



An Audit Report on

# **Selected Contracting Functions at the Health and Human Services Commission**

January 2021

Report No. 21-007



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## **Overall Conclusion**

The Health and Human Services Commission (Commission) improved its administration of certain contracting functions since a series of prior audit reports (see text box for a list of those reports). However, it continued to have weaknesses in certain planning, procurement, and vendor selection functions. Specifically, for the contracts tested (see text box for more information about those contracts), the Commission:

- Did not accurately screen all vendor proposals for compliance with its solicitation requirements.
- Did not perform required vendor compliance verifications adequately or within required time frames.
- Did not perform proper planning to re-procure one of the contracts tested.
- Did not obtain all required certifications and disclosures from employees involved in procuring and managing its contracts.

**Evaluating Vendor Proposals.** To strengthen its procurement processes, the Commission implemented a quality control function for evaluating vendor proposals. As a result, the Commission's final scores and rankings supported its award decisions for the contracts tested.

**Use of SCOR.** The Commission did not use its System of Contract Operation and Reporting (SCOR) as intended to manage the contracts tested. The Commission implemented SCOR to provide one system of record for the management and reporting of its contracts.

While the Commission improved compliance with its requirement to upload copies of contracts to SCOR, it did not upload procurement files to SCOR as required by its policies. Those files include documentation such as vendor proposals and evaluation tools.

### **Prior Audit Reports**

The Commission's procurement and contracting function was the subject of several prior State Auditor's Office audits (see Appendix 5 for additional information). Those included:

- *An Audit Report on the Health and Human Services Commission's System of Contract Operation and Reporting*, SAO Report No. 19-028, February 2019.
- *An Audit Report on Selected Contracts at the Health and Human Services Commission*, SAO Report No. 19-010, November 2018.
- *An Audit Report on Scoring and Evaluation of Selected Procurements at the Health and Human Services Commission*, SAO Report No. 18-038, July 2018.

### **Contracts Selected for Testing**

Auditors selected a sample of 15 contracts and used those contracts and the associated procurements and vendors to test various procurement and contract management functions at the Commission. The selected contracts represented approximately \$26 million (20 percent) of the Commission's \$130 million in complex procurements processed between September 2018 and May 2020.

In addition, auditors tested monitoring activities for the Commission's contract with Fairbanks, LLC for support and maintenance of the State of Texas Automated Information Reporting System (STAIRS). That contract had a maximum value of \$6 million.

*This audit was conducted in accordance with Texas Government Code, Sections 321.0131 and 321.0132.*

*For more information regarding this report, please contact Lauren Godfrey, Audit Manager, or Lisa Collier, First Assistant State Auditor, at (512) 936-9500.*

The Commission also did not consistently (1) complete required risk assessments designed to help contract managers prioritize monitoring activities and establish a contract monitoring plan or (2) use SCOR to track contract deliverables.

The Commission consistently reported its contracts to the Legislative Budget Board. However, the reported information was not fully accurate, due primarily to inaccurate information in SCOR. The Commission also did not consistently complete reporting within required time frames.

**STAIRS Contract.** Although the Commission did not use SCOR to track deliverables as required, it effectively managed its contract for the support and maintenance of the State of Texas Automated Information Reporting System through other mechanisms. Specifically, the Commission verified that the vendor performed according to the terms of the contract and that it received the contracted services prior to payment.

Table 1 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	The Commission Did Not Screen All Vendor Proposals Accurately or Adequately Perform Required Vendor Compliance Verifications, and Did Not Properly Plan to Re-Procure One of Its Contracts	High
1-B	The Commission Did Not Consistently Obtain Required Certifications and Disclosures	High
2	The Commission Had Processes and Controls in Place to Ensure That Vendor Proposals Were Evaluated Accurately	Low
3-A	The Commission Did Not Consistently Use SCOR as the System of Record for Managing Its Contracts	High
3-B	The Commission Consistently Reported Contract Information to the Legislative Budget Board; However, It Should Improve the Accuracy and Timeliness of Its Reporting	Medium
4	The Commission Effectively Managed a Selected Contract	Low

<sup>a</sup> A chapter/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 chapter/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 chapter/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 the program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A chapter/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 Commission management.

## ***Summary of Management's Response***

At the end of certain chapters in this report, auditors made recommendations to address the issues identified during this audit. The Commission stated that it agreed with the recommendations in this report.

After review and consideration of the Commission's responses, auditors included follow-up comments on pages 6 and 12 to provide clarification regarding the procurements selected.

## ***Audit Objective and Scope***

The objective of this audit was to determine whether the Commission has administered procurement and other selected contract management functions for selected contracts according to applicable requirements.

The scope of this audit covered the Commission's complex procurements and resulting contracts processed during fiscal year 2019 and fiscal year 2020 through May 2020. In addition, the scope covered (1) payments to vendors with contracts from complex procurements made between November 2019 and May 2020 and (2) monitoring activities performed for the Commission's contract with Fairbanks, LLC through August 2020.

Complex procurements include purchases of goods and services through the Request for Proposal (RFP), Request for Offer (RFO), and Request for Qualifications (RFQ) procurement methods. These procurements are typically high risk, publicly scrutinized, and subject to multiple oversight entities.

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# Detailed Results

Chapter 1

## ***The Commission Did Not Consistently Perform Certain Required Planning, Procurement, and Vendor Selection Functions***

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The Health and Human Services Commission (Commission) did not consistently follow its processes and guidance for certain planning, procurement, and vendor selection functions. Specifically, the Commission did not screen all vendor proposals accurately or adequately perform required vendor compliance verifications. The Commission also made an emergency procurement that it could have avoided if it had properly planned to re-procure one of its contracts. Emergency procurements do not provide the same opportunities for competition; therefore, there is a greater risk of not receiving best value.

Additionally, the Commission did not consistently obtain all of the required certifications and disclosures from key employees involved in procuring and managing the contracts audited.

Chapter 1-A

### **The Commission Did Not Screen All Vendor Proposals Accurately or Adequately Perform Required Vendor Compliance Verifications, and Did Not Properly Plan to Re-Procure One of Its Contracts**

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

Although the Commission had processes in place for screening vendor proposals (proposals), it did not consistently ensure that vendors met all requirements. It also did not consistently follow its policies and procedures for vendor compliance verifications (verifications), and it made an emergency procurement that it could have avoided.

**The Commission did not consistently screen proposals accurately.**

The Commission had a process for screening proposals; however, it did not accurately determine whether 5 (17 percent) of the 29 proposals<sup>2</sup> tested were responsive to its solicitations. Those 5 proposals were not responsive to the Commission's solicitations, but it did not disqualify them from further consideration as required (see text box on the next page for additional information on responsiveness requirements). Specifically:

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<sup>1</sup> The risk related to the issues discussed in Chapter 1-A is rated as High because they 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 the risks to the audited entity.

<sup>2</sup> These are the proposals the Commission received for the procurements that resulted in the 15 contracts sampled.

- Three proposals were missing forms required by the solicitations.
- One proposal was missing information addressing the evaluation criteria required by the solicitation and necessary to score the proposal.
- One proposal, which the Commission received in response to an emergency procurement (see the Emergency Procurement section on page 4 for additional information), was missing required license and registration documentation necessary to verify minimum qualifications and other information required by the solicitation. In addition, the required solicitation addendum was not signed by the established due date.

