



An Audit Report on

Financial Processes at the Texas Ethics Commission

- The Commission purchased services from its Electronic Filing Software (EFS) system vendor that it has not fully used, and it did not comply with applicable requirements for making advance payments to the vendor.
- The Commission did not report its EFS prepaid assets of \$1 million and overstated its EFS expenditures by \$310,390 in its Annual Financial Report for fiscal year 2022.
- The Commission should improve its processes for managing payroll and revenue.

Lisa R. Collier, CPA, CFE, CIDA
State Auditor

The Texas Ethics Commission (Commission) did not administer all of its financial transactions in accordance with applicable requirements. Specifically, the Commission (1) purchased services for its Electronic Filing Software (EFS) system that it did not need at the time they were purchased, (2) made advance payments to its EFS vendor that were not allowed, and (3) inaccurately reported those purchases in its Annual Financial Report for fiscal year 2022. The Commission also did not report all of its EFS contracts to the Legislative Budget Board as required.

In addition, the Commission should improve its payroll function by ensuring adequate segregation of duties and by maintaining required documentation to support personnel actions. It should improve its revenue function by performing reconciliations and processing refunds of certain transactions in compliance with applicable requirements.

- [Background](#) | p. 4
- [Audit Objectives](#) | p. 19

This audit was conducted in accordance with Texas Government Code, Sections 321.013, 321.0131, and 321.0132.

HIGH

ELECTRONIC FILING SOFTWARE SYSTEM

The Commission made purchases for its EFS system that did not comply with applicable requirements. The total value of the EFS contracts for maintenance and modification services between fiscal years 2016 and 2023, including additional purchases, was \$4.1 million.

[Chapter 1-A | p. 6](#)

LOW

EXPENDITURES PROCESSING

The Commission accurately processed expenditures related to (1) professional fees and services and (2) repairs and maintenance, which totaled \$1.3 million, or 33 percent of the Commission's expenditures from September 1, 2021, to December 31, 2022.

[Chapter 1-B | p. 11](#)

For more information about this audit, contact Audit Manager Jeannette Garcia or State Auditor Lisa Collier at 512-936-9500.

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MEDIUM**PAYROLL**

The Commission accurately processed payroll transactions, which totaled \$2.5 million, or 62 percent of the Commission's expenditures between September 1, 2021, and December 31, 2022. However, it did not always have appropriate segregation of duties and did not always maintain required documentation to support personnel actions.

[Chapter 2 | p. 12](#)

MEDIUM**REVENUE COLLECTION AND PROCESSING**

The Commission collected and recorded revenues accurately. However, it did not perform reconciliations or issue refunds of credit card processing fees in accordance with applicable requirements. Revenues collected between September 1, 2021, and December 31, 2022 totaled \$1.4 million.

[Chapter 3 | p. 14](#)

MEDIUM**POLICIES AND PROCEDURES**

The Commission did not have approved written policies and procedures for all of its financial processes related to revenue collection, payroll, expenditure processing, or information security.

[Chapter 4 | p. 17](#)

Summary of Management Response

Auditors made recommendations to address the issues identified during this audit, provided at the end of certain chapters in this report. The Commission agreed with the recommendations.

Ratings Definitions

Auditors used professional judgment and rated the audit findings identified in this report. The issue ratings identified for each chapter were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

PRIORITY: 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(s) and reduce risks to the audited entity.

HIGH: 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(s) and reduce risks to the audited entity.

MEDIUM: 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(s) and reduce risks to a more desirable level.

LOW: 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.

For more on methodology for issue ratings, see [Report Ratings](#) in Appendix 1.

Background Information

The Texas Ethics Commission

The Texas Ethics Commission (Commission) was created in 1991. The Commission works to promote public confidence in government. It is responsible for enforcing certain statutes and rules. For fiscal years 2021 and 2022, the Legislature appropriated \$6,642,494 to the Commission.

Selected Functions and Duties

Financial Disclosure. The Commission serves as a repository of required disclosure statements for state officials, candidates, political committees, lobbyists, and certain district and county judicial officers. These disclosure statements are reported through the Commission's Electronic Filing Software (EFS) system.

Compliance and Enforcement. The Commission's functions and duties include the following:

- Enforce laws and regulations concerning campaign finance, the lobbying of state officials, as well as the personal financial disclosures required to be filed by public officials.
- Undertake civil enforcement actions in response to a sworn complaint, hold enforcement hearings, issue orders, impose civil penalties, and/or refer matters for criminal prosecution.
- Impose administrative fines when required disclosure statements or other reports are not submitted on time.

