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An Audit Report on

**Selected State Entities'
Compliance with Requirements
Related to the Historically
Underutilized Business Program
and the State Use Program**

March 2013
Report No. 13-026



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Overall Conclusion

For fiscal year 2011, two of the four entities audited fully or substantially complied, overall, with the State's Historically Underutilized Business (HUB) program requirements tested in the areas of planning, outreach, subcontracting, reporting, and goal attainment. Specifically:

- The University of Texas System fully complied, overall, with HUB program requirements.
- The Texas Department of Criminal Justice (TDCJ) substantially complied, overall, with HUB program requirements. TDCJ fully complied with all HUB program requirements tested in the areas of planning, outreach, subcontracting, and reporting. However, it minimally attained its annual HUB utilization goals.
- The Department of Motor Vehicles (DMV) and the Department of Information Resources (DIR) minimally complied, overall, with HUB program requirements.

In addition, two of the four entities audited substantially complied, overall, with the requirements tested for the Purchasing from People with Disabilities (State Use) program for fiscal year 2011. Specifically:

- TDCJ and DIR substantially complied, overall, with State Use program requirements.
- DMV and the University of Texas System did not comply, overall, with State Use program requirements.

Auditors also followed up on previous recommendations related to the State Use program issued in *An Audit Report on Selected State Entities' Compliance with*

What is the HUB Program?

The HUB program encourages state entities to make state contracting opportunities available to businesses owned by women and minorities. The program was created by Texas Government Code, Chapter 2161, and the rules are defined in Title 34, Texas Administrative Code, Chapter 20.

For fiscal year 2011, the Comptroller of Public Accounts (Comptroller) reported that, of the \$14.1 billion the State spent in procurement categories that were eligible for HUB participation, the State paid approximately \$2.0 billion to HUBs.

What is the State Use Program?

The State Use program is governed by the Texas Council on Purchasing from People with Disabilities (Council), which receives administrative assistance from the Office of the Comptroller of Public Accounts. The Council encourages employment opportunities for Texans with disabilities through the State Use Program. Under this program, state agencies and other political subdivisions give purchasing preference to goods and services offered by businesses that employ persons with disabilities. The program was created by Texas Human Resources Code, Chapter 122, and the rules are defined in Title 40, Texas Administrative Code, Chapter 189.

Requirements Related to the Historically Underutilized Business Program and the State Use Program (State Auditor's Office Report No. 11-027, March 2011). Of the four recommendations tested, the Office of the Comptroller of Public Accounts (Comptroller) fully implemented two recommendations and the implementation of the remaining two recommendations was ongoing.

Table 1 shows the audited entities' overall levels of compliance with the HUB program requirements tested.

Table 1

Entities' Overall Compliance with HUB Program Requirements Tested			
Level of Compliance		Percentage of Requirements with Which the Entities Complied	Entities
Level of Good-faith Effort	Fully Compliant	91 to 100 percent	<ul style="list-style-type: none"> ▪ The University of Texas System
	Substantially Compliant	61 to 90 percent	<ul style="list-style-type: none"> ▪ Texas Department of Criminal Justice
	Minimally Compliant	31 to 60 percent	<ul style="list-style-type: none"> ▪ Department of Motor Vehicles ▪ Department of Information Resources
	Non-compliant	0 to 30 percent	<ul style="list-style-type: none"> ▪ None

Table 2 shows the audited entities' levels of compliance with the specific HUB program requirements tested.

Table 2

Entities' Compliance with HUB Program Requirements Tested				
HUB Program Requirement	The University of Texas System	Texas Department of Criminal Justice	Department of Motor Vehicles	Department of Information Resources
Planning				
The entity established its own annual HUB utilization goals.	Substantially Compliant	Fully Compliant	Non-compliant	Non-compliant
The entity established specific HUB utilization goals based on a methodology to include projected fiscal year expenditures, availability of HUBs, and estimated expected contract awards by the 60 th day of the fiscal year.	Fully Compliant	Fully Compliant	Non-compliant	Non-compliant
The entity complied with <i>Legislative Appropriations Request</i> requirements.	Substantially Compliant	Fully Compliant	Fully Compliant	Substantially Compliant
The entity adopted HUB rules.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity complied with strategic plan requirements.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant

Entities' Compliance with HUB Program Requirements Tested				
HUB Program Requirement	The University of Texas System	Texas Department of Criminal Justice	Department of Motor Vehicles	Department of Information Resources
Outreach				
The entity complied with mentor-protégé program requirements.	Substantially Compliant	Fully Compliant	Substantially Compliant	Fully Compliant
The entity ensured that the level of the HUB coordinator's position was equal to that of the procurement director.	Fully Compliant	Fully Compliant	Fully Compliant	Non-compliant
The entity ensured that the HUB coordinator communicated with the entity's executive director and was identified in a role that reports to the executive director.	Minimally Compliant	Fully Compliant	Non-compliant	Minimally Compliant
The entity ensured that the HUB coordinator was involved in the development of procurement specifications, HUB subcontracting plans, and the evaluation of contracts.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity ensured that the HUB coordinator's responsibilities included facilitating compliance, reporting, administering contracts, marketing, and conducting outreach.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity participated in a HUB forum.	Fully Compliant	Fully Compliant	Non-compliant	Minimally Compliant
The entity held in-house marketing presentations by HUB vendors.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
Subcontracting Requirements				
The entity's solicitation documents included a statement of subcontracting opportunities.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity used resources such as the Certified Master Bidders List, HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.	Minimally Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity's process helped to ensure that potential contractors or subcontractors were certified HUB vendors.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity's process helped to ensure that contractors showed evidence of a good-faith effort in the development of HUB subcontracting plans.	Substantially Compliant	Fully Compliant	Minimally Compliant	Substantially Compliant
Reporting				
The entity reported timely and accurate HUB expenditure and other supplemental information.	Substantially Compliant	Fully Compliant	Non-compliant	Fully Compliant
The entity complied with monthly internal HUB usage reporting requirements.	Substantially Compliant	Fully Compliant	Non-compliant	Minimally Compliant
The entity complied with progress assessment reporting requirements.	Fully Compliant	Fully Compliant	Fully Compliant	Minimally Compliant
The entity complied with group purchasing reporting requirements.	Substantially Compliant	Not Applicable	Not Applicable	Not Applicable

Entities' Compliance with HUB Program Requirements Tested				
HUB Program Requirement	The University of Texas System	Texas Department of Criminal Justice	Department of Motor Vehicles	Department of Information Resources
Goal Attainment ^a				
The entity attained its heavy construction contract utilization goal.	Not Applicable	Substantially Compliant	Not Applicable	Not Applicable
The entity attained its building construction contract utilization goal.	Fully Compliant	Fully Compliant	Not Applicable	Not Applicable
The entity attained its special trade construction contract utilization goal.	Fully Compliant	Minimally Compliant	Not Applicable	Not Applicable
The entity attained its professional services contract utilization goal.	Fully Compliant	Non-compliant	Non-compliant	Non-compliant
The entity attained its other services contract utilization goal.	Fully Compliant	Non-compliant	Minimally Compliant	Minimally Compliant
The entity attained its commodities contract utilization goal.	Fully Compliant	Substantially Compliant	Fully Compliant	Fully Compliant
Overall Compliance Rate ^b	92%	88%	59%	59%
^a See Appendix 6 for additional information about the procurement categories. ^b The overall compliance rate is the percentage of the applicable requirements tested with which the entity fully or substantially complied.				

Table 3 shows the audited entities' overall levels of compliance with State Use program requirements tested.

Table 3

Entities' Overall Compliance with State Use Program Requirements Tested		
Level of Compliance	Percentage of Requirements with which the Entities Complied	Entities
Fully Compliant	91 to 100 percent	<ul style="list-style-type: none"> ▪ None
Substantially Compliant	61 to 90 percent	<ul style="list-style-type: none"> ▪ Texas Department of Criminal Justice ▪ Department of Information Resources
Minimally Compliant	31 to 60 percent	<ul style="list-style-type: none"> ▪ None
Non-compliant	0 to 30 percent	<ul style="list-style-type: none"> ▪ The University of Texas System ▪ Department of Motor Vehicles

Table 4 shows the audited entities' levels of compliance with the specific State Use program requirements tested.

Table 4

Entities' Compliance with State Use Program Requirements Tested				
State Use Program Requirement	The University of Texas System	Texas Department of Criminal Justice	Department of Motor Vehicles	Department of Information Resources
The entity checked the availability of products and services from Texas Industries for the Blind and Handicapped (TIBH) Industries-related businesses prior to making a purchasing decision.	Non-compliant	Non-compliant	Non-compliant	Non-compliant
The entity designated an employee to ensure program compliance.	Fully Compliant	Fully Compliant	Fully Compliant	Fully Compliant
The entity reported the purchase of products or services that were available from a TIBH Industries-related business but were purchased from a non-TIBH Industries-related business.	Non-compliant	Fully Compliant	Non-compliant	Fully Compliant
The entity reported the reason a product or service was purchased from a non-TIBH Industries-related business if the product or service was also available from a TIBH Industries-related business.	Non-compliant	Fully Compliant	Non-compliant	Not Applicable
Overall Compliance Rate ^a	25%	75%	25%	67%
^a The overall compliance rate is the percentage of the applicable requirements tested with which the entity fully or substantially complied.				

Summary of Management's Response

All four state entities audited agreed with the recommendations related to the HUB program. The University of Texas System, TDCJ, and DIR agreed with the recommendations for the State Use Program. DMV did not agree with the conclusion that the agency had not complied with State Use Program requirements; however, DMV management did agree to implement the recommendations related to the State Use program.

The four entities' management responses to the specific recommendations are presented immediately following each set of recommendations in the Detailed Results section of this report. In addition, DMV submitted an overall summary of its responses, which is presented in Appendix 7.

Summary of Information Technology Review

Auditors examined the general controls and application controls of selected financial and purchasing applications in the financial accounting systems of each entity audited. TDCJ, DMV, and DIR had the necessary controls to ensure that

processed and reported financial transactions were sufficiently valid and reliable for the purposes of this audit. The controls over two of the three information systems that the University of Texas System used to process and report HUB-related expenditures were sufficient to ensure the reliability of the data for the purposes of this audit. However, auditors were unable to determine the reliability of the data in the third information system due to the lack of adequate supporting documentation. To mitigate this, auditors traced selected reported data to supporting documentation, such as payment vouchers and contractor progress reports, when possible.

In addition, auditors conducted follow up procedures on previous recommendations related to the State Use program issued in *An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program* (State Auditor's Office Report No. 11-027, March 2011). Those recommendations were related to the Comptroller's Texas Council on Purchasing from People with Disabilities (TCPPD) Web portal that state entities use to report (1) State Use program purchases and (2) purchases of products and services that were available through the State Use program but were purchased elsewhere. Auditors determined that, of the four recommendations tested, the Comptroller fully implemented two recommendations and the implementation of the remaining two recommendations was ongoing. Auditors also identified access controls over the HUB Reporting database, which is used to process and report the statewide HUB report, that the Comptroller should strengthen.

Summary of Objectives, Scope, and Methodology

The audit objectives were to determine whether selected state agencies or higher education institutions complied with statutory requirements and rules established by the Comptroller to implement HUB program requirements and report complete and accurate data to the Comptroller. In addition, auditors determined whether the selected state agencies and higher education institution complied with requirements related to the State Use program.

The scope of this audit included a review of HUB program activities and State Use program activities at three selected agencies and one higher education institution for fiscal year 2011. Auditors reviewed HUB program activities in five areas: planning, outreach, subcontracting, reporting, and goal attainment. Auditors also examined select reporting processes related to the HUB program and State Use program performed by the Comptroller.

The audit methodology consisted of selecting state entities to audit; testing to determine compliance with the Texas Government Code, the Texas Human Resources Code, and the Texas Administrative Code; and testing samples of supporting documentation.

Auditors communicated other, less significant issues to the entities' management separately in writing.

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Detailed Results

Chapter 1

The University of Texas System

The University of Texas System (System) fully complied, overall, with the Historically Underutilized Business (HUB) program requirements tested for fiscal year 2011. Specifically, the System fully or substantially complied with 23 (92.0 percent) of the 25 applicable HUB program requirements tested (see Table 2 in the Overall Conclusion section of this report for more information).

