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An Audit Report on

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

July 2015

Report No. 15-036



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Overall Conclusion

Compliance with HUB Requirements

Overall, in fiscal year 2014, the Commission on Environmental Quality (Commission) fully complied with the State's Historically Underutilized Business (HUB) Program requirements in the areas of planning, outreach, subcontracting, and reporting. Overall, the University of Houston (University) substantially complied with those requirements.

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

- Adopt HUB rules.
- Participate in HUB forums.
- Provide HUB coordinators with necessary resources.
- Establish a mentor-protégé program.

Both entities audited fully complied with those requirements.

The HUB requirement with the lowest level of compliance for both entities audited was the requirement for prime contractors to report to the entities on a monthly basis the identities of and amounts paid to subcontractors.

The Historically Underutilized Business (HUB) Program

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

The program was created by Texas Government Code, Chapter 2161, and the program's rules are defined in Title 34, Texas Administrative Code, Chapter 20.

For fiscal year 2014, the Office of the Comptroller of Public Accounts reported that, of the \$16.4 billion the State spent in procurement categories that were eligible for HUB participation, the State paid approximately \$2.0 billion to HUBs.

The State Use Program

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

Compliance with State Use Program Requirements

Both entities audited are also subject to the requirements of the Purchasing from People with Disabilities (State Use) Program. In fiscal year 2014, the Commission fully complied with those requirements and the University substantially complied with those requirements.

Other Issues Identified

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

Summary of Management's Response

Both entities audited agreed with the recommendations in this report.

Summary of Information Technology Review

Auditors examined the application controls and general controls for financial and purchasing applications at the Commission and the University and determined the following:

- There were weaknesses in access, management and configuration, and other operations of the Commission's information technology environment (see Chapter 1 for additional details).
- Controls at the University helped to ensure that the HUB data the University maintained and processed in its internal accounting system was sufficiently complete and accurate (see Chapter 2 for additional details).

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to determine whether selected state entities:

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

The scope of this audit covered the Commission's and the University's HUB and State Use program activities for fiscal year 2014. Auditors selected the two entities according to a risk assessment, and audited for:

- Compliance with HUB Program requirements in five areas: planning, outreach, subcontracting, reporting, and goal attainment, as defined by Texas Government Code, Chapter 2161, and Title 34, Texas Administrative Code, Chapter 20.
- Compliance with State Use Program requirements as defined by Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Chapter 189.

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

For the purposes of this audit, the level of (1) compliance with HUB and State Use program requirements and (2) HUB goal achievement was determined according to the table below.

Level of Compliance and Goal Achievement Determination	
Level of Compliance/Achievement	Percentage of Requirements With Which Entity Complied/ Percentage of Goal Achieved
Noncompliant/Not Achieved	0 to 30 percent
Minimally Compliant/Minimally Achieved	31 to 60 percent
Substantially Compliant/Substantially Achieved	61 to 90 percent
Fully Compliant/Fully Achieved	91 to 100 percent

To assess data reliability, auditors relied on previous State Auditor's Office audit work on the Uniform Statewide Accounting System (USAS) that evaluated USAS application and general controls to determine that data was sufficiently reliable for the purposes of this audit.

For the Commission, auditors also determined that spreadsheets used to track HUB supplemental data were unreliable and that subcontracting expenditure data extracted from the Commission's contract administration tracking system was of undetermined reliability. Auditors determined that the population of procurement card expenditures and contracts exceeding \$100,000 was sufficiently reliable for the purposes of this audit.

For the University, auditors also relied on previous State Auditor's Office audit work on the internal accounting system to determine that controls helped to ensure that data was sufficiently reliable for the purposes of this audit. In

addition, auditors reviewed parameters used to extract non-State-Treasury expenditures and contracts exceeding \$100,000. Auditors relied on spreadsheets used to compile (1) procurement card expenditures, (2) subcontracting expenditures, and (3) supplemental HUB reporting data.

While auditors determined that certain data sets at both entities audited were unreliable or of undetermined reliability, those data sets were the most complete populations available, and auditors determined those data sets were sufficient to sample for compliance with certain HUB requirements. As a result, the findings and conclusions in this report are subject to that limitation.

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Detailed Results

Chapter 1

The Commission on Environmental Quality

HUB Program Compliance

The Commission on Environmental Quality (Commission) fully complied, overall, with Historically Underutilized Business (HUB) Program requirements tested for fiscal year 2014. Auditors tested 15 applicable HUB Program requirements (see Table 1), and the Commission achieved a compliance level of 97 percent. The Commission reported that it purchased approximately \$21.0 million in goods and services from HUBs in fiscal year 2014.

Table 1

Commission on Environmental Quality Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
Planning			
1	Establish annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Fully Compliant	
2	Adopt HUB rules (Texas Government Code, Sections 2161.123 (d)(1) and 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
3	Prepare a strategic plan in accordance with certain requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Fully Compliant	
Outreach			
1	Provide the HUB coordinator with necessary and sufficient resources from current operations and budget to effectively promote the achievement of all the responsibilities of the HUB coordinator (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	

