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An Audit Report on

**Contract and Financial
Management Processes at the
General Land Office**

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Contract and Financial Management Processes at the General Land Office

Overall Conclusion

Due to significant weaknesses in its processes, the General Land Office (Office) did not always plan, procure, form, and monitor the three contracts audited in accordance with state requirements and the Office's policies and procedures. (See the text box for a summary of the three contracts audited.)

The Office did not adequately plan, procure, or form its contract with Grant Thornton, LLP (Grant Thornton) for oil and gas royalty audit services, and it did not adequately plan or form its contract with IDEA Integration Corporation (IDEA) for information technology services. For example:

- The Office did not identify and address a conflict of interest involving the Grant Thornton contract during the procurement for that contract.
- The Office prepared an incomplete statement of work and underestimated the total cost during its planning for the IDEA contract. In addition, the Office did not include a statement of work or the total cost in its contract with IDEA. As a result, the State's Quality Assurance Team was not involved at any point prior to or during the term of that contract. The contract expenditures eventually totaled \$1,919,559, which exceeded the \$1 million threshold for a required review by the Quality Assurance Team.

The Office generally complied with planning, procurement, and contract formation requirements for the third contract audited with Apollo Environmental Strategies, Inc. (Apollo) for the construction of a berm. The Office used the appropriate procurement

Three Contracts Audited

Contract with Grant Thornton, LLP:

- **Description:** Conduct audit services to verify whether oil and gas royalties the Office receives comply with lease agreements, state law, and other requirements. The Office obtained the contract through the Office of the Comptroller of Public Accounts' Texas Multiple Award Schedule (TXMAS) program, and it added additional terms and conditions through supplemental agreements.
- **Contract term:** Originally from November 7, 2013, to August 31, 2014; later extended to August 31, 2015.
- **Amount:** As of February 2015, the total contract amount was \$1,028,000, and the Office had paid the contractor \$569,741.

Contract with IDEA Integration Corporation:

- **Description:** Integrate legacy systems and develop a system to improve Permanent School Fund performance and reporting capabilities. The Office obtained the contract through the Department of Information Resources' Cooperative Contracts Program for deliverables-based information technology services, and it added additional terms and conditions through a supplemental agreement.
- **Contract term:** Originally from September 13, 2010, to August 31, 2011; later extended to March 31, 2014.
- **Amount:** The contract did not include a cost amount. The Office executed 12 work orders through the contract and paid the contractor a total of \$1,919,559.

Contract with Apollo Environmental Strategies, Inc.:

- **Description:** Construct approximately 10 miles of clay berm to help prevent erosion and flooding from the Gulf of Mexico into the McFaddin National Wildlife Refuge.
- **Contract term:** Originally from May 6, 2014, to October 12, 2014, the contract was later amended to complete on January 22, 2015; the Office was in the process of extending the contract during this audit.
- **Amount:** The original contract amount was \$2,589,647; the Office later increased that amount to \$2,857,647. As of February 2015, the Office had paid the contractor \$925,793.

Source: The Office.

method by issuing a request for proposal, and it involved the appropriate sponsors and staff in the planning and procurement.

Although the Office monitored all three contracts audited, auditors identified certain weaknesses in the monitoring of those contracts. For example, the Office did not have certain monitoring documentation for all three contracts audited.

The Office also should address certain systemic issues in its overall procurement and contracting processes. For example:

- The Office last updated its procurement manual in 2011, and that manual does not address the procurement system the Office implemented in 2012. In addition, the Office's procurement and contracting policies and procedures do not always align with the requirements of the *State of Texas Contract Management Guide*, or do not exist for certain processes.
- The Office's BuySpeed procurement system and its Contract Management System (CMS) contained errors due to manual data entry and the lack of a reconciliation process. To provide auditors with a complete record of its procurement transactions, the Office had to manually extract, merge, and reconcile data from at least two systems.
- The Office's record retention schedule does not clearly define the contract documentation that the *State of Texas Contract Management Guide* specifies agencies should retain. The Office also does not always maintain its contract administration documentation in a centralized file. As a result, the Office does not consistently retain all applicable procurement and contract records in accordance with the *State of Texas Contract Management Guide*.
- The contract managers the Office assigned to the contracts audited have not obtained statutorily required contract management training.

In addition, the Office's procurement of the Grant Thornton contract demonstrated that program areas within the Office have the ability to bypass review by the Office's legal services division by issuing a purchase order directly through the Office of the Comptroller of Public Accounts' Texas Multiple Award Schedule (TXMAS) program. That risk also exists for contracts that can be procured by issuing a purchase order through the Department of Information Resources' Cooperative Contracts Program for deliverables-based information technology services. The purchase orders serve as legal, binding contracts between the Office and the vendors, with no other documentation required.

The Office should strengthen its procurement and contracting processes. The lack of an adequate control structure for procurement and contracting impaired the Office's ability to consistently and adequately plan, procure, form, and monitor the contracts audited.

Auditors communicated other, less significant issues regarding the three contracts audited to the Office separately in writing.

Summary of Management's Response

The Office agreed with the recommendations in this report.

Summary of Information Technology Review

Auditors relied on previous State Auditor's Office audit work on the Office of the Comptroller of Public Accounts' Uniform Statewide Accounting System (USAS) to determine that the expenditure data was sufficiently reliable for the purposes of this audit.

Auditors compared the expenditure data from USAS to the expenditure data in BuySpeed and CMS to determine that the BuySpeed and CMS data was sufficiently reliable for the purposes of this audit.

Auditors also reviewed access to BuySpeed, CMS, and USAS. Auditors did not identify significant issues regarding access to those systems.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

- Determine whether the Office has administered certain contract management functions for selected contracts in accordance with applicable requirements.
- Determine whether selected Office financial management processes and related controls help ensure compliance with state requirements and Office policies and procedures and prevent or detect fraud, waste, and abuse.

The scope of this audit covered the Office's contracting activities related to the following three contracts from their inception through March 2015:

- The Office's contract with Grant Thornton for oil and gas royalty audit services awarded in November 2013.
- The Office's contract with IDEA for information technology services awarded in September 2010 through the close of the contract in March 2014.
- The Office's contract with Apollo for the construction of a berm awarded in May 2014.

The audit concentrated on all phases (planning, procurement, contract formation, and contract monitoring) of the contracting process for the contracts audited.

The audit methodology consisted of collecting and reviewing procurement documentation; conducting interviews with Office staff; reviewing statutes,

rules, Office of the Comptroller of Public Accounts requirements, and Office policies and procedures; and performing selected tests and other procedures.

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Detailed Results

Chapter 1

The Office Did Not Plan, Procure, and Form the Grant Thornton Contract in Accordance with State Requirements and Office Policies and Procedures, and It Should Address Certain Issues in Contract Monitoring

Auditors identified significant deficiencies in the General Land Office's (Office) planning, procurement, and formation of the Grant Thornton, LLP (Grant Thornton) contract for oil and gas royalty audit services.¹

The Office did not assess the need to hire Grant Thornton to provide supplemental staffing for the Office's existing minerals audit department. It also did not compare the significant additional cost of contracting with Grant Thornton with hiring additional, full-time equivalent (FTE) employees. Although the Office compared the rates of other Texas Multiple Award Schedule (TXMAS) vendors to Grant Thornton's rates, it performed that comparison after it had approved a requisition for Grant Thornton's services. The Office also did not obtain quotes from other TXMAS vendors, as recommended by the Office's procurement manual.

The Office's internal audit department investigated a complaint that the State Auditor's Office had received regarding a potential conflict of interest involving the Grant Thornton contract. The Office's internal audit department's investigation concluded that there was a potential conflict of interest. In response to the investigation, the Office asserted in a letter to the State Auditor's Office that (1) the Office employee who served as a liaison between the Office and Grant Thornton received a personal loan from her former supervisor and (2) the former supervisor was employed as a subcontractor to Grant Thornton in the role of a subject matter expert on the Office's contract with Grant Thornton. In addition, the Office asserted that it removed the employee who had served as the liaison from further involvement in the management of the Grant Thornton contract; however, the Office's response did not address the conflict of interest that existed regarding that employee's involvement in the procurement of the contract.

