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An Audit Report on

The Department of Criminal Justice's Oversight of Selected Providers That Deliver Residential Services and Substance Abuse Treatment Programs

March 2010
Report No. 10-025



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Overall Conclusion

The Department of Criminal Justice (Department) has assigned its Private Facilities Contract Monitoring and Oversight Division (Division) the responsibility for assessing the contract compliance of its private facility providers (providers) that deliver residential services and substance abuse treatment programs through the operation of secure correctional facilities, halfway houses, work release programs, and substance abuse treatment programs. The Division has established contract administration and monitoring processes to ensure that:

- The services delivered by providers comply with contract requirements.
- Criminal history checks are performed on providers' employees and subcontract workers.
- The Department's payments to providers are accurately calculated and processed in a timely manner.

However, the Department should address weaknesses identified in its contracts with providers that, if corrected, would allow its contract monitors to provide greater assurances that providers are delivering quality services and achieving desired results. Specifically, the Department's contracts with providers do not consistently include the contract requirements necessary to assess the quality of the services its providers deliver. Auditors reviewed 16 of the Department's contracts with providers and found:

- The Department did not consistently include in its contracts performance standards to help ensure that the Department can hold its providers accountable for unacceptable performance or contract non-compliance. Although the Department included requirements in its contracts that define the services that

Background Information

The Private Facilities Contract Monitoring and Oversight Division (Division) is responsible for monitoring the contract compliance of private facility providers (providers) that operate secured correctional facilities, halfway houses, work release programs, and substance abuse treatment programs. The Board of Criminal Justice approved the Division as an independent division in May 2007.

For fiscal year 2009, the Division reported an operating budget of approximately \$3 million and a staff of 40 contract monitors who were responsible for monitoring 68 contracts with 33 different providers. The Department's payments to these providers totaled \$235 million in fiscal year 2008 and \$255 million in fiscal year 2009.

As of September 1, 2009, the Department had contracted for a total of 20,722 beds and 6,855 treatment slots with providers.

must be delivered to ensure the health, safety, and well-being of its offenders, it did not consistently define the performance standards that would be used to evaluate the quality of the services delivered by providers.

- The Department did not consistently include financial reporting requirements in its contracts. Although the Department included financial reporting requirements in seven contracts with providers that operated substance abuse treatment programs, it did not include financial reporting requirements in seven contracts with providers that operated secured correctional facilities or in two contracts with providers that operate halfway houses.

In addition, the Department allowed three providers that operated a certain type of substance abuse treatment program to conduct their own criminal history checks of employees and subcontract workers, even though the Division conducts criminal history checks for employees and subcontract workers of all other providers.

Key Points

The Department's contracts did not consistently include provisions that are necessary to ensure that providers are accountable for the delivery of quality services and substance abuse treatment programs, as well as provisions essential to protecting the State's interest.

Auditors reviewed 16 (24 percent) of the Department's 68 contracts with providers (7 secured correctional facilities, 7 substance abuse treatment programs, and 2 halfway houses). In those 16 contracts, auditors determined that:

- The Department did not consistently include performance standards in its contracts with providers. Performance standards help the Department to hold its providers accountable for unacceptable performance or noncompliance with contract requirements. Auditors determined that the Department included performance standards for certain requirements in its provider contracts; however, these performance standards were not consistently included in all provider contracts.
- The Department did not include in its contracts with providers that operate transitional treatment centers, which are a type of facility that operates substance abuse treatment programs, performance standards that would be used to evaluate the quality of the treatment programs. However, it did include performance standards in its contracts with providers that operate substance abuse felony punishment/in-prison therapeutic program, which is another type of substance abuse treatment program.
- Seven contracts with providers that operate secured correctional facilities and two contracts with providers that operate halfway houses did not have financial reporting requirements. As a result, the Division has limited information regarding these providers' internal controls over financial processes. However,

the Department included financial reporting requirements in seven contracts with providers that operate substance abuse treatment programs.

The Department did not clearly define the roles and responsibilities of its three divisions that oversee providers that operate substance abuse treatment programs.

Although the Division is recognized by the Department as the contract monitoring entity over substance abuse treatment program providers, the Division's role is limited to monitoring a provider's compliance to certain contract requirements. The Rehabilitation Programs Division and the Parole Division are responsible for monitoring the quality of the substance abuse treatment programs. However, the monitoring relationships among the divisions are not defined and documented to ensure that the monitoring activities are efficiently coordinated and communicated among the divisions.

The Department did not maintain documentation to justify its decision to renew provider contracts.

The Department did not have documentation to demonstrate that it considered providers' contract compliance or performance history in its contract renewal decisions. The Department's supporting documentation for its contract renewal decisions showed that the appropriate management reviewed and approved requests for contract renewal; however, the supporting documentation did not include any information that described the performance or compliance history of the providers.

The Department allowed certain types of substance abuse treatment program providers to perform their own criminal history checks.

The Department allowed providers that operate substance abuse felony punishment/in-prison therapeutic programs to process their own criminal history checks with the Department of Public Safety, instead of requiring the criminal history checks to be processed through the Division as other providers are required to do. (See Appendix 3 for more information about substance abuse felony punishment/in-prison therapeutic programs.) Although the Department reported that these providers were still required to obtain approval from the Rehabilitation Programs Division to hire any employees or subcontract workers that had a criminal history, the Rehabilitation Programs Division did not ensure that these providers were performing criminal history checks on all employees and subcontract workers.

Thirty-one (78 percent) of 40 contract monitors documented the qualifications necessary to monitor providers in their job applications.

Based on auditors' review of the Department's contract monitors' job applications, 31 of 40 contract monitors met the minimum qualifications and experiences necessary to adequately monitor a provider's contract compliance. These minimum requirements include: (1) a bachelor's degree from an accredited 4-year university and (2) 4 to 7 years of relevant work experience in criminal justice,

which may include prior work experience in Department-secured correctional facilities. In addition, contract monitors that monitor financial activities and substance abuse treatment programs documented in their job applications that they had the necessary prior work experience, which included auditing, evaluating, and reviewing contract compliance, monitoring financial activities, and/or working in substance abuse/therapeutic programs. Auditors could not determine whether the remaining nine contract monitors met the minimum qualifications because the Department reported that seven of the contract monitors were transferred or reassigned from prior positions and did not have to complete an application for the contract monitoring position, and that it destroyed the applications for two employees in accordance with the Department's record retention schedule.

Summary of Management's Response

The Department agrees with the findings and recommendations in this report. The management responses to the specific recommendations in this report are presented immediately following each set of recommendations in the Detailed Results section of this report.

Summary of Information Technology Review

Auditors examined the Department's Strength application, which tracks the receipt, departure, and transfer of each offender in Texas prisons. Although the Strength application had controls that provided assurances that the daily starting and ending counts of offenders entered into the Strength application were accurate, auditors identified weaknesses in certain access controls over the Strength application that increase the risk that other data may be inaccurate.

Auditors also examined the Department's Authorization Management System, which is the automated billing system the Department uses to process payments for substance abuse treatment program providers. The Authorization Management System had the necessary controls in place to ensure the accuracy of billing information submitted through the system. However, the Department had not developed necessary security administration processes over the system.

In addition, auditors examined the Department's financial accounting system. The Department had the necessary controls in place to ensure that the system's financial transactions are complete, accurate, timely, and authorized.

To minimize the risks associated with public disclosure, auditors communicated in writing details about confidential and sensitive information technology issues directly to the Department's management.

Summary of Objective, Scope, and Methodology

The objective of this audit was to determine whether the activities of the Division at the Department provide reasonable assurance that contractors operating private facilities comply with contractual terms governing operations and financial matters.

The scope of this audit included reviewing the accuracy and completeness of the Division's contract administration, monitoring, and renewal activities during fiscal years 2008 and 2009.

The audit methodology included reviewing judgmentally selected provider monitoring reports, collecting information and documentation, performing selective tests and other procedures, analyzing and evaluating the results of tests, and interviewing Department management and staff. Auditors also accompanied contract monitors during on-site monitoring visits to eight provider facilities: the Bridgeport Pre-Parole Transfer Facility (Corrections Corporation of America); the Dawson State Jail (Corrections Corporations of America); the El Paso Halfway House and Transitional Treatment Center (Southern Corrections); the Dallas Transitional Treatment Center (Gateway Foundation); the South Texas Intermediate Sanction Facility (The GEO Group); the Beaumont Transitional Treatment Center (Spindletop MHMR Services); the Travis County Jail (Turning Point); and the Dallas Transitional Treatment Center (The Salvation Army).

Other Information

An immediate family member of the State Auditor is registered with the State Ethics Commission as a government relations employee of a firm that conducts lobbying efforts on behalf of a contractor included in the scope of this audit. This condition could be seen as potentially affecting our independence in reporting results related to this contractor. This condition did not affect our audit conclusions. This condition is discussed further in Appendix 1 of this report.

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Detailed Results

Chapter 1

The Department Has Processes to Monitor Private Facility Providers; However, It Should Strengthen Certain Contract Monitoring Weaknesses to Ensure That Providers Comply with Contract Requirements

The Department of Criminal Justice's (Department) Private Facilities Contract Monitoring and Oversight Division (Division) has administrative processes to

determine whether (1) payments to private facility providers (providers) are calculated accurately and processed in a timely manner, (2) criminal history checks are performed on providers' employees and subcontract workers, and (3) providers are delivering services in compliance with contract requirements (see text box for information on the types of provider contracts).

However, weaknesses exist in certain areas of the Department's contract monitoring processes. The Department should address these weaknesses to provide greater assurance that its providers are complying with contract requirements and delivering quality services. Specifically:

Private Facility Contracts

The Private Facilities Contract Monitoring and Oversight Division (Division) monitors the contract compliance of providers that deliver the following types of residential services and substance abuse treatment programs:

- Private correctional centers.
- Private state jail facilities.
- Pre-parole transfer facilities.
- Lockhart Work Program.
- Intermediate sanction facilities.
- Contract transfer facilities (which provide temporary capacity beds).
- Halfway houses.
- County Jail Work Release Program.
- Substance abuse felony punishment facilities and In-prison therapeutic community.
- Transitional treatment centers.
- State Jail Substance Abuse Program.
- Driving While Intoxicated.

See Appendix 3 for detailed information about each type of private facility provider.

- Auditors reviewed 16 of the Department's 68 contracts with providers. In those 16 contracts, the Department did not consistently include performance standards for assessing a provider's compliance with certain contract requirements.

- The Department also did not require periodic financial reports or independent audits in its contracts with providers that operate secured correctional facilities or halfway houses; however, the Department included such requirements in its contracts with providers that operate substance abuse

treatment facilities.

- While the Department has processes to monitor providers' performance and contract compliance for selected activities, it has not clearly defined the contract monitoring responsibilities of the three divisions charged with oversight responsibilities: the Division, the Rehabilitation Programs Division, and the Parole Division. In addition, the Department did not consistently maintain adequate documentation of its justifications for renewing contracts or of monitoring visits to halfway houses and substance abuse treatment programs. The Department also lacks guidelines to ensure that noncompliance issues are corrected before it closes the monitoring reports.

The Department Has Established Processes for Processing Provider Payments and Conducting Criminal History Checks

The Division's processes for paying its providers and conducting criminal history checks help to ensure that the Division:

- Processed provider invoices in a manner that ensured payments were calculated accurately and were processed in a timely manner. This process included assessing financial penalties for noncompliance issues identified during monitoring reviews. Examples of noncompliance issues included the failure to perform criminal history checks on staff and subcontract workers, not having adequate insurance coverage, and not hiring and retaining an adequate number of qualified staff. (See Appendix 4 for a complete listing of Department's compliance standards and performance measures it used to assess providers' contract compliance.)
- Performed pre-employment and annual criminal history checks on most of its providers' employees and subcontract workers. However, the Department allowed certain providers to perform their own criminal history checks (see Chapter 2-A for more information about providers' criminal history checks).

Although the Department has processes to monitor providers' compliance with contract requirements, it has not documented its policies and procedures related to these monitoring activities (see Chapter 1-C for more information regarding the Department's lack of documented policies and procedures).

