



An Audit Report on

Contracting at the Department of Housing and Community Affairs



- The Department complied with most contract formation requirements.
- The contracts audited did not always include remedies or sanctions for all performance targets.
- The Department did not implement a prior audit recommendation related to user access.

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

The Department of Housing and Community Affairs (Department) executed its Texas Rent Relief Program contracts pursuant to the Governor’s disaster declaration for the COVID-19 pandemic; therefore, the Department was not required to comply with all state statutes or administrative rules for contracting and procurement.

The two contracts audited included most required clauses, and the Department implemented sufficient processes to monitor vendors’ performance and compliance with contract requirements. The Department accurately calculated and assessed \$4.3 million in penalties to a vendor for not meeting certain performance targets. As of August 31, 2022, the Department reported that it had assessed a total of \$8.9 million in penalties. However, not all contract performance targets included a monetary penalty, which limits the Department’s ability to enforce compliance with contract requirements. In addition, the Department’s Manufactured Housing Division did not perform the user access reviews recommended in a prior audit.

- [Background](#) | p. 4
- [Audit Objectives](#) | p. 18

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

MEDIUM

CONTRACT FORMATION

The Department ensured that the two contracts audited included most required clauses.

But it should establish documented guidelines for procuring services during future disaster declarations.

[Chapter 1 | p. 7](#)

MEDIUM

CONTRACT MONITORING

The Department implemented adequate processes to monitor the vendors and assess sanctions as required; however, it did not include remedies or sanctions for all contract performance targets.

[Chapter 2 | p. 13](#)

NOT RATED

PRIOR AUDIT RECOMMENDATION

The Department did not verify that access to Exodus, its inspection tracking system, was restricted based on users’ job duties, as recommended in a prior audit report.

[Chapter 3 | p. 16](#)

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

May 2023 | Report No. 23-029

Note on Confidential Findings

To minimize security risks, auditors communicated in a separate report to the Department details about significant weaknesses in its monitoring of vendors' information technology security controls.

HIGH

The finding related to the Department's monitoring of vendors' information technology controls was rated High because of issues that could substantially affect the Department's ability to effectively administer its information security function. Prompt action should be taken to reduce the risk.

Auditors made recommendations in the confidential report to address the finding. The Department agreed with the recommendations.

That separate report references confidential information. Pursuant to Standard 9.61 of the U.S. Government Accountability Office's *Government Auditing Standards*, certain information was omitted from this report because that information was deemed to present potential risks related to public safety, security, or the disclosure of private or confidential data. Under the provisions of Texas Government Code, Section 552.139, the omitted information is also exempt from the requirements of the Texas Public Information Act.

Summary of Management Response

Auditors made recommendations to address the issues identified during this audit, provided at the end of each chapter in this report. The Department agreed with the recommendations.

Ratings Definitions

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

PRIORITY: Issues identified present risks or effects that if not addressed could *critically affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

HIGH: Issues identified present risks or effects that if not addressed could *substantially affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

MEDIUM: Issues identified present risks or effects that if not addressed could *moderately affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

LOW: The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks *or* effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

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

Background Information

The Department contracted with vendors to deliver Texas Rent Relief Program benefits.

The Texas Rent Relief Program (Program) was launched on February 15, 2021, to provide rent and utilities assistance to those at risk of experiencing housing instability or at risk of homelessness as a result of the COVID-19 pandemic.

To expedite the delivery of services for the Program, the Department of Housing and Community Affairs (Department) procured services from four vendors. The two contracts selected for this audit were:

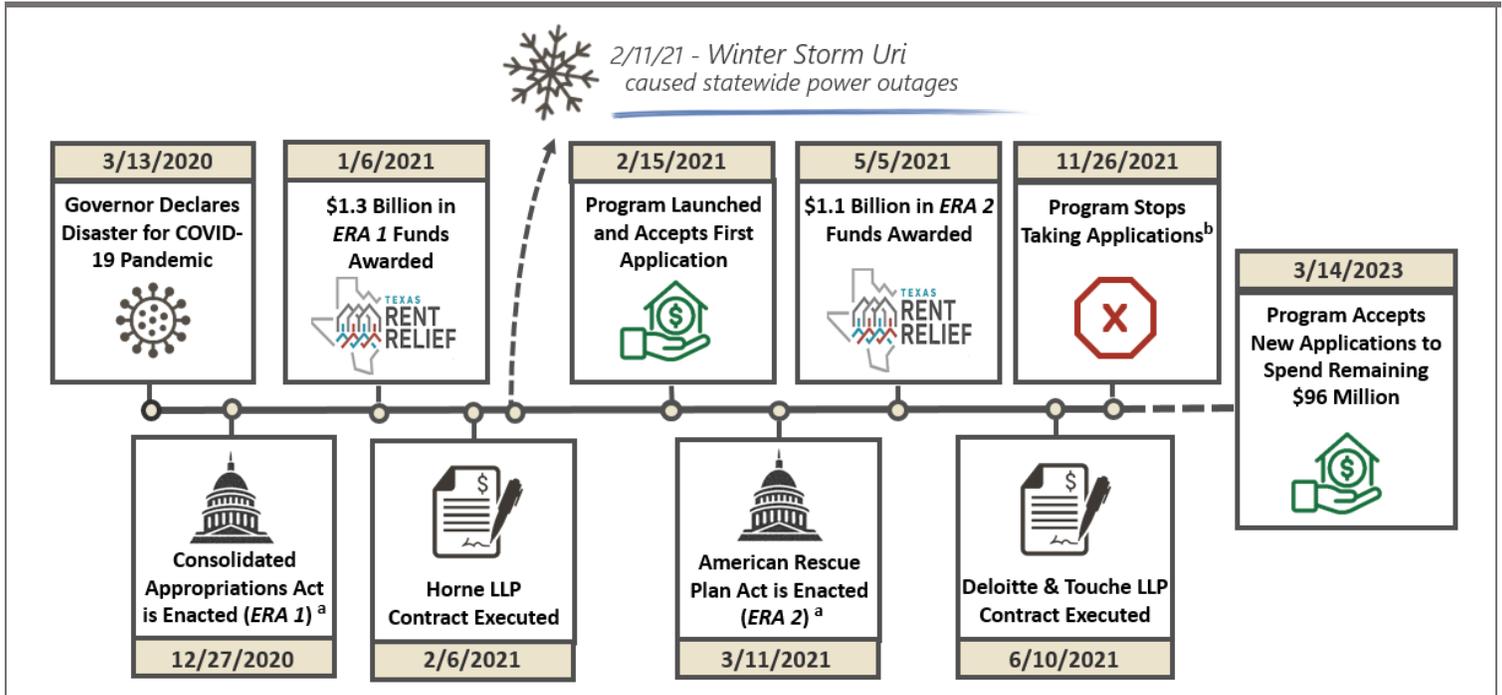
- **Horne LLP** – The primary contracted services include managing (1) call centers to assist tenants and landlords with questions regarding Program benefits and (2) a Web-based application used to process Program data such as determining participants' eligibility, amount of benefit, and disbursement of payments. On February 6, 2021, the Department entered into a contract with Horne LLP for \$42.6 million, and as of August 31, 2022, that contract totaled \$107.0 million.
- **Deloitte & Touche LLP** – The primary contracted services include assisting Department staff to assess and monitor Program activities by providing technical assistance and expertise in the implementation of the Program, including performing procedures to identify potential fraudulent applications. On June 10, 2021, the Department entered into a contract with Deloitte & Touche LLP for \$1.3 million, and as of August 31, 2022, that contract totaled \$11.7 million.

The U.S. Department of the Treasury Emergency Rental Assistance (ERA) programs provided federal funding to support housing stability throughout the COVID-19 pandemic. Texas was awarded the first ERA funding on January 6, 2021; and in less than six weeks, the Department procured and executed the contract with Horne LLP for administrative services, launched the Program, and began accepting the first applications. As of May 5, 2021, the Program had

been awarded \$2.4¹ billion in ERA funding. Figure 1 shows a timeline of the Program’s significant milestones.

Figure 1

Texas Rent Relief Program Milestones



^a ERA stands for “Emergency Rental Assistance” programs.