The Office adequately monitored the Grant Thornton contract based on the contract terms, but it should improve its documentation of the monitoring of that contract. The Office held regular status meetings with Grant Thornton, and the Office assigned staff to monitor the oil and gas royalty audits that Grant Thornton conducted.

¹ In this report, "royalty audit services" refers to the services that Grant Thornton provided as required by the contract.

The Office Did Not Adequately Plan or Procure the Grant Thornton Contract

The Office did not properly establish the need for or conduct a cost analysis for the procurement.

The Office did not perform a needs assessment to justify the need for a contract to conduct oil and gas royalty audits. The Office hired Grant Thornton to supplement the staffing in the Office's existing minerals audit department.

The Office did not compare the cost of hiring FTEs to conduct oil and gas royalty audits with the cost of contracting for oil and gas royalty audits. Auditors estimated that the Office could have hired 4 FTEs to complete 4 oil and gas royalty audits at a total cost of \$426,813 (including benefits). The total cost of the 4 oil and gas royalty audits the Office procured through the Grant Thornton contract was \$1,028,000.

The Office's procurement manual recommends that staff obtain price quotes from as many TXMAS vendors as necessary to obtain best value. However, the Office issued a purchase order on November 7, 2013, without obtaining quotes from any other TXMAS vendors. The Office performed a cost analysis to compare Grant Thornton's rates with the rates of other TXMAS vendors. However, it completed that analysis after it had approved the requisition to hire Grant Thornton and 10 days before it converted that requisition to a purchase order.

The Office did not appropriately plan the procurement in accordance with the *State of Texas Contract Management Guide*.

For its procurement of the Grant Thornton contract, the Office could not provide the following planning documentation required by the *State of Texas Contract Management Guide*:

- The Office's definition of and basis for determining best value.
- The minimum qualifications required of the contractor.
- A list of deliverables the contractor would submit to the Office and specific due dates for each deliverable to enable the Office to determine that the contract had been satisfactorily completed.
- A preliminary risk assessment for the contract.
- A communications plan for the contract.

The Office did not identify and address a conflict of interest regarding the Grant Thornton contract.

Texas Multiple Award Schedule (TXMAS)

TXMAS is a program within the Texas Procurement and Support Services division at the Office of the Comptroller of Public Accounts (Comptroller's Office).

According to Texas Government Code, Section 2155.504, an agency can select a vendor from the catalog of TXMAS contracts without having to solicit bids. The agency can approve a purchase order for the selected TXMAS vendor, and that purchase order serves as the contract between the agency and the vendor. While the Comptroller's Office recommends that agencies obtain price quotes from multiple TXMAS vendors to establish "best value," agencies are not required to obtain multiple price quotes.

Source: Texas Government Code, Chapter 2155.

The Office procured the Grant Thornton contract through the TXMAS program (see text box for additional details). However, the Office did not identify and address a conflict of interest issue in its procurement of Grant Thornton's services. Specifically, the Office's former director of financial subsidiary operations (1) initiated the procurement, (2) was a decision maker in the procurement process, and (3) served as a liaison between the Office and Grant Thornton. That individual had a personal and professional association with her former supervisor, the Office's former deputy commissioner of financial management. The former deputy commissioner of financial management's consulting firm became a subcontractor to Grant Thornton. The consulting firm subcontractor provided subject matter expertise to Grant Thornton on its contract with the Office. The former director of financial subsidiary operations did not disclose that conflict of interest during the planning or procurement for the contract, as required by Office policy and state procurement requirements.

The consulting firm subcontractor discussed above also hired a former senior auditor from the Office's minerals audit department to provide training to Grant Thornton's staff. Both the former deputy commissioner of financial management and the former senior auditor billed for their services as subcontractors to Grant Thornton fewer than seven months after their employment at the Office had ended.

In February 2014, the State Auditor's Office forwarded a complaint to the Office related to a potential conflict of interest regarding the Grant Thornton contract. The Office's internal audit department's investigation of the complaint concluded that there was a potential conflict of interest. In response to the investigation, the Office asserted that (1) the former director of financial subsidiary operations had accepted a personal loan from the former deputy commissioner of financial management, (2) the former deputy commissioner of financial management was employed as a subcontractor for Grant Thornton, and (3) the former director of financial subsidiary operations had no authority over or involvement in awarding the contract. In its response, the Office also stated that it had removed the employee who had served as the liaison from further involvement in the management of the Grant Thornton contract; however, the Office's response did not address the conflict of interest that existed regarding that employee's involvement in the procurement of the contract.

Although the Office's response to the investigation specified that the former director of financial subsidiary operations was not involved with the procurement of the contract, a review of the Office's procurement documentation indicated that individual had a significant role in the

procurement of the Grant Thornton contract. Specifically, the former director of financial subsidiary operations:

- Attended a meeting with the former deputy commissioner of financial management and representatives of Grant Thornton to discuss assisting the Office with oil and gas royalty audit needs.
- Prepared a proposal for the current deputy commissioner of financial management for the staffing of oil and gas royalty audits with Grant Thornton personnel in August 2013.
- Initiated and provided the first approval on the first requisition of Grant Thornton’s services in October 2013 and initiated and provided the first approval on the second requisition of Grant Thornton’s services in March 2014.

Table 1 provides a time line of the Office’s procurement of the Grant Thornton contract.

Table 1

Time Line of Events in the Office’s Procurement of the Grant Thornton Contract	
Date	Event
May 2, 2013	May 2, 2013, was the former deputy commissioner of financial management’s last day of employment at the Office.
August 19, 2013	The former director of financial subsidiary operations submitted a proposal to hire Grant Thornton to the current deputy director of financial management.
August 28, 2013	Grant Thornton signed a nondisclosure agreement to receive a copy of the oil and gas royalty audit program that the Office’s minerals audit department used.
August 31, 2013	August 31, 2013, was the former senior auditor’s last day of employment at the Office. That individual subsequently became a training manager for a subcontractor to Grant Thornton.
October 14, 2013	The former director of financial subsidiary operations initiated a requisition for Grant Thornton’s services.
October 15, 2013	The director of procurement approved the requisition for Grant Thornton’s services.
October 21, 2013	Grant Thornton submitted its first price quote to the Office.
October 28, 2013	The Office conducted a comparison of vendor rates for other TXMAS vendors that provide audit services.
November 7, 2013	The Office converted the first Grant Thornton requisition to a purchase order, and November 7, 2013, became the effective date of the Grant Thornton contract.
November 21, 2013	November 21, 2013, was the first date on which two former Office employees worked for the Grant Thornton subcontractor (according to an invoice that Grant Thornton submitted to the Office in May 2014).
February 18, 2014	The State Auditor’s Office forwarded a complaint to the Office regarding a conflict of interest involving former Office employees.
February 19, 2014	Grant Thornton submitted its second price quote to the Office.
March 18, 2014	The former director of financial subsidiary operations initiated a second requisition for Grant Thornton’s services.
June 2, 2014	The Office signed a supplemental agreement with Grant Thornton on June 2, 2014, with the effective date of that supplemental agreement as February 19, 2014 (approximately four months earlier).
June 10, 2014	The Office converted the second Grant Thornton requisition to a purchase order.
August 19, 2014	The current deputy director of financial management sent a letter to the State Auditor’s Office indicating that the Office had removed the former director of financial subsidiary operations from having any further involvement in the management of oil and gas royalty audits that Grant Thornton performed.

Source: The Office.

Recommendations

The Office should:

- Complete and document required planning documents—including a basis for best value, a needs assessment, and a cost analysis—in accordance with the *State of Texas Contract Management Guide*.
- Identify, document, and address any appearances of conflict of interest or actual conflicts of interest prior to each procurement.

Management's Response

Recommendation:

Complete and document required planning documents, including best value, needs assessment and cost analysis

Management Response:

The General Land Office (GLO) agrees with the recommendation and will develop and implement procedures to ensure planning documents are complete and documented.