#### **Proposal Responsiveness**

A proposal is responsive if it complies with all material aspects of the solicitation requirements. This includes submission by the due date, submission of all required documents, completion of all required forms, and submission of all required signatures.

At a minimum, an agency's review of proposals to determine whether they were responsive should verify that the minimum vendor qualifications were satisfied and all required forms and documents were submitted.

This review is to be conducted on a "pass/fail" basis, meaning that if a required item is not included in the proposal, the proposal should be disqualified.

Source: The *State of Texas Procurement and Contract Management Guide*.

Response checklists are the Commission's primary tool for determining whether proposals are responsive to its solicitations. While the Commission developed and used response checklists to screen the proposals tested, the checklists for the five proposals discussed above were not adequately designed to reflect all solicitation requirements. For example, the checklists for the proposals that were missing required forms did not include steps to verify that those forms were included in the proposals.

The Commission ultimately executed contracts with three of the five vendors with non-responsive proposals, including the lone respondent for the emergency procurement discussed below.

Accepting non-responsive proposals decreases the fairness and objectivity of the Commission's procurement processes, which makes it more difficult for the Commission to support and defend its award decisions. Additionally, not accurately reviewing proposals for responsiveness increases the risk of awarding a contract to a non-qualified vendor.

**The Commission did not adequately perform required vendor compliance verifications and did not consistently perform warrant hold checks within required time frames.**

The required verifications are important to ensure that vendors are eligible to contract with the State at the time of contract execution (see Appendix 4 for descriptions of the verifications that auditors tested). However, the Commission did not always perform the verifications as required. Specifically:

- **Performing vendor compliance verifications.** For 6 (40 percent) of the 15 contracts tested, the Commission did not adequately perform one or more verifications before executing contracts with the winning vendors. Those verifications are required by Commission policy and the *State of Texas Procurement and Contract Management Guide* to address statutory and other requirements. Specifically:
  - ♦ For 3 of those contracts, the Commission did not perform all of the required verifications. Examples of the verifications not completed included the debarment check, warrant hold check, and the Commission's Office of Inspector General's List of Excluded Individuals/Entities check.
  - ♦ For the other 3 contracts, the Commission did not have adequate documentation to support the results of one of the verifications it performed, as required by its policies.
- **Timeliness of warrant hold verification.** For the 14 contracts for which the Commission performed a warrant hold check, 7 (50 percent) of those checks were not completed within the required time frame. The *State of Texas Procurement and Contract Management Guide* requires warrant hold checks to be performed no earlier than 7 days prior to contract execution to verify that the vendor does not have outstanding state debt. However, the Commission performed the checks for those 7 contracts between 11 and 48 days prior to contract execution. The Commission asserted that once the checks were performed, there were delays in its contract execution processes. However, the Commission did not re-perform the checks.

The Commission had guidance and a solicitation review checklist for completing verifications; however, for the contracts tested, the Commission (1) did not consistently complete and sign the checklist as required or (2) did not complete the checklist accurately. The checklist's purpose is to certify that all applicable activities, including required verifications, have been performed and that the associated documentation is included in the procurement file.



In September 2020, auditors and the Commission re-performed the required verifications and did not identify any issues that would preclude the awarded vendors from contracting with the State.

**The Commission made an emergency procurement because it did not properly plan to re-procure one of its contracts.**

The Commission made an emergency procurement for warehouse and storage services for frozen and refrigerated food that was not the result of unforeseen circumstances. Instead, it was the result of not properly planning for the re-procurement of the contract (see text box for information on emergency procurements).

Although the Commission exercised its last renewal option one year before the contract expiration date of August 31, 2019, it did not begin planning for the re-procurement of the contract until July 2019. To prevent the interruption of food supply to vulnerable populations and to avoid undue financial loss, the Commission determined it was necessary to make an emergency procurement. In addition, it awarded the contract to the sole respondent, even though that proposal did not meet the requirements prescribed in the solicitation (see Proposal Responsiveness section on pages 1 and 2 for additional information). That sole respondent was the Commission's current vendor at the time of the solicitation.

A prior audit report<sup>3</sup> identified a similar issue in which the Commission could have avoided an emergency purchase if it had planned to re-procure those services in a timely manner. It is important that the Commission properly plans for procurements because the expedited timelines associated with emergency procurements limit competition and increase the risk that the Commission may not receive the best value.

**Emergency Procurements**

An emergency purchase occurs when the agency must make a procurement quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the State.

Proper procurement planning for anticipated business need is expected, whereas an emergency occurs as the result of unforeseeable circumstances.

Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies should be made as competitive as possible under the circumstances.

Source: *The State of Texas Procurement and Contract Management Guide*.

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<sup>3</sup> See *An Audit Report on Selected Contracts at the Health and Human Services Commission* (SAO Report No. 19-010, November 2018).

## Recommendations

The Commission should:

- Strengthen its processes for screening vendor proposals, including the response checklists used to verify that the minimum vendor qualifications were satisfied and all required forms and documents were submitted.
- Consistently follow its policies and procedures for performing and documenting vendor compliance verifications, and re-perform warrant hold checks as needed to comply with required time frames.
- Consistently complete its solicitation review checklists, including confirming that vendor compliance verifications are performed as required.
- Plan procurements to allow sufficient time to properly complete all applicable procurement processes.

## Management's Response

### Statement of Agreement/Disagreement

*Agree*

### Action Plan

*The procurements selected pre-date new leadership and new procurement staff. Procurement processes are continually changed when opportunities for improvements are identified. Significant process improvements have been made since the execution of the procurements reviewed in this audit.*

*Procedures are in place that include management review to ensure that minimum qualifications were screened, and vendor checks were completed. A separate checklist is used that lists the required elements that must be met from respondents in order to move on to the second phase of evaluations. This initial screening checklist is kept in the procurement file.*

*PCS procedure OP571 defines when warrant and other checks should be performed, and PCS published the Procurement Action Lead Time Schedule in November 2019 to account for proper planning and time to complete all applicable procurement processes.*

### Responsible Manager

*Deputy Associate Commissioner of Complex Procurement*

Target Implementation Date

Implemented

**Auditor Follow-up Comment**

The procurements selected were initiated and had contracts executed between September 2018 and May 2020.

Chapter 1-B

**The Commission Did Not Consistently Obtain Required Certifications and Disclosures**

Chapter 1-B  
Rating:  
High <sup>4</sup>

Similar to the findings in a November 2018 audit of selected Commission contracts<sup>5</sup>, the Commission did not consistently obtain statutorily required certifications and disclosures from its employees for the contracts audited. The Commission did, however, improve its compliance with the requirement to obtain disclosures from vendors for applicable contracts tested.

**The Commission did not consistently obtain required certifications and disclosures from its employees.**

For the 15 procurements tested<sup>6</sup>, the Commission did not always have documentation showing that key employees<sup>7</sup> involved in procuring and managing Commission contracts completed all required certifications and disclosures (see text box for more information on employee certifications and disclosures). Specifically:

**Employee Certification and Disclosure Forms**

The Commission uses the following forms to help ensure that applicable employees comply with statutory disclosure requirements for potential conflicts of interests:

**Nepotism Disclosure Form.** This form is used to disclose certain family relationships and financial interests by employees of a state agency who make decisions on behalf of the state agency or recommendations regarding:

- Contract terms or conditions on a major contract.
- Who is to be awarded a major contract.
- The preparation of a solicitation or evaluation of a bid or proposal.