The System reported that it purchased approximately \$154.1 million in goods and services from HUBs in fiscal year 2011 (see Appendix 2 for more information). Of the five HUB areas tested, the System:

- Fully complied, overall, with the five planning requirements (see Chapter 1-A).
- Substantially complied, overall, with the seven outreach requirements tested (see Chapter 1-B).
- Substantially complied, overall, with the four subcontracting requirements tested (see Chapter 1-C).
- Fully complied, overall, with the four reporting requirements tested (see Chapter 1-D)
- Fully attained, overall, its five HUB utilization goals (see Chapter 1-E).

In addition, the System did not comply, overall, with the Purchasing from People with Disabilities (State Use) program requirements tested for fiscal year 2011. The System paid approximately \$609 to TIBH Industries vendors¹ for goods and services purchased through the State Use program during fiscal year 2011. (See Chapter 1-F and Appendices 4 and 5 for more information regarding the State Use program.)

Chapter 1-A

Planning Requirement

The System fully complied with 3 (60.0 percent) of the 5 planning requirements tested. Specifically, the System:

¹ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

- Established specific HUB utilization goals based on a methodology to include projected expenditures, availability of HUBS, and contracts awards.
- Adopted HUB rules.
- Complied with strategic plan requirements.

The System substantially complied with two requirements. Specifically:

- The System substantially complied with the requirement to establish specific HUB utilization goals. Texas Government Code, Section 2161.183, requires state entities to establish specific HUB utilization goals based on a methodology that includes projected fiscal year expenditures, availability of HUBs, and estimated expected contract awards for goods, services, and building construction projects by the 60th day of each fiscal year. While the System had documentation showing that it performed that analysis for fiscal year 2011, it was unable to demonstrate that it performed that analysis by the 60th day of the fiscal year as required. Without a timely estimation of expected contract awards for each procurement category goal, the System may lack timely information for establishing annual HUB utilization goals that align with its business needs.
- The System substantially complied with *Legislative Appropriations Request* requirements. Texas Government Code, Section 2161.127, requires a state entity to include a statement in its *Legislative Appropriations Request* regarding whether the established HUB utilization goals were met. Although the System did include a statement, that statement did not address whether the System met its own goals. The statement addressed only whether the System met statewide HUB procurement goals.

Recommendations

To comply with the planning requirements in Texas Government Code, Chapter 2161, the System should:

- Retain documentation that it created an estimate of the total value of contract awards that it expects to make for the fiscal year and revise that estimate as new information becomes available no later than the 60th day of each fiscal year.
- Include a statement in its *Legislative Appropriations Request* regarding whether it met its established HUB utilization goals.

Management's Response

The University of Texas System will fully comply with the recommendations beginning March 1, 2013. The Director of the HUB Program, will be responsible for implementation.

Chapter 1-B

Outreach Requirements

For fiscal year 2011, the System fully complied with 5 (71.4 percent) of the 7 outreach requirements tested. Specifically, the System:

- Ensured that the level of the HUB coordinator's position was equal to that of the procurement director.
- Ensured that the HUB coordinator was involved in the development of procurement specifications, HUB subcontracting plans, and the evaluation of contracts.
- Ensured that the HUB coordinator's responsibilities included facilitating compliance, reporting, contract administration, marketing, and outreach.
- Participated in a HUB forum.
- Held in-house marketing presentations sponsored by HUB vendors.

The System substantially complied with one requirement and minimally complied with one requirement. Specifically:

- The System substantially complied with mentor-protégé program requirements. Auditors reviewed two mentor-protégé agreements and identified several weaknesses. Specifically:
 - ♦ For one agreement, the System did not verify that the mentor and protégé met eligibility requirements prior to having both parties sign the agreement. The System did not have documentation to support that the mentor was (1) on the Centralized Master Bidders List (see text box for definition) and (2) in good standing with its franchise tax reports and payments.
 - ♦ For the other agreement, the System did not terminate the agreement when it identified non-compliance with the agreement's provisions in accordance with Title 34, Texas Administrative Code, Section 20.28. The System allowed the agreement to remain active until it expired five months after it had identified non-compliance. If the System does not terminate mentor-protégé agreements when non-compliance is

Centralized Master Bidders List

The Centralized Master Bidders List (CMBL) is a master database used by State of Texas purchasing entities to develop a mailing list for vendors to receive bids based on the products or services they can provide to the State of Texas.

identified, other entities may rely on those agreements to award contracts to vendors.

- The System minimally complied with the requirement to ensure that the HUB coordinator position reports to the System's chancellor. Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26, require the HUB coordinator position to report directly to the System's chancellor. While the System's HUB coordinator did provide HUB information to the chancellor during fiscal year 2011, in the System's organization chart the HUB coordinator reports to the chief budget officer rather than to the System's chancellor. It is important that the System comply with this requirement to help ensure that the HUB coordinator is able to advise and assist the System's management in meeting HUB program requirements.

Recommendations

To fully comply with the outreach requirements in Texas Government Code Chapter 2161, and Title 34, Texas Administrative Code, Chapter 20, the System should:

- Ensure that both mentors and protégés meet all eligibility requirements before a mentor-protégé agreement is signed.
- Actively monitor the mentor-protégé relationship and appropriately report terminated agreements to the Office of the Comptroller of Public Accounts (Comptroller) within required time frames.
- Modify the HUB coordinator position so that it reports, communicates, and provides information directly to the chancellor.

Management's Response

The University of Texas System will fully comply with the mentor-protégé recommendations beginning March 1, 2013. The Director of the HUB Program, will be responsible for implementation.

The Director of the HUB Program will regularly provide reports and information on the HUB program through direct communication with the Chancellor. The Director of the HUB Program, will be responsible for implementation.

Subcontracting Requirements

For fiscal year 2011, the System fully complied with 2 (50.0 percent) of the 4 subcontracting requirements tested. Specifically, the System:

- Ensured that solicitation documents included a statement of subcontracting opportunities.
- Ensured that potential contractors or subcontractors were certified HUB vendors.

The System substantially complied with the requirement to ensure that prime contractors show evidence of a good-faith effort in the development of HUB subcontracting plans. While the System had processes in place to do this, it lacked documentation to show that it monitored and audited contractor compliance with HUB subcontracting plans on a monthly basis in accordance with Title 34, Texas Administrative Code, Section 20.14.

In addition, the System minimally complied with the requirement to use resources such as the Centralized Master Bidders List, HUB Directory, and the Internet to determine whether subcontracting opportunities were probable. Title 34, Texas Administrative Code, Section 20.14, requires state agencies to use such resources to research whether subcontracting opportunities are probable.

Recommendations

To fully comply with the subcontracting requirements in Title 34, Texas Administrative Code, Section 20.14, the System should:

- Obtain and maintain documentation to show that it monitored and audited contractors' compliance with HUB subcontracting plans.
- Ensure that it uses resources such as the Centralized Master Bidders List, HUB Directory, and the Internet to determine whether subcontracting opportunities are probable.

Management's Response

The University of Texas System will obtain and maintain documentation to show that it monitored and audited contractors' compliance with HUB subcontracting plans on a monthly basis beginning FY 2013-2014 with the implementation of new HUB compliance software. UT System policy on HUB subcontracting opportunities will be to require all RFPs, RFQs, and other bid opportunities that require a HUB subcontracting plan to state that

subcontracting opportunities are probable beginning April 1, 2013. If the contract administrator believes that subcontracting opportunities are not probable on a specific contract, the HUB coordinator will research the Centralized Master Bidding List, HUB Directory, and the Internet to determine whether subcontracting opportunities are probable. The Director of the HUB Program, will be responsible for implementation.

Chapter 1-D

Reporting Requirements

For fiscal year 2011, the System fully complied with 1 (25.0 percent) of the 4 reporting requirements tested and substantially complied with the remaining 3 requirements. Specifically, the System:

- Fully complied with progress assessment reporting requirements.
- Substantially complied with the requirement to report timely and accurate HUB expenditure and other supplemental information. However, the System's supporting documentation showed that it underreported the number of competitive and non-competitive contracts awarded and underreported the number of HUB bids it received.
- Substantially complied with the requirement to prepare monthly internal HUB usage reports as required by Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Section 20.16. However, those reports did not include all required information. Specifically, the System's monthly internal HUB usage reports did not include:
 - ♦ Identification of all HUB vendors/subcontractors.
 - ♦ Information on the detailed progress payments made to subcontractors, professionals, consultants, and suppliers.
- Substantially complied with group purchasing requirements. However, its supporting documentation showed that it underreported the group purchasing amounts for three of five group purchasing amounts reported to the Comptroller that auditors tested.

If the System does not report accurate and complete HUB information, there is an increased risk that decision makers will not have reliable information to successfully manage and evaluate the System's HUB program.

Recommendations

To fully comply with the reporting requirements in Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Section 20.16, the System should:

- Ensure that reported expenditures reconcile to supporting documentation.
- Include in its monthly HUB usage reports:
 - ♦ Identification of and other required information regarding all HUB vendors/subcontractors.
 - ♦ Information about the detailed progress payments made to subcontractors, professionals, consultants, and suppliers.

Management's Response

The University of Texas System will fully comply with the recommendations beginning May 2013. The Director of the HUB Program, will be responsible for implementation.

Goal Attainment

Texas Government Code, Section 2161.123 requires the State Auditor's Office to consider, as part of the audit of a state entity's HUB program compliance, the success or failure of a state entity to contract with HUB vendors in accordance with the state entity's annual HUB utilization goals.

Chapter 1-E

Goal Attainment

For fiscal year 2011, the System fully attained its five annual HUB utilization goals (see text box for more information about goal attainment). Table 5 on the next page shows the System's attainment of its fiscal year 2011 HUB utilization goals.

Table 5

The System's Attainment of Fiscal Year 2011 HUB Utilization Goals			
Goal Type	Fiscal Year 2011 HUB Utilization Goal	Fiscal Year 2011 Reported Actual HUB Utilization	Percent of Goal Attained
Heavy Construction Contracts	Not Applicable	Not Applicable	Not Applicable
All Building Construction Contracts	23.7%	25.6%	108.0%
All Special Trade Construction Contracts	18.0%	19.3%	107.2%
Professional Services Contracts	24.4%	22.5%	92.2%
All Other Services Contracts	5.8%	5.7%	97.6%
Commodities Contracts	27.0%	52.4%	194.2%

Chapter 1-F
State Use Program

Based on the System's internal financial system, DEFINE, auditors identified approximately \$609 in payments that the System made to TIBH Industries vendors for fiscal year 2011. Auditors identified those payments by totaling the TIBH vendor commodity codes from DEFINE data. Although the System made some purchases of goods and services through the State Use program during fiscal year 2011, it did not comply, overall, with the State Use program requirements tested. For fiscal year 2011, the System fully complied with 1 (25.0 percent) of the 4 State Use program requirements tested by designating an employee to ensure program compliance. It did not comply with the other three requirements tested. Specifically:

- The System lacked policies and procedures to ensure that staff checked the availability of TIBH Industries² vendor products or services before making a purchasing decision. According to the System, its policy is to give first consideration for the purchase to goods and services provided by persons with disabilities. However, according to the System, it purchased many of its office supplies through contracts already in place because those sources offered a better value than TIBH Industries vendors. Texas Human Resources Code, Section 122.008, requires state entities to purchase TIBH Industries vendor products or services when available.

² TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

Definition of an Exception

An exception is defined as any product or service approved for the State Use program that was purchased from a non-TIBH Industries vendor. This may be because TIBH Industries vendors' products or services do not meet the applicable requirements for:

- Quality.
- Quantity.
- Delivery.
- Life cycle costs.
- Testing and inspection.

Source: Title 40, Texas Administrative Code, Section 189.2.

- The System lacked policies and procedures to ensure that the State Use program coordinator defined, identified, and reported exceptions. The System did not report any exceptions during fiscal year 2011, and it did not have a process to identify and report exceptions (see text box for definition of an exception). Texas Human Resources Code, Section 122.0095, requires each state entity to provide a monthly report of either (1) all exceptions or (2) exceptions identified during a review of a sample of purchases.
- The System lacked policies and procedures to ensure that identified exceptions were classified correctly. The System did not have a process to ensure that identified exceptions were classified correctly when reported as required by Title 40, Texas Administrative Code, Section 189.2.

The lack of documented policies and procedures to define, identify, and report exceptions increases the risk that the System will not report accurate and complete information about its exceptions. Without a reliable process to define, identify, and classify exceptions, System management will not have accurate and complete information necessary to successfully manage and evaluate the System's State Use program.

In addition, although the System designated an employee as the State Use program coordinator, it did not develop a job description that defined that employee's job duties and responsibilities. Without an official job description, the State Use program coordinator may not have the responsibilities necessary to ensure compliance with State Use program requirements.