Responsible Parties: Director of Procurement and Division Heads

Implementation Date: January 1, 2016

Recommendation:

Identify, document, and address any appearances of conflict of interest or actual conflicts of interest prior to each procurement

Management Response:

The General Land Office agrees with the recommendation. The Office of Compliance and Ethics (OCE) was created by Commissioner Bush in March 2015. OCE has increased the depth and types of conflict checks on all potential vendors for appearances of and actual conflicts of interest prior to each procurement.

Responsible Party: Director of Compliance and Ethics

Implementation Date: Completed

The Office Did Not Adequately Form the Grant Thornton Contract

The Office obtained Grant Thornton's services through the TXMAS program by issuing two purchase orders to procure a total of four oil and gas royalty audits (see text box for additional details).

The Office's Formation of the Grant Thornton Contract

June 2008: Grant Thornton agreed to the Office of the Comptroller of Public Accounts' standard contract terms and conditions to become a TXMAS vendor.

October 2013: On October 21, 2013, Grant Thornton submitted a price quote to the Office for two oil and gas royalty audits based on the hourly rates in its TXMAS contract.

November 2013: The Office executed a purchase order using Grant Thornton's price quote, and that purchase order became a legal, binding contract (with no other documentation required) effective on November 7, 2013.

February through June 2014: Grant Thornton submitted a price quote to the Office in February 2014 for two additional oil and gas royalty audits based on the hourly rates in its TXMAS contract. The Office approved a related requisition in March 2014, but it did not convert that to a purchase order until June 10, 2014. On June 2, 2014, the Office also executed a supplemental agreement that applied additional terms and conditions; the Office made that supplemental agreement effective February 19, 2014 (approximately four months earlier). The supplemental agreement was set to terminate on August 31, 2014.

December 2014: The Office and Grant Thornton extended the supplemental agreement, at no additional cost, by executing an amendment on December 8, 2014. The Office made that amendment effective as of September 1, 2014 (approximately three months earlier). The amended supplemental agreement covered all four audits from both purchase orders and was set to terminate on August 31, 2015.

Source: The Office.

According to the *State of Texas Contract Management Guide*, when using a purchase order as evidence of a contract, an agency should ensure that the purchase order includes the terms the agency requires, rather than accepting the terms the contractor proposes. All final terms and conditions that vary from either the offer or the acceptance must be contained in a written document signed by both parties.

In general, the Office's policies and procedures help to ensure that the legal services division manages the formation of contracts that are procured through competitive procurement methods requiring the solicitation of bids and the execution of a signed contract. However, the Office's financial management division did not inform the Office's legal services division when it approved the purchase order for Grant Thornton's services on November 7, 2013. That delayed the legal services division's execution of a supplemental agreement (which included important additional terms and conditions the Office typically applies to TXMAS procurements) to June 2, 2014.

Auditors also identified the following issues related to the formation of the Grant Thornton contract:

- **Travel expenditures.** The TXMAS contract between Grant Thornton and the Office of the Comptroller of Public Accounts did not allow for the reimbursement of travel expenses. That contract also specified that supplemental agreements to TXMAS contracts are not permitted to weaken the original TXMAS contract terms and conditions. However, the Office's supplemental agreement with Grant Thornton allowed the Office to reimburse Grant Thornton for travel expenses, which were unallowable under the TXMAS contract between Grant

Thornton and the Office of the Comptroller of Public Accounts. As a result, the Office paid Grant Thornton for unallowable travel expenditures totaling \$15,182.

- **Essential contract clauses.** The Office's supplemental agreement with Grant Thornton and its amended supplemental agreement with Grant Thornton did not include a clause regarding abandonment or default required by the *State of Texas Contract Management Guide*.

- **Performance measurement.** The Office's supplemental agreement with Grant Thornton and its amended supplemental agreement with Grant Thornton did not include provisions for performance measurement with clearly defined deliverables and time requirements to complete the audits.
- **Billing schedule.** The Office's supplemental agreement with Grant Thornton and its amended supplemental agreement with Grant Thornton did not include a billing schedule. On average, Grant Thornton billed the Office five to nine months after performing services.

Recommendations

The Office should:

- Implement and enforce controls to notify in a timely manner and involve its legal services division in all phases of contracting for contracts that do not require a solicitation (for example, TXMAS purchases), including the point at which the procurement department approves a purchase order.
- Adhere to TXMAS contract terms and conditions for contracts it procures through TXMAS.
- Include all applicable essential clauses required by the *State of Texas Contract Management Guide* in contracts and supplemental agreements.
- Include performance measurement provisions, time requirements for deliverables, and a billing schedule to facilitate contract monitoring in all contracts and supplemental agreements.

Management's Response

Recommendation:

Implement and enforce controls to notify in a timely manner and involve its legal services division in all phases of contracting for contracts that do not require a solicitation, including the point at which the procurement department approves a purchase order.

Management Response:

The General Land Office agrees with the recommendation. The GLO will develop and implement a policy that all TXMAS purchases must follow the exact same processes as any other purchase for review and approval in BuySpeed and be sent to the Office of General Counsel, formerly Legal Services, for drafting.

Responsible Party: Director of General Law, Office of General Counsel

Implementation Date: January 1, 2016

Recommendation:

Adhere to TXMAS contract terms and conditions for contracts it procures through TXMAS

Management Response:

The General Land Office agrees with the recommendation. The GLO will adhere to TXMAS contract terms and conditions.

Responsible Party: Division Heads

Implementation Date: September 1, 2015

Recommendation:

Include applicable essential clauses required by the State of Texas Contract Management Guide in contracts and supplemental agreements.

Management Response:

The General Land Office agrees with the recommendation. The GLO is currently working on the bi-ennial contract template review and update and will make sure all essential clauses are contained in all contracts.

Responsible Party: Director of General Law, Office of General Counsel

Implementation Date: October 1, 2015

Recommendation:

Include performance measurement provisions, time requirements for deliverables, and a billing schedule to facilitate contract monitoring in all contracts and supplemental agreements.

Management Response:

The GLO will include performance measurement provisions, time requirements, and billing schedules in contracts and supplemental agreements.

Responsible Parties: Office of General Counsel, Division Heads

Implementation Date: January 1, 2016

The Office Adequately Monitored the Grant Thornton Contract; However, It Should Document Its Monitoring and Strengthen Certain Payment Controls

The Office adequately monitored the Grant Thornton contract based on the contract terms. The Office held regular status meetings with Grant Thornton, and the Office assigned staff to monitor the oil and gas royalty audits that Grant Thornton conducted.

Status monitoring. The Office held weekly status meetings with Grant Thornton and prepared bimonthly status reports for Office executive management.

Review of the contractor's work. The Office required Grant Thornton to use the same audit program the Office uses when it conducts oil and gas royalty audits internally. The Office asserted that it reviewed Grant Thornton's audit working papers, but it could not provide documentation of that review.

Payment of contractor invoices. The manager of the Office's minerals audit department approved the payment of all 10 contractor invoices that auditors tested. For 3 (30 percent) of the 10 invoice payments tested, the Office charged the payments to the incorrect purchase order. However, auditors identified no instances of double-billing for services performed.

Recommendations

The Office should:

- Develop, document, and implement procedures for its review of a contractor's work.
- Consistently charge invoice payments to the correct purchase orders.

Management's Response

Recommendation:

Develop, document, and implement procedures for its review of a contractor's work

Management Response:

The General Land Office agrees with the recommendation. The GLO will develop agency-wide procedures for review of contractors work. The OCE will be monitoring this to ensure that the procedures are implemented.

Responsible Parties: Chief Clerk, Division Heads, Director of Compliance and Ethics

Implementation Date: January 1, 2016

Recommendation:

Consistently charge invoice payments to the correct purchase orders.

Management Response:

Managers that are responsible for contract monitoring have been/will be added to the BuySpeed approval routing to ensure invoices being processed are charged to the correct purchase order.

Responsible Party: Director of Financial Management

Implementation Date: January 1, 2016

The Office Did Not Adequately Plan and Form the IDEA Contract in Accordance with State Requirements and Office Policies and Procedures; It Generally Procured and Monitored That Contract in Accordance with Requirements

Background Information on the IDEA Contract

The Office procured the IDEA contract through the Department of Information Resources' Cooperative Contracts Program for deliverables-based information technology services.

