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State Auditor

May 1, 2002

Members of the Legislative Audit Committee:

Fifteen percent (29 of 200) of state agencies and institutions of higher education (entities) self-reported that they were in violation of at least one contract workforce requirement in Article IX, Section 9-11.18 of the General Appropriations Act (76th Legislature) during fiscal year 2001. As a result, entities spent approximately \$192 million on contract workforce services in violation of the expenditure restrictions contained in the General Appropriations Act. In fiscal year 2000, noncompliant entities spent approximately \$860 million on contract workforce services.

There are two types of contract workforce requirements in the General Appropriations Act: expenditure restrictions and reporting requirements (see textbox). Based on the information entities self-reported and on unaudited information in the Uniform Statewide Accounting System (USAS):

- Twenty-seven entities spent \$192 million on contract workforce services without complying with at least one contract workforce expenditure restriction. The General Appropriations Act stipulates that entities may not spend appropriated funds for contract workforce services until they comply with those restrictions.
- Two institutions of higher education complied with all expenditure restrictions, but they did not comply with the contract workforce reporting requirement to perform an evaluation of the work performed by their contract workforce.

Our determination of noncompliance with contract workforce requirements does not indicate that the services procured were inappropriate. However, it indicates that there is an increased risk that the State may not receive the best value for its money. Noncompliance with contract workforce requirements is significant because the State has spent more than \$1 billion each year on contract workforce expenditures during the past five years. Statewide, entities spent \$1.7 billion on contract workforce services in fiscal year 2001.

Of the 25 contract workforce expenditure categories for which data was collected in USAS, state entities spent the most on Other Professional Services. Entities spent more than \$429 million on Other Professional Services in fiscal year 2001.

# A Report on Compliance With Contract Workforce Requirements in The General Appropriations Act

## General Appropriations Act Contract Workforce Requirements

### Expenditure Restrictions

The General Appropriations Act specifies that no appropriated funds may be expended for payment of a contract workforce in which the contract is executed, amended, or renewed on or after September 1, 1999, until an agency or institution:

- Develops comprehensive policies and procedures for its contract workforce.
- Examines the legal and personnel issues related to the use of a contract workforce.
- Conducts a cost-benefit analysis of its current contract workforce prior to hiring additional contract workers or amending or renewing existing contracts.
- Documents why and how the use of contract workers fits into staffing strategies, including consideration of agency mission, goals and objectives, existing and future employee skills needed, compensation costs, productivity, nature of services to be provided, and workload.

### Reporting Requirements

The General Appropriations Act specifies that agencies and institutions must provide:

- A description of how they complied with provisions of the contract workforce rider.
- An evaluation of the work performed by a contract workforce, including an assessment of whether work was completed on time, within budget, and according to contract specifications.

Source: General Appropriations Act (76th Legislature)

SAO Report No. 02-040

Members of the Legislative Audit Committee  
May 1, 2002  
Page 2

Major areas of noncompliance in our review of entities' self-reported information include:

- Twelve percent of all state entities reported that they did not document the role of a contract workforce in their staffing strategies. These entities spent a combined \$185 million on contract workforce services in fiscal year 2001. This was the requirement for which there was the highest rate of noncompliance.
- Six percent of all state entities reported that they failed to conduct the required cost-benefit analysis before signing a new, amended, or renewed contract workforce contract. These entities spent a combined \$163 million on contract workforce services in fiscal year 2001.

The General Appropriations Act requires that state entities report annually to the State Auditor's Office on their compliance with contract workforce requirements and that the State Auditor notify the Legislative Audit Committee and the Comptroller of noncompliance. This report is in fulfillment of that statutory responsibility. The attachment to this letter contains more detail on state entity compliance with contract workforce requirements