



John Keel, CPA
State Auditor

An Audit Report on

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

October 2014

Report No. 15-006



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Overall Conclusion

Compliance with HUB Program Requirements

For fiscal year 2013, five of the seven entities audited substantially complied, overall, with the State's Historically Underutilized Business (HUB) Program requirements in the areas of planning, outreach, subcontracting, and reporting. Those five entities were:

- The Department of Insurance.
- The Health and Human Services Commission.
- The Texas A&M University System.
- Texas Tech University.
- The University of Texas M.D. Anderson Cancer Center.

The Department of State Health Services and the General Land Office minimally complied, overall, with HUB program requirements.

The HUB requirements with the highest level of compliance were the requirements to adopt HUB rules and to involve a HUB coordinator in developing procurement specifications, HUB subcontracting plans, and evaluating HUB contracts. All seven entities audited fully complied with those requirements.

The HUB requirements with the lowest level of compliance were the requirements to:

- Estimate expected HUB contract awards. All seven entities were noncompliant with that requirement.
- Review and evaluate HUB subcontracting plans prior to awarding contracts. Six of the seven entities audited were minimally compliant or noncompliant with that requirement.

All seven entities audited fully or substantially achieved at least one of their HUB goals.

The Historically Underutilized Business (HUB) Program

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting.

The HUB 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 2013, the Office of the Comptroller of Public Accounts reported that, of the \$15.4 billion the State spent in procurement categories that were eligible for HUB participation, the State paid approximately \$2.0 billion to HUBs.

The Purchasing from People with Disabilities (State Use) Program

The State Use Program is administered by the Texas Council on Purchasing from People with Disabilities (Council), which receives legal and 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 the program, state agencies and other political subdivisions give purchasing preference to goods and services offered by community rehabilitation facilities 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.

Compliance with Purchasing from People with Disabilities (State Use) Program Requirements

Six of the entities audited are also subject to the requirements of the State Use Program. However, none of those six entities fully complied with those requirements in fiscal year 2013. Specifically:

- The Department of Insurance, the Department of State Health Services, the Health and Human Services Commission, and Texas Tech University minimally complied, overall, with State Use Program requirements.
- The General Land Office and the Texas A&M University System did not comply, overall, with State Use Program requirements.

Auditors also followed up on six previous recommendations related to the HUB and State Use programs 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. 13-026, March 2013). The Office of the Comptroller of Public Accounts fully implemented three of those six recommendations. It partially implemented one recommendation, its implementation of one recommendation was ongoing, and its implementation of one recommendation was incomplete/ongoing. In addition, auditors reviewed selected general and application controls over the Office of the Comptroller of Public Accounts' Web portal for the State Use Program and identified two control weaknesses that the Office of the Comptroller of Public Accounts resolved during this audit.

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

Summary of Management's Response

The audited agencies and institutions generally agreed with the recommendations in this report.

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. All of the applications and systems audited had the necessary controls to ensure that processed and reported financial transactions were sufficiently valid and reliable for the purposes of this audit.

Auditors noted opportunities for improvement in output controls for HUB and State Use program data. Improving those controls would help alleviate many of the

issues noted at the Department of State Health Services and the Health and Human Services Commission.

Auditors' ability to rely on the population of contracts exceeding \$100,000 for fiscal year 2013 provided by Texas Tech University and the General Land Office was limited. However, auditors determined both populations were sufficient to sample for compliance with subcontracting requirements.

As discussed above, auditors followed up on prior audit recommendations at the Office of the Comptroller of Public Accounts. Those recommendations were related to the Texas Council on Purchasing from People with Disabilities (TCPPD) Web portal and the HUB reporting database that state entities use to report State Use and HUB program activities.

Summary of Objectives, Scope, and Methodology

The audit objectives were to determine whether selected state agencies and higher education institutions:

- Complied with statutory requirements and rules established by the Office of the Comptroller of Public Accounts to implement HUB Program requirements.
- Reported complete and accurate data to the Office of the Comptroller of Public Accounts.
- Complied with requirements related to the State Use Program.

The scope of this audit covered four agencies' and three higher education institutions' HUB and State Use program activities for fiscal year 2013. Auditors selected the seven 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.
- Compliance with State Use Program requirements as defined by Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Chapter 189.

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.

Contents

Detailed Results

Chapter 1	
Department of Insurance	1
Chapter 2	
Department of State Health Services.....	11
Chapter 3	
General Land Office.....	23
Chapter 4	
Health and Human Services Commission	34
Chapter 5	
The Texas A&M University System	48
Chapter 6	
Texas Tech University	59
Chapter 7	
The University of Texas M.D. Anderson Cancer Center	73
Chapter 8	
The Comptroller’s Office Has Improved the HUB Program and State Use Program; However, Opportunities Exist for the Comptroller’s Office to Strengthen Certain Areas of the HUB Program.....	80

Appendix

Appendix	
Objectives, Scope, and Methodology	90

Detailed Results

Chapter 1

Department of Insurance

The Department of Insurance (Department) substantially complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 20 applicable HUB Program requirements (see Table 1), and the Department achieved a compliance level of 73 percent for all audit tests performed related to those requirements.¹ The Department reported that it purchased approximately \$2.9 million in goods and services from HUBs in fiscal year 2013.

Table 1

Department of Insurance Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	While the Department performed an analysis of past expenditures when determining its HUB goals for fiscal year 2013, that analysis did not include an analysis of <u>estimated</u> contract awards and availability of HUBS. In addition, the Department did not perform the required analysis of the total value of contract awards by the 60th day of the fiscal year as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Substantially Compliant	The Department's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Sections 2161.127(b)(2) and 2161.127(b)(3)(A), and Title 34, Texas Administrative Code, Section 20.15(c). However, the Department: <ul style="list-style-type: none"> ▪ Did not accurately report its adopted goals in the goal percentage section in both its <i>Legislative Appropriations Request</i> for the 2012-2013 biennium and its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium. ▪ Did not specify the year that was associated with the factors that affected its failure to meet its other services contract goals in its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	

¹ Auditors calculated the 73 percent overall compliance level based on the Department's compliance with 93 audit tests associated with the 20 applicable HUB program requirements.

Department of Insurance Compliance with HUB Program Requirements

Requirement		Compliance	Additional Information for Less Than Full Compliance
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Fully Compliant	
Outreach			
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Substantially Compliant	The Department has implemented a mentor-protégé program in accordance with requirements. Additionally, the Department had policies and procedures that included eligibility and selection criteria for both mentors and protégés, as required. Auditors tested the one mentor-protégé agreement active during fiscal year 2013. That agreement complied with all applicable mentor-protégé agreement requirements. However, the protégé did not maintain its HUB certification status for the duration of that agreement.
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Minimally Compliant	While the Department designated a staff member as a HUB coordinator during fiscal year 2013, the HUB coordinator's position was not equivalent to the procurement director position.
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Substantially Compliant	The Department's HUB coordinator's duties and responsibilities included facilitating compliance with the Department's good-faith effort criteria, HUB reporting, contract administration, and marketing and outreach efforts for HUB participation. However, the Department did not provide the resources to effectively promote the achievement of the HUB coordinator's responsibilities during fiscal year 2013. In addition, the Department was unable to provide documentation demonstrating that its HUB coordinator matched HUBs with key staff within the Department.
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Minimally Compliant	Department senior managers and procurement staff attended HUB forums hosted by the Department or the Office of the Comptroller of Public Accounts during fiscal year 2013. However, the Department was unable to provide documentation demonstrating that it had informed its prime contractors about presentations relevant to subcontracting opportunities for HUBs and small businesses, as required.

Department of Insurance Compliance with HUB Program Requirements

Department of Insurance Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Minimally Compliant	While the Department had documentation showing that it had developed its own HUB forum program, it was unable to provide documentation showing that it had sponsored presentations by HUBs, as required.
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Substantially Compliant	<p>Subcontracting and other supplemental reporting: The Department had supporting documentation for all 27 categories on its fiscal year 2013 <i>Supplemental Report</i>.</p> <p>In addition, auditors tested 27 bids and awarded contracts the Department reported in fiscal year 2013. The Department reported all 27 bids and contracts accurately and accurately classified the vendors as certified HUB vendors.</p> <p>HUB expenditure reporting: The Department contracts with special deputies to carry out its duties as rehabilitator or liquidator of failing insurance companies. Those contracts are exempted from all state procurement laws, rules, and other requirements (including Texas Insurance Code, Section 443.102(a); Texas Government Code, Chapter 2161; and Title 34, Texas Administrative Code, Chapter 20).</p> <p>In its <i>2013 Annual HUB Report</i>, the Department reported \$1,950,843 in non-Treasury expenditures that its special deputies made. However, because the Department did not make those expenditures directly, it should not have included those expenditures on its <i>2013 Annual HUB Report</i>.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	<p>The Department did not prepare 10 (83 percent) of its 12 required monthly HUB usage reports during fiscal year 2013.</p> <p>For the two HUB usage reports the Department prepared (and on which auditors were able to apply compliance tests), the Department:</p> <ul style="list-style-type: none"> ▪ Did not identify all subcontractors or detail payments to subcontractors. ▪ Appropriately included purchases from state term contracts paid with non-Treasury funds and identified HUB usage by each of its operating divisions.
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Minimally Compliant	<p>Accuracy of subcontracting amounts reported: The two subcontracting expenditures that the Department reported on its <i>2013 Annual HUB Report</i> were not supported by the <i>Contractor Progress Assessment Reports</i> that the Department's prime contractors submitted.</p> <p>Monthly reporting requirements: The Department did not ensure that prime contractors submitted <i>Contractor Progress Assessment Reports</i> on a monthly basis, as required. Specifically, 2 (40 percent) of 5 prime contractors tested did not submit <i>Contractor Progress Assessment Reports</i> to the Department on a monthly basis during fiscal year 2013.</p> <p>Those 5 prime contractors submitted <i>Contractor Progress Assessment Reports</i> for 76 percent of the months for which their contracts were active during the fiscal year.</p>
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The Department asserted that it did not have any group purchasing HUB activity during fiscal year 2013.
Subcontracting			
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Fully Compliant	

Department of Insurance Compliance with HUB Program Requirements

Department of Insurance Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
2	State entities' use of resources such as examining the scope of work and researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14(a)(1)).	Fully Compliant	
3	Statement of Texas certified HUB by potential contractor (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Fully Compliant	
4	Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Fully Compliant	
5	Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14(e)).	Minimally Compliant	The Department had documentation of its review and evaluation of the one applicable HUB subcontracting plan in fiscal year 2013 prior to awarding the associated contract award. However, it did not include the approved HUB subcontracting plan as a provision of that contract.
Goal Attainment			
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).		
	Heavy construction contract utilization goal.	Not Applicable	
	Building construction contract utilization goal.	Not Applicable	
	Special trade construction contract utilization goal.	Not Applicable	
	Professional services contract utilization goal.	Not Achieved	For fiscal year 2013, the Department's goal for professional services contracts was 12.60 percent; its actual HUB performance was 0.63 percent.
	Other services contract utilization goal.	Substantially Achieved	For fiscal year 2013, the Department's goal for other services contracts was 36.20 percent; its actual HUB performance was 26.10 percent.
	Commodities contract utilization goal.	Minimally Achieved	For fiscal year 2013, the Department's goal for commodities contracts was 35.50 percent; its actual HUB performance was 17.57 percent.

The Department minimally complied, overall, with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 2).

Table 2

Department of Insurance Compliance with State Use Program Requirements			
	Requirement	Compliance	Additional Information for Less Than Full Compliance
1	Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Fully Compliant	
2	Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Fully Compliant	
3	Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant	<p>The Department did not have processes to ensure that it purchased goods and services from community rehabilitation programs whenever available, as required.</p> <p>For 28 (97 percent) of 29 purchases from vendors other than TIBH tested, (1) the Department did not have documentation showing that it checked the TIBH catalog prior to making the purchase or (2) the Department's review of TIBH's catalog was insufficient to identify whether goods or services being purchased, or equivalent goods or services, were available from TIBH. Specifically:</p> <ul style="list-style-type: none"> ▪ For 3 (11 percent) of the 28 purchases, the Department documented that it checked TIBH prior to processing the purchase; however, those checks were insufficient to identify that at least some of the goods and services to be purchased were available from TIBH. ▪ For 25 (89 percent) of the 28 purchases, the Department did not have documentation demonstrating that it checked the TIBH catalog prior to making the purchases.
4	Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Noncompliant	The Department did not report any exception items to the Office of the Comptroller of Public Accounts during fiscal year 2013. However, auditors identified 12 purchases totaling \$4,774 from non-State Use Program vendors that were for goods or services offered through the State Use Program and that the Department should have reported as exceptions.

Auditors relied on data from the Department's Centralized Accounting and Payroll/Personnel System (CAPPS). As a result, auditors performed general and application control testing for CAPPS and determined that its data was sufficiently valid and reliable for the purposes of this audit.

Auditors communicated other, less significant issues related to the Department's information technology controls to management separately in writing.

Recommendations

The Department should:

- Improve compliance with HUB planning requirements by ensuring that:

- ♦ It estimates its expected HUB contract awards by the 60th day of the fiscal year.
- ♦ Its *Legislative Appropriations Requests* include all required elements.
- Improve compliance with HUB outreach requirements by:
 - ♦ Actively monitoring the HUB certification status of its protégés to ensure that they maintain their HUB certification for the duration of the mentor-protégé agreements.
 - ♦ Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.
 - ♦ Allocating sufficient resources to effectively promote the achievement of the HUB coordinator's responsibilities, such as actively monitoring mentor-protégé relationships, complying with HUB forum and presentation requirements, and informing prime contractors about presentations relevant to subcontracting.
 - ♦ Informing its prime contractors about presentations relevant to subcontracting opportunities for HUBs and small businesses, as required.
 - ♦ Sponsoring presentations by HUBs and maintaining documentation of those presentations.
- Improve compliance with HUB reporting requirements by:
 - ♦ Reporting only Department HUB expenditures on its *Annual HUB Report*.
 - ♦ Preparing and maintaining monthly HUB usage reports and ensuring that those reports include all required information.
 - ♦ Requiring prime contractors to submit *Contractor Progress Assessment Reports* on a monthly basis.
- Improve compliance with HUB subcontracting requirements by including approved HUB subcontracting plans as provisions of contracts.
- Improve compliance with State Use Program requirements by:
 - ♦ Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.
 - ♦ Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.

Management's Response

Improve compliance with HUB planning requirements by ensuring that:

- *It estimates its expected HUB contract awards by the 60th day of the fiscal year.*
- *Its Legislative Appropriations Requests include all required elements.*

Management Response:

TDI agrees with these recommendations.

TDI has already implemented these recommendations. Estimates for FY 2014 were made within the required 60 days and TDI will continue to comply with this requirement going forward. All required elements were included in the FY16-17 Legislative Appropriations Requests.

Target date: Completed and on-going.

Improve compliance with HUB outreach requirements by:

- *Actively monitoring the HUB certification status of its protégés to ensure they maintain their HUB certification for the duration of the mentor-protégé agreements.*
- *Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.*
- *Allocating sufficient resources to effectively promote the achievement of the HUB coordinator's responsibilities, such as actively monitoring mentor-protégé relationships, complying with HUB forum and presentation requirements, and informing prime contractors about presentations relevant to subcontracting.*
- *Informing its prime contractors about presentations relevant to subcontracting opportunities for HUBs and small businesses, as required.*
- *Sponsoring presentations by HUBs and maintaining documentation of those presentations.*

Management Response:

TDI partially agrees with these recommendations.

TDI will review this organizational structure and description of current management duties to ensure that the HUB coordinator's level is appropriate to ensure proper emphasis on HUB transactions. Currently the HUB coordinator/purchasing manager meets quarterly

with the Commissioner of Insurance to review HUB status and receive direction on the HUB program.

TDI will also review procedures to closely monitor the HUB certification status of protégés to include regular certification status checks throughout the duration of mentor-protégé agreements.

Target date: April 30, 2015

Responsible person: Purchasing Manager, Procurement and General Services (PGS) Director, and TDI Chief of Staff

Effective September 1, 2014, TDI increased staff resources for the HUB program by adding one FTE dedicated to the program. This new resource now provides the capability for TDI to apply greater effort to HUB forum presentation planning, informing prime contractors about subcontracting opportunities, and establishing and monitoring mentor-protégé relationships, in addition to other HUB program requirements.

Target Date: Completed and on-going

Improve compliance with HUB reporting requirements by:

- *Reporting only department HUB expenditures on its Annual HUB Report.*
- *Preparing and maintaining monthly HUB usage reports and ensuring that those reports include all required information.*
- *Requiring prime contractors to submit Contractor Progress Assessment Reports on a monthly basis.*

Management Response:

TDI agrees with these recommendations.

TDI reported its annual FY 2014 data excluding the Special Deputy Receiver (SDR) HUB expenditures. For FY 2015 TDI has changed its Annual and Semi-Annual HUB data reporting methodology to exclude previously included expense data from its SDR program. This revised methodology will be continued for all future data reports. TDI will include the SDR HUB expenditures in its supplemental letter to the Comptroller in order to inform readers of the level of effort of the SDR program.

Target date: Completed and on-going

In FY 2014, TDI's Purchasing and Financial Services staff jointly developed a new reporting capability to produce reports on demand

that accurately reflect actual HUB expenditures made via treasury funds. This report supports monthly internal report requirements, quarterly reports as required by new Riders 17 and 18 of the General Appropriations Act, and to assist in validating final semi-annual and annual HUB reports produced by the Comptroller (CPA). Reporting data for Expenditure and Supplemental Reports was moved over to Statewide Reports by CPA for the use of all CAPPs agencies. During the transition, the report was revised and approved through the CAPPs governance process.

Target Date: Completed and on-going

In FY 2015, TDI will initiate a process review project to determine the most effective procedure to ensure prime contractors submit progress assessment reports as required. This project will include enforcement methods up to and including withholding payments for contractors that are not compliant with report submission requirements.

Target date: no later than September 1, 2015

Responsible person: Purchasing Manager and Financial Management staff

Improve compliance with HUB subcontracting requirements by including approved HUB subcontracting plans as provisions of contracts.

Management Response:

TDI agrees with this recommendation.

Effective in FY 2014, TDI incorporates by reference all applicable HUB Subcontracting Plans and Progress Assessment Report templates into associated contracts.

Target Date: Completed and on-going

Improve compliance with State Use Program requirements by:

- *Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.*
- *Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.*

Management Response:

TDI agrees with these recommendations.