Commission on Environmental Quality Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
2	Participate in HUB forums (Texas Government Code, Sections 2161.123(d)(3) and 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must also advertise in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Fully Compliant	
3	Receive in-house marketing presentations from HUBs (Texas Government Code, Sections 2161.123(d)(3) and 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Fully Compliant	
4	Establish a mentor-protégé program (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Fully Compliant	
Reporting			
1	Report timely and accurate HUB expenditure and other supplemental information (for example, information on contracts awarded, HUBs that submitted bids, and participation in bond issuances) (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Substantially Compliant	<p>Auditors tested a total of 149 procurement card expenditures, bid items received, and contracts awarded and determined that the Commission complied with reporting requirements for 113 (76 percent) of the items tested.</p> <p>HUB supplemental reporting: The data the Commission used to report its HUB bid items received and contracts awarded to the Office of the Comptroller of Public Accounts was inaccurate because of issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> ▪ The Commission did not report bid items received and contracts awarded for the first half of fiscal year 2014, and the Commission omitted March 2014 bid items received and contracts awarded from its fiscal year 2014 annual HUB report. ▪ For 15 (50 percent) of 30 reported supplemental information categories tested, the Commission did not accurately classify the ethnic and gender categories. ▪ For 21 (44 percent) of 48 bids and awarded contracts tested, the Commission incorrectly reported the vendor's HUB status. <p>HUB expenditure reporting: Auditors tested 71 procurement card expenditures and identified no errors.</p>
2	Comply with progress assessment reporting requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Substantially Compliant	<p>Accuracy of amounts reported: The Commission accurately reported 92 (97 percent) of the 95 subcontracting expenditures that auditors selected for testing (that prime contractors had reported) on its fiscal year 2014 annual HUB report.</p> <p>Monthly reporting requirements: The Commission did not ensure that prime contractors submitted <i>Contractor Progress Assessment Reports</i> on a monthly basis, as required. Specifically, 31 (91 percent) of the 34 prime contractors tested did not submit all applicable <i>Contractor Progress Assessment Reports</i> during fiscal year 2014.</p>

Commission on Environmental Quality Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
3	Comply with reporting requirements in Riders 17 and 18, pages I-23 and I-24, General Appropriations Act (83rd Legislature).	Fully Compliant	
4	Comply with group purchasing reporting requirements (Texas Government Code, Section 2161.122(d), and Title 34, Texas Administrative Code, Section 20.16(d)).	Not Applicable	
Subcontracting			
1	Maintain evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Fully Compliant	
2	Obtain statements of Texas certified HUB from potential contractors (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Fully Compliant	
3	Review and evaluate HUB subcontracting plans prior to making contract awards (Title 34, Texas Administrative Code, Section 20.14(e)).	Fully Compliant	
4	Include a statement of subcontracting opportunities in solicitation documents (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Fully Compliant	
5	Use resources (such as examining the scope of work and researching the Certified Master Bidders List, the HUB Directory, and the Internet) to determine whether subcontracting opportunities are probable (Texas Government Code, Section 2161.123(d)(4)).	Fully Compliant	
Goal Attainment			
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).		
	Heavy construction contract utilization goal.	Not Applicable	
	Building construction contract utilization goal.	Not Applicable	
	Special trade construction contract utilization goal.	Not Applicable	
	Professional services contract utilization goal.	Substantially Achieved	For fiscal year 2014, the Commission's goal for professional services contracts was 23.60 percent; its actual HUB performance was 20.06 percent.

Commission on Environmental Quality Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
Other services contract utilization goal.	Fully Achieved	
Commodities contract utilization goal.	Fully Achieved	

The Commission should strengthen controls over HUB reporting to help ensure that it reports complete and accurate information.

Auditors reviewed the Commission’s support for its required supplemental HUB reports and determined that the data for those reports was unreliable. Specifically, Commission staff could not provide support for the number of HUB bids received and contracts awarded to HUB vendors for March 2014. The Commission maintains spreadsheets to compile that data, but it was unable to provide the spreadsheet for March 2014. In addition, auditors identified purchase orders associated with fiscal year 2015 expenditures that the Commission had included as part of the spreadsheets it used to compile HUB supplemental data for fiscal year 2014.

State Use Program Compliance

The Commission fully complied, overall, with the Purchasing from People with Disabilities (State Use) Program requirements tested for fiscal year 2014 (see Table 2).

Table 2

Commission on Environmental Quality Compliance with State Use Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
1	Designate a State Use coordinator to ensure compliance with State Use Program requirements (Texas Human Resources Code, Section 122.0095(a)(1)).	Fully Compliant
2	Report purchase exceptions to the Office of the Comptroller of Public Accounts and the Texas Council on Purchasing from People with Disabilities (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Fully Compliant
3	Develop documented procedures that require checking on the availability of products and services from TIBH Industries-related businesses prior to making a purchasing decision (Texas Human Resources Code, Section Code 122.008).	Fully Compliant

The Commission should improve certain aspects of its information technology environment.

Auditors relied on data from the Commission's budget and procurement systems to obtain HUB and State Use program expenditures. As a result, auditors tested application controls for those systems and determined that controls helped to ensure that data in those systems was sufficiently valid and reliable for the purposes of this audit.

However, general controls for those systems do not provide reasonable assurance that the Commission reports complete and accurate HUB and State Use program information to the Office of the Comptroller of Public Accounts. Some of the procedures auditors performed were related to previous audit findings related to password requirements and user access. Auditors identified certain weaknesses in the access to, management and configuration of, and other operations of the Commission's information technology environment, which are summarized below.

Access. Auditors identified the following user access weaknesses in the Commission's budget and procurement systems:

- Password and account lockout settings did not follow industry best practices when authenticating access to the systems.
- Security roles were not designed or granted to user accounts in a manner that provided for (1) proper segregation of duties or (2) the minimum access the account holder needed to conduct job duties.
- Individuals, including employees and contractors, retained access to systems when they no longer had a valid business reason for that access.
- System reports regarding user accounts with administrative access were based on information that was extracted incorrectly.
- System audit trails were incomplete, and the Commission could not provide documented procedures for the review of audit trails.

