



# A Legislative Summary Document Regarding Texas Commission on Environmental Quality (formerly the Natural Resource Conservation Commission)

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## State Auditor's Observations

We noted various differences in the manner in which the Texas Commission on Environmental Quality (Commission) developed and presented revenue and expenditure estimates in the Legislative Appropriations Request (LAR) it prepared for the 2004-2005 biennium. The cumulative total of the dollars represented by these differences is \$24.8 million. These types of issues were also noted in the previous Legislative Summary Document published in March 2001 (Report No. 01-445).

The Commission's 2004-2005 LAR contains seven new revenue sources from fees. The fees will provide funding for the following programs: Clean Air, Waste Management, Environmental Testing Lab, and the Texas Emission Reduction Plan.

The Commission held \$1.3 million in a suspense account for more than five years. Suspense accounts are typically used to temporarily record transactions when the proper accounting treatment is not immediately apparent. Until an agency determines how to account for funds in a suspense account, those funds cannot be spent. Shortly after we brought this amount to the Commission's attention, the Commission determined that the funds should have been transferred to Fund 550 (Superfund), which is still available for the Commission to use.

Management must continue to focus its efforts in managing its high-risk technology-related project. The Quality Assurance Team (QAT) has noted inconsistencies in some project management and reporting. For six ongoing projects the QAT monitored in fiscal year 2002, the Commission reported project cost increases totaling more than \$18 million and average product delivery delays of \$28.2 months. According to the Commission, some of these delays and cost increases resulted from new system requirements by either the Environmental Protection Agency or the Legislature.

Prepared for the 78th Legislature  
by the State Auditor's Office

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SAO No. 03-360

*This is not an audit report and, with the exception of any audit report summaries, the material in this document has not been subjected to all of the tests and confirmations performed in an audit.*

# Texas Commission on Environmental Quality (formerly the Natural Resource Conservation Commission)

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## Financial Profile

### Revenue Projections

The Texas Commission on Environmental Quality (Commission) used the Comptroller of Public Accounts' (Comptroller) projections to estimate revenues for the Texas Emissions Reduction Plan Fund (Fund). The Comptroller's projection for fiscal year 2002 was \$18.9 million. In August 2002, the Commission received information from the Comptroller that collections could be as much as \$6.7 million less than the Comptroller's original estimate. However, the Commission did not change its Legislative Appropriations Request (LAR) to reflect the decreased revenue. According to the Commission, it did not want to adjust the Fund revenue until the Commission received official notification from the Comptroller. Therefore, the funding request for 2004–2005 is higher than actual revenue collected in the Fund. (Actual collections for the Fund for fiscal year 2002 totaled \$14 million.)

We also noted that the Commission's draft LAR did not include \$1.2 million in third-party reimbursements and overstated interest by \$444,000 for one fund. The Commission corrected these figures in the LAR submitted to the Governor's Office and Legislative Budget Board. These two corrections should have resulted in a \$756,000 increase in revenue. However, in the revised LAR, the Commission also reduced the fund's beginning balance by \$756,000 so that the net effect on total available revenue was zero.

### Expenditure Estimates

The LAR that the Commission prepared in August 2002 does not include the most current expenditure information for fiscal year 2001. The Commission used the 2001 expenditure information from the operating budget it submitted to the Governor's Office and Legislative Budget Board. However, the amounts in the operating budget are based on expenditures and encumbrances as of August 31, 2001. Any transactions affecting fiscal year 2001 information that occurred after August 31, 2001, would not be included in this amount. As of May 31, 2002, actual fiscal year 2001 expenditure amounts from USAS and provided by the Commission were \$19 million less than the amount used in the LAR.

Transfers at the Commission for fiscal years 2001 and 2002 appear to be properly recorded and supported.

### Reconciliations to USAS and ABEST

The Commission uses USAS as its accounting system and performs reasonable reconciliations of USAS to the Automated Budget and Evaluation System of Texas (ABEST). However, the Commission has not reconciled three inactive suspense accounts since 1996. (A suspense account is typically used to record monies for which the proper accounting method has not been determined.) We found \$1.3 million in one of the Commission's accounts that had been in suspense for more than five years and should have been transferred to the Hazardous and Solid Waste Remediation Fees fund (Superfund). The estimated revenue collection schedule in the LAR for the fund should show an additional \$1.3 million.