The Office contracted with IDEA to assist in the completion of the Agency Land Projects (ALPS) initiative, which was intended to integrate legacy systems and develop a new system to improve Permanent School Fund performance and reporting capabilities.

The ALPS initiative was divided into a series of projects with four phases. The Office contracted with IDEA to complete phase 3 (the Asset Lease Activity Management and Operations Database (ALAMO) system) and phase 4 (data warehousing).

Source: The Office.

The Office identified and involved the appropriate technical staff to assist with the oversight of its contract with IDEA Integration Corporation (IDEA) for information technology services. The Office asserted those efforts led to the successful delivery of a new information technology system that helped improve Permanent School Fund performance and reporting capabilities (see text box for additional details). However, auditors identified significant weaknesses in the planning for and formation of that contract. The Office also should address other issues in the procurement and monitoring of that contract.

Chapter 2-A

The Office Did Not Adequately Plan the IDEA Contract, But It Generally Procured the Contract in Accordance with State Requirements and Office Policies and Procedures

The Office prepared an incomplete statement of work for the IDEA contract and underestimated the total cost of the project. The statement of work:

- Addressed only a subset of the items to be delivered through the contract.
- Estimated the contract cost at \$93,200. The actual expenditures on the completed contract totaled \$1,919,559.

Importance of Contract Planning

According to the *State of Texas Contract Management Guide*, planning assists agencies in determining need, preparing a statement of work, choosing an appropriate procurement type, publishing a solicitation, conducting negotiations, drafting a contract, and monitoring the contractor. Because those steps are complex, adequate planning may help reduce or eliminate the risk of error.

Source: *State of Texas Contract Management Guide*, version 1.7.

- Did not include key information, such as project time lines and applicable Texas Administrative Code information technology requirements.
- Did not include the date on which the statement of work was prepared, and the Office was unable to provide documentation showing that the statement of work was completed prior to the execution of the contract.

In a separate planning document, the Office estimated and compared the cost of developing a new information technology system in-house with the cost of purchasing a commercial, off-the-shelf system. The Office chose to develop the system in-house and estimated the cost at \$700,000. (As discussed above, the actual expenditures on the completed contract totaled \$1,919,559.)

In addition, the Office did not complete or could not provide certain planning documents for the IDEA contract, including a needs assessment, a preliminary risk assessment, or documentation of lessons learned from prior contracts.

The Office did not appropriately notify the State's Quality Assurance Team prior to or during the IDEA contract. Texas Government Code, Section 2054.118, requires that, before a state agency may initially spend appropriated funds for a major information resources project, the state agency must quantitatively define the expected outcomes and outputs for the project and provide that information to the Quality Assurance Team.

Major Information Resources Project

According to Texas Government Code, Chapter 2054, a major information resources project is:

- Any information resources technology project identified in a state agency's *Biennial Operating Plan* whose development costs exceed \$1.0 million and that:
 - ♦ Requires one year or longer to reach operations status,
 - ♦ Involves more than one state agency, or
 - ♦ Substantially alters the work methods of state agency personnel or the delivery of services to clients.
- Any information resources technology project designated by the Legislature in the General Appropriations Act as a major information resources project.

Based on the definition of a major information resources project (see text box), the Office should have reported the development of the information technology system delivered through the IDEA contract to the Quality Assurance Team. However, the Office neither defined the full scope of the contract nor estimated the total cost; as a result, Office staff did not believe it was necessary to report the project to the Quality Assurance Team. The contract expenditures eventually totaled \$1,919,559; therefore, it exceeded the \$1 million threshold for a required review by the Quality Assurance Team. Because the Office did not report the project, the Quality Assurance Team was not able to monitor and assess the project.

The Office appropriately procured the IDEA contract; however, it did not ensure that staff completed required nepotism forms prior to the procurement. The Office's use of the Department of Information Resources' Cooperative Contracts Program for deliverables-based information technology services was appropriate for its procurement of the IDEA contract. However, the Office did not ensure that its purchasing staff and other key staff involved in the procurement completed the required nepotism disclosure forms prior to procuring the contract (see Chapter 4 for additional information regarding nepotism forms). Nepotism forms are required for contracts valued at \$1 million or more. Because the Office did not estimate the total cost of the contract, staff who were involved in the procurement did not complete nepotism forms.

Recommendations

The Office should:

- Complete and document appropriate planning documents, including a statement of work and a total estimated cost, for all contracts in accordance with the *State of Texas Contract Management Guide*.
- Obtain Quality Assurance Team review for any information technology project that has the potential to meet the definition of a major information resources project.

- Ensure that staff comply with requirements to complete nepotism forms for procurements of \$1 million or more.

Management's Response

Recommendation:

Complete and document appropriate planning documents, including a statement of work and a total estimated costs, for all contracts in accordance with the State of Texas Contract Management Guide

Management Response:

The General Land Office agrees with the recommendation. The General Land Office will develop and implement procedures to ensure planning documents are complete and documented. The OCE will be monitoring this to ensure that the procedures are implemented.

Responsible Parties: Director of Procurement, Division Heads, Director of Compliance and Ethics.

Implementation Date: January 1, 2016

Recommendation:

Obtain Quality Assurance Team review for any information technology project that has the potential to meet the definition of a major information resources project

Management Response:

The General Land Office agrees with the recommendation. The General Land Office will adhere to the documented procedures for obtaining Quality Assurance Team review for those projects for which it is required.

Responsible Party: Chief Information Officer

Implementation Date: Completed

Recommendation:

Ensure that staff comply with requirements to complete nepotism forms for procurements of \$1 million or more.

Management Response:

The General Land Office agrees with the recommendation. The nepotism form is included on the Procurement Check List. Disclosure forms shall be completed for any contract of \$1,000,000 or more. The procurement staff will

review the forms for accuracy and completeness prior to including the form in the procurement file.

Responsible Party: Director of Procurement

Implementation Date: Completed, however automation of these forms will be implemented by January 1, 2016

Chapter 2-B

The Office Did Not Adequately Form the IDEA Contract

A vendor that participates in the Department of Information Resources' Cooperative Contracts Program has a contract with the Department of Information Resources and agrees to that agency's standard terms and conditions. However, state agencies may add supplemental information to the Department of Information Resources' standard contract to help ensure that all applicable laws, regulations, and agency standards are included. The Office's legal services division assisted in the execution of a supplemental agreement with IDEA that applied the Office's standard terms and conditions to the IDEA contract.

IDEA Contract

The Office's IDEA contract consisted of (1) the contract between the Department of Information Resources (DIR) and IDEA, which included DIR's standard terms and conditions, and (2) a supplemental agreement that applied the Office's standard terms and conditions.

Source: The Office.

The IDEA contract (see text box) included 18 (90 percent) of 20 essential clauses required by the *State of Texas Contract Management Guide*. However, the Office did not include a statement of work or total cost in its IDEA contract. The Office included a detailed statement of work and a defined cost in each of the 12 work orders that it executed under the IDEA contract. Dividing a project into a series of subprojects can be an effective approach to system development. However, not defining an overall statement of work and not specifying the total cost in the IDEA contract impaired the Office's ability to monitor the overall cost and success of the contract. As discussed above, not specifying the total cost also enabled the Office to bypass oversight mechanisms (such as Quality Assurance Team review and the completion of nepotism forms) that are required when a contract equals or exceeds \$1 million.

The Office did not consistently ensure that work orders and amendments to the work orders were approved according to its requirements. For 4 (17 percent) of 23 work orders and amendments to work orders for the IDEA contract, the Office did not obtain the appropriate management approvals required by its contracting manual. The Office's contracting manual states that the only individuals who are authorized to bind the Office to an agreement are the commissioner and the chief clerk; however, auditors identified four amendments to work orders that the former deputy commissioner of financial management signed.

When contract documents are not approved by authorized Office personnel, that increases the risk of services being performed without a legal and binding agreement.