**Nondisclosure and Conflict of Interest Certification Forms.** Applicable employees involved in procuring and managing contracts complete these forms in which they agree to (1) protect the confidentiality of procurement-related information and (2) disclose any actual or potential conflicts of interest.

Sources: Texas Government Code, Sections 2262.004 and 573.002, and the Commission.

<sup>4</sup> The risk related to the issues discussed in Chapter 1-B is rated as High because they 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.

<sup>5</sup> See *An Audit Report on Selected Contracts at the Health and Human Services Commission*, SAO Report No. 19-010.

<sup>6</sup> These are the procurements associated with the 15 contracts sampled.

<sup>7</sup> For purposes of this testing, auditors considered the following Commission staff to be key employees: purchasers, evaluation committee members, contract managers, solicitation reviewers, and financial analysts.

- **Nepotism Disclosures.** The Commission did not have 21 (55 percent) of 38 required nepotism disclosure forms tested. Texas Government Code, Section 2262.004, requires employees who work on major contracts (contracts valued at \$1 million or greater) to complete that form.
- **Nondisclosure and Conflict of Interest Certifications.** The Commission did not have 8 (13 percent) of 62 required nondisclosure and conflict of interest certification forms tested. The Commission uses two different nondisclosure and conflict of interest certification forms to help ensure compliance with the nondisclosure and conflict of interest requirements in Texas Government Code, Sections 2155.003 and 2261.252, and the *State of Texas Procurement and Contract Management Guide*. Evaluation committee members complete a new form for each procurement; other employees involved in procuring and managing Commission contracts (such as purchasers) complete a new form annually (or within 30 days from the employee's start date).

The Commission did not consistently obtain the required forms discussed above for several reasons, including:

- The Commission's policies did not specifically require solicitation reviewers to complete the nepotism disclosure form. Six of the missing required forms were related to solicitation reviewers. Solicitation reviewers make recommendations regarding the preparation of solicitations; therefore, they are required by Texas Government Code, Section 2262.004, to complete that form.
- The Commission inappropriately applied its policy exempting attorneys who are consulted during the procurement process from signing nondisclosure and conflict of interest certification forms. Specifically, two of the missing forms were for attorneys who were serving as evaluation committee members rather than consulting. Because the *State of Texas Procurement and Contract Management Guide* requires all individuals serving on an evaluation committee to sign nondisclosure agreements, those two attorneys should have completed the forms.
- As discussed in Chapter 1-A, the Commission did not consistently or accurately complete its solicitation review checklist at the end of its procurements. One of the purposes of that checklist is to ensure that all applicable required certification and disclosure forms are obtained and retained in the Commission's procurement files.

Not ensuring that key employees complete all of the required certifications and disclosures before executing contracts increases the risk that the

Commission may not identify, and if necessary mitigate, potential conflicts of interest.

**The Commission obtained required disclosures from vendors.**

The Commission consistently obtained disclosures of interested parties<sup>8</sup> from vendors as required by Texas Government Code, Section 2252.908.

Specifically, for the 6 applicable contracts tested that were more than \$1 million in value, the Commission obtained the required disclosures prior to executing the contracts with the awarded vendors.

## **Recommendations**

To help ensure that all applicable employees complete required certifications and disclosures prior to executing contracts, the Commission should:

- Revise its policies and procedures to align with applicable certification and disclosure requirements.
- Verify that required forms are obtained and retained when completing its solicitation review checklist.

## **Management's Response**

### Statement of Agreement/Disagreement

*Agree*

### Action Plan

*PCS Policy 403 Non-Disclosure, Conflict of Interest, and Nepotism Certification, Sections 3.2 pertaining to PCS 117: Health and Human Services Procurement-Specific Non-Disclosure & Conflict of Interest Certification Form, will be revised to include further clarification on who is required to sign the form. Section 3.3. of PCS Policy 403 pertaining to State Auditor's Office Disclosure Statement for Purchasing Personnel properly defines who is required to sign the form. PCS will send out email communication to purchasing staff reiterating these requirements and stressing the importance of the disclosures and certifications.*

*Additionally, HHSC CQC selects and performs random audits for in-flight and completed procurements to check and record compliance.*

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<sup>8</sup> Texas Government Code, Chapter 2252, defines an interested party as a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

Responsible Manager

*Deputy Associate Commissioner of Complex Procurement;  
Deputy Associate Commissioner, PCS/Business Operations*