In FY 2014, TDI changed processes regarding purchases of products and services that could be provided by TIBH. Key changes include

regular training of purchasers on when an exception must be claimed, management review of all exceptions, required documentation in the purchase order file validating that TIBH's availability was checked prior to purchasing from another source, and management review of monthly exception reports. All approved exemptions will be entered into the CPA portal as required.

Target date: Completed and on-going

Department of State Health Services

The Department of State Health Services (Department) minimally complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 21 applicable HUB Program requirements (see Table 3), and the Department achieved a compliance level of 56 percent for all audit tests performed related to those requirements.² The Department reported that it purchased approximately \$48.7 million in goods and services from HUBs in fiscal year 2013.

Table 3

Department of State Health Services' Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	While the Department performed an analysis of past expenditures when determining its HUB goals for fiscal year 2013, that analysis did not include an analysis of <u>estimated</u> contract awards and availability of HUBs. In addition, the Department did not perform the required analysis of the total value of contract awards by the 60th day of the fiscal year as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Substantially Compliant	The Department's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Section 2161.127(b)(3)(a), and Title 34, Texas Administrative Code, Section 20.15(c). However: <ul style="list-style-type: none"> ▪ In its <i>Legislative Appropriations Request</i> for the 2012-2013 biennium, the Department did not report its adopted HUB goals and did not explicitly state its reason for non-attainment of the "Other Services" goal. ▪ In its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium, the Department's attainment statement did not provide an "x out of x" statement, and it did not mention the goals not met in another format.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	

² Auditors calculated the 56 percent overall compliance level based on the Department's compliance with 111 audit tests associated with the 21 applicable HUB program requirements.

Department of State Health Services' Compliance with HUB Program Requirements

Requirement		Compliance	Additional Information for Less Than Full Compliance
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Fully Compliant	
Outreach			
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Fully Compliant	
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Minimally Compliant	While the Department designated a staff member as a HUB coordinator during fiscal year 2013, the HUB coordinator's position is not equivalent to the procurement director position.
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Minimally Compliant	The Department had documentation showing that its senior managers and procurement staff had attended HUB forums hosted by either the Department or the Office of the Comptroller of Public Accounts during fiscal year 2013. However, it did not have documentation demonstrating that it had advertised in a trade publication, as required.
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant	

Department of State Health Services' Compliance with HUB Program Requirements

Department of State Health Services' Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Minimally Compliant	<p>HUB expenditure reporting: The Department reported its fiscal year 2013 Treasury procurement card expenditures. However, it did not report accurate information for 10 (29 percent) of 34 procurement card expenditures tested.</p> <p>In addition, auditors identified \$22,584 in procurement card expenditures that the Department did not report to the Office of the Comptroller of Public Accounts in its <i>2013 Annual HUB Report</i>.</p> <p>Subcontracting and other supplemental reporting: The Department was unable to provide supporting documentation for its supplemental reports; therefore, auditors were unable to test requirements for those reports.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	The Department was unable to provide its monthly HUB usage reports for fiscal year 2013; therefore, auditors were unable to test requirements for those reports.
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	The Department was unable to provide progress assessment reports for fiscal year 2013 or a population of prime contractors that submitted progress assessment reports. Therefore, auditors were unable to test requirements for those reports.
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Noncompliant	The Department participated in group purchasing programs during fiscal year 2013. However, it did not report the HUB expenditures it made through those programs.
Subcontracting			
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Minimally Compliant	For 7 (54 percent) of the 13 applicable contract solicitations tested, the Department was unable to provide supporting documentation.
2	State entities' use of resources such as examining the scope of work and researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14(a)(1)).	Minimally Compliant	<p>For 7 (50 percent) of the 14 applicable contract solicitations tested, the Department had documentation that it had examined the scope of work and made a determination regarding the probability of subcontracting opportunities. However:</p> <ul style="list-style-type: none"> ▪ For 6 (86 percent) of the remaining 7, the Department was unable to provide documentation demonstrating its compliance with the requirement to examine the scope of work for subcontracting opportunities. ▪ The Department did not have any solicitation documents for the remaining contract because it entered into that contract on an emergency basis. However, Texas Government Code, Section 2155.137(b), specifies that emergency purchases are not exempt from HUB requirements. <p>In addition, for 9 (64 percent) of 14 contracts tested, the Department was unable to provide documentation demonstrating that it researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may be available to perform the contract work.</p>

Department of State Health Services' Compliance with HUB Program Requirements

Department of State Health Services' Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
3	Statement of Texas certified HUB by potential contractor (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Minimally Compliant	Auditors tested 29 applicable contract solicitation files. For 23 (79 percent) of the 29 contract solicitations tested, the Department was unable to provide documentation showing that it had required the respondents to (1) state whether they were certified HUBs or (2) state the overall subcontracting and certified HUB subcontracting they would provide. In addition, auditors selected a sample of 34 procurement card expenditures that the Department had reported as HUB expenditures. For 2 (6 percent) of those expenditures, the contractors or subcontractors tested were not certified HUBs.
4	Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Noncompliant	For 23 (79 percent) of 29 applicable contracts tested, vendors did not submit completed subcontracting plans. For 2 of those 23 contracts, the Department was unable to provide any supporting documentation. In addition, for one contract that did have a HUB subcontracting plan, the Department did not ensure that the contractor notified two minority or women trade organizations about subcontracting opportunities.
5	Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14(e)).	Noncompliant	Auditors tested 29 applicable contracts. For 26 (90 percent) of those 29 contracts, the Department was unable to provide documentation showing that it reviewed and evaluated the HUB subcontracting plans <u>prior</u> to awarding the contracts, as required. For 24 (83 percent) of 29 contracts tested, the Department was unable to provide documentation to demonstrate that it reviewed the HUB subcontracting plans to determine whether the respondents had made a good-faith effort. For 23 (79 percent) of the 29 contracts tested, the Department was unable to provide documentation demonstrating that the HUB subcontracting plans became a provision of the contracts.
Goal Attainment			
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).		
	Heavy construction contract utilization goal.	Fully Achieved	For fiscal year 2013, the Department's goal for heavy construction was 11.20 percent; its actual HUB performance was 24.34 percent.
	Building construction contract utilization goal.	Fully Achieved	For fiscal year 2013, the Department's goal for building construction was 21.10 percent; its actual HUB performance was 34.12 percent.
	Special trade construction contract utilization goal.	Substantially Achieved	For fiscal year 2013, the Department's goal for special trade construction was 32.70 percent; its actual HUB performance was 26.92 percent.
	Professional services contract utilization goal.	Not Achieved	For fiscal year 2013, the Department's goal for professional services contracts was 23.60 percent; its actual HUB performance was 3.77 percent.
	Other services contract utilization goal.	Fully Achieved	For fiscal year 2013, the Department's goal for other services contracts was 24.60 percent; its actual HUB performance was 34.67 percent.
	Commodities contract utilization goal.	Not Achieved	For fiscal year 2013, the Department's goal for commodities contracts was 21.00 percent; its actual HUB performance was 5.82 percent.

The Department minimally complied, overall, with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 4). The Department reported that it purchased approximately \$38,457.58 in exceptions from the State Use Program in fiscal year 2013.

Table 4

Department of State Health Services Compliance with State Use Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
1	Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Substantially Compliant	The Department was able to provide documentation that it had a State Use Program coordinator for 8 (67 percent) of the 12 months in fiscal year 2013. However, it did not have documentation that it had a State Use Program coordinator for 4 (33 percent) of those 12 months.
2	Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Fully Compliant	
3	Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant	The Department did not have processes to ensure that it purchased goods and services from community rehabilitation programs whenever available, as required. The Department also did not have supporting documentation showing that it checked TIBH for the goods or services prior to making eight purchases tested.
4	Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Minimally Compliant	For the eight Department-reported exceptions tested, the Department was unable to provide supporting documentation for the reported exception reason. One (13 percent) of the 8 Department-reported exceptions tested was the purchase of a good that the State Use Program does not offer; therefore, the Department should not have reported that as an exception. The Department reported the 7 remaining exceptions in the correct month, but it reported the wrong amounts for 3 (43 percent) of those exceptions. In addition, auditors identified 6 purchases, totaling \$619.18, from non-State Use Program vendors that were for goods and services available through the State Use Program. The Department should have reported those purchases as exceptions, but it did not.

Generally, the HUB-related data that the Department maintained and processed in the Health and Human Services Administrative System and the Contract Administration and Tracking System was sufficiently valid and reliable for the purposes of this audit. However, based on the issues discussed in Tables 3 and 4, auditors determined that adequate output controls were not in place over HUB and State Use Program-related data. For example:

- The Department did not maintain documentation supporting its fiscal year 2013 supplemental report and its *Contractor Progress Assessment Reports*.

- The Department did not always accurately identify and report State Use Program exceptions because it did not have processes to review exceptions prior to reporting them.

Auditors communicated other, less significant issues related to the Department's information technology controls to management separately in writing.

Recommendations

The Department should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It estimates its expected HUB awards by the 60th day of the fiscal year.
 - ♦ Its *Legislative Appropriations Requests* contain all required elements.
- Improve compliance with HUB outreach requirements by:
 - ♦ Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.
 - ♦ Advertising HUB forums in a trade publication.
- Improve compliance with HUB reporting requirements by:
 - ♦ Accurately reporting all HUB-eligible expenditures on its HUB report.
 - ♦ Collecting and maintaining supporting documentation for its supplemental reports.
 - ♦ Compiling and maintaining internal HUB usage reports on a monthly basis.
 - ♦ Tracking all prime contractors that are required to submit *Contractor Progress Assessment Reports*, and collecting and maintaining those reports for all prime contractors.
 - ♦ Reporting any HUB expenditures it incurs under group purchasing programs.
- Improve compliance with HUB subcontracting requirements by complying with all subcontracting and good-faith effort requirements and maintaining adequate supporting documentation. Specifically, it should do that by:

- ♦ Including in solicitation documents the probability of subcontracting opportunities.
 - ♦ Examining the scope of work and determining the probability of subcontracting opportunities.
 - ♦ Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.
 - ♦ Requiring respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.
 - ♦ Ensuring its reported HUB expenditures are from certified HUB vendors.
 - ♦ Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.
 - ♦ Providing notice to organizations or development centers within the required time frames.
 - ♦ Providing documentation showing one or more of the following: (1) it notified at least three HUB businesses, (2) all available subcontracting opportunities will be performed by one or more HUBs, or (3) one or more HUB subcontractors will be used, and the total value of those subcontracts will meet or exceed the statewide goal.
 - ♦ Reviewing and evaluating HUB subcontracting plans prior to awarding the contracts.
 - ♦ Reviewing the documentation that respondents submit to determine whether they made a good-faith effort.
 - ♦ Including approved HUB subcontracting plans as provisions of contracts.
- Improve compliance with State Use Program requirements by:
 - ♦ Designating a staff member as its State Use Program coordinator and maintain documentation supporting that designation.
 - ♦ Reporting non-State Use purchases and exceptions.
 - ♦ Implementing a process to determine whether TIBH goods and services are available and retaining documentation that it followed that process.

- Strengthen output controls over data extracted from automated systems that it uses to compile HUB reports.

Management's Response

The Health and Human Services Commission (HHSC) provides procurement and contracting support to five Health and Human Services (HHS) agencies, including the Department of State Health Services. This support, provided by the HHSC Office of Procurement and Contracting Services, includes responsibility for historically underutilized business (HUB) administration, coordination, and reporting for all five HHS agencies. As a result, HHSC is providing the following management response to address the State Auditor's Office recommendations included in both Chapter 2 and Chapter 4 of this report.

SAO Recommendation:

The Department should improve compliance with HUB planning requirements by ensuring that:

- *It estimates its expected HUB awards by the 60th day of the fiscal year.*
- *Its Legislative Appropriations Requests contain all required elements.*

Management Response:

HHSC implemented processes during fiscal year 2014 to ensure estimates of anticipated contract awards subject to Texas Government Code Chapter 2166 and 2161.181 are completed by October 30th each year.

HHSC will ensure Legislative Appropriation Requests include goals established for contracting with HUB firms for the two preceding years and indicate whether the goals were met. When a goal is not met, HHSC will quantify the attainment percentage and include an explanation for why the goal was not achieved.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Department should improve compliance with HUB outreach requirements by:

- *Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.*
- *Advertising HUB forums in a trade publication.*

Management Response:

HHSC will evaluate the organizational placement of the HHS HUB Coordinator and ensure the level of that position is appropriate and in accordance with applicable requirements. HHSC will revise its policies and procedures and strengthen outreach efforts to ensure trade publications are utilized to advertise HUB forums.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Department should improve compliance with HUB reporting requirements by:

- *Accurately reporting all HUB-eligible expenditures on its HUB report.*
- *Collecting and maintaining supporting documentation for its supplemental reports.*
- *Compiling and maintaining internal HUB usage reports on a monthly basis.*
- *Tracking all prime contractors that are required to submit Contractor Progress Assessment Reports, and collecting and maintaining those reports for all prime contractors.*
- *Reporting any HUB expenditures it incurs under group purchasing programs.*

Management Response:

HHSC is implementing an HHS HUB Portal, a web based system that will streamline, standardize, and improve HUB reporting processes across all HHS agencies. The HHS HUB portal will support efforts to ensure the accuracy, completeness, monitoring, and support for reported HUB expenditures and supplemental reporting. The HHS HUB Portal is expected to be fully operational by January 2015, and will include information as of the beginning of the fiscal year 2015.

The HUB Portal will be used by the HHS HUB Program Office, vendors, and database users and will:

- *Track HHS contractors and allow them to enter their subcontracting data and expenditures directly into the system.*
- *Improve the efficiency and accuracy of subcontracting expenditure reporting for contractors and the HUB Program Office.*
- *Assist HHS contract managers in ensuring compliance with the HUB Subcontracting Plan requirements.*
- *Track HUB expenditures incurred under group purchasing programs reported to the Comptroller's Office.*

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Department should improve compliance with HUB subcontracting requirements by complying with all subcontracting and good-faith effort requirements and maintaining adequate supporting documentation. Specifically, it should do that by:

- *Including in solicitation documents the probability of subcontracting opportunities.*
- *Examining the scope of work and determining the probability of subcontracting opportunities.*
- *Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.*

- *Requiring respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.*
- *Ensuring its reported HUB expenditures are from certified HUB vendors.*
- *Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.*
- *Providing notice to organizations or development centers within the required time frames.*
- *Providing documentation showing one or more of the following: (1) it notified at least three HUB businesses, (2) all available subcontracting opportunities will be performed by one or more HUBs, or (3) one or more HUB subcontractors will be used, and the total value of those subcontracts will meet or exceed the statewide goal.*
- *Reviewing and evaluating HUB subcontracting plans prior to awarding the contracts.*
- *Reviewing the documentation that respondents submit to determine whether they made a good-faith effort.*
- *Including approved HUB subcontracting plans as provisions of contracts.*

Management Response:

HHSC will strengthen its HUB subcontracting processes to ensure documentation supporting subcontracting efforts is maintained in accordance with Texas Government Code sections 2161.251 through 2161.253 and HUB Rules §20.14. HHSC will update policies and procedures to reinforce that all procurements, contracts, contract amendments, contract renewals, and contract extensions fully comply with subcontracting and good-faith effort requirements prior to award, and will provide HUB subcontracting compliance training to contract managers and contractors across all HHS agencies.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Department should improve compliance with State Use Program requirements by:

- *Designating a staff member as its State Use Program coordinator and maintain documentation supporting that designation.*
- *Reporting non-state use purchases and exceptions.*
- *Implementing a process to determine whether TIBH goods and services are available and retaining documentation that it followed that process.*
- *Strengthen output controls over data extracted from automated systems that it uses to compile HUB reports.*

Management Response:

HHSC revised the State Use Program coordinator's job description and performance expectations including specific duties and responsibilities to (a) review and verify the accuracy of reported information, (b) maintain documentation of reported amounts, and (c) ensure State Use Program exceptions are reported accurately through the Comptroller's State Use Reporting Portal. Effective September 1, 2014, processes were implemented to verify and ensure that key TIBH exception information is documented and timely and accurately reported. HHSC will also strengthen output controls over data used to compile reports.

HHSC will strengthen processes to ensure procurement staff consistently utilize TIBH goods and services, where appropriate. To further improve documentation practices, HHSC will reiterate with all procurement staff the importance of documenting actions completed to determine the availability of TIBH goods and services and ensure staff are aware of how to document the completion of this process on the checklist.

Estimated Completion Date:

November 2014

Title of Responsible Person:

Deputy Executive Commissioner, Procurement and Contracting Services

General Land Office

The General Land Office (Office) minimally complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 20 applicable HUB Program requirements (see Table 5), and the Office achieved a compliance level of 49 percent for all audit tests performed related to those 20 requirements.³ The Office reported that it purchased approximately \$8 million in goods and services from HUBs in fiscal year 2013.

Table 5

General Land Office's Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Noncompliant	The Office did not consider scheduled fiscal year expenditures or the availability of HUBs for each utilization category when determining its fiscal year 2013 utilization goals.
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	The Office did not complete an analysis of projected contracts, as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Minimally Compliant	<p>The Office's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Sections 2161.127(b)(2), and Title 34, Texas Administrative Code, Section 20.15(c). However:</p> <ul style="list-style-type: none"> ▪ In its <i>Legislative Appropriations Request</i> for the 2012-2013 biennium the Office: <ul style="list-style-type: none"> ♦ Reported its actual HUB contracting percentage instead of its adopted HUB goals. ♦ Incorrectly reported its HUB expenditures as its total expenditures for all utilization categories. That resulted in errors in the calculation of the Office's actual HUB utilization percentages. ♦ Included a statement and explanation for not meeting its goals for heavy construction, other services, and commodities contracts; however, that statement did not address the building construction, special trade construction, and professional services categories. ▪ In its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium, the Office included a statement and explanation for not meeting its goals for special trade construction, professional services, other services, and commodities contracts; however, that statement did not address the building construction and heavy construction categories.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	

³ Auditors calculated the 49 percent overall compliance level based on the Office's compliance with 112 audit tests associated with the 20 applicable HUB program requirements.

