



An Audit Report on

**The Department of Banking:  
A Self-directed, Semi-independent Agency**

November 2016

Report No. 17-012



An Audit Report on

# The Department of Banking: A Self-directed, Semi-independent Agency

SAO Report No. 17-012  
November 2016

## Overall Conclusion

The Department of Banking (Department) had effective controls that helped ensure that the financial data tested in its self-directed, semi-independent agency reports for fiscal year 2015 and fiscal year 2016 through May 2016 was accurate.

The Department also had an adequate budgeting process to help ensure that it collected enough revenue to cover operating expenditures. It adjusted its bank and trust assessment fees, as appropriate, to collect that **amount of revenue**. The Department's fiscal year 2015 ending fund balance was \$11,673,445, which represented an increase of \$3,760,339 (48 percent) from its fiscal year 2012 ending fund balance. That increase was partially due to the Department increasing its cash reserve for the purchase of a new building.

In addition, the Department complied with requirements for the calculation and collection of bank and trust assessment fees. To impose penalties on money services businesses when those businesses did not comply with requirements, the Department followed a process guided by factors in the Texas Finance Code. That process helped to ensure that the Department calculated penalties in accordance with requirements.

The Department also reported accurate results for the two performance measures tested for fiscal year 2015 and fiscal year 2016 through May 2016: (1) Number of Bank and Foreign Bank Examinations Performed and (2) Percentage of Money Services Business (MSB) Licensees Examined by Special Audits When Due.

The Department had controls to help ensure that data from its automated systems was reliable. However, auditors identified weaknesses related to user access and change management that the Department should address. To minimize security risks, auditors communicated details about other issues directly to the Department in writing.

Auditors communicated other, less significant issues related to information technology and policies and procedures to Department management separately in writing.

### Background Information

Established in 1905, the Department of Banking (Department) operates under the oversight of the Finance Commission of Texas and is charged with ensuring that the State has a safe, sound, and competitive financial services system.

The Department regulates state banks, foreign bank branches, agencies, and representative offices, trust companies, prepaid funeral benefit contract sellers, perpetual care cemeteries, money services businesses, private child support enforcement agencies, and check verification entities.

As of June 2016, the Department reported that it regulated 1,096 entities with assets totaling approximately \$529,141 million.

The 81st Legislature granted the Department self-directed and semi-independent status effective September 1, 2009.

Sources: The Department and Texas Finance Code, Chapter 16.

This audit was conducted in accordance with Texas Finance Code, Section 16.004.

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

Table 1 presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters and Related Issue Ratings		
Chapter	Title	Issue Rating <sup>a</sup>
1	The Department Had Effective Controls That Helped to Ensure That the Financial Data Tested Was Accurate	Low
2	The Department Had an Adequate Budgeting Process and Complied with Requirements for Setting Bank and Trust Assessment Fees and for Imposing Penalties on Money Services Businesses	Low
3	The Department Reported Accurate Results for the Two Performance Measures Tested	Low
4	The Department Had Controls to Help Ensure That Data from Its Automated System Was Reliable; However, It Should Strengthen Certain Information Technology Security Controls	Low
<p><sup>a</sup> A chapter is rated Priority if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.</p> <p>A chapter is rated High if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.</p> <p>A chapter is rated Medium if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.</p> <p>A chapter is rated Low if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>		

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

At the end of Chapter 4 in this report, auditors made recommendations to address the issues identified during this audit. The Department agreed with the recommendations.

## ***Audit Objectives and Scope***

The objectives of this audit were to:

- Verify the accuracy of certain financial and performance data and the effectiveness of related controls at selected self-directed, semi-independent agencies.
- Evaluate the agencies' processes for setting fees and penalties.

*An Audit Report on  
The Department of Banking:  
A Self-directed, Semi-independent Agency  
SAO Report No. 17-012*

The scope of this audit covered the Department for fiscal year 2015 (September 1, 2014, through August 31, 2015) and the first three quarters of fiscal year 2016 (September 1, 2015, through May 31, 2016).