Recommendations

To fully comply with the State Use program requirements in Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Section 189.2, the System should:

- Develop, document, and implement a process for checking the availability of products or services offered by TIBH Industries vendors prior to making purchasing decisions.
- Develop, document, and implement a process to identify and report exceptions. In lieu of identifying all exceptions on a monthly basis, the System could consider a process based on a monthly review of a sample of purchases.

- Include a methodology for properly identifying and classifying exceptions according to State Use program requirements in its exception reporting process.
- Develop a job description for the State Use program coordinator that defines the position's job duties and responsibilities necessary to ensure compliance with State Use program requirements.

Management's Response

As the new Financial and Human Capital Management Systems (PeopleSoft) are implemented, The University of Texas System will develop, document, and implement a process for checking the availability of products or services offered by TIBH Industries vendors prior to making procurement decisions. The University of Texas System will consider a process to review a sample of purchases each month to identify, report and properly classify exceptions. The University of Texas System will develop a job description for the State Use Program coordinator that defines the position's job duties and responsibilities necessary to ensure compliance with the State Use Program requirements.

Chapter 1-G

Data Reliability

The System uses three information systems that belong to the University of Texas at Austin to process and report HUB-related expenditures to the Comptroller. For those three systems:

- Auditors relied on control work conducted for the *State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2011* (State Auditor's Report No. 12-555, February 2012) to determine that the financial expenditure data in the System's DEFINE system was reliable for purposes of this audit.
- Auditors reviewed access and security controls over the System's HUB Subcontracting Reporting database, which the System uses to track subcontractor payments and expenditures. Based on that testing, auditors determined that the data in the Subcontracting Reporting database was reliable for the purposes of this audit.
- The System lacked adequate supporting documentation for the HUB data maintained in its data warehouse. As a result, auditors were unable to determine whether that data was complete, reliable, and properly secured for the purposes of this audit. To mitigate this, auditors traced selected reported data to supporting documentation, such as payment vouchers and contractor progress reports, when possible.

Recommendation

The System should maintain documentation that helps to verify that data transferred and maintained in the data warehouse is complete and properly secured.

Management's Response

Beginning September 1, 2013 the University of Texas System will use a new information system to process and report HUB-related expenditures to the Comptroller and will no longer use the data warehouse. The Director of the HUB Program, will be responsible for implementation.

The Texas Department of Criminal Justice (TDCJ) substantially complied, overall, with the Historically Underutilized Business (HUB) program requirements tested for fiscal year 2011. Specifically, TDCJ fully or substantially complied with 22 (88.0 percent) of the 25 applicable HUB program requirements tested (see Table 2 in the Overall Conclusion of this report for more information).

TDCJ reported that it purchased approximately \$26.4 million in goods and services from HUBs in fiscal year 2011 (see Appendix 2 for more information). Of the five HUB areas tested, TDCJ:

- Fully complied with all five planning requirements tested (see Chapter 2-A).
- Fully complied with all seven outreach requirements tested (see Chapter 2-B).
- Fully complied with all four subcontracting requirements tested (see Chapter 2-C).
- Fully complied with all three applicable reporting requirements tested (see Chapter 2-D).
- Minimally attained, overall, its six annual HUB utilization goals (see Chapter 2-E).

In addition, TDCJ substantially complied, overall, with the Purchasing from People with Disabilities (State Use) program requirements tested for fiscal year 2011. TDCJ paid approximately \$8.7 million to TIBH Industries vendors for goods and services purchased through the State Use program during fiscal year 2011. (See Chapter 2-F and Appendices 4 and 5 for more information regarding the State Use program.)

Chapter 2-A

Planning Requirement

TDCJ fully complied with all five planning requirements tested. Specifically, TDCJ:

- Established its own annual HUB utilization goals.
- Established specific HUB utilization goals based on a methodology to include projected expenditures, availability of HUBs, and estimated expected contracts awards by the 60th day of the fiscal year.

- Complied with *Legislative Appropriations Request* requirements.
- Adopted HUB rules.
- Complied with strategic plan requirements.

Chapter 2-B

Outreach Requirements

For fiscal year 2011, TDCJ fully complied with all seven outreach requirements tested. Specifically, TDCJ:

- Complied with mentor-protégé program requirements.
- Ensured that the level of the HUB coordinator's position was equal to that of the procurement director.
- Ensured that the HUB coordinator communicated HUB program matters directly to TDCJ's executive director and was identified in a role that reported to TDCJ's executive director.
- Ensured that the HUB coordinator was involved in the development of procurement specifications, HUB subcontracting plans, and the evaluation of contracts.
- Ensured that the HUB coordinator's responsibilities included facilitating compliance, reporting, contract administration, marketing, and outreach.
- Participated in a HUB forum.
- Held in-house marketing presentations sponsored by HUB vendors.

Chapter 2-C

Subcontracting Requirements

For fiscal year 2011, TDCJ fully complied with all four subcontracting requirements tested. Specifically, TDCJ:

- Ensured that solicitation documents included a statement of subcontracting opportunities.
- Used resources such as the Centralized Master Bidders List, HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.

- Ensured that potential contractors or subcontractors were certified HUB vendors.
- Ensured that contractors showed evidence of a good-faith effort in the development of HUB subcontracting plans.

Chapter 2-D

Reporting Requirements

For fiscal year 2011, TDCJ fully complied with all three applicable reporting requirements. Specifically, TDCJ:

- Reported timely and accurate HUB expenditure and other supplemental information.
- Complied with monthly internal HUB usage reporting requirements.
- Complied with progress assessment reporting requirements.

Chapter 2-E

Goal Attainment

TDCJ developed a process to establish its own HUB utilization goals for fiscal year 2011. For its six HUB utilization goals established for fiscal year 2011, TDCJ:

Goal Attainment
 Texas Government Code, Section 2161.123, requires the State Auditor’s Office to consider, as part of the audit of a state entity’s HUB program compliance, the success or failure of a state entity to contract with HUB vendors in accordance with the state entity’s annual HUB utilization goals.

- Fully attained its building construction goal (see text box for more information about goal attainment).
- Substantially attained its heavy construction and commodities contracts goals.
- Minimally attained its special trade construction goal.
- Did not attain its goal for professional services and all other services contracts.

Table 6 shows TDCJ's attainment of its fiscal year 2011 HUB utilization goals.

Table 6

TDCJ's Attainment of Fiscal Year 2011 HUB Utilization Goals			
Goal Type	Fiscal Year 2011 HUB Utilization Goal	Fiscal Year 2011 Reported Actual HUB Utilization	Percent of Goal Attained
Heavy Construction	11.9%	8.8%	73.9%
All Building Construction	26.1%	98.4%	377.0%
All Special Trade Construction	57.2%	24.4%	42.7%
Professional Services Contracts	20.0%	1.2%	6.0%
All Other Services Contracts	33.0%	5.8%	17.6%
Commodities Contracts	12.6%	8.9%	70.6%

Recommendation

TDCJ should consider the factors that affected its ability to meet certain HUB utilization goals and adjust future goals as needed.

Management's Response

Management agrees with the recommendation. The TDCJ will continue efforts to increase actual HUB utilization and will consider the factors that negatively impacted the ability to meet the HUB goals. The TDCJ HUB Director will review these goals and the associated factors by April 1, 2013.

Chapter 2-F
State Use Program

Definition of an Exception

An exception is defined as any product or service approved for the State Use program that was purchased from a non-TIBH Industries vendor. This may be because TIBH Industries vendors' products or services do not meet the applicable requirements for:

- Quality.
- Quantity.
- Delivery.
- Life cycle costs.
- Testing and inspection.

Source: Title 40, Texas Administrative Code, Section 189.2.

Based on Uniform Statewide Accounting System (USAS) data reviewed, auditors identified approximately \$8.7 million in payments that TDCJ made to TIBH Industries vendors for fiscal year 2011. Auditors identified those payments by totaling the TIBH vendor commodity codes from USAS data. TDCJ substantially complied, overall, with the State Use program requirements tested for fiscal year 2011. TDCJ appropriately designated an employee as its State Use program coordinator, reported exceptions (see text box for information about exceptions), and reported the reason a product or service was purchased from a non-TIBH Industries-related business during fiscal year 2011. However, it did not always comply with the State Use program requirements tested.

TDCJ lacked documentation showing that its purchasers checked the availability of TIBH Industries³ vendor products or services before making a purchasing decision.

TDCJ has policies and procedures that require its staff to check the availability of TIBH Industries vendor products and services prior to making purchasing decisions. However, TDCJ's policies and procedures did not require staff to document that process. It is important to note that auditors tested 30 of TDCJ's reported exception items for fiscal year 2011 and determined that none of the products or services was available from TIBH Industries vendors. Texas Human Resources Code, Section 122.008, requires state entities to purchase TIBH Industries vendor products or services when available.

Recommendation

To fully comply with the State Use program requirements in Texas Human Resources Code, Chapter 122, TDCJ should document its process for checking the availability of products or services offered by TIBH Industries vendors prior to making purchasing decisions.

Management's Response

Management agrees with the recommendation. The TDCJ Director of Contracts and Procurement implemented a documentation process for checking the availability of products or services offered by TIBH Industries vendors on March 29, 2011 subsequent to SAO Audit Report 11-027, and agrees to continue documenting this process.

³ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

Data Reliability

Auditors determined that the data in the two main information systems that TDCJ uses to process expenditures and provide information that is compiled into its annual *HUB Report* was reliable for purposes of this audit. Those two systems are the Advance Purchasing and Inventory Control System (ADPICS), the purchasing system, and LoneStar, the general ledger system. TDCJ uses those systems to procure goods and services. Information from those systems is electronically transferred to the Office of the Comptroller of Public Accounts' Uniform Statewide Accounting System (USAS) for processing of State Treasury-related expenditures, including those for HUB-related purchases.

Auditors reviewed TDCJ's access to USAS and determined that TDCJ appropriately limited staff's access to USAS, appropriately protected key data elements, and performed periodic reviews of access to both ADPICS and LoneStar.

Department of Motor Vehicles

Background Information

The Department of Motor Vehicles (DMV) was created by House Bill 3097 (81st Legislature) and became operational on November 1, 2009. DMV was initially created from four divisions at the Department of Transportation. A memorandum of understanding was developed to establish the roles and responsibilities of the two agencies DMV transitioned to independence. During fiscal year 2011, the memorandum of understanding was still in effect and the Department of Transportation performed procurement functions for selected goods and/or services on behalf of DMV. According to the memorandum of understanding, both agencies agreed to comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations.

The Department of Motor Vehicles (DMV) minimally complied, overall, with the Historically Underutilized Business (HUB) program requirements tested for fiscal year 2011. Specifically, DMV fully or substantially complied with 13 (59 percent) of the 22 applicable HUB program requirements tested (see Table 2 in the Overall Conclusion section of this report for more information).

During fiscal year 2011, the Department of Transportation performed selected procurement functions as DMV transitioned into an independent agency (see text box). When applicable, auditors selected transactions that DMV processed to determine compliance with HUB and State Use program requirements. DMV reported that it purchased approximately \$5.1 million in goods and services from HUBs in fiscal year 2011 (see Appendix 2 for more information). Of the five HUB areas tested, DMV:

- Minimally complied, overall, with the five planning requirements tested (see Chapter 3-A).
- Substantially complied, overall, with the seven outreach requirements tested (see Chapter 3-B).
- Substantially complied, overall, with the four subcontracting requirements (see Chapter 3-C).
- Minimally complied, overall, with the three reporting requirements tested (see Chapter 3-D).
- Minimally attained, overall, its three HUB utilization goals (see Chapter 3-E).

In addition, DMV did not comply, overall, with the Purchasing from People with Disabilities (State Use) program requirements tested for fiscal year 2011. DMV paid approximately \$684,000 to TIBH Industries vendor for goods and services purchased through the State Use program during fiscal year 2011. (See Chapter 3-F and Appendices 4 and 5 for more information regarding the State Use program.)

Planning Requirements

For fiscal year 2011, DMV fully complied with 3 (60.0 percent) of the 5 planning requirements tested. Specifically, DMV:

- Complied with *Legislative Appropriations Request* requirements.
- Adopted HUB rules.
- Complied with strategic plan requirements.