General Land Office's Compliance with HUB Program Requirements

	Requirement	Compliance	Additional Information for Less Than Full Compliance
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Substantially Compliant	The Office submitted its fiscal year 2013 annual progress report by the December 31, 2013, reporting due date and included all required information. However, it did not accurately report its progress under its plan for increasing the use of HUBs. Specifically, the Office incorrectly reported its utilization goal percentages rather than actual HUB utilization percentages for all categories for fiscal year 2013 in its fiscal year 2013 non-financial report.
Outreach			
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Noncompliant	<p>While the Office has implemented a mentor-protégé program as required, it has not implemented policies and procedures that specify its criteria for selecting mentors and protégés.</p> <p>Additionally, the Office did not maintain documentation of its activities related to mentor-protégé agreements active during fiscal year 2013. Specifically, for all three mentor-protégé agreements tested, the Office:</p> <ul style="list-style-type: none"> ▪ Did not have a copy of the three mentor-protégé agreements it reported as active for fiscal year 2013. Because signed agreements were not available, auditors were unable to determine whether the Office had reported those agreements to the Office of the Comptroller of Public Accounts within 21 days of being signed. ▪ Did not have documentation demonstrating that it had monitored the relationship between the mentor and the protégé over the course of the agreement, as required. ▪ Did not have documentation demonstrating that it had informed both the mentor and protégé that (1) participation in the mentor-protégé program was voluntary and (2) participation in the program was neither a guarantee for a contract nor a promise of business, as required.
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Fully Compliant	
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	

General Land Office's Compliance with HUB Program Requirements

Requirement		Compliance	Additional Information for Less Than Full Compliance
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Minimally Compliant	The Office had documentation that its senior managers and procurement staff had attended HUB forums hosted by either the Office or the Office of the Comptroller of Public Accounts during fiscal year 2013. However, it did not have documentation demonstrating that it had advertised in a trade publication, as required.
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Minimally Compliant	While the Office had documentation that it had developed its own HUB forum program, it was unable to provide documentation that it had sponsored presentations by HUBs, as required.
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Noncompliant	<p>Subcontracting and other supplemental reporting: The Office did not submit its supplemental report information accurately or in a timely manner during fiscal year 2013. Specifically:</p> <ul style="list-style-type: none"> ▪ The Office did not have supporting documentation for 26 (72 percent) of 36 categories reported on its fiscal year 2013 supplemental report. ▪ The Office did not submit semi-annual HUB reporting data by the March 15 due date during fiscal year 2013 as required. <p>HUB expenditure reporting: While the Office made Treasury procurement card expenditures in fiscal year 2013, it opted not to report them, which is allowed by the Office of the Comptroller of Public Accounts' <i>Fiscal 2013 Annual Statewide Historically Underutilized Business (HUB) Reporting Procedures</i>.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	While the Office had HUB usage report data available and summarized by division, it did not have documentation showing that it compiled reports on a monthly basis during fiscal year 2013, as required. In addition, the Office did not identify all subcontractors or detail payments to subcontractors on its usage reports, as required.
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Substantially Compliant	<p>Accuracy of amounts reported: The Office accurately reported subcontracting expenditures on its <i>2013 Annual HUB Report</i> that prime contractors had reported on their <i>Contractor Progress Assessment Reports</i>.</p> <p>Monthly reporting requirements: The Office did not ensure that prime contractors submitted <i>Contractor Progress Assessment Reports</i> on a monthly basis, as required. Specifically, 6 (86 percent) of the 7 prime contractors tested did not submit all applicable <i>Contractor Progress Assessment Reports</i> during fiscal year 2013.</p> <p>In total, those 7 prime contractors submitted <i>Contractor Progress Assessment Reports</i> for 57 percent of the months for which their contracts were active during fiscal year 2013.</p>
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The Office asserted that it did not have any group purchasing HUB activity during fiscal year 2013.

General Land Office's Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance	
Subcontracting			
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Minimally Compliant	<p>Auditors tested five applicable contract solicitations and determined the following.</p> <ul style="list-style-type: none"> ▪ For 2 (40 percent) of the 5, the Office was unable to provide solicitation documentation; therefore, auditors were unable to confirm whether a statement regarding subcontracting opportunities was included in the solicitation documentation. ▪ For 1 (20 percent) of the 5, the Office provided solicitation documents, however those documents did not contain a statement of subcontracting opportunities.
2	State entities' use of resources such as examining the scope of work and researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14(a)(1)).	Minimally Compliant	<p>Auditors tested 5 applicable contract solicitations and determined the following:</p> <ul style="list-style-type: none"> ▪ For 2 (40 percent) of the 5, the Office was unable to provide solicitation documentation demonstrating that it had examined the scope of work to determine whether subcontracting was probable or researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may be available to perform the contract work. ▪ For 1 (20 percent) of the 5, the Office did not determine the probability of subcontracting opportunities, and it did not maintain documentation that it had researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may be available to perform the contract work.
3	Statement of Texas certified HUB by potential contractor (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Noncompliant	<p>Auditors tested 12 applicable contract files. For 9 (75 percent) of the 12, the Office's supporting documentation did not include a HUB subcontracting plan, and the documentation did not otherwise indicate whether the contractor was a certified HUB or the overall subcontracting plan for the contract. For two of those nine, the Office neither requested nor received a HUB subcontracting plan because it entered into those contracts on an emergency basis. However, Texas Government Code, Section 2155.137(b), specifies that emergency purchases are not exempt from HUB requirements.</p>
4	Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Noncompliant	<p>Auditors tested 12 applicable contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For 9 (75 percent) of the 12, the Office did not (1) receive a HUB subcontracting plan or (2) document its determination that subcontracting was not probable or otherwise applicable. In addition, for 1 of those 9, the Office was unable to provide the contract. ▪ For 1 of the remaining 3, the Office could not provide documentation demonstrating that it had ensured that the contractor (1) notified trade organizations of subcontracting opportunities or (2) justified the selection of non-HUB subcontractors.
5	Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14(e)).	Noncompliant	<p>Auditors tested 12 applicable contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For all 12, the Office did not maintain documentation to demonstrate that it had reviewed HUB subcontracting plans <u>prior</u> to awarding the contracts. ▪ For 11 (92 percent) of the 12, the Office did not maintain documentation to demonstrate that it had reviewed the HUB subcontracting plans to determine whether the respondents had made a good-faith effort. ▪ For 10 (83 percent) of the 12, the Office did not ensure that the HUB subcontracting plans became a provision of the contract.

General Land Office's Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
Goal Attainment		
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).	
	Heavy construction contract utilization goal.	Not Applicable
	Building construction contract utilization goal.	Substantially Achieved For fiscal year 2013, the Office's goal for building construction was 8.70 percent; its actual HUB performance was 7.04 percent.
	Special trade construction contract utilization goal.	Minimally Achieved For fiscal year 2013, the Office's goal for special trade construction was 21.80 percent; its actual HUB performance was 12.18 percent.
	Professional services contract utilization goal.	Minimally Achieved For fiscal year 2013, the Office's goal for professional services contracts was 22.20 percent; its actual HUB performance was 7.73 percent.
	Other services contract utilization goal.	Not Achieved For fiscal year 2013, the Office's goal for other services contracts was 13.10 percent; its actual HUB performance was 3.32 percent.
	Commodities contract utilization goal.	Not Achieved For fiscal year 2013, the Office's goal for commodities contracts was 12.30 percent; its actual HUB performance was 1.80 percent.

The Office did not comply, overall, with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 6).

Table 6

General Land Office's Compliance with State Use Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
1	Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Substantially Compliant The Office was able to provide documentation that it had a State Use Program coordinator for 9 (75 percent) of the 12 months in fiscal year 2013. However, it did not have documentation that it had a State Use Program coordinator for 3 (25 percent) of those 12 months.
2	Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Noncompliant The Office did not always submit non-State Use Program purchase reports to the Office of the Comptroller of Public Accounts on a monthly basis during fiscal year 2013, as required. Specifically, the Office did not submit its reports for 10 (83 percent) of 12 months during the fiscal year.
3	Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant The Office did not have processes to ensure that it purchased goods and services from community rehabilitation programs whenever available, as required. Specifically, for all 15 purchases from vendors other than TIBH tested, the Office did not have documentation demonstrating that it checked the TIBH catalog prior to making the purchase.
4	Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Noncompliant The Office did not report any exception items to the Office of the Comptroller of Public Accounts during fiscal year 2013. However auditors identified 3 purchases totaling \$11,158.25 from non-State Use Program vendors that were for goods and services offered through the State Use Program and that the Office should have reported as exceptions.

Auditors relied on data from the Office's BuySpeed and REPERs procurement systems for State Use and HUB program expenditures. As a result, auditors tested general and application controls for those systems and determined that data in those systems was sufficiently valid and reliable for the purposes of this audit.

However, auditors' ability to assess the completeness of the population of contracts used for testing HUB subcontracting requirements was limited. The Office does not have a contracts management system; therefore, to obtain a list of contracts, auditors used alternative methods to obtain a contract population. The Office provided two lists of contracts with corresponding purchase orders from its BuySpeed system, as well as a list of contracts from its legal division (from a Microsoft Access database). There were significant differences in the number of contracts on those three contract lists. Auditors compiled the three lists to obtain a contract population for sampling purposes that was sufficient to test compliance with subcontracting requirements.

Auditors communicated other, less significant issues related to the Office's information technology controls to management separately in writing.

Recommendations

The Office should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It considers scheduled fiscal year expenditures and the availability of HUBs for each utilization category when determining its HUB utilization goals.
 - ♦ It estimates its expected HUB awards by the 60th day of the fiscal year.
 - ♦ Its *Legislative Appropriations Requests* contain all required elements.
 - ♦ Its annual HUB progress report contains all required information.
- Improve compliance with HUB outreach requirements by:
 - ♦ Developing formal criteria for selecting HUB mentors and protégés and documenting its determination of mentors' and protégés' compliance with those criteria.
 - ♦ Requiring all Office-sponsored HUB mentor-protégé agreements to be signed.

- ♦ Monitoring HUB mentor-protégé relationships and maintaining documentation of its monitoring activities.
- ♦ Informing prospective HUB mentors and protégés in writing that the mentor-protégé program is voluntary and is not a guarantee of business, and maintaining related documentation.
- ♦ Advertising HUB forums in a trade publication.
- ♦ Sponsoring presentations by HUBs.
- Improve compliance with HUB reporting requirements by:
 - ♦ Collecting and maintaining supporting documentation for supplemental reports.
 - ♦ Submitting its semi-annual HUB report by the March 15 due date, as required.
 - ♦ Preparing and maintaining HUB usage reports on a monthly basis, and ensuring those reports contain all required information.
 - ♦ Collecting and maintaining monthly progress reports for all prime contractors.
- Improve compliance with HUB subcontracting requirements by developing and implementing processes to maintain adequate supporting documentation demonstrating that it:
 - ♦ Included in solicitation documents the probability of subcontracting opportunities.
 - ♦ Examined the scope of work and made a determination regarding the probability 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.
 - ♦ Required respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.
 - ♦ Required respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.
 - ♦ Provided notice to trade organizations or development centers within the required time frames.

- ♦ Reviewed and evaluated HUB subcontracting plans prior to awarding contracts.
- ♦ Reviewed the documented HUB subcontracting plans that respondents submitted to determine whether they made a good-faith effort.
- ♦ Included approved HUB subcontracting plans as provisions of contracts.
- Improve compliance with State Use Program requirements by:
 - ♦ Designating a State Use Program coordinator and maintaining documentation supporting that designation.
 - ♦ Reporting non-State Use Program purchases and exceptions.
 - ♦ Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.
- Strengthen controls to ensure that it identifies and tracks all contracts.

Management's Response

The Office should:

- *Improve compliance with HUB planning requirements by ensuring that:*
 - *It considers scheduled fiscal year expenditures and the availability of HUBs for each utilization category when determining its HUB utilization goals.*
 - *It estimates its expected HUB awards by the 60th day of the fiscal year.*
 - *Its Legislative Appropriations Requests contain all required elements.*
 - *Its annual HUB progress report contains all required information.*

The General Land Office will fully comply with the recommendations beginning November 1, 2014. As the Agency's FY16-17 LAR has already been submitted, the GLO will ensure that any information that was not included in the LAR will be available during the 84th Legislature. The GLO will complete an internal review of reporting data to ensure that the appropriate data is available for HUB reporting and establishing utilization goals. The Director of the HUB Program will be responsible for implementation.

- *Improve compliance with HUB outreach requirements by:*
 - *Developing formal criteria for selecting HUB mentors and protégés and documenting its determination of mentors' and protégés' compliance with those criteria.*
 - *Requiring all Office-sponsored HUB mentor-protégé agreements to be signed.*
 - *Monitoring HUB mentor-protégé relationships and maintaining documentation of its monitoring activities.*
 - *Informing prospective HUB mentors and protégés in writing that the mentor-protégé program is voluntary and is not a guarantee of business, and maintaining related documentation.*
 - *Advertising HUB forums in a trade publication.*
 - *Sponsoring presentations by HUBs.*

The General Land Office will fully comply with the recommendations beginning December 1, 2014. The General Land Office will establish written procedures for all processes and ensure that the appropriate documentation is maintained. The GLO has already improved its mentor protégé program and will ensure it is appropriately documented. GLO advertising in trade publications will be increased and accurately documented. The GLO will increase the profile of the HUB program within the agency with quarterly internal HUB Forums, mentor protégé forums and monthly reports to program area directors and executive staff. The Director of the HUB Program will be responsible for implementation.

- *Improve compliance with HUB reporting requirements by:*
 - *Collecting and maintaining supporting documentation for supplemental reports.*
 - *Submitting its semi-annual HUB report by the March 15 deadline, as required.*
 - *Preparing and maintaining HUB usage reports on a monthly basis, and ensuring those reports contain all required information.*
 - *Collecting and maintaining monthly progress reports for all prime contractors.*

The General Land Office will fully comply with the recommendations beginning December 1, 2014. The GLO will complete an internal review of

reporting data to ensure that the appropriate data is available for HUB reporting. These reports will be used to report more accurately the monthly internal procurement report, quarterly assessment report, semi and annual HUB reports. A new support schedules and comparison report will be created to show the agency's procurement attainment, applicability, factors affecting attainment and good faith efforts to agency's statewide HUB procurement goals.

- *Improve compliance with HUB subcontracting requirements by developing and implementing processes to maintain adequate supporting documentation demonstrating that it:*
 - *Included in solicitation documents the probability of subcontracting opportunities.*
 - *Examined the scope of work and made a determination regarding the probability 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.*
 - *Required respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.*
 - *Required respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.*
 - *Provided notice to trade organizations or development centers within the required time frames.*
 - *Reviewed and evaluated HUB subcontracting plans prior to awarding contracts.*
 - *Reviewed the documented HUB subcontracting plans that respondents submitted to determine whether they made a good-faith effort.*
 - *Included approved HUB subcontracting plans as provisions of contracts.*

The General Land Office will fully comply with the recommendations beginning December 1, 2014. The General Land Office will establish written procedures for all processes and ensure that the appropriate documentation is maintained. A new Solicitation Evaluation Form will be included in the procurement process to increase communication between the internal end user and Procurement/HUB coordinator. A review of the HUB Subcontracting packet will be completed and will be included in all required solicitations. GLO contracts currently contain HUB provisions and these will be reviewed

to ensure that vendors are aware of the HUB requirements. The Director of the HUB Program in coordination with Legal Services will be responsible for implementation.

- *Improve compliance with State Use Program requirements by:*
 - *Designating a State Use Program coordinator and maintaining documentation supporting that designation.*
 - *Reporting non-State Use Program purchases and exceptions.*
 - *Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.*

The General Land Office will fully comply with the recommendations beginning December 1, 2014. The GLO currently has a designated State Use Program coordinator and completes the monthly reports as required. The General Land Office will improve its processes by researching the TIBH catalog and will maintain documentation to support each purchase. The monthly state use reports will be prepared by the State Use Coordinator and reviewed by the Director of Procurement prior to being submitted. The Director of Procurement will be responsible for implementation.

- *Strengthen controls to ensure that it identifies and tracks all contracts.*

The General Land Office will fully comply with the recommendations beginning December 1, 2014. The GLO will complete an internal review of its current contract management system to ensure that all divisions across the agency have access to the appropriate information and that the appropriate controls and information tracking is in place.

Health and Human Services Commission

The Health and Human Services Commission (Commission) substantially complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 20 applicable HUB Program requirements (see Table 7), and the Commission achieved a compliance level of 67 percent for all audit tests related to those 20 requirements.⁴ The Commission reported that it purchased approximately \$174.6 million in goods and services from HUBs in fiscal year 2013.

Table 7

Health and Human Services Commission Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	The Commission did not perform the required analysis of the total value of contract awards during fiscal year 2013, as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Substantially Compliant	The Commission's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Sections 2161.127(b)(3)(A) and 2161.127(b)(3)(B), and Title 34, Texas Administrative Code, Section 20.15(c). However, the Commission: <ul style="list-style-type: none"> ▪ Did not include accurate statements about whether it met its HUB utilization goals in its <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia. ▪ Did not report its HUB goals accurately in its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Fully Compliant	

⁴ Auditors calculated the 67 percent overall compliance level based on the Commission's compliance with 105 audit tests associated with the 20 applicable HUB program requirements.

Health and Human Services Commission Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance
Outreach		
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	<p>Substantially Compliant</p> <p>The Commission has implemented a mentor-protégé program in accordance with requirements, and its policies and procedures include eligibility and selection criteria for both mentors and protégés, as required.</p> <p>However, the Commission did not have documentation related to 1 (8 percent) of 13 mentor-protégé agreements selected for testing. Therefore, auditors were unable to determine whether the Commission complied with monitoring, reporting, and all other mentor-protégé requirements for that agreement.</p> <p>For all 12 remaining mentor-protégé agreements tested, the Commission had documentation that it informed both mentors and protégés that participation in the program was (1) voluntary and (2) neither a guarantee for a contract nor a promise of business. However, auditors identified the following:</p> <ul style="list-style-type: none"> ▪ For 9 (75 percent) of those 12 agreements, the Commission did not have documentation of its monitoring activities. ▪ For 10 (83 percent) of those 12 agreements, the Commission did not have documentation that it reported the agreements to the Office of the Comptroller of Public Accounts within 21 calendar days after they were signed, as required. ▪ The protégés associated with four agreements had HUB certifications that lapsed during the duration of the agreements. ▪ While the Commission asserts one of the agreements is active, that agreement is not currently listed on the Office of the Comptroller of Public Accounts' <i>Agency Approved HUB Mentor Protégé Agreements</i> and that agreement does not contain a specific end date. Therefore, auditors were unable to determine whether that agreement was active, when it may have been terminated, or whether the protégé was a certified HUB for the entirety of the agreement.
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	<p>Minimally Compliant</p> <p>While the Commission designated a staff member as its HUB coordinator during fiscal year 2013, the HUB coordinator position was not equivalent to its procurement director position.</p>
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	<p>Fully Compliant</p>
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	<p>Fully Compliant</p>

Health and Human Services Commission Compliance with HUB Program Requirements

Health and Human Services Commission Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Minimally Compliant	The Commission had documentation that its senior managers and procurement staff attended HUB forums hosted by either the Commission or the Office of the Comptroller of Public Accounts during fiscal year 2013. However, it did not have documentation that it advertised in a trade publication, as required.
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant	
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Substantially Compliant	<p>Subcontracting and other supplemental reporting: The Commission had adequate support for and accurately calculated 23 (85 percent) of 27 categories on its fiscal year 2013 <i>Supplemental Report</i>. The remaining four categories were incorrect because the Commission counted some vendors more than once in the report section on bids received.</p> <p>In addition, auditors tested 29 bids and awarded contracts the Commission reported in fiscal year 2013. The Commission accurately reported and classified as certified HUB vendors 23 (79 percent) of those 29 bids and contracts. The vendors for the remaining six bids and contracts were not certified HUBs during fiscal year 2013.</p> <p>HUB expenditure reporting: One (50 percent) of two procurement card expenditures the Commission reported on its <i>2013 Annual HUB Report</i> was incorrect. Specifically, auditors were unable to tie the dollar amount the Commission reported for that expenditure to the Commission's supporting documentation.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Fully Compliant	
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Fully Compliant	
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The Commission asserted that it did not have any group purchasing HUB activity during fiscal year 2013.