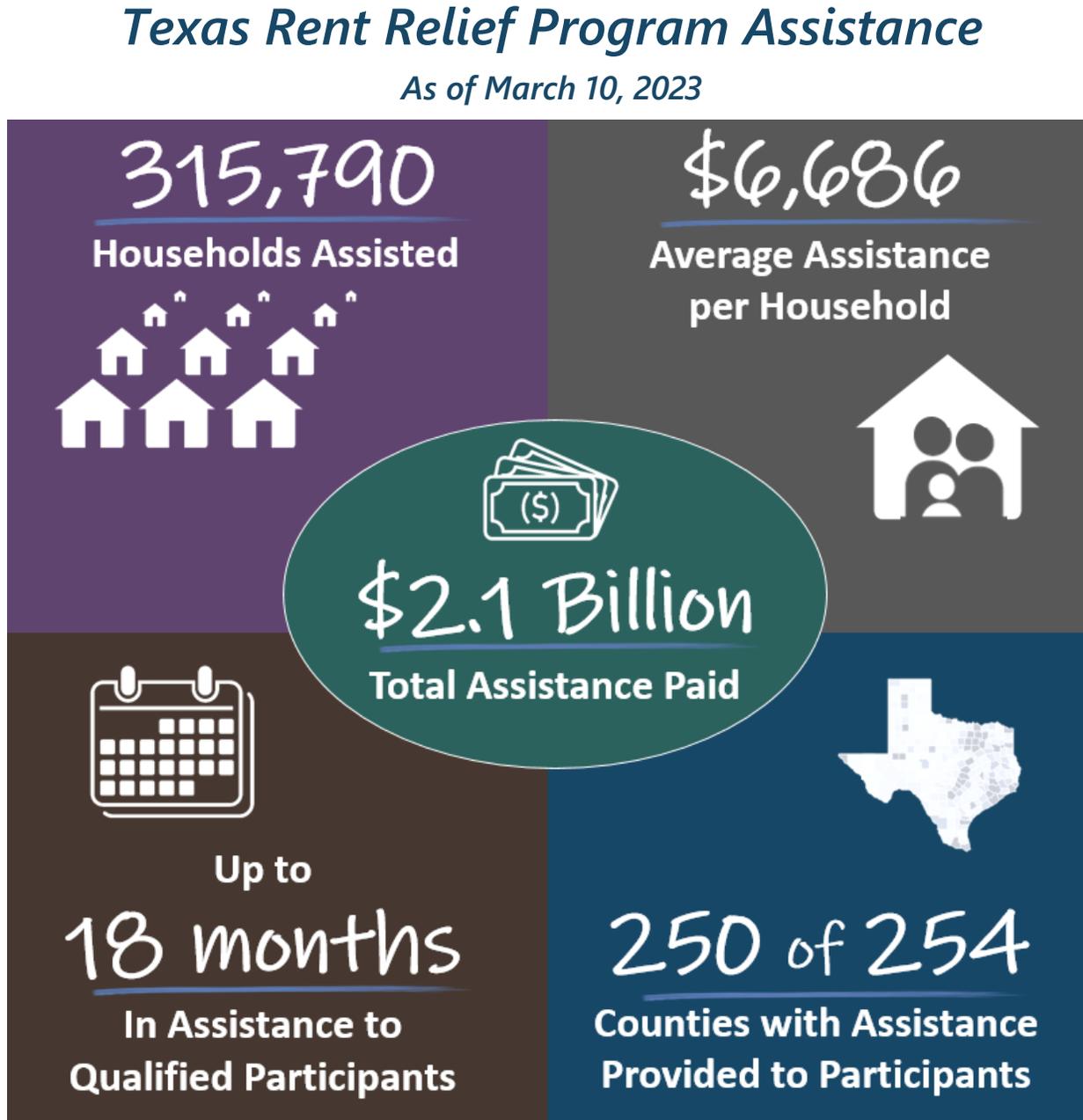
^b The Department took this action because the total requests submitted exceeded available funding.

Sources: Based on information from the Department, the Office of the Comptroller of Public Accounts, and the Office of the Governor.

¹ In addition to Program rent and utility benefits, the Department allocated some ERA funds to the (1) Program administration, (2) Housing Stability Services Program, (3) Multifamily Direct Loans Program, and (4) Texas Eviction Diversion Program.

According to the Department’s website, as of March 10, 2023, the Program has provided a total of \$2.1 billion in assistance to households in nearly all Texas counties (see Figure 2).

Figure 2



Source: The Department.