Sources of Revenue

The main source of revenue for the Commission comes from legislative appropriations. Although the Commission collects revenue from the four sources described below, it retains revenue only from copy order fees. Revenue from administrative fines, lobbyist registrations, and sworn complaints is deposited to the State's General Revenue Fund, which is administered by the Office of the Comptroller of Public Accounts. The General Revenue Fund is the account used to make general expenditures for the daily operations of state government.



Administrative Fines. Fines are assessed by the Commission to filers for failing to timely submit reports to the Commission. The reports subject to administrative civil penalties include lobbyist reports, campaign finance reports, and personal financial statement reports.



Lobbyist Registration Fees. Certain lobbyists must register with the Commission and pay a fee.



Sworn Complaint Penalties. Penalties are assessed by the Commission if a violation is determined through its sworn complaint process.



Copy Order Fees. These fees are collected in association with open records requests.



HIGH

Chapter 1-A Electronic Filing Software System

The Commission did not comply with all applicable requirements for expenditures, financial reporting, and contract reporting related to its EFS system.

Purchases of Software Enhancement Hours. The Texas Ethics Commission (Commission) launched its Electronic Filing Software (EFS) system in 2015. (See text box for more information about the EFS system and the Commission’s contract with the system’s vendor). Between fiscal year 2016 and fiscal year 2023, the Commission purchased software enhancement hours that it has not yet fully used, resulting in a credit balance with the vendor of 5,975 hours with a value estimated at \$823,625 as of February 2023.

The Commission did not comply with applicable requirements to maintain documentation or provide other justification for the need to purchase those additional software enhancement hours. The *State of Texas Procurement and Contract Management Guide* and the Commission’s *Contract Management Handbook* require that a Needs and Risk Assessment be prepared for any project that involves contracts. According to the *Handbook*, this assessment “is used as a benchmark to judge the ongoing effectiveness of the Commission’s expenditures and assist in determining actions that would be most beneficial for the Commission and/or provide the best value for the State of Texas.”

Electronic Filing Software System

The Commission contracted with a vendor to develop a management and search tool for statutory ethics filings, known as the Electronic Filing Software (EFS) system. The system’s underlying database facilitates filing applications for campaign finance, lobby registrations and activity reports, personal financial statements, and certificate of interested party disclosures.

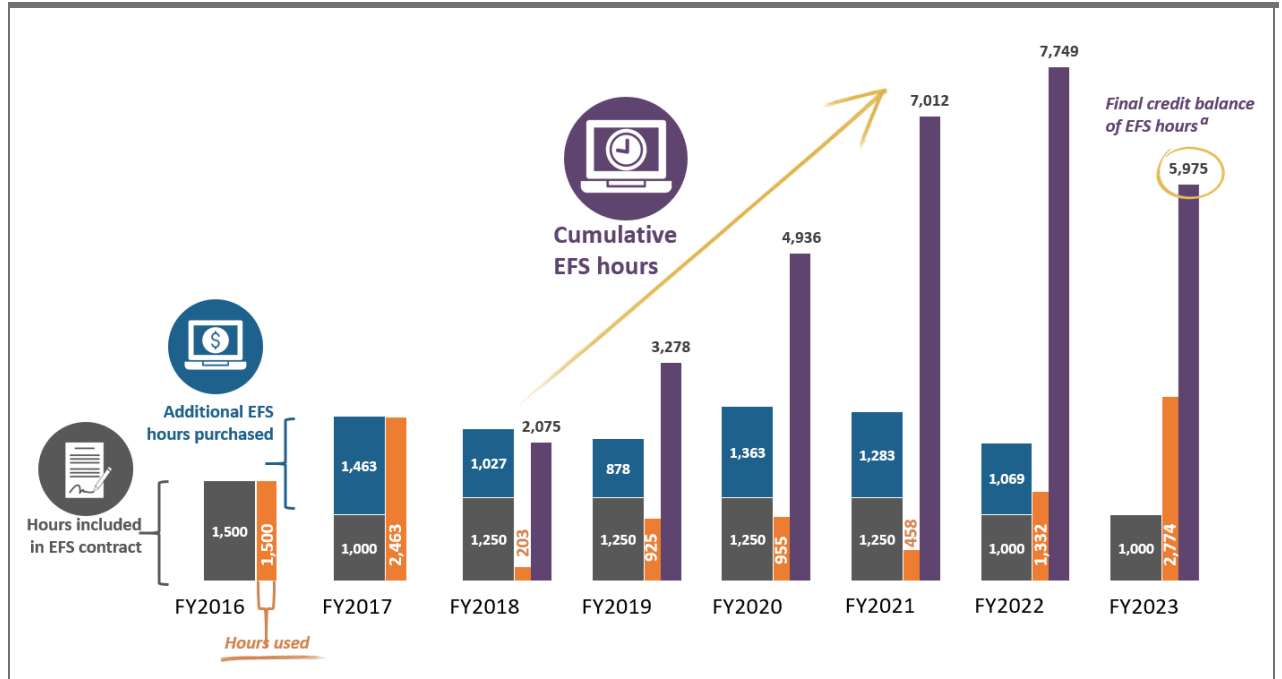
The Commission’s contracts with the vendor for the EFS system provide for maintenance services, software enhancement hours to make source code changes and modifications, and the option to purchase additional hours. The total value of the EFS contracts for maintenance and modification services between fiscal years 2016 and 2023, including purchases of additional hours, was \$4.1 million.