Since the completion of our fieldwork, the Commission transferred the \$1.3 million from the suspense account to the Superfund.

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## Expenditures by Category

The table below shows the Commission's expenditures by Comptroller of Public Accounts category as reported by the Commission in USAS for appropriation years 2000, 2001, and 2002. This data has not been audited. It is provided for informational purposes to show how the Commission has spent its funds. We obtained explanations from the Commission for fluctuations across years that appeared unusual.

Expenditures by Comptroller USAS Category Groups			
Comptroller USAS Category Group	Appropriation Year 2000	Appropriation Year 2001	Appropriation Year 2002
Salaries and Wages <sup>a</sup>	\$ 117,308,191	\$ 118,896,182	\$ 130,825,031
Other Expenditures (Note A)	77,188,547	67,914,044	50,027,506
Claims and Judgments (Note B)	35,995,185	149,464	69,081
Professional Services and Fees (Note A)	31,203,258	55,400,606	39,492,108
Intergovernmental Payments (Note A)	29,395,007	30,813,920	19,335,372
Employee Benefits	24,253,647	25,039,687	29,890,354
Interfund Transfers/Other (Note C)	20,262,436	19,692,969	17,806,819
Rentals and Leases	8,037,053	7,976,355	8,404,467
Capital Outlay (Note D)	6,899,335	11,708,357	3,918,889
Repairs and Maintenance	3,571,035	5,086,457	5,506,102
Supplies and Materials	3,450,483	3,560,548	3,971,060
Travel	2,742,519	2,885,527	2,758,452
Communications and Utilities	2,720,155	3,274,925	2,825,310
Printing and Reproduction	952,049	2,026,605	1,406,255
Public Assistance Payments (Note E)	738,480	92,536	3,550,804
Interest/Prompt Payment Penalties	75,779	101,402	22,456
<b>Total Expenditures</b>	<b>\$ 364,793,159</b>	<b>\$ 354,619,584</b>	<b>\$ 319,810,066</b>
<sup>a</sup> The amounts shown here for Salaries and Wages will not agree with the Salary Expenditures in the Workforce Summary Document prepared by the State Classification Office (SCO) because the USAS Salaries and Wages category does not include certain object codes that SCO considers employee compensation. These include performance awards and employee recognition awards. Source: USAS - All funds including appropriated, unappropriated, and non-appropriated as of November 30, 2002.			

Note A – The appropriation year 2002 amounts are for payments through November 30, 2002. However, the Commission has numerous encumbrances still outstanding against appropriation year 2002 funds. As these encumbrances are liquidated, this amount will continue to increase. Most of the encumbrances relate to payments being processed for the petroleum storage tank and Superfund cleanup programs.

Note B – The appropriation year 2000 expenditures for claims and judgments relate to the final Tejas settlement payment. Expenditures in this category are generally one-time expenditures and are not comparable across years.

Note C - Interfund transfers may include transactions and adjustments made by the Comptroller of Public Accounts, as well as transfers between funds within the agency and transfers out to other state agencies.

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Note D – The increase in 2001 is due to additional computer equipment purchased that year. The decrease in 2002 exists because not all of the 2002 adjustments were reflected in USAS as of November 30, 2002.

Note E – The increase in 2002 is due to the implementation of the Texas Emissions Reduction Plan (TERP), authorized by Senate Bill 5, 77th Legislature, Regular Session, and the Low-Income Vehicle Repair Assistance Program (LIRAP), authorized by House Bill 2134.

## Key Findings from Previous Audits and Reviews

January 1, 2001–December 31, 2002

### *A Review of Implementation of Sunset Advisory Commission Management Actions at 13 State Agencies*

(Report No. 02-067, August 2002)

The Natural Resource Conservation Commission (Commission) did not implement 1 of 10 management actions. Of the nine remaining management actions, the Commission partially implemented eight and fully implemented one.