Management and configuration of the information technology environment. Auditors identified certain issues related to the management and configuration of the information technology environment that the Commission should improve. Due to security issues, auditors communicated details on those issues separately to Commission management.

Other operations. Auditors identified several issues in the process the Commission uses to make changes to production data to resolve problems in its budget system. The Commission was unable to provide documented, detailed policies and procedures for the processes it uses to correct problems outside of the functionality in its budget system. The Commission had documentation supporting planned changes; however, that documentation did

not include the process for handling changes that were not considered to be enhancements. Because the Commission did not have documented, detailed policies and procedures, auditors identified two changes to multiple records within the budget system for which the Commission did not have detailed information regarding (1) which records required updates and (2) the specific changes that it made to those records.

The issues discussed above could impair data integrity and result in situations in which the HUB-related budget and procurement data is unreliable.

Recommendations

The Commission should:

- Improve compliance with HUB reporting requirements by:
 - ♦ Implementing review processes to help ensure that it accurately reports all HUB-eligible expenditures.
 - ♦ Collecting and maintaining supporting documentation for its HUB reports.
 - ♦ Collecting and maintaining HUB monthly progress assessment reports for all prime contractors.
- Strengthen system access, configuration, and management controls over the systems that it uses to extract data for reports by:
 - ♦ Implementing industry best practices for passwords and account lockout settings for authentication to the various systems it uses.
 - ♦ Designing and granting to account holders security roles and permissions with the proper segregation of duties and in a manner that allows for the minimum access needed for the account holder to conduct job duties.
 - ♦ Removing access from Commission systems in a timely manner for individuals who no longer have a business need for access.
 - ♦ Correcting the report the Commission uses to report on application security and implementing processes to help ensure that reports on which staff rely are accurate.
 - ♦ Implementing and following proper policies and procedures on collecting, reviewing, and taking action on information in various system audit trails.

- ♦ Implementing changes to address other issues related to management and configuration of information resources.
- ♦ Implementing policies and procedures for correcting data in the budget system and helping to ensure that the Commission maintains proper supporting documentation.

Management's Response

The Commission Should Improve Compliance with HUB Reporting Requirements by:

Management's Response

Implementing review processes to help ensure that it accurately reports all HUB-eligible expenditures.

The Commission agrees with the recommendation. The Procurements & Contracts Section has implemented secondary review and sign-off independent of the preparer to assure the data quality and record retention of supporting documentation for HUB supplemental reporting. The Procurements & Contracts Section Manager is monitoring the process to evaluate the effectiveness of the procedure.

Responsible Party: Manager, Procurements & Contracts Section

Target Date: Implemented

Collecting and maintaining supporting documentation for its HUB reports.

The Commission agrees with the recommendation. The Procurements & Contracts Section has implemented secondary review and sign-off independent of the preparer to assure the data quality and record retention of supporting documentation for HUB supplemental reporting. The Procurements & Contracts Section Manager is monitoring the process to evaluate the effectiveness of the procedure.

Responsible Party: Manager, Procurements & Contracts Section

Target Date: Implemented

Collecting and maintaining HUB monthly progress assessment reports for all prime contractors.

The Commission agrees with the recommendation and will work to implement changes in order to comply with the requirements of 34 TAC 20.16(b). At the same time, however, TCEQ will also seek an exception or rule change from the Comptroller to allow HUB progress assessment report (PAR) submission

to match a contract's invoicing schedule. TCEQ has met and will continue to meet the requirement that a PAR form is required as a condition of payment for an invoice. TCEQ has strict HUB subcontracting plan (HSP) compliance requirements and the agency's overall compliance rating of 97% reflects this.

TCEQ currently collects and maintains monthly HUB PAR forms for many contracts; however, there are some work order-based, umbrella contracts which, due to the nature of the services provided, are not invoiced monthly. TCEQ ties the PAR form submission to the invoice to ensure all of the subcontracting activities performed for the period invoiced comply with the HSP. Requiring both invoice and PAR form also guarantees that the subcontracting payments reflected on the PAR form have been paid by the agency to ensure the accurate entry of HUB data. HUB subcontracting payments cannot be reported to the Comptroller's HUB portal for HUB credit unless the invoice has been paid. Therefore, it is a best practice to have both the PAR form and the invoice together at the same time for processing.

The agency's entire HSP review process is performed in accordance with 34 TAC 20.14 (f) and (g), and includes issuing contract HSP non-compliances, which may impact the contractor's ability to do future work with the agency if they do not fully meet the HSP contract requirements. In the absence of a rule change or exception to the rule requirement, TCEQ may have to amend contracts, and will need to train vendors, program staff, and HUB program staff to accommodate the more frequent reporting schedule. Systems and procedures will also require modification to establish and ensure HSP compliance, PAR form and invoice reconciliation, and accurate reporting.

Responsible Party: *HUB Program Coordinator*

Target Date: *August 31, 2016*

The Commission Should Strengthen System Access, Configuration, and Management Controls Over the Systems that it Uses to Extract Data for Reports by:

Management's Response

Implementing industry best practices for passwords and account lockout settings for authentication to the various systems it uses.