Health and Human Services Commission Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance
Subcontracting		
1	Minimally Compliant	<p>Auditors selected 27 applicable contract solicitation files. Of those 27, 3 were either sole source purchases or were exempt from solicitation requirements.</p> <p>For 15 (63 percent) of the 24 contracts tested, the Commission was unable to provide documentation that solicitations or other purchase documents included the probability of subcontracting opportunities and required HUB subcontracting plans. Specifically:</p> <ul style="list-style-type: none"> ▪ For 7 of the 15, the Commission did not have documentation for the contracts. ▪ For 6 of the 15, the Commission did not have solicitation documentation. ▪ For 1 of the 15, the Commission had some solicitation documentation; however, it did not include a statement of subcontracting opportunities. ▪ The Commission did not conduct a solicitation for the remaining contract because the Commission entered into that contract on an emergency basis. However, Texas Government Code, Section 2155.137(b), specifies that emergency purchases are not exempt from HUB requirements.
2	Minimally Compliant	<p>Auditors tested 24 applicable contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For 15 (63 percent) of the 24 contracts tested, the Commission did not have documentation that it examined the scope of work to determine whether subcontracting was probable. For 7 of those 15, the Commission was unable to provide documentation associated with the contract. ▪ For 16 (67 percent) of the 24 contracts tested, the Commission did not have documentation that it had researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may be available to perform the contract work. For 7 of those 16, the Commission did not have documentation for the contracts.
3	Minimally Compliant	<p>For 16 (59 percent) of the 27 applicable contracts tested, the Commission was unable to provide documentation showing that it had required the respondents to (1) state whether they were certified HUBs or (2) state the overall subcontracting and certified HUB subcontracting they would provide. For 7 of those 16, the Commission was unable to provide any documentation associated with the contract selected for testing.</p>
4	Noncompliant	<p>Auditors tested 27 applicable contract files. For 16 (59 percent) of the 27 contracts, the Commission was unable to provide completed HUB subcontracting plans or other documentation demonstrating that a subcontracting plan was not necessary. For 7 of those 16 contracts, the Commission did not have documentation associated with the contracts.</p> <p>In addition, for two contracts that did have a HUB subcontracting plan, the Commission did not ensure that the contractor notified minority or women trade organizations about subcontracting opportunities.</p>

Health and Human Services Commission Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance
5	Noncompliant	<p>Auditors tested 27 applicable contracts. For 25 (93 percent) of the 27 contracts tested, the Commission (1) did not review the HUB subcontracting plan prior to the contract award or (2) could not provide documentation showing that it reviewed and evaluated the HUB subcontracting plan prior to awarding the contract as required. Specifically:</p> <ul style="list-style-type: none"> ▪ For 7 contracts, the Commission did not have documentation available associated with the contracts. ▪ For 9 contracts, the Commission was unable to provide a HUB subcontracting plan. ▪ For 8 contracts, the Commission performed a review of the HUB subcontracting plan; however, it was unable to provide a contract. Therefore, auditors were unable to determine that the review occurred <u>prior</u> to the contract award. ▪ For 1 contract, the Commission performed its review of the HUB subcontracting plan after it had awarded the contract. <p>In addition, 9 of the 27 contracts included a self-performing justification completed on the HUB subcontracting plans; therefore, subcontracting good-faith efforts did not apply. For 16 (89 percent) of the remaining 18 contracts tested, the Commission was unable to provide documentation demonstrating that it had reviewed the respondent's good faith effort. Specifically, for 7 of those 16 contracts, the Commission was unable to provide any documentation associated with the contracts. For the remaining 9 contracts, the Commission was unable to provide a HUB subcontracting plan. Therefore, auditors were unable to determine whether it reviewed the HUB subcontracting plans to determine whether the contractors had made a good-faith effort.</p> <p>For all 27 contracts tested, the Commission was unable to provide documentation demonstrating that the HUB subcontracting plans became a provision of the contracts.</p>
Goal Attainment		
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).	
	Heavy construction contract utilization goal.	Not Applicable For fiscal year 2013, the Commission's goal for heavy construction was 11.20 percent; its actual HUB performance was 0.00 percent. The Commission's total HUB-eligible expenses for this category were \$775 for fiscal year 2013.
	Building construction contract utilization goal.	Not Applicable While the Commission had a goal for this category for fiscal year 2013, it did not have any HUB-eligible expenses for this category during fiscal year 2013. Therefore, auditors considered this category to be Not Applicable.
	Special trade construction contract utilization goal.	Not Achieved For fiscal year 2013, the Commission's goal for special trade construction was 32.70 percent; its actual HUB performance was 7.87 percent.
	Professional services contract utilization goal.	Minimally Achieved For fiscal year 2013, the Commission's goal for professional services contract was 23.60 percent; its actual HUB performance was 12.02 percent.
	Other services contract utilization goal.	Fully Achieved For fiscal year 2013, the Commission's goal for other services contracts was 24.60 percent; its actual HUB performance was 23.79 percent.
	Commodities contract utilization goal.	Substantially Achieved For fiscal year 2013, the Commission's goal for commodities contracts was 21.00 percent; its actual HUB performance was 18.50 percent.

The Commission minimally complied, overall with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 8). The Commission reported that it purchased approximately \$98,951.05 in exceptions from the State Use Program in fiscal year 2013.

Table 8

Health and Human Services Commission Compliance with State Use Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
1	Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Substantially Compliant	The Commission had documentation showing that it had a State Use Program coordinator for 8 (67 percent) of the 12 months in fiscal year 2013. However, it did not have documentation showing that it had a State Use Program coordinator for 4 (33 percent) of those 12 months.
2	Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Fully Compliant	
3	Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant	The Commission did not have processes to ensure that it purchased goods and services from community rehabilitation programs when available, as required. Specifically, for all 29 purchases from vendors other than TIBH, the Commission did not have documentation showing that it checked the TIBH catalog prior to making the purchase to ensure compliance with requirements.
4	Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Minimally Compliant	<p>The Commission did not always report accurate State Use Program exception information to the Office of the Comptroller of Public Accounts in fiscal year 2013. Specifically, auditors tested 16 expenditure transactions that the Commission reported as exceptions and determined the following:</p> <ul style="list-style-type: none"> ▪ For 5 (31 percent) of the exceptions tested, the goods or services were <u>not</u> offered by TIBH during fiscal year 2013; therefore, the Commission should not have reported them as exceptions. ▪ For 9 (56 percent) of the exceptions tested, the Commission did not report the exception classifications (and, therefore, the exception reasons) accurately. ▪ For 4 (25 percent) of the exceptions tested, the Commission reported inaccurate dollar amounts. <p>In addition, auditors identified 22 purchases totaling \$14,409 from non-State Use Program vendors that were for goods or services offered through the State Use Program and that the Commission should have reported as exceptions.</p>

Generally, the HUB-related data that the Commission maintains and processes in the Health and Human Services Administrative System and the Contract Administration and Tracking System was sufficiently valid and reliable. However, based on the issues identified, auditors determined that the Commission did not have adequate output controls over HUB and State Use-Program-related data. Specifically:

- The Commission did not accurately calculate supplemental reporting information for its fiscal year 2013 supplemental report.
- The Commission did not conduct periodic reviews of the document it used to track information that its prime contractors reported in their *Contractor Progress Assessment Reports*.
- The Commission did not always accurately identify and report State Use Program exceptions because it did not have processes to review information prior to submission.

The Commission should conduct and document periodic reviews of all of its information resources and facilities. It also should include the results of those reviews in its annual report on the status and effectiveness of information security controls, as required by Title 1, Texas Administrative Code, Section 202.21(d)(4).

Recommendations

The Commission should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It estimates its expected HUB contract awards by the 60th day of the fiscal year.
 - ♦ It includes all required elements in its *Legislative Appropriations Requests*.
- Improve compliance with HUB outreach requirements by:
 - ♦ Maintaining documentation demonstrating its compliance with signed HUB mentor-protégé agreements and requirements for monitoring mentor-protégé relationships, including requirements to monitor the HUB certification status of protégés.
 - ♦ Reporting new and terminated mentor-protégé agreements to the Office of the Comptroller of Public Accounts within 21 calendar days and maintaining documentation demonstrating that it has reported those agreements.

- ♦ Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.
- ♦ Advertising its HUB forums in a trade publication and maintaining documentation of that advertisement.
- Improve compliance with HUB reporting requirements by:
 - ♦ Reconciling the HUB expenditure amounts it reports to ensure that it accurately reports expenditures.
 - ♦ Reconciling supplemental report information to ensure that it accurately reports amounts and that all HUBS reported are certified.
- Improve compliance with HUB subcontracting requirements by:
 - ♦ Developing and implementing processes to maintain adequate supporting documentation demonstrating that it:
 - Includes in solicitation documents, regardless of the solicitation process followed, the probability of subcontracting opportunities and requirements for HUB subcontracting plans.
 - Examines the scope of work and determines the probability of subcontracting opportunities.
 - Uses resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to identify HUBs.
 - Requires respondents to submit completed HUB subcontracting plans.
 - Reviews and evaluates HUB subcontracting plans prior to awarding a contract.
 - Includes approved HUB subcontracting plans as provisions of contracts.
- Improve compliance with State Use Program requirements by:
 - ♦ Maintaining documentation supporting its designation of a State Use Program coordinator.
 - ♦ Implementing a process to determine whether TIBH goods and services are available and documenting that determination.
 - ♦ Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.

- Strengthen controls related to reviewing access to its information technology resources and facilities at least annually, and include the results of that review in its annual report on the status and effectiveness of information security controls, as required by Title 1, Texas Administrative Code, Section 202.21(d)(4).

Management's Response

The Health and Human Services Commission (HHSC) provides procurement and contracting support to five Health and Human Services (HHS) agencies, including the Department of State Health Services. This support, provided by the HHSC Office of Procurement and Contracting Services, includes responsibility for historically underutilized business (HUB) administration, coordination, and reporting for all five HHS agencies. As a result, HHSC is providing the following management response to address the State Auditor's Office recommendations included in both Chapter 2 and Chapter 4 of this report.

SAO Recommendation:

The Commission should improve compliance with HUB planning requirements by ensuring that:

- *It estimates its expected HUB contract awards by the 60th day of the fiscal year.*
- *It includes all required elements in its Legislative Appropriations Requests.*

Management Response:

HHSC implemented processes during fiscal year 2014 to ensure estimates of anticipated contract awards subject to Texas Government Code Chapter 2166 and 2161.181 are completed by October 30th each year.

HHSC will ensure Legislative Appropriation Requests include goals established for contracting with HUB firms for the two preceding years and indicate whether the goals were met. When a goal is not met, HHSC will quantify the attainment percentage and include an explanation for why the goal was not achieved.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Commission should improve compliance with HUB outreach requirements by:

- *Maintaining documentation demonstrating its compliance with signed HUB mentor-protégé agreements and requirements for monitoring mentor-protégé relationships, including requirements to monitor the HUB certification status of protégés.*
- *Reporting new and terminated mentor-protégé agreements to the Office of the Comptroller of Public Accounts within 21 calendar days and maintaining documentation demonstrating that it has reported those agreements.*
- *Ensuring that the level of its HUB coordinator is equal to the level of its procurement director.*
- *Advertising its HUB forums in a trade publication and maintaining documentation of that advertisement.*

Management Response:

HHSC will evaluate the organizational placement of the HHS HUB Coordinator and ensure the level of that position is appropriate and in accordance with applicable requirements.

HHSC will revise its policies and procedures and strengthen processes to ensure documentation supporting outreach efforts is maintained and (a) demonstrates compliance with and monitoring of mentor-protégé agreements, including the certification status of protégés, (b) reporting of new and terminated mentor-protégé agreements is completed within 21 calendar days, and (c) trade publications are utilized to advertise HUB forums.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Commission should improve compliance with HUB reporting requirements by:

- *Reconciling the HUB expenditure amounts it reports to ensure that it accurately reports expenditures.*
- *Reconciling supplemental report information to ensure that it accurately reports amounts and that all HUBS reported are certified.*

Management Response:

HHSC is implementing an HHS HUB Portal, a web based system that will streamline, standardize, and improve HUB reporting processes across all HHS agencies. The HHS HUB portal will support efforts to ensure the accuracy, completeness, monitoring, and support for reported HUB expenditures and supplemental reporting. The HHS HUB Portal is expected to be fully operational by January 2015, and will include information as of the beginning of the fiscal year 2015.

The HUB Portal will be used by the HHS HUB Program Office, vendors, and database users and will:

- *Track HHS contractors and allow them to enter their subcontracting data and expenditures directly into the system.*
- *Improve the efficiency and accuracy of subcontracting expenditure reporting for contractors and the HUB Program Office.*
- *Assist HHS contract managers in ensuring compliance with the HUB Subcontracting Plan requirements.*
- *Track HUB expenditures incurred under group purchasing programs reported to the Comptroller's Office.*

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Commission should improve compliance with HUB subcontracting requirements by:

- *Developing and implementing processes to maintain adequate supporting documentation demonstrating that it:*
 - *Includes in solicitation documents, regardless of the solicitation process followed, the probability of subcontracting opportunities and requirements for HUB subcontracting plans.*
 - *Examines the scope of work and determines the probability of subcontracting opportunities.*
 - *Uses resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to identify HUBs.*
 - *Requires respondents to submit completed HUB subcontracting plans.*
 - *Reviews and evaluates HUB subcontracting plans prior to awarding a contract.*
 - *Includes approved HUB subcontracting plans as provisions of contracts.*

Management Response:

HHSC will strengthen its HUB subcontracting processes to ensure documentation supporting subcontracting efforts is maintained in accordance with Texas Government Code sections 2161.251 through 2161.253 and HUB Rules §20.14. HHSC will update policies and procedures to reinforce that all procurements, contracts, contract amendments, contract renewals, and contract extensions fully comply with subcontracting and good-faith effort requirements prior to award, and it will provide HUB subcontracting compliance training to contract managers and contractors across all HHS agencies.

Estimated Completion Date:

January 2015

Title of Responsible Person:

Director, Enterprise Procurement Operations - RFP Team and HHS HUB Program, Procurement and Contracting Services

SAO Recommendation:

The Commission should improve compliance with State Use Program requirements by:

- *Maintaining documentation supporting its designation of a State Use Program coordinator.*
- *Implementing a process to determine whether TIBH goods and services are available and documenting that determination.*
- *Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.*

Management Response:

HHSC revised the State Use Program coordinator's job description and performance expectations to include specific duties and responsibilities to (a) review and verify the accuracy of reported information, (b) maintain documentation of reported amounts, and (c) ensure State Use Program exceptions are reported accurately through the Comptroller's State Use Reporting Portal.

Effective September 1, 2014, processes were implemented to verify and ensure that key TIBH exception information is documented and timely and accurately reported. HHSC will also strengthen output controls over data used to compile reports.

HHSC will strengthen processes to ensure procurement staff consistently utilize TIBH goods and services, where appropriate. To further improve documentation practices, HHSC will reiterate with all procurement staff the importance of documenting actions completed to determine the availability of TIBH goods and services and ensure staff are aware of how to document the completion of this process on the checklist.

Estimated Completion Date:

November 2014

Title of Responsible Person:

Deputy Executive Commissioner, Procurement and Contracting Services

SAO Recommendation:

The Commission should strengthen controls related to reviewing access to its information technology resources and facilities at least annually, and include the results of that review in its annual report on the status and effectiveness of

information security controls, as required by Title 1, Texas Administrative Code, Section 202.21(d)(4).

Management Response:

Management of the electronic access badge system and reporting for facilities such as data centers is the responsibility of the Texas Facilities Commission (TFC). In December 2013, TFC upgraded the electronic badge access system and required all individuals, including contractors, who are authorized to access facilities to present photo identification before issuance of a new access badge.

Revisions to the HHSC and TFC interagency agreement are in process and will include provisions to strengthen controls over access to HHSC information technology resources and facilities for both HHS agency and TFC employees and contractors. HHSC will strengthen its monitoring and review of access to resources and facilities to ensure access is appropriate, and include the results in that review in the required annual report.

Estimated Completion Date:

March 2015

Title of Responsible Person:

Director of Information Technology Operations

The Texas A&M University System

The Texas A&M University System (System) substantially complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 19 applicable HUB Program requirements (see Table 9), and the System achieved a compliance level of 64 percent for all audit tests performed related to those requirements.⁵ The System reported that it purchased approximately \$61.4 million in goods and services from HUBs in fiscal year 2013.

Table 9

Texas A&M University System Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	While the System performed an analysis of past expenditures when determining its HUB goals for fiscal year 2013, that analysis did not include an analysis of <u>estimated</u> contract awards and availability of HUBS. In addition, the System did not perform the required analysis of the total value of contract awards by the 60th day of the fiscal year as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Minimally Compliant	The System's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Section 2161.127(b)(3)(B), and Title 34, Texas Administrative Code, Section 20.15(c). However: <ul style="list-style-type: none"> ▪ Auditors were unable to determine whether the System presented its goals accurately in its <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia because the goals in those documents differed from the goals in the strategic plan, non-financial report progress reports, and annual HUB goals. ▪ The System did not report accurate information for the percentage by which its actual use of HUBs deviated from its goals in its <i>Legislative Appropriations Requests</i> for the 2012-2013 biennium. ▪ The System's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia did not include statements on whether it met all of its goals.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	

⁵ Auditors calculated the 64 percent overall compliance level based on the System's compliance with 109 audit tests associated with the 19 applicable HUB program requirements.