The Commission did not implement the management action to consolidate the Commission’s air fee auditors with its compliance and evaluation auditors. The Sunset Advisory Commission recommended this management action to prevent the potential appearance of a conflict of interest resulting from the Commission’s current practice of placing air fee auditors within the program that administers air fees. The Commission asserts that it cannot combine air fee auditors with compliance and evaluation auditors because the two groups have separate and distinct functions.

### *An Audit Report on the Petroleum Storage Tank Program at the Natural Resource Conservation Commission*

(Report No. 01-020, February 2001)

Although state law requires the State to reimburse for costs associated with the cleanup of leaking petroleum storage tanks reported to the Natural Resource Conservation Commission (Commission) prior to December 23, 1998, the Commission does not have adequate resources to pay for all remaining eligible claims. As of February 2001, the Commission needed an estimated \$189 million in additional funds to pay for reported claims.

The Commission should take steps to improve its Petroleum Storage Tank Remediation (PSTR) Fund expenditure projection process. Historical payment rates indicate that the Commission encumbers more than is eventually paid for such claims.

Site inspection and monitoring are the Commission’s strongest safeguards against fraud, but they appear to be a low priority because program resources are needed elsewhere.

The Commission must improve its financial assurance compliance and enforcement efforts to ensure that the State will not be liable for future tank cleanup costs. The Commission should work with the regulated community to ensure that tank owners are able to find suitable insurance to meet Commission requirements.

<b>Status of Audit Recommendations as of November 30, 2002 (unaudited)</b>	
The Commission has reported the following:	
Implemented	13
Partially implemented	1
Does not plan to take corrective action	3
Has other explanatory information	2
<b>Total recommendations</b>	<b>19</b>

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## Performance Management

### ***Performance Indicators Used by Management***

The Texas Commission on Environmental Quality (Commission) uses Legislative Budget Board (LBB) performance measures to monitor how well it is achieving its mission, goals, and objectives. The Commission's Strategic Planning and Appropriations section coordinates all performance measure reporting activity.

The Commission reports its performance measures both quarterly and annually to the LBB and to its executive management and commissioners.

### ***Estimating Performance Targets***

The Commission's methods of estimating performance targets appear to be reasonable. The Commission uses actual previous performance measure results, as well as program estimations of future performance, to project performance measure targets.

The various Commission programs have control of and responsibility for achieving their performance measure targets and are required to justify variations from the targets noted in the General Appropriations Act and the Legislative Appropriations Request (LAR). The various Commission programs collect all the necessary reporting information and submit it to Strategic Planning and Appropriations, which compiles the information and distributes it to Commission management, the LBB, and the Governor's Office.

The definitions for the performance measures in the Commission's LAR suggest that most of the measures represent activities of the Commission. However, some of the measures, such as the Percent of Texans Living Where the Air Meets Federal Air Quality Standards measure, are affected by circumstances outside the control of the Commission.

### ***Most Recent Performance Measure Certification***

***Fiscal Year 1998–Fiscal Year 2003***

The results of *An Audit Report on Performance Measures at 36 State Entities–Phase 12* (Report No. 98-040, May 1998) for this entity are summarized below.

Period	Goal/Strategy		Measure	Certification Results
1997	B.1	Water Quality Management	Percent of Texans provided with water that meets 1994 Public Drinking Water Standards	Certified
1997	B.1.1	Water Pollution Control	Number of water body assessments	Certified
1997	B.1.1	Water Pollution Control	Number of groundwater assessments conducted	Certified
<b>Total Measures Certified Without Qualification<sup>a</sup></b>				<b>3/3 (100%)</b>
<b>Data Reliability Percentage (Certified and Certified with Qualification)</b>				<b>3/3 (100%)</b>
<sup>a</sup> The percentage of unqualified certifications is presented because it is used in determining an entity's eligibility for performance rewards as established in the General Appropriations Act [77th Legislature, Article IX, Sec. 6.31(d)(2)].				

