correctly and timely.
- Analyzed all reports that the Department reported to VPTS from September 1, 2017, through December 31, 2018, to determine whether the Department reported vendor performance within the required timeframes.

Criteria used included the following:

- Texas Government Code, Section 2262.055.
- Texas Government Code, Section 2155.0755.
- Title 34, Texas Administrative Code, Sections 20.115, 20.184(c), 20.217, 20.509, and 20.585.
- *The State of Texas Procurement and Contract Management Guide* (Version 1.1, updated August 2018).

#### Project Information

Audit fieldwork was conducted from February 2019 to April 2019. 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:

- Arby James Gonzales, CPA, CFE (Project Manager)
- Valerie W. Bogan, CFE (Assistant Project Manager)
- Steven Arnold
- John Felchak
- Michael Gieringer, CFE
- Anne O'Riordan
- Jordan Skinner, CFE
- Robert G. Kiker, CGAP (Quality Control Reviewer)
- Cesar Saldivar, CFE, CGAP (Audit Manager)

## Issue Rating Classifications and Descriptions

Auditors used professional judgement and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 3 provides a description of the issue ratings presented in this report.

Table 3

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

## Grading Criteria for Reporting Vendor Performance to VPTS

Table 4 lists the grading criteria in Title 34, Texas Administrative Code, Section 20.509, that state agencies are required to follow when reporting vendor performance information to the Vendor Performance Tracking System (VPTS).

Table 4

Grading Criteria for Reporting Vendor Performance to VPTS	
Grade to be Assigned	Criteria
A	Best value for the good or service because it complied with all specifications and evaluation criteria identified in the solicitation documents.
	In full compliance with all material terms of the contract.
	With complete or substantial customer satisfaction.
B	Best value for the good or service because it complied with all specifications and evaluation criteria identified in the solicitation documents.
	In substantial compliance of all material terms of the contract or promptly remedied any instance of non-compliance with the material terms of the contract.
	With substantial or adequate customer satisfaction.
C	Best value for the good or service because it complied with all specifications and evaluation criteria identified in the solicitation documents.
	Substantially remedied a majority of the instances of non-compliance with the material terms of the contract.
	With adequate customer satisfaction.
D	Not the best value for the good or service because it did not comply with substantially all specifications and evaluation criteria identified in the solicitation documents.
	In substantial non-compliance of material terms of the contract and failed to remedy a majority of instances of non-compliance with the material terms of the contract.
F	Not the best value for the good or service because it did not comply with all specifications and evaluation criteria identified in the solicitation documents.
	In substantial non-compliance of material terms of the contract and failed to remedy a majority of instances of non-compliance with the material terms of the contract.
	In a manner that subjects the contractor to debarment pursuant to Subchapter G of these rules.

Source: Title 34, Texas Administrative Code, Section 20.509.

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The Honorable John Zerwas, House Appropriations Committee  
The Honorable Dustin Burrows, House Ways and Means Committee

### **Office of the Governor**

The Honorable Greg Abbott, Governor

### **Office of the Comptroller of Public Accounts**

The Honorable Glenn Hegar, Comptroller of Public Accounts

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Members of the Texas Workforce Commission  
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Mr. Julian Alvarez III  
Mr. Edward Serna, Interim Executive Director

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Mr. Carter Smith, Executive Director





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