MEDIUM

Chapter 1 Contract Formation

The Department of Housing and Community Affairs (Department) formed the two contracts audited in compliance with the disaster declaration; however, it should strengthen its disaster planning processes for future emergencies.

The contracts included most required clauses.

For the two Texas Rent Relief Program (Program) contracts tested, the Department included most of the required and recommended contract terms, conditions and other contract elements to protect the State's interests. Neither contract included the Human Trafficking Prohibition clause, which is listed as a required clause by the *State of Texas Procurement and Contract Manual*. In addition, the contracts did not include remedies or sanctions for all performance targets. This could limit the Department's ability to hold vendors accountable for meeting contract requirements (see Chapter 2 for more information).

Pursuant to the disaster declaration, the Department waived certain contract formation and oversight requirements.

Both contracts audited were executed pursuant to the Governor's disaster declaration for the Covid-19 pandemic; therefore, the Department was not required to comply with all state statutes or administrative rules for contracting and procurement. As a result, the Department did not perform certain contract formation and oversight steps that would normally be required. For example:

- The Department made significant changes to the scope of both contracts without re-procuring them (see below for more information). Both contracts included a statement permitting the Department to change the scope, benchmarks, and budget, including performing additional services not included in the contracts.
- The Department's governing board did not review and approve the contracts and amendments audited. Instead, the executive director executed the contracts and amendments.
- None of the Department employees involved in the procurement process were certified contract developers.
- The Department did not always approve purchase requisitions prior to executing the contracts and all corresponding amendments. One purchase requisition was approved 188 days after the Department executed the contract amendment.

In addition, the Department did not have a process to document its decision-making process or rationale for waiving certain statutes or rules. While not required, documenting reasons for waiving certain requirements could assist Department management in evaluating the effectiveness of emergency response processes.

The Department amended the contracts as demand for Program benefits significantly exceeded projections.

During the planning phase of developing the Program and procuring the original contract for administrative services (Horne LLP contract), the Department projected that the Program could provide assistance to approximately 82,807 total households. That projection was based on averages for monthly rent and utilities in Texas and the initial amount of ERA 1 funding allocated to the Department. However, the Department received additional funding, and demand for the Program significantly exceeded projections. As of March 10, 2023, the Program had provided assistance to 315,790 households² (see Figure 3 on the next page).

² This number represents unique households receiving assistance and is not the same as the number of applications submitted. For example, to receive benefits for longer than 3 months,

Figure 3

Texas Rent Relief Program Projected versus Actual Households Receiving Assistance

As of March 10, 2023



Source: The Department.