The Department's Contracts Did Not Consistently Include Provisions Necessary to Ensure That Providers Are Accountable for the Delivery of Quality Services and Substance Abuse Treatment Programs or Provisions Essential to Protecting the State's Interest

The 16 contracts reviewed did not consistently include certain performance standards that would help the Department to evaluate its providers' performance and compliance with contract requirements intended to ensure the health, safety, and welfare of offenders (see text box for more information

about the provider contracts that auditors reviewed). In addition, the Department did not consistently include (1) performance standards for evaluating the quality of treatment services delivered by providers that operate substance abuse treatment facilities or (2) financial reporting requirements in its contracts with providers.

The Department did not consistently include performance standards necessary to evaluate its providers' compliance with certain contract requirements.

In the 16 contracts reviewed, the Department did not consistently include performance standards for assessing a provider's compliance with certain contract requirements. These standards are necessary to help the Department effectively evaluate and measure a provider's performance and compliance with contract requirements. Texas Government Code, Section 495.008 (b) (2), requires the Department to ensure that its contracts include minimum acceptable performance standards that include provisions regarding the health, safety, and welfare of offenders. The Department's contracts with providers that operate different types of facilities and substance abuse treatment

programs all included requirements related to various areas of care that offenders should receive, including those in food services, health services, education, and other components of daily life. However, the Department did not always include in its contracts related performance standards (which the Department refers to as either compliance standards or performance measures¹) necessary to evaluate and measure its providers' compliance with these requirements. (See Appendix 4 for more information on the compliance standards and performance measures that the Department included in provider contracts.)

For example, the Department's contracts with providers that operate secured correctional facilities contained requirements and compliance standards related to a provider's timely review and reporting of altercations and

Private Facility Provider Contracts

Auditors reviewed 16 of the Department's contracts with providers that operate secured correctional facilities, halfway houses, and substance abuse treatment programs. Specifically, auditors reviewed:

- Four transitional treatment center contracts.
- Three substance abuse felony punishment/in-prison therapeutic program contracts.
- Two halfway house contracts.
- Two state jail contracts.
- Two correctional center contracts.
- Two intermediate sanction facility contracts.
- One pre-parole transfer facility contract.

See Appendix 3 for more information about the facilities and programs operated by providers.

¹ The Department refers to the compliance standards in its contracts with providers that operate substance abuse felony punishment/in-prison therapeutic facilities as "performance measures."

incidents involving offenders to the Department. While the Department's contracts with providers that operate substance abuse treatment programs contain requirements related to the timely reporting of grievances and disciplinary actions involving offenders, those contracts did not contain any performance standards for determining acceptable or unacceptable compliance with those requirements.

In addition, the Department did not consistently include performance standards that could be used to evaluate the providers' performance or compliance for all contract requirements. For example, auditors reviewed four contracts with providers that operate transitional treatment centers that

Transitional Treatment Centers

Transitional treatment centers are privately owned and operated community-based facilities that provide substance abuse aftercare treatment to offenders on parole, mandatory supervision, or community supervision (probation).

required these providers to ensure that their buildings are secure and that they have the security equipment necessary to maintain control over the offenders in their care (see text box for more information about transitional treatment centers). However, the Department did not include performance standards in its contracts that it could use to determine acceptable compliance with this requirement. It should be noted, however, that the Department does use a contract monitoring tool to annually assess risk-based

selected providers for compliance to the security-related requirements discussed above, including conducting an examination to determine that (1) specific aspects of a provider's security system exist (such as cameras, alarms, and motion detectors); (2) the doors are secure; (3) the staff is available; (4) the facility lighting is adequate; and (5) access to the facility is sufficiently controlled.

By not consistently including in its contracts performance standards that would be used to determine the provider's compliance with contract requirements, the Department places itself at risk of being unable to hold a provider accountable for unacceptable performance or contract noncompliance.

Substance Abuse Felony Punishment/In-Prison Therapeutic Program Facilities

A substance abuse felony punishment facility is an intensive substance abuse treatment program for offenders who are sentenced to complete the program by a judge or as a modification of the offender's community supervision (probation). Additionally, offenders on parole or mandatory supervision who are in need of intensive substance abuse treatment may be placed in this type of program.

An in-prison therapeutic community is an intensive substance abuse treatment program for eligible offenders who are within six months of release and who are identified as needing substance abuse treatment. The Board of Pardons and Paroles must vote to place qualified offenders in this type of program, and successful graduates are released on parole or mandatory supervision.

The Department did not consistently include performance standards for assessing the quality of substance abuse treatment programs in its contracts with certain providers.

The Department did not include performance standards for assessing the quality of substance abuse treatment programs in its contracts with providers that operate transitional treatment centers. However, the Department included performance standards for assessing the quality of substance abuse treatment programs in its contracts with providers that operate substance abuse felony punishment/in-prison therapeutic program facilities (see text box for more information on substance abuse felony punishment/in-prison therapeutic program facilities). The Department's contracts with providers that operate transitional treatment centers includes only compliance standards that were

designed to ensure compliance with certain requirements related to the hiring of staff and maintaining adequate insurance coverage.

The Department did not require providers to submit periodic financial reports or independent audits in all of its contracts.

Auditors reviewed 16 provider contracts and determined that 7 contracts with providers that operate secured correctional facilities and 2 contracts with providers that operate halfway houses did not include financial reporting requirements, which is inconsistent with the 7 contracts with providers of substance abuse treatment programs. The Department's contracts require all substance abuse treatment program providers to have an annual financial audit. In addition, the contracts for providers that operate a transitional treatment center, which is a type of substance abuse treatment program, require either an annual independent audit or the submission of financial statements prepared by the provider's chief financial officer. Transitional treatment center providers also are required to submit reports on program revenues, expenditures, and internal controls, and they are required to submit management letters and a status report on prior audit findings that resulted from an independent annual audit. The American Correctional Association, which provides accreditation to correctional services related facilities, requires that secured correctional facilities, including community-based residential services such as halfway houses, have ongoing internal monitoring, as well as periodic financial audits at each facility.² The periodic submission of financial reports and performance of independent audits provides the Department with greater assurances that a provider is managing funds in accordance with the requirements of the contract.

The Department's contracts with providers did not include all essential contract provisions required by the *State of Texas Contract Management Guide*.

While the 16 contracts reviewed included most of the essential contract provisions required by the *State of Texas Contract Management Guide*, auditors identified three essential provisions that were not included. Specifically, each contract lacked:

- A right to data, documents, and computer software (state ownership) clause.
- A technology access clause.
- An intellectual property indemnification clause.

² *Standards for Adult Correctional Institutions*, American Correctional Association, 4th Edition, January 2003; and *Performance-based Standards for Adult Community Residential Services*, American Correctional Association, 4th Edition, January 2001.

Texas Government Code, Sections 2262.051 (d) and 2262.052 (a), establish requirements to be included in all state agency contracts to protect the interests of the State. (See Appendix 9 for a complete list of essential contract provisions.)

Recommendations

The Department should

- Develop and include in its contracts with providers performance standards for all requirements related to ensuring the health, safety, and well-being of offenders.
- Develop and include performance standards in all contracts with providers that operate substance abuse treatment programs.
- Develop and include in its contracts with providers that operate secured correctional facilities and halfway houses requirements for the submission of periodic financial reports that should include, but should not be limited to, independent financial audits and Department-designed financial summary reports.
- Include all essential contract provisions required by the *State of Texas Contract Management Guide* in all its contracts with providers.

Management's Response

The Department should:

- *Develop and include in its contracts with providers performance standards for all requirements related to ensuring the health, safety, and well-being of offenders.*

***Agree.** Compliance standards are typically included in the contracts for the operation of secure correctional facilities (correctional centers, state jails, pre-parole transfer facilities, intermediate sanction facilities and the new treatment facilities). Our contracts for community based residential facilities (halfway house and transitional treatment centers) contain requirements for the health, safety and welfare of the offenders and include some compliance standards, but will be reviewed to add additional compliance standards to enhance our ability to hold the contractors accountable. The new standards will be incorporated in future contracts and the current contracts will be amended when deemed appropriate (i.e., upon exercising an option period).*

- *Develop and include performance standards in all contracts with providers that operate substance abuse treatment programs.*

***Agree.** The PFCMOD will coordinate with the RPD to determine what performance based standards are appropriate for the different types of substance abuse contracts.*

- *Develop and include in its contracts with providers that operate secured correctional facilities and halfway houses requirements for the submission of periodic financial reports that should include, but should not be limited to, independent financial audits and Department-designed financial summary reports.*

***Agree.** The PFCMOD has taken steps to ensure appropriate financial statement language for each type of contract involved is in all future contracts. These steps include reviewing the contracts utilizing risk based criteria. In the past few years, we have reviewed the need for this type of language in our smaller substance abuse contracts. We found that the requirement for audited financial statements was cost prohibitive for these lower dollar contracts. Therefore, the language was eliminated. However, we will review these contracts to determine if the requirement to submit financial statements that are prepared by the provider would be appropriate.*

At this time, our intent is to modify all secure correctional facility contracts and the larger community based residential contracts to include the requirement to submit periodic financial audits. Currently, there are only two correctional facilities that do not have the requirement. However, these contracts are in the solicitation process and we have added the requirement. All state jails, pre-parole transfer facilities and two intermediate sanction facility contracts will expire in fiscal year 2011 and the new requirement will be included in the replacement contracts.

- *Include all essential contract provisions required by the State of Texas Contract Management Guide in all its contracts with providers.*

***Agree.** The PFCMOD will ensure that all future contracts will include the essential language required by the State of Texas Contract Management Guide, as applicable.*

The Department Lacks Certain Processes to Ensure Coordination, Communication, and Retention of Information Related to Providers' Performance History

Although the Department conducts site visits to monitor the performance and contract compliance of selected activities of its providers and collects certain financial and performance information from providers, auditors identified areas of its contract monitoring process that the Department should strengthen to improve coordination, communication, and retention of providers' performance history. Those areas are discussed below.

The Department lacks clearly defined contract monitoring responsibilities for the three divisions that have oversight responsibilities over substance abuse treatment program providers.

The Department reported that it delegated monitoring responsibilities for substance abuse treatment program providers to three divisions: the Division, the Rehabilitation Programs Division, and the Parole Division. (see Appendix 2 for more information about each division's monitoring role). Although the Department made efforts to coordinate the monitoring activities performed by these divisions through informal discussions between the divisions' management and staffs, the Department had not documented policies and procedures governing the monitoring responsibilities and relationships among each of these divisions.

A July 2005 internal audit of the Department's monitoring processes over substance abuse treatment programs identified concerns about the organizational structure and lack of coordination between the multiple divisions with monitoring responsibilities. The review concluded that the Department's monitoring activities over providers were not effective and that, in some instances, there was a duplication of efforts among the divisions. The lack of policies and procedures increases the risk that these divisions may duplicate monitoring efforts or fail to communicate performance and contract management issues to one another that are relevant for assessing a provider's contract compliance. The lack of communication and coordination also increases the risk that these divisions may not be consistent in their efforts to address known or reoccurring noncompliance issues.

The Division lacks processes to ensure that it receives all financial information that providers are required to submit.

Although the Department included financial reporting requirements in its contracts with certain types of substance abuse treatment program providers and reported receiving and reviewing financial reports from certain types of providers, the Division had not documented a formal process to ensure that its financial contract monitors obtain and document the results of their reviews of

financial reports from those providers. Obtaining and reviewing these financial reports is an important step in identifying any concerns or potential risks that may affect the services delivered by those providers.

The Department did not consistently maintain documentation to justify its decisions to renew provider contracts.

The Department did not have supporting documentation showing that it considered a provider's contract compliance or performance history during its contract renewal decisions. For the contract renewals for 16 providers that auditors reviewed, the supporting documentation showed that the Department based its contract renewal decisions on management's review and approval of the requests to renew a contract, and it did not include specific information or factors related to a provider's contract compliance or performance history. *The State of Texas Contract Management Guide* recommends that management's approval to renew a contract be based on (1) documentation showing that a contractor has been in substantial compliance with all requirements of a contract and (2) a recommendation for contract renewal by the appropriate oversight entity.³

The lack of established performance-based criteria in the Department's contract renewal process increases the risk that the Department may renew a contract with a provider that is operating facilities or programs with a history of poor performance.

The Division did not consistently document its monitoring visits of halfway houses and substance abuse treatment programs.