# Contents

## *Detailed Results*

---

Chapter 1	
The Department Had Effective Controls That Helped to Ensure That the Financial Data Tested Was Accurate .....	1
Chapter 2	
The Department Had an Adequate Budgeting Process and Complied with Requirements for Setting Bank and Trust Assessment Fees and for Imposing Penalties on Money Services Businesses .....	3
Chapter 3	
The Department Reported Accurate Results for the Two Performance Measures Tested.....	7
Chapter 4	
The Department Had Controls to Help Ensure that Data from Its Automated Systems Was Reliable; However, It Should Strengthen Certain Information Technology Security Controls .....	8

## *Appendices*

---

Appendix 1	
Objectives, Scope, and Methodology .....	14
Appendix 2	
Issue Rating Classifications and Descriptions.....	18
Appendix 3	
Bank and Trust Assessment Fee History for Fiscal Years 2003 Through 2015 .....	19

# Detailed Results

Chapter 1

## *The Department Had Effective Controls That Helped to Ensure That the Financial Data Tested Was Accurate*

---

Chapter 1  
Rating:  
Low <sup>1</sup>

The Department of Banking (Department) had effective financial control processes and procedures to help ensure the accuracy of the financial data that auditors tested from the Department's self-directed, semi-independent agency reports for fiscal year 2015 and fiscal year 2016 through May 2016.

Auditors tested the accuracy of selected financial data in the Department's annual financial report for fiscal year 2015 and identified no significant errors. That selected financial data included:

- Accumulated depreciation.
- Capital outlay.
- Accounts payable.
- Cash balances and short-term investments.
- Consumable inventory.
- Fund balance.
- Expenditures for materials and supplies, professional fees, travel, and other expenditure categories (for example, registration and membership fees and freight and delivery fees).
- Revenue for Bank and Trust Assessment Fees and Money Services Business Penalties.

The Department accurately processed the receipt and deposit of penalties and accurately accounted for bank and trust assessment fees due. It also properly recorded and approved expenditures while maintaining appropriate segregation of duties.

In addition, the Department effectively reconciled its financial records on a monthly basis, which helped to ensure that the Department reported its financial data accurately. Specifically, the Department performed monthly

---

<sup>1</sup> Chapter 1 is rated Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

reconciliations of its internal accounting system with information from the Uniform Statewide Accounting System (USAS) and the Texas Treasury Safekeeping Trust Company, as required by its internal policy. The Department appropriately followed up on outstanding reconciling items for the two reconciliations that auditors tested.

Auditors also determined that:

- The Department accurately collected the 64 bank and trust and money services business revenue transactions tested, recorded the associated transactions in its financial accounting system, and deposited the associated revenue in the Texas Treasury Safekeeping Trust Company.
- The Department appropriately approved, supported with invoices and travel documents, and correctly coded in its accounting system and USAS all 68 expenditures tested.

## ***The Department Had an Adequate Budgeting Process and Complied with Requirements for Setting Bank and Trust Assessment Fees and for Imposing Penalties on Money Services Businesses***

---

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

The Department had an adequate process for setting bank and trust assessment fees, and that process was based on its budgetary needs. It followed a reasonable methodology to ensure that its revenue, which consisted primarily of bank and trust assessment fees, adequately covered its operational costs. The Department used its budget projections to determine the amount of revenue it would need to cover its operating expenditures. The Department also adjusted its bank and trust assessment fees, as necessary, to collect the desired amount of revenue (see Appendix 3 for more information on the Department's bank and trust fee assessment history).

In addition, the Department complied with requirements for the calculation of bank and trust assessment fees, and it followed a process guided by factors in the Texas Finance Code for imposing penalties when money services businesses did not comply with requirements.

### **Budgeting**

The Department's budgeting process helped to ensure that the Department set bank and trust assessment fees that were necessary to cover operational costs. As part of its budgeting process, the Department's internal procedures required each division to review budget variance reports each quarter. The Department also adjusted its bank and trust assessment fees, as necessary, to collect the desired amount of revenue. In November 2015, the Department implemented a rule change in the Texas Administrative Code to adjust its bank and trust assessment fees.

