



## OFFICE OF THE STATE AUDITOR

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AUSTIN, TEXAS 78701

LAWRENCE F. ALWIN, CPA  
State Auditor

February 11, 1998

Members of the Legislative Audit Committee:

The General Appropriations Act (Department of Criminal Justice, Rider 58) instructs us to report to you by March 1, 1998, recommending Texas Department of Criminal Justice (Department) land parcels to be sold, leased, or used for prison operations. The Department has been working with the General Land Office's appraisers and analysts to identify and dispose of those properties that do not contribute to the Department's operations. We have reviewed this process and are satisfied that appropriate properties are being sold or leased. We therefore recommend that the Department and the General Land Office proceed with the planned sale of identified properties.

**The General Land Office estimates that it will be able to dispose of at least \$8.5 million in property for the Department by the end of fiscal year 1999.** Eight million five hundred thousand dollars of the Department's fiscal year 1999 appropriation is contingent upon the sale or lease of Department property. To generate \$8.5 million by the end of fiscal year 1999, the following must occur:

- The General Land Office will sell the properties that have been approved for disposition by the Texas Board of Criminal Justice (Board).
- The Board will approve for sale several additional properties when the General Land Office recommends them for Board approval.
- The General Land Office will complete those sales by the end of the biennium.

During calendar years 1996 and 1997, the Board identified 10 properties for disposition by the General Land Office. As of February 1, 1998, all but three of those properties had been auctioned, sold, or leased. If the highest bids are all accepted for land auctioned on January 30, 1998, the seven properties will have provided approximately \$3.6 million. (Of this amount, \$2.7 million was sold in fiscal year 1998.) In addition, over \$703,000 in mineral leases were sold on October 7, 1997. (See Attachment 1 for the current status of all properties approved for disposition.)

The General Land Office has planned feasibility and market studies on two additional properties. Once these studies are completed and an appraisal for the parts of these properties to be sold is final, the Texas Board of Criminal Justice will be asked to authorize these sales. There is an understanding between the Department and General Land Office staff members that enough of this property will be sold to realize the \$8.5 million of General Revenue that is contingent on the sale or lease of property.

SAO Report No. 98-022

**The process used by the General Land Office to recommend property to be sold raises some questions:**

- **All of the Department's agricultural properties were listed as "unused or underused."** The General Land Office issued a report in 1996 which suggested that the Department held over 114,000 acres that did not support its operations, and that these properties had a market value of over \$90 million. This report was the basis of a *Texas Performance Review* recommendation that the land be sold. The General Land Office report questioned whether the Department's agricultural operations support its mission and consequently included all of the Department's agriculture and rangeland properties as unused or underused properties.<sup>1</sup> The 114,000 acres that the General Land Office listed as "unused or underused" represent Department agricultural properties. These properties were listed in a table titled "Sites Recommended for Sale or Lease." The accompanying text described the need for feasibility studies to determine whether agricultural properties were an appropriate use of state land. We concur with the text, and think that analysis is needed before asserting that the Department's agricultural operations do not support its mission.
- **The market values listed in the General Land Office's report are not only for the portions of the tracts that might be sold.** The report includes the market value for the entire site, including the prison facility. However, in most cases the entire site would not be sold. Only those parts of a site that are used for agricultural purposes are listed as "recommended for sale or lease" in the table. The part of the site that might be sold will have different access and other characteristics than the entire site, and therefore will sell for a different amount per acre than the entire site would. As a result, the \$90 million estimate of the land value for the portions that might be sold is not accurate.
- **Sales of Department land are often time-consuming.** Historically, it has not been unusual for more than a year to elapse between the Texas Board of Criminal Justice's formal authorization of a sale and the actual sale. Before the Board approves a sale, conservation studies, surveys of areas never before subdivided, and other significant work have already been done. This suggests that it may be difficult to use the process described in Attachment 3 to approach a specific budget target.

The General Land Office process for developing its *Real Property Evaluation Report* for the Department is described in Attachment 2, and the process for selling properties is described in Attachment 3. The General Land Office is currently working on a new version of the Department's

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<sup>1</sup>"Most of TDCJ's acreage is reserved for agricultural land, and GLO analysis indicates that this land is unused or underused for agency operations." *Real Property Evaluation Reports, Texas Department of Criminal Justice, 1996*, page 10.

Member of the Legislative Audit Committee  
February 11, 1998  
Page 3

*Real Property Evaluation Report*, to be submitted to the Legislature in 1998. General Land Office and Department staff members are working together to arrive at a methodology that will not treat those properties that the Department sees as central to its operations as surplus property.