However, DMV did not comply with two planning requirements. Specifically:

- While DMV adopted certain statewide HUB utilization goals, for fiscal year 2011, it did not establish agency-specific annual HUB utilization goals. Texas Government Code, Section 2161.123, requires state entities to establish annual HUB utilization goals based on (1) scheduled fiscal year expenditures and (2) the availability of HUB vendors. Without specific goals, DMV cannot determine whether it is providing HUB vendors with reasonable contracting opportunities under each procurement category (see Chapter 3-E for more information about DMV's goal attainment).
- DMV did not estimate its expected contract awards for fiscal year 2011 by the 60th day of the fiscal year. Texas Government Code, Section 2161.183, requires state entities by the 60th day of each fiscal year to estimate the total value of contract awards for goods, services, and building construction projects. Without an estimation of expected contract awards, DMV may lack critical information for establishing annual HUB utilization goals that align with its business needs.

Recommendations

To comply with the planning requirements in Texas Government Code, Chapter 2161, DMV should:

- Establish goals for contracting with HUBs in each procurement category that are based on (1) clearly documented, scheduled fiscal year expenditures and (2) the availability of HUB vendors in each procurement category.
- No later than the 60th day of each fiscal year, create an estimate of the total value of contract awards that it expects to make for that fiscal year and revise that estimate as new information becomes available.

Management's Response

TxDMV adopted certain Statewide HUB utilization goals based on guidance published by the Texas Comptroller of Public Accounts (CPA) dated May 14, 2008. This guidance which was in effect for Fiscal Year 2011 stated, "Agencies are encouraged to adopt the statewide HUB goals published in 34 TAC §20.13 as their own goals for their HUB Business Plans." 34 TAC §20.13, which was amended to be effective September 14, 2011 (Fiscal Year 2012), now reads, "State agencies shall establish their own agency-specific HUB goals for each procurement category outlined in subsection (b) of this section." TxDMV established utilization goals based on guidance from the CPA. Unfortunately, that guidance was not updated to include the requirement that HUB goals be established for each procurement category until FY12, well after the time period chosen for this audit. Despite the TxDMV following the guidance from the CPA, the State Auditor's Office notes this finding.

TxDMV has established goals for contracting with HUBs in each procurement category that are based on documented, scheduled fiscal year expenditures and the availability of HUB vendors in each procurement category. The TxDMV HUB Coordinator will continue to ensure that no later than the 60th day of each fiscal year, TxDMV creates an estimate of the total value of contract awards that it expects to make for that fiscal year and revises these estimates as needed.

Chapter 3-B

Outreach Requirements

For fiscal year 2011, DMV fully complied with 4 (57.1 percent) of the 7 outreach requirements tested. Specifically, DMV:

- Ensured that the level of the HUB coordinator's position was equal to that of the procurement director.
- Ensured that the HUB coordinator was involved in the development of procurement specifications, HUB subcontracting plans, and the evaluation of contracts.
- Ensured that the HUB coordinator's responsibilities included facilitating compliance, reporting, contract administration, marketing, and outreach.
- Held in-house marketing presentations sponsored by HUB vendors.

DMV substantially complied with one requirement to establish a mentor protégé program. However, auditors identified the following weaknesses in that area:

- DMV lacked documentation showing that it had a process to monitor the mentor-protégé relationship.
- DMV did not verify that the mentor and protégé met eligibility requirements prior to having both parties sign the mentor-protégé agreement.
- Auditors determined that one mentor did not meet all eligibility requirements to participate in DMV's mentor-protégé program.

DMV did not comply with two outreach requirements tested. Specifically:

- DMV lacked documentation showing that its HUB coordinator communicated with its executive director as required. Title 34, Texas Administrative Code, Section 20.26, requires the HUB coordinator to report, communicate, and provide information directly to a state entity's executive director. It is important that DMV comply with this requirement to help ensure that its HUB coordinator is able to advise and assist it in meeting HUB program requirements.
- DMV did not comply with HUB forum requirements. While DMV developed a HUB forum program and co-sponsored forums with the Department of Transportation, it lacked documentation showing that the appropriate employees attended relevant HUB presentations sponsored by DMV or the Comptroller. Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27 (b), require state entities to send senior managers and procurement staff to relevant HUB-related presentations sponsored by the state entity or the Comptroller. Additionally, DMV lacked documentation to show that it advertised in at least one trade publication to inform contractors and vendors about presentations relevant to subcontracting opportunities for HUB vendors and small businesses. The purpose of forums is to increase HUBs' understanding of state entities' contracting opportunities and state entities' awareness of available HUBs.

Recommendations

To fully comply with the outreach requirements in Texas Government Code Chapter 2161, and Title 34, Texas Administrative Code, Chapter 20, DMV should:

- Actively monitor mentor-protégé relationships and maintain documentation to support that monitoring.
- Ensure that both mentors and protégés meet all eligibility requirements before a mentor-protégé agreement is signed.
- Ensure that its HUB coordinator communicates information about the HUB program directly to DMV's executive director at least annually either in the form of a meeting or a direct report.
- Ensure that its senior management and procurement personnel attend HUB-related forums.
- Advertise in at least one trade publication to inform contractors and vendors about potential opportunities for doing business with HUB vendors and small businesses.

Management's Response

TxDMV concurs and will continue to actively ensure that eligibility requirements are met before agreements are executed and monitor established and future mentor-protégé relationships. Appropriate documentation will be maintained to support monitoring activities. The TxDMV HUB Coordinator has established quarterly meetings with TxDMV's executive director to communicate HUB Program information. Additionally, TxDMV's HUB Coordinator will ensure that its senior management and procurement personnel attend HUB-related forums and advertise in at least one trade publication to inform contractors and vendors about potential opportunities of doing business with HUB vendors and small businesses.

Chapter 3-C

Subcontracting Requirements

For fiscal year 2011, DMV fully complied with 3 (75.0 percent) of the 4 subcontracting requirements tested. Specifically, DMV:

- Ensured that solicitation documents included a statement of subcontracting opportunities.

- Used resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.
- Ensured that potential contractors or subcontractor were certified HUB vendors.

However, DMV minimally complied with the requirement that prime contractors show evidence of a good-faith effort in the development of HUB subcontracting plans. Specifically, the professional services contract that auditors tested lacked documentation showing that the contractor performed one or more of the following tasks:

- Provided notice to three or more HUBs per each subcontracting opportunity.
- Provided potential HUB subcontractors at least five days to respond to the contractor's notice.
- Used resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.
- Notified minority trade organizations, women's trade organizations, or minority/women's development centers about potential subcontracting opportunities.

Recommendations

To fully comply with the subcontracting requirements in Title 34, Texas Administrative Code, Section 20.14, DMV should obtain and maintain documentation necessary to show that professional services contractors perform the following:

- Provide notice to three or more HUBs per each subcontracting opportunity.
- Allow potential HUB subcontractors at least five working days to respond to a contractor's notice.
- Use resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities are probable.
- Notify HUBs through minority trade organizations, women's trade organizations, or minority/women's development centers about potential subcontracting opportunities.

Management's Response

TxDMV concurs. The TxDMV HUB Coordinator will continue to ensure that solicited responses contain proper documentation to evidence that the respondent provide notice to three or more HUBs per each subcontracting opportunity, allowed potential HUB subcontractors at least five working days to respond to a respondents notice and that potential HUBs were notified of potential subcontracting opportunities through minority trade organizations, women trade organizations, or minority/women development centers. Additionally, the TxDMV HUB Coordinator will ensure that staff uses resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities are probable prior to solicitations being posted to provide for maximum HUB opportunity.

Chapter 3-D

Reporting Requirements

For fiscal year 2011, DMV fully complied with 1 (33.3 percent) of 3 reporting requirements tested. Specifically, DMV fully complied with the progress assessment reporting requirement tested. However, DMV did not comply with requirements to report accurate HUB expenditures and other supplemental information and to prepare monthly internal HUB usage reports. Specifically:

- **Accuracy of reported HUB expenditures.** While DMV submitted its semi-annual and annual HUB reports in a timely manner for fiscal year 2011, it did not report accurate HUB expenditures. DMV reported approximately \$11,000 in HUB credit card and term contract expenditures from 7 different vendors. Auditors tested 1 transaction per vendor and determined that 4 (57.1 percent) of the 7 transactions tested were inaccurate.
- **Supplemental Information.** DMV did not have documentation showing how it calculated the amounts for (1) competitive and non-competitive bids and proposals received and (2) contract awards reported in DMV's annual HUB report.

If DMV does not report accurate and complete information as required by Texas Government Code, Section 2161.122, there is an increased risk that decision makers will not have reliable information to successfully manage and evaluate DMV's HUB program.

As discussed above, DMV did not comply with the requirement to report monthly internal HUB usage because it did not prepare a monthly report showing its use of HUBs. Texas Government Code, Section 2161.122, and

Title 34, Texas Administrative Code, Section 20.16, require state entities to prepare a monthly report that includes the following information related to their use of HUBs:

- The state entity's usage of HUB vendors.
- The state entity's purchases from state term contracts paid with State Treasury funds and non-State Treasury funds.
- Identification of all HUB vendors and subcontractors.
- Progress payments made to subcontractors, professionals, consultants, and suppliers.

Recommendations

To fully comply with Texas Government Code, Section 2161, and Title 34, Texas Administrative Code, Chapter 20, DMV should:

- Accurately report HUB expenditures related to credit card and contract term purchases.
- Include in its monthly HUB usage reports:
 - ♦ Its usage of HUB vendors.
 - ♦ Its purchases from state term contracts paid with State Treasury funds and non-State Treasury funds.
 - ♦ Identification of all HUB vendors and subcontractors.
 - ♦ Progress payments made to subcontractors, professionals, consultants, and suppliers.

Management's Response

TxDMV concurs. During the period reviewed, TxDMV did not possess its own system to capture expenditure data. TxDMV was reliant on the legacy agency to provide HUB expenditure data. TxDMV implemented an in house application (Financial Information Tracking System) September 1, 2011 which accurately captures TxDMV HUB expenditures related to credit card and contract term purchases for use in reporting. TxDMV HUB Coordinator will ensure that HUB reports contain all required information.

Goal Attainment**Goal Attainment**

Texas Government Code, Section 2161.123, requires the State Auditor's Office to consider, as part of the audit of a state entity's HUB program compliance, the success or failure of a state entity to contract with HUB vendors in accordance with the state entity's annual HUB utilization goals.

For fiscal year 2011, DMV minimally attained, overall, its annual HUB utilization goals (see text box for more information about goal attainment). DMV did not develop a process to establish its own HUB utilization goals as statutorily required (see Chapter 3-A). Instead, it adopted certain statewide HUB utilization goals defined by the Comptroller. For its three applicable annual HUB utilization goals, DMV:

- Did not attain its goal for professional services contracts.
- Minimally attained its goal for all other services contracts.
- Fully attained or exceeded its goal for commodities contracts.

Table 7 shows DMV's attainment of its fiscal year 2011 HUB utilization goals.

Table 7

DMV's Attainment of Fiscal Year 2011 HUB Utilization Goals			
Goal Type	Fiscal Year 2011 HUB Utilization Goal	Fiscal Year 2011 Reported Actual HUB Utilization	Percent of Goal Attained
Heavy Construction Contracts	Not Applicable	Not Applicable	Not Applicable
Building Construction Contracts	Not Applicable	Not Applicable	Not Applicable
Special Trade Construction Contracts	Not Applicable	Not Applicable	Not Applicable
Professional Services Contracts	20.0%	0.0%	0.0%
All Other Services Contracts	33.0%	14.1%	42.7%
Commodities Contracts	12.6%	48.7%	386.5%

By adopting certain statewide goals and not establishing HUB utilization goals that were specific to its operations, DMV may have set goals that did not align with its operational needs. This may have contributed to DMV not attaining certain goals.

Recommendation

DMV should identify and consider the factors that affected its ability to meet certain goals when it establishes future HUB utilization goals.

Management's Response

TxDMV concurs. During the period reviewed, TxDMV did not possess historical data to accurately project expenditure data for use in the establishment of HUB utilization goals. TxDMV adopted certain goals based on 34 TAC §20.13 and guidance from the CPA. TxDMV has now established independent historical data to assist in identifying and considering factors that affect its ability to meet certain goals when establishing HUB utilization goals. The TxDMV HUB Coordinator will ensure continued compliance.

Chapter 3-F

State Use Program

Based on Uniform Statewide Accounting System (USAS) data reviewed, auditors identified \$684,117 in payments coded as DMV purchases from TIBH Industries vendors for fiscal year 2011. While DMV made a significant amount of purchases from TIBH, it did not comply, overall, with specific State Use program requirements due to inconsistent documentation and reporting.