To review fund balance information, auditors analyzed the Department's fund balance for fiscal years 2012 through 2015. The Department's fiscal year 2015 ending fund balance was \$11,673,445.<sup>3</sup> That represented an increase of \$3,760,339 (48 percent) from its fiscal year 2012 ending fund balance.

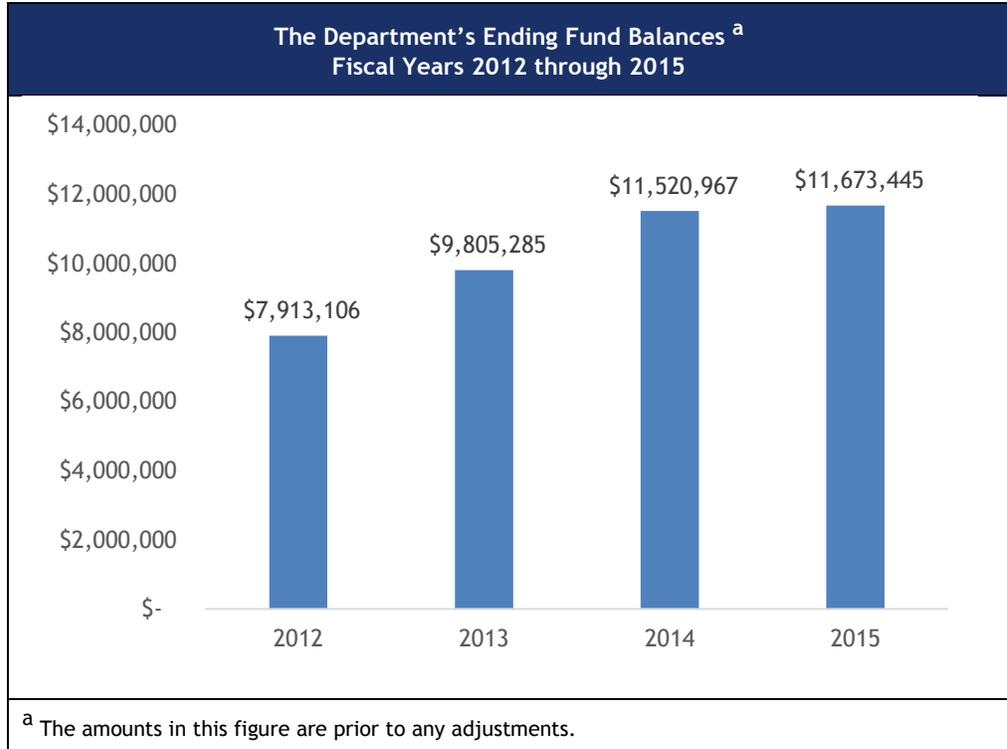
---

<sup>2</sup> Chapter 2 is rated Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

<sup>3</sup> That \$11,673,445 amount is prior to any adjustments.

Figure 1 shows the Department's ending fund balances for fiscal years 2012 through 2015.

Figure 1



Source: The Department.

The increase in the fund balance since fiscal year 2012 can partially be attributed to the Department's cash reserve to purchase a new building. In fiscal year 2012, the Department's cash reserve included \$3 million to purchase a new building. That amount increased to \$5 million in fiscal year 2014 and remained at \$5 million in fiscal year 2015. The remaining fund balance for fiscal year 2015 also included a reserve for approximately three months for the Department's future operations. The Department also adopted the cash reserve policy that the Finance Commission of Texas established.

#### Bank and Trust Assessment Fees<sup>4</sup>

The Department complied with Texas Administrative Code requirements for the calculation of bank and trust assessment fees in fiscal year 2015 and fiscal year 2016 through May 2016 (see text box for additional information on bank and trust assessments). Specifically it:

- Accurately calculated bank and trust assessment fees totaling approximately \$4.8 million for examinations that the Department performed independently for fiscal year 2015. The Department reduced the bank and trust assessment fees that banks owed in the fourth quarter of fiscal year 2015 by \$150,685, which resulted in actual collections of approximately \$4.6 million.
- Accurately calculated bank and trust assessment fees totaling approximately \$6.2 million for examinations that the Department performed independently through the third quarter of fiscal year 2016. The Department reported that it had collected approximately \$3.8 million (61 percent) of those fees as of May 31, 2016.