Texas A&M University System Compliance with HUB Program Requirements

Texas A&M University System Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Minimally Compliant The System's written plan complied with Texas Government Code, Sections 2161.123(b)(1). However: <ul style="list-style-type: none"> ▪ The System did not identify a specific program to encourage contractors to use HUBs as partners and subcontractors. ▪ While the System's goal is to include HUBs in at least 25 percent of the total value of contracts and subcontracts the System awarded during fiscal year 2013, the System did not declare goals specific to heavy construction, building construction, special trade, professional services, other services, and commodity purchasing.
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Not Applicable According to Texas Government Code, Section 2101.0115(e), higher education institutions are exempt from the statutory requirement to file an annual report of nonfinancial data that includes progress information.
Outreach		
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Minimally Compliant The System has implemented a mentor-protégé program in accordance with requirements. Additionally, the System had policies and procedures that included eligibility and selection criteria for both mentors and protégés, as required. However, the System could not provide documentation regarding the only mentor-protégé agreement that was effective during fiscal year 2013.
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Fully Compliant
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Substantially Compliant The System's HUB coordinator's duties and responsibilities included facilitating compliance with the System's good-faith effort criteria, HUB reporting, contract administration, and marketing and outreach efforts for HUB participation. However, the System has not provided the resources to effectively promote the achievement of the HUB coordinator's responsibilities.
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Fully Compliant

Texas A&M University System Compliance with HUB Program Requirements

Requirement			Compliance	Additional Information for Less Than Full Compliance
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant		
Reporting				
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Substantially Compliant	<p>HUB expenditure reporting: The System had supporting documentation for 20 (80 percent) of the 25 HUB expenditures tested. However, the remaining 5 expenditures tested contained inaccuracies or the System did not process them in a timely manner, and the System's review process did not detect and prevent those issues.</p> <p>Subcontracting and other supplemental reporting: The System had supporting documentation for 23 (64 percent) of 36 reported supplemental information categories tested, but it did not accurately calculate the reported totals from supporting documentation for the remaining 13 (36 percent) categories.</p> <p>Auditors tested 29 bids and competitively awarded contracts the System reported in fiscal year 2013. While the System accurately classified all 29 as certified HUB vendors, 2 (7 percent) of the 29 items reported were not associated with fiscal year 2013 bids and, therefore, should not have been reported in fiscal year 2013.</p> <p>In addition, auditors reviewed one of the three businesses that the System reported as participating in a state bond issuance. That vendor was not a certified HUB vendor.</p>	
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	<p>While HUB Usage data is available and can be summarized by division within the Financial Accounting Management Information System (FAMIS), the System did not have documentation that it prepared and maintained HUB usage reports on a monthly basis during fiscal year 2013, as required.</p> <p>In addition, the System did not report state term contracts on which it spent non-Treasury funds.</p>	
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Minimally Compliant	<p>Monthly reporting requirements: The System did not ensure that prime contractors submitted <i>Contractor Progress Assessment Reports</i> on a monthly basis as required. For 13 (87 percent) of 15 prime contractors tested, the System was not able to provide all applicable monthly progress assessment reports from those contractors.</p> <p>In total, those 15 prime contractors submitted <i>Contractor Progress Assessment Reports</i> for 54 percent of the months for which their contracts were active during the fiscal year.</p> <p>Accuracy of amounts reported: The System had supporting documentation for 19 (66 percent) of the 29 subcontractor expenditures tested; however, the remaining 10 (34 percent) were not supported by the <i>Contractor Progress Assessment Reports</i> submitted by the prime contractors.</p>	
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The System asserted that it did not have any group purchasing HUB activity during fiscal year 2013.	
Subcontracting				
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Minimally Compliant	<p>One (5 percent) of 21 contract solicitations selected for testing was a sole source purchase and, therefore, was exempt from solicitation requirements.</p> <p>Of the 20 contract solicitations tested, for 11 (55 percent) the System had documentation that solicitations or other purchase documents included the probability of subcontracting opportunities and required HUB subcontracting plans. However, for 9 (45 percent) the System did not have that documentation.</p>	

Texas A&M University System Compliance with HUB Program Requirements

Texas A&M University System Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
2	Minimally Compliant	<p>One (5 percent) of 21 contract solicitations selected for testing was a sole source purchase and, therefore, was exempt from solicitation requirements.</p> <p>Of the 20 contract solicitations tested, for 13 (65 percent) the System had documentation that it had examined the scope of work and made a determination regarding the probability of subcontracting opportunities. However, for 7 (35 percent), the System did not have that documentation.</p> <p>In addition, for 16 (80 percent) of the 20 non-sole source contract solicitations tested, the System did not have documentation showing that it researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may have been available to perform the contract work.</p>
3	Substantially Compliant	<p>Auditors tested 21 contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For 14 (67 percent) the System had documentation that it required the respondents to state whether they were certified HUBs. However, for 7 (33 percent) it did not have that documentation. ▪ For 10 (48 percent) the System did not have documentation that it required the respondents to state the overall subcontracting and certified HUB subcontracting they would provide. <p>In addition, auditors selected a sample of 25 non-Treasury and procurement card expenditures that the System had reported as HUB expenditures. For all 25 of those expenditures, the System accurately reported those vendors as certified HUB vendors.</p>
4	Minimally Compliant	<p>Auditors selected 21 contract files for testing and determined the following:</p> <ul style="list-style-type: none"> ▪ For 3 (14 percent), the contractor completed a self-performing justification. Therefore, no subcontracting opportunities would be awarded for those contracts and good-faith effort requirements were not tested. ▪ For 10 (56 percent) of the 18 contracts tested, the System did not have a completed HUB subcontracting plan. ▪ For 8 (44 percent), the System had a HUB subcontracting plan. However, for 1 of those 8, the System did not (1) ensure that the contractor notified minority or women trade organizations about subcontracting opportunities and (2) was unable to provide documentation demonstrating that the contractor notified HUB businesses of the subcontracting opportunities associated with the contract.
5	Minimally Compliant	<p>Auditors tested 21 contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For 8 (38 percent), the System reviewed and evaluated the HUB subcontracting plan prior to the contract award. ▪ For 13 (62 percent), the System did not have documentation showing that it (1) reviewed and evaluated the HUB subcontracting plans prior to awarding the contracts or (2) reviewed and evaluated the HUB subcontracting plans to determine whether the respondents had made a good-faith effort. <p>While the System had a HUB subcontracting plan for one of the contracts tested, and it documented its review of that HUB subcontracting plan prior to awarding the contract, the System did not document its determination of whether a good-faith effort had been made in that plan.</p>
Goal Attainment		
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).	
	Heavy construction contract utilization goal.	Not Achieved
		For fiscal year 2013, the System's goal for heavy construction was 5.60 percent; its actual HUB performance was 0.00 percent.

Texas A&M University System Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
Building construction contract utilization goal.	Fully Achieved	For fiscal year 2013, the System's goal for building construction was 22.82 percent; its actual HUB performance was 22.37 percent.
Special trade construction contract utilization goal.	Minimally Achieved	For fiscal year 2013, the System's goal for special trade construction was 32.90 percent; its actual HUB performance was 17.49 percent.
Professional services contract utilization goal.	Fully Achieved	For fiscal year 2013, the System's goal for professional services contracts was 30.10 percent; its actual HUB performance was 35.81 percent.
Other services contract utilization goal.	Substantially Achieved	For fiscal year 2013, the System's goal for other services contracts was 15.11 percent; its actual HUB performance was 10.28 percent.
Commodities contract utilization goal.	Fully Achieved	For fiscal year 2013, the System's goal for commodities contracts was 41.43 percent; its actual HUB performance was 39.03 percent.

The System did not comply, overall with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 10). The System did not report State Use program exceptions in fiscal year 2013.

Table 10

Texas A&M University System Compliance with State Use Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
1 Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Noncompliant	The System did not have a designated State Use Program coordinator for fiscal year 2013.
2 Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Noncompliant	The System does not report non-State Use Program purchasing.
3 Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant	The System did not have processes to ensure that it purchased goods and services from community rehabilitation programs when available, as required. Specifically, the System had no documentation demonstrating that it checked the TIBH catalog prior to making the purchase to ensure compliance with requirements.
4 Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Noncompliant	The System did not report any exception items to the Office of the Comptroller of Public Accounts during fiscal year 2013; however, auditors identified 5 purchases totaling \$90,525 from non-State Use Program vendors that were for goods and services offered through the State Use Program and that the System should have reported as exceptions.

Auditors relied on data from the System's Financial Accounting Management Information System (FAMIS). As a result, auditors performed general and application control testing for FAMIS and determined that its data was sufficiently valid and reliable for the purposes of this audit.

Auditors communicated other, less significant issues related to the System's information technology controls to management separately in writing.

Recommendations

The System should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It estimates its expected HUB awards by the 60th day of the fiscal year.
 - ♦ Its *Legislative Appropriations Requests* contain all required elements.
 - ♦ Its written plan identifies a specific program to encourage contractors to use HUBS as partners and subcontractors and declares goals specific to each goal category reported.
- Improve compliance with HUB outreach requirements by allocating sufficient resources to effectively promote the achievement of the HUB coordinator's responsibilities, such as actively monitoring mentor-protégé relationships and maintaining sufficient documentation.
- Improve compliance with HUB reporting requirements by:
 - ♦ Reconciling HUB expenditure amounts reported to ensure that it accurately reports expenditures within the appropriate time frames.
 - ♦ Reporting state term contracts for which it spent non-Treasury funds.
 - ♦ Reconciling supplemental report information to ensure that it reports amounts within the appropriate time frame and that all HUBS it reports are certified.
 - ♦ Preparing and maintaining HUB usage reports on a monthly basis.
 - ♦ Collecting and maintaining monthly progress reports for all prime contractors and reconciling reported expenditures to supporting documentation.
- Improve compliance with HUB subcontracting requirements by complying with all subcontracting and good-faith effort requirements and maintaining adequate supporting documentation. Specifically, it should do that by:
 - ♦ Including in solicitation documents the probability of subcontracting opportunities.

- ♦ Examining the scope of work and determining the probability of subcontracting opportunities.
- ♦ Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.
- ♦ Requiring respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.
- ♦ Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.
- ♦ Providing notice to organizations or development centers within the required time frames.
- ♦ Maintaining documentation showing one or more of the following: (1) it notified at least three HUB businesses, (2) all available subcontracting opportunities will be performed by one or more HUBs, or (3) one or more HUB subcontractors will be used, and the total value of those subcontracts will meet or exceed the statewide goal.
- ♦ Reviewing and evaluating HUB subcontracting plans prior to awarding the contracts.
- ♦ Reviewing the documentation that respondents submit to determine whether they made a good-faith effort.
- Improve compliance with State Use Program requirements by:
 - ♦ Designating a State Use coordinator.
 - ♦ Reporting non-State Use purchases and exceptions.
 - ♦ Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.

Management's Response

Several changes have occurred and still on-going since the start of this audit:

- 1. A new Director for Procurement and Business Services (Director) was hired on July 21, 2014;*
- 2. an additional staff member was hired on September 9, 2014 to assist the director with these responsibilities and;*

3. we continue with our on-going implementation of a new eProcurement system (BuyA&M) which will provide a more robust functionality and reporting capabilities.

In addition, the information provided below as part of our management response is further evidence of the commitment from the A&M System office to the HUB and State Use Program requirements.

Recommendations/Management Responses:

Improve compliance with HUB planning requirements by ensuring that:

- *It estimates its expected HUB awards by the 60th day of the fiscal year.*
- *Its Legislative Appropriations Requests contain all required elements.*
- *Its written plan identifies a specific program to encourage contractors to use HUBS as partners and subcontractors and declares goals specific to each goal category reported.*

Management Response:

The A&M System Offices agrees with each of these recommendations and will put into place measures to assure that these requirements are met. The Director will work with all personnel involved in the Legislative Appropriations Requests development process to ensure that all required elements regarding HUB information are accurate.

Responsible Person: Director, Procurement & Business Services

Implementation Time line: November 2014

Improve compliance with HUB outreach requirements by allocating sufficient resources to effectively promote the achievement of the HUB coordinator's responsibilities, such as actively monitoring mentor-protégé relationships and maintaining sufficient documentation.

Management Response:

The A&M System Offices agrees with the recommendation to provide sufficient resources. A new Director was hired on July 21, 2014 and an additional staff member was hired on September 9, 2014 to assist the director with these responsibilities.

Responsible Person: Executive Director, Budgets and Accounting

Implementation Time line: September 2014

Improve compliance with HUB reporting requirements by:

- *Reconciling HUB expenditure amounts reported to ensure that it accurately reports expenditures within the appropriate time frames.*
- *Reporting state term contracts for which it spent non-Treasury funds.*
- *Reconciling supplemental report information to ensure that it reports amounts within the appropriate time frame and that all HUBS it reports are certified.*
- *Preparing and maintaining HUB usage reports on a monthly basis.*
- *Collecting and maintaining monthly progress reports for all prime contractors and reconciling reported expenditures to supporting documentation.*

Management Response:

The A&M System Offices agrees with all recommendations noted above regarding reporting requirements and will put into place or follow through with existing processes to ensure compliance. For example, BuyA&M will contain fields within the purchase orders that will allow us to generate reports for use of state term contracts. Regarding the monthly progress reports, many of these are part of large construction projects managed by our Facilities Planning & Construction (FP&C) department. FP&C utilizes an online based system for management of their projects including submission of the Progress Assessment Reports (PARs). The Director will ensure that the PARs are being submitted by the prime contractors and reviewed on a timely basis.

Responsible Person: Director, Procurement & Business Services

Implementation Time line: December 2014

Improve compliance with HUB subcontracting requirements by complying with all subcontracting and good-faith effort requirements and maintaining adequate supporting documentation. Specifically, it should do that by:

- *Including in solicitation documents the probability of subcontracting opportunities.*
- *Examining the scope of work and determining the probability of subcontracting opportunities.*
- *Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether subcontracting opportunities were probable.*

- *Requiring respondents to state (1) whether they were certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided in the contract.*
- *Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.*
- *Providing notice to organizations or development centers within the required time frames.*
- *Maintaining documentation showing one or more of the following: (1) it notified at least three HUB businesses, (2) all available subcontracting opportunities will be performed by one or more HUBs, or (3) one or more HUB subcontractors will be used, and the total value of those subcontracts will meet or exceed the statewide goal.*
- *Reviewing and evaluating HUB subcontracting plans prior to awarding the contracts.*
- *Reviewing the documentation that respondents submit to determine whether they made a good-faith effort.*

Management Response:

The A&M System Offices agrees with each of these recommendations and has the resources now to ensure these subcontracting requirements are met. We will develop and utilize a checklist(s) for all purchases over \$100,000 that ensures we are following and documenting all required processes regarding HUB subcontracting requirements. Below are some specific measures already in place that will be documented on this checklist;

- *Include a statement about the probability of subcontracting opportunities.*
- *If subcontracting opportunities do not exist on a specific solicitation based on a review of the scope of work, we will utilize a form to be completed and signed by the Director.*
- *If subcontracting opportunities are available, we will use resources such as the CMBL, the HUB Directory, and internet searches to identify vendors for notification of the opportunity. The solicitation will also be posted on the Electronic State Business Daily.*
- *Language will be included within all contracts in which the solicitation required a HUB subcontracting plan that states the plan submitted becomes a part of that contract.*
- *All solicitations that required a HUB subcontracting plan will be reviewed by the Director prior to evaluation of the responses. Only those responses*

deemed acceptable and approved by the Director will be evaluated. This review includes evidence of a good-faith effort.

- *Part of the Directors review of the HUB subcontracting plans is to verify that organizations and development centers were notified within the required time frame with inclusion of supporting documentation such as emails and fax logs.*
- *Other items as part of the HUB subcontracting plan process to ensure that a good-faith effort was met by the respondents and all documentation has been obtained.*

Responsible Person: Director, Procurement & Business Services

Implementation Time line: October 2014

Improve compliance with State Use Program requirements by:

- *Designating a State Use coordinator.*
- *Reporting non-State Use purchases and exceptions.*
- *Implementing a process to determine whether TIBH goods and services are available, and retaining documentation that it followed that process.*

Management Response:

The A&M System Offices agrees with each of these recommendations and has designated Jeff Zimmermann, Director of Procurement & Business Services as the A&M System State Use coordinator. To ensure compliance, the Director will generate a report monthly from BuyA&M that includes all the required information from Texas Human Resources Code, Section 122.016(b).

Also, within BuyA&M we are working on a process that will require all users to acknowledge on all purchase requisitions that they have checked TIBH for the requested products and/or services. The user will also have to provide a valid reason if TIBH is not utilized. Additionally, we are working with TIBH to enable their online catalog within BuyA&M. Testing of this catalog is scheduled to take place in early October 2014.

Responsible Person: Director, Procurement & Business Services

Implementation Time line: December 2014

Texas Tech University (University) substantially complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 19 applicable HUB Program requirements (see Table 11), and the University achieved a compliance level of 62 percent for all audit tests performed related to those 19 requirements.⁶ The University reported that it purchased approximately \$41.6 million in goods and services from HUBs in fiscal year 2013.

Table 11

Texas Tech University Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	While the University performed an analysis of past expenditures when determining its HUB goals for fiscal year 2013, that analysis did not include an analysis of <u>estimated</u> contract awards and availability of HUBs. In addition, the University did not perform the required analysis of the total value of contract awards by the 60th day of the fiscal year as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Substantially Compliant	The University's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Sections 2161.127(b)(2), 2161.127(b)(3)(A), and 2161.127(b)(3)(B), and Title 34, Texas Administrative Code, Section 20.15(c). However, the University did not accurately report its adopted goals in the goal percentage section in its <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia. Specifically, it: <ul style="list-style-type: none"> ▪ Reported its actual HUB percentage in the goal percentage column in its <i>Legislative Appropriations Request</i> for the 2012-2013 biennium. ▪ Reported the statewide goal percentages instead of its adopted goal percentages in its <i>Legislative Appropriations Request</i> for the 2014-2015 biennium.
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	

⁶ Auditors calculated the 62 percent overall compliance level based on the System's compliance with 101 audit tests associated with the 19 applicable HUB program requirements.