The Office could not provide documentation showing that it reported the IDEA contract to the Legislative Budget Board. Texas Government Code, Section 322.020, requires a state agency to provide documentation on each major contract to the Legislative Budget Board. Based on this definition, the Office should have reported the IDEA contract to the Legislative Budget Board; however, the Office could not provide documentation showing that it reported that contract.

Recommendations

The Office should:

- Include all essential clauses required by the *State of Texas Contract Management Guide* in contracts.
- Obtain all of the required approvals for amendments to work orders.
- Report contracts to the Legislative Budget Board as required by the Texas Government Code.

Management's Response

Recommendation:

Include all essential clauses required by the State of Texas Contract Management Guide.

Management Response:

The General Land Office agrees with the recommendation. The GLO is currently working on the bi-ennial contract template review and update and will make sure all essential clauses are contained in all contracts.

Responsible Party: Director of General Law, Office of General Counsel

Implementation Date: October 1, 2015

Recommendation:

Obtain all required approvals for amendments to work orders.

Management Response:

The General Land Office agrees with the recommendation. The GLO has implemented DocuSign, which eliminates the ability to stray from approved routing processes.

Responsible Party: Director of General Law, Division Heads

Implementation Date: Completed

Recommendation:

Report contracts to the Legislative Budget Board as required by the Texas Gov. Code.

Management Response:

The General Land Office agrees with the recommendation. The GLO has updated the queries that produce the LBB report to generate an accurate report that includes all work order balances.

Responsible Party: Director of General Law, Office of General Counsel and Chief Information Officer

Implementation Date: Completed

Chapter 2-C

The Office Monitored the IDEA Contract Adequately, But It Should Consistently Document Its Monitoring

The Office monitored the IDEA contract adequately. For example, IDEA staff performed work on the Office's premises alongside Office staff who were working on the same project. That allowed the Office to closely monitor progress and helped to ensure that Office staff were involved in system development. However, the Office should consistently document its monitoring.

The Office did not always maintain monitoring documentation. From October 2010 to October 2012, the Office held steering committee meetings at which status reports were presented and at which there was discussion and monitoring of the contractor's progress. The status reports contained an appropriate level of detail, including detail on the overall status of the project, the progress of the work performed, and updated time lines. However, the Office did not document the contractor's progress in status reports from November 2012 to March 2014.

The Office did not always maintain payment documentation in accordance with the *State of Texas Contract Management Guide*. The *State of Texas Contract Management*

Guide indicates that a contract administration file should be kept with “a copy of all contractor invoices, information relative to discount provisions for prompt payment, and letters pertaining to contract deductions or fee adjustments.” However, the Office did not always maintain supporting documentation for its payment of invoices for the IDEA contract.

Auditors attempted to test all 29 invoices the Office paid for the IDEA contract and determined the following:

- The Office was unable to provide 11 (38 percent) of the 29 invoices. One of those invoices was missing, and the Office disposed of the other 10 (see Chapter 4 for additional information on record retention).
- For 2 (11 percent) of the 18 invoices the Office was able to provide, the Office could not provide supporting documentation showing that the Office had approved the invoices for payment. The Office provided emails from a staff member assigned to the project that indicated the contract manager had approved payment of the invoices, but it could not provide documentation of the contract manager’s actual approval.
- The total amount of payments that the Office approved for the IDEA contract was \$1,892,630. However, the Office’s actual expenditures on the IDEA contract totaled \$1,919,559. The Office was unable to provide documentation showing its approval for the \$26,929 in additional expenditures.

The Office did not have clearly defined procedures for documenting and accepting deliverables for the IDEA contract. The Office provided documentation showing that it received the deliverables associated with all 11 of the work orders that auditors tested. However, it was unable to provide documentation showing the dates on which it accepted the deliverables associated with 6 (55 percent) of the 11 work orders tested.

Not having invoice payment documentation and support showing the dates on which deliverables were accepted increases the risk of billing errors, including contract overpayment, and impairs the Office’s ability to close out the contract accurately and maintain a complete contract administration file.

Recommendations

The Office should:

- Consistently maintain contract documentation, including status reports, invoices, and payment approvals, in accordance with the *State of Texas Contract Management Guide*.
- Develop, document, and implement policies and procedures for the acceptance of deliverables.

Management's Response

Recommendation:

Consistently maintain contract documentation, including status reports, invoices and payments approvals, in accordance with the State of Texas Contract Management Guide.

Management Response:

The General Land Office agrees with the recommendation. The GLO will develop and implement agency-wide processes to maintain required documentation. The OCE will be monitoring this to ensure that the processed are implemented.

Responsible Party: Division Heads, Chief Clerk, Director of Financial Management

Implementation Date: January 1, 2016

Recommendation:

Develop, document, and implement policies and procedures for the acceptance of deliverables.

Management Response:

The General Land Office agrees with the recommendation. The GLO will develop and implement division-specific procedures for the acceptance of deliverables. The OCE will be monitoring this to ensure that the policies and procedures are implemented.

Responsible Party: Division Heads

Implementation Date: January 1, 2016

The Office Generally Planned, Procured, and Formed the Apollo Contract in Accordance with State Requirements and Office Policies and Procedures; However, It Should Strengthen Certain Monitoring Processes

History of the Apollo Contract

June 2010: The U.S. Fish and Wildlife Services awarded the Office a federal grant to provide financial assistance for the construction of a berm in Jefferson County.

August 2010: The Office contracted with LJA Engineering to provide engineering services; secure all required permits; and assist in the development of a request for proposal that incorporated and addressed the needs and risks assessed in prior studies, construction costs, and time estimates. LJA Engineering was to oversee the general contractor during the construction of the berm and to serve as a liaison between the Office and the general contractor.

May 2014: The Office contracted with Apollo to construct approximately 10 miles of clay berm to aid in resisting salt water erosion and flooding.

Source: The Office.

The Office generally planned, procured, and formed its contract with Apollo Environmental Strategies, Inc. (Apollo) for the construction of a berm in accordance with state requirements and the Office's policies and procedures (see text box for additional details on the contract). However, its monitoring process did not have controls to ensure that the Office's legal services division reviewed the change orders. In addition, the Office's monitoring process did not have controls to ensure that invoice documentation the contractor submitted for payment contained information that the terms of the contract required.

Chapter 3-A

The Office Generally Planned and Procured the Apollo Contract in Accordance with Applicable Requirements

The Office selected a procurement method for the Apollo contract—issuing a request for proposal (RFP)—that complied with the *State of Texas Contract Management Guide*. The Office then conducted a preproposal conference to discuss the RFP and to answer any questions from potential bidders.

The Office followed the appropriate steps to comply with the requirement for vendors to submit historically underutilized business (HUB) subcontracting plans and the requirement to advertise the solicitation.

The Office included the appropriate sponsors and staff during the planning and procurement of the Apollo Contract. According to the *State of Texas Contract Management Guide*, each contract management initiative should include an executive sponsor, a contract manager, purchasing department staff, and program staff to assist in the contract management process. The Office involved appropriate sponsors and staff in the planning and procurement of the Apollo contract.

Chapter 3-B

The Office Generally Formed the Apollo Contract in Accordance with Applicable Requirements; However, It Should Strengthen Its Change Order Processes and Document Certain Processes

The Office's contract managers for the Apollo contract provided the Office's legal services division with the required contract information, as required by

the Office's contracting manual. That helped to ensure that (1) the legal services division was involved in the contract formation and (2) the executed contract contained all applicable, essential contract elements. The Apollo contract contained:

- All applicable essential clauses required by the *State of Texas Contract Management Guide*. In addition, all clauses contained sufficient information.
- Clearly defined deliverables and goals for completing the project.
- An appropriate, cost-effective payment methodology as defined in the *State of Texas Contract Management Guide*, and a clearly defined payment mechanism, including the timing of payments and conditions that must be satisfied prior to payment.
- The initials or signature of staff in the Office's legal services division and the former chief clerk, indicating their review and approval.

The Office's legal services division did not approve change orders for the Apollo contract. The Office does not have documented policies and procedures to define the role of its legal services division in the contract change order process. In addition, the Office had no documentation showing the legal services division's review and approval for any of the change orders for the Apollo contract, including one monetary change order and seven time change orders.