**Bank and Trust Assessments**  
The primary function of the **Department's Bank and Trust** Division is to examine and supervise banks chartered by the State of Texas.  
As authorized in the Texas Finance Code, the Department may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out its functions and funding the approved budget.  
As a result, banks chartered by the State of Texas pay the Department bank and trust assessment fees on a quarterly basis. The methodology to calculate those fees is specified in the Texas Administrative Code.  
Source: The Department.

---

<sup>4</sup> For the purposes of this audit and due to federal confidentiality requirements, audit conclusions for the bank and trust assessment fees were limited to fees assessed as a result of bank examinations that the Department performed independently (and not jointly with a federal agency).

## Money Services Business Penalties

From fiscal year 2015 through May 2016, the Department complied with Texas Finance Code requirements to impose penalties on money services businesses (see text box for additional information on money services

### Money Services Businesses

The money services businesses that the Department regulates engage in the following:

- Currency exchange.
- Money transmission (includes "in-person" and "internet" transactions).
- Currency transportation.
- Money orders.
- **Travelers' checks.**
- Third-party bill paying.
- Gift cards (in open systems).
- Stored value products (not issued by insured financial institutions).

The Department, in conjunction with the federal government, conducts examinations of money services businesses to help ensure that the overall financial condition of the money services businesses is sound and that the money services businesses are properly monitoring transactions to deter money laundering, terrorist funding, or financial crimes. Money services businesses that conduct currency exchange or money transmission activities as defined by Chapter 151 of the Texas Finance Code must be licensed by the Department.

According to the Department, if it identifies violations such as providing services as an unlicensed business or becomes aware of violations through other means, it may enter into a consent order agreement and assess a penalty against a money services business.

Source: The Department.

businesses). Specifically, for 10 consent orders tested, the Department appropriately imposed penalties on money services businesses by considering (1) the seriousness of the violation, (2) the money services business's compliance history, and (3) the money services business's good faith in attempting to comply with Texas Finance Code, Chapter 151. The Department's process for assessing penalties is guided by its consideration of those factors as they are specified in a consent order issued against a money services business.

A consent order identifies the final penalty and provides the basis for the penalty amount assessed. For the 10 consent orders that auditors tested, the Department negotiated the penalties within statutory limits and obtained approval from its commissioner for those penalties.

From fiscal year 2015 through May 2016, the Department appropriately imposed \$641,055 in penalties on 10 money services businesses. The Department collected \$637,055 of that amount; the remaining \$4,000 not collected was associated with one money services business that filed for bankruptcy, which prevented the Department from collecting the full amount of the penalty.

## The Department Reported Accurate Results for the Two Performance Measures Tested

---

Chapter 3  
Rating:  
Low <sup>5</sup>

In its reports to the Finance Commission of Texas for fiscal year 2015 and fiscal year 2016 through May 2016, the Department reported accurate results for the following two performance measures tested:

- Number of Bank and Foreign Bank Examinations Performed.
- Percentage of Money Services Business (MSB) Licensees Examined by Special Audits When Due.

For fiscal year 2015, based on auditors' recalculation of summary-level data generated from the Department's automated systems, the Department accurately reported that the Number of Bank and Foreign Bank Examinations Performed was 120 examinations, which exceeded its fiscal year 2015 target of 107. For fiscal year 2016 through May 2016, the Department accurately reported that the Number of Bank and Foreign Bank Examinations Performed was 80 examinations, which represented approximately 70 percent of the Department's target of 115 for that fiscal year.

For fiscal year 2015, based on auditors' recalculation of summary-level data generated from the Department's automated systems, the Department accurately reported that the Percentage of MSB Licensees Examined by Special Audits When Due was 94 percent, which exceeded its fiscal year 2015 target of 90 percent. For fiscal year 2016 through May 2016, the Department accurately reported that the Percentage of MSB Licensees Examined by Special Audits When Due was 88 percent, which represented approximately 98 percent of its 90 percent target.