The Commission agrees with the recommendation. The Information Resources Division already enforces best practices for password and account lockout settings for network and database accounts, and now needs to apply these settings to NIS in order to protect Linux environments. This will be completed as part of the NIS migration to the state consolidated datacenters.

Responsible Party: *Manager, Infrastructure Management Section*

Target Date: December 31, 2015

Designing and granting to account holders security roles and permissions with the proper segregation of duties and in a manner that allows for the minimum access needed for the account holder to conduct job duties.

The Commission agrees with the recommendation. The Financial Administration Division will design a process to segregate BAMS access controls from functional staff to address the proper segregation of duties and limit access of the account holder to the level needed to conduct job duties.

Responsible Party: Special Assistant, Financial Administration Division

Target Date: December 31, 2015

Removing access from Commission systems in a timely manner for individuals who no longer have a business need for access.

The Commission agrees with the recommendation. TCEQ has an existing user access management process for network accounts that will serve as a framework for Oracle and NIS process improvement. The Information Resources Division will analyze methodology and tools, and implement configurations needed to ensure access to Commission systems is removed when individuals change roles or leave the agency.

Responsible Party: Manager, Infrastructure Management Section

Target Date: August 31, 2016

Correcting the report the Commission uses to report on the application security and implementing processes to help ensure that reports on which staff rely are accurate.

The Commission has implemented the recommendation. The BAMS application security report reflecting accounts with the system administrator role was using an obsolete field for the role name, so newer records were being excluded from the report. The report has been modified to use the correct field.

Responsible Party: Manager, Business Automation Section

Target Date: Implemented

Implementing and following proper policies and procedures on collecting, reviewing, and taking action on information in various system audit trails.

The Commission agrees with the recommendation. Financial Administration will establish policies and procedures for the use of system audit trail

information. Additional system validations will be evaluated to prevent certain actions of system administrators identified in the security sensitive portion of the report to management.

Responsible Party: *Special Assistant, Financial Administration Division*

Target Date: *December 31, 2015*

Implementing changes to address other issues related to management and configuration of information resources.

The Commission agrees with the recommendation. The Information Resources Division will address the additional items in this report and document the new configurations and requirements.

Responsible Party: *Manager, Infrastructure Management Section*

Target Date: *December 31, 2015*

Implementing policies and procedures for correcting data in the budget system and helping to ensure that the Commission maintains proper supporting documentation.

The Commission agrees with the recommendation and will add to existing policies and procedures for correcting data in BAMS, which will include collecting and maintaining proper supporting documentation.

Responsible Party: *Special Assistant, Financial Administration Division*

Target Date: *December 31, 2015*

HUB Program Compliance

The University of Houston (University) substantially complied, overall, with the HUB Program requirements tested for fiscal year 2014. Auditors tested 15 applicable HUB Program requirements (see Table 3), and the University achieved a compliance level of 64 percent. The University reported that it purchased approximately \$81.9 million in goods and services from HUBs in fiscal year 2014.

Table 3

The University of Houston Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
Planning			
1	Establish annual procurement utilization goals (Texas Government Code, Section 2161.123(d)(5)).	Minimally Compliant	While the University adopted the Office of the Comptroller of Public Accounts' HUB utilization goals, it did not have documentation showing that it considered scheduled fiscal year expenditures for each utilization category when determining its fiscal year 2014 utilization goals.
2	Adopt HUB rules (Texas Government Code, Section 2161.123 (d)(1) and 2161.003, and Title 34, Texas Administrative Code, Section 20.15(b)).	Fully Compliant	
3	Prepare a strategic plan in accordance with certain requirements (Texas Government Code, Section 2161.123, and Title 34, Texas Administrative Code, Section 20.15(a)).	Noncompliant	The University did not have a documented, written plan for fiscal year 2014. As a result, it did not have documentation showing (1) a policy or mission statement related to increasing the use of HUBs, (2) goals the University would meet in carrying out the policy or mission, (3) specific programs the University would conduct to meet the goals stated in the plan, and (4) specific program to encourage contractors to use HUBs as partners and subcontractors.
Outreach			
1	Provide the HUB coordinator with necessary and sufficient resources from current operations and budget to effectively promote the achievement of all the responsibilities of the HUB coordinator (Texas Government Code, Section 2161.062(e), and Title 34, Texas Administrative Code, Section 20.26(b)).	Fully Compliant	

The University of Houston Compliance with HUB Program Requirements			
Requirement		Compliance	Additional Information for Less Than Full Compliance
2	Participate in HUB forums (Texas Government Code, Sections 2161.123(d)(3) and 2161.066, and Title 34, Texas Administrative Code, Section 20.27(b)). If the entity hosted a forum, it must also advertise in the appropriate trade publication (Texas Government Code, Section 2161.066(e)).	Fully Compliant	
3	Receive in-house marketing presentations from HUBs (Texas Government Code, Sections 2161.123(d)(3) and 2161.066(d)(1)(2), and Title 34, Texas Administrative Code, Section 20.27(b)).	Minimally Compliant	While the University had documentation showing that it had developed its own HUB forum program, it was unable to provide documentation showing that it had sponsored presentations by HUBs, as required.
4	Establish a mentor-protégé program (Texas Government Code, Section 2161.065, and Title 34, Texas Administrative Code, Section 20.28).	Fully Compliant	
Reporting			
1	Report timely and accurate HUB expenditure and other supplemental information (for example, information on contracts awarded, HUBs that submitted bids, and participation in bond issuances) (Texas Government Code, Section 2161.122, and Title 34, Texas Administrative Code, Sections 20.16(a) and (c)).	Fully Compliant	
2	Comply with progress assessment reporting requirements (Title 34, Texas Administrative Code, Section 20.16(b)).	Noncompliant	Accuracy of amounts reported: The University accurately reported 6 (16 percent) of the 38 subcontracting expenditures auditors selected for testing (that prime contractors had reported) on its fiscal year 2014 annual HUB report. Monthly reporting requirements: The University did not ensure that prime contractors submitted <i>Contractor Progress Assessment Reports</i> on a monthly basis, as required. Specifically, 31 (86 percent) of the 36 prime contractors tested did not submit all applicable <i>Contractor Progress Assessment Reports</i> during fiscal year 2014.
3	Comply with reporting requirements in Riders 17 and 18, pages I-23 and I-24, General Appropriations Act (83rd Legislature).	Fully Compliant	
4	Comply with group purchasing reporting requirements (Texas Government Code, Section 2161.122(d), and Title 34, Texas Administrative Code, Section 20.16(d)).	Not Applicable	