Source: The Commission.

Figure 1 shows the accumulation and use of EFS software enhancement hours by the Commission.

Figure 1

EFS Software Enhancement Hours Purchased, Used, and Accumulated by the Commission from Fiscal Year 2016 through Fiscal Year 2023^a



^a Credit balance as of February 28, 2023.

Source: Information provided by the Commission.

In addition, the contract with the EFS vendor does not specifically address how all of the unused software enhancement hours purchased by the Commission would be valued if the contract were to expire or be terminated. The software enhancement hours purchased with the maintenance services do not have a direct cost associated with them in the contract, leaving their value open to interpretation.

Advance Payments. The Commission’s payments for the software enhancement hours did not comply with Office of the Comptroller of Public Accounts (Comptroller’s Office) requirements for advance payments.

According to Comptroller’s Office purchasing policies, a state agency may not pay for goods or services before their delivery to the agency unless the advance payment is necessary and serves a proper public purpose. The Commission could not provide documentation to show the necessity and purpose for these advance payments.

In addition, the Commission did not comply with a clause in its contract with the vendor requiring certain testing and documentation before any payment for software enhancement hours can be made. (See text box for more information about the contract's requirements.)

Reporting of Assets and Expenditures as of August 31, 2022. The Commission did not report the balance of its advance payments for software enhancement hours with an estimated value of \$1 million as an asset in its fiscal year 2022 Annual Financial Report, as required. In addition, the Commission overstated its expenditures by an estimated \$310,390 related to software enhancement hours purchased but not used in that fiscal year.

According to the Comptroller's Office's *Reporting Requirements for the Annual Financial Reports of State Agencies and Universities*, prepaid items should be reported as assets in the period in which they are purchased, and the recognition of the expenditures should be deferred until the period in which the prepaid items are used. Consequently, the Commission's Annual Financial Report for fiscal year 2022 was inaccurate.

Reporting of Contracts. The Commission did not comply with requirements to report its EFS contracts from fiscal year 2017 through fiscal year 2023 to the Legislative Budget Board. Article IX, Section 7.04 of the General Appropriations Act (85th through 87th Legislatures) requires state agencies to report all contracts, amendments, modifications, renewals, and extensions with a total combined value of more than \$50,000 to the Legislative Budget Board before the 30th calendar day after the award is made.

The Commission should strengthen its contract reporting process to ensure that all required information is reported completely, accurately, and within specified timeframes.

Contract Clause Related to Advance Payment for Source Code Changes

5.4.7 Services shall be billed for actual hours worked. No payment will be made for any source code changes or modification until such change has been accepted following successful completion of the mutually agreed upon testing requirements and written notice of acceptance, including acceptance of project documentation, has been issued by the TEC [Texas Ethics Commission] Contracting Entity.

Source: The Commission's fiscal year 2022 contract with the EFS vendor.