On-site Reviews

The Division performs several types of on-site reviews to monitor providers' contract compliance throughout the year. These include:

- **Unannounced visit-** A review of select functional areas during non-working hours (including weekends and holidays) without prior notification to the provider.
- **Unscheduled visit-** A review conducted during working hours without prior notification to the provider.
- **Compliance review-** A scheduled review that may include assessments of compliance in certain functional areas or a comprehensive review of all functional areas by a team of Division staff.
- **Financial review-** A scheduled review that occurs on a periodic basis. These reviews involve assessments of select financial activities such as commissary operations, offenders' savings/trust accounts, and medical co-payments.

Auditors reviewed the Division's monitoring records for unannounced, unscheduled, and compliance review visits (see text box for more information about the types of on-site reviews performed) conducted from September 2007 through May 2009 for two providers that operate halfway houses and four providers that operate substance abuse treatment programs. The Division was inconsistent in documenting the monitoring visits. Specifically:

- Fifty-three (46 percent) of 114 compliance reviews that should have been conducted were not documented.
- Twenty-one (17 percent) of 126 monthly unscheduled visits that should have been conducted were not documented.

³ Appendix 14, *State of Texas Contract Management Guide*, Version 1.6, February 9, 2009.

- Fourteen (11 percent) of 126 monthly unannounced visits that should have been conducted were not documented.

For two unscheduled reviews and two unannounced visits that were lacking documentation, the Division provided auditors a single-page document that stated the site visit occurred but that it did not document the visit.

The Department lacks guidelines to ensure that noncompliance issues are corrected before the issues are closed.

Auditors reviewed the report status logs that the Division used to track the monitoring reviews of providers conducted in fiscal years 2008 and 2009 (through June 2009). Although the Division closed the status of 770 (97 percent) of 792 monitoring reviews tested, it closed 22 monitoring reviews without verifying whether the reported findings were corrected. The report status logs contained minimal information about why these monitoring reviews were closed. However, in interviews with auditors, the Department reported the following reasons for closing those 22 reviews:

- Thirteen reviews were closed because the Department determined that the contract monitors lacked sufficient documentation to support the findings.
- Seven reviews were closed because the provider's contract expired before findings could be corrected.
- One review was closed because the Department reported the finding again in a subsequent review.
- One review was closed because the Department determined that the provider was not at fault for noncompliance because the Department had not clearly described the contract requirements to the provider.

Although the Department's management exercised reasonable judgment in closing some reviews, such as when a contract expired before the findings were corrected, the Department should establish guidelines to ensure that its management decisions to close a review are documented and appropriate.

The Department did not have an effective records management system to track providers' performance and compliance history.

The Department maintained a report log managed by the Division that tracked select information related to the on-site reviews performed by the Division. Specifically, the report log includes:

- The type of review performed.
- The dates on which findings were reported to the providers.
- The dates on which providers responded to reported findings.

- The dates on which contract monitors conducted a follow-up review.
- The dates on which providers submitted responses to reported findings.
- The number of noncompliance issues identified.

Although the report log tracks important dates and number of findings reported, the report log did not maintain detailed information describing (1) the noncompliance issue identified or (2) the corrective action that was taken to correct the findings. In addition, the report log did not contain information on the findings identified by other divisions with monitoring responsibilities, such as the Rehabilitation Programs Division and the Parole Division, which assist in monitoring certain types of substance abuse treatment programs. The *State of Texas Contract Management Guide* recommends that state agencies have a defined process in place to track a contractor's contract compliance.⁴

The Department did not have documented policies and procedures for processing provider payments.

Auditors reviewed 60 payments to 16 providers that were processed in fiscal years 2008 and 2009 and that totaled approximately \$30 million. Of those 60 payments, 55 (92 percent) were accurately calculated, included appropriate supporting documentation, and were properly reviewed and approved. However, the Department lacks documented policies and procedures that (1) define the requirements for reviewing and approving provider payments and (2) define documentation requirements for adjustments made to provider payments. A lack of documented policies and procedures contributed to the discrepancies identified in five payments. Specifically:

- The same person prepared and approved two payments totaling \$630,179. To minimize the potential for fraud, a person other than the individual who prepared a payment should approve it.
- One payment for \$225,697 was processed using an approval signature that was typed instead of hand written.
- Two payments for \$423,474 did not include supporting documentation for adjustments made to the payment amounts.

The lack of documented policies and procedures increases the risk that provider payments could be inappropriately approved or processed without sufficient documentation.

⁴ Appendix 15, *The State of Texas Contract Management Guide*, Version. 1.6, February 9, 2009.

Recommendations

The Department should develop, document, and implement policies and procedures that:

- Define the role, responsibilities, and relationships among the Private Facilities Contract Monitoring and Oversight Division, the Rehabilitation Programs Division, and the Parole Division related to the monitoring of substance abuse treatment program providers.
- Ensure that its financial contract monitors obtain and review providers' financial reports.
- Require the review and retention of documentation during the contract renewal process that includes (1) a provider's performance and contract compliance history and (2) a recommendation for renewal by the appropriate monitoring division.
- Ensure that contract monitoring staff document the results of all unannounced and unscheduled site visits of providers.
- Establish guidelines and documentation requirements for closing monitoring reviews for which the Division has not verified that reported findings have been corrected.
- Establish processes for tracking a provider's performance and contract compliance history.
- Document the requirements for reviewing and approving provider payments.
- Define the documentation requirements for adjustments made to provider payments.

Management's Response

The Department should develop, document, and implement policies and procedures that:

- *Define the role, responsibilities, and relationships among the Private Facilities Contract Monitoring and Oversight Division, the Rehabilitation Programs Division, and the Parole Division related to the monitoring of substance abuse treatment program providers.*

***Agree.** When the PFCMOD was established in 2007, the primary goal was to provide a centralized Division for the Agency that would provide*

coordination for all contract monitoring efforts, eliminate duplication, and provide consistency in the contracts. For example, through coordination efforts the RPD and the PFCMOD, we have each revised our audit tools to prevent duplication of efforts and we coordinate our reviews based on a rotated schedule. We will document these processes to ensure each division's role is adequately defined.

- *Ensure that its financial contract monitors obtain and review providers' financial reports.*

***Agree.** The PFCMOD will work with the Contracts & Procurement department to ensure procedures are in place for the contract administrator to obtain and review financial reports as needed. The financial contract monitors will have access to these reports when financial reviews are performed.*

- *Require the review and retention of documentation during the contract renewal process that includes (1) a provider's performance and contract compliance history and (2) a recommendation for renewal by the appropriate monitoring division.*

***Agree.** The PFCMOD has initiated a documented renewal process to include a formal recommendation and justification that considers the provider's performance and contract compliance at the time of the renewal.*

- *Ensure that contract monitoring staff document the results of all unannounced and unscheduled site visits of providers.*

***Agree.** The PFCMOD will reinforce the procedure to document every visit regardless of the type of review or visit conducted.*

- *Establish guidelines and documentation requirements for closing monitoring reviews for which the Division has not verified that reported findings have been corrected.*

***Agree.** A new process has been implemented that requires written justification and management approval to close a review. The PFCMOD will prepare a formal policy to handle the administrative closures of reviews.*

- *Establish processes for tracking a provider's performance and contract compliance history.*

***Agree.** Currently, the PFCMOD maintains copies of all the reports that are issued by the various Divisions. Each compliance review performed by PFCMOD is documented in a database and detailed by the number of items reviewed and tracked by the number of noncompliance items. The*

PFCMOD will enhance the database by adding similar subject matter reviews performed by other Divisions. We will assess the level of detail needed to provide the best representation of a vendor's performance and compliance history.

- *Document the requirements for reviewing and approving provider payments.*

***Agree.** In August 2009, the PFCMOD reorganized to create the Business Operations section for the Division. One of the goals is to prepare business policies and procedures for the Division, which will include procedures for payment processing.*

- *Define the documentation requirements for adjustments made to provider payments.*

***Agree.** Business policies and procedures will be prepared to document payment adjustments.*

The Department Did Not Consistently Perform Criminal History Checks on All Providers' Employees and Subcontract Workers or Verify That Its Contract Monitoring Staff Met the Minimum Qualifications for Their Positions

The Department established processes for performing criminal history checks on providers' employees and subcontract workers; however, the Department did not ensure that (1) all contracts with providers required criminal history checks to be performed by the Division or (2) the Division performed a pre-employment criminal history check on all providers' employees and subcontract workers.

In addition, the Division has 40 contract monitors responsible for monitoring the contract compliance of 68 contracts between the Department and providers that operate secured correctional facilities, halfway houses, substance abuse treatment programs, and work release programs. Auditors determined that 31 (78 percent) of the 40 contract monitors documented in their job applications that they had the qualifications that are necessary to assess the contract compliance of providers. However, the Department lacked information on nine contract monitors needed to determine whether the monitors had the qualifications necessary to evaluate the contract compliance of providers (see Chapter 2-B for more information).

Criminal History Checks

The Division performs pre-employment and annual background checks on providers' employees and subcontract workers.

Pre-employment checks include name-based searches and finger-print based searches conducted through the Department of Public Safety's database and the Federal Bureau of Investigation's criminal history database.

Annual criminal history checks consist of only name-based searches conducted through the Department of Public Safety's database.

The Division deducts from a provider's monthly payment a per-person fee of \$34 for each pre-employment check and \$10 for each annual check conducted. The Division reported that these fees fund its operations for conducting checks and pay the processing fees that the Department of Public Safety charges for a criminal history check.

The Division stores all criminal history results received from the Department of Public Safety in a database, and it sends copies of the results to the provider and the provider's assigned contract monitor. Contract monitors determine whether the reported criminal history is sufficient to make an employee ineligible for a position according to the Department's policy.

Source: Department of Criminal Justice.

Chapter 2-A

The Department Did Not Consistently Ensure That Criminal History Checks Were Conducted on All Providers' Employees and Subcontract Workers

The Department's providers are required by their contracts to ensure that the providers' employees and subcontract workers receive criminal history checks prior to employment and on an annual basis.⁵ (See text box for more information about the criminal history checks performed by the Division.) The Department assigned to the Division the responsibility to conduct these criminal history checks. Although the Division established processes for performing criminal history checks, the Department did not ensure that (1) all contracts with providers required the performance of criminal history checks by the Division or (2) the

⁵ The Department also has processes in place for performing criminal history checks on volunteers for providers. However, auditors did not review those processes because the division that is responsible for performing those criminal history checks was outside the scope of this audit.

Division performed a pre-employment criminal history check on all providers' employees and subcontract workers.

The Department did not require all providers to have their criminal history checks processed by the Division.

The Division has existing processes for obtaining criminal history information on providers' employees and subcontract workers. However, the Department agreed in its contracts with 3 providers that operate 11 substance abuse felony punishment/in-prison therapeutic programs that the providers would perform their own criminal history checks on employees and subcontract workers. The Department's other providers were required to submit requests for criminal history checks to the Division. According to the Department, the providers that performed their own criminal history checks were still required to obtain approval to hire any employees or subcontract workers that had a criminal history. However, the Department had limited assurances that these providers performed criminal history checks on all their employees and subcontract workers because it reported that it did not begin monitoring compliance with criminal history check requirements through the Division until March 2008. Prior to this date, the Department reported that it only monitored the quality of the substance abuse treatment programs operated by these providers through its Rehabilitation Programs Division and, therefore, the Department relied on providers to self-report any employees or subcontract workers who had criminal histories. The Department did not have any documentation that provided an explanation for the use of different procedures for processing criminal history checks for these providers.

The Division lacks sufficient controls to ensure that pre-employment criminal history checks are performed on providers' employees as required.

The Division did not perform pre-employment criminal history checks for 12 (11 percent) of 105 provider employees reviewed for fiscal years 2008 and 2009. However, the Division did perform annual criminal history checks on all 105 provider employees, including the 12 employees for which a pre-employment check had not been conducted, and did not identify any criminal history results that would have prevented the employees from continuing in their positions. The Department's contracts with its providers, with the exception of providers that operate substance abuse felony punishment/in-prison therapeutic programs,⁶ require that a pre-employment criminal history check be performed on all employees and subcontract workers within 30 days prior to being assigned duties within a provider's facility. In addition, pre-employment criminal history checks are more comprehensive reviews because

⁶ The Department's contracts with providers that operate substance abuse felony punishment/in-prison therapeutic programs require that criminal history checks be performed prior to hiring an employee; however, the contracts do not specify that the Division must conduct the criminal history checks.

those types of checks include both name-based searches and fingerprint-based searches. Annual checks consist of only name-based searches.