The University of Houston Compliance with HUB Program Requirements		
Requirement	Compliance	Additional Information for Less Than Full Compliance
Subcontracting		
1	Maintain evidence of good-faith effort in development of HUB subcontracting plans (Texas Government Code, Section 2161.253, and Title 34, Texas Administrative Code, Section 20.14(d)(1)).	Minimally Compliant
		<p>Auditors tested 21 applicable contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For 6 (29 percent) of the 21 contract files, the University (1) did not obtain a HUB subcontracting plan or (2) did not document its determination that subcontracting was not probable or otherwise applicable. ▪ For 10 (67 percent) of the 15 contracts files that had HUB subcontracting plans, the University could not provide documentation demonstrating that it had ensured that the contractor (1) divided work into reasonable lots or portions, (2) justified the selection of non-HUB subcontractors, or (3) properly notified trade organizations of subcontracting opportunities. ▪ For 5 (33 percent) of the 15 contract files that had HUB subcontracting plans, the University complied with applicable requirements to demonstrate good-faith effort in development of HUB subcontracting plans.
2	Obtain statements of Texas certified HUB from potential contractors (Title 34, Texas Administrative Code, Section 20.14(c)(1)).	Substantially Compliant
		<p>Auditors tested 21 applicable contract files. For 15 (71 percent) of the 21 contract files, the University had documentation showing that it required respondents to (1) state whether they were certified HUBs and (2) state the overall subcontracting and certified HUB subcontracting they would provide. However, for 6 (29 percent) of the 21 contract files, the University had no such documentation.</p>
3	Review and evaluate HUB subcontracting plans prior to making contract awards (Title 34, Texas Administrative Code, Section 20.14(e)).	Noncompliant
		<p>Auditors tested 21 applicable contract files and determined the following:</p> <ul style="list-style-type: none"> ▪ For all 21 of the contract files, the University did not maintain documentation to demonstrate that it had reviewed the HUB subcontracting plans prior to awarding the contracts to determine whether the respondents had made a good-faith effort. ▪ For 7 (33 percent) of the 21 contract files, the University could not provide documentation showing that the HUB subcontracting plans were included as provisions of the contracts.
4	Include a statement of subcontracting opportunities in solicitation documents (Title 34, Texas Administrative Code, Section 20.14(b)(1)).	Substantially Compliant
		<p>Auditors tested 21 applicable contract solicitations and determined the following:</p> <ul style="list-style-type: none"> ▪ For 17 (81 percent) of the 21 contract solicitations, the University had solicitation documents stating whether subcontracting opportunities were available. ▪ For 4 (19 percent) of the 21 contract solicitations, the University determined that there were no subcontracting opportunities available; however, it did not have documentation to support that determination.

The University of Houston Compliance with HUB Program Requirements			
Requirement	Compliance	Additional Information for Less Than Full Compliance	
5	Use resources (such as examining the scope of work and researching the Certified Master Bidders List, the HUB Directory, and the Internet) to determine whether subcontracting opportunities are probable (Texas Government Code, Section 2161.123(d)(4)).	Minimally Compliant	<p>Auditors tested 34 applicable contract solicitations and determined the following:</p> <ul style="list-style-type: none"> ▪ For 13 (38 percent) of the 34 contract solicitations, the University determined that no subcontracting opportunities existed. ▪ For the remaining 21 (62 percent) contract solicitations tested: <ul style="list-style-type: none"> • The University was unable to provide documentation for 19 showing that it researched the Centralized Master Bidders List, HUB Directory, or the Internet to identify HUBs that may be available to perform the contract work. (For 17 of those 19, the University did not have documentation showing that it had examined the scope of work to determine whether subcontracting opportunities were probable, and for 4 of those 17, the University did not document that it had determined there were no subcontracting opportunities.) • The University complied with requirements that it use research resources when determining whether subcontracting opportunities were probable for 2.
Goal Attainment			
1	Comparison of entity goal to actual performance (Texas Government Code, Section 2161.123(e)).		
	Heavy construction contract utilization goal.	Not Achieved	For fiscal year 2014, the University's goal for heavy construction was 11.20 percent; its actual HUB performance was 0.00 percent.
	Building construction contract utilization goal.	Fully Achieved	For fiscal year 2014, the University's goal for all building construction was 21.10 percent; its actual HUB performance was 34.38 percent.
	Special trade construction contract utilization goal.	Fully Achieved	For fiscal year 2014, the University's goal for all special trade construction was 32.70 percent; its actual HUB performance was 40.66 percent.
	Professional services contract utilization goal.	Fully Achieved	For fiscal year 2014, the University's goal for professional services contracts was 23.60 percent; its actual HUB performance was 22.17 percent.
	Other services contract utilization goal.	Minimally Achieved	For fiscal year 2014, the University's goal for all other services contracts was 24.60 percent; its actual HUB performance was 14.27 percent.
	Commodities contract utilization goal.	Fully Achieved	For fiscal year 2014, the University's goal for commodities contracts was 21.0 percent; its actual HUB performance was 22.72 percent.