Not having documented policies and procedures that define the role of the legal services division in the change order process increases the risk that the Office may not address violations of contract terms in a timely manner and that the legal services division may not update its contract information with appropriate changes.

Recommendation

The Office should develop, document, and implement policies and procedures to address change orders for contracts, including the role of its legal services division in reviewing and approving change orders.

Management's Response

Develop, document, and implement policies and procedures to address change orders for contracts, including the role of its legal services division in reviewing and approving change orders.

Management Response:

The General Land Office agrees with the recommendation. The Office of General Counsel (OGC) already approves and drafts all change orders with the exception of those time-change orders for construction services. OGC will be added in the buyspeed approval path for these that they do not draft. The OCE will be monitoring this to ensure that the policies and procedures are implemented.

Responsible Party: Construction Services Director, Director of Financial Management, Director of General Law

Implementation Date: October 1, 2015

Chapter 3-C

The Office Generally Monitored the Apollo Contract in Accordance with Applicable Requirements; However, It Should Strengthen Its Invoice Payment Process

The Office generally monitored the Apollo contract in accordance with applicable requirements. However, the invoice documentation that the contractor submitted did not always contain all of the information required by the terms of the contract. Auditors reviewed all 6 of the invoices with dates of service between May 2014 and January 2015 that the Office paid (those invoices totaled \$925,793), and determined that certain documents were not included in the invoice documentation. Specifically:

- None of the six invoices tested contained the required updated submittal schedule (a submittal schedule lists all items that the contractor must furnish for the Office’s review and approval).
- Two (33 percent) of the 6 invoices tested did not contain required payroll documentation.
- Three (50 percent) of the 6 invoices tested did not contain a required updated progress schedule.
- Two (33 percent) of the 6 invoices tested did not contain a required change order form for changes in the time schedule.
- One (17 percent) of the 6 invoices tested did not contain a required HUB progress assessment report.

The Office ensured that the six invoices tested included required construction payment affidavits and wage rate notification forms; it also ensured that those invoices complied with billing retainage requirements.

Recommendation

The Office should ensure that invoice documentation consistently includes the appropriate information in accordance with the terms of the contract.

Management's Response

Recommendation:

Ensure that invoice documentation consistently includes the appropriate information in accordance with the terms of the contract.

Management Response:

The General Land Office agrees with the recommendation. All contract managers will be, as part of the training, instructed to ensure an invoice complies with the terms of the contract. Policies and procedures will be updated to include such a recommendation

Responsible Party: Division Heads, Director of Financial Management

Implementation Date: January 1, 2016

The Office Should Strengthen Controls for Its Overall Procurement and Contracting Processes

The Office has significant weaknesses in the controls over its procurement and contracting processes. Policies and procedures for planning, procuring, forming, and monitoring contracts are not current, do not always align with the *State of Texas Contract Management Guide*, or do not exist for certain processes. The lack of current and appropriate policies and procedures creates a weak control structure in all areas of the contracting process. That has resulted in issues with data reliability, contract manager training, completion of contracting forms, and retaining appropriate supporting contract and procurement documentation.

The Office's policies and procedures are not current, do not always align with the *State of Texas Contract Management Guide*, or do not exist for certain processes. The Office's procurement department has established procurement policies and procedures in a procurement manual, and the Office's legal services division has established contracting policies and procedures in a contracting manual. However, those policies and procedures are outdated and do not always reflect requirements in the *State of Texas Contract Management Guide*. For example:

- The Office did not update its procurement manual and its contracting manual when the threshold for review of a contract by the State's Contract Advisory Team changed from \$1 million to \$10 million. The 83rd Legislature made that change in 2013.
- The Office last updated its procurement manual in 2011, and that manual does not address BuySpeed, the procurement system the Office implemented in 2012.

In addition, the Office's contracting manual and procurement manual do not address:

- Required contract manager training, and the monitoring of that training.
- Proxy approvals of requisitions, purchase orders, invoices, receipts, and contracts (proxy approvals are discussed in more detail below).
- Reconciliation of key data in the Contract Management System (CMS) and BuySpeed.

The procurement manual also states that staff must develop and implement a contract monitoring plan that includes certain items for each contract. However, for the Grant Thornton and IDEA contracts, the Office was unable to provide written contract monitoring plans that included the following items that the procurement manual required:

- Procedures for reviewing and accepting deliverables, and
- Procedures for change orders.

In addition, the *State of Texas Contract Management Guide* states that agencies should have contract administration procedures. For the Grant Thornton and IDEA contracts, however, the Office could not provide documented procedures for corrective action and contract close-out. For all three contracts audited, the Office could not provide documented procedures for lessons learned.

Data in the Office's procurement and contracting systems contains errors due to manual data entry and the lack of a reconciliation process. Although the Office uses BuySpeed for procurement and CMS for contracting, those systems do not interface with each other, and they require certain key data (such as purchase order number and contract number) to be entered manually. That increases the risk of inaccurate data in those systems. Examples of errors identified during this audit included the following:

- The Office did not update the expiration date in CMS for the Grant Thornton contract to reflect a change order that extended that date.
- The Office incorrectly coded the purchase order for the Grant Thornton contract in BuySpeed as a noncompetitive procurement; it should have coded that purchase order as a TXMAS procurement.
- The total of the work orders for the IDEA contract was understated in CMS by \$38,588 due to a manual data entry error.

In addition, auditors analyzed the population of contract records in CMS and determined that the Office did not always correctly enter key dates from the contracts into CMS. While the errors identified were a small percentage of the population, the Office should have a procedure to reconcile the data in CMS to ensure that it is accurate and complete.

BuySpeed and CMS both have limited reporting functionality. BuySpeed does not allow for the correction of certain errors, such as reducing encumbrances or transferring expenditures made to a purchase order in error. As a result, the Office must make manual adjustments directly in the Uniform Statewide Accounting System. To provide auditors with a complete record of its procurement transactions, the Office had to manually extract, merge, and reconcile data from at least two systems.

The Office uses CMS to track contracts, interagency agreements, investments, and gas and electric agreements. However, those items are not categorized in CMS in a consistent manner, and there are no reports readily available from CMS that include a complete and accurate list of all contracts. To identify the population of all contracts, auditors obtained an extract of all records in CMS

and worked with the Office's legal services division to manually identify and remove records that were not associated with contracts.

Contract Administration Files

According to the *State of Texas Contract Management Guide*, keeping a complete master contract administration file is critical. That file will provide a basis for settling claims and disputes if they arise in administrative or court actions. A contract administration file should contain such items as:

- A copy of the current contract and all modifications.
- The originals of all contractor data or report submittals.
- A copy of all routine reports the contract requires, such as sales reports, pricing schedules, approval requests, and inspection reports.
- A copy of all notices to proceed, to stop work, and to correct deficiencies, as well as change orders.
- The records or minutes of all meetings, both internal and external, as well as sign-in sheets and/or agendas.
- A copy of all contractor invoices, information relative to discount provisions for prompt payment, and letters pertaining to contract deductions or fee adjustments.

Source: *State of Texas Contract Management Guide*, versions 1.7 and 1.11.

The Office's record retention schedule does not incorporate all elements of contract administration files that are listed in the *State of Texas Contract Management Guide*. The Office does not maintain comprehensive contract administration files encompassing all relevant and required documentation for each contract (see text box for additional details on contract administration files). Instead, the Office allows its procurement department, legal services division, and the individual program areas to maintain their individual portions of contract documentation.

Because the Office does not have a central location for contract administration files, it does not consistently maintain documentation in accordance with the *State of Texas Contract Management Guide*. The Office did not always consider certain documentation (such as invoices) to be part of a contract file and, therefore, it may have disposed of that documentation according to a different part of its record retention schedule.

The requirements of the Office's record retention schedule lack clarity in certain areas. That resulted in Office staff applying different interpretations of the requirements and, therefore, inconsistent retention of procurement and contract

records. Auditors identified the following issues regarding contract documents:

- The Office had disposed of invoices or invoices were missing.
- The Office could not locate supporting contract documentation for certain active contracts.
- The Office could not locate its procurement plans for fiscal years 2012 and 2013.