Texas Tech University Compliance with HUB Program Requirements

Requirement		Compliance	Additional Information for Less Than Full Compliance
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Not Applicable	According to Texas Government Code, Section 2101.0115(e), higher education institutions are exempt from the statutory requirement to file an annual report of nonfinancial data that includes progress information.
Outreach			
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Noncompliant	<p>The University did not have sufficient processes or maintain sufficient documentation to ensure compliance with mentor-protégé program requirements. Specifically the University did not establish eligibility and selection criteria for its mentor-protégé program, as required, and it did not maintain documentation of its monitoring activities or periodic reviews.</p> <p>The University does not require its mentors and protégés to sign formal, written agreements. Auditors selected a sample of three informal mentor-protégé agreements, none of which were signed by the mentor and protégé. As a result, auditors were unable to determine whether the University reported the agreements to the Office of the Comptroller of Public Accounts within 21 days of the agreements being signed.</p> <p>Auditors obtained information from the Office of the Comptroller of Public Accounts that showed the start and end dates for two of the three informal mentor-protégé agreements. However, the University was unable to provide documentation of the start or end dates for the third informal mentor-protégé agreement. Therefore, for that agreement, auditors were unable to determine:</p> <ul style="list-style-type: none"> ▪ Whether the agreement was terminated during fiscal year 2013 and, therefore, whether the University reported its termination to the Office of the Comptroller of Public Accounts within 21 days of termination. ▪ Whether the protégé maintained its HUB certification for the duration of the agreement. <p>In addition, for 2 (67 percent) of the 3 informal mentor-protégé agreements tested, the University was unable to provide documentation that it notified both the mentors and protégés in writing that participation in the program is (1) voluntary and (2) neither a guarantee for a contract nor a promise of business.</p>
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Fully Compliant	
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	

Texas Tech University Compliance with HUB Program Requirements

Texas Tech University Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Minimally Compliant	The University had documentation that its senior managers and procurement staff attended HUB forums hosted by either the University or the Office of the Comptroller of Public Accounts during fiscal year 2013. However, it did not have documentation that it advertised in a trade publication, as required.
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant	
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Substantially Compliant	<p>HUB expenditure reporting: The University had supporting documentation for 28 (97 percent) of 29 reported expenditures tested; it did not have adequate supporting documentation for the remaining expenditure.</p> <p>Subcontracting and other supplemental reporting: The University did not accurately compile its fiscal year 2013 supplemental report. Auditors obtained three separate lists that the University used to prepare its supplemental report. When it compiled its information, the University omitted one of those lists and also included additional information that it should not have reported. As a result, for 18 (67 percent) of 27 categories reported, auditors were unable to trace amounts the University reported to its supporting documentation.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	The University prepared its HUB usage reports during fiscal year 2013 on a quarterly basis, rather than on a monthly basis, as required. Auditors tested two HUB usage reports. For both reports tested, the University did not identify all subcontractors and did not detail payments to subcontractors, as required.
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Substantially Compliant	<p>Accuracy of amounts reported: The University had documentation for 38 (86 percent) of 44 subcontractor expenditures tested. However, 6 (14 percent) were not supported by the <i>Contractor Progress Assessment Reports</i> that prime contractors had submitted.</p> <p>Monthly reporting requirements: For 3 (75 percent) of 4 prime contractors tested, the University was not able to provide all applicable monthly progress assessment reports the contractors had submitted. Those 4 prime contractors submitted <i>Contractor Progress Assessment Reports</i> for 41 percent of the months for which their contracts were active during fiscal year 2013.</p>
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The University asserted that it did not have any group purchasing HUB activity during fiscal year 2013.

Texas Tech University Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance	
Subcontracting			
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Noncompliant	Auditors selected nine contract solicitation files for testing. Three of them were job order contracts or contracts with pre-approved vendors and, therefore, exempt from solicitation requirements. For the remaining 6 contract solicitations tested, 5 (83 percent) did not include a statement of subcontracting opportunities, and 1 of those 5 also did not include a requirement for a HUB subcontracting plan.
2	State entities' use of resources such as examining the scope of work and researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14(a)(1)).	Noncompliant	Auditors tested six applicable contract solicitations and determined the following: <ul style="list-style-type: none"> ▪ For 5 (83 percent) of those 6, the University did not have documentation demonstrating that it had examined the scope of work to determine whether subcontracting was probable. ▪ For all six, the University did not have documentation that it had researched the Centralized Master Bidders List, HUB directory, or the Internet to identify HUBs that may be available to perform the contract work.
3	Statement of Texas certified HUB by potential contractor (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Fully Compliant	
4	Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Minimally Compliant	For 8 (89 percent) of 9 contracts tested, the University obtained a HUB subcontracting plan, as required. The University did not require a HUB subcontracting plan for one contract tested because the contractor was on a list of preapproved vendors. However, preapproved purchases are not exempt from HUB subcontracting requirements. Therefore, that contract did not meet any of the requirements discussed below. Two of the nine contracts selected for testing had self-performing justifications completed on their HUB subcontracting plans; therefore, good-faith effort requirements did not apply. For 4 (67 percent) of the 6 remaining contracts tested, the University did not have evidence that the prime contractor provided notification to a minority or women trade organization, as required. In addition, for those four errors noted: <ul style="list-style-type: none"> ▪ For one the University could not provide documentation demonstrating that it had ensured that the contractor (1) notified trade organizations of subcontracting opportunities or (2) justified the selection of non-HUB subcontractors. ▪ For three the University also did not ensure that the prime contractors informed HUBs of subcontracting opportunities associated with the contracts.
5	Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14(e)).	Noncompliant	Auditors tested nine applicable contracts and determined the following: <ul style="list-style-type: none"> ▪ For 8 (89 percent) of the 9 contracts tested, the University did not have documentation showing that it reviewed and evaluated the HUB subcontracting plans <u>prior</u> to awarding the contracts as required. ▪ Two of the nine contracts selected for testing had self-performing justifications completed on their HUB subcontracting plans; therefore, subcontracting good-faith effort requirements did not apply. For 6 (86 percent) of the remaining 7 contracts, the University did not have documentation that it reviewed the HUB subcontracting plans to determine whether the respondents had made a good-faith effort. ▪ For 7 (78 percent) of the 9 contracts tested, the University did not ensure that the HUB subcontracting plan became a provision of the contract.

Texas Tech University Compliance with HUB Program Requirements

Requirement	Compliance	Additional Information for Less Than Full Compliance
Goal Attainment		
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).	
Heavy construction contract utilization goal.	Fully Achieved	For fiscal year 2013, the University's goal for heavy construction was 11.20 percent; its actual HUB performance was 44.04 percent.
Building construction contract utilization goal.	Substantially Achieved	For fiscal year 2013, the University's goal for building construction was 21.10 percent; its actual HUB performance was 15.82 percent.
Special trade construction contract utilization goal.	Substantially Achieved	For fiscal year 2013, the University's goal for special trade construction was 32.70 percent; its actual HUB performance was 25.65 percent.
Professional services contract utilization goal.	Minimally Achieved	For fiscal year 2013, the University's goal for professional services was 23.60 percent; its actual HUB performance was 11.38 percent.
Other services contract utilization goal.	Minimally Achieved	For fiscal year 2013, the University's goal for other services was 24.60 percent; its actual HUB performance was 12.91 percent.
Commodities contract utilization goal.	Fully Achieved	For fiscal year 2013, the University's goal for commodities was 21.00 percent; its actual HUB performance was 35.34 percent.

The University should strengthen controls over HUB reporting to ensure that it reports accurate information.

Auditors noted additional areas for improvement regarding the University's HUB reporting processes. The University did not ensure that it reported only expenditures that it made under contracts awarded to HUBs. In addition, the University did not ensure that it included rebates in its reporting, where applicable. As a result, the University over reported its HUB expenditures by \$7,934,233 (26 percent) on its *2013 Annual HUB Report*. Specifically:

- The University reported \$7,856,171 in HUB expenditures for which it did not have a valid contract or purchasing documentation with a certified HUB. Texas Government Code, Section 2161.122(c)(1), states that "Each state agency shall report to the [Office of the Comptroller of Public Accounts] in accordance with Section 2161.125 the following information with regard to the expenditure of both treasury and non-treasury funds: (1) the total dollar amount of purchases and payments made under contracts awarded to historically underutilized businesses [emphasis added]." While the vendor associated with those expenditures was a certified HUB, the University had no contract and no current reseller assignment with that vendor. (The University previously had a reseller assignment with that vendor signed in June 2006; however, the associated contract had expired and the University did not renew it.) Therefore, the University should not have reported those expenditures as HUB expenditures.
- Another of the University's contracts included a provision that allowed for an annual rebate based on net sales. However, the University did not reduce the overall HUB expenditures it reported in its *2013 Annual HUB*

Report by the amount of the rebate it received. As a result, it over reported expenditures from that HUB by \$78,062.

The University minimally complied, overall, with Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2013 (see Table 12). The University reported that it had not purchased any goods or services that were exceptions from the State Use Program in fiscal year 2013.

Table 12

Texas Tech University Compliance with State Use Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
1	Entity designation of a State Use Program coordinator (Texas Human Resources Code, Section 122.0095(a)(1)).	Fully Compliant	
2	Non-State Use Program purchase reporting (Texas Human Resources Code, Section 122.0095(a)(2)).	Fully Compliant	
3	Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section 122.008).	Noncompliant	The University did not have processes to ensure that it purchased goods and services from community rehabilitation programs whenever available, as required. For all 29 purchases from vendors other than TIBH tested, the University did not have documentation showing that it checked the TIBH catalog prior to making the purchase to ensure compliance with requirements.
4	Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Noncompliant	The University did not report exception items it identified and intended to report during fiscal year 2013. That occurred because the University did not have sufficient processes to ensure that it accurately and completely uploaded exceptions to the Office of the Comptroller of Public Accounts' reporting portal. Auditors tested a sample of 12 exceptions that the University intended to report. Ten (83 percent) of them were purchases of goods and services that were <u>not</u> offered by TIBH during fiscal year 2013; therefore, the University should not have identified them as exceptions.

Auditors relied on data from the University's financial system (Banner). As a result, auditors performed general and application control testing for Banner and determined that its data was sufficiently valid and reliable for the purposes of this audit. However, as discussed in the HUB reporting section above, the University did not track and maintain information that was sufficient to fully support its supplemental report. The University provided auditors with three lists of contracts. Auditors performed alternative procedures on each and determined they were sufficient to sample for compliance with subcontracting requirements. The three lists included:

- A list of low-dollar construction contracts. Auditors verified sequential contract numbers beginning with fiscal year 2012 and ending with fiscal year 2014.

- A list of high-dollar construction contracts. Auditors traced that list to the contracts presented to the Texas Tech University System Board of Regents during fiscal year 2013.
- A list of non-construction contracts from the University's TechBid system. Auditors reviewed the parameters used to extract the list from that system.

Auditors communicated other, less significant issues related to the University's information technology controls to management separately in writing.

Recommendations

The University should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It estimates its expected HUB contract awards by the 60th day of the fiscal year.
 - ♦ Its *Legislative Appropriations Requests* include all required elements.
- Improve compliance with HUB outreach requirements by:
 - ♦ Developing criteria for selecting HUB mentors and protégés and documenting compliance with those criteria for all mentor-protégé relationships.
 - ♦ Actively monitoring HUB mentor-protégé relationships and maintaining documentation to support those agreements and its monitoring of those agreements.
 - ♦ Requiring all HUB mentor-protégé agreements to be signed.
 - ♦ Advertising its HUB forums in at least one trade publication and maintain documentation of that advertisement.
- Improve compliance with HUB reporting requirements by:
 - ♦ Reconciling the HUB expenditure amounts it reports to ensure that it reports those expenditures accurately and in the appropriate time period, and maintaining adequate documentation supporting those expenditures.
 - ♦ Reconciling supplemental report information to ensure that it reports amounts accurately.
 - ♦ Preparing and maintaining monthly HUB usage reports and ensuring that those reports include all required information.

- Improve compliance with HUB subcontracting requirements by:
 - ♦ Developing and implementing processes to maintain adequate supporting documentation demonstrating that it:
 - Includes in solicitation documents, regardless of the solicitation process followed, the probability of subcontracting opportunities and requirements for HUB subcontracting plans.
 - Examines the scope of work and determines the probability of subcontracting opportunities.
 - Uses resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to identify HUBs.
 - Requires respondents to submit completed HUB subcontracting plans.
 - Requires respondents to submit a completed HUB subcontracting plans that include all required elements demonstrating evidence of their good-faith effort in developing those plans.
 - Performs and documents its review and evaluation of HUB subcontracting plans and associated documentation demonstrating the respondents' good-faith effort prior to awarding a contract.
 - Includes approved HUB subcontracting plans as provisions of contracts.
- Strengthen controls over its HUB reporting to ensure that it reports expenditures made under contracts awarded to HUBs and considers any applicable rebates.
- Improve compliance with State Use Program requirements by:
 - ♦ Implementing a process to determine whether TIBH goods and services are available and documenting that determination.
 - ♦ Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.
- Strengthen contract management processes to ensure that it identifies and tracks contracts to support its supplemental reporting information.

Management's Response

Planning

Estimation of expected contract awards (Texas Government Code, Section 2161.183).

Legislative Appropriations Request requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15[c]).

Improve compliance with HUB planning requirements by ensuring that:

- *It estimates its expected HUB contract awards by the 60th day of the fiscal year.*

Management Response - TTU agrees. Although, TTU was not compliant in FY13, TTU submitted the FY 14 report on October 23, 2013. The Director of Procurement Services will continue to oversee continued compliance with this requirement.

- *Its Legislative Appropriations Requests include all required elements.*

Management Response - TTU agrees. TTU adopted the State's goals as our own goals; however, since TTU did not report our estimated awards, this could not be documented. The Director of Procurement Services will continue to ensure compliance with this requirement.

Outreach

Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).

HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27[b]). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).

Improve compliance with HUB outreach requirements by:

- *Developing criteria for selecting HUB mentors and protégés and documenting compliance with those criteria for all mentor-protégé relationships.*
- *Actively monitoring HUB mentor-protégé relationships and maintaining documentation to support those agreements and its monitoring of those agreements.*
- *Requiring all HUB mentor-protégé agreements to be signed.*

Management Response - TTU agrees. TTU has since developed and implemented forms including the Mentor-Protégé Agreement, the Mentor Application and the Protégé Application. These forms formally document the relationships between the three parties. In addition, TTU created a database detailing each Mentor Protégé relationship and will update this database annually following the annual review with the Mentor and Protégé vendors. For all sixteen Mentor-Protégé agreements, TTU has the required documentation on file. All proper paperwork has been sent to the Comptroller and all but two have been approved with two pending. The Director of Procurement Services and the Manager of Purchasing will continue to ensure compliance with this requirement.

- *Advertising its HUB forums in at least one trade publication and maintain documentation of that advertisement.*

Management Response - TTU agrees. In the fall of 2013, TTU had corrected the issue and continues to comply by advertising these forums in various trade magazines to the community. TTU is currently compliant with this requirement. The Director of Procurement Services will continue to oversee compliance with this requirement.

Reporting

Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16[a] and [c]).

Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16[b]).

Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16[b])

Improve compliance with HUB reporting requirements by:

- *Reconciling the HUB expenditure amounts it reports to ensure that it reports those expenditures accurately and in the appropriate time period, and maintaining adequate documentation supporting those expenditures.*
- *Reconciling supplemental report information to ensure that it reports amounts accurately.*

Management Response - TTU agrees. The report is compiled from information from three sources: Banner, the Citibank Procurement Card System, and supplemental reports that provide subcontracting data. TTU will work on improving reporting capabilities out of Banner and the P-card system. TTU will create a reporting template for the subcontract portion and require reporting departments to utilize. The subcontract reports will be

verified against the master contracts. TTU will seek to be fully compliant by the FY semi-annual report due in March 2015. The Director of Procurement Services will ensure compliance with this requirement.

- *Preparing and maintaining monthly HUB usage reports and ensuring that those reports include all required information.*

Management Response - TTU agrees. In the fall of 2013, TTU had corrected the issue and continues to comply with submitting monthly HUB usage reports. In the summer of 2014, TTU corrected the reports to include p-card and subcontractor expenditures as this inclusion is a manual process and cannot be automated. TTU is currently compliant with this requirement. The Director of Procurement Services will continue to oversee compliance with this requirement.

Subcontracting

Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14[b][1]).

State entities' use of resources such as examining the scope of work, researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14[a] [1]).

Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14[d][1]).

Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14[e]).

Improve compliance with HUB subcontracting requirements by:

- *Developing and implementing processes to maintain adequate supporting documentation demonstrating that it:
 - ♦ *Includes in solicitation documents, regardless of solicitation process followed, the probability of subcontracting opportunities and requirements for HUB subcontracting plans.**

Management Response - TTU agrees. Although the previous procurement templates included HUB requirement language and a link to the State Comptroller's HUB program website, the solicitation templates have been revised to include comprehensive HUB subcontracting language that includes the determination of probability. TTU is currently compliant with this requirement. The Director of Procurement Services will continue to oversee compliance with this requirement.

- *Examines the scope of work and determines the probability of subcontracting opportunities.*
- *Uses resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to identify HUBs.*

Management Response - TTU agrees. TTU has developed new forms to document determination of probable subcontracting opportunities. The form documents what methods TTU used in determining subcontracting opportunities. TTU is currently compliant with this requirement. The Director of Procurement Services will continue to oversee compliance with this requirement.

- *Requires respondents to submit completed HUB subcontracting plans.*
- *Requires respondents to submit a completed HUB subcontracting plans that include all required elements demonstrating evidence of their good-faith effort in developing those plans.*

Management Response - TTU agrees. TTU has always reviewed subcontracting plans prior to awarding contracts as part of a comprehensive pre-contract process; however, this review was not documented. TTU is currently developing a training program for contractors to educate the vendors on the documentation requirements for good faith effort. In addition, a more comprehensive review process by Procurement Services and Facilities Planning and Construction will be established to ensure contractors appropriately document the process. The Director of Procurement Services will ensure compliance by December of 2014.

- *Performs and documents its review and evaluation of HUB subcontracting plans and associated documentation demonstrating the respondents' good-faith effort prior to awarding a contract.*

Management Response - TTU agrees. TTU has always reviewed subcontracting plans prior to awarding contracts as part of a comprehensive pre-contract process; however, this review was not documented. TTU has now developed forms to evaluate procurements both prior to procurement and prior to contract award. The forms will document subcontracting plan compliance. TTU is currently compliant with this requirement. The Director of Procurement Services will continue to oversee compliance with this requirement.

- *Includes approved HUB subcontracting plans as provisions of contracts.*

Management Response - TTU agrees. TTU is currently revising standard contract templates to include HUB Subcontracting plan requirements as a contract revision. TTU plans to become compliant with all contracts requiring HUB subcontracting plans starting on November 1, 2014.

Other

- *Strengthen controls over its HUB reporting to ensure that it reports expenditures made under contracts awarded to HUBs and considers any applicable rebates.*

Management Response — TTU records rebates from vendors as revenue and not as a reduction of expenditures. As the HUB Reporting Procedures for FY 13 require reporting of total expenditures and do not specifically address rebates, TTU's HUB report matches with expenditures recorded in its general ledger. TTU will review material rebates for consideration in future HUB reporting periods.