Recommendations

The Commission should strengthen its processes and procedures to help ensure that:

- A Needs and Risk Assessment as described in the *State of Texas Procurement and Contract Management Guide* and the Commission's *Contract Management Handbook* is completed so that purchases under the Electronic Filing Software (EFS) system contract are made based on the Commission's needs and are justified.
- The contract with the EFS vendor includes clauses that specifically address how the unused prepaid balance of software enhancement hours should be valued when the contract expires or is terminated.
- Advance payments to vendors are made only when necessary and adequate documentation of the payments' public purpose is maintained.
- Annual financial reports accurately capture the financial position of the Commission.
- Contract information reported to the Legislative Budget Board is accurate and complete.

Management's Response

The TEC agrees with these recommendations and has taken corrective action. The TEC has not made any advance payments since appointing new leadership in August 2022, and future advance payments—if any—will be made only after the TEC completes a Needs and Risk Assessment that finds the payment is necessary and serves a proper public purpose.

All pre-purchased enhancement hours have either been used or remain available to be used. The TEC secured lower hourly rates from its vendor by purchasing labor in advance, and every contract between the TEC and its filing software vendor guarantees that the TEC's entitlement to purchased enhancement hours survives the expiration or termination of the agreement. During fiscal year 2023, the TEC has used

\$440,906.25 of its enhancement balance to make critical improvements to the filing system.

Person Responsible: Executive Director

Implementation Date: August 17, 2022

In addition, all TEC contract information has now been reported to the Legislative Budget Board in accordance with Article IX, Section 7.04 of the General Appropriations Act. Furthermore, the TEC's future financial reports will record the balance of unused labor in accordance with the Comptroller's Office's Reporting Requirements for the Annual Financial Reports of State Agencies and Universities.

Person Responsible: Director of Finance and Administration

Implementation Date: June 30, 2023

LOW

Chapter 1-B Expenditures Processing

The Commission complied with applicable requirements for processing expenditures.

The Commission appropriately processed its expenditures in the categories of (1) professional fees and services and (2) repairs and maintenance. These categories represented 33 percent of the Commission's total expenditures of \$4.1 million reported during the audited period.

Specifically, the Commission reported 74 expenditures totaling \$1.3 million from these categories between September 1, 2021, and December 31, 2022. All 74 transactions were properly supported with vendor invoices, received all required approvals, and were paid in compliance with the Prompt Payment Act (Texas Government Code, Chapter 2551).

MEDIUM

Chapter 2

Payroll

The Commission processed payroll transactions accurately. However, certain controls should be improved.

Accuracy of Payroll Processing. From September 1, 2021, through December 31, 2022, the Commission processed 428 payroll transactions totaling \$2,538,683 and consisting of regular payroll transactions, one-time merit payments, and other personnel transactions. These payments represented 62 percent of the Commission's total expenditures of \$4.1 million reported during that period.

The Commission accurately processed all 52¹ transactions tested, which totaled \$347,349. Specifically, the payroll transactions tested were supported by employee files and were paid to bona fide employees. In addition, all leave was appropriately approved.

Segregation of Duties. The Commission's payroll process did not have appropriate segregation of duties. The Commission's Director of Finance and Administration, who was responsible for payroll processing, had unrestricted access to the financial and human resources modules in the Centralized Accounting and Payroll/Personnel System (CAPPS). This access enabled the Director of Finance and Administration to both add and remove employees and to both initiate and approve payroll transactions, all autonomously. This lack of segregation of duties created a control weakness in the Commission's payroll function.

The Commission did not have compensating controls to reduce the risks associated with this control weakness between September 1, 2022, and December 31, 2022. Not having adequate controls created a risk that inappropriate payroll transactions could have occurred without being detected.

Personnel Actions. The Commission processed 33 personnel actions for promotions, one-time merit increases, and new hires between September 1,

¹ Includes 25 randomly selected regular payroll transactions and all 27 one-time merit payments and other personnel actions.

2022, and December 31, 2022. Of these 33 personnel actions, 7 (21 percent) did not have documentation, such as signed Personnel Action Forms, showing executive approval as of the time they were processed as required by the *Texas Ethics Commission Policy Manual*. Not maintaining this documentation creates a risk that personnel actions will take place without appropriate oversight.

Recommendations

The Commission should:

- Enforce segregation of duties for payroll transactions or implement compensating controls if segregation of duties cannot be achieved.
- Ensure that Personnel Action Forms are completed and that documentation is retained.