DMV fully complied with the requirement that it designate an employee to ensure program compliance; however, it did not comply with three other applicable requirements tested. Specifically:

- DMV did not consistently document that its purchasers checked the availability of TIBH Industries⁴ vendor products or services before making a purchasing decision. Texas Human Resources Code, Section 122.008, requires state entities to purchase TIBH Industries vendor products or services when available. In addition, DMV's *Internal Purchasing Procedures and Policy*, requires that purchasers "obtain a business justification from the customer and a waiver from TIBH, which must be documented in the [purchase order] file, prior to purchasing the product or service from another source." Auditors tested a sample of 30 non-TIBH expenditures⁵ to verify whether purchasers checked the availability of TIBH Industries vendor products or services before making a purchasing decision in accordance with the Human Resources Code and DMV's internal policy. However, DMV did not have documentation showing that its purchasers checked the availability of TIBH Industries vendor products or services for 28 (93.3 percent) of the 30 non-TIBH Industries vendor purchases that auditors tested.

⁴ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

⁵ Auditors did not include TIBH purchases in its sampled population because the objective of the test was to determine whether non-TIBH purchases could have been made through a TIBH Industries vendor.

Definition of an Exception

An exception is defined as any product or service approved for the State Use program that was purchased from a non-TIBH Industries vendor. This may be because TIBH Industries vendors' products or services do not meet the applicable requirements for:

- Quality.
- Quantity.
- Delivery.
- Life cycle costs.
- Testing and inspection.

Source: Title 40, Texas Administrative Code, Section 189.2.

- DMV's exception reporting process did not ensure that all exceptions were identified and reported to the Comptroller and the Texas Council on Purchasing from People with Disabilities (Council) as required. DMV did not accurately report purchases that should have been reported as exceptions to the Comptroller and Council (see text box for the definition of an exception). Of 28 non-TIBH Industries' vendor purchases that auditors tested, 4 (14.3 percent) should have been reported to the Comptroller and Council as exceptions but were not. Texas Human Resources Code, Section 122.0095, requires each state entity to provide a monthly report of either (1) all exceptions or (2) exceptions identified during a review of a sample of purchases.
- DMV did not classify exceptions as required. Because DMV did not properly identify the four purchases discussed above as exceptions, it did not classify the exceptions in accordance with Texas Human Resources Code requirements.

If DMV does not have a reliable process to identify and classify exceptions, it faces an increased risk that decision makers will not have accurate and complete information to manage and evaluate DMV's State Use program.

Recommendations

To fully comply with the State Use program requirements in Texas Human Resources Code, Chapter 122, and Title 8, Texas Administrative Code, Section 189.2, DMV should:

- Ensure that DMV purchasers (1) perform documented checks of the availability of products or services offered by TIBH Industries vendors prior to making a purchase decision and (2) provide all required documentation to the State Use program coordinator.
- Report all exceptions to the Comptroller and Council. In lieu of requiring purchasers to report all exceptions to the State Use program coordinator on a monthly basis, DMV could consider implementing an exception-reporting process based on a monthly review of a sample of purchases.

Management's Response

TxDMV does not concur with the overall finding on non-compliance. The TxDMV agrees that controls in place were not sufficient to ensure consistent documentation; however, inconsistent documentation that TIBH Industries vendors were checked prior to procurement functions does not constitute non-compliance. Of the 30 non-TIBH Industries vendor purchases that auditors tested, four (4) were found to be available from TIBH Industries vendors at the time of purchase. This represents that 87 percent of were purchased correctly.

Auditors identified \$684,117 in payments coded as TxDMV to TIBH Industries vendors for fiscal year 2011. This further demonstrates TxDMV compliance with the State Use Program. Additionally, TxDMV was recognized by TIBH as one of the Top 10 Customers for 2011 in the purchasing of products from TIBH Industries vendor.

The TxDMV Director of Purchasing has developed and implemented a method that documents that staff has verified the availability of products or services offered by TIBH Industries vendors prior to making a purchasing decision. In September 2011, TxDMV implemented a system to correctly classify, capture and report TxDMV exceptions.

Chapter 3-G

Data Reliability

Auditors reviewed DMV's access to enter and release expenditures within USAS and determined that the expenditure-related data tested for DMV in USAS was secure and sufficiently reliable for purposes of this audit. For fiscal year 2011, DMV used USAS to process its expenditures. The Comptroller uses the expenditure information in USAS to report State Treasury-related expenditures overall, as well as identify HUB-related expenditures.

Department of Information Resources

The Department of Information Resources (DIR) minimally complied, overall, with the Historically Underutilized Business (HUB) program requirements tested for fiscal year 2011. Specifically, DIR fully or substantially complied with 13 (59 percent) of the 22 applicable HUB program requirements tested (see Table 2 in the Overall Conclusion section of this report for more information).

DIR reported that it purchased approximately \$9.1 million in goods and services from HUBs in fiscal year 2011 (see Appendix 2 for more information). Of the five areas tested, DIR:

- Minimally complied, overall, with the five planning requirements tested (see Chapter 4-A).
- Minimally complied, overall, with the seven outreach requirements tested (see Chapter 4-B).
- Fully complied, overall, with the four subcontracting requirements (see Chapter 4-C).
- Minimally complied, overall, with the three applicable reporting requirements tested (see Chapter 4-D).
- Minimally attained, overall, its three HUB utilization goals (see Chapter 4-E).

In addition, DIR substantially complied, overall, with the Purchasing from People with Disabilities (State Use) program requirements tested for fiscal year 2011. DIR paid approximately \$25,000 to TIBH Industries vendors for goods and services purchased through the State Use program during fiscal year 2011. (See Chapter 4-F and Appendices 4 and 5 for more information regarding the State Use program.)

Chapter 4-A

Planning Requirements

DIR fully complied with 2 (40.0 percent) of the 5 planning requirements tested. Specifically, DIR:

- Adopted HUB rules.
- Complied with strategic plan requirements.

It substantially complied with one requirement and did not comply with two requirements. Specifically:

- DIR substantially complied with *Legislative Appropriations Request* requirements. DIR substantially complied with Texas Government Code, Section 2161.127 (b)(3)(A), which requires an entity to provide a statement of the percentage by which its actual use of HUBs deviated from its goals. However, DIR incorrectly assessed whether its HUB utilization goals were met in its *Legislative Appropriations Request*.
- DIR did not develop a process to establish agency-specific annual HUB utilization goals. Texas Government Code, Section 2161.123 (d)(5), requires state entities to establish annual HUB utilization goals based on (1) scheduled fiscal year expenditures and (2) the availability of HUB vendors. However, DIR lacks a process to set agency-specific HUB utilization goals. As a result, DIR may not have the information needed to determine whether it is providing HUBs with reasonable contracting opportunities.
- DIR did not estimate its expected contract awards by the 60th day for fiscal year 2011. Texas Government Code, Section 2161.183, requires state entities to estimate the total value of contract awards for goods, services, and building construction projects by the 60th day of each fiscal year. Without an estimation of expected contract awards, DIR lacks critical information for establishing HUB utilization goals that align with its business needs.

Recommendations

To comply with the planning requirements in Texas Government Code, Chapter 2161, DIR should:

- Ensure that it compares actual attainment percentages to its established HUB utilization goals when reporting goal assessments in its *Legislative Appropriations Request*.
- Establish goals for contracting with HUBs in each procurement category that are based on (1) clearly documented, scheduled fiscal year expenditures and (2) the availability of HUB vendors in each procurement category.
- No later than the 60th day of each fiscal year, create an estimate of the total value of contract awards that it expects to make for that fiscal year and revise this estimate as new information becomes available.

Management's Response

DIR agrees with the recommendations.

DIR will propose a revision to the Texas Administrative Code, Title 1, Part 10, Rule (§201.2) to address agency-specific goal establishment.

Responsible Party: *DIR General Counsel*

Target Date: *September 1, 2013*

Once the revised rule is adopted, DIR will establish agency-specific goals for contracting with HUBs in each procurement category based on clearly documented fiscal year expenditures, availability of HUB vendors in each procurement category, and other relevant factors. Agency-specific goals will be established no later than the 60th day of each fiscal year and revised regularly as new information is obtained.

DIR has corrected its Legislative Appropriation Request (LAR) so that actual attainment percentages are compared to its established HUB utilization goals. This section of the LAR will be validated by the Technology Sourcing Office (TSO) Director and the Director of Finance prior to submission. A process for validating the information in the LAR prior to submission will be added to the agency's HUB policies and procedures manual.

Responsible Party: *DIR HUB Coordinators*

Target Date: *September 1, 2013*

Chapter 4-B

Outreach Requirements

For fiscal year 2011, DIR fully complied with 4 (57.1 percent) of the 7 HUB program outreach requirements tested. Specifically, DIR:

- Complied with mentor-protégé program requirements.
- Ensured that the HUB coordinator was involved in the development of procurement specifications, HUB subcontracting plans, and the evaluation of contracts.
- Ensured that the HUB coordinator's responsibilities included facilitating compliance, reporting, contract administration, marketing, and outreach.
- Held in-house marketing presentations sponsored by HUB vendors.

For the other three requirements tested:

- DIR minimally complied with the requirement to participate in a HUB forum. DIR's senior management and procurement staff attended HUB forums during fiscal year 2011. However, DIR lacked documentation showing that it appropriately advertised information informing vendors about presentations relevant to subcontracting opportunities in trade publications as required by Texas Government Code, Chapter 2161.066(c).
- DIR minimally complied with the requirement that the HUB coordinator report to the executive director. DIR lacked documentation showing that the HUB coordinator reported directly to its executive director. Title 34, Texas Administrative Code, Section 20.26, requires a state entity's HUB coordinator to report, communicate, and provide information directly to that entity's executive director.
- DIR did not comply with the requirement to ensure that the HUB coordinator position is equal to the procurement director position. Texas Government Code, Section 2161.062 (e), requires that the HUB coordinator position be at least equal to the position of the procurement director within an agency's structure. However, DIR's HUB coordinator reported to the director of technology sourcing.

It is important that DIR comply with these requirements to help ensure that the HUB coordinator is able to advise and assist DIR in meeting HUB program requirements.

Recommendations

To fully comply with HUB Outreach program requirements in Texas Government Code, Chapter 2161, and Title 34, Texas Administrative Code, Section 20.26, DIR should:

- Maintain documentation to demonstrate that it informed contractors and vendors about presentations relevant to subcontracting opportunities for HUB vendors and small businesses in the appropriate publications.
- Ensure that the HUB coordinator communicates information about the HUB program directly to the executive director.
- Modify its HUB coordinator's position so that it is equal to the procurement director's position.

Management's Response

DIR agrees with the recommendations.

DIR will address requirements for publication of HUB outreach efforts in its HUB policies & procedures manual. Outreach efforts include subcontracting opportunities, communication with contractors and vendors, and forums.

Responsible Party: *DIR HUB Coordinators*

Target Date: *March 31, 2013*

The TSO organizational chart has been updated to reflect the reporting relationship of the HUB Coordinators directly to the TSO Director, in accordance with Texas Government Code, §2161.062(e) and Texas Administrative Code, §20.11(12). In addition, the HUB Coordinator job description now reflects a direct line of communication with the Executive Director. Further, a HUB program update to the Executive Director and executive staff will be conducted on a regular, recurring basis.

Responsible Party: *DIR TSO Director / Human Resources Dept.*

Target Date: *Completed and On-going*

Chapter 4-C

Subcontracting Requirements

For fiscal year 2011, DIR fully complied with 3 (75.0 percent) of the 4 HUB program subcontracting requirements tested. Specifically, DIR:

- Ensured that solicitation documents included a statement of subcontracting opportunities.
- Used resources such as the Centralized Master Bidders List, HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.
- Ensured that potential contractors or subcontractors were certified HUB vendors.

DIR substantially complied with the requirement to ensure that its processes helped to ensure that prime contractors showed evidence of a good-faith effort in the development of HUB subcontracting plans. However, DIR lacked documentation to show that it monitored contractor compliance with HUB subcontracting plans on a monthly basis for the three contracts reviewed in accordance with Title 34, Texas Administrative Code, Section 20.14.

Recommendation

To fully comply with the subcontracting requirements in Title 34, Texas Administrative Code, Section 20.14, DIR should obtain and maintain documentation to show that it monitors contractors' compliance with HUB subcontracting plans.

Management's Response

DIR agrees with the recommendation.

The HUB, Enterprise Contracts, and the Cooperative Contracts procedures manuals will be revised to update and detail procedures for obtaining and maintaining documentation from vendors demonstrating compliance with HUB Subcontracting Plans (HSPs) in accordance with Texas Administrative Code, Title 34, Section 20.14.