---

<sup>5</sup> Chapter 3 is rated Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

*The Department Had Controls to Help Ensure that Data from Its Automated Systems Was Reliable; However, It Should Strengthen Certain Information Technology Security Controls*

---

Chapter 4  
Rating:  
Low <sup>6</sup>

The Department's information technology system controls provided reasonable assurance of the reliability of data used for financial accounting, bank and trust assessment calculations, and performance measure reporting. However, the Department should improve certain key controls in user access, change management, and physical security to ensure the continued reliability of financial and performance data.

Auditors reviewed five key information technology systems that the Department used to manage the data it reported and that were applicable to the audit objectives:

- The Examination Division Information System on the Network (EDISON), which the Department used to monitor, update, and track performance measure data and calculate annual bank and trust assessment fees.
- The Special Audit Regulatory Application, which the Department used to monitor, update, and track performance measure data for money services businesses.
- The Micro Information Products (MIP) system, which is the Department's accounting system and general ledger. The Department used that system to record and report accounting activity, prepare its annual financial report, and generate other financial reports.
- The MIP Uniform Statewide Accounting System System's Link (MUSL), which the Department used to record transactions in two systems, MIP and USAS. The Department entered financial data into its general ledger using MUSL, which interfaced with MIP and USAS.
- The travel information system, which the Department used to prepare and approve employees' travel vouchers.

The information technology system controls in place for each of the information systems listed above were adequately designed to ensure that the data entered into and processed by the systems was sufficiently reliable. In addition, auditors determined that the Department had effective password security controls to help to ensure that the Department's

---

<sup>6</sup> Chapter 4 is rated Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

information resources are adequately safeguarded against unauthorized access.

However, the Department should strengthen certain information technology security controls related to user access to continue to minimize the risk of inadvertent or unauthorized alteration or deletion of data. Additionally, the Department should ensure that it complies with its change management policies and strengthen physical security and environmental controls. Specifically:

- **User Access.** Auditors identified four travel information system user accounts for which the access privileges were not reasonable based on the users' job responsibilities. One additional user account had access privileges that also represented a weakness in separation of duties because it gave the user the ability to access multiple elements of a transaction. In addition, auditors identified 13 EDISON user accounts for which the access privileges were not reasonable based on the Department divisions to which the users were assigned.

Implementing effective user access controls helps to ensure that access privileges to critical information systems are appropriately restricted to help minimize the risk of unauthorized changes to data.

- **Change Management.** Auditors determined that the Department's change management policy was sufficient. That policy specified that:
  - ♦ All requests for changes to information resources must be managed using specific software.
  - ♦ Approvals of change requests must be obtained from the information technology director/information resources manager.
  - ♦ The Department must maintain separation of duties among employees who develop, review, and approve information system changes prior to implementation.

However, that policy did not address emergency changes to information resources. Establishing a policy for emergency changes would provide guidance to employees regarding how to implement emergency changes to critical information systems.

The Department also did not consistently comply with its change management policy. Specifically, the Department did not use software intended for managing information system change requests, and it did not separate the duties of developing information system changes and implementing those changes in the production environment.

Consistently complying with the Department's change management policy will help to ensure that changes to information resources do not alter data or promote weaknesses that could jeopardize data.

- Physical Security and Environmental Controls. Auditors identified weaknesses in the environmental controls and physical security over the Department's information technology assets.

As discussed above, auditors identified certain weaknesses related to user access; however, through review of user activity reports, auditors verified that inadvertent or unauthorized alteration or deletion of data had not occurred during the audit period as a result of those weaknesses. Because of that, and based on the results of substantive testing that auditors conducted, auditors determined that the overall risk for unauthorized manipulation of data was minimal and that the data was sufficiently reliable.

To minimize risks, auditors communicated the details of other weaknesses regarding user access and physical security separately in writing to Department management.

#### Recommendations

The Department should:

- Assign user access rights appropriately based upon employees' job responsibilities.
- Restrict user access to help ensure that appropriate separation of duties exists with regard to processing transactions and to prevent a single user from executing a transaction throughout its entire process.
- Implement a periodic user access review process to help ensure that user access rights are appropriate.
- Develop and implement a policy regarding emergency changes to its information systems, and communicate that policy to appropriate personnel.
- Consistently comply with its change management policy in documenting and tracking change requests and separating the functions of developing information system changes and implementing those changes in the production environment.
- Adequately protect the Department's information technology assets from environmental factors and unauthorized access.