In addition, the Office's record retention schedule contains contradicting statements regarding how long to retain federally funded contract documentation (one statement in the record retention schedule indicated five years after contract completion, but another statement indicated six years after contract completion).

Enforcing the requirements to maintain all supporting documentation in a contract administration file would help the Office ensure that it has support for key decisions from procurement through contract closeout. It would also help to ensure the effective management of the Office's contracts and help to minimize the potential for fraud, waste, and abuse.

Nepotism Disclosure Form

According to Texas Government Code, Section 2262.004, **purchasing personnel** include employees of a state agency who make decisions on behalf of the state agency or recommendations regarding:

- Contract terms or conditions on a major contract.
- Who is to be awarded a major contract.
- Preparation of a solicitation for a major contract.
- Evaluation of a bid or proposal.

The Office did not always ensure that staff completed required nepotism disclosure forms. According to Texas Government Code, Section 2262.004 (see text box), all purchasing personnel must complete a nepotism disclosure form before a state agency may award a major contract (a contract with a value of at least \$1 million) for the purchase of goods or services. Specifically, all purchasing personnel of a state agency must disclose information regarding certain relationships with, and direct or indirect pecuniary interests in, any party to a major contract with the state agency.

Office staff did not complete required nepotism disclosure forms for the Grant Thornton and IDEA contracts. Office staff completed nepotism disclosure forms for the Apollo contract; however, (1) one employee did not fully document one section of the form (specifically, the employee did not check certain boxes to indicate whether a conflict of interest existed) and (2) staff did not sign those forms until after the contract was executed. The Apollo contract was signed on May 6, 2014, and the signatures on the nepotism forms were obtained between May 12, 2014, and May 20, 2014.

Not fully completing, signing, and reviewing nepotism disclosure forms prior to contract execution increases the risk of failure to identify potential conflicts of interest among purchasing personnel and a contractor.

Office procurement staff assigned to the audited contracts complied with state training and certification requirements for procurement. Texas Government Code, Section 2155.078, and the *State of Texas Procurement Manual* require that a certified Texas procurement manager make purchases that exceed \$100,000. The Office's procurement department complied with procurement training and certification requirements for the three contracts audited.

Contract Managers

Texas Government Code, Section 2262.053, requires the Texas Procurement and Support Services (TPASS) to administer a system of training, continuing education, and certification for state agency contract management personnel.

The Office of the Comptroller of Public Accounts defines a contract manager as an individual who is responsible for a specific set of tasks, including, but not limited to the following:

- Coordinating the risk assessment process for contract planning and monitoring.
- Leading negotiations for major contracts.
- Monitoring contractor performance.

Source: Office of the Comptroller of Public Accounts.

The Office did not always ensure that contract managers assigned to the audited contracts met state training requirements. The Office does not have an entity-wide process to help ensure that its contract managers meet training requirements. The contract managers in each program area are responsible for attending the required training and retaining the appropriate documentation.

For the three contracts audited, the Office did not assign contract managers who had obtained the training required by Texas Government Code, Section 2262.053, and the *State of Texas Procurement Manual* (see text box for additional details about contract managers).

The Office does not have a documented process for proxy approvals of requisitions, purchase orders, invoices, receipts, work orders, and contracts. BuySpeed allows a user to establish a proxy who is authorized to enter approvals of requisitions, purchase orders, invoices, and receipts on the user's behalf (the proxy can approve the same transactions as the BuySpeed user who established the proxy). However, the user who establishes a proxy does not receive a notification from BuySpeed when the proxy approves a transaction.

The Office also allows a manual form of proxy for contracts for which it does not have a documented process. Specifically, one work order for the IDEA contract was manually stamped with the former chief clerk's signature. The Office could not provide documentation showing that the former chief clerk approved the use of a stamped signature.

The Office has not established limits to prohibit the use of proxy approvals for transactions that exceed a defined amount. A lack of documented policies and procedures for the use of proxy approval could impair accountability.

The Office did not report vendor performance for the three contracts audited. Title 34, Texas Administrative Code, Section 20.108(b), requires state agencies to report a contractor's performance on any purchase of \$25,000 or more from contracts the Office of the Comptroller of Public Accounts administers or any other purchase made through agencies' delegated authority. The Office of the Comptroller of Public Accounts maintains a vendor performance tracking system that measures vendor performance in commodity delivery and service delivery. Not reporting information to the Office of the Comptroller of Public Accounts increases the risk that other state agencies could select vendors with performance issues.

Recommendations

The Office should strengthen its procurement and contracting processes to effectively plan, procure, form, and monitor contracts. Specifically, it should:

- Update its procurement manual and contracting manual to fully address BuySpeed and align with the *State of Texas Contract Management Guide*.
- Ensure that staff complete a contract monitoring plan as required by the Office's procurement manual.
- Develop and implement a reconciliation process to help ensure the accuracy and completeness of key data in BuySpeed and CMS.
- Review its categorization of contracts in CMS and ensure that staff consistently enter data in all appropriate fields in that system.

- Update its record retention schedule to align with the *State of Texas Contract Management Guide*, and retain contract documentation in accordance with that schedule.
- Ensure that staff complete nepotism disclosure forms for major contracts, as required by the Texas Government Code, and review those forms for completeness.
- Ensure that contract managers complete required contract management training.
- Develop, document, and implement procedures for the use of (1) proxy approvals in BuySpeed and (2) manual, stamped proxies, and it should establish monetary thresholds above which proxy approvals are prohibited.
- Report contractor performance to the Office of the Comptroller of Public Accounts as required by the Texas Administrative Code.

Management's Response

Recommendation:

Update the procurement manual and contracting manual to fully address BuySpeed and align with the Contract Management Guide

Management Response:

The General Land Office agrees with the recommendation. The Procurement Manual and Contract Manual are currently being updated. Sections have been changed to fully address all BuySpeed processes as well as including needed information relating to the Contract Management Guide.

Responsible Party: Director of Procurement, Director of General Law

Implementation Date: September 1, 2015

Recommendation:

Ensure that staff completes a contract monitoring plan as required by the office's procurement manual.

Management Response:

The General Land Office agrees with the recommendation. Division personnel will be required to develop and implement a contract monitoring plan. The OCE will be monitoring this to ensure that the plan is implemented.

Responsible Party: Division Heads, Director of Compliance and Ethics

Implementation Date: January 1, 2016

Recommendation:

Develop and implement a reconciliation process to help ensure the accuracy and completeness of key data in Buyspeed and CMS

Management Response:

The General Land Office agrees with the recommendation. The GLO will initiate a project to investigate options for a more streamlined, integrated contracting and purchasing solution.

Responsible Party: Chief Information Office, Director of Procurement, Director of General Law

Implementation Date: September 1, 2017 (dependant on funding)

Recommendation:

Review its categorization of contracts in CMS and ensure that staff consistently enter data in all appropriate fields in that system.

Management Response:

The General Land Office agrees with the recommendation. The GLO is working to update program areas and contract types to deliver more accurate reports.

Responsible Party: Director of General Law

Implementation Date: January 1, 2016

Recommendation:

Update its record retention schedule to align with the contract management guide and retain contract documentation in accordance with that schedule.

Management Response:

The General Land Office agrees with the recommendation. The GLO will update its record retention policy. The OCE will be monitoring this to ensure that the update is completed.

Responsible Party: Director of General Law, Director of Archives and Records, Chief Clerk

Implementation Date: September 1, 2015

Recommendation:

Ensure that staff complete nepotism disclosure forms for major contracts, as required by the Government code, and review those forms for completeness.

Management Response:

The General Land Office agrees with the recommendation. The nepotism form is included on the Procurement Check List. Disclosure forms shall be completed for any contract of \$1,000,000 or more. The procurement staff will review the forms for accuracy and completeness prior to including the form in the procurement file.

Responsible Party: Director of Procurement

Implementation Date: Completed, however automation of these forms will be implemented by January 1, 2016

Recommendation:

Ensure that contract managers complete required contract management training.