Management's Response

The TEC agrees with these recommendations and has taken corrective action. Because the TEC is a small agency, its director of finance and administration often needs multiple permissions in the Centralized Accounting and Payroll/Personnel System ("CAPPS"). The TEC implemented additional controls in February 2023 to further reduce any risk associated with those permissions. Furthermore, while all personnel actions were approved by the TEC's executive director, the TEC will ensure that future approvals are documented.

Person Responsible: Executive Director

Implementation Date: February 1, 2023

MEDIUM

Chapter 3 Revenue Collection and Processing

The Commission accurately collected revenue.

The Commission accurately collected revenues from administrative fines, lobby registrations, and sworn complaint penalties. Revenues were collected online through the Texas.gov portal and directly by the Commission staff via cash, checks, and credit cards.

Figure 2 shows the Commission’s revenue by methods of collection.

Figure 2

Commission Revenue ^a

Method of Revenue Collection	Amount	Percentage of Revenue Collected
Texas.gov	\$1,068,043	75%
The Commission ^b	\$357,618	25%
Total:	\$1,425,661	100%

^a The Commission’s collected revenue from September 1, 2021, through December 31, 2022.

^b Revenue collected directly by the Commission’s staff.

Source: The Commission

From September 1, 2021, through December 31, 2022, the Texas.gov revenue collections were accurately processed in CAPPs. Additionally, all 60 transactions tested involving directly collected revenue, which totaled \$39,617, were accurately processed in CAPPs and included all required approvals and support.

However, it should strengthen certain controls over its revenue processes.

Reconciliations. The Commission did not perform reconciliations between its accounting and program records to the transaction detail provided by the Uniform Statewide Accounting System (USAS), and payment processors, as required by the Comptroller’s Office’s Accounting Policy Statement 029 (APS 029) (see text box for details). Performing reconciliations would help ensure that (1) transactions are accurately recorded in the Commission’s accounting information in CAPPs and program records in the Disclosure Filing Division, (2) fees due to the Commission are properly accounted and recorded, and (3) fees paid to payments processors are properly accounted and recorded.

Refunds. The Commission’s processes for issuing refunds of transactions processed with credit cards, such as lobby registration fees, do not comply with APS 029. Specifically, the Commission, when processing refunds, did not include the online processing fees associated with the original payments. APS 029 states that the online processing fee should be included when refunds are issued.

Electronic Processing of Revenues and Expenditures, Including Texas.gov Portal Activity

- **Reconciliations.** Agencies must reconcile agency program and accounting records to the transaction detail provided by the Comptroller’s Office, USAS, and payment processors.
- **Refunds.** The amount of the refund will include the amount for the permit, license, tax or other charge, and online processing fee (if charged).

Source: Comptroller’s Office’s Accounting Policy Statement 029.

Recommendations

The Commission should:

- Reconcile the revenue information in the Disclosure Filing Division and its accounting records in CAPPs to the transaction detail provided by USAS and payment processors.
- Issue refunds of credit card processing fees in accordance with Accounting Policy Statement 029.

Management's Response

The TEC agrees with these recommendations and has taken corrective action. The TEC has begun performing reconciliations between its accounting and program records to the transaction detail provided by USAS and payment processors to ensure that future revenue continues to be collected accurately.

The TEC also agrees that over the past four fiscal years, \$272.59 of credit card processing fees were not refunded to lobby filers after they made mistaken payments through Texas.gov. To be clear, the TEC does not retain Texas.gov processing fees, and the TEC's contracts with the Department of Information Resources ("DIR") state that "Texas.gov fees are non-refundable." Nevertheless, the TEC agrees to begin refunding processing fees from its own appropriations.

Person Responsible: Director of Finance and Administration

Implementation Date: June 30, 2023

MEDIUM

Chapter 4 Policies and Procedures

The Commission should develop and approve written policies and procedures for all its financial processes.

The Commission did not have approved written policies and procedures for revenue collection, payroll, expenditure processing, or information security related to CAPPs.

The Commission staff developed some procedures and checklists in certain areas; however, those have not been approved by management. Establishing well-developed, documented, and approved policies and procedures could help the Commission (1) process financial transactions consistently, (2) train new staff, (3) train existing staff to serve as backup when needed, and (4) promote more effective continuity of operations during periods of high employee turnover.

Recommendation

The Commission should develop and approve written policies and procedures for its financial processes related to revenue collection, payroll, expenditure processing, and CAPPs information security.