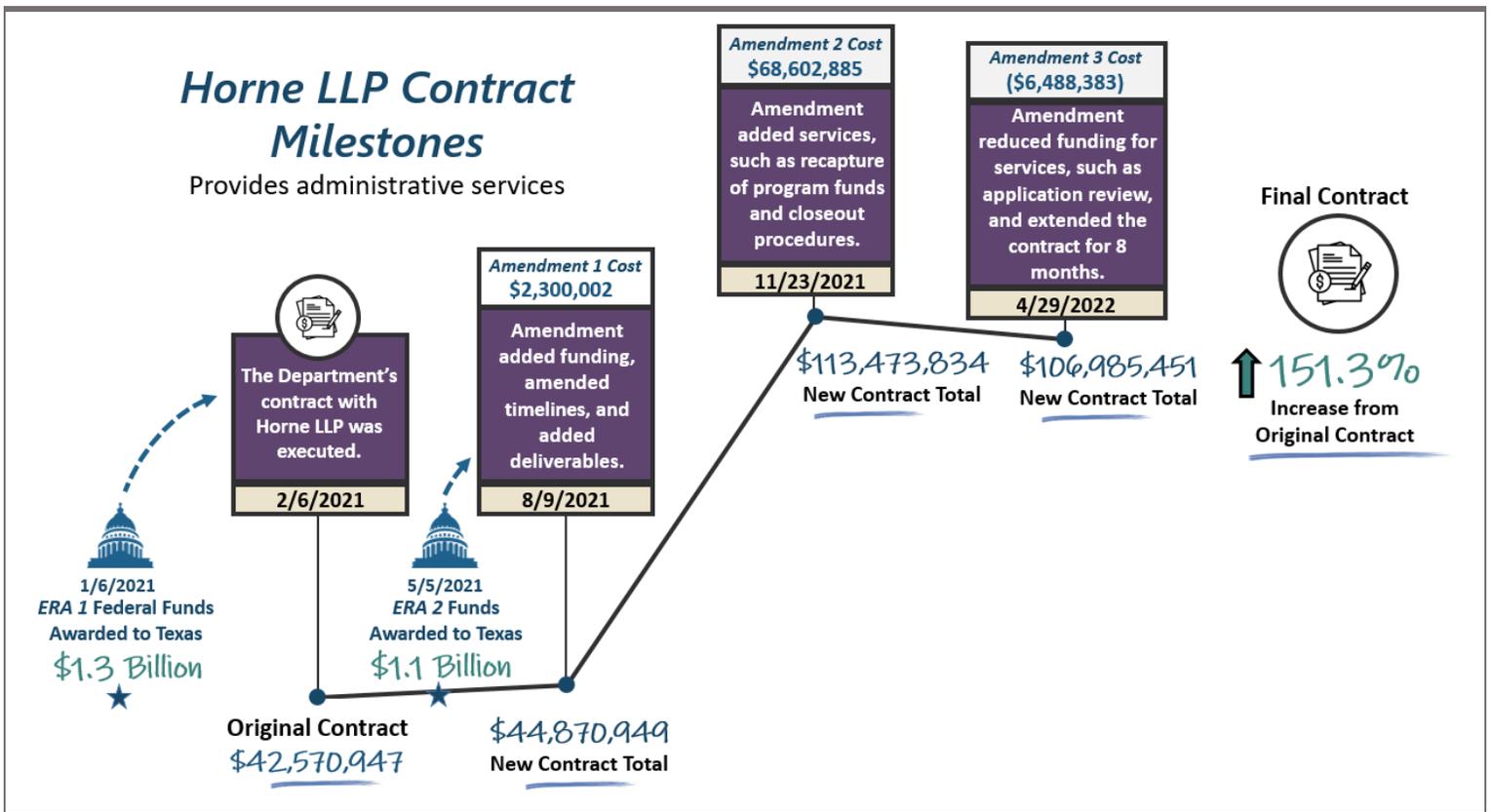
As the Program evolved, additional services were needed that were not included in the original contracts. As a result, the Department significantly amended the scopes of the contracts. Among the scope changes the Department made were:

a household had to re-submit an application. In addition, applications submitted and denied are not included.

- Horne LLP contract.** The Department amended the scope to add services, such as generating Form 1099s, recapturing of funds, and performing bank reconciliations. These changes increased the total contract cost by 151.3 percent from the original \$42.6 million to the final cost of \$107.0 million.
- Deloitte & Touche LLP contract.** The Department amended the scope to add services, such as performing specific procedures to identify fraud, waste, and abuse; and processing second appeals. These changes increased the contract cost by 820.4 percent from the original \$1.3 million to the final cost of \$11.7 million.

Figure 4 presents the significant milestones for the Horne LLP contract for administrative services. As of August 31, 2022, the Horne LLP contract totaled \$107.0 million.