Recommendations

The Department should

- Ensure that the Division conducts a criminal history check on the employees and subcontract workers of all providers, including those that operate substance abuse felony punishment/in-prison therapeutic programs.
- Develop processes that ensure the Division conducts pre-employment criminal history checks on all employees and subcontract workers of all providers.

Management's Response

The Department should

- *Ensure that the Division conducts a criminal history check on the employees and subcontract workers of all providers, including those that operate substance abuse felony punishment/in-prison therapeutic programs.*

***Agree.** The audit included the SAFPIIPTC contracts that expired in August 2009, which included the requirement for the vendor rather than the PFCMOD to conduct criminal history checks. Although, as noted in the audit, the PFCMOD implemented a monitoring process in March 2008 to verify that the vendor had performed the required criminal history checks, all contracts now contain language stating that the PFCMOD will conduct all criminal history checks.*

- *Develop processes that ensure the Division conducts pre-employment criminal history checks on all employees and subcontract workers of all providers.*

***Agree.** As of September 1, 2009, the contracts for the SAFPIIPTC program now require Department conducted criminal history checks. Additionally, documentation of criminal history checks are required as part of monthly staffing compliance standard verification. Contract monitors also physically review the personnel files of program staff.*

The Qualifications That Most of the Department's Contract Monitors Documented in Their Job Applications Met the Minimum Qualifications for Their Positions

Auditors reviewed the job applications of the Division's 40 contract monitors to determine whether each contract monitor reported qualifications and

Contract Monitor

The roles and responsibilities of the Division's contract monitors include:

- Performing and documenting periodic on-site reviews of providers' facilities and operations to determine whether the providers are complying with applicable contract requirements.
- Reviewing grievances the Department receives against providers that operate halfway houses and substance abuse treatment programs. Grievances against providers that operate secured correctional facilities are processed by providers' staff according to the same Department policies that are followed by state-operated secured correctional facilities.
- Ensuring that provider employees or subcontract workers found to have criminal histories are disqualified from working for providers in certain, pre-specified positions.

See Appendix 8 for more information related to the contract monitoring activities of the contract monitor.

experiences that met the minimum qualifications for their positions (see text box for more information on contract monitors' roles and responsibilities). These minimum qualifications, as set out in the Departments job descriptions, include:

- A bachelor's degree from an accredited four-year university. Experience in excess of five years can be substituted for a bachelor's degree. (For assistant contract monitor positions, experience in excess of four year can be substituted for a bachelor's degree.)
- Four to seven years (depending on the position) of work experience in criminal justice.

For contract monitor positions that monitor financial activities or substance abuse treatment programs, the Division lists preferred work experience in auditing, conducting evaluations, reviewing contract compliance, conducting financial activities, and/or working in substance abuse/therapeutic programs.

The state applications for employment for 31 (78 percent) of 40 contract monitoring staff reviewed listed education and employment histories that met the minimum qualification required for the applicable positions, which included regional supervisor, contract monitor, financial contract monitor, and assistant monitor. However, the Department did not provide documentation to support that it verified the qualifications reported on the applications.

In addition, auditors could not determine whether 9 (22 percent) of the 40 staff members met the minimum qualifications. For those nine employees, the Department reported that seven existing employees were transferred or reassigned from prior positions to their current contract monitoring positions, and therefore, the employees did not have to complete an application for their current positions. The Department stated it had destroyed the applications for the other two staff members in accordance with the Department's record retention schedule.

Recommendation

The Department should ensure that it retains documentation of its verification of applicants' qualifications and experience.

Management's Response

Agree. The current records retention schedule requires the employee's initial, but not subsequent, application be retained. The Department's records retention schedule will be modified to either retain all applications or the application for the current position.

The Department Should Strengthen Its Security Controls over Certain Information Systems

The Department should correct weaknesses in certain information systems to improve the security over its automated systems and data. The weaknesses that auditors identified increase the risk of inadvertent or deliberate alteration or deletion of data, which could affect the Department's ability to ensure the integrity of its data. Auditors examined three information systems that support the Department's payment processes for providers:

- The Strength application, which is the information system that the Department uses to track the receipt, departure, and transfer of each offender in Texas prisons.
- The Authorization Management System, which is the Department's automated billing system that substance abuse treatment program providers use to bill the Department for services they deliver.
- The Lonestars system, which is the Department's financial accounting system.

To minimize security risks associated with the weaknesses identified, auditors communicated details about certain weaknesses directly to Department management in writing.

Chapter 3-A

The Department Should Address Weaknesses in Its Strength Application, Which Tracks the Receipt, Departure, and Transfer of Each Offender in Texas Prisons

The Department's application controls over its Strength application provide assurances that the daily starting and ending count of offenders manually or automatically entered into the system is accurate (see text box for more information about the Strength application). In addition, the Department established controls that ensure that the Information Technology Division (1) gives access only to the appropriate employees and (2) approves changes made to the data. In addition, the Department ensured that, although multiple employees share computer terminals at a prison facility, each user must have his or her own security access to activate the Strength application. However, auditors identified weaknesses in other areas of the Department's access controls over the Strength application. These weaknesses are discussed below.

The Strength Application

The Strength application is a mainframe system that the Department uses to track the receipt, departure, and transfer of offenders in both Department-operated and provider-operated state prisons. Approximately 320 users have access to the application, which include 210 Department employees and 110 provider employees.

The Department lacked automated controls to ensure that changes made to data through an alternative access entry are tracked and properly authorized.

The Department acknowledged that its Information Technology Division staff used an alternative access entry into the Strength application. The Information Technology Division reported that its staff used the alternative access entry to make changes to the data after the close of the processing day. Auditors determined that the Information Technology Division shared access to this alternative access entry with another division. However, the other division reported that it was not aware of the alternative access entry or that it could be used to change data. In addition, because there is no automated audit log that tracks changes made to the data through the alternative access point, the Department cannot ensure that all changes made to the data through the alternative access entry are identified and authorized.

The Department lacked a process to identify former provider employees or ensure the timely removal of former provider employees' access to the Strength application.

The Information Technology Division does not regularly verify that active provider users are current provider employees. The Information Technology Division was not able to provide auditors with a complete listing of current and former provider employees who had been given access to the Strength application. As a result, auditors were unable to determine whether the Department (1) removed access rights to the application for former provider employees or (2) removed access rights in a timely manner.

Recommendations

The Department should:

- Implement automated audit trails or develop an alternate process to track all changes made to Strength application data using the alternative access entry.
- Develop, document, and implement a process to periodically verify that active provider users are current employees of providers.

Management's Response

The Department should:

- *Implement automated audit trails or develop an alternate process to track all changes made to Strength application data using the alternative access entry.*

Agree. The Information Technology Division (ITD) is in the early analysis stages of developing a new Strength application which will include full audit functionality. In the interim an automated audit log will be developed to track all data changes presently occurring through the alternative access entry.

- *Develop, document, and implement a process to periodically verify that active provider users are current employees of providers.*

Agree. All TDCJ employees who have access to the Strength system are identifiable. Their access rights are actively monitored and revoked appropriately in a timely manner. Access for contract employees is managed by the PFCMOD. Periodic rosters of contract employees will be provided to PFCMOD to verify system access and revoke access where appropriate.

Chapter 3-B

The Department Should Address Weaknesses in the Controls over the Authorization Management System It Uses to Process Payments for Substance Abuse Treatment Program Providers

The Department's Authorization Management System has reasonable password controls over user access into the system (see text box for more information about the Authorization Management System). However, the Department did not have necessary security administration processes over the system to ensure that the appropriate level of security access is assigned to active provider users.

The Department did not properly segregate the duties for managing the security and administrative access to the automated billing system.

Auditors determined that the Department did not properly segregate the duties for managing the security and administrative access to the Authorization Management System. Specifically:

- **The Department inappropriately designated the Private Facilities Contract Monitoring and Oversight Division instead of the Information Technology Division as being primarily responsible for managing security and user access to the Authorization Management System. The employee responsible for managing user access to the system also manages the processing of provider payments. The security administrator for an information system should not have user access rights to that same system.**
- **The Department had an excessive number of users with the highest level of security administrator access. As of May 2009, 28 (6 percent) of 483 active users had the highest level of security administrator access, which is**

Authorization Management System

The Department's automated billing system (which the Department refers to as the Authorization Management System, or AMS) is used by providers to bill the Department for substance abuse treatment programs. This automated billing system is a Windows-based Web application and has approximately 483 users, of which 373 are provider employees.

usually reserved for system administrators. In addition, 15 of the users identified with the highest level of security access were provider employees. The level of security administrator access given to these users allows them to change data in the automated billing system and reset passwords for all other users.

- One programmer had system administrator access to the billing system, which allowed this programmer to modify both the live production data, as well as the system's code. Properly implemented segregation of duties should not allow programmers to have access to update live production systems or data.

Not properly segregating the duties for managing the security and administrative access to the automated billing system increases the risk that unauthorized changes could be made to the system's data and that these changes may not be detected by Department management. Title 1, Texas Administrative Code, Chapter 202, recommends that state agencies ensure the separation of duties for tasks that are susceptible to fraudulent or other unauthorized activity. Auditors did not identify any instances of fraud or other unauthorized activity.

The Department did not require the retention of requests for user access or that users sign security agreements.

Although the Department requires a documented request for access to the system, the primary security administrator disposes of the request after setting up a user's access to the system. The primary security administrator also does not maintain any log of the requests received or the dates that the requests were submitted. As a result, the Department lacked documentation showing that access rights given to users were appropriate and properly authorized.

In addition, the Department does not require users who have access to the billing system to sign a security agreement. A security agreement provides assurance that users understand their responsibility for accessing and using the system in an appropriate manner.

Recommendations

The Department should

- Manage security and user access to its automated billing system in compliance with the recommended security standards in Title 1, Texas Administrative Code, Chapter 202. This would include removing security administrator rights from programmers.
- Review users with the highest level of security administrator access and ensure that the users' job responsibilities require this level of access.

- Establish document retention requirements for user access requests.
- Develop a security agreement that all users are required to sign before receiving access.

Management's Response

The Department should

- *Manage security and user access to its automated billing system in compliance with the recommended security standards in Title 1, Texas Administrative Code, Chapter 202. This would include removing security administrator rights from programmers.*

Agree. PFCMOD has met with the ITD to discuss the procedures necessary to successfully manage the user access. Staff have been reassigned to ensure segregation of duties. PFCMOD is revising the Authorization Management System user access request form to remove confidential information that is not necessary and add a security agreement to the bottom of the form .

- *Review users with the highest level of security administrator access and ensure that the users' job responsibilities require this level of access.*

Agree. PFCMOD is working with the ITD to obtain information on the access that is currently in place. PFCMOD staff has interviewed all TDCJ staff with access to determine their job responsibilities. PFCMOD and ITD will be creating new levels of access to accommodate the various levels of responsibility and ensure proper segregation of access. All providers with inappropriate access have been changed.

- *Establish document retention requirements for user access requests.*

Agree. Previously, the information requested to create a user in Authorization Management System included a portion of the users Social Security Number, the maiden name of the users Mother, etc. Historically these forms were disposed of as soon as the user was created to prevent this information from being misused. The new form will remove confidential information from the request form, and the Department will be able to file them alphabetically for retention.

- *Develop a security agreement that all users are required to sign before receiving access.*

Agree. The request form will now have a security agreement at the bottom for the user to sign. The Department is working to address security levels and will be requiring all current users to complete the revised form for the

Department to have on file. Access will be revoked for any user who does not respond in the timeframe provided.

ITD will establish controls to prevent the security administrator from having access rights to the system. Standards will be determined and justifications will be required for security administrator access; all current users with this access will be reviewed. A security agreement will be developed and implemented. A procedure will be implemented to enforce document retention requirements for user access requests.

