



Comment: In Texas, appearances really do matter

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Michael Quinn Sullivan
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The appearance of impropriety is almost as bad as the reality. And in the convergent world of politics and policy, appearance and reality are all but inseparable.

The state auditor recently concluded a review of the office of the comptroller, issuing a report that found irregularities and prompted cries of outrage, disgust and bemusement — from all sides, depending on their point of view.

Regardless of one's views of Carole Keeton Strayhorn, her performance as comptroller or the manner in which she has run her office, the recommendations offered by the independent auditor should be a wake-up call to Texans concerned with transparent government.

A recommendation lost in the media-political hoopla surrounding the report's release was the suggestion that the Legislature "transfer the authority to conduct tax dispute hearings from the Comptroller's Office to the State Office of Administrative Hearings or another independent entity." What's the big deal?

In dealings with the state, businesses disputing their taxes essentially have their argument with the comptroller. The comptroller appoints the administrative law judges assigned to settle those disputes.

The office of the comptroller in essence serves as both the prosecutor and judge — hardly an enviable position for the disputing taxpayer. The obvious potential for abuse cannot be overstated.

The headline-grabbing findings of the auditor point to the problem of an appearance, if not necessarily the presence, of malfeasance. The report noted some 3,656 tax settlements (which is a favorable condition to the taxpayer disputing a tax liability with the state) occurred within a year of a political contribution being made. Large firms that handle tax disputes for clients were among the big contributors to the comptroller's campaign funds, the auditor found. In fact, they made some \$1.7 million in campaign contributions from 1998 to 2004.

Not surprising. After all, those working in agriculture give to the ag commissioner candidates, lawyers contribute to judicial races, and oil-and-gas types give to the railroad commission (which has regulatory authority for reasons grounded in the 19th century).

Where government power to affect an individual's prosperity and livelihood is concentrated, the individual can be expected to be politically friendly with the holder of that power. The greater

the power, the greater the stakes and, therefore, the greater the desire to be friendly.

Does that political friendship create the likelihood of abuse of power? Perhaps. But certainly the appearance of impropriety, of favoritism, is a dangerous thing. It causes to fester the unpleasant disease of distrust that so many in the public feel toward our political systems, eroding the necessary confidence in our democratic republic.

And that is precisely why systems of checks and balances must be in place, ensuring that honorable officeholders are not tempted to behave less than honorably. The public must be given the assurance that cases affecting the welfare of our state are handled wisely, fairly and with great deliberation — not determined by the passing of a check.

Perhaps the system has worked appropriately for many years. Or maybe it is rife with untold abuse. But the variety of concerns raised by the auditor's report on the office of the comptroller should be seriously considered and the recommendations implemented immediately.

Texas deserves both the reality and appearance of propriety.

Michael Quinn Sullivan is vice president of the Texas Public Policy Foundation, a nonprofit, nonpartisan, Austin-based research institute.

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