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Category	Definition
Certified	Reported performance is accurate within +/-5 percent, and controls appear adequate to ensure accurate collection and reporting of performance data.
Certified with Qualification	Reported performance is within +/-5 percent, but the controls over data collection and reporting are not adequate to ensure the continued accuracy of performance data.
Factors Prevented Certification	Actual performance cannot be determined because of inadequate controls and insufficient documentation.
Inaccurate	Reported performance is not within +/-5 percent of actual performance, or there is an error rate of at least 5 percent in the supporting documentation.
Not Applicable	A justifiable reason exists for not reporting performance.

## Quality Assurance Team Reviews

Conducted by the Legislative Budget Board and State Auditor's Office

### Completed Projects

### Quality Assurance Team Annual Report – January 2003

The Texas Commission on Environmental Quality (Commission) completed the Document and Work Management project at a cost of \$1,077,924 on December 31, 2000. The initial budget was \$1,376,930, and the initial completion date was August 31, 2002. *Note: The Commission reported the project canceled in fiscal year 2001 but then revised the status in fiscal year 2002 by reporting the project complete with the implementation limited to the original pilot and further implementation discontinued. (This information supplements the QAT Annual Report.)*

The Commission completed the Drinking Water Source Contamination Development project at a total cost of \$3,069,898 on August 31, 2002. The initial budget was \$3,230,000, and the initial completion date was August 31, 2000.

The Commission completed the Office of Waste Management—Office of Water Resources Management (OWM—OWRM) Database Consolidation project at a cost of \$4,754,321 on August 31, 2002. The initial budget was \$1,591,000, and the initial completion date was December 31, 1999.

The Commission completed the Title V (Federal Clean Air Act Information Management System) project at a cost of \$7,011,066 on August 31, 2001. The initial budget was \$6,857,971, and the initial completion date was August 31, 1998.

The Commission completed the Water Utilities Integrated Database project at a cost of \$5,456,510 on August 31, 2001. The initial budget was \$3,310,600, and the initial completion date was August 31, 1999.

### Canceled Projects

### Quality Assurance Team Annual Report – January 2003

The Commission canceled the New Source Review (NSR)/Title V Integration project at a total cost of \$242,142.

### Canceled Projects

### Quality Assurance Team Annual Report – January 2002

The Commission canceled the Documents and Work Management project at a total cost of \$747,760. *Note: The Commission reported the project canceled in fiscal year 2001 but then revised the status in fiscal year 2002 by reporting the project complete with the implementation limited to the original pilot and further implementation discontinued. (This information supplements the QAT Annual Report.)*

The Commission canceled the Integrated Financial System project at a total cost of \$1,153,038.

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## Ongoing Projects

## Quality Assurance Team Annual Report – January 2003

Central Registry — In October 1999, the Commission began to establish common identifiers for management of facility/site information across programs and environmental media. The objective is to build an information system in which the Commission's core data is placed in one location where it can be centrally administered and its quality can be assured. Current expenditures are \$4,840,722. *Note: The initial end date was to deliver a feasibility study, not a completed system. (This information supplements the QAT Annual Report.)*

Consolidated Compliance Enforcement Database System (CCED) — The Commission started this project in October 1998 to consolidate more than 30 databases into one integrated system. Costs have increased because of increased staff time. Current expenditures are \$5,606,420 (per the July/August 2002 Monitoring Report).

Financial Administration System (FAS) — The Commission's project to upgrade and redevelop its financial systems began in September 2001. The project is 46 percent complete. Current expenditures are \$435,212. *Note: Increases in scope and budget are due to adding functionality in fiscal year 2004 and fiscal year 2005. This functionality will be reported in a separate proposed fiscal year 2004–2005 project. The current budget and end date for the FAS project will revert to the initial budget and initial end date if the changes are approved. (This information supplements the QAT Annual Report.)*

State Implementation Plan Data Management (SIPDM) — In February 2001, the Commission began developing a central database to receive and store area and mobile source emissions inventory data. Delays have occurred because the vendor's performance did not meet specifications. Time line and cost increases also reflect new reporting requirements and expanded geographic area coverage for multiple pollutants from the Environmental Protection Agency's Consolidated Emissions Reporting Rule and a federal court decision regarding new Ambient Air Quality Standards. Current expenditures are \$548,729.