Chapter 3-C

The Department's Financial Accounting System Has Sufficient Controls to Ensure That It Accurately Processes Provider Payments in a Timely Manner; However, the Department Should Address Weaknesses in the System's Security Administration

The Department's financial accounting system contains sufficient controls, including reasonable password controls, to ensure that the Department accurately enters and processes expenditure information in a timely manner. However, the Department does not have controls to ensure that its programmers make modifications to the correct version of program code. The Department has two programmers with access rights to copy and change program code. The Department does not have controls in place that track each version of program code created from programming changes. The Department tracks only the requests for and approvals of changes to be made to the program code. As a result, the Department is at risk of having a programmer modify the wrong version of program code, which could lead to the system not working properly.

Recommendation

The Department should consider developing and implementing a process for the financial accounting system that will assist in tracking and comparing program code changes.

Management's Response

- *The Department should consider developing and implementing a process for the financial accounting system that will assist in tracking and comparing program code changes.*

Agree. *ITD agrees we should implement a process for tracking and comparing program changes in the financial tracking system. ITD will implement the use of Visual Safe Source (VSS) to manage our Cobol*

source libraries. VSS is a file-level version control system designed to handle the tracking and portability issues involved in maintaining one source control base. ITD is currently using this tool for Java code version control.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the activities of the Private Facilities Contract Monitoring and Oversight Division (Division) at the Department of Criminal Justice (Department) provide reasonable assurance that contractors operating private facilities comply with contractual terms governing operations and financial matters.

Scope

The scope of this audit included reviewing the accuracy and completeness of the Division's contract administration and monitoring and renewal activities during fiscal years 2008 and 2009.

This performance audit was conducted in compliance 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. Those standards also require independence in both fact and appearance. An immediate family member of the State Auditor is registered with the State Ethics Commission as a government relations employee of a firm that conducts lobby efforts on behalf of a contractor included in the scope of this audit. This condition could be seen as potentially affecting our independence in reporting results related to this contractor. However, we proceeded with this audit as required by the Annual State Audit Plan, operated under the Legislative Audit Committee. The State Auditor recused himself from this audit, and the audit has been supervised, reviewed, and approved by Assistant State Auditor Lisa Collier. This condition did not affect our audit conclusions⁷.

Methodology

The audit methodology included reviewing judgmentally selected provider monitoring reports, collecting information and documentation, performing

⁷ Lara Laneri Keel is registered with the Texas Ethics Commission as a lobbyist. Her list of clients is a matter of public record and may be obtained from the Texas Ethics Commission.

selective tests and other procedures, analyzing and evaluating the results of tests, and interviewing Department management and staff. Auditors also accompanied contract monitors on eight on-site monitoring visits to provider facilities: Bridgeport Pre-Parole Transfer Facility (Corrections Corporation of America); the Dawson State Jail (Corrections Corporations of America); the El Paso Halfway House and Transitional Treatment Center (Southern Corrections); the Dallas Transitional Treatment Center (Gateway Foundation); the South Texas Intermediate Sanction Facility (The GEO Group); the Beaumont Transitional Treatment Center (Spindletop MHMR Services); the Travis County Jail (Turning Point); and the Dallas Transitional Treatment Center (The Salvation Army).

Information collected and reviewed included the following:

- Information from interviews with Division management and staff.
- Department organizational charts.
- Contracts between the Department and providers.
- Department policies and procedures for managing and monitoring provider contracts.
- The Department's functional job descriptions.
- Department personnel files for Division management and staff.
- Department monitoring records, interoffice memoranda, and accounting records.
- The Department's prior internal audit reports.
- Prior State Auditor's Office reports.

Procedures and tests conducted included the following:

- Review of the Division's management and staff qualifications and experience.
- Limited review of contract monitoring documents.
- Limited review of select contracts and amendments.
- Limited review of contract administration and monitoring policies and procedures.

Criteria used included the following:

- Texas Government Code, Chapters 493 and 495 (Authority to Contract).

- Texas Government Code, Chapters 2155, 2261, and 2262 (Contract Management).
- Contracts between the Department and providers.
- *State of Texas Contract Management Guide*, Texas Comptroller of Public Accounts, Version 1.6.
- The Department's policies and procedures.

Project Information

Audit fieldwork was conducted from May 2009 through October 2009. 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:

- Willie J. Hicks, MBA (Project Manager)
- Isaac Barajas (Assistant Project Manager)
- Nick Ballard, MBA, CIDA
- Darrell Edgar, CFE
- Cindy Haley, CPA
- Cain Kohutek
- Michael Sanford
- Alyassia Taylor, MBA, CGAP
- Marlen Randy Kraemer, MBA, CISA, CGAP (Information Systems Audit Team)
- Rachelle Wood, MBA, CISA (Information Systems Audit Team)
- Leslie Ashton, CPA (Quality Control Reviewer)
- Michael C. Apperley, CPA (Assistant State Auditor)
- Anita D'Souza, JD, CFE (Audit Manager)

Overview of the Department of Criminal Justice's Contract Monitoring of Private Facility Providers that Operate Substance Abuse Treatment Programs

Three divisions within the Department of Criminal Justice (Department) have roles in monitoring private facility providers that operate substance abuse treatment programs. (See Appendix 3 for more information about the different types of substance abuse treatment programs).

Private Facilities Contract Monitoring and Oversight Division

This division is responsible for monitoring the contract compliance of providers that operate the following types of substance abuse treatment programs:

- Substance abuse felony punishment facilities/in-prison therapeutic community programs.
- Transitional treatment centers.
- State Jail Substance Abuse Program.
- Driving While Intoxicated programs.
- Substance abuse counseling programs (monitoring is limited only to programs offered by transitional treatment centers).

Rehabilitation Programs Division

This division is responsible for assessing the quality of substance abuse treatment programs operated by the following type of providers:

- Substance abuse felony punishment facilities and in-prison therapeutic community programs.
- Transitional treatment centers.

Parole Division

The Parole Division is responsible for monitoring the compliance and quality of outpatient substance abuse counseling programs. However, if a program is delivered by a provider that operates a transitional treatment center, then the Private Facilities Contract Monitoring and Oversight Division is responsible for monitoring the program.

Types of Facilities and Programs the Department's Private Facility Providers Operate

As of August 2009, the Department of Criminal Justice (Department) reported it had contracts with the following types of private facility providers:

- **Private Correctional Center:** There are seven privately operated correctional centers (which includes the Lockhart Work Program discussed below) that house minimum custody offenders. These offenders may remain in these facilities as long as the offenders maintain minimum custody status.
- **Private State Jail Facility:** There are five privately operated state jails that house felons, as well as transfer offenders. Felons are incarcerated for a two-year period or less.
- **Pre-parole Transfer Facility:** There are two privately operated pre-parole transfer facilities that provide secure housing for offenders and offer life skills programming, substance abuse education, and vocational training to offenders who are within one year of their presumptive parole or mandatory supervision release date.
- **Lockhart Work Program:** The Lockhart Work Program is a special unit operating a Private Sector/Prison Industry Enhancement Certification Program commonly referred to as a "PIE program." This program is exempt from federal restrictions placed on sales of offender-made goods for interstate commerce and to the federal government. Offenders participating in the PIE program agree to pay a percentage of their earned income for room and board, supervision costs, restitution, compensation to crime victims, savings, and dependent care. Offenders also have the opportunity to participate in educational programs, such as adult basic education, General Educational Development (GED) tests, and life skills courses. In addition, vocational programs are offered to enhance the opportunities for the offender to gain meaningful employment upon release to supervision.
- **Intermediate Sanction Facility:** There were five privately operated intermediate sanctions facilities, which are short-term detention facilities for offenders who are on parole or mandatory supervision and who have violated the terms of their release agreement.
- **Contract Transfer Facility (Temporary Capacity Beds):** The Department entered into Offender Housing Payment Agreement contracts with four Texas counties (Bowie, Jefferson, Limestone, and Newton counties) for the counties to provide housing, care, meals, and medical services for transfer facility offenders who have been processed through the Department. The

detention services the counties provide are subject to Commission on Jail Standards rules.

- **Halfway House:** There are seven privately operated halfway house facilities where offenders on parole or mandatory supervision are placed either immediately upon release or, in specific circumstances, upon referral from field parole staff.
- **County Jail Work Release Program:** The Private Facility Contract Oversight Division monitors two county jail work release program contracts. Offenders on parole or mandatory supervision who lack family or community resources, or who may require closer supervision, may be released to a county jail work release program facility either immediately upon release from the Department or upon referral from field parole staff. These facilities monitor the offenders' activities daily.
- **Substance Abuse Felony Punishment Facility Program/In-prison Therapeutic Community Program:** Four contractors provide Substance Abuse Felony Punishment Facility/In-prison Therapeutic Community treatment programs for 12 secure facilities.
 - ♦ A Substance Abuse Felony Punishment Facility is an intensive substance abuse treatment program for an offender who is sentenced to complete the program by a judge or as a modification of the offender's community supervision (probation). Additionally, offenders on parole or mandatory supervision who are in need of intensive substance abuse treatment may be placed in this program.
 - ♦ The In-prison Therapeutic Community is an intensive substance abuse treatment program for eligible offenders who are within six months of release and who are identified as needing substance abuse treatment. The Board of Pardons and Paroles must vote to place qualified offenders in the program, and successful graduates are released on parole or mandatory supervision.

Upon completion of a Substance Abuse Felony Punishment Facility program or an In-prison Therapeutic Community program, offenders are placed in a Transitional Treatment Center (see below) for up to 90 days, followed by outpatient counseling.

- **Transitional Treatment Centers:** Transitional Treatment Centers are privately owned and operated community-based facilities that provide substance abuse aftercare treatment to offenders on parole, mandatory supervision, or community supervision (probation).
- **State Jail Substance Abuse Treatment Program:** One contractor provides a substance abuse resource program that offers a total of 1,200 treatment

beds among six state-operated state jails. Offenders who have been sentenced to a state jail and meet the Department's eligibility criteria are eligible to participate. The program consists of a curriculum that addresses the needs of offenders in various stages of recovery.

- In-prison Driving While Intoxicated Treatment Program: This six-month Correctional DWI Recovery Program contracts with the Department to offer 500 treatment beds and a variety of evidence-based educational modules and treatment activities.

Compliance and Performance Standards Defined in Contracts Between the Department of Criminal Justice and Certain Types of Private Facility Providers

The Department of Criminal Justice (Department) has defined certain compliance standards and performance measures in its contract with private facility providers. Table 1 lists the compliance standards described in certain types of provider contractors reviewed by auditors.

Table 1

Compliance and Performance Standards Defined in Contracts Between the Department and Certain Types of Private Facility Providers			
Type of Provider	Compliance Standard	Acceptable Performance	Unacceptable Performance
<ul style="list-style-type: none"> ▪ Transitional Treatment Centers ▪ Halfway Houses ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	<p>A criminal background check was completed by the Department within 30 days.</p> <ul style="list-style-type: none"> ▪ <u>Transitional Treatment Centers</u> - A criminal background check shall be completed by the Department within 30 days prior to being assigned to the Department Program, and it is maintained in the employee's personnel file. ▪ <u>Halfway Houses/Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u> - A criminal background check shall be completed by the Department within 30 days prior to an employee having direct contact with offenders. 	<ul style="list-style-type: none"> ▪ <u>Transitional Treatment Centers</u> - A criminal background check was completed within 30 days prior to assignment to the Department program. ▪ <u>Halfway Houses/Intermediate Sanction Facilities/Pre-parole Transfer Facilities/State Jail/Correctional Centers</u> - A criminal background check was completed by the Department within 30 days prior to an employee having direct contact with offenders for 100 percent of employees. 	<ul style="list-style-type: none"> ▪ <u>Transitional Treatment Centers</u> - aA criminal background check was completed after assignment to the Department program, was never completed, or was completed prior to 30 days of being hired. ▪ <u>Halfway Houses/Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u> - A criminal background check was completed for less than 100 percent of employees.
<ul style="list-style-type: none"> ▪ Transitional Treatment Centers ▪ Halfway Houses ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	<p>Contractor shall maintain valid current insurance policies.</p>	<p>Contractor maintains valid current insurance policies.</p>	<p>Contractor has lapsed policy or a policy not meeting contract requirements.</p>
<ul style="list-style-type: none"> ▪ Transitional Treatment Centers ▪ Halfway Houses ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	<p>Contractor shall obtain from the Department and maintain a copy in employee files prior written approval to hire all upper-level management staff.</p>	<ul style="list-style-type: none"> ▪ <u>Transitional Treatment Centers</u>- Contractor obtained written approval prior to hire date. ▪ <u>Halfway Houses/Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u>- Contractor obtained written approval prior to hire date for 100 percent of upper-level management staff hires. 	<ul style="list-style-type: none"> ▪ <u>Transitional Treatment Centers</u>- Contractor obtained approval subsequent to hire date or never obtained approval. ▪ <u>Halfway Houses/Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u>- Contractor obtained approval prior to hire for less than 100 percent of upper-level management staff.