TEXAS TECH UNIVERSITY COMPLIANCE WITH STATE USE REQUIREMENTS:

Purchase of goods and services from community rehabilitation program requirements (Texas Human Resources Code, Section Code 122.008).

Exception reporting requirements (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(b) and (c) and Title 40, Texas Administrative Code, Section 189.2 (9)).

Improve compliance with State Use Program requirements by:

- *Implementing a process to determine whether TIBH goods and services are available and documenting that determination.*

Management Response - TTU regularly reviews various contracts when making purchases. TTU has also enabled an online TIBH catalog to assist with purchasing in compliance with TIBH requirements. TTU will continue to review purchases for compliance. The TTU State Use Coordinator will be responsible for oversight.

- *Identifying and accurately reporting State Use Program exceptions to the Office of the Comptroller of Public Accounts.*

Management Response — TTU had prepared all of the required monthly reports; however, there was a technology glitch that prevented TTU from properly loading this data into the system. This has since been corrected. The TTU State Use Coordinator will be responsible for oversight and continued improvement of the reporting process.

Strengthen contract management processes to ensure that it identifies and tracks contracts to support its supplemental reporting information.

Management Response - TTU agrees. TTU has already worked to improve the databases that support the contract information, including reporting any change orders and each progress payment made to the contractors. TTU will continue to strengthen databases to better track contracts and the supporting

information required. TTU will seek to be fully compliant by August 2015. The Director of Procurement Services will ensure compliance with this requirement.

The University of Texas M.D. Anderson Cancer Center

The University of Texas M. D. Anderson Cancer Center (Cancer Center) substantially complied, overall, with the Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2013. Auditors tested 19 applicable HUB Program requirements (see Table 13), and the Cancer Center achieved a compliance level of 87 percent for all audit tests performed related to those 19 requirements.⁷ The Cancer Center reported that it purchased approximately \$99.9 million in goods and services from HUBs in fiscal year 2013.

According to Texas Education Code, Section 73.115(e), the Cancer Center is exempt from Purchasing from People with Disabilities (State Use) Program requirements.

Table 13

The University of Texas M.D. Anderson Cancer Center's Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
Planning			
1	Establishment of annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Estimation of expected contract awards (Texas Government Code, Section 2161.183).	Noncompliant	While the Cancer Center performed an analysis of past expenditures when determining its HUB goals for fiscal year 2013, that analysis did not include an analysis of <u>estimated</u> expenditures, contracts, and availability of HUBs. In addition, the Cancer Center did not perform the required analysis of the total value of contract awards by the 60th day of the fiscal year as required.
3	<i>Legislative Appropriations Request</i> requirements (Texas Government Code, Section 2161.127(b), and Title 34, Texas Administrative Code, Section 20.15(c)).	Minimally Compliant	The Cancer Center's <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia complied with Texas Government Code, Sections 2161.127(b)(3)(A) and 2161.127 (b)(3)(B), and Title 34, Texas Administrative Code, Section 20.15(c). However: <ul style="list-style-type: none"> ▪ In its <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia, the Cancer Center included statements about instances in which it exceeded one of its HUB goals, but it did not include statements about the remaining applicable HUB goals. ▪ For fiscal years 2008, 2009, and 2011 in its <i>Legislative Appropriations Requests</i> for the 2012-2013 and 2014-2015 biennia, the Cancer Center reported its actual HUB contracting percentage instead of its HUB goal. ▪ For fiscal year 2010 in its <i>Legislative Appropriations Request</i> for the 2014–2015 biennium, the Cancer Center reported statewide HUB goals; however, those were not the goals that the Cancer Center had adopted.

⁷ Auditors calculated the 87 percent overall compliance level based on the Cancer Center's compliance with 100 audit tests associated with the 19 applicable HUB program requirements.

The University of Texas M.D. Anderson Cancer Center's Compliance with HUB Program Requirements

Requirement		Compliance	Additional Information for Less Than Full Compliance
4	Adoption of HUB rules (Texas Government Code, Section 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
5	Strategic plan requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	
6	Requirements to report for each fiscal year, the progress under its plan to increase the use of historically underutilized businesses (Texas Government Code, Section 2161.124).	Not Applicable	According to Texas Government Code, Section 2101.0115(e), higher education institutions are exempt from the statutory requirement to file an annual report of nonfinancial data that includes progress information.
Outreach			
1	Mentor-protégé program requirements (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Substantially Compliant	<p>The Cancer Center has implemented a mentor-protégé program in accordance with requirements, and its policies and procedures included eligibility and selection criteria for both mentors and protégés, as required.</p> <p>The Cancer Center also had documentation that it:</p> <ul style="list-style-type: none"> ▪ Monitored its mentor-protégé agreements in effect during fiscal year 2013. ▪ Notified its mentors and protégés that the program is voluntary and participation is neither a guarantee of a contract nor a promise of business. <p>However, auditors reviewed seven mentor-protégé agreements in effect during fiscal year 2013 and identified the following:</p> <ul style="list-style-type: none"> ▪ For 2 (29 percent) of the 7 agreements tested, the protégés did not maintain their HUB certification status for the duration of the agreements. ▪ The Cancer Center did not report 2 (29 percent) of 7 new mentor-protégé agreements to the Office of the Comptroller of Public Accounts within the required time frame (those agreements should be reported within 21 days of the date that they are signed).
2	HUB coordinator level equal to the procurement director (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.11(12)).	Fully Compliant	
3	HUB coordinator's involvement in development of procurement specifications and HUB subcontracting plans and evaluation of contracts (Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	

The University of Texas M.D. Anderson Cancer Center's Compliance with HUB Program Requirements

The University of Texas M.D. Anderson Cancer Center's Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
4	HUB coordinator's responsibilities include facilitating compliance, reporting, contract administration, marketing and outreach efforts, coordinating training for the recruitment and retention of HUBs, and matching HUBs to key staff (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	
5	HUB forum participation (Texas Government Code, Section 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must advertise the forum in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Fully Compliant	
6	In-house marketing presentations by HUBs (Texas Government Code, Section 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant	
Reporting			
1	Reporting of timely and accurate HUB expenditure, subcontracting, and other supplemental information (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Minimally Compliant	<p>HUB expenditure reporting: The Cancer Center had supporting documentation for all 29 HUB expenditures tested.</p> <p>Subcontracting and other supplemental reporting: The Cancer Center did not have documentation to support the number of bids and contracts that it reported. Therefore, auditors were unable to determine the accuracy of the numbers the Cancer Center reported for 27 applicable categories.</p>
2	Monthly internal HUB usage reports requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Substantially Compliant	The Cancer Center complied with 3 (75 percent) of the 4 requirements tested. However, for both usage reports tested, the Cancer Center did not include purchases it made through group purchasing.
3	Progress assessment report requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Substantially Compliant	<p>Monthly reporting requirements: Fourteen (82 percent) of the 17 prime contractors tested met monthly reporting requirements. However:</p> <ul style="list-style-type: none"> ▪ The Cancer Center did not have documentation for two prime contractors. ▪ One prime contractor reported on a quarterly basis, rather than the required monthly basis. <p>In total, those 17 prime contractors submitted <i>Contractor Progress Assessment Reports</i> for 81 percent of the months for which their contracts were active during fiscal year 2013.</p> <p>Accuracy of amounts reported: The Cancer Center had supporting documentation for 23 (79 percent) of the 29 subcontractor expenditures tested. However, the other 6 (21 percent) expenditures were not supported by the <i>Contractor Progress Assessment Reports</i> that the prime contractors had submitted.</p>
4	Group purchasing reports requirements (Texas Government Code, Section 2161.122(d)).	Not Applicable	The Cancer Center asserted that it did not have any group purchasing HUB activity during fiscal year 2013.

The University of Texas M.D. Anderson Cancer Center's Compliance with HUB Program Requirements

Requirement			Compliance	Additional Information for Less Than Full Compliance
Subcontracting				
1	Statement of subcontracting opportunities in solicitation document (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Fully Compliant		
2	State entities' use of resources such as examining the scope of work and researching the Centralized Master Bidders List and Internet resources to determine whether subcontracting opportunities are probable (Title 34, Texas Administrative Code, Section 20.14(a)(1)).	Fully Compliant		
3	Statement of Texas certified HUB by potential contractor (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Fully Compliant		
4	Evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Substantially Compliant		<p>The Cancer Center obtained a completed HUB subcontracting plan for all 17 contracts tested. It also (1) maintained documentation showing that contract work was divided into reasonable lots or portions for the five contracts to which that requirement was applicable and (2) maintained written justification if the selected subcontractor was not a HUB for the four contracts to which that requirement was applicable.</p> <p>However, for two contracts the Cancer Center did not ensure that the contractors notified minority or women trade organizations. In addition, for one of those contracts, the contractor did not notify HUB businesses of subcontracting opportunities.</p>
5	Review and evaluation of HUB subcontracting plan prior to contract award (Title 34, Texas Administrative Code, Section 20.14(e)).	Fully Compliant		
Goal Attainment				
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).			
	Heavy construction contract utilization goal.	Not Applicable		
	Building construction contract utilization goal.	Substantially Achieved		For fiscal year 2013, the Cancer Center's goal for building construction was 24.13 percent; its actual HUB performance was 16.10 percent.
	Special trade construction contract utilization goal.	Fully Achieved		For fiscal year 2013, the Cancer Center's goal for special trade construction was 14.73 percent; its actual HUB performance was 13.37 percent.
	Professional services contract utilization goal.	Minimally Achieved		For fiscal year 2013, the Cancer Center's goal for professional services was 66.07 percent; its actual HUB performance was 37.30 percent.
	Other services contract utilization goal.	Fully Achieved		For fiscal year 2013, the Cancer Center's goal for other services was 11.70 percent; its actual HUB performance was 12.06 percent.
	Commodities contract utilization goal.	Substantially Achieved		For fiscal year 2013, the Cancer Center's goal for commodities was 4.69 percent; its actual HUB performance was 3.86 percent.

Auditors relied on data from the Cancer Center's financial system (PeopleSoft). As a result, auditors performed general and application control testing for PeopleSoft and determined that its data was sufficiently valid and reliable for the purposes of this audit.

Auditors relied on data from the Cancer Center's contract management system (TractManager) and solicitation system (WebBids). Auditors determined that the data in those systems was sufficiently valid and reliable for the purposes of this audit.

Recommendations

The Cancer Center should:

- Improve compliance with HUB planning requirements by ensuring that:
 - ♦ It estimates its expected HUB awards by the 60th day of the fiscal year.
 - ♦ Its *Legislative Appropriations Requests* contain all required elements.
- Improve compliance with HUB outreach requirements by (1) actively monitoring its HUB mentor-protégé program to ensure that protégés maintain HUB certification throughout each agreement's term and (2) appropriately reporting new and completed mentor-protégé agreements to the Office of the Comptroller of Public Accounts within required time frames.
- Improve compliance with HUB reporting requirements by:
 - ♦ Collecting and maintaining supporting documentation for all subcontracting and other supplemental report information.
 - ♦ Collecting and maintaining monthly progress reports for all prime contractors.
 - ♦ Reconciling reported expenditures with supporting documentation.
- Improve compliance with HUB subcontracting requirements by obtaining and maintaining documentation to show that it monitored and audited contractors' compliance with HUB subcontracting plans.

Management's Response

- *Improve compliance with HUB planning requirements by ensuring that:*
 - *It estimates its expected HUB awards by the 60th day of the fiscal year.*

Management Response - MD Anderson Cancer Center is committed to compliance with HUB planning requirements and will prepare an estimate to be submitted by the 60th day of the fiscal year. This action will be completed by the Associate Director of the HUB and Federal Small Business Program not later than October 30, 2014. It should be noted that MD Anderson's contracting model does not readily lend itself to a quantitative process of estimation. Many unplanned requirements are based upon donor contributions, grant awards, research outcomes and unscheduled facilities repair. Operating and capital budgets are not a guarantee of funding availability. Accordingly, contract solicitations are initiated based on funding confirmation to avoid setting unrealistic internal and external expectations.

- Its Legislative Appropriations Requests (LAR) contains all required elements.

Management Response - MD Anderson Cancer Center will ensure that the LAR contains all required elements.

- Improve compliance with HUB outreach requirements by (1) actively monitoring its HUB mentor-protégé program to ensure that protégé's maintain HUB certification throughout each agreement's term and (2) appropriately reporting new and completed mentor-protégé agreements to the Office of the Comptroller of Public Accounts within required time frames.

Management Response - (1) MD Anderson Cancer Center will develop and implement a monthly process to monitor HUB certification for the participants in the mentor-protégé program during the term of agreement. (2) Additionally, the Institution will implement a monthly monitoring process to ensure the timely reporting of new and completed mentor-protégé agreements to the Office of the Comptroller of Public Accounts. This action will be operationalized by the Associate Director of the HUB and Federal Small Business Program not later than January 31, 2015.

- Improve compliance with HUB reporting requirements by:
 - Collecting and maintaining supporting documentation for all subcontracting and other supplemental report information.

Management Response — MD Anderson Cancer Center will develop and implement a data collection and reporting process to ensure that supporting documentation for activities with HUB suppliers is maintained to include the number of bids and contracts reported. This action will be operationalized by the Associate Director of the

HUB and Federal Small Business Program not later than January 31, 2015.

- *Collecting and maintaining monthly progress reports for all prime contractors.*

Management Response - MD Anderson Cancer Center will continue to collect, monitor and maintain monthly progress reports for all prime contractors.

- *Reconciling reported expenditures with supporting documentation.*

Management Response — Maintenance of the monthly progress reports will serve as the supporting documentation for reconciliation of reported expenditures.

- *Improve compliance with HUB subcontracting requirements by obtaining and maintaining documentation to show that it monitored and audited contractors' compliance with HUB subcontracting plans.*

Management Response — MD Anderson Cancer Center will continue to closely monitor contractor compliance with HUB subcontracting requirements especially as it relates to contractor notification of bid opportunities to minority and women trade organizations and HUB businesses.

The Comptroller's Office Has Improved the HUB Program and State Use Program; However, Opportunities Exist for the Comptroller's Office to Strengthen Certain Areas of the HUB Program

The Office of the Comptroller of Public Accounts (Comptroller's Office) should review and update its Historically Underutilized Business (HUB) forms, rules, and manual to ensure that agencies and higher education institutions can fully understand and comply with all statutes and rules for the HUB Program.

Auditors followed up on six previous State Auditor's Office recommendations related to the HUB and State Use programs 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. 13-026, March 2013). The Comptroller's Office fully implemented three of those six recommendations. It partially implemented one recommendation, its implementation of one recommendation was ongoing, and its implementation of one recommendation was incomplete/ongoing.

Auditors also reviewed selected general and application controls over the Comptroller's Office's Web portal for the Purchasing from People with Disabilities (State Use) Program. Auditors identified two weaknesses in controls that the Comptroller's Office resolved during this audit.

Chapter 8-A

The Comptroller's Office Should Review and Update Its Forms, Rules, Forms, and Manual for the HUB Program

As the administrator of the HUB program, the Comptroller's Office should update its forms, rules, and manual to help ensure that those items reflect current legislation, rules, and practices. Specifically:

- To comply with Rider 17, page I-23, and Rider 18, page I-23, General Appropriations Act (83rd Legislature), the Comptroller's Office directed entities to use a reporting form designed to address both (1) the HUB utilization self-assessment required by Rider 17 and (2) the HUB policy compliance quarterly reports required by Rider 18.

However, that reporting form is not sufficient to incorporate the self-assessment required by Rider 17. Specifically, that form does not include a space for an entity to evaluate its efforts in increasing the participation of HUBs in purchasing and public works contracting. Additionally, that form does not include a space for an entity to include information about additional efforts it is making to increase HUB participation.

In addition, while that reporting form contains the elements for quarterly reporting required in Rider 18, it is not sufficient for the specific plan that Rider 18 requires.

- Texas Government Code, Section 2161.002(d), which became effective September 1, 2013, required the Comptroller's Office to adopt rules to include certain qualified veterans as certified HUB businesses. The Comptroller's Office posted proposed rules related to that requirement in the *Texas Register* on July 4, 2014.
- The Comptroller's Office should review and update its manual and other guidance related to the HUB program. Specifically:
 - ♦ The Comptroller's Office's *HUB Reporting Manual* instructs entities to not report non-treasury purchases they make through Department of Information Resources contracts. However, that instruction is no longer applicable and state entities should report those purchases. That manual also contains inconsistent definitions of group purchasing programs, which could result in inaccurate reporting by entities.
 - ♦ In accordance with Texas Government Code, Section 2161.253(e), and Title 34, Texas Administrative Code, Section 20.14(c)(2), the Comptroller's Office provides a form for contractors to document their good-faith efforts related to certain HUB requirements. However, that form does not fully address all requirements because it does not include a section for contractors to document their notification to minority or women trade organizations of HUB subcontracting opportunities in accordance with Title 34, Texas Administrative Code, Section 20.14(d)(1)(c). In addition, that form does not include a space for contractors to document their reasons for selecting non-HUB vendors for subcontracting opportunities in accordance with Title 34, Texas Administrative Code, Section 20.14(d)(1)(B).

Auditors also reviewed selected general and application controls over the Comptroller's Office's Web portal for the State Use Program. Auditors identified two weaknesses in controls that the Comptroller's Office resolved during this audit.

Recommendation

The Comptroller's Office should review and update its HUB rules, manuals, and other guidance related to the HUB Program.

Management's Response

The Comptroller's office takes issue with some of these findings and responds as follows:

Finding #1

The findings address Riders 17 and 18, page 1-23, General Appropriations Act (83rd Legislature). The findings state that the form developed by the Comptroller's office for agencies to use to comply with these Riders is insufficient.

In our view, with the exception of items (a), (b), (c), and (d) in Rider 18 (please see section C), the assessment instrument represents the assessment process required by Riders 17 and 18 as follows:

A. The assessment instrument is built on all five HUB outcome measures. These measures are commonly used to evaluate process, performance, and success/failure of HUB programs:

1. HUB quarterly performance measures: Question 1 tracks the agency HUB quarterly performance in a cumulative form per procurement category. In addition, responding agencies must provide justification for not reaching the intended goals (Question 9).

2. Dollar amount spent with HUBs in prime contract: Question 2A captures all Prime Contract related expenditure for HUB/non-HUB per procurement category and per race/ethnicity/gender/veteran.