Auditors reviewed general and application controls at the University and determined that those controls helped to ensure that the HUB data the University maintained and processed in its internal accounting system was sufficiently complete and accurate. Auditors communicated other, less significant issues to University management separately in writing.

State Use Program Compliance

The University substantially complied, overall, with the State Use Program requirements tested for fiscal year 2014 (see Table 4).

The University did not implement a process to determine whether goods and services were available from TIBH Industries. As a result, it did not report any exceptions during fiscal year 2014. Specifically, 10 (21 percent) of 48 purchases tested were available through TIBH Industries, but the University made the purchases elsewhere. The remaining 38 purchases were not available through TIBH Industries.

Table 4

The University of Houston Compliance with State Use Program Requirements			
	Requirement	Compliance	Additional Information for Less Than Full Compliance
1	Designate a State Use coordinator to ensure compliance with State Use Program requirements (Texas Human Resources Code, Section 122.0095(a)(1)).	Fully Compliant	
2	Report purchase exceptions to the Office of the Comptroller of Public Accounts and the Texas Council on Purchasing from People with Disabilities (Texas Human Resources Code, Sections 122.0095(a)(2), 122.0095(c), and 122.016(c), and Title 40, Texas Administrative Code, Section 189.2(9)).	Noncompliant	The University did not submit any exception reports to the Office of the Comptroller of Public Accounts and the Texas Council on Purchasing from People with Disabilities during fiscal year 2014.
3	Develop documented procedures that require checking on the availability of products and services from TIBH Industries-related businesses prior to making a purchasing decision (Texas Human Resources Code, Section Code 122.008).	Fully Compliant	

Recommendations

The University should:

- Improve compliance with HUB planning requirements by ensuring that it:
 - ♦ Considers scheduled fiscal year expenditures for each utilization category when determining its HUB utilization goals.
 - ♦ Creates a written plan that includes:

- A policy or mission statement related to increasing the use of HUBs.
 - Goals to be met in carrying out the policy or mission.
 - Specific programs to meet the goals.
 - Specific programs to encourage contractors to use HUBs as partners and subcontractors.
- Improve compliance with HUB outreach requirements by sponsoring in-house marketing presentation by HUBs.
 - Improve compliance with HUB reporting requirements by:
 - ♦ Accurately reporting all HUB-eligible expenditures.
 - ♦ Collecting and maintaining HUB monthly progress assessment reports for all prime contractors.
 - Improve compliance with HUB subcontracting requirements by:
 - ♦ Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.
 - ♦ Maintaining documentation to support its determinations regarding subcontracting opportunities.
 - ♦ Maintaining documentation showing that contractors included all required elements demonstrating evidence of their good-faith effort in developing HUB subcontracting plans.
 - ♦ Requiring respondents to state (1) whether they are certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided.
 - ♦ Reviewing and evaluating HUB subcontracting plans prior to awarding contracts.
 - ♦ Including approved HUB subcontracting plans as provisions of contracts.
 - ♦ Including in solicitation documents the probability of HUB subcontracting opportunities.
 - ♦ Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether HUB subcontracting opportunities are probable.

- ♦ Examining the scope of work and making determinations regarding the probability of HUB subcontracting opportunities.
- Improve compliance with State Use Program requirements by:
 - ♦ Implementing a process to determine whether goods and services are available from TIBH Industries and retaining documentation showing that it followed that process.
 - ♦ Reporting non-State Use Program purchases and exceptions.

Management's Response

Overall Management Response:

The University of Houston is fully committed to developing and maintaining a successful and compliant HUB program. In July 2014, UH hired a HUB Program Director to place greater emphasis on the HUB program, and a HUB Specialist was hired in May 2015 to assist the Director with outreach, education, and reporting. Most of the recommendations in the State Auditor's report were implemented by the HUB Program Director in FY2015 shortly after she joined UH. However, since the period reviewed in the audit was FY2014, those policies and procedures were not considered by the State Auditor when determining whether UH was in compliance with state HUB requirements. We expect to be fully compliant with all aspects of the HUB and State Use programs by September 2015, as indicated below.

SAO Recommendation:

- *Improve compliance with HUB planning requirements by ensuring that it:*
 - ♦ *Considers scheduled fiscal year expenditures for each utilization category when determining its HUB utilization goals.*
 - ♦ *Creates a written plan that includes:*
 - *A policy or mission statement related to increasing the use of HUBs.*
 - *Goals to be met in carrying out the policy or mission.*
 - *Specific programs to meet the goals.*
 - *Specific programs to encourage contractors to use HUBs as partners and subcontractors.*

Management Response:

The University of Houston concurs with the recommendation and implemented procedures to improve compliance with HUB planning requirements.

Target completion date: Completed and on-going.

SAO Recommendation:

- *Improve compliance with HUB outreach requirements by sponsoring in-house marketing presentation by HUBs.*

Management Response:

The University of Houston concurs with the recommendation and implemented procedures to improve compliance with HUB outreach requirements.