**Compliance and Performance Standards Defined in Contracts
Between the Department and Certain Types of Private Facility Providers**

Type of Provider	Compliance Standard	Acceptable Performance	Unacceptable Performance
<ul style="list-style-type: none"> ▪ Halfway Houses ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	Contractor shall staff all positions with fully qualified employees, including special certification and licenses where applicable.	<ul style="list-style-type: none"> ▪ <u>Halfway Houses</u> - Positions staffed within fewer than 60 calendar days. ▪ <u>Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u> - Non-uniformed/security supervisor/administrator positions staffed in 60 calendar days or less. Correctional officer positions staffed in 90 calendar days or fewer. 	<ul style="list-style-type: none"> ▪ <u>Halfway Houses</u>- Positions staffed took longer than 60 calendar days. ▪ <u>Intermediate Sanction Facilities/Pre-Parole Transfer Facilities/State Jail/Correctional Centers</u> - Non-uniformed/security supervisor/administrator positions staffed after 60 calendar days. Correctional officer positions staffed after 90 calendar days.
<ul style="list-style-type: none"> ▪ Transitional Treatment Centers ▪ Halfway Houses ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities 	Contractor shall provide transportation for each offender in accordance with scheduling determined by the Department.	Offender transportation provided per scheduled transport in two hours or less of the Department-scheduled time or prior to 5:00 p.m. on the scheduled date if no time has been designated.	Offender transportation provided per scheduled transport in more than two hours of the Department-scheduled time or after 5:00 p.m. on the scheduled date if no time has been designated.
<ul style="list-style-type: none"> ▪ Intermediate Sanction Facilities ▪ Pre-Parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	Contractor shall accurately and completely report all uses of force in accordance with the Department's Use of Force Plan.	Five or fewer errors or omissions on a single use of force packet submitted to the Department.	More than five errors or omissions on a single use of force packet submitted to the Department.
<ul style="list-style-type: none"> ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	Contractors shall submit all Administrative Review of Incident Reports to the appropriate Regional Director within 10 working days of incident occurrence in accordance with the Department's policy.	Reports submitted in 10 or fewer working days.	Reports submitted after 10 working days.
<ul style="list-style-type: none"> ▪ Intermediate Sanction Facilities ▪ Pre-Parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	Contractor shall process offender disciplinary cases in accordance with the Department's disciplinary policy.	One percent or less of offender disciplinary cases lapsed on a monthly basis.	More than one percent of offender disciplinary cases lapsed on a monthly basis.
<ul style="list-style-type: none"> ▪ Intermediate Sanction Facilities ▪ Pre-parole Transfer Facilities ▪ State Jails⁸ ▪ Correctional Centers 	Contractor shall maintain accreditation from the National Commission on Correctional Health Care or the American Correctional Association Performance Based Correctional Health Care Program throughout the contract.	Accreditation continuously maintained throughout the contract.	Accreditation not maintained throughout the contract.

⁸ State jails are required only to maintain accreditation from the American Correctional Association throughout the contract.

**Compliance and Performance Standards Defined in Contracts
Between the Department and Certain Types of Private Facility Providers**

Type of Provider	Compliance Standard	Acceptable Performance	Unacceptable Performance
<ul style="list-style-type: none"> ▪ Pre-parole Transfer Facilities ▪ State Jails ▪ Correctional Centers 	In the absence of a teacher, educational services must continue to be provided by qualified staff.	Qualified substitutes provided coverage for educational programs.	Classes were either canceled or conducted by unqualified staff.
Transitional Treatment Centers	The employee's background check reflects eligibility per Personnel Directive - 75. Employees with criminal convictions/pending charges are approved by the Department prior to being assigned to the Department program.	The Department approved employment prior to the employee being assigned to the Department program.	The Department approved employment after the employee was assigned to the Department program or was never approved by the Department.
Transitional Treatment Centers	Contractor shall staff all upper-level management staff and qualified, credentialed counselor positions with fully qualified employees, including special certification and licenses where applicable.	Positions staffed within fewer than 60 calendar days.	Positions staffed after 60 calendar days.
Transitional Treatment Centers	Contractor shall notify the Department in writing by 9:00 a.m. on each day of the number of offenders currently residing in the residential facility.	Five or fewer errors or omissions in one calendar month.	More than five errors or omissions in one calendar month.
Halfway Houses	Contractor shall take disciplinary action for: <ul style="list-style-type: none"> a) All unemployed offenders not completing five appointments or interviews with prospective employers per week and b) All part-time employed (more than 20 but less than 40 hours/week) offenders not completing three appointments or interviews per week. Contractor shall maintain documentation in the offender files.	Contractor meets these requirements 100 percent of the time.	Contractor meets these requirements less than 100 percent of the time.

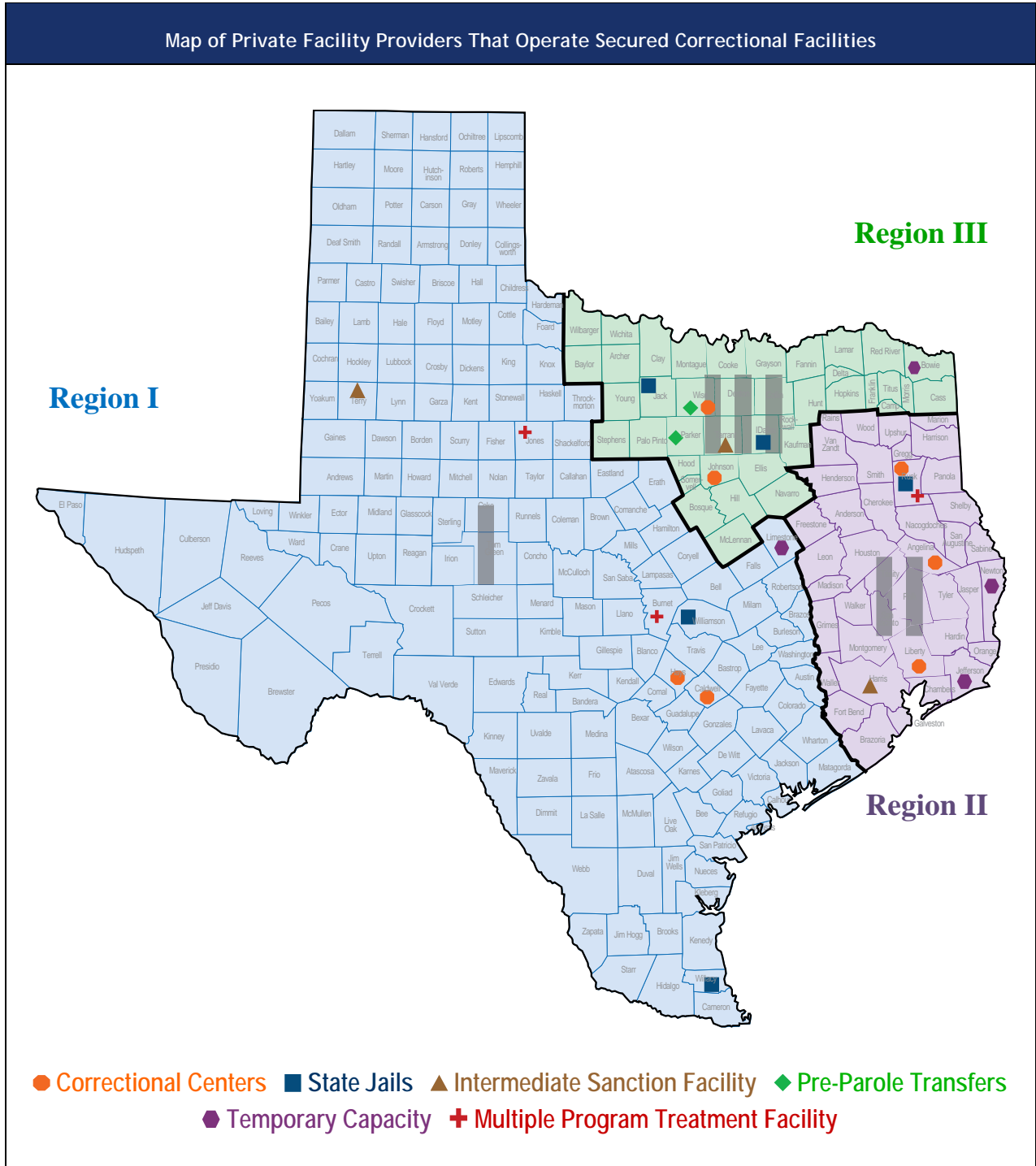
Table 2 lists the performance measures identified in contracts with providers that operate Substance Abuse Felony Punishment Facility Programs/In-prison Therapeutic Community Programs.

Table 2

Performance Measures in Contracts with Substance Abuse Felony Punishment Facility Program/ In-prison Therapeutic Community Program Providers		
Performance Measure	Acceptable Performance	Unacceptable Performance
Offenders will demonstrate an acceptable level of mastery of therapeutic community concepts, 10 working days prior to the in-prison phase of the program, as determined by the Department in conjunction with the contractor.	95-100 percent of offenders demonstrate an acceptable level of mastery.	Less than 95 percent of offenders demonstrate an acceptable level of mastery.
Offenders will be provided, within 10 working days from the offenders' date of entry, with an individualized treatment plan that addresses their specific needs.	100 percent of offenders are provided an individualized treatment plan within 10 working days.	Less than 100 percent of offenders are provided an individualized treatment plan within 10 working days.
Offenders will have clinical progress notes documented weekly.	90-100 percent of offenders have clinical progress notes documented weekly.	Less than 90 percent of offenders have clinical progress notes documented weekly.
Offenders will complete the prison phase of the program	90-100 percent of offenders complete the prison phase of the program.	Less than 90 percent of offenders complete the prison phase of the program.
Compliance with caseload requirement for maintaining a ratio of 20 or fewer offenders per counselor.	100 percent compliance with caseload requirement.	Less than 100 percent compliance with caseload requirement.
Treatment staff will receive a minimum of 30 hours of continuing education annually.	100 percent of staff receive a minimum of 30 hours of continuing education training annually.	Less than 100 percent of staff receive a minimum of 30 hours of continuing education training annually.
Offenders will be provided with a continuum of care plan 30 days prior to completion of the prison phase of the program.	95-100 percent of offenders receive a continuum of care plan 30 days prior to completion of the prison phase of the program.	Less than 95 percent of offenders receive a continuum of care plan 30 days prior to completion of the prison phase of the program.

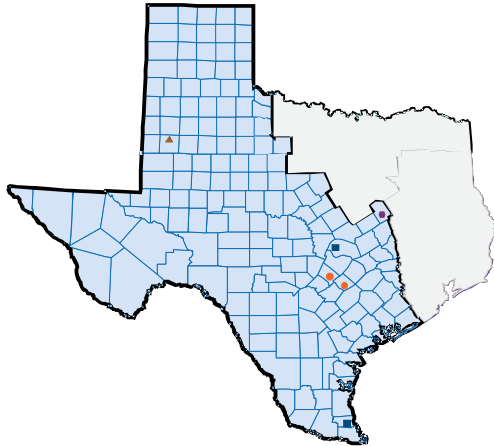
Map of Private Facility Providers That Operate Secured Correctional Facilities and Offender Population Totals as of May 31, 2009

Figure 1



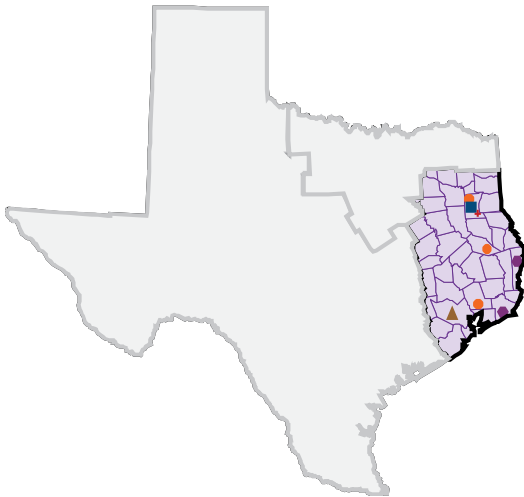
Source: Department of Criminal Justice.