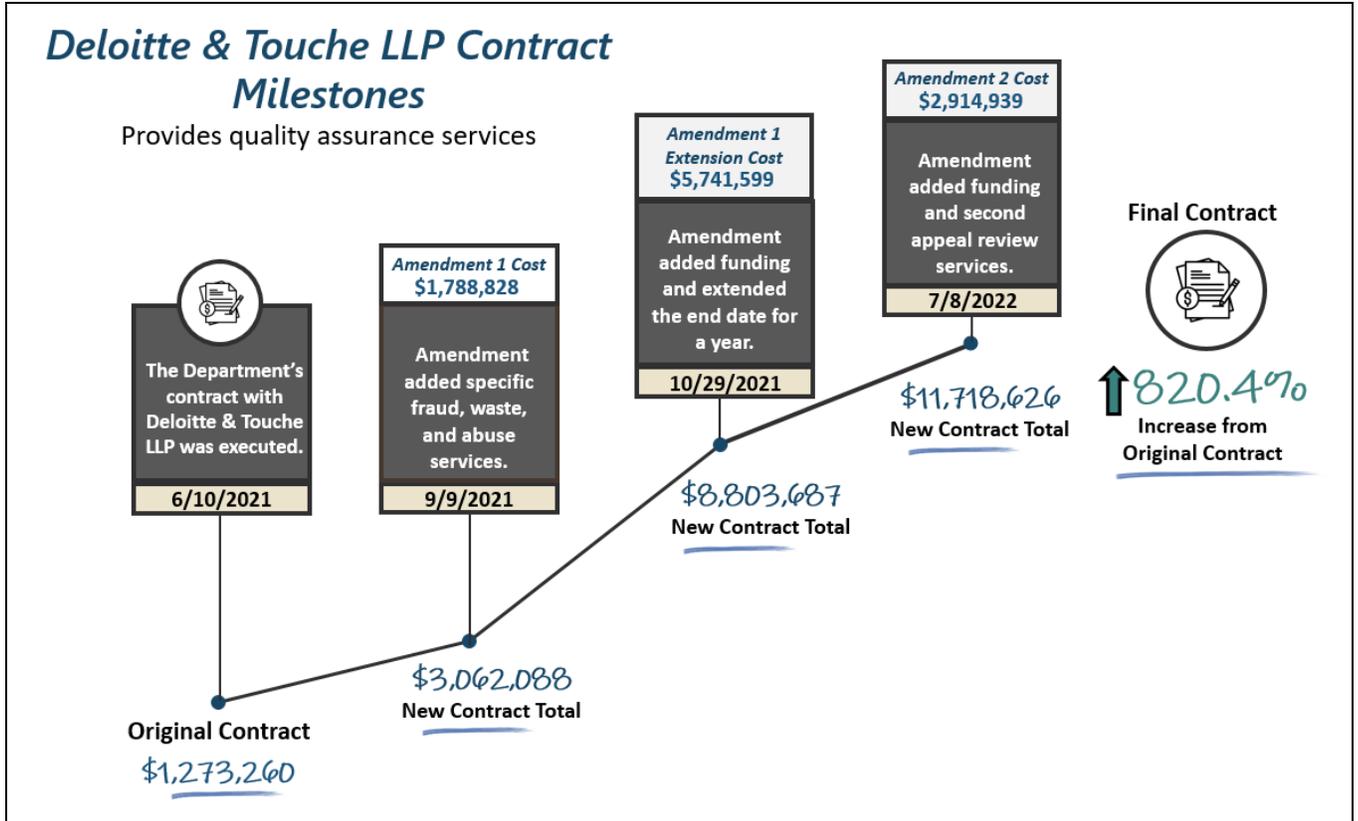
Figure 4



Source: The Department's contract with Horne LLP.

Figure 5 presents the significant milestones for the Deloitte & Touche LLP contract for quality assurance and fraud identification services. As of August 31, 2022, the Deloitte & Touche LLP contract totaled \$11.7 million.

Figure 5



Source: The Department's contract with Deloitte & Touche LLP.

The Department should strengthen its processes by establishing documented guidelines for procuring services during a disaster declaration.

The Department's *Contract Management Guide* and other procurement documents provide guidance regarding the procurement and contracting functions. However, those documents do not include procedures for procuring and executing contracts in response to a disaster.

While the contracts audited were executed prior to the October 2021 effective date of Version 2.0 of the *State of Texas Procurement and Contract Manual*, future contracts procured during a disaster must comply with the new

requirements. That new manual version includes a Contract Management Standards for Emergency Purchases section that requires agencies to establish policies and procedures for resource acquisition during a disaster.

Developing and implementing a documented process based on an evaluation of decisions made during procurement of the contracts audited could help the Department comply with the new requirements, as well as strengthen the Department's overall disaster planning process going forward.

Recommendations

The Department should strengthen its disaster planning by:

- Developing and documenting procedures for procuring and executing contracts in response to a disaster, including policies and procedures for resource acquisition, as required by the *State of Texas Procurement and Contract Manual, Version 2.0*.
- Applying the lessons learned when developing the procedures, including evaluating (1) the effects of waiving certain requirements and (2) when and how the rationale for waiving requirements should be documented.

Management's Response

Management agrees with this recommendation. Standard Operating Procedures have been revised to include provisions addressing procurement activity in response to a disaster. The Department will take steps to evaluate and document any waivers utilized. A Disaster Declaration Waiver Form has been developed and will serve as documentation.