Target Implementation Date

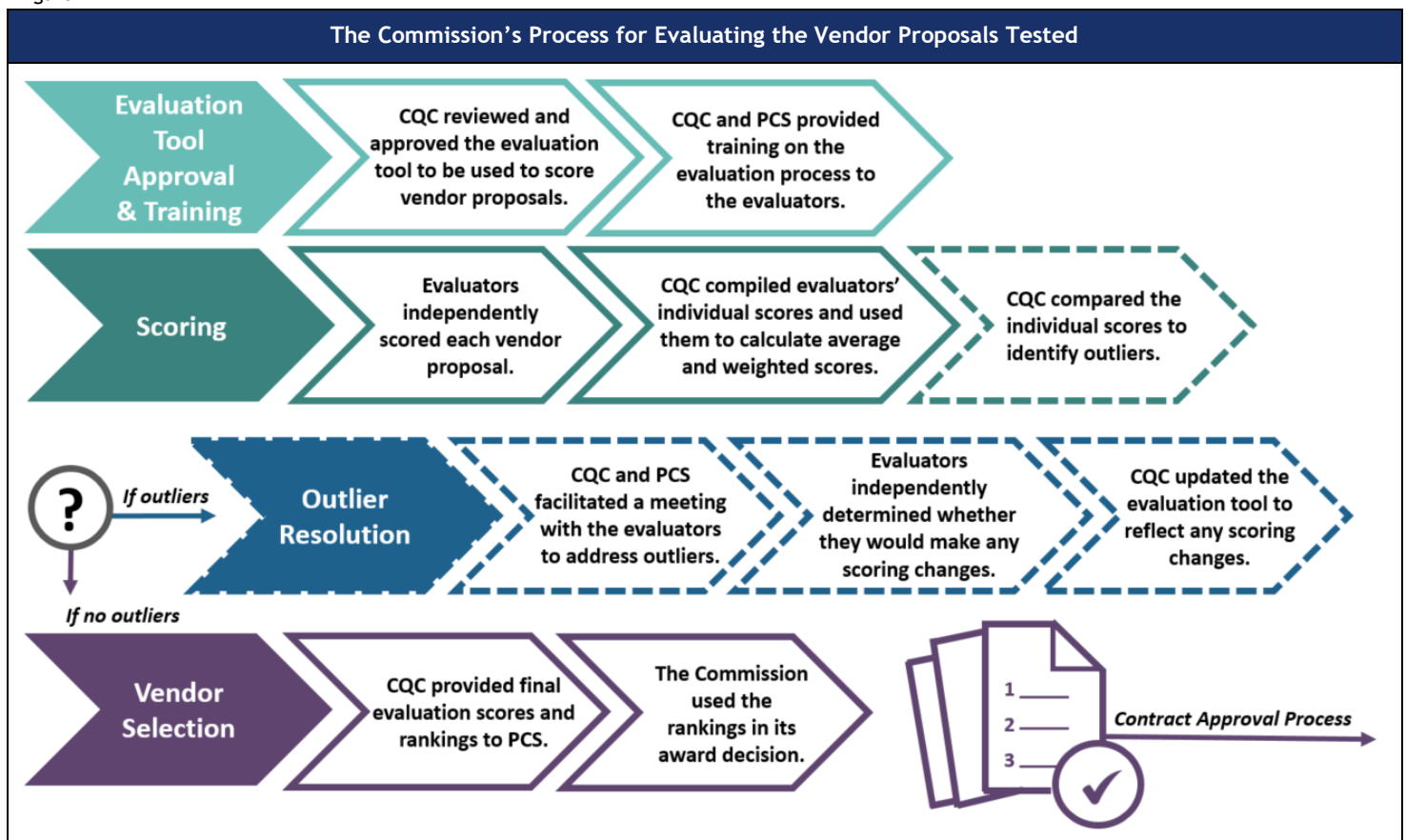
*Partially implemented; 2/1/2021*

## The Commission Had Processes and Controls in Place to Ensure That Vendor Proposals Were Evaluated Accurately

**Chapter 2  
Rating:**  
Low<sup>9</sup>

Since a July 2018 audit report on the Commission’s scoring and evaluation of selected procurements<sup>10</sup>, the Commission made significant improvements to its processes for evaluating vendor proposals. A significant change that contributed to these improvements was the Commission’s creation of the Compliance and Quality Control (CQC) team in May 2018. CQC was established to manage the evaluation process and is independent of the Commission’s Procurement and Contracting Services (PCS) division. Figure 1 shows the process that the Commission followed to evaluate the vendor proposals tested.

Figure 1



Source: Based on information from the Commission.

<sup>9</sup> The risk related to the issues discussed in Chapter 2 is rated as Low because 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.

<sup>10</sup> See *An Audit Report on Scoring and Evaluation of Selected Procurements at the Health and Human Services Commission*, SAO Report No. 18-038.

Overall, for the 15 procurements tested<sup>11</sup>, the Commission developed the evaluation tools it used to score vendor proposals and completed the steps in its evaluation process accurately and in compliance with its policies and procedures. For example:

- Evaluation committee members consistently used the approved evaluation tools to score vendor proposals and assigned scores on the required scale.
- The CQC team accurately compiled evaluation committee scores and correctly calculated average and weighted scores.
- The Commission's final scores and rankings supported its award decisions.

In addition, the CQC team correctly identified outlier scores (scores that differ significantly from other scores) and held required meetings to address them, when applicable. While the Commission's final scores resulting from those meetings supported its rankings and award decisions, it did not follow its policy to document its rationale for the resolution of outliers for six of the procurements.

## **Recommendation**

The Commission should consistently follow and continue to strengthen its evaluation process to help ensure that it can support and defend its award decisions.

## **Management's Response**

### Statement of Agreement/Disagreement

*Agree*

### Action Plan

*The procurements selected pre-date new leadership and new procurement staff. Procurement processes are continually changed when opportunities for improvements are identified. Significant process improvements have been made since the execution of the procurements reviewed in this audit.*

*All evaluators receive evaluation training prior to the actual evaluation taking place. This training reviews the protocols and rules of the evaluation process,*

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<sup>11</sup> These are the procurements associated with the 15 contracts sampled.



*as well as evaluation criteria. The tabulated evaluation tool is checked by a CQC financial analyst and then the PCS manager. In addition, evaluations are required to take place in CAPPs Financials as directed by the executive commissioner effective September 28, 2020 with limited exceptions, which will further reduce errors and improve accountability.*

*The CAPPs Financials evaluation process has system constraints built in to address the needed outlier documentation. Once evaluation scoring has been opened in CAPPs Financials to allow evaluators to address outliers, the CAPPs Financials program requires a comment to be entered whether scoring is revised during the outlier process or remains unchanged. The system will not allow an evaluator to save and submit the outlier scoring without a comment entry. To ensure consistent and well-documented processes for evaluations conducted outside of CAPPs Financials, CQC implemented a directive to its staff that no outlier score sheets will be accepted without a comment entry. The directive was put in place on September 29, 2020 and was effective immediately.*

*Responsible Manager*

*Deputy Associate Commissioner of Complex Procurement*

*Target Implementation Date*

*Implemented*

**Auditor Follow-up Comment**

The procurements selected were initiated and had contracts executed between September 2018 and May 2020.

## ***The Commission Did Not Consistently Use SCOR to Manage Its Contracts and It Should Improve the Accuracy and Timeliness of Its Reporting to the Legislative Budget Board***

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The Commission implemented the System of Contract Operation and Reporting (SCOR) in September 2017 to provide one system of record for the management and reporting of all health and human services contracts. However, the Commission did not consistently use SCOR to manage its contracts as intended.

In addition, contract information that the Commission reported to the Legislative Budget Board was not consistently accurate, due primarily to inaccurate information in SCOR. The Commission should also improve the timeliness of its reporting of contract information to the Legislative Budget Board.

Chapter 3-A

### **The Commission Did Not Consistently Use SCOR as the System of Record for Managing Its Contracts**

**Chapter 3-A  
Rating:  
High <sup>12</sup>**

The Commission ensured that payment amounts were accurately reflected in SCOR. In addition, since a February 2019 audit report on SCOR<sup>13</sup>, it improved compliance with its internal requirement to upload copies of contracts to SCOR.

However, the Commission did not regularly:

- Upload procurement files.
- Upload copies of contracts and amendments within the required time frames.
- Complete required risk assessments designed to help contract managers prioritize monitoring activities and establish a contract monitoring plan.
- Use SCOR to track contract deliverables.

Not using SCOR in accordance with Commission policies impacts the Commission's ability to effectively manage its contracts.

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<sup>12</sup> The risk related to the issues discussed in Chapter 3-A is rated as High because they 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.

<sup>13</sup> See *An Audit Report on the Health and Human Services Commission's System of Contract Operation and Reporting*, SAO Report No. 19-028.

**The Commission did not consistently comply with its requirements for uploading documentation into SCOR.**

SCOR was designed to serve as the official electronic repository for the Commission's procurement files and contracts (including amendments). However, the Commission did not consistently upload those documents to SCOR in accordance with its *Texas Health and Human Services Contract Management Handbook* and SCOR guides. Specifically:

- **Procurement Files.** The Commission did not upload procurement files to SCOR for 10 (67 percent) of 15 contracts tested. Procurement files include documentation such as vendor proposals, results of vendor compliance verifications, evaluation tools, and completed solicitation review checklists.
- **Contracts.** The Commission uploaded copies of all 15 original contracts tested. However, 12 (80 percent) of those 15 contracts were not uploaded within 10 days of the contract record being created in SCOR as required. Those contracts were uploaded an average of 53 days late. In addition, the Commission did not upload 2 contract amendments and did not upload the other 3 amendments tested within required time frames.

Uploading procurement files and contracts to SCOR within required time frames is important because the system was established to provide a central location for the Commission to store and have timely access to those documents to help facilitate contract management.

**The Commission did not consistently use the features of SCOR designed to help it monitor its contracts.**

**Risk Assessments.** The Commission did not complete required baseline risk assessments for 13 (87 percent) of 15 contracts tested. Those assessments consider risk factors such as health and safety, contract value, and the vendor's past performance. The Commission's policies require contract managers to complete baseline risk assessments in SCOR within 60 days from a contract's begin date for each new contract and each amendment.

Baseline risk assessments are important because they are intended to help contract managers prioritize monitoring activities and establish a contract monitoring plan based on the level of risk that contracts present to the State.