Region I



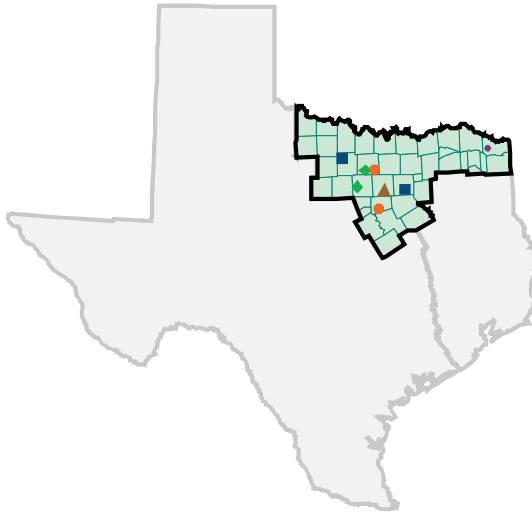
Correctional Center	Provider	City	Number of Contract Beds	Population
Kyle Correctional Center	MTC	Kyle	520	520
Lockhart Work Program	GEO	Lockhart	500	498
State Jail	Provider	City	Number of Contract Beds	Population
Bartlett State Jail	CCA	Bartlett	1,049	1,049
Willacy County State Jail	CCA	Raymondville	1,069	1,068
Intermediate Sanction Facility	Provider	City	Number of Contract Beds	Population
West Texas	MTC	Brownfield	275	272
Contract Transfer Facility	Provider	City	Number of Contract Beds	Population
Limestone County Detention Center	CEC	Groesbeck	336	327

Region II



Correctional Center	Provider	City	Number of Contract Beds	Population
BM Moore Correctional Center	MTC	Overton	500	499
Cleveland Correctional Center	GEO	Cleveland	520	520
Diboll Correctional Center	MTC	Diboll	518	518
State Jail	Provider	City	Number of Contract Beds	Population
Bradshaw State Jail	CCA	Henderson	1,980	1,971
Intermediate Sanction Facility	Provider	City	Number of Contract Beds	Population
East Texas Treatment Facility	MTC	Henderson	560	560
South Texas	GEO	Houston	450	446
Contract Transfer Facility	Provider	City	Number of Contract Beds	Population
Jefferson County Jail	GEO	Beaumont	332	332
Newton County Correctional Center	GEO	Newton	848	848
Multiple Program Treatment Facility	Provider	City	Number of Contract Beds	Population
East Texas Treatment Facility	MTC	Henderson	500	485

Region III



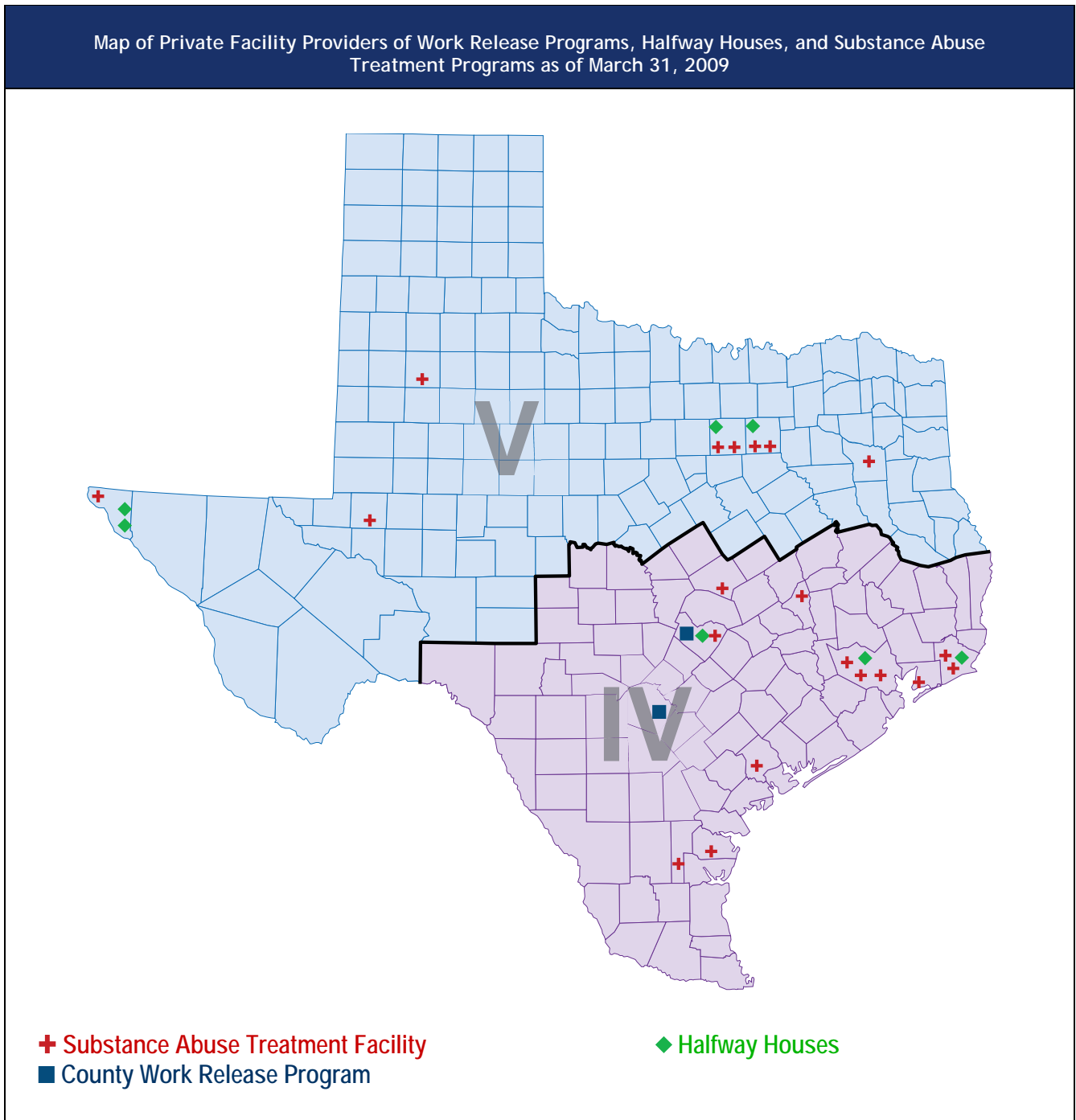
Correctional Center	Provider	City	Number of Contract Beds	Population
Bridgeport Correctional Center	GEO	Bridgeport	520	519
Sanders Estes Unit	MTC	Venus	1,040	1,040
State Jail	Provider	City	Number of Contract Beds	Population
Dawson State Jail	CCA	Dallas	2,216	2,201
Lindsey State Jail	CCA	Jacksboro	1,031	1,030
Intermediate Sanction Facility	Provider	City	Number of Contract Beds	Population
North Texas	GEO	Fort Worth	424	427
Pre-parole Transfer	Provider	City	Number of Contract Beds	Population
Bridgeport PPT	CCA	Bridgeport	200	200
Mineral Wells PPT	CCA	Mineral Wells	2,100	2,004
Contract Transfer Facility	Provider	City	Number of Contract Beds	Population
Bowie County Jail	CEC	Texarkana	383	383

Facilities
● Correctional Centers
■ State Jails
▲ Intermediate Sanction Facility
◆ Pre-Parole Transfers
● Temporary Capacity
✚ Treatment Facility

Vendors
CCA - Correction Corporation of America
CEC - Community Education Centers
GEO - Global Expertise in Outsourcing
MTC - Management & Training Corporation

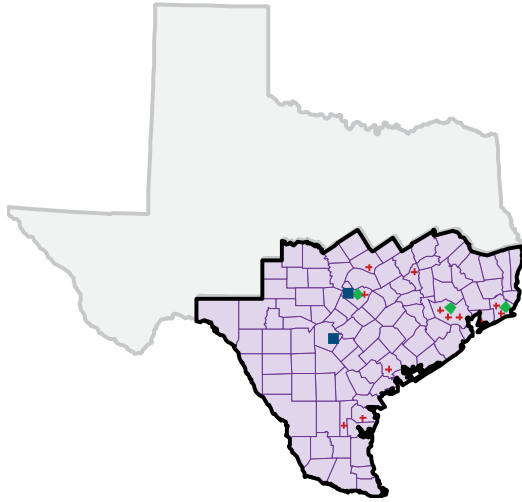
Map of Private Facility Providers of Work Release Programs, Halfway Houses, and Substance Abuse Treatment Programs as of March 31, 2009

Figure 2



Source: Texas Department of Criminal Justice.

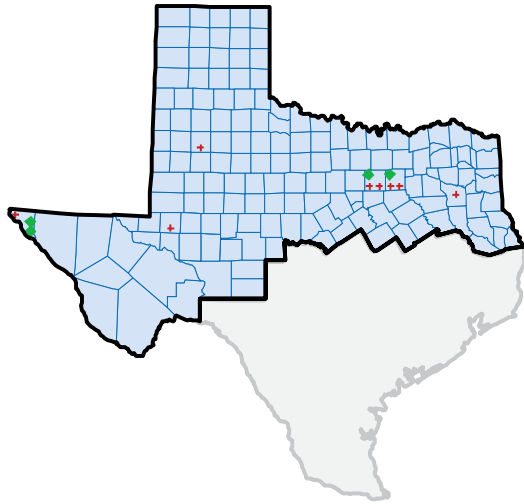
Region IV



Substance Abuse Treatment Facility	City	Number of Placements
Bay Area Recovery Center	Dickinson	26
Brazos Valley Council on Alcohol Substance Abuse	Bryan	106
Cen-tex Alcohol Rehabilitation Center	Temple	57
Zebra Inc DBA Cheyene Center	Houston	185
Cornell Companies DBA Cornell Corrections	Houston	59
E.P. Horizon Management, L.L.C. ⁹	Austin	123
Land Manor, Inc.	Beaumont	83
Liberty Lodge, Inc.	Alice	48
Reality Ranch, LLC	League City	109
Spindletop MHMR Services	Beaumont	22
Treatment Associates	Victoria	64
Halfway House	City	Number of Placements
Southern Corrections Systems, Inc.	Austin	105
Correctional Systems, Inc.	Beaumont	210
Cornell Companies DBA Cornell Corrections	Houston	401
County Jail Work Release Program	City	Number of Placements
Bexar County Sheriff's Department	San Antonio	17
Travis County Sheriff's Department	Austin	15

⁹ The Department reported that a portion of the placements for this provider are also located in El Paso, Texas.

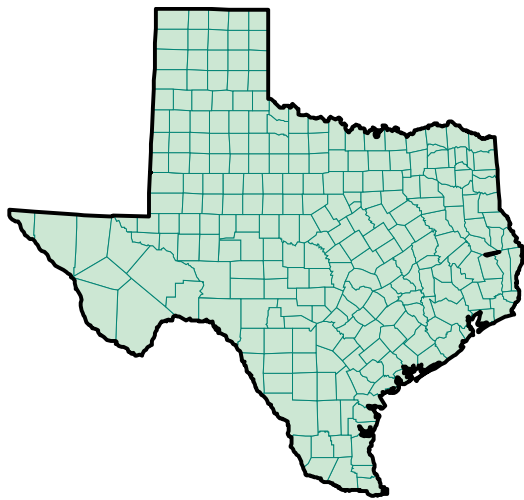
Region V



Substance Abuse Treatment Facility	City	Number of Placements
Abode Treatment, Inc.	Fort Worth	180
Clover House	Odessa	108
County Rehabilitation Center, Inc.	Tyler	31
E.P. Horizon Management, L.L.C	El Paso	123
Gateway Foundation	Dallas	72
Lubbock Regional MHMR Center	Lubbock	41
Salvation Army	Dallas	234
Volunteers of America ¹⁰	Fort Worth	74
Halfway House	City	Number of Placements
Southern Corrections Systems, Inc.	El Paso	168
Southern Corrections Systems, Inc.	El Paso	89
GEO Community	Fort Worth	205
The Wayback House	Dallas	190

¹⁰ The Department reported that a portion of the placements for this provider are located in Houston, Texas.