Management's Response

The TEC agrees with this recommendation and has taken corrective action. The TEC had policies in place that were, in almost all cases, developed by the agency's director of finance and administration. But in order to help the TEC train new staff and promote more effective continuity of operations, all policies related to financial processes have been reduced to writing and approved by the executive director.

Person Responsible: Director of Finance and Administration

Implementation Date: June 30, 2023



Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Texas Ethics Commission (Commission) has processes and related controls to help ensure that financial transactions are administered in accordance with applicable requirements.

Scope

The scope of this audit included financial transactions related to vendor payments, payroll expenditures, and revenue from September 1, 2021, through December 31, 2022. For prepaid vendor payments related to the Electronic Filing Software system contract, the scope included transactions from September 2017 through February 2023.

The scope also included a review of significant internal control components related to the Commission's financial processes.

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



- Amadou Ngaide, MBA, CIDA, CFE, CICA (Project Manager)
- Ro Amonett, MPA, CFE (Assistant Project Manager)
- Venus Santos
- Sarah Ogunmayin, CC
- Tyler Miller, MPSA, CFE
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Jeannette Quiñonez Garcia, CPA (Audit Manager)

Methodology

We conducted this performance audit from January 2023 through July 2023 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.

Addressing the Audit Objective

During the audit, we performed the following:

- Interviewed Commission management and staff to gain an understanding of the Commission’s financial processes related to vendor payments, payroll expenditures, revenue, and access to information technology systems.
- Identified the relevant criteria:
 - The Commission’s policies and procedures effective during the audit scope.
 - The Commission’s contracts effective during the audit scope.
 - Texas Government Code, Sections 571 and 322.
 - Office of the Comptroller of Public Accounts’:
 - Fiscal policies and procedures.
 - *Reporting Requirements for the Annual Financial Reports of State Agencies and Universities.*
 - *State of Texas Procurement and Contract Management Guide.*
- Determined whether the Commission’s financial processes and related controls were properly designed and operating effectively to help ensure that financial transactions are administered in accordance with applicable requirements by:
 - Testing user access to the Centralized Accounting and Payroll/Personnel System (CAPPS) and Uniform Statewide Accounting System (USAS) to assess whether the Commission appropriately restricted access.
 - Reviewing the Commission’s policies and procedures.

- Testing the processing of revenues, vendor payments, and payroll transactions to determine if those transactions were accurately supported, approved, and processed in accordance with applicable requirements.
- Reviewing the information contained in the Commission’s Annual Financial Report for fiscal year 2022 to determine whether it included certain Commission assets and expenditures identified by the auditors.

Figure 3 indicates whether samples tested were representative. If a sample was representative, it would be appropriate to project those test results to the population, but the accuracy of the projection could not be measured. If a sample was not representative, it would not be appropriate to project those test results to the population.

Figure 3

***Total Populations and Samples Selected
for Testing of Revenues and Payroll Transactions***

Description	Population	Sample Size	Sampling Methodology	Representative Determination
Revenues directly collected by the Commission	520	60	Random	Representative
Regular monthly payroll transactions	401	25	Random	Representative
Approvals of monthly payroll	16	4	Directed	Not Representative

Source: CAPPs.

Data Reliability and Completeness

To determine data reliability and completeness, auditors (1) observed the Commission staff’s extraction of requested data populations, (2) reviewed the data queries and report parameters, (3) analyzed the populations for reasonableness and completeness, (4) reconciled the extracted data against USAS and other statewide personnel records, (5) conducted testing of user access controls for CAPPs, and (6) tested vendor payments, payroll, and revenues against supporting documentation.

Auditors determined that the following data sets were sufficiently reliable for the purposes of the audit:

- Population of revenue and expenditure data from CAPPs.
- Population of revenue data from Texas.gov.

- Population of payroll transactions from CAPPs.

Report Ratings

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.



Copies of this report have been distributed to the following:

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The Honorable Dan Patrick, Lieutenant Governor, Joint Chair

The Honorable Dade Phelan, Speaker of the House, Joint Chair

The Honorable Joan Huffman, Senate Finance Committee

The Honorable Robert Nichols, Member, Texas Senate

The Honorable Greg Bonnen, House Appropriations Committee

The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Texas Ethics Commission

Members of the Texas Ethics Commission

Mr. J.R. Johnson, Executive Director



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