## Management's Response

### *Recommendation:*

*Assign user access rights appropriately based upon employee's job responsibilities.*

### *Response:*

*The Department agrees with the recommendation and the Director of IT is responsible for implementing the action(s) noted below. To ensure individual users' rights are set appropriately the Department will update its policy and applicant tracking program "BARTS" to automatically create Oracle accounts predicated on preset parameters based on an employee's title and division. Changes within policy parameters will require approval by the appropriate division director. Changes outside policy parameters will require approval by a Deputy Commissioner. This policy change will be implemented by December 31, 2016.*

### *Recommendation:*

*Restrict user access to help ensure that appropriate separation of duties exists with regard to processing transactions and to prevent a single user from executing a transaction throughout its entire process.*

### *Response:*

*The Department agrees with the recommendation and the Director of IT has implemented the recommendation. The separation of duties issue has been corrected by updating the program to only allow the director to approve travel vouchers and allow only the travel voucher processors to make changes to an approved voucher with prior consent by the user.*

### *Recommendation:*

*Implement a periodic user access review process to help ensure that user access rights are appropriate.*

### *Response:*

*The Department agrees with the recommendation and the Director of IT and Information Security Officer are responsible for implementing the action(s) noted below. The Department will continue to review user access levels annually. The process will be strengthened by having the agency's Information Security Officer meet annually with each Division Director to review the access levels and respond to any questions about user access rights. Additionally, the Department will investigate third party programs to*

*better assist our Division Directors in reviewing access levels of our file structure. This action plan will be completed by August 31, 2017 when our next annual review is performed.*

*Recommendation:*

*Consistently comply with its change management policy in documenting and tracking change requests and separating the functions of developing information system changes and implementing those changes in the production environment.*

*Response:*

*The Department agrees with the recommendation and the Director of IT is responsible for implementing the action(s) noted below. The Department will document and monitor change requests by utilizing the internal help desk ticketing system, "Track It". New forms will be developed to document that change management requests are approved by the Director of the requesting division. This system will also allow the agency to prioritize change requests. The new system will be implemented by January 31, 2017 as will changes to Chapter 14 of the personnel manual.*

*Recommendation:*

*Develop and implement a policy regarding emergency changes to its information systems, and communicate that policy to appropriate personnel.*

*Response:*

*The Department agrees with the recommendation and the Director of IT is responsible for implementing the action(s) noted below. Emergency changes will be tracked by our internal help desk ticketing system, "Track It". The new system that will be developed to track change management will allow users to mark a request as an emergency change. If the change is determined to be an emergency, it will take top priority. The new system will be implemented by January 31, 2017 as will changes to Chapter 14 of the personnel manual.*

*Recommendation:*

*Adequately protect the Department's information technology assets from environmental factors and unauthorized access.*

*Response:*

*The Department agrees with the recommendation and the Director of IT is responsible for implementing corrective measures within our budgetary*

*constraints to address the environmental factors discussed during the audit by January 31, 2017. The unauthorized access issue has been corrected.*

# Appendices

Appendix 1

## Objectives, Scope, and Methodology

---

### Objectives

The objectives of this audit were to:

- Verify the accuracy of certain financial and performance data and the effectiveness of related controls at selected self-directed, semi-independent agencies.
- Evaluate the agencies' processes for setting fees and penalties.

### Scope

The scope of this audit covered the Department of Banking (Department) for fiscal year 2015 (September 1, 2014, through August 31, 2015) and the first three quarters of fiscal year 2016 (September 1, 2015, through May 31, 2016).

### Methodology

The audit methodology included collecting information and documentation, performing selected tests and other procedures on the information obtained, analyzing and evaluating the results of tests, and conducting interviews with Department management and staff. In addition, the methodology included performing a limited review of the general and application controls over the information technology systems that the Department used to manage and report financial data and performance measure data. Auditors also reviewed user access controls for the Uniform Statewide Accounting System (USAS) and MIP Uniform Statewide Accounting System System's Link (MUSL).