**Contract Deliverables.** The Commission did not use SCOR to track contract deliverables as required for 12 (86 percent) of 14 applicable contracts tested (see text box for additional information on contract deliverables). In addition, it did not use SCOR to track the deliverables for its contract for the State of Texas Automated Information Reporting System (STAIRS) (see Chapter 4 for more information about that contract). Commission policies require contract managers to (1) enter deliverables outlined within the contract and (2) record the status of those deliverables in SCOR. Those tracking requirements are intended to help contract managers verify that contract deliverables are completed in accordance with contract terms.

#### **Contract Deliverable**

A contract deliverable is a measureable task or outcome, such as a product or service. A report is one of the most common types of deliverables. Various types of reports may be required by a contract and reviewed by the agency to assess whether the vendor is performing according to the terms of the contract.

Source: The *State of Texas Procurement and Contract Management Guide*.

Contract managers cited several reasons for not using SCOR to track contract deliverables, including uncertainty about the applicability of requirements for using SCOR. For example, some contract managers used other systems to facilitate some contract monitoring activities and stated they were not aware that they were required to use SCOR to track deliverables. In addition, the Commission's policies did not clearly define which contract terms should be considered deliverables and tracked in SCOR.

#### **The Commission ensured that payment amounts were accurately reflected in SCOR.**

The Commission processes payments in its Centralized Accounting and Payroll/Personnel System (CAPPS), then transfers the expenditure information to SCOR. A 2019 audit of SCOR<sup>14</sup> identified a risk that, without the Commission implementing a control in its agency-managed version of CAPPS to require that each payment be associated with a contract or purchase order, expenditure information in SCOR could be incomplete.

Auditors analyzed 130 payments<sup>15</sup> totaling \$4.6 million to the vendors associated with the 15 contracts tested and performed detailed testing of a sample of 13 of those payments. Based on that analysis and testing, the Commission associated its vendor payments to its contracts and purchase orders in CAPPS, and the payment amounts were accurately reflected in SCOR, when applicable. Having complete payment information in SCOR can help the Commission effectively manage its contracts.

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<sup>14</sup> See *An Audit Report on the Health and Human Services Commission's System of Contract Operation and Reporting*, SAO Report No. 19-028.

<sup>15</sup> The 130 payments analyzed and the 13 tested included 1 reimbursement from a vendor to the Commission.

## Recommendations

To help ensure that SCOR is used as the system of record for managing its contracts, the Commission should:

- Monitor whether SCOR users are (1) uploading procurement files and amendments, (2) uploading contracts within required time frames, and (3) using the features of SCOR to monitor contracts.
- Follow-up on the results of its monitoring of SCOR users to strengthen the use of SCOR throughout the agency.
- Provide additional training and guidance to SCOR users, as needed.

## Management's Response

### Statement of Agreement/Disagreement

Agree

### Action Plan

*The HHSC Procurement and Contract Management Handbook stipulates procurement and contract documents must be uploaded into SCOR. The requirement to upload procurement and contract documents into SCOR is also included in the SCOR User Guide and the SCOR Contract Manager Guide and presented during SCOR training sessions.*

*To monitor upload of HHS procurement and contract documents into SCOR, PCS routinely identifies new HHS procurements and contracts to verify document upload into SCOR. If the required document has not been uploaded into SCOR, PCS follows up with HHS staff to request document upload into SCOR.*

*Additionally, standard reports and dashboards are available to SCOR users to assist with identifying documents not uploaded into SCOR, such as risk assessments and deliverables.*

*To improve compliance and oversight, PCS will identify additional opportunities for management reporting and use ongoing, regularly scheduled meetings, such as the SCOR Users meeting and the Contract Management Support Advisory Workgroup meeting to present and discuss SCOR requirements. In addition, PCS will offer additional training and publish agency communications on SCOR requirements and tools.*

*PCS will take other actions to assess the information that should be maintained in SCOR, require additional controls as necessary, and improve the availability of reports. For example, PCS will work to expand available reports for required activities such as documenting amendments and other required records for procurement files.*

*PCS has already begun running reports for risk assessment completion and communicating issues within the agency to achieve compliance. PCS will identify other topics for which to expand this oversight reporting and communication effort to improve documentation requirements.*

*Responsible Manager*

*Director, Business Operations, Contract Reporting*

*Target Implementation Date*

*September 1, 2021*

## The Commission Consistently Reported Contract Information to the Legislative Budget Board; However, It Should Improve the Accuracy and Timeliness of Its Reporting

**Chapter 3-B  
Rating:  
Medium<sup>16</sup>**

The Commission consistently reported its contracts and amendments to the Legislative Budget Board as required by the Texas Government Code and the General Appropriations Act. However, it did not accurately report some contract information and did not consistently complete the reporting within required time frames.

**Accuracy of Reporting.** The contract information that the Commission reported to the Legislative Budget Board was not fully accurate for 13 (76 percent) of 17 contracts and amendments tested (see text box for additional information on contract reporting). For those 13 contracts and amendments, the Commission did not accurately report one or more of the following: award date, solicitation posting date, completion date, maximum contract value, or the number of bids received.

### Contracts Database

The Contracts Database is the single point of data entry for all contract information that state entities are required to report to the Legislative Budget Board either by statute or the General Appropriations Act.

Legislative Budget Board staff use the data to monitor compliance with reporting requirements, identify risks for certain contracts, and monitor the use of appropriations.

Source: The Legislative Budget Board.

Most of those errors were caused by inaccurate information in SCOR. The Commission had processes in place for identifying and correcting inaccurate information in SCOR. Specifically:

- Contract managers are responsible for validating the accuracy of contract information in SCOR and making any necessary updates within 30 days of when contract data is transferred from the Centralized Accounting and Payroll/Personnel System (CAPPS)<sup>17</sup>, and
- The Commission established a quality assurance process to help verify the accuracy and completeness of certain data in SCOR.

However, the Commission either (1) did not make the required corrections or (2) did not make the corrections early enough to ensure accurate reporting to the Legislative Budget Board.

In addition, SCOR does not capture the award date, which the Legislative Budget Board defines as the date the agency executed the contract. Instead the Commission reports the contract begin date in SCOR; however, the begin

<sup>16</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 and reduce risks to a more desirable level.

<sup>17</sup> The Commission initiates procurements in CAPPS. When a contract is designated in CAPPS as approved and executed, the contract data is then transferred into SCOR.

date may not be the same as the executed date. As a result, the Commission did not report to the Legislative Budget Board the accurate award dates for two contracts tested.

**Timeliness of Reporting.** Although the Commission established a regular schedule for reporting to the Legislative Budget Board, it did not report 10 (59 percent) of 17 contracts and amendments tested within the required time frames. The Commission was required to report information for those 10 contracts within 30 days of the contract award dates. However, it reported the information to the Legislative Budget Board for those 10 contracts between 32 and 111 days late. According to the Commission, it was late in reporting the information for several reasons, including delays in internal processes that must be completed to transfer contract data from CAPPs to SCOR.

Not reporting accurate or timely contract information may prevent the Legislative Budget Board from effectively monitoring compliance with requirements and identifying risks.

## **Recommendations**

The Commission should:

- Strengthen its processes to ensure that contract data entered in CAPPs is accurate and transferred timely to SCOR to facilitate reporting to the Legislative Budget Board.
- Strengthen and consistently follow its processes for identifying and correcting inaccurate contract information in SCOR in a timely manner.
- Capture and report contract information, including the award date, as required.