Responsible Party: *Enterprise Contracts Manager, Contract and Vendor Manager, and HUB Coordinators*

Target Date: *April 30, 2013*

Chapter 4-D

Reporting Requirements

For fiscal year 2011, DIR fully complied with 1 (33.3 percent) of the 3 HUB program reporting requirements tested because it reported timely and accurate HUB expenditures and supplemental information. DIR minimally complied with the remaining two applicable HUB program reporting requirements tested related to progress assessment reports and monthly internal HUB usage reports. Specifically:

- DIR fully complied with the requirement to report timely and accurate supplemental information in its annual HUB report for the number of HUB bids received and HUB contracts awarded. However, DIR should make improvements to its reporting process. Auditors reconciled the number of HUB bids received and contracts awarded as reported in the annual HUB report to DIR's supporting documentation. Based on DIR's process for reporting the number of HUB bids received, that number was underreported for fiscal year 2011. For the number of HUB bids received, DIR included bids for which a HUB was an authorized reseller for the prime contractor that submitted the bid. Those bids should not have been included in the calculation. In addition, for the number of contracts awarded, DIR counted multiple purchase orders as separate contracts awarded. Those purchase orders were associated with one blanket contract and should have been counted only once.

- ♦ Identification of and other required information regarding all HUB subcontractors.
- ♦ Information about the detailed progress payments made to subcontractors, professionals, consultants, and suppliers.
- Ensure that it maintains accurate records of progress assessment reports for each prime contractor.

Management's Response

DIR agrees with the recommendations.

DIR will update its internal processes to ensure its HUB reporting requirements are met, in accordance with Texas Administrative Code, Title 34, Section 20.16. The DIR HUB monthly usage report template will be revised to ensure DIR meets the internal reporting requirements to include, by division, use of HUBs, subcontractors, progress payments, and other required information. To ensure DIR is capturing, maintaining, and reporting accurate records of Progress Assessment Reports (PARs) for each prime contractor, DIR will implement a management review and approval process for the DIR HUB Supplemental Report prior to submission. Updated processes will be documented in the DIR HUB policies and procedures manual.

Responsible Party: TSO Director / DIR HUB Coordinators

Target Date: May 31, 2013

Chapter 4-E

Goal Attainment

For fiscal year 2011, DIR minimally attained, overall, its annual HUB utilization goals (see text box for more information about goal attainment). DIR did not develop a process to establish its own HUB utilization goals as statutorily required. Instead, it adopted certain statewide HUB utilization goals defined by the Office of the Comptroller of Public Accounts (Comptroller). For its three applicable annual HUB utilization goals, DIR:

- Did not attain its goal for professional services contracts.
- Minimally attained its goal for all other services contracts.
- Fully attained its goal for commodities contracts.

Goal Attainment

Texas Government Code, Section 2161.123, requires the State Auditor's Office to consider, as part of the audit of a state entity's HUB program compliance, the success or failure of a state entity to contract with HUB vendors in accordance with the state entity's annual HUB utilization goals.

Table 8 shows DIR's attainment of its fiscal year 2011 HUB utilization goals.

Table 8

DIR's Attainment of Fiscal Year 2011 HUB Utilization Goals			
Goal Type	Fiscal Year 2011 HUB Utilization Goal	Fiscal Year 2011 Reported Actual HUB Utilization	Percent of Goal Attained
Heavy Construction	Not Applicable	Not Applicable	Not Applicable
All Building Construction	Not Applicable	Not Applicable	Not Applicable
All Special Trade Construction	Not Applicable	Not Applicable	Not Applicable
Professional Services Contracts	20.0%	0.0%	0.0%
All Other Services Contracts	33.0%	15.0%	45.4%
Commodities Contracts	12.6%	20.8%	164.8%

By adopting statewide goals and not establishing HUB utilization goals that were specific to its operations, DIR may have set goals that did not align with its operational needs. This may have contributed to DIR not attaining certain goals.

Recommendation

DIR should identify and consider the factors that affected its ability to meet certain goals when it establishes future HUB utilization goals.

Management's Response

DIR agrees with the recommendation.

DIR will establish and document a process for reviewing its attainment of prior fiscal year HUB utilization goals. Factors such as HUB availability in the various procurement categories, agency expenditures, and historic utilization of HUB vendors are all examples of areas that will be reviewed. Based on this analysis, DIR will set the upcoming fiscal year goals. This process will be documented in the HUB policies and procedures manual.

Responsible Party: DIR HUB Coordinators

Target Date: September 1, 2013

State Use Program

Based on Uniform Statewide Accounting System (USAS) data reviewed, auditors identified approximately \$25,000 in payments that DIR made to TIBH Industries⁶ vendors for fiscal year 2011. Auditors identified those payments by totaling the TIBH vendor commodity codes from USAS data. DIR substantially complied, overall, with the State Use program requirements tested for fiscal year 2011. DIR fully complied with 2 (66.7 percent) of the 3 applicable State Use program requirements tested. Specifically, DIR (1) designated an employee to ensure program compliance and (2) accurately reported exceptions (see text box for the definition of an exception).

Definition of an Exception

An exception is defined as any product or service approved for the State Use program that was purchased from a non-TIBH Industries vendor. This may be because TIBH Industries vendors' products or services do not meet the applicable requirements for:

- Quality.
- Quantity.
- Delivery.
- Life cycle costs.
- Testing and inspection.

Source: Title 40, Texas Administrative Code, Section 189.2.

However, DIR did not comply with the requirement that it check the availability of TIBH Industries vendor products and services prior to making purchasing decisions. DIR's internal policy requires staff to check TIBH Industries catalog for every purchase. However, according to DIR, its purchasers usually check the TIBH Industries catalog and document that check only when the purchasers suspect TIBH Industries may offer a similar product. This increases the risk that DIR will not purchase TIBH Industries vendor products or services when available, as required by Texas Human Resources Code, Section 122.008.

It should be noted that while DIR accurately reported the number of exceptions for fiscal year 2011, DIR's internal tracking forms incorrectly listed some purchases as exceptions. According to DIR's exception reporting process, DIR is supposed to use those internal forms to report exceptions to the Comptroller's Web portal. For fiscal year 2011, DIR did not base its reporting of exceptions on those forms. If DIR follows its procedures in the future without ensuring that it accurately identifies and reports exceptions on its internal exceptions report form, it may report inaccurate information.

In addition, while DIR designated an employee as the State Use program coordinator, it did not develop a job description that defined that employee's job duties and responsibilities for the State Use program. Without a written description of the duties required for the State Use program coordinator position, the State Use program coordinator may not carry out the responsibilities necessary to ensure compliance with State Use program requirements.

⁶ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

Recommendations

To fully comply with the State Use program requirements in Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Section 189.2, DIR should:

- Develop, document, and implement a process for checking the availability of products or services offered by TIBH Industries vendors prior to making purchasing decisions.
- Develop, document, and implement a process to identify and report exceptions. That process should include a methodology for properly classifying and recording exceptions according to State Use program requirements in its exception reporting process.
- Develop a job description for the State Use program coordinator that defines the position's job duties and responsibilities necessary to ensure compliance with State Use program requirements.

Management's Response

DIR agrees with the recommendations.

DIR has updated its internal policies and procedures to require staff to review the Texas Industries for the Blind and Handicapped (TIBH) catalog before each purchase. Additionally, procedures were developed to ensure the accurate identification and reporting of exceptions in accordance with the State Use Program requirements. DIR has also updated the job description for the State Use Program Coordinator to reflect this process.

Responsible Party: DIR Purchasing Manager

Target Date: Completed

Chapter 4-G

Data Reliability

While auditors determined that the data in USAS was sufficiently reliable for the purposes of this audit, DIR should use automated functions to improve its expenditure processing. DIR relies on expenditure information maintained within USAS to report its HUB expenditure data to the Comptroller. Auditors performed a limited review of DIR's access to USAS and identified three employees who could both enter and release expenditure transactions in USAS. Allowing one person the ability to both enter and approve expenditure transactions increases the risk that an incorrect payment could be processed

through USAS without detection. USAS has an edit function that, if used, will prevent the same person from both entering and approving a single expenditure transaction.

Recommendation

DIR should use the edit functions within USAS that limit the ability of an individual person from both entering and releasing an expenditure transaction.

Management's Response

DIR agrees with the recommendation.

The DIR Accounting Division now has procedures in place to mitigate the risk of one person entering and releasing a transaction in USAS. To further comply with the requirement of Texas Administrative Code §202.20(1), DIR has changed USAS security access for its finance and accounting employees ensuring that not one employee has the authority to enter and release a transaction.

Responsible Party: DIR Director of Accounting

Target Date: Completed

The Comptroller Has Made Improvements to the HUB Program and State Use Program; However, Opportunities Exist for the Comptroller to Strengthen Certain Areas

While auditors determined that the data related to the Historically Underutilized Business (HUB) program in the Office of the Comptroller of Public Accounts' (Comptroller) Uniform Statewide Accounting System (USAS) was reliable for the purposes of this audit, opportunities exist for the Comptroller to improve controls over the security and accuracy of that data. Those improvements include (1) strengthening oversight of access to HUB data, (2) limiting employees' access to update or modify HUB data, and (3) implementing password requirements that align with agency policies and procedures.

In addition, auditors followed up on four selected recommendations to the Comptroller in *An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program* (State Auditor's Office Report No. 11-027, March 2011) and determined that the Comptroller had fully implemented two recommendations. Implementation of the other two recommendations was ongoing.

Chapter 5-A

The Comptroller Should Improve Access Controls Over the HUB Reporting Database

Auditors reviewed controls over three databases that the Comptroller uses to compile and generate the annual *Statewide HUB Report* and determined that the data in those three databases was reliable for the purposes of this audit. However, auditors identified some weaknesses in the Comptroller's access controls for its HUB Reporting database that should be addressed to help ensure the future reliability of the data. Specifically:

- Active accounts belonged to former employees.
- Comptroller staff could not identify the owner of an account with system administrator rights.
- Programmers were able to modify data directly in the database.
- Password rules did not comply with agency policy.

The HUB Reporting database is important because it (1) identifies vendors as HUB or non-HUB vendors and (2) maintains the expenditure data used to compile the annual *Statewide HUB Report*.

Recommendations

The Comptroller should:

- Deactivate all HUB Reporting database accounts of employees separating from the agency in a timely manner.
- Assign ownership to HUB Reporting database accounts with system administrator rights.
- Restrict programmers' from being able to update data directly in the HUB Reporting database.
- Ensure that HUB Reporting database password rules comply with Comptroller policy.

Management's Response

The Comptroller should:

- *Deactivate all accounts of employees separating from the agency in a timely manner.*

CPA Management Response: Accounts of employees that were identified during the audit have been deactivated. Additionally the Comptroller will review the process by which separated employees accounts are deactivated in a timely manner in the future. Completion by April 30th, 2013.

- *Assign ownership to accounts with system administration rights.*

CPA Management Response: Process will be reviewed and updated to ensure that ownership is assigned when an account with system administration rights is created. Completion by May 30th, 2013.

- *Restrict programmers' from being able to update data directly in the database.*

CPA Management Response: A review of programmer access has been completed and modified to view-only for production databases.

- *Ensure that password rules comply with agency policy.*

CPA Management Response: User passwords will be encrypted prior to storage in the database. Completion by August 31st, 2013

The Comptroller Should Continue to Implement Prior Recommendations

Implementation Status Definitions

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

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

Ongoing: Successful development and consistent use of a process, system, or policy to implement a prior recommendation but implementation is not fully complete.

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

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

The Comptroller has made significant progress toward implementing the recommendations for the Texas Council for Purchasing from People with Disabilities (TCPPD) Web portal made in *An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program* (State Auditor's Office Report No. 11-027, March 2011). Of the 4 recommendations on which auditors followed up, the Comptroller fully implemented 2 (50.0 percent). Implementation of the remaining two recommendations is ongoing. (See text box for implementation status definitions.)

Table 9 provides additional details on the Comptroller's implementation of prior State Auditor's Office recommendations.

Table 9

Status of Implementation of Prior Audit Recommendations		
Recommendation	Implementation Status	Auditor Comments
The Comptroller should generate a monthly error report from the Texas Council on Purchasing from People with Disabilities (TCPPD) Web portal application that would allow the Comptroller to identify information that state entities enter for prior reporting periods.	Fully Implemented	The Comptroller has limited entities' ability to update previous reporting periods.
The Comptroller should ensure that its process to identify individuals whose employment has been terminated but still have access to the TCPPD Web portal application includes obtaining, maintaining, and using current e-mail information on all users.	Ongoing	The Comptroller has implemented a process to remind primary users of the TCPPD Web portal of the need to maintain updated contact information. However, its notification does not specifically address removing access for users whose employment has been terminated.
The Comptroller should ensure that user passwords are not accessible or viewable by Comptroller management and staff.	Ongoing	The Comptroller has implemented restrictions within the TCPPD Web portal to prevent users from seeing user passwords; however, some Comptroller employees have direct access to the database that allows them to view the passwords.
The Comptroller should ensure that the TCPPD Web portal notifies users when exception reports have not been properly submitted.	Fully Implemented	The Comptroller's TCPPD Web portal automatically approves entity reports on the 19th of each month. As a result, there are no outstanding pending reports.