Target completion date: Completed and on-going.

SAO Recommendation:

- *Improve compliance with HUB reporting requirements by:*
 - ♦ *Accurately reporting all HUB-eligible expenditures.*
 - ♦ *Collecting and maintaining HUB monthly progress assessment reports for all prime contractors.*

Management Response:

The University of Houston concurs with the recommendation and will develop procedures to improve compliance with HUB reporting requirements by September 2015.

Target completion date: September 2015

Responsible person: Controller

SAO Recommendation:

- *Improve compliance with HUB subcontracting requirements by:*
 - ♦ *Requiring respondents to submit completed HUB subcontracting plans demonstrating evidence of good-faith effort in developing those plans.*
 - ♦ *Maintaining documentation to support its determinations regarding subcontracting opportunities.*

- ♦ *Maintaining documentation showing that contractors included all required elements demonstrating evidence of their good-faith effort in developing HUB subcontracting plans.*
- ♦ *Requiring respondents to state (1) whether they are certified HUBS and (2) overall subcontracting and certified HUB subcontracting to be provided.*
- ♦ *Reviewing and evaluating HUB subcontracting plans prior to awarding contracts.*
- ♦ *Including approved HUB subcontracting plans as provisions of contracts.*
- ♦ *Including in solicitation documents the probability of HUB subcontracting opportunities.*
- ♦ *Using resources such as the Centralized Master Bidders List, the HUB Directory, and the Internet to determine whether HUB subcontracting opportunities are probable.*
- ♦ *Examining the scope of work and making determinations regarding the probability of HUB subcontracting opportunities.*

Management Response:

The University of Houston concurs with the recommendation and implemented procedures to improve compliance with HUB subcontracting requirements.

Target completion date: Completed and on-going.

SAO Recommendation:

- *Improve compliance with State Use Program requirements by:*
 - ♦ *Implementing a process to determine whether goods and services are available from TIBH Industries and retaining documentation showing that it followed that process.*
 - ♦ *Reporting non-State Use Program purchases and exceptions.*

Management Response:

The University of Houston concurs with the recommendation and will develop procedures to improve compliance with State Use Program requirements by September 2015.

Target completion date: September 2015

Responsible person: Controller

Appendix

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether selected state entities:

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

Scope

The scope of this audit covered two state entities' HUB and State Use program activities for fiscal year 2014. Auditors selected the two entities according to a risk assessment and audited for:

- Compliance with HUB Program requirements in five areas: planning, outreach, subcontracting, reporting, and goal attainment, as defined by Texas Government Code, Chapter 2161, and Title 34, Texas Administrative Code, Chapter 20.
- Compliance with State Use Program requirements as defined by Texas Human Resources Code, Chapter 122, and Title 40, Texas Administrative Code, Chapter 189.

The two state entities audited were:

- The Commission on Environmental Quality (Commission).
- The University of Houston (University).

Methodology

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

For the purposes of this audit, compliance with HUB and State Use program requirements was determined at the attribute level, rather than the transaction level. HUB goal achievement was determined by the percentage of goal achieved. The level of (1) compliance with HUB and State Use program requirements and (2) HUB goal achievement was determined according to the table below.

Level of Compliance and Goal Achievement Determination	
Level of Compliance/Achievement	Percentage of Requirements With Which Entity Complied/ Percentage of Goal Achieved
Noncompliant/Not Achieved	0 to 30 percent
Minimally Compliant/Minimally Achieved	31 to 60 percent
Substantially Compliant/Substantially Achieved	61 to 90 percent
Fully Compliant/Fully Achieved	91 to 100 percent

In An Audit Report on Selected State Entities' Compliance with Requirements Related to the Historically Underutilized Business Program and the State Use Program (State Auditor's Office Report No. 15-006, October 2014) the State Auditor's Office reported the following:

In accordance with Texas Government Code, Section 2161.253(e), and Title 34, Texas Administrative Code, Section 20.14(c)(2), the Comptroller's Office provides a form for contractors to document their good-faith efforts related to certain HUB requirements. However, that form does not fully address all requirements because it does not include a section for contractors to document their notification to minority or women trade organizations of HUB subcontracting opportunities in accordance with Title 34, Texas Administrative Code, Section 20.14(d)(1)(c). In addition, that form does not include a space for contractors to document their reasons for selecting non-HUB vendors for subcontracting opportunities in accordance with Title 34, Texas Administrative Code, Section 20.14(d)(1)(B).

During this audit, auditors did not conduct testing for that requirement at the Commission and the University because, as of September 22, 2014, the Comptroller's Office had made revisions to the Texas Administrative Code to address that finding. Auditors did not perform any follow up work on prior-year audit findings.

Auditors performed follow up procedures at the Commission on prior year findings related to password requirements and user access and communicated the results of those procedures separately to management in writing.

Sampling Methodology

At each entity audited, to test compliance with HUB requirements regarding subcontracting expenditures, procurement card expenditures, *Contractor Progress Assessment Reports*, and non-State-Treasury expenditures at the University, auditors selected a non-statistical sample of expenditures primarily through random selection.

To test compliance with HUB subcontracting plan requirements at the Commission, auditors selected a non-statistical sample of contracts exceeding \$100,000 through random selection.

To test compliance with HUB subcontracting plan requirements at the University, auditors selected a non-statistical sample of contracts exceeding \$100,000 through random selection. Auditors also used professional judgement to select an additional item; however, that item may not be representative of the population and, therefore, it would not be appropriate to extrapolate results to the population.