## **Management's Response**

### Statement of Agreement/Disagreement

*Agree*

### Action Plan

*HHSC agrees with strengthening processes to ensure CAPPs data is accurate and transferred in a timely manner to SCOR.*



*Regarding reporting the contract award date to the LBB: CAPPs/SCOR currently captures the contract begin date, not the award/execution date. Also, with HHS contracts, the award date, the execution date and the contract begin date are not always the same. Therefore, HHS reports the contract begin date to the LBB to signify the beginning of the contract. The PCS External Reporting manager confirmed with the LBB that this practice is consistent with LBB contract reporting procedures.*

*The PCS Procurement and Contract Management Handbook and SCOR resources stipulate the contract manager must ensure information in CAPPs is accurate and complete and must verify completion of data entry into SCOR within 10 days from the contract effective date.*

*PCS currently has processes in place to conduct quality assurance reviews of data in CAPPs and SCOR. For example, PCS conducts a comparison of data entered in CAPPs to data that transferred to SCOR, using a sampling methodology and reports issues needing correction to the responsible area. PCS will continue this sampling and notification effort and other quality assurance efforts currently in place.*

*In an effort to improve data, PCS will continue to reinforce existing requirements and publicize established alerts and reports to users and will identify opportunities for management reporting to encourage compliance and oversight. This management reporting would be in addition to dashboards which are currently available.*

*PCS will also use ongoing, regularly scheduled meetings and the Contract Management Support Advisory Workgroup meeting to stress the importance of SCOR uploading and data entry.*

*In addition, HHSC is facilitating a workgroup to identify needed reports, alerts and notifications to assist with accurate and timely data entry into CAPPs. The tools identified by this workgroup should assist with improvements.*

*PCS will offer additional training and publish agency communications on requirements to ensure that data in CAPPs and SCOR is completed timely and accurately. PCS will offer training on new tools or requirements as they are developed.*

*Responsible Manager*

*Director, Business Operations, Contract Reporting*

*Director, Contract Management Support*

Target Implementation Date

September 1, 2021

## The Commission Effectively Managed a Selected Contract

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Chapter 4  
Rating:  
Low<sup>18</sup>

For its contract for support and maintenance of the State of Texas Automated Information Reporting System (STAIRS) (see text box for a description of the contract), the Commission verified that the vendor performed according to the terms of the contract and that it received the contracted services.

**Monitoring.** The Commission developed and utilized monitoring tools to track various tasks, contract deliverables, and milestones. Collectively, those monitoring tools helped the Commission monitor the contract effectively. For example, the Commission ensured that the contractor implemented new reporting capabilities on schedule and that the contractor provided necessary training for STAIRS users.

However, those monitoring tools were used independently of SCOR. The Commission did not track contract deliverables or record its monitoring activities in SCOR as required. As discussed in Chapter 3-A, the Commission requires the use of SCOR to manage its contracts.

**Payments.** The Commission made payments to the vendor in accordance with key contract terms and other requirements. For the 12 payments made through July 2020, the Commission (1) ensured that payments were supported and consistent with the terms of the contract and (2) obtained required approvals. In addition, the Commission verified it received contract deliverables prior to making the associated payments.

### STAIRS Contract

The Commission contracted with Fairbanks, LLC to support and maintain the State of Texas Automated Information Reporting System (STAIRS), the Commission's web-based application for collecting and processing financial and statistical data. STAIRS includes automated applications for time study services, financial and statistical reporting services, and Medicaid administrative claiming services.

The contract began July 1, 2019, and had a maximum value of \$6 million. As of July 31, 2020, the Commission had made 12 payments totaling \$1.5 million.

Sources: The Commission's contract with Fairbanks, LLC and payment data from the Commission's Centralized Accounting and Payroll/Personnel System.

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<sup>18</sup> The risk related to the issues discussed in Chapter 4 is rated as Low because 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.

# Appendices

Appendix 1

## **Objective, Scope, and Methodology**

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### **Objective**

The objective of this audit was to determine whether the Health and Human Services Commission (Commission) has administered procurement and other selected contract management functions for selected contracts according to applicable requirements.

### **Scope**

The scope of this audit covered the Commission's complex procurements and resulting contracts processed during fiscal year 2019 and fiscal year 2020 through May 2020. In addition, the scope covered (1) payments to vendors with contracts from complex procurements made between November 2019 and May 2020 and (2) monitoring activities performed for the Commission's contract with Fairbanks, LLC through August 2020.

Complex procurements include purchases of goods and services through the Request for Proposal (RFP), Request for Offer (RFO), and Request for Qualifications (RFQ) procurement methods. These procurements are typically high risk, publicly scrutinized, and subject to multiple oversight entities.

The scope also included a review of significant internal control components related to the Commission's procurement and contract management processes (see Appendix 3 for more information about internal control components).

### **Methodology**

The audit methodology included conducting interviews with Commission management and staff; collecting and reviewing Commission policies, procedures, and other guidance; testing procurement files; testing monitoring records and documentation; and analyzing and testing vendor payments.

### **Data Reliability and Completeness**

To determine the reliability of the Commission's contract data from the Centralized Accounting and Payroll/Personnel System (CAPPS), auditors reviewed the query used to extract the data and traced selected data to supporting documentation. In addition, to determine the reliability of vendor payment data from CAPPS, auditors reviewed the queries used to extract the

data and compared the data to the Uniform Statewide Accounting System (USAS) and the Commission's System of Contract Operation and Reporting (SCOR).

Auditors determined that both the contract and payment data from CAPPs was sufficiently reliable for the purposes of this audit.

#### **Sampling Methodology**

To test compliance with planning, procurement, vendor selection, reporting, and monitoring requirements, auditors selected a nonstatistical sample of 15 contracts from the population of 59 contracts from complex procurements. The sample contracts were chosen primarily through random selection. In some cases, auditors selected additional contracts for testing based on specific characteristics. This sampling design was chosen to ensure the sample would include a cross section of contracts with different procurement types and contract managers. The test results as reported do not identify which items were randomly selected or selected using professional judgment; therefore, it would not be appropriate to project the test results to the population.

To determine whether payments were correctly associated with contracts or purchase orders, auditors selected a nonstatistical, risk-based sample of 13 payments from the population of 130 payments the Commission made to the vendors associated with the 15 contracts sampled. This sample design was chosen to address specific risk factors identified in the population that had the highest potential for error. The sample items were generally not representative of the population; therefore, it would not be appropriate to project those test results to the population.

To test certain contract deliverables for the Commission's contract with Fairbanks, LLC, auditors selected nonstatistical samples through random selection of months and weeks in which deliverables were due. From the population of 14 months, auditors selected 4 months; and from the population of 61 weeks, auditors selected 9 weeks. The sample design was chosen to obtain coverage of deliverables due throughout the audited contract period so that the sample could be evaluated in the context of the population. The test results may be projected to the population, but the accuracy of the projection cannot be measured.

Information collected and reviewed included the following:

- Statutes, rules, policies, procedures, and other guidance relevant to the Commission's procurement and contract management functions.
- The Commission's solicitations, procurement files, and contracts.
- Procurement, contract, and monitoring records in SCOR.
- Contract and payment data from CAPPs and SCOR.
- The Commission's payment documentation, including contractor invoices, approvals, and other supporting documentation.
- The Commission's contract monitoring tools and documentation.

