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OPINION COMMITTEE

FILE # ML-46749-11

I.D. # 46749

RQ-0971-GA

The Honorable Greg Abbott
Attorney General, State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Re: Attorney General Opinion request relating to the Medicaid and Public Assistance Fraud Oversight Task Force

Dear General Abbott:

The Comptroller of Public Accounts (Comptroller) respectfully requests an Attorney General opinion relating to whether the Medicaid and Public Assistance Fraud Oversight Task Force (Task Force) is an "advisory committee," as defined by Texas Government Code Section 2110.001.

The Task Force was created by S.B. 30, 75th Leg., R.S., effective September 1, 1997 (codified at Texas Government Code Section 531.107). **The Comptroller** serves as the presiding officer of the Task Force. *Id.* § 531.107(c). The Task Force is required to meet at least once each fiscal quarter at the call of the presiding officer. *Id.* § 531.107(d).

Texas Government Code Chapter 2110 contains certain provisions generally applicable to state agency "advisory committees," which it defines as follows:

In this chapter, "advisory committee" means a committee, council, commission, task force, or other entity with multiple members that has as its primary function advising a state agency in the executive branch of state government. TEX. GOV'T CODE ANN. § 2110.001 (emphasis added).

The Task Force's enabling statute gives it two functions. The statute provides that the Task Force advises and assists the Commission in improving the efficiency of fraud investigations and collections. TEX. GOV'T CODE ANN. § 531.107(a).

In a 1998 letter opinion, the Texas Attorney General opined on the applicability of Texas Government Code Section 2110.001 to the Texas Crime Stoppers Advisory Council. (Tex. Att'y Gen. LO98-059 (1998)). Although the opinion seemed to ultimately rest on the fact that the council did not advise a state agency, the opinion still gives some guidance as to what is meant by "primary function."

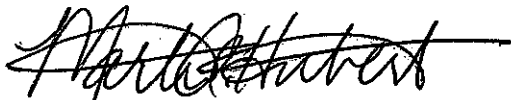
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The Attorney General opined that given the variety of functions assigned to the council and the nature of the council's authority, it could not conclude that the council's "primary function" was advising a state agency in the executive branch of state government. *Id.* at 3.

The Task Force's enabling statute does not indicate whether advising or assisting is the "primary function" of the Task Force. TEX. GOV'T CODE ANN. § 531.107(a). The statute does not indicate that one is more important than the other. *Id.* The Task Force has two functions, but not a "primary function." *Id.*

In arriving at a decision and rendering your opinion as to whether or not Texas Government Code Section 2110.001 is applicable to the Task Force, I would submit that because the Task Force has two statutory duties that are coequal, it does not have a primary function of "advising," and therefore is outside the scope of Texas Government Code 2110.001 and Chapter 2110 as a whole.

Sincerely,



Martin A. Hubert
Deputy Comptroller