At each entity audited, to test compliance with HUB supplemental reporting requirements, auditors selected a non-statistical sample of bids received and contracts awarded, primarily through random selection.

To test compliance with State Use Program requirements at the University, auditors selected a non-statistical sample of non-TIBH Industries expenditures, primarily through random selection.

To test compliance with State Use Program requirements at the Commission, auditors selected a non-statistical sample of non-TIBH Industries expenditures and exception report items through random selection. Auditors also used professional judgement to select an additional exception report item; however, that item may not be representative of the population and, therefore, it would not be appropriate to extrapolate results to the population.

Except for the sample noted above, results may be extrapolated to the population, but the accuracy of the extrapolation cannot be measured.

Data Reliability and Completeness

Auditors used expenditure information in the Uniform Statewide Accounting System (USAS) and relied on previous State Auditor's Office audit work that evaluated USAS application and general controls to determine that data was sufficiently reliable for the purposes of this audit.

Data Reliability and Completeness at the Commission

Auditors examined general controls and application controls for the Budgeting, Accounting, and Management System (BAMS), which the Commission uses to record encumbrances and process vendor payments. Auditors determined that controls did not provide reasonable assurance that the Commission reports complete and accurate information to the Comptroller's Office due to issues related to access and the management and configuration of the structure for the budget and procurement systems (see Chapter 1 for additional details).

Auditors determined that the data in the spreadsheets the Commission used to report its HUB supplemental information was unreliable; however, it was the most complete population available and, therefore, auditors determined the data was sufficient to sample for compliance with HUB supplemental reporting requirements. As a result, the findings and conclusions in this report are subject to that limitation.

Auditors relied on subcontracting expenditure data extracted from the Commission's contract administration tracking system. Auditors reviewed the parameters used to extract populations of HUB subcontracting expenditures. While auditors determined the data was of undetermined reliability, the population was the most complete population available and, therefore, auditors determined that it was sufficient to sample for compliance with HUB subcontracting expenditure reporting requirements. As a result, the findings and conclusions in this report are subject to that limitation.

Auditors were able to re-create the Commission's procurement card expenditures and contracts exceeding \$100,000 using the Commission's methodology and, therefore, determined that those populations were sufficiently reliable for the purposes of this audit.

Data Reliability and Completeness at the University

Auditors relied on previous State Auditor's Office audit work on the PeopleSoft internal accounting system at the University that evaluated the application and general controls to determine that controls helped to ensure that data was sufficiently reliable for the purposes of this audit.

Auditors reviewed parameters used to extract non-State-Treasury expenditures and contracts exceeding \$100,000. In addition, auditor relied on spreadsheets the University used to report its HUB supplemental information, subcontracting expenditures, and procurement card expenditures. While auditors determined those data sets were of undetermined reliability, they were the most complete populations available and, therefore, auditors determined they were sufficient to sample for compliance with HUB expenditure reporting and contracting requirements. As a result, the findings and conclusions in this report are subject to that limitation.

Information collected and reviewed included the following:

- HUB and State Use program reports and supporting schedules.
- Strategic plans, written plans, and *Contractor Progress Assessment Reports*.
- Contracts and solicitation documents between the audited entities and prime contractors.
- Audited entities' policies and procedures.
- Job description for HUB positions.
- HUB subcontracting plans and the Comptroller's Office's 2014 HUB directory.
- HUB forum and marketing advertisements, agendas, sign-in sheets, and email notifications.
- Purchase orders, invoices, and other supporting expenditure documentation.
- Prior State Auditor's Office reports.
- Reports and information associated with the implementation of Riders 17 and 18, pages I-23 and I-24, General Appropriations Act (83rd Legislature), and Texas Government Code, Section 2161.002(d).

Procedures and tests conducted included the following:

- Reviewed HUB utilization goals, supporting schedules, and rules.
- Interviewed HUB coordinators, State Use Program coordinators, and procurement management and staff.
- Reviewed contract records.
- Reviewed HUB subcontracting plans.
- Performed financial analysis.
- Reviewed monthly HUB *Contractor Progress Assessment Reports*.
- Tested HUB expenditures.
- Tested State Use Program expenditures.

- Reviewed entities' status of implementation of Riders 17 and 18, pages I-23 and I-24, General Appropriations Act (83rd Legislature), and Texas Government Code, Section 2161.002(d).

Criteria used included the following:

- Texas Government Code, Chapter 2161.
- Texas Human Resources Code, Chapter 122.
- Title 34, Texas Administrative Code, Chapter 20.
- Title 40, Texas Administrative Code, Chapter 189.
- Title 1, Texas Administrative Code, Chapter 202.
- General Appropriations Act (83rd Legislature).
- Comptroller's Office's Attachment - C: Fiscal 2014 Annual Statewide Historically Underutilized Business (HUB) Reporting Procedures.
- Comptroller's Office's *TCPD State Use Program Training Manual*.

Project Information

Audit fieldwork was conducted from January 2015 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:

- Courtney Ambres-Wade, CGAP (Project Manager)
- Michael Yokie, CISA (Assistant Project Manager)
- Ileana Barboza, MBA, CGAP
- Pamela A. Bradley, CPA
- John Paul Hicks, MBA
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- Mary Ann Wise, CPA, CFE (Quality Control Reviewer)

- Cesar Saldivar, CGAP (Audit Manager)

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