Procedures and tests conducted included the following:

- Interviewed Commission management and staff.
- Tested procurements for compliance with contract planning, procurement, and vendor selection requirements.
- Tested contracts for compliance with reporting and monitoring requirements.
- Analyzed vendor payment data and tested payments to vendors for compliance with processing and payment requirements.
- Reviewed the Commission's contract monitoring activities, tools, and documentation.

Criteria used included the following:

- Texas Government Code, Chapters 322, 2054, 2155, 2166, 2251, 2252, 2254, 2261, and 2262.
- Title 1, Texas Administrative Code, Chapter 391.
- *State of Texas Procurement and Contract Management Guide* (Version 1.1, August 2018; Version 1.2, September 2019; and Version 1.3, December 2019).
- The General Appropriations Acts (85th and 86th Legislatures).
- The *Texas Health and Human Services Contract Management Handbook*, September 2019.

- The Commission’s guides for SCOR: *SCOR User Guide*, July 2019; *SCOR Contract Manager Guide*, July 2019; and *SCOR Purchaser User Guide*, May 2020.
- The Commission’s Legal Entity Screening Guide.
- The Commission’s policies, procedures, templates, forms, and checklists.
- The Commission’s solicitations and contracts.

### **Project Information**

Audit fieldwork was conducted from April 2020 through December 2020. 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:

- Tessa Mlynar, CIA, CFE (Project Manager)
- Robert G. Kiker, CGAP (Assistant Project Manager)
- Chase Dierschke, MAcy, CIA
- Jennifer Fries, MS
- Rachel Lynne Goldman, CPA
- Alexander Grunstein, CFE, CFCS
- Christina Ljuca
- Mary Ann Wise, CPA, CFE (Quality Control Reviewer)
- Lauren Godfrey, CIA, CGAP (Audit Manager)

## Issue Rating Classifications and Descriptions

Auditors used professional judgment 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 2 provides a description of the issue ratings presented in this report.

Table 2

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.



## Internal Control Components

Internal control is a process used by management to help an entity achieve its objectives. The U.S. Government Accountability Office's *Generally Accepted Government Auditing Standards* require auditors to assess internal control when internal control is significant to the audit objectives. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) established a framework for 5 integrated components and 17 principles of internal control, which are listed in Table 3.

Table 3

Internal Control Components and Principles		
Component	Component Description	Principles
Control Environment	The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.	<ul style="list-style-type: none"> <li>▪ The organization demonstrates a commitment to integrity and ethical values.</li> <li>▪ The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control.</li> <li>▪ Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives.</li> <li>▪ The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.</li> <li>▪ The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.</li> </ul>
Risk Assessment	Risk assessment is the entity's identification and analysis of risks relevant to achievement of its objectives, forming a basis for determining how the risks should be managed.	<ul style="list-style-type: none"> <li>▪ The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives.</li> <li>▪ The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed.</li> <li>▪ The organization considers the potential for fraud in assessing risks to the achievement of objectives.</li> <li>▪ The organization identifies and assesses changes that could significantly impact the system of internal control.</li> </ul>
Control Activities	Control activities are the policies and procedures that help ensure that management's directives are carried out.	<ul style="list-style-type: none"> <li>▪ The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.</li> <li>▪ The organization selects and develops general control activities over technology to support the achievement of objectives.</li> <li>▪ The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.</li> </ul>

Internal Control Components and Principles		
Component	Component Description	Principles
Information and Communication	Information and communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.	<ul style="list-style-type: none"> <li>▪ The organization obtains or generates and uses relevant, quality information to support the functioning of internal control.</li> <li>▪ The organization internally communicates information, including objectives and responsibilities for internal control, necessary to support the functioning of internal control.</li> <li>▪ The organization communicates with external parties regarding matters affecting the functioning of internal control.</li> </ul>
Monitoring Activities	Monitoring is a process that assesses the quality of internal control performance over time.	<ul style="list-style-type: none"> <li>▪ The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.</li> <li>▪ The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.</li> </ul>

Source: Internal Control - Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission, May 2013.

## Vendor Compliance Verifications Tested

The *State of Texas Procurement and Contract Management Guide* and *Texas Health and Human Services Contract Management Handbook* requires certain vendor compliance verifications to be completed prior to awarding a contract to a selected vendor. Those verifications are designed to address certain statutory and other requirements. Table 4 identifies and provides a brief description of the vendor compliance verifications that auditors tested.

Table 4

Required Vendor Compliance Verifications That Auditors Tested	
Type of Vendor Compliance Verification	Description of Vendor Compliance Verification
Debarment Check <sup>a b</sup>	Verify the vendor has not been debarred from doing business with the State of Texas by the Office of the Comptroller of Public Accounts (Comptroller). An agency may not award a contract to a vendor debarred in accordance with Texas Government Code, Section 2155.077.
System for Award Management (SAM) Federal Exclusion Check <sup>a b</sup>	Verify the vendor is not excluded from contract participation at the federal level. A contract cannot be awarded to a vendor named on the U.S. Treasury Department, Office of Foreign Assets Control's master list of Specially Designated Nationals and Blocked Persons in accordance with Executive Order 13224.
Iran, Sudan, and Foreign Terrorist Organization Check <sup>a b</sup>	Verify the vendor is not included in the divestment statute lists of entities known to be doing business with Iran, Sudan, or a foreign terrorist organization. Texas Government Code, Section 2252.152, prohibits a contract from being awarded to a vendor on the divestment lists.
Boycott Israel Check <sup>a b</sup>	Verify that the vendor is not included in the divestment statute list of entities known to be boycotting Israel. A contract may not be awarded to a vendor on the divestment list developed by the Texas Safekeeping Trust Company, as required by Texas Government Code, Section 808.051.
Warrant/Payment Hold Check <sup>a b</sup>	Verify the vendor does not have a warrant hold due to outstanding state debt. Texas Government Code, Section 2252.903, requires state agencies to conduct the warrant hold check not earlier than the seventh day before and not later than the date of contract execution.
Franchise Tax Check <sup>a b</sup>	Verify that for a vendor required to pay franchise tax, the Comptroller has not forfeited the vendor's right to transact business in the State pursuant to Texas Tax Code, Section 171.251.
Texas Identification Number (TIN) Check <sup>b</sup>	Verify that the vendor's TIN noted on the contract application agrees with the TIN in the Secretary of State database. The Comptroller requires all vendors to have an established TIN to receive payments.
U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE) Check <sup>b</sup>	Verify the vendor is not excluded from receiving payments from federally funded healthcare programs. The Social Security Act, Section 1128, prohibits federally funded health care programs from contracting with excluded parties named on the HHS OIG's LEIE.
Texas Health and Human Services Commission (Commission) Office of Inspector General (OIG) LEIE Check <sup>b</sup>	Verify the vendor is not excluded from contracting with the State. The Commission's OIG identifies individuals and businesses to be excluded for reasons such as conviction for program-related fraud or patient abuse, adverse action by a licensing board, or being excluded from the Medicare program.
<sup>a</sup> Required by the <i>State of Texas Procurement and Contract Management Guide</i> . <sup>b</sup> Required by the <i>Texas Health and Human Services Contract Management Handbook</i> .	

Sources: The *State of Texas Procurement and Contract Management Guide* and the *Texas Health and Human Services Contract Management Handbook*.

## Related State Auditor's Office Work

The Health and Human Services Commission's (Commission) procurement and contracting function was the subject of several prior State Auditor's Office audits. Some of the findings and recommendations presented in this report are similar to those previously reported. Table 5 lists those prior audits, including the processes or contracts audited, a summary of the findings, and recommendations related to the results in this report.