Recommendation

The Comptroller should continue to implement prior audit recommendations made in *An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program* (State Auditor's Office Report No. 11-027, March 2011).

Management's Response

- *The Comptroller should continue to implement recommendations from State Auditor's Office Report 11-027 (March, 2011).*

CPA Management Response: The Comptroller will continue to implement the recommendations as noted in the Auditor Comments section of Table 9 of the report.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether selected state agencies or higher education institutions:

- Complied with statutory requirements and rules established by the Office of the Comptroller of Public Accounts (Comptroller) to implement Historically Underutilized Business (HUB) program requirements and report complete and accurate data to the Comptroller.
- Complied with requirements related to the Purchasing from People with Disabilities (State Use) program.

Scope

The scope of this audit included a review of three agencies' and one higher education institution's HUB and State Use program activities for fiscal year 2011. Auditors selected the four state entities according to a risk assessment, and audited for compliance with HUB program requirements in five areas: planning, outreach, subcontracting, reporting, and goal attainment as defined by Texas Government Code, Chapter 2161, and Title 34, Texas Administrative Code, Chapter 20. Auditors also reviewed selected contracts and procurement files for fiscal year 2011. The four state entities also were audited for compliance with State Use program requirements as defined by Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Chapter 189.

The four state entities audited were:

- The University of Texas System (System).
- Texas Department of Criminal Justice (TDCJ).
- Department of Motor Vehicles (DMV).
- Department of Information Resources (DIR).

Methodology

The audit methodology included collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the results of the tests, and interviewing management and staff at each entity.

Sampling

To test compliance with State Use program requirements and determine the accuracy of reported expenditures, auditors selected 30 non-TIBH Industries⁷ expenditures that included the 5 transactions with the highest dollar amounts and an additional 25 transactions based on amounts and descriptions. Auditors also determined whether each of the 4 entities audited filed all 12 exception reports for fiscal year 2011.

To test compliance with HUB program requirements, auditors selected non-statistical samples of 30 for each of the following areas: non-State Treasury, term contracts, and procurement cards. Auditors randomly selected five HUB-related bids received and contracts awarded for review. For populations of fewer than 50 items, auditors selected a sample based on a 20 percent threshold. Additionally, auditors selected a sample of five vendors to verify HUB certification status. Auditors had no expectation that the determination of compliance or non-compliance for the selected sample items would differ from what that determination would be for any other item randomly selected from the entire population. Because of the number of items in the sample, and because the selected items did not constitute a representative sample, the results of the auditors' testing cannot be projected to the entire population.

The controls for HUB subcontracting reporting and for State Use program expenditure reporting for the sample items selected for testing were the same as the controls for the items that comprised the populations. Auditors had no expectation that the determination of compliance or non-compliance for the selected sample items would differ from what that determination would be for any other item randomly selected from the entire population. However, the test results from the samples selected cannot be projected to the entire population.

⁷ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

Compliance Determination

For purposes of this audit, compliance was determined at the attribute level, rather than the transaction level (see Table 10 for the specific compliance scale that auditors used). For example, of 30 items tested for a specific attribute, if auditors identified 1 transaction that did not comply, the compliance rate would be 29 of 30, or 96.7 percent, and the entity would be fully compliant with that attribute.

Table 10

Scale of Entities' Levels of Compliance with HUB Program Requirements		
Level of Compliance		Percentage of Requirements Complied with Overall
Level of Good-faith Effort	Non-compliant	0 to 30 percent
	Minimally Compliant	31 to 60 percent
	Substantially Compliant	61 to 90 percent
	Fully Compliant	91 to 100 percent

Data Reliability

Auditors assessed the reliability of HUB-related data at the audited entities and determined the following:

- The System used three information systems that belonged to the University of Texas at Austin to process and report HUB-related expenditures to the Comptroller. Auditors determined that the HUB data maintained in two systems was reliable for the purposes of this audit. However, auditors were unable to determine whether the HUB data maintained in the third system was complete, reliable, and properly secured for the purposes of this audit. Auditors traced selected reported data to supporting documentation, when possible, as a mitigating procedure.
- HUB data processed in TDCJ's financial and purchasing systems was reliable for the purposes of this audit.
- DMV used the Uniform Statewide Accounting System (USAS) to process its expenditures for fiscal year 2011. Auditors reviewed DMV's access to enter and release expenditures within USAS and determined that DMV's processes provided reasonable assurance that the expenditure-related data in USAS that auditors tested was secure and sufficiently reliable for the purposes of this audit (see below for full assessment of USAS).
- DIR relied on USAS to support the HUB data it reported during fiscal year 2011. Auditors determined that the data in USAS was sufficiently reliable for the purposes of this audit (see below for full assessment of USAS).

In addition, auditors determined that the data in USAS was reliable for the purposes of this audit. All entities audited used USAS for processing State Treasury-related expenditures, including those for HUB-related purchases.

Information collected and reviewed for each audited state entity included the following:

- Strategic plans, *Legislative Appropriations Requests*, and progress assessment reports.
- Organizational charts.
- Contracts between the audited state entities and prime contractors.
- Procurement and contracting policies and procedures.
- Functional job descriptions for the HUB coordinator position, if available.
- HUB subcontracting plans.
- Prior internal and external audit reports.
- Prior State Auditor's Office reports.

Procedures and tests conducted included the following:

- Reviewed HUB utilization goals.
- Interviewed HUB coordinators, State Use program coordinators, and procurement management and staff.
- Reviewed HUB coordinator responsibilities.
- Reviewed contract procurement records.
- Reviewed HUB subcontracting plans.
- Reviewed accounting records.
- Reviewed various monthly HUB-related progress reports.
- Tested HUB expenditures.
- Tested State Use program expenditures.

Criteria used included the following:

- Texas Government Code, Chapter 2161.
- Texas Human Resources Code, Chapter 122.

- Title 34, Texas Administrative Code, Chapter 20.
- Title 40, Texas Administrative Code, Chapter 189.

Project Information

Audit fieldwork was conducted from September 2012 through December 2012. 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:

- Courtney Ambres-Wade, CGAP (Project Manager)
- Michael A. Simon, MBA, CGAP (Assistant Project Manager)
- Ileana Barboza, MBA, CGAP, CICA
- Robert H. (Rob) Bollinger, CPA, CFE
- Carl Ela, CFE, CGAP, CIDA
- Brian Jones, CGAP
- Eric Ladejo, MPA
- Tessa Mlynar, CFE
- Michael Yokie, CISA
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- John Young, MAPff (Audit Manager)

HUB Program Statistics for Fiscal Year 2011

Table 11 lists the four audited state entities' reported amounts and percentages of funds they spent on purchases of goods and services from Historically Underutilized Business (HUB) program vendors during fiscal year 2011.

Table 11

Funds Spent on Purchases from HUB Program Vendors Fiscal Year 2011			
State Entity	Funds Eligible to Be Spent with HUB Program Vendors	Funds Spent with HUB Program Vendors	Percentage Spent with HUB Program Vendors
Statewide	\$14,075,376,019	\$2,035,820,928	14.5%
The University of Texas System Administration	\$617,780,170	\$154,103,864	24.9%
Texas Department of Criminal Justice	\$281,051,971	\$26,369,027	9.4%
Department of Motor Vehicles	\$32,119,197	\$5,060,565	15.8 %
Department of Information Resources	\$48,332,987	\$9,061,551	18.7%

Source: Office of the Comptroller of Public Accounts' *Fiscal Year 2011 Consolidated HUB Report*.

HUB Program Requirements

Table 12 presents the requirements related to the Historically Underutilized Business (HUB) program and the attributes that auditors tested for compliance.

Table 12

HUB Program Requirements and Attributes Tested	
HUB Program Requirement	Attributes Tested
Planning	
Establish annual procurement utilization goals. (Texas Government Code, Sections 2161.002 and 2161.123(d) (5))	<ul style="list-style-type: none"> ▪ Was there documentation to show that the entity established goals for contracting with HUBs in each procurement category and that the goals were based on (1) scheduled fiscal year expenditures and (2) the availability of HUBs in each category as determined by rules adopted under the Texas Government Code?
Estimate expected contract awards. (Texas Government Code, Chapters 2161 and 2166)	<ul style="list-style-type: none"> ▪ Was there documentation to show that not later than the 60th day of its fiscal year, the entity: <ul style="list-style-type: none"> ♦ Estimated the total value of contract awards subject to Texas Government Code, Section 2161.181, that the entity expected to make for that fiscal year? ♦ Estimated the total value of contract awards the entity expected to make for that fiscal year?
Comply with <i>Legislative Appropriations Request</i> requirements. (Texas Government Code, Section 2161.127, and Title 34, Texas Administrative Code, Section 20.15(c))	<ul style="list-style-type: none"> ▪ Was there evidence that the entity's <i>Legislative Appropriations Request</i>: <ul style="list-style-type: none"> ♦ Reported the entity's 2010 and 2011 HUB utilization goals? ♦ Included a statement about whether the entity met the HUB utilization goals? ♦ If HUB utilization goals were not met, included a statement about the percentage by which the entity's actual use of HUBs deviated from the entity's HUB utilization goals? ♦ If HUB utilization goals were not met, included an explanation about why HUB utilization goals were not met? ♦ Described the entity's "good faith efforts" to identify HUBs for contracts and subcontracts, use HUBs, and increase HUB participation?
Adopt HUB rules. (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15 (b))	<ul style="list-style-type: none"> ▪ Did the entity adopt the Comptroller of Public Account's rules related to the HUB program as the entity's own rules and as part of its required strategic plan?
Comply with strategic plan requirements. (Texas Government Code, Section 2161.123)	<ul style="list-style-type: none"> ▪ Did the entity's strategic plan include a plan for increasing the entity's use of HUBs in purchasing and public works contracting? ▪ Did the strategic plan include: <ul style="list-style-type: none"> ♦ A policy or mission statement relating to increasing the entity's use of HUBs? ♦ Goals to be met by the entity in carrying out the policy or mission? ♦ Specific programs to be conducted by the entity to meet the goals stated in the plan, including a specific program to encourage contractors to use HUBs as partners and subcontractors?

HUB Program Requirements and Attributes Tested

HUB Program Requirement	Attributes Tested
Outreach	
<p>Comply with mentor-protégé program requirements.</p> <p>(Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28)</p>	<ul style="list-style-type: none"> ▪ Was there official documentation of the entity's mentor-protégé program? If yes, did it contain: <ul style="list-style-type: none"> ♦ A description of the mentor-protégé monitoring process? ♦ A notification to the mentors and protégés that participation in the program is voluntary? ♦ Mentor eligibility and selection criteria? ♦ Protégé eligibility and selection criteria? ▪ If an entity sponsors a mentor-protégé program, was there a signed agreement and was it reported to the Comptroller of Public Accounts within 21 calendar days? ▪ If any mentor-protégé agreements were terminated, were the terminated agreements reported to the Comptroller of Public Accounts within 21 calendar days?
<p>Ensure that the level of the HUB coordinator position is equal to the level of the procurement director position.</p> <p>(Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26 (b))</p>	<ul style="list-style-type: none"> ▪ Did the entity's HUB coordinator and purchasing director report to the same supervisor?
<p>Ensure that the HUB coordinator communicates with the entity's executive director and is identified in a position that reports to the entity's executive director.</p> <p>(Title 34, Texas Administrative Code, Section 20.26 (b))</p>	<ul style="list-style-type: none"> ▪ Did the HUB coordinator meet with the entity's executive director/chancellor at least once a year? ▪ Is the HUB coordinator's position organizationally located to report to the entity's executive director/chancellor?
<p>Ensure that the HUB coordinator is involved in the development of procurement specifications and HUB subcontracting plans, and involved in the evaluation of contracts.</p> <p>(Title 34, Texas Administrative Code, Section 20.26 (b))</p>	<ul style="list-style-type: none"> ▪ Did the HUB coordinator's job description or responsibilities include the following: <ul style="list-style-type: none"> ♦ Assisting the entity in developing procurement specifications? ♦ Assisting the entity in reviewing HUB subcontracting plans? ♦ Assisting in the evaluation of contracts for compliance with HUB program requirements?
<p>Ensure that the HUB coordinator's responsibilities include: facilitating compliance with the agency's good-faith effort criteria, HUB reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff.</p> <p>(Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26 (b))</p>	<ul style="list-style-type: none"> ▪ Did the HUB coordinator's job description or responsibilities include: <ul style="list-style-type: none"> ♦ Facilitating compliance with the entity's good-faith effort criteria to assist HUBs? ♦ Completion and submission of HUB reports? ♦ Contract administration? ♦ Marketing and outreach efforts for HUB participation? ♦ Coordinating training for the recruitment and retention of HUBs? ♦ Matching HUBs with key staff?
<p>Participate in HUB forums, including ensuring that staff attends relevant HUB presentations by the Comptroller of Public Accounts, sending senior managers and procurement personnel to relevant presentations, and informing contractors/vendors about relevant presentations for HUBs.</p> <p>(Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27)</p>	<ul style="list-style-type: none"> ▪ Was there documentation to show that: <ul style="list-style-type: none"> ♦ The entity attended relevant HUB presentations by the Comptroller of Public Accounts in fiscal year 2011? ♦ The HUB coordinator and senior management attended relevant HUB presentations during fiscal year 2011? ♦ The entity informed its contractors/vendors about presentations relevant to subcontracting opportunities for HUBs and small businesses?