3. Dollar amount spent with HUBs in subcontract category: The amount of Subcontract shows the way in which agencies have used the HUB Subcontracting Plan (HSP) form. A simple comparison of Subcontract with Prime Contract per procurement categories shows the strengths and weaknesses of the subcontracting process. Question 3A captures all Subcontract related expenditure for HUB/non-HUB per procurement category and per race/ethnicity/gender/veteran groups.

4. The number of HUB and non-HUB vendors utilized during the assessment quarter (Questions 2B and 3B): A simple descriptive analysis of data in this category reveals whether the HUB related activities were centered on a few HUB vendors or were extended to provide opportunities for a larger number of vendors.

5. The number of new HUB vendors (and protégés) added to the program: Questions 4 and 6 seek information about HUB vendors per procurement categories and per race/ethnicity/gender/veteran groups which were added during the assessment quarter. The added vendors are new vendors with no history of contracting with the state for the past two years. Information collected through this question will show the

strengths/weaknesses of the HUB outreach program (question 5) in reaching HUB vendors and encouraging them to participate in the state procurement opportunities.

The above outcome measures, collectively, provide ample opportunity to assess all HUB-related activities, including the effectiveness of outreach related programs (Question 5), the impact of HUB staffing (Question 7), and the effect of HUB organizational structure (Question 8) in increasing the number of HUB vendors involved and dollar amount spent with this group. In addition, question 9 collects information about other tangible and intangible HUB-related activities. HUB coordinators can explain the steps and activities leading to higher performance or better outcomes. On the other hand, they can provide justification for not reaching their HUB goals.

B. Following the creation of the assessment instrument, a series of steps, as noted below, were taken to validate the “content validity” of the proposed assessment instrument. The intent was to include all required assessment elements in Riders 17 and 18 in the proposed assessment instrument (with exception of items a, b, and c, and d in Rider 18; see Section C):

1. The assessment instrument was reviewed and analyzed by over 40 HUB coordinators in 3 different settings. The reviews were focused on both the content validity of the instrument and the availability of relevant data to produce quarterly reports.

2. On November 14, 2013, the proposed assessment instrument was mailed to the authors of Riders 17 and 18, Senators West and Watson. After review and evaluation of the instrument, both senators’ offices supported collection of information through the proposed quarterly HUB assessment instrument.

3. Finally, on December 16, 2013, the assessment instrument was reviewed and analyzed in a joint meeting of Comptroller’s office and LBB representatives. Once again, the intent was ensuring the true reflection of Riders 17 and 18 in the recommended assessment instrument.

C. We did not include Items (a) through (d) of Rider 18 in the assessment instrument. This decision was based on the fact that state agencies and institutions of higher education neither have sufficient resources nor the required information to perform quarterly tasks identified in items (a) through (d). Conducting items (a), (b), and (c) requires access to “Availability” data. In that respect, one must have an exhaustive list of all Ready, Willing, and Able minority (not limited to HUB vendors) and non-Minority vendors in Texas to be able to perform those tasks. Conducting “statistical disparities by race, ethnicity, and gender” in “firms earning” and “in the area of utilization of women-and minority owned firms” and “in commercial construction” is a very complex task which requires a high level of statistical expertise and

collection of relevant data through surveys and interviews, which would be nearly impossible to conduct on a quarterly basis. Likewise, item (d), which requires an analysis of “anecdotal testimony of disparate treatment ... [of] business owners,” is a lengthy and costly process and practically impossible to conduct on a quarterly basis. Anecdotal data for recording “disparate treatment as presented by business owners” must be collected through public hearings, focus groups, and statewide surveys of business owners. The process of collecting anecdotal testimonies is often lengthy and extremely costly, and it requires a high level of expertise and resources. These tasks are commonly performed when conducting a disparity study and may take a year or longer to complete. In that respect, items (a), (b), (c), and (d) listed in Rider 18 can be performed by conducting a new statewide Disparity Study or updating the Texas Disparity Study-2009, which we already have underway.

It is imperative to add that the creation of the HUB assessment instrument was based on the logic of providing uniformity in HUB quarterly reporting. The Comptroller’s office, as a recipient of the quarterly assessments was concerned about receiving close to 200 assessment reports in various shapes and forms. Despite this intent, agencies and institutions are not limited to submitting a completed assessment instrument. They can submit their quarterly assessment in a form that they believe better reflects their HUB program, or may supplement the assessment with additional information as deemed necessary. The Comptroller’s office form is not mandatory on any agency for Rider reporting purposes.

Based on the finding in this report, the Comptroller’s office will add cells to the form to include the information in Riders 17 and 18, as identified in the report.

Responsible Party:

TPASS Division Director

Expected Implementation Date:

November 30, 2014

Finding #2

House Bill 194 required the comptroller to adopt rules to add statewide HUB goals for the newly-added “service-disabled veteran” category.

In order to develop statewide goals, the Comptroller’s office must know the “availability” of service-disabled veteran-owned businesses in Texas. This population has never been part of the state’s Disparity Study. Therefore, statistics on availability were virtually unknown when H.B. 194 went into effect.

The Comptroller's office culled data from existing resources, including the federal Veterans' Administration. While this data was useful, it did not specifically answer the question of how many service-disabled veteran-owned businesses are in Texas and are ready, willing, and able to take on a state contract. Further, federal statistics include all service-disabled veteran-owned businesses while H.B. 194 requires at least a 20% disability rating to qualify for the HUB program.

After months of research, the Comptroller's office was able to develop draft statewide goals that then had to be reviewed and tested to ensure accuracy and appropriateness. Then, the administrative rules were drafted and a public hearing had to be held, by law, on the rules. This was a time-consuming process and could not be accomplished by September 1, 2013, the effective date of H.B. 194 which became law on June 14, 2013.

Finding #3

The third finding states that the Comptroller's office should review and update its manual and other guidance for HUB reporting and HUB Subcontracting. The HUB Reporting (instructions) Manual has been updated and the instructions provided to the agencies for the Fiscal Year 2014 HUB report were revised so that state agencies and universities should not report non-treasury purchases that DIR made on their behalf. For purchases DIR makes on the behalf of state agencies and universities, DIR will enter in USAS the purchasing agency's number in the "comp/agy obj" field.

Findings #4 and #5

Yes, we agree. We will update the statutory reference to group purchasing programs in Section V of Attachment - B, HUB Report Components. Further, the Comptroller's office is continually updating the HUB Subcontracting Form and has been ensuring the form matches all legal and administrative rule requirements.

Responsible Party:

Statewide HUB Program Manager

Expected Implementation Date:

November 30, 2014

The Comptroller's Office Should Continue to Implement Prior Audit Recommendations

Implementation Status Definitions

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

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

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

Ongoing: 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 progress in implementing recommendations the State Auditor's Office 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. 13-026, March 2013).

As Table 14 shows, of the six recommendations on which auditors followed up, the Comptroller's Office fully implemented three (one of those three was implemented during this audit). The Comptroller's Office partially implemented one recommendation, its implementation of one recommendation was ongoing, and its implementation of one recommendation was incomplete/ongoing. (See text box for implementation status definitions.)

Table 14

Status of Implementation of Six Audit Recommendations in <i>An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program</i> (State Auditor's Office Report No. 13-026, March 2013)		
Recommendation	Implementation Status	Auditor Comments
The Comptroller's Office should deactivate all HUB reporting database accounts of a separating employee in a timely manner.	Implemented	The Comptroller's Office deactivated the accounts of separating employees. Only individuals who were current employees had access.
The Comptroller's Office should assign ownership to HUB Reporting database accounts with system administrator rights.	Implemented	The Comptroller's Office appropriately assigned ownership of HUB Reporting database accounts with system administrator rights.
The Comptroller's Office should ensure that user passwords are not accessible or viewable by Comptroller management and staff. ^a	Ongoing	The Comptroller's Office has implemented restrictions within the Texas Council on Purchasing from People with Disabilities (TCPPD) Web portal; however, certain employees still have access that allows them to view user passwords. The Comptroller's Office asserted that it will fully implement this recommendation by August 31, 2014.
The Comptroller's Office should restrict programmers from being able to update data directly in the HUB Reporting database.	Implemented	During this audit, the Comptroller's Office restricted programmers' access to the HUB Reporting database.
The Comptroller's Office should ensure that HUB Reporting database password rules comply with Comptroller policy.	Partially Implemented	While the Comptroller's Office has updated its password settings, the new settings do not fully comply with its policy.
The Comptroller's Office 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. ^a	Incomplete/ Ongoing	The Comptroller's Office asserted that the implementation of this recommendation was incomplete/ongoing. In 2011, the Comptroller's Office reported it had an annual process to determine whether current users of the TCPPD Web portal were active employees. The Comptroller's Office used the same process in 2013. However, that process may not cover all individuals who have access to the TCPPD Web Portal, which increases the risk that the process will not identify all individuals whose employment has been terminated.

**Status of Implementation of Six Audit Recommendations 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. 13-026, March 2013)**

Recommendation	Implementation Status	Auditor Comments
^a The State Auditor's Office made that same recommendation in <i>An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program</i> (State Auditor's Office Report 11-027, March 2011).		

Recommendation

The Comptroller's Office should continue to implement the prior audit recommendations discussed above that it has not fully implemented.

Management's Response

Recommendation

"The Comptroller's Office should continue to implement the prior audit recommendations discussed above that it has not fully implemented."

Management's Response

Recommendations in Table 14

"The Comptroller's Office should ensure that user passwords are not accessible or viewable by Comptroller management and staff."

Management Response

Yes, we agree. Currently, user passwords are only masked by the user interface, but not encrypted at the database level. Coding changes are in progress to encrypt the passwords as they are created, as well as a conversion process to encrypt the existing passwords.

Responsible Party:

Registration Reporting and Procurement Section Manager, Application Services Division, IT

Procurement & Purchasing Team Member, Application Services Division, IT

Expected Implementation Date:

November 30, 2014

Recommendations in Table 14

“The Comptroller’s Office should ensure that HUB Reporting database password rules comply with Comptroller Policy.”

Management Response

Yes, we agree. The database password rules became compliant with our password policy on July 15, 2014.

Responsible Party:

Data and Database Administration Section Manager, Application Services Division, IT

Database Administration Staff Member, Application Services Division, IT

Expected Implementation Date:

Implemented July 15, 2014

Recommendations in Table 14

“The Comptroller’s Office 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.”

Management Response

Currently the Comptroller’s office sends out reminders to super-users and security coordinators at state agencies to notify the Comptroller’s office when an employee at an agency has left or has a change in role/responsibility. The super-users and security coordinators at each agency are responsible for initiating, maintaining, and terminating their users’ access. The Comptroller’s office is completely dependent on the super-users and security coordinators to monitor access of their agency’s users.

The Comptroller’s office has explored several options to eliminate this dependency, but no practical solution has been identified. The USPS, HRIS, and SPURS systems cannot be used to determine employment status changes to control access to the TCPPD Portal. If the State Auditor’s Office has identified a way to break this dependency the Comptroller’s office would be amendable to exploring this option with them.

Responsible Party:

Statewide HUB Program Manager

Expected Implementation Date:

Factors prevent further implementation

Appendix

Appendix

Objectives, Scope, and Methodology

Objectives

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

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

Scope

The scope of this audit covered four agencies' and three higher education institutions' HUB and State Use program activities for fiscal year 2013. Auditors selected the seven 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.
- Compliance with State Use Program requirements as defined by Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Chapter 189.

The seven state entities audited were:

- The Department of Insurance.
- The Department of State Health Services.
- The General Land Office.
- The Health and Human Services Commission.
- The Texas A & M University System.

- Texas Tech University.
- The University of Texas M.D. Anderson Cancer Center.

Auditors also reviewed related controls over the Comptroller’s Office’s Web portal for the State Use Program and followed up on prior audit recommendations at the Comptroller’s Office.

In addition, auditors reviewed the status of the implementation of legislation that became effective on September 1, 2013. Specifically, auditors reviewed the status of the implementation of Rider 17, page I-23, and Rider 18, page I-23, General Appropriations Act (83rd Legislature), and Texas Government Code, Section 2161.002(d).

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.

For the purposes of this audit, compliance with HUB Program requirements was determined at the attribute level, rather than the transaction level (see Table 15 for the specific compliance scale that auditors used). For example, if 30 items were tested for a specific attribute and auditors identified 1 transaction that did not comply, then the compliance rate would be 29 out of 30, or 96.7 percent, which would represent full compliance with that attribute.

Table 15

Scale of Entities’ Levels of Compliance with HUB Program Requirements		
Level of Compliance		Percentage of Requirements With Which Entity Complied
Level of Good-faith Effort	Noncompliant	0 to 30 percent
	Minimally Compliant	31 to 60 percent
	Substantially Compliant	61 to 90 percent
	Fully Compliant	91 to 100 percent

Sampling Methodology

To test compliance with HUB and State Use program requirements, auditors selected nonstatistical samples primarily through random selection. In some cases, results may be extrapolated to the population, but the accuracy of the extrapolation cannot be measured. In some cases, auditors used professional judgment to select additional items for testing. Those sample items generally are not representative of the population. The testing results do not identify which items were randomly selected or judgmentally selected. Therefore, it would not be appropriate to extrapolate those results to the population.

Data Reliability and Completeness

Auditors relied on previous State Auditor's Office audit work on the following systems:

- The Health and Human Services Administrative System (HHSAS), which is the internal accounting system at the Health and Human Services Commission and the Department of State Health Services.
- The Uniform Statewide Accounting System (USAS).
- The Financial Accounting Management Information System (FAMIS), which is the internal accounting system at the Texas A&M University System.
- The Banner internal accounting system at Texas Tech University.
- The PeopleSoft internal accounting system at the University of Texas M.D. Anderson Cancer Center.
- The Centralized Accounting and Payroll/Personnel System (CAPPS), which is the internal accounting system used by the Department of Insurance and maintained by the Comptroller's Office.

Auditors examined general controls and application controls, when applicable, for selected financial and purchasing applications in the financial accounting systems of each entity audited. All of the entities and systems audited had the necessary controls to ensure that processed and reported financial transactions were sufficiently valid and reliable for the purposes of this audit.

Where applicable, auditors also reviewed the parameters that entities used to extract the populations of contracts exceeding \$100,000 for fiscal year 2013.

As discussed in Chapters 3 and 6 of this report, auditors' reliance on the population of contracts exceeding \$100,000 for fiscal year 2013 provided by the General Land Office and Texas Tech University was limited. Specifically:

- The General Land Office provided auditors with three lists of contracts, and there were significant differences among those lists. While auditors were not assured of the completeness of the population compiled from those three lists, the compiled population was the most complete population available and, therefore, auditors determined it was sufficient to sample for compliance with HUB subcontracting requirements.
- Texas Tech University provided auditors with three lists of contracts. Auditors performed alternative procedures on each list and determined they were sufficient for the purposes of selecting samples for compliance with HUB subcontracting requirements. Specifically, auditors (1) verified sequential contract numbers in a handwritten list of low-dollar

construction contracts beginning with fiscal year 2012 and ending with fiscal year 2014; (2) as a mitigating procedure, traced a list of high-dollar construction contracts to the contracts presented to the Texas Tech University System Board of Regents during fiscal year 2013; and (3) reviewed the parameters used to extract a list of non-construction contracts obtained from Texas Tech University's TechBid system.

In addition, auditors' reliance on information that Texas Tech University provided to support its supplemental reports was limited. Auditors tested and determined that information would not fully support the reported supplemental amounts. Therefore, auditors did not use that information to select a sample.

Information collected and reviewed included the following:

- HUB and State Use program reports and supporting schedules.
- Strategic plans, written plans, *Legislative Appropriations Requests*, and progress assessment reports.
- Organizational charts.
- Contracts and solicitation documents between the audited state entities and prime contractors.
- Agency and higher education institution policies and procedures.
- Functional job descriptions for HUB and State Use coordinator positions, if available.
- HUB subcontracting plans, mentor-protégé agreements, Centralized Master Bidders Lists, and certification information.
- HUB forum and marketing advertisements, agendas, sign-in sheets, and email notifications.
- Purchase orders, invoices, and other supporting expenditure documentation.
- Prior internal audit reports.
- Prior State Auditor's Office reports.
- Reports and information associated with the implementation of Riders 17 and 18, page I-23, General Appropriations Act (83rd Legislature), and Texas Government Code, Section 2161.002(d).

Procedures and tests conducted included the following:

- Reviewed HUB utilization goals, *Legislative Appropriations Request* supporting schedules, and rules.
- Interviewed HUB coordinators, State Use Program coordinators, and procurement management and staff.
- Reviewed HUB coordinator responsibilities.
- Reviewed contract procurement records.
- Reviewed HUB subcontracting plans and mentor-protégé agreements.
- Reviewed accounting records.
- Reviewed various monthly HUB-related progress reports.
- Tested HUB expenditures.
- Tested State Use Program expenditures.
- Reviewed entities' status of implementation of Riders 17 and 18, page I-23, General Appropriations Act (83rd Legislature), and Texas Government Code, Section 2161.002(d).

Criteria used included the following:

- Texas Government Code, Chapter 2161.
- Texas Government Code, Section 2101.0115.
- Texas Government Code, Chapter 2155.
- Texas Human Resources Code, Chapter 122.
- Texas Education Code, Section 73.115(e).
- Texas Insurance Code, Chapter 443.
- Title 34, Texas Administrative Code, Chapter 20.
- Title 40, Texas Administrative Code, Chapter 189.
- Title 1, Texas Administrative Code, Chapter 202.
- General Appropriations Act (83rd Legislature).
- Comptroller's Office's *Attachment – A: Fiscal Year 2013 Annual HUB Report Procurement Categories with Expenditure (Object) Codes; Attachment – B: Texas Procurement and Support Services (TPASS) HUB*

Report Components; and Attachment – C: Fiscal 2013 Annual Statewide Historically Underutilized Business (HUB) Reporting Procedures.

- Comptroller’s Office’s *TCPD State Use Program Training Manual*.

Project Information

Audit fieldwork was conducted from February 2014 through August 2014. 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:

- Mary Ann Wise, CPA, CFE (Project Manager)
- Scott Armstrong, CGAP (Assistant Project Manager)
- J. Renee Castro
- Amy M. Cheesman, CFE
- Paige Dahl
- George D. Eure, CPA
- Olivia Gutierrez
- Naima Hafeez
- Ben Keyfitz, CPA
- Link S. Wilson
- Steven M. Summers, CPA, CISA, CFE
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- Dana Musgrave, MBA (Quality Control Reviewer)
- Amadou N’gaide, MBA, CFE, CIDA, CICA (Audit Manager)
- Cesar Saldivar, CGAP (Audit Manager)

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Harvey Hilderbran, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

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