Table 5

Related State Auditor's Office Reports		
Number	Report Name	Release Date
19-028	<i>An Audit Report on the Health and Human Services Commission's System of Contract Operation and Reporting</i>	February 2019
<p><b>Contracts Audited</b></p> <p>All Commission and Department of State Health Services contracts and purchase orders active in its System of Contract Operation and Reporting (SCOR) during fiscal years 2018 and 2019 (as of November 2018).</p> <p><b>Summary of Related Findings</b></p> <p>The Commission:</p> <ul style="list-style-type: none"> <li>▪ Did not implement adequate controls in the Centralized Accounting and Payroll/Personnel System (CAPPs) to help ensure that contract information in SCOR is complete, such as a requirement that payments be associated with a contract or purchase order, when appropriate.</li> <li>▪ Did not ensure that contract information in SCOR was always accurate.</li> <li>▪ Did not ensure that contract managers uploaded contract documents to SCOR as required.</li> <li>▪ Did not ensure that errors identified by some of its quality assurance reports were consistently reviewed and corrected.</li> </ul> <p><b>Recommendations</b></p> <p>The Commission should:</p> <ul style="list-style-type: none"> <li>▪ Implement controls in CAPPs to help ensure the accuracy and completeness of contract information that is transferred to SCOR.</li> <li>▪ Implement a requirement in CAPPs to associate payments with a contract or purchase order when appropriate.</li> <li>▪ Improve its data entry process to help ensure that contract information in SCOR is accurate.</li> <li>▪ Verify that its contract managers upload contract documents as required.</li> <li>▪ Evaluate if additional types of reports are needed to identify and correct data accuracy and completeness issues in SCOR.</li> <li>▪ Consistently follow-up on potential errors that it identifies and make corrections based on the follow-up.</li> </ul>		
19-010	<i>An Audit Report on Selected Contracts at the Health and Human Services Commission</i>	November 2018
<p><b>Contracts Audited</b></p> <p>Eight contracts the Commission awarded from January 1, 2015, through May 31, 2018, and one procurement that was pending an award decision as of May 31, 2018. These represented three competitive procurements, three emergency purchases, and three single response awards.</p> <p><b>Summary of Related Findings</b></p> <p>The Commission:</p> <ul style="list-style-type: none"> <li>▪ Did not comply with requirements for emergency purchases.</li> <li>▪ Did not ensure that it evaluated vendor proposals and documented that they met minimum solicitation requirements.</li> <li>▪ Accepted vendor proposals after the established due date.</li> <li>▪ Did not consistently review and approve all contract deliverables prior to processing payments.</li> <li>▪ Did not consistently report and certify all contracts, including amendments, to the Legislative Budget Board as required.</li> <li>▪ Did not obtain required disclosures of interested parties before executing a contract.</li> <li>▪ Did not ensure that its employees complied with disclosure requirements for its procurements.</li> </ul>		

**Related State Auditor's Office Reports**

Number	Report Name	Release Date
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**Recommendations**

The Commission should:

- Ensure that all emergency purchases meet requirements for an emergency.
- Ensure that it documents in the procurement file the reason a particular vendor is awarded an emergency purchase.
- Ensure that vendor proposals and documents meet minimum solicitation requirements.
- Not accept vendor proposals after the due date established in the solicitation, or it should amend the solicitation if the due date should be changed.
- Ensure that contract deliverables are always reviewed and approved prior to processing a payment to a vendor.
- Report all executed contracts, required certifications, and amendments to the Legislative Budget Board as required.
- Obtain a copy of the disclosure of interested parties from a vendor before it executes a contract with the vendor as required.
- Develop, document, and implement processes to identify all employees involved in all stages of the procurement process and verify that they submit the required disclosure forms.

**18-038**

*An Audit Report on Scoring and Evaluation of Selected Procurements at the Health and Human Services Commission*

**July 2018**

**Contracts Audited**

Twenty-eight procurements the Commission awarded and considered for award between January 1, 2015, and March 31, 2018.

**Summary of Related Findings**

The Commission:

- Made significant evaluation scoring errors and was missing documentation to support award recommendations.
- Did not ensure that its evaluations correctly recorded and calculated evaluator scores. The evaluation tools the Commission used to calculate final evaluation scores for the vendor proposals tested:
  - ♦ Had incorrect evaluation scores entered in the evaluation tool for certain vendors.
  - ♦ Included incorrect vendor scores in the final evaluation calculations.
  - ♦ Used the wrong weighted averages to calculate the final evaluation scores for certain vendors.
  - ♦ Did not record all evaluator score sheets in the evaluation tool.
  - ♦ Did not use all evaluation scores recorded in the evaluation tool to calculate the final evaluation score.
  - ♦ Used inaccurate mathematical formulas, which resulted in incorrect evaluation scores.
- Did not enforce its proposal evaluation guide that established procedures for (1) resolving outlier scores (scores that differ significantly from the other scores) and (2) defining the rating scale to be used to evaluate the vendor proposals.
- Did not maintain complete records of evaluator score sheets for initial evaluators' scores and changes made to outlier scores.
- Did not consistently perform certain required activities that help to ensure the accuracy of evaluation scores. The Commission:
  - ♦ Did not consistently use the standardized evaluation tool.
  - ♦ Did not consistently define the weights assigned to the best value criteria in procurements as required.
  - ♦ Manually entered evaluator scores in the score tabulation section of the evaluation tool.
  - ♦ Did not ensure that evaluators scored all applicable criteria as required.
- Did not consistently perform certain management activities that help to ensure the transparency and objectivity of the evaluation process. The Commission:
  - ♦ Was missing required documentation of the award recommendations submitted to management.
  - ♦ Did not include the evaluation results of the vendors' oral presentations and demonstrations in the award recommendations to executive management.
  - ♦ Did not have evaluator comments when required.
  - ♦ Allowed evaluation team members to use more than one method to document evaluation scores.

**Recommendations**

The Commission should:

- Ensure that scoring is accurate and consistent for future procurements.
- Perform a reconciliation of its evaluation tool before calculating evaluation results to verify that (1) all scores recorded in the evaluation tool match evaluator score sheets and (2) the correct weighted averages were used to calculate final evaluation scores.

**Related State Auditor's Office Reports**

Number	Report Name	Release Date
	<ul style="list-style-type: none"> <li>▪ Ensure that its purchasing staff complies with its established procedures for resolving outlier scores and scoring vendor proposals.</li> <li>▪ Ensure that it retains all documentation for each procurement.</li> <li>▪ Develop a written policy specifying the required use of the standardized evaluation tool, including its effective date.</li> <li>▪ Ensure that the procurements define the weights for calculating best value criteria as required.</li> <li>▪ Implement automated controls in its evaluation tool to prevent manual entries in the tabulation section.</li> <li>▪ Verify that evaluators have scored all criteria before scores are entered in the evaluation tool.</li> <li>▪ Verify that all documentation of its award recommendations are retained in its procurement records.</li> <li>▪ Verify that the evaluation results of oral presentations and vendor demonstrations are included in its award recommendations.</li> <li>▪ Verify that evaluators provide comments when required.</li> <li>▪ Verify that all evaluators use the same type of evaluation form to score vendor proposals.</li> <li>▪ Verify that evaluators document their scores on applicable score sheets.</li> </ul>	

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