Management's Response:

The General Land Office agrees with the recommendation. The OCE is ensuring that all agency contract managers are completing the required contract manager training classes. Currently, these employees are in the process of finishing classes and taking the required examination in order to receive their CTCM certifications, excepting those placed in their position in the last six months who are not eligible for certification. The OCE will work with the agency program areas and the OGC to create and implement a policy and procedure for future contract manager personnel to complete required training.

Responsible Party: Director of Compliance and Ethics

Implementation Date: September 1, 2015

Recommendation:

Develop, document, and implement procedures for the use of (1) proxy approvals in BuySpeed and (2) manual, stamped proxies, and it should establish monetary thresholds above which proxy approvals are prohibited.

Management Response:

The General Land Office agrees with the recommendation. The GLO will develop a procedure for proxy approvals in BuySpeed for the Chief Clerk, and will strengthen the procedure for manual stamped proxies including

establishing monetary thresholds. The OCE will be monitoring this to ensure that the procedures are implemented.

Responsible Party: Chief Clerk, Director of Financial Management, Director of General Law

Implementation Date: January 1, 2016

Recommendation:

Report contractor performance to the Comptroller as required by TAC.

Management Response:

The General Land Office agrees with the recommendation. A Vendor Performance form has been created and all CTCM staff have been notified of their responsibility to report vendor performance on completed contracts of \$25,000 or more. The forms are turned in to Procurement and the procurement staff will enter the data in the CPA Web Portal. The GLO is also working with program staff to set-up a notification for closed contracts in BuySpeed. This process will help to ensure that vendor performance is reported within 30 days upon completion of a contract.

Responsible Party: Director of Procurement

Implementation Date: Completed.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether the General Land Office (Office) has administered certain contract management functions for selected contracts in accordance with applicable requirements.
- Determine whether selected Office financial management processes and related controls help ensure compliance with state requirements and Office policies and procedures and prevent or detect fraud, waste, and abuse.

Scope

The scope of this audit covered the Office's contracting activities related to the following three contracts from their inception through March 2015:

- The Office's contract with Grant Thornton, LLP (Grant Thornton) for oil and gas royalty audit services awarded in November 2013.
- The Office's contract with IDEA Integration Corporation (IDEA) for information technology services awarded in September 2010 through the close of the contract in March 2014.
- The Office's contract with Apollo Environmental Strategies, Inc. (Apollo) for the construction of a berm awarded in May 2014.

The audit concentrated on all phases (planning, procurement, contract formation, and contract monitoring) of the contracting process for the contracts audited.

Methodology

The audit methodology consisted of collecting and reviewing procurement documentation; conducting interviews with Office staff; reviewing statutes, rules, Office of the Comptroller of Public Accounts requirements, and Office policies and procedures; and performing selected tests and other procedures.

Data Reliability and Completeness

Auditors assessed the reliability of data in the Office's purchasing system (BuySpeed) by (1) reviewing required data elements, (2) reviewing existing information about the data and the system that produced them, (3) comparing

the data in BuySpeed to expenditure information in the Uniform Statewide Accounting System (USAS), and (4) interviewing Office officials knowledgeable about the data.

Auditors assessed the reliability of data in the Contract Management System (CMS) by (1) reviewing required data elements, (2) reviewing existing information about the data and the system that produced them, (3) comparing the data in CMS to expenditure information in USAS, and (4) interviewing Office officials knowledgeable about the data.

Auditors used expenditure information in USAS and relied on previous State Auditor's Office audit work on USAS to determine that data was sufficiently reliable for the purposes of this audit. Additionally, auditors compared contract payments from CMS and BuySpeed to USAS.

Auditors reviewed access to BuySpeed, CMS, and USAS. Auditors did not identify significant issues regarding access to those systems.

Auditors determined that the data was sufficiently reliable for the purposes of this audit. Auditors did not perform any additional information technology work at the Office.

Sampling Methodology

To test the payments of contractor invoices for the three contracts audited, auditors selected all of the payments for testing as of January 2015.

To test for double-billing for contractor invoices for the three contracts audited, auditors selected all of the payments for testing as of March 2015.

To test contractor deliverables for the IDEA contract, auditors used professional judgment to select a sample of deliverables for testing. The sampled deliverables were not representative of the population and, therefore, it would not be appropriate to extrapolate those test results to the population.

Information collected and reviewed included the following:

- Contracts, supplemental agreements, and associated amendments for the contracts audited.
- The Office's policies and procedures, including its procurement manual, employee handbook, and contracting manual.
- The Office's solicitation and bid documentation, evaluation criteria and documentation, and related supporting documentation.
- The Office's procurement files, including planning documentation, purchase requisition forms, purchase orders, approvals, invoices, and other supporting documentation.

- The Office's reports, approvals, and meeting minutes used to monitor contracts and contract costs, including supporting documentation.
- The Office's personnel training and certification records, nepotism forms, conflict of interest forms, and nondisclosure forms.
- Office procurement plans available for fiscal years 2010, 2011, 2014, and 2015.
- The Office's internal audit working papers.
- The Office's past and present organizational charts for applicable divisions.
- A complaint that the State Auditor's Office received related to the Grant Thornton contract.
- Contract expenditure data from USAS.
- Emails and other documentation that supported information that Office employees provided during interviews.
- The Office's payment documentation, including contractor invoices, approvals, and other supporting documentation.
- The Legislative Budget Board's contracts database.

Procedures and tests conducted included the following:

- Interviewed current and former Office employees.
- Tested whether the Office followed applicable guidelines in the *State of Texas Contract Management Guide* and the *State of Texas Procurement Manual* when planning, procuring, forming, and monitoring the contracts audited.
- Reviewed contracts, supplemental agreements, amendments, and work orders.
- Reviewed the Office's contract and procurement manuals and compared them to the *State of Texas Contract Management Guide*.
- Reviewed applicable conflict of interest statements and nondisclosure and nepotism forms.
- Tested whether the Office properly documented bid evaluation criteria and evaluation scores.
- Reviewed the contracts audited to determine whether the Office included essential contract terms in the *State of Texas Contract Management Guide*.

- Tested criteria the Office used to evaluate vendor proposals to determine whether those criteria followed applicable requirements in the Texas Government Code.
- Tested scoring of Office evaluations to determine whether all evaluators completed the same scoring matrix and to test mathematical accuracy.
- Tested payments on invoices for appropriate documentation, required approvals, and payment in a timely manner.
- Tested monitoring reports and a sample of deliverables to review the Office's contract monitoring process.

Criteria used included the following:

- Texas Government Code, Chapters 322, 572, 2054, 2151, 2155-2157, 2161, 2251, 2252, 2254, 2261, and 2262.
- Title 34, Texas Administrative Code, Chapter 20.
- Title 7, Texas Natural Resources Code, Chapters 31 and 161.
- Title 1, Texas Administrative Code, Chapters 202 and 212.
- *State of Texas Contract Management Guide*, versions 1.7 and 1.11.
- *State of Texas Procurement Manual*, version released in 2012.
- Office policies and procedures, including:
 - ♦ *General Land Office Procurement Manual* (2011).
 - ♦ *General Land Office Contracting Manual* (August 2010, June 2013, and January 2014).
 - ♦ The Office's *Employee Handbook*.
- State of Texas's and Office's records retention schedules.

Project Information

Audit fieldwork was conducted from December 2014 through June 2015. 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:

- Justin Griffin, CISA (Project Manager)
- Rebecca Franklin, CISA, CFE, CGAP, CICA (Assistant Project Manager)
- Mary K. Anderson
- Lilia C. Srubar, CPA
- Kelli Starbird, MACT
- Jessica Volkmann
- Emily Warren
- Julia Youssefnia, CPA
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- John Young, MPAff (Audit Manager)

Related State Auditor's Office Work

Related State Auditor's Office Work		
Number	Product Name	Release Date
15-016	A Report on the Audit of the Permanent School Fund's Fiscal Year 2014 Financial Statements	January 2015
15-006	An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program	October 2014

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

General Land Office

The Honorable George P. Bush, Land Commissioner



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