HUB Program Requirements and Attributes Tested	
HUB Program Requirement	Attributes Tested
<p>Ensure that entities meet requirements related to in-house marketing presentations including (1) designing their own HUB forums, (2) sponsoring presentations by HUBs, and (3) inviting HUBs to make marketing presentations about their businesses.</p> <p>(Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27)</p>	<ul style="list-style-type: none"> ▪ Was there documentation to show that: <ul style="list-style-type: none"> ♦ The entity designed its own HUB forum program? ♦ The entity sponsored presentations by HUBs or elected to implement forums cooperatively with other agencies? ♦ The entity identified and invited HUBs to make marketing presentations?
Subcontracting	
<p>Include a statement of subcontracting opportunities in all solicitation documents with an expected value of \$100,000 or more.</p> <p>(Title 34, Texas Administrative Code, Section 20.14a(2))</p>	<ul style="list-style-type: none"> ▪ If the entity determined that subcontracting opportunities were probable, did the entity's invitation for bids, requests for proposals, or other purchase solicitation documents state the probability of subcontracting opportunities and require respondents to submit a HUB subcontracting plan?
<p>Use resources such as the Certified Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities are probable.</p> <p>(Title 34, Texas Administrative Code, Section 20.14a(1)(A)(ii))</p>	<ul style="list-style-type: none"> ▪ Was there documentation to indicate that the entity researched the Centralized Master Bidders List, HUB Directory, Internet, and other directories that the Comptroller of Public Accounts has identified as listing HUBs that may be available to perform contract work?
<p>Ensure that potential contractors or subcontractors are certified HUB vendors.</p> <p>(Title 34, Texas Administrative Code, Section 20.14 (a)(3))</p>	<ul style="list-style-type: none"> ▪ Is there evidence that respondents were certified HUBs?
<p>Have evidence that a good-faith effort was made in the development of HUB subcontracting plans.</p> <p>(Title 34, Texas Administrative Code, Sections 20.14 (b)(1), 20.14 (c)(1), and 20.14 (d)(1))</p>	<ul style="list-style-type: none"> ▪ According to the type of contract reviewed, is there evidence in the HUB subcontracting plan that the prime contractor met the conditions and procedures?
Reporting	
<p>Report timely and accurate HUB expenditures and other supplemental information.</p> <p>(Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Section 20.16 (d))</p>	<ul style="list-style-type: none"> ▪ Does documentation exist to show that: <ul style="list-style-type: none"> ♦ Semi-annual state expenditure HUB data was submitted in a timely manner? ♦ Annual state expenditure HUB data was reported in a timely manner? ♦ HUB expenditures were reported accurately? ♦ Annual data for the number of HUB and non-HUB contracts awarded was reported accurately? ♦ Annual data for the number of HUB and non-HUB businesses participating in state bond issuances was reported accurately? ♦ Annual data for the number of HUB and non-HUB bids and/or proposals received was reported accurately?
<p>Comply with monthly internal HUB usage reports requirements.</p> <p>(Title 34, Texas Administrative Code, Section 20.16 (b)(c))</p>	<ul style="list-style-type: none"> ▪ Does the entity compile and maintain monthly HUB usage reports that contain: <ul style="list-style-type: none"> ♦ Information regarding the entity's usage of HUB vendors? ♦ Purchases from state term contracts paid with State Treasury funds? ♦ Purchases from state term contracts paid with non-State Treasury funds? ♦ The identity of all HUB vendors/subcontracts? ♦ Information regarding subcontractors and suppliers?

HUB Program Requirements and Attributes Tested	
HUB Program Requirement	Attributes Tested
	<ul style="list-style-type: none"> ♦ Details about progress payments made to subcontractors, professionals, consultants, and suppliers each month?
Comply with progress assessment reports requirements. (Title 34, Texas Administrative Code, Section 20.16 (c))	<ul style="list-style-type: none"> ▪ Is there documentation to show that contract progress assessment reports were accurate?
Comply with group purchasing reports requirements. (Texas Government Code, Section 2155.134 and Title 34, Texas Administrative Code, Section 20.16 (e))	<ul style="list-style-type: none"> ▪ For agencies participating in a group purchasing program, was the statewide group purchasing HUB data accurate, complete, and submitted in a timely manner?
Goal Attainment	
Attain its heavy construction contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its heavy construction contract utilization goal in fiscal year 2011?
Attain its building construction contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its building construction contract utilization goal in fiscal year 2011?
Attain its special trade construction contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its special trade construction contract utilization goal in fiscal year 2011?
Attain its professional services contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its professional services contract utilization goal in fiscal year 2011?
Attain its other services contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its other services contract utilization goal in fiscal year 2011?
Attain its commodities contract utilization goal. (Texas Government Code, Section 2161.123(e))	<ul style="list-style-type: none"> ▪ Did the entity attain its goal for its commodities contract utilization goal in fiscal year 2011?

State Use Program Requirements

Table 13 lists the Purchasing from People with Disabilities (State Use) program requirements and attributes that auditors tested for compliance.

Table 13

State Use Program Requirements and Attributes Tested	
State Use Program Requirement	Attributes Tested
<p>The entity must check the availability of products and services from TIBH Industries-related businesses prior to making a purchasing decision.</p> <p>(Texas Human Resources Code, Section 122.008)</p>	<ul style="list-style-type: none"> ▪ Did the entity have a process in place to determine the availability of products or services from TIBH Industries vendors?
<p>The entity must designate a State Use program coordinator to ensure compliance with State Use program requirements.</p> <p>(Texas Human Resource Code, Section 122.0095 (a)(1))</p>	<ul style="list-style-type: none"> ▪ Did the entity designate an employee to be responsible for ensuring compliance with State Use program requirements?
<p>The entity must report purchase exceptions to the Comptroller of Public Accounts and the Texas Council on Purchasing from People with Disabilities.</p> <p>(Texas Human Resource Code, Section 122.0095 (a)(2))</p>	<ul style="list-style-type: none"> ▪ Did the entity report its purchases of products or services from non-TIBH Industries vendors that were available from a TIBH Industries vendor to the Comptroller of Public Accounts and the Texas Council on Purchasing from People with Disabilities?
<p>The entity must ensure that reported exceptions are properly classified.</p> <p>(Title 40, Texas Administrative Code, Section 189.2(9) and Texas Human Resource Code, Section 122.016)</p>	<ul style="list-style-type: none"> ▪ Did the entity have a process to identify and classify purchase exceptions? ▪ If the entity had exceptions to purchasing products or services from TIBH Industries vendors, did the exceptions fall under one of the following conditions: <ul style="list-style-type: none"> ♦ Quantity? ♦ Quality? ♦ Delivery? ♦ Life cycle costs? ♦ Testing and inspection requirements?

State Entities' Payments for State Use Program Purchases and Purchase Exceptions for Fiscal Year 2011

Table 14 lists the audited state entities' total amount of payments made to TIBH Industries⁸ vendors through the Purchasing from People with Disabilities (State Use) program and the reported purchase exceptions. The payment amounts were identified using TIBH commodity codes from the Uniform Statewide Accounting System (USAS) or the entity's internal financial accounting system.

An exception is a purchase of products or services from a non-TIBH Industries vendor that were available from a TIBH Industries vendor. Texas Human Resources Code, Section 122.0095, requires the Office of the Comptroller of Public Accounts to report state entities' number and amount of purchase exceptions to the Texas Council on Purchasing from People with Disabilities on a monthly basis.

Table 14

State Use Program Purchases and Purchase Exceptions			
State Entity	Reported Number of Purchase Exceptions	Reported Total Amount of Purchase Exceptions	Total Amount of Purchases from TIBH Industries Vendors ^a
The University of Texas System	0	\$0.00	\$608.93 ^b
Texas Department of Criminal Justice	703	\$916,784.00	\$8,728,539.93
Department of Motor Vehicles	0	\$0.00	\$684,117.04
Department of Information Resources	0	\$0.00	\$24,654.17
^a The amounts listed in this column are unaudited and were obtained using the TIBH Industries vendor codes in USAS or the entity's internal financial information system. ^b The amounts listed for the University of Texas System were obtained from its internal accounting system, DEFINE.			

Source: The Texas Council on Purchasing from People with Disabilities' Web portal.

⁸ TIBH Industries was formerly known as Texas Industries for the Blind and Handicapped.

HUB Procurement Categories for Fiscal Year 2011

Table 15 lists the six types of Historically Underutilized Business (HUB) procurement contracts and brief descriptions of the expenditure types included in each procurement category. Please note that the descriptions are not all inclusive.

Table 15

HUB Procurement Categories and Expenditure Types	
Procurement Category	Description of Expenditures Types
Heavy Construction Contracts	<ul style="list-style-type: none"> ▪ Infrastructure. ▪ Maintenance. ▪ Construction in progress/highway networks.
Building Construction Contracts	<ul style="list-style-type: none"> ▪ Facilities and other improvements. ▪ Buildings. ▪ Infrastructure/preservation costs.
Special Trade Construction Contracts	<ul style="list-style-type: none"> ▪ Leasehold improvements. ▪ Land improvements. ▪ Building improvements.
Professional Services Contracts	<ul style="list-style-type: none"> ▪ Financial and accounting services. ▪ Medical services. ▪ Architectural/engineering services.
Other Services Contracts	<ul style="list-style-type: none"> ▪ Consulting services. ▪ Publications. ▪ Insurance premiums. ▪ Data processing services. ▪ Cleaning services.
Commodities Contracts	<ul style="list-style-type: none"> ▪ Consumables. ▪ Medical supplies. ▪ Furnishings and equipments. ▪ Agriculture, construction, and hardware supplies/materials.

Source: Office of the Comptroller of Public Accounts' *HUB Reporting Procedures and Methodology*.

DMV's Summary of Its Management's Response



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

State Auditor's Office Report
FY2011 HUB program
TxDMV Management Responses

OVERALL CONCLUSION

The Texas Department of Motor Vehicles (TxDMV) was created by House Bill 3097 (81st Legislature) which was signed into law in June 2009 and became operational on November 1, 2009. In order to commence operations, the newly created agency utilized a Memorandum of Understanding (MOU) with its legacy organization, the Texas Department of Transportation (TxDOT) for administrative support (i.e., payroll, human resources, information technology, procurement and administration of the agencies initial HUB and State Use Programs.) This agreement provided the TxDMV necessary time to establish an infrastructure composed of an Executive Director, management staff and personnel. The first Executive Director was selected February 2010 approximately four months after the agency's creation. The TxDMV HUB and State Use Programs were being developed at a time the agency was going through an expansive growth cycle which included the realignment of existing procurement staff to ensure that knowledgeable and skilled staff was hired for appropriate positions through the competitive hiring process.

Although the Texas Department of Motor Vehicles agrees that for the period reviewed by the State Auditor's Office (SAO) that it was not yet fully compliant in all areas, it strongly believes the time period chosen for this audit paints an unclear and unfair picture of the TxDMV HUB and State Use Programs. Had the SAO chosen a time period when the agency was not in its infancy without established processes and personnel, this report would have looked significantly different. The majority of the findings noted in this report have already been implemented at the TxDMV.

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