State of Texas Air Reporting System (STARS) — The Commission's database development for a large subset of its existing point source database began in January 1997. Cost and time line increases reflect additional contractor services. Current expenditures are \$2,013,079 (per the July/August 2002 Monitoring Report). *Note: The Environmental Protection Agency added a new requirement for Emission Inventory Data to be electronically submitted, increasing the cost and time line for the project. (This information supplements the QAT Annual Report.)*

Water Availability Model (WAM) — In April 1997, the Commission began this project to develop Texas river basin models to determine water availability for issuing permits. Cost and time line increases reflect more accurate cost information and the addition of the Rio Grande Basin for modeling. Current expenditures are \$11,972,178.

Project	Function	Initial Budget	Current Budget	Budget Change	Initial End Date	Current End Date	Time Change
Central Registry	Centralize core data	\$5,267,300	\$8,052,300	\$2,785,000	08/31/01	08/31/03	24 months
CCED	Consolidate databases	\$5,085,000 <sup>a</sup>	\$6,504,170	\$1,419,170	8/31/02 <sup>a</sup>	08/31/03	12 months
FAS	Upgrade financial systems	\$1,418,500	\$3,103,000	\$1,684,500 <sup>b</sup>	08/31/03	08/31/05	24 months <sup>b</sup>
SIPDM	Develop emissions database	\$1,417,705	\$3,627,454	\$2,209,749	08/31/03	08/31/07	48 months
STARS	Develop database subset	\$1,517,000	\$2,610,050	\$1,093,050	08/31/01	08/31/03	24 months
WAM	Develop river basin models	\$6,040,000	\$16,786,677	\$10,746,677	08/31/01	05/29/04	33 months

<sup>a</sup> Updated subsequent to release of the QAT Annual Report.

<sup>b</sup> The Budget Change and Time Change will be zero if the proposed fiscal year 2004 - 2005 project is approved. See FAS project description above.

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## Disaster Preparedness

We gathered information from the Texas Commission on Environmental Quality (Commission) on plans in place to provide continued operations and services in the event of a disaster. Standard audit criteria for disaster preparedness have not been established; therefore, we are not evaluating the Commission's plans. Our objective was only to provide the information reported by the Commission.

The Commission is in the process of developing a business continuity plan. It has completed information technology and physical security risk assessments, and it has contracted with an outside vendor to perform an agency-wide risk assessment that will identify risks at the central campus and at the regional offices. The Commission plans to have the plan written, but not tested, by August 31, 2003.

The Commission has an agreement with the West Texas Disaster Recovery and Operations Center to restore four information technology applications, including accounts payable and receivable, in the event of a disaster.

## Information System Vulnerability Assessments

The State Auditor's Office (SAO) and/or the Department of Information Resources performed one or more information system vulnerability assessments at the Texas Commission on Environmental Quality between January 2000 and November 2002. Detailed results of this work are confidential under Texas Government Code, Section 2054.077(c). The SAO's Legislative Summary Document titled "Information System Vulnerability Assessments" provides general information about the results of information system vulnerability assessments.

## Travel Expenditures

Travel Expenditures by Appropriation Year (unaudited)			
	2000	2001	2002
In-State Travel	\$ 2,191,743	\$ 2,263,019	\$ 2,409,813
Out-of-State Travel	560,609	622,303	345,144
Foreign Travel	0	0	0
Other Travel Costs	(9,833)	205	3,496
<b>Total Travel Expenditures</b>	<b>\$ 2,742,519</b>	<b>\$ 2,885,527</b>	<b>\$ 2,758,452</b>
Limit on Travel Expenditures (Cap)	3,283,174	3,283,174	560,609 <sup>a</sup>
<b>Expenditures in Excess of Cap</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>

<sup>a</sup> Caps apply to total travel in appropriation years 2000 and 2001, but caps apply only to out-of-state travel and foreign travel in appropriation year 2002. Caps, calculated by the Comptroller of Public Accounts, have been adjusted for any increases requested by the Commission and approved by the Legislative Budget Board in accordance with the General Appropriations Act.

Source: Uniform Statewide Accounting System (USAS) as of November 30, 2002. Amounts are subject to change as agencies continue to record additional expenditures or adjustments.