## **Objectives and Scope**

Our initial objective was to identify lands for sale or lease. We later became aware of the expertise in this area that has been brought to bear by staff members at both the Department and at the General Land Office. As a result, we limited our review to the process of preparing the *Real Property Evaluation Report* and the process of disposing of properties identified for sale. In addition, we participated in several meetings held by the General Land Office with the Department where criteria for future *Real Property Evaluation Reports* were discussed.

Work performed in achieving this objective did not constitute an audit. The information is being provided to the Legislative Audit Committee as described in the rider. We did not seek management responses, and have not included any in this report. However, we have provided copies of this letter to staff members at both the Department and the General Land Office. We appreciate the cooperation that staff members from both agencies extended to us.

For additional information, please contact Charlie Hrnccir at 479-4729.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence F. Alwin". The signature is fluid and cursive, with the first name being the most prominent.

Lawrence F. Alwin, CPA  
State Auditor

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Attachments

Attachment 1:

## Properties Approved for Disposition

The Texas Board of Criminal Justice (Board) has approved the sale or lease of the following sites, for disposition by the General Land Office (GLO):

| Site (County)                  | No. of Acres (approx.) | Board Authorization Date | Status  | Sale Price                      |
|--------------------------------|------------------------|--------------------------|---|---------------------------------|
| Goree<br>(Walker County)       | 172.5                  | July 1996                | Sold, March 1997. This sale will not count toward the \$8.5 million in General Revenue that is contingent on the sale of land.  | \$900,000                       |
| Ellis<br>(Walker County)       | 300                    | September 1996           | According to materials presented at the Texas Board of Criminal Justice subcommittee meeting on January 29, 1998, parts of this property may be donated to Sam Houston State University. It has been removed from the market until decisions are finalized. |                                 |
| Wynne<br>(Walker County)       | 6                      | September 1996           | Board approved for lease to Parker County Youth Emergency Center, to be handled by GLO. As of January 5, 1998, the lease has been signed by Parker County Youth Center, but not by the Department. Only one year of rent is included in the totals below.   | \$7,980 per year for five years |
| Coffield<br>(Freestone County) | 640                    | November 1996            | Auctioned on January 30, 1998. Highest bid is listed as sales price. The GLO has the right to reject any and all bids.  | \$1,900,000                     |
| Eastham<br>(Houston County)    | 180                    | November 1996            | Auctioned on January 30, 1998. Highest bid is listed as sales price. The GLO has the right to reject any and all bids.  | \$50,000                        |
| Clemens<br>(Brazoria County)   | 100                    | November 1996            | Withdrawn from sale pending discussion of sale to another agency.   |                                 |

Table (concluded)

| Site (County)  | No. of Acres (approx.) | Board Authorization Date | Status  | Sale Price  |
|--|------------------------|--------------------------|---|-------------|
| Wynne (Walker County)  | 2.1                    | January 1997             | Board approved sale to Walker County to expand County jail. Sale completed May 1997. This sale will not count toward the \$8.5 million in General Revenue that is contingent on the sale of land. | \$8,090     |
| Goree (Walker County)  | 6.69                   | May 1997                 | Two sites, totaling 6.69 acres, were auctioned on January 30, 1998. Highest bid is listed as sales price. The GLO has the right to reject any and all bids.                                       | \$149,000   |
| Coffield (Anderson County)   | 676                    | September 1997           | Referred to as the Beto site. Currently scheduled for sale during spring of 1998.   |             |
| Coffield (Anderson County)   | 1,700                  | September 1997           | Two sites, totaling 1,700 acres, were auctioned on January 30, 1998. Highest bids are listed as sales prices. The GLO has the right to reject any and all bids.                                   | \$575,000   |
| Total Sales  |                        |                          |   | \$3,590,070 |
| Less: fiscal year 1997 Sales   |                        |                          |   | \$908,090   |
| Plus: fiscal year 1998 Mineral Leases  |                        |                          |   | \$703,609   |
| Plus: anticipated proceeds from properties approved for sale or being prepared for Board approval by the GLO                                       |                        |                          |   | \$5,114,411 |
| Amount sold or leased toward the \$8.5 million of the Department's fiscal year 1999 appropriation that is contingent on sales or lease of property |                        |                          |   | \$8,500,000 |

## **A Summary of the Process for Developing *Real Property Evaluation Reports* for Texas Department of Criminal Justice**

The GLO process for developing its *Real Property Evaluation Report* for the Texas Department of Criminal Justice in 1996 included an appraisal process and an analysis process. The appraisal process and part of the analysis process are also used for other agencies. Our description of these processes is derived from GLO descriptions of its own process. We did not verify that those processes were followed. The process for selling property, described in Appendix 3, is not part of the development of the *Real Property Evaluation Report*. The development of the *Real Property Evaluation Report* does not include any special attempt to initiate sales.