Date Expected to be Complete: May 31, 2023

Person Responsible: Manager of Purchasing

MEDIUM

Chapter 2

Contract Monitoring

The Department implemented processes to monitor vendors' performance, and it applied sanctions when they were specified in the contract. However, the Department did not always specify remedies or sanctions on performance targets, which limited its ability to monitor vendors' compliance.

The Department implemented processes and tools to adequately monitor the Program contracts.

The Department implemented processes and several tools to monitor vendors' compliance with contract requirements. Specifically:

- The Department hired (1) two Certified Texas Contract Managers (contract managers) to manage the Program contracts and (2) several subject matter experts (SMEs) to assist contract managers in monitoring specific contract requirements and deliverables.
- The Department's contract managers created spreadsheets to track each contract deliverable, which included information such as the SME responsible for monitoring each deliverable, monitoring frequency and methodology, and the contract requirements to recalculate payment amounts.
- Program staff had access to dashboards that allow them to monitor the Program's progress, such as the status and number of applications approved, the amount of funds disbursed, and certain call center activities.

In addition, of the 17 invoices that each vendor submitted for payment from contract inception through August 31, 2022, auditors randomly selected and tested 3 invoices for each vendor (see text box for information about the invoices). All 6 invoices tested were sufficiently supported, approved by all required personnel, and paid within 30 days as required.

Invoices for Payment

For the two contracts audited, the invoices submitted for payment included charges for multiple services delivered for time periods that could range for more than one month.

The Department accurately calculated and applied sanctions as required in the contract; however, it did not include remedies or sanctions for all performance targets.

The Department's contract with Horne LLP included performance targets for certain deliverables to measure vendor responsiveness and compliance with contract requirements. For the 3 invoices tested, there were 12 instances in which the vendor did not meet specific performance targets. The contract specified sanctions for the targets for 9 of those instances, and the Department accurately calculated and assessed \$4.3 million in monetary penalties for all 9 of those instances. As of August 31, 2022, the Department asserted that it had assessed a total of \$8.9 million in penalties.

However, the contract did not specify a remedy or sanction for the other 3 performance targets the vendor did not meet. For example, one of the performance targets is related to appeals that Program participants can submit if (1) their application was denied or (2) they disagree with the amount of assistance approved. The contract requires the vendor to review the appeal, make a determination, and communicate that determination to the participant within 10 days of the appeal receipt date. The vendor did not meet that target for 186 (59.4 percent) of 313 appeals included in the invoices tested. The Department could not assess a monetary penalty because the contract did not include a remedy or sanction.

The Department's contract with Deloitte & Touche LLP did not include specific performance targets. The contract did include a clause allowing the Department to terminate the contract if the vendor did not meet the objectives of the contract. Vendor services included providing technical assistance and expertise regarding Program implementation, monitoring, assessment, and closeout.

Recommendation

The Department should strengthen its contract monitoring processes by including (1) specific performance targets as applicable and (2) a remedies and sanctions schedule for all performance targets.

Management's Response

Management agrees with the recommendation. The Departments Contract Management Guide will be updated to provide this guidance. Using performance measures and associated remedies and sanctions are a good practice for contract monitoring and management agrees to consider using them in the future when deemed appropriate. Starting with the second amendment to the Horne Contract, the agency added new and improved performance measures, which included specific remedies. The Agency believes it is important to have discretion in the application of remedies and service level reductions. Performance measures can be missed for factors outside of vendor's control, which would make the application of remedies punitive.

Date Expected to be Complete: August 31, 2023

Person Responsible: Manager of Purchasing

NOT RATED

Chapter 3

Prior Audit Recommendation

The Department did not implement corrective action on a recommendation made in a prior audit report.

The Department had not performed a user access review of its inspection tracking system (Exodus) to verify that access is restricted based on the users' job duties, as recommended in *An Audit Report on Regulatory Activities at the Manufactured Housing Division* (SAO Report No. [20-002](#), October 2019). As a result, this recommendation was not implemented³. This finding was previously rated as Medium risk.

Recommendation

The Department should ensure that user access to its information systems is appropriately restricted based on the users' assigned job duties.