SAPPF/IPTC and State Jail Providers



Substance Abuse Felony Punishment Facilities (SAPPF) and In-Prison Therapeutic Community (IPTC)			
	Facility	City	Number of Placements
Gateway Foundation	Estelle	Huntsville	212
	Glossbrenner Facility	San Diego, TX	597
	Hackberry	Gatesville	285
	Ellen Halbert SAPF Unit	Burnet	586
	Havins Unit	Brownwood	558
	Jester I	Richmond	299
	Kyle Unit	Kyle	502
	Ney Unit	Hondo	305
	Sayle Unit	Breckenridge	615
Management and Training Corporation	East Texas Treatment Facility	Henderson	594
Cenikor	Henley Unit	Dayton	183
State Jail Substance Abuse Programs			
	Facility	City	Number of Treatment Slots
Turning Point	Dominguez State Jail	San Antonio	174
	Gist State Jail	Beaumont	116
	Hutchins State Jail	Dallas	232
	Lychner State Jail	Humble	396
	Plane State Jail	Dayton	174
	Travis County State Jail	Austin	108

The Department's Private Facility Providers for Fiscal Years 2008 and 2009

The Department of Criminal Justice (Department) paid private facility providers approximately \$235 million in fiscal year 2008 and \$255 million in fiscal year 2009.¹¹ Table 3 lists the total payments that the Department made to providers that operate secured correctional facilities, the Lockhart work release program, and the In-Prison Driving While Intoxicated (DWI) Recovery program.

Table 3

Payments to the Department's Providers That Operate Secured Correctional Facilities September 2007 Through August 2009			
Provider Name	Contract Service	Total Payments in Fiscal Year 2008	Total Payments in Fiscal Year 2009
Bowie County	Contract Transfer Facility	\$ 5,632,093	\$ 5,878,169
Corrections Corporation of America	Correctional Center	11,554,291	5,275,403
	Pre-parole Transfer	26,200,121	26,348,398
	State Jail	61,150,153	62,180,479
Jefferson County	Contract Transfer Facility	4,692,482	4,806,399
Limestone County	Contract Transfer Facility	5,049,680	4,874,186
Management and Training Corporation	Correctional Center	5,244,998	17,794,238
	Intermediate Sanction Facility	7,533,772	7,603,492
	In-Prison DWI Recovery Program	4,675,076	20,180,550
Newton County Correctional Center	Contract Transfer Facility	12,325,601	12,415,557
The Geo Group, Inc.	Correctional Center	22,473,539	16,921,231
	Intermediate Sanction Facility	11,640,505	11,567,426
	Lockhart Work Program	9,966,012	10,127,754
Totals		\$188,138,323	\$205,973,282

¹¹ The Department reported that a portion of the payments shown were for services provided during fiscal year 2007.

Table 4 lists the total payments that the Department made to providers that operate county jail work release programs, halfway houses, transitional treatment centers, substance abuse felony punishment facility/in-prison therapeutic community and state jail substance abuse programs.

Table 4

Payments to the Department's Providers That Operate Halfway Houses and Substance Abuse Treatment Programs September 2007 Through August 2009			
Provider Name	Type of Operation	Total Payments in Fiscal Year 2008	Total Payments in Fiscal Year 2009
Abode Treatment, Inc.	Transitional Treatment Center	\$ 1,475,193	\$ 2,572,610
Bay Area Recovery Center	Transitional Treatment Center	363,308	454,874
Bexar County Sheriff's Department	County Jail Work Release	191,430	279,735
Brazos Valley Council on Alcohol and Substance Abuse	Transitional Treatment Center	1,553,718	1,618,022
Cenikor Foundation, Inc.	Substance Abuse Felony Punishment Facility/In-Prison Therapeutic Community	236,402	429,597
Cen-Tex Alcoholic Rehabilitation Center	Transitional Treatment Center	737,444	859,322
Clover House	Transitional Treatment Center	1,404,415	1,859,646
Correctional Services Corporation (Geo Community)	Halfway House	2,124,717	1,909,308
Correctional Systems, Inc.	Halfway House	2,026,057	1,896,385
County Rehabilitation Center, Inc.	Transitional Treatment Center	433,831	475,441
Gateway Foundation	Substance Abuse Felony Punishment Facility/In-Prison Therapeutic Community	10,209,031	9,846,492
	Transitional Treatment Center	747,083	1,205,383
Land Manor, Inc.	Transitional Treatment Center	914,840	1,047,607
Liberty Lodge, Inc.	Transitional Treatment Center	350,858	627,097
Lubbock Regional MHMR Center	Transitional Treatment Center	545,062	702,068
Reality Ranch, LLC	Transitional Treatment Center	1,221,250	1,502,526
Cornell Companies DBA Cornell Corrections	Halfway House	4,561,349	3,018,453
	Transitional Treatment Center	774,979	594,089
Salvation Army	Transitional Treatment Center	2,795,175	2,677,156

**Payments to the Department's Providers That Operate Halfway Houses and
Substance Abuse Treatment Programs
September 2007 Through August 2009**

Provider Name	Type of Operation	Total Payments in Fiscal Year 2008	Total Payments in Fiscal Year 2009
Serenity Foundation of Texas ¹²	Transitional Treatment Center	408,165	62,226
Southern Corrections Systems, Inc.	Halfway House	5,318,190	4,270,649
	Transitional Treatment Center	1,127,705	1,612,397
Spindletop MHMR Services	Transitional Treatment Center	461,068	545,804
The Turning Point, Inc.	State Jail Substance Abuse Program	1,122,261	1,991,066
The Way Back House, Inc.	Halfway House	1,836,691	1,734,860
Travis County Sheriff's Dept	County Jail Work Release	100,980	194,940
Treatment Associates	Transitional Treatment Center	1,209,240	1,791,426
Volunteers Of America	Transitional Treatment Center	992,307	1,153,007
Zebra Inc DBA Cheyenne Center	Transitional Treatment Center	1,687,514	2,474,309
Totals^a		\$46,930,262	\$49,406,491
^a Columns do not sum exactly due to rounding.			

¹² The Department reported that this contract was terminated as of August 31, 2008.

Overview of the Contract Monitoring Activities Performed by the Private Facilities Contract Monitoring and Oversight Division

The Department of Criminal Justice's (Department) Private Facilities Contract Monitoring and Oversight Division (Division) performs several types of on-site reviews to ensure the contract compliance of providers that operate secured correctional facilities, halfway houses, and substance abuse treatment services. During the on-site reviews, contract monitors review selected operations each month that include, but are not limited to, one or more of the following areas:

- Security procedures.
- Security staffing and coverage.
- Program services.
- Food service.
- Health and safety.
- Americans with Disabilities Act compliance.
- Training.
- Offender grievances.
- Disciplinary actions.
- American Correctional Association accreditation.
- Education services.
- Health services.
- Use of force.
- Physical plant.
- Policies and procedures.

In addition, the Division examines select financial operations of providers according to an annual risk assessment. The financial reviews can include, but are not limited to, the following:

- **On-site Financial Compliance Review.** This review includes an examination of a sample of prior month billings paid by the Department.

- **Closeout Financial Compliance Review.** This review is performed for contracts that are terminating or transitioning to a new provider. The review includes the examination of all financial activities necessary to ensure that the Department obtains all funds and property due upon the closure of the contract or prior to a new provider's assumption of the facility.
- **Offender Medical Bill Review.** This review includes an examination of offender medical bills that a provider submitted for payment to the Department to confirm that charges/services were provided from the applicable facility hospital.
- **Commissary Expenditure Review.** This review includes an examination of commissary operations, including the observation of actual sales operations, security procedures, and reconciliation of sales transactions.
- **Telephone and Vending Commission Revenue Review.** This review includes an examination of financial records relating to telephone and vending machine (laundry, food, and beverage) commission revenue.

State of Texas Contract Management Guide Essential Contract Provisions

Table 5 lists the 21 contract provisions identified in the *State of Texas Contract Management Guide* as essential provisions that must be included in all state contracts.

Table 5

<i>State of Texas Contract Management Guide</i> Essential Contract Provisions
Abandonment or Default - Specifies that the contractor will be held accountable for breach of contract or substandard performance without unfairly limiting competition in accordance with Texas Government Code, Section 2261.101.
Affirmation - Requires the contractor to affirm that all statements and information prepared and submitted in response to a solicitation are current, complete, and accurate.
Antitrust - Requires that the contractor represent and warrant that neither the contractor nor any firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such firm, corporation or institution has (1) violated the antitrust laws of the State of Texas under Texas Business and Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business during the procurement process for the contract.
Buy Texas - "Contractor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials."
Consideration (contract price) - Describes a definite amount at a certain rate with a total maximum cost.
Contract Specifications - Describe the services to be performed, and may specify that the agency will determine the answers to all questions that may arise as to the interpretation of the specifications, the quality or acceptability of work performed, the rate of progress of the work, and the conditions for determining the acceptable fulfillment of the service on the part of the contractor.
Contractor's Responsibilities - Describes details of the contractor's responsibilities.
Dispute Resolution - Describes a dispute resolution process in accordance with Texas Government Code, Chapter 2260.
Force Majeure - An agency may grant relief from performance of the contract if the vendor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the contractor. The burden of proof for the need of such relief shall rest upon the contractor. To obtain release based on force majeure, the contractor shall file a written request with the agency.
Funding Out - Describes conditions if the contract term extends into the next biennium. For example, "This contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature."
Indemnification/Damage - Contractor shall defend, indemnify, and hold harmless the state of Texas, its officers, and employees, and the agency, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract. Contractor shall coordinate its defense with the Texas attorney general as requested by the agency. This paragraph is not intended to and shall not be construed to require contractor to indemnify or hold harmless the state or the agency for any claims or liabilities resulting from the negligent acts or omissions of the agency or its employees.
Independent Contractor - "Both parties hereto, in the performance of this contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. The contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the contractor's employees."
Intellectual Property Indemnification - Requires that the contractor will indemnify, defend, and hold harmless the State of Texas and the system against any action or claim brought against the State of Texas/system that is based on a claim that software infringes any patent rights, copyright rights, or incorporated misappropriated

State of Texas Contract Management Guide Essential Contract Provisions

trade secrets.

Introduction - Describes all parties involved in the contract that may include a contractor's complete name, any assumed names, and all addresses for the contractors.

Payment - Describes conditions such as the frequency of payment, time frame to submit payment, invoice specifications and compliance with the Texas Prompt Payment law, Texas Government Code, Subtitle F, Chapter 2251.

Right to Audit - Describes that the State Auditor's Office's, the agency's, or any successor's right to conduct an audit or investigation and obtain all records requested.

Rights to Data, Documents, and Computer Software (State Ownership) - Specifies that any research, reports, studies, data, or other documents prepared by the contractor in the performance of its obligations under the contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the contractor upon completion, termination, or cancellation of the contract. In addition, conditions may describe instances in which the State does not wish the work products of the contractor to be made available to any other entity, public or private, but the contractor also is not entitled to any additional profit or benefit when payment for the said products was by public funds, unless the state agency has given its prior approval of the use of the materials.

Scope of Work - Defines the scope of work from the solicitation document and may include the contractor's response outlining the proposed scope of work.

Technology Access -

(1) Effective September 1, 2006, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility Requirements for Electronic and Information Resources specified in Title 1, Texas Administrative Code, Chapter 213, when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

(2) Vendor shall provide the Department of Information Resources with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the U.S. Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide the Department of Information Resources with a report that addresses the same accessibility criteria in substantively the same format.

Term of Contract - Describes the duration of the contract including the beginning date and ending date of the contract, and may include conditions for renewal and conditions for price increases.

Terminate - Specifies that, upon full performance of all requirements contained in the contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions, the contract will terminate.

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The Honorable Joe Straus III, Speaker of the House, Joint Chair
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The Honorable Jim Pitts, House Appropriations Committee
The Honorable Rene Oliveira, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Department of Criminal Justice

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