Due to federal confidentiality requirements, audit conclusions for the bank and trust assessment fees were limited to fees assessed as a result of bank examinations that the Department of Banking performed independently (not jointly with a federal agency).

### Data Reliability and Completeness

Auditors used revenue information from MIP and expenditure information from MIP and the travel information system. Auditors reviewed the Department's reconciliation process for MIP, USAS, and the Texas Treasury Safekeeping Trust Company; and other Department-specific reports.

Auditors used bank and trust assessment data from the Department's Examination Division Information System on the Network (EDISON) and performance measure data from EDISON and from the Department's Special Audit Regulatory Application.

Auditors reviewed parameters used to extract data from the above systems where applicable, and reviewed certain general controls. Auditors determined that the data was sufficiently reliable for purposes of this audit.

Auditors used consent order information from the Department's Commissioner's Orders Database. Because the process the Department uses to refer penalty cases to its Legal Division spans multiple divisions within the Department and is not based on a comprehensive methodology, auditors could not verify whether all consent orders were recorded in that database. As a result, auditors determined that the data entered in that database was of undetermined reliability for the purposes of this audit. However, it was the most complete information available and auditors used it for purposes of this audit.

#### Sampling Methodology

To assess the Department's financial processes related to revenue from bank and trust assessment fees and money services business penalties, auditors selected non-statistical samples through random selection designed to be representative of the population. Test results may be projected to the population, but the accuracy of the projection cannot be measured. In addition, auditors selected non-statistical samples of expenditure items primarily through random selection designed to be representative of the population. In some cases, auditors used professional judgment to select expenditure items for testing. Those sample items generally were not representative of the population. The test results as reported did not identify which items were randomly selected or selected using professional judgment. Therefore, it would not be appropriate to project those test results.

In addition, auditors used professional judgment to select and test Department financial reconciliations. The sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population.

To verify the accuracy of money services business penalties the Department imposed, auditors recalculated penalty amounts assessed for the penalties identified. Auditors determined that the data was of undetermined reliability and, therefore, recalculated all 10 penalties identified.

Information collected and reviewed included the following:

- The Department's policies and procedures.
- Expenditure and revenue data from MIP and related supporting documents.
- Data and supporting documents for selected performance measures.
- Department reconciliations for revenue collections and expenditure transactions.
- Department strategic plan for fiscal years 2015 through 2019.
- Money services business penalty consent orders.
- Program code used for selected data extracts.
- The Department's annual financial report for fiscal years 2014 and 2015.
- The Department's quarterly budget variance reports.

Procedures and tests conducted included the following:

- Tested internal controls and selected significant accounts, including testing of detailed supporting documentation, to determine the accuracy of selected financial data in the Department's financial reports for fiscal year 2015 through May 31, 2016.
- Tested selected performance measure data that the Department reported to the Finance Commission of Texas.
- Evaluated the Department's annual budget-setting and fee-setting processes.
- Reviewed administrative penalties to determine whether they complied with the Texas Finance Code.

Criteria used included the following:

- Department policies and procedures.
- Title 7, Texas Administrative Code, Section 3.37.
- Texas Finance Code, Section 151.707(d).
- Texas Finance Code, Chapter 16.
- Title 1, Texas Administrative Code, Section 202.24.

## Project Information

Audit fieldwork was conducted from April 2016 through September 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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

- Courtney Ambres-Wade, CGAP (Project Manager)
- Kelly Bratton, CFSA, CRMA (Assistant Project Manager)
- Shaun Alvis, JD
- Mary K. Anderson
- Adam Berry
- Rebecca Franklin, CISA, CGAP, CFE, CICA
- Nick Hoganson
- Mary Ann Wise, CPA, CFE (Quality Control Reviewer)
- Michael Simon, MBA, CGAP (Audit Manager)

## Issue Rating Classifications and Descriptions

---

Auditors used professional judgement and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

## Bank and Trust Assessment Fee History for Fiscal Years 2003 Through 2015

Table 3 shows the Department of Banking's (Department) history of assessing, collecting, and forgiving bank and trust assessment fees based on factors the Department determined, sometimes in conjunction with federal agencies. The Department's bank and trust assessment fee calculation methodology is specified in Title 7, Texas Administrative Code, Section 3.37.