Management's Response

Management agrees with the recommendation. The Manufactured Housing Division (MHD) and the Texas Department of Housing and Community Affairs (TDHCA) reviewed SOP 2517.01, which was created in response to the original finding and conducted an account audit of the Exodus system that began on 1/18/2023 and was concluded on 2/1/2023. The agency created new processes and procedures to ensure this oversight will not happen again. Also, the agency implemented new reporting capabilities to make it easier to generate a system list of accounts and roles for the system. The agency will complete this report

³ Not implemented means lack of a formal process, system, or policy to address a recommendation.

quarterly going forward as stated in the SOP. The next review will be in June of 2023.

Date Expected to be Complete: Complete

Person Responsible: Director of Information Systems Division



Appendix I

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether the Department of Housing and Community Affairs (Department) has administered certain contract management functions for selected contracts in accordance with applicable requirements.
- Determine whether the Department has implemented corrective action on a recommendation related to information technology in *An Audit Report on Regulatory Activities at the Manufactured Housing Division* (SAO Report No. 20-002, October 2019).

Scope

The scope of this audit included selected Texas Rent Relief Program contracts activities from execution date through August 31, 2022 and the implementation of a prior audit recommendation. The scope also included a review of significant internal control components related to the Department's contracting processes.

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



- Ileana Barboza, MBA, CFE, CGAP (Project Manager)
- Lindsay Escalante, MPSA (Assistant Project Manager)
- Rebecca Franklin, CISA, CFE, CICA, CGAP
- Derek Lopez, MBA, CFE
- Kiara White, MPP, CFE
- Dana Musgrave, MBA, CFE (Quality Control Reviewer)
- Cesar Saldivar, CIA, CFE, CGAP (Audit Manager)

Methodology

We conducted this performance audit from September 2022 through May 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, during the audit, matters not required to be reported in accordance with *Government Auditing Standards* were communicated to Department management for consideration.

Addressing the Audit Objectives

During the audit, we performed the following:

- Interviewed Department staff to gain an understanding of certain contract procurement processes and any corrective actions it implemented to address the prior audit recommendation.
- Identified the relevant criteria:
 - *Proclamation by the Governor of the State of Texas* dated March 13, 2020, and subsequent extensions of the disaster declaration.
 - State of Texas Procurement and Contract Management Guide, version 1.3.
 - The Department's Standard Operating Procedure (1210.03) and Purchasing Overview.
- Determined whether the Department has administered certain contract management functions for the contracts audited by:
 - Reviewing the Department's contracting policies and procedures for compliance with applicable statutory requirements.
 - Testing contracts for required terms and conditions, appropriate reviews and approvals.
 - Testing nonstatistical samples of 3 contract payments from each vendor (from a population of 17 payments for each vendor) for accuracy, required approvals, supporting documentation, and timely

processing. Auditors selected the samples through random selection so that they could be evaluated in the context of the population. Because the samples are representative, it would be appropriate to project those test results to the population, but the accuracy of the projection cannot be measured.

- Assessed the Department’s monitoring processes of vendors’ compliance with contract requirements.
- Reviewed the Department’s process to review and approve contracts’ purchase requests and purchase orders.
- Performed limited testing of the Department’s application controls for the Centralized Accounting and Payroll/Personnel System (CAPPS).
- Determined whether the Department has implemented corrective action on the prior audit recommendation by reviewing information provided.

Data Reliability and Completeness

Auditors obtained vendor payments data as of August 31, 2022, from CAPPS and assessed data reliability by (1) reviewing data queries and report parameters used to extract data, and (2) analyzing the data, including reviewing key fields for validity, reasonableness, and completeness. Auditors also extracted vendor payments from USAS and reconciled to CAPPS payments data for completeness. Auditors determined that the contracts’ payment population was sufficiently reliable for the purposes of the audit.

Report Ratings

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

Appendix 2

Related State Auditor's Office Report

Figure 6

Report Number	Report Name	Release Date
20-002	<i>An Audit Report on Regulatory Activities at the Manufactured Housing Division</i>	October 2019



Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable Dan Patrick, Lieutenant Governor, Joint Chair

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

The Honorable Joan Huffman, Senate Finance Committee

The Honorable Robert Nichols, Member, Texas Senate

The Honorable Greg Bonnen, House Appropriations Committee

The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Department of Housing and Community Affairs

Members of Department of Housing and Community Affairs Board of Directors

Mr. Robert Wilkinson, Executive Director



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