- **Appraisal Process:** The GLO keeps an inventory of all state properties. Agencies (with several statutory exceptions) are responsible for notifying the GLO when there are changes to properties that the agencies own. As of a specific cut-off date, all properties listed in this inventory are provided to the GLO's appraisal group.

All properties on the inventory as of the cut-off date are appraised. Every appraisal is reviewed by a state certified appraiser, whether or not the appraisal was initially performed by an appraiser with state certification. The appraisal process was the same for the Department as it was for other agencies:

- Parcels of land are appraised as a whole. Since it is unlikely that an entire facility would ever be sold, the appraisals do not reflect what the land would bring if placed on the market. Instead, the "market value" reflects the value of the property to the State as a prison facility.
- Value of buildings and improvements are replacement values determined using the Marshall and Swift model. These are not market values, but replacement values.
- No effort is made to include a productivity value in the appraisal, or to otherwise include the value of crops raised on the property or the value of timber or mineral leases.

These appraised values are not changed by the analysis that is reported in the *Real Property Evaluation Report*.

- **Analysis Process:** GLO uses the appraisal findings and determines each site's land use patterns. One resulting conclusion is a determination of what land is economically underused for state purposes. In the 1996 analysis of Department holdings, property was considered to be "used" if it had improvements or if it was within the security fences. Improvements include buildings, easements, parking lots, and landscaping, but not agricultural crops. The remaining "undeveloped or vacant property" was identified as property to be considered for alternate uses, pending feasibility studies and dependant on market interest. Although this property was listed in a table titled "Sites Recommended for Sale or Lease" in the report, the GLO sees its analysis as a preliminary evaluation that identifies potential alternate uses. The text accompanying the table notes that before the land could be marketed, additional research would be needed.

The analysis considers:

- **The agency's needs and projected uses** - These needs and uses are developed from the statements of the agency. The GLO may question these needs and uses, but would not dispute them. For example, the GLO questioned whether agricultural programs at the Department supported the statutory mission to "provide public safety, promote positive change in offender behavior, and reintegrate offenders into society" (Government Code, Section 493.001), but did not dispute the Department's plans to use the land for agricultural purposes.
- **Physical characteristics of the property and surrounding properties as they are described in the appraisal** - For example, if the appraisal described 60 acres of agricultural land adjacent to suburban development, the analysis might suggest that the highest and best use of the tract is different from the current use. In three cases, the GLO's analysis of Department land suggested that the highest and best use of a site might be residential or commercial development. This assessment was made based on the proximity of other development.
- **Existing market conditions** - The appraisals would reflect situations in which market conditions are changing rapidly, in which case analysis may suggest waiting before making a decision. We saw no evidence that determination had been made in the 1996 report on Department properties.

Because unimproved properties outside the security fences were all considered to be unused or underused, the GLO determined that land owned by the Department which is used to support its Agricultural Operations is underused for state purposes, and recommended that, should market interest develop, these properties be considered for sale. All of the over 114,000 acres that the GLO recommended be considered for disposition were listed by the Department as agricultural properties, or else had already been approved for disposition by the Department.

After the analysis is complete, the agency can comment on the report. The agency's comments and the GLO's recommendations are published in the final report. The report must be done for each agency at least once every four years, and must be done during the calendar year before the agency's Sunset Review is presented to the Legislature (Natural Resources Code, Section 31.156 (a)).



## Process for Disposing of Property

The process for disposing of property is governed by the General Land Office's enabling legislation and by a Memorandum of Understanding between the GLO and the Department.

- The GLO participates in the marketing and sale of property after a potential buyer has expressed interest or after the Department has determined the property to be surplus.
- GLO and the Department work together to define a specific parcel of land to be sold. GLO staff develops a disposition strategy, which includes summaries of the property's features and alternatives for development. This process may include market and feasibility studies, environmental assessments, an engineering study, and will include a separate appraisal for the defined tract. The cost of these services is borne by the Department.

A new appraisal is done for the site as it will be sold. The value of the identified site may be very different from that of the entire site as listed in the *Real Property Evaluation Report*. The new appraisal would consider ease of public access, frontage roads, and the value of resources such as timber for the newly defined site. The new appraisal would also consider how much of the property the market could absorb without flooding the market and decreasing the value of the land.

- The reports are presented to the Texas of Criminal Justice Board, and the disposition is authorized. After this authorization, the GLO has full control of the transaction. Authorizations by the Texas Board of Criminal Justice generally state that the Department can then either accept or reject the offers. The Memorandum of Understanding between the two agencies does not specify whether or not the Department has the authority to reject an offer that the GLO has accepted.
- Once the disposition has been authorized, the GLO completes the sale, through auctions or through sealed bids, in accordance with Natural Resources Code Section 31.158. The statute specifies how the sale must be advertised, and states that no bids may be accepted that do not meet the minimum value established by the appraisal.