Table 3

Department Bank and Trust Assessment Fee History Fiscal Years 2003 Through 2015 <sup>a</sup>									
Fiscal Year	Number of Banks	Total Assets	Total Off-balance-sheet Assets	Total Assessment Fees	Percent Change in Assessment Fees	Assessment Fees Collected	Percent of Assessment Fees Collected	Assessment Fees Forgiven	Percent of Assessment Fees Forgiven
2003	339	\$60,320,489.00	\$7,074,407.00	\$9,038,742.96	0.17%	\$9,038,742.96	100.0%	\$0.00	0.0%
2004	336	\$60,765,118.00	\$6,614,905.00	\$10,852,433.95	20.07%	\$10,852,433.95	100.0%	\$0.00	0.0%
2005	330	\$67,790,972.00	\$7,977,865.00	\$11,294,000.49	4.07%	\$8,772,105.36	77.7%	\$2,521,895.13	22.3%
2006	328	\$74,246,262.00	\$9,871,829.00	\$11,607,225.41	2.77%	\$11,607,225.41	100.0%	\$0.00	0.0%
2007	328	\$86,691,750.00	\$13,652,024.00	\$12,154,877.61	4.72%	\$10,921,697.99	89.9%	\$1,233,179.62	10.1%
2008	328	\$153,888,397.00	\$41,810,085.00	\$14,819,263.96	21.92%	\$12,953,067.53	87.4%	\$1,866,196.43	12.6%
2009	326	\$163,229,549.00	\$32,357,872.00	\$16,544,403.66	11.64%	\$13,352,750.21	80.7%	\$3,191,653.45	19.3%
2010	324	\$162,196,482.00	\$31,889,414.00	\$18,652,670.06	12.74%	\$18,652,670.06	100.0%	\$0.00	0.0%
2011	316	\$161,642,835.00	\$43,529,270.00	\$19,655,619.96	5.38%	\$17,684,200.38	90.0%	\$1,971,419.58	10.0%
2012	307	\$160,214,057.00	\$42,201,929.00	\$19,129,512.89	-2.68%	\$19,129,512.89	100.0%	\$0.00	0.0%
2013	296	\$191,318,753.00	\$49,201,640.00	\$19,929,903.52	4.18%	\$19,929,903.52	100.0%	\$0.00	0.0%
2014	283	\$204,906,403.00	\$52,372,549.00	\$19,642,534.59	-1.44%	\$19,642,534.59	100.0%	\$0.00	0.0%
2015	272	\$217,096,571.00	\$57,064,825.00	\$19,835,409.77	0.98%	\$19,190,756.15	96.7%	\$644,653.62	3.3%

<sup>a</sup> According to the Department, it changed its bank and trust assessment fee calculation effective September 4, 2003, which resulted in assessment fee increases ranging from 16.3 percent to 23.5 percent.

Source: The Department.

Copies of this report have been distributed to the following:

### Legislative Audit Committee

The Honorable Dan Patrick, 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 John Otto, House Appropriations Committee

The Honorable Dennis Bonnen, House Ways and Means Committee

### Office of the Governor

The Honorable Greg Abbott, Governor

### Members of the Finance Commission of Texas

Ms. Stacy G. London, Chair

Mr. Hilliard Shands III, Vice Chair

Mr. Robert Borochoff

Mr. Hector J. Cerna

Ms. Margaret Curl

Mr. Phillip A. Holt

Mr. William M. Lucas

Ms. Lori B. McCool

Mr. Matthew Moore

Mr. Vince E. Puente Sr.

Mr. Paul Plunket

### Department of Banking

Mr. Charles G. Cooper, Commissioner



This document is not copyrighted. Readers may make additional copies of this report as needed. In addition, most State Auditor's Office reports may be downloaded from our Web site: [www.sao.texas.gov](http://www.sao.texas.gov).

In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9500 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

**The State Auditor's Office is an equal opportunity employer and** does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

To report waste, fraud, or abuse in state government call the SAO Hotline: 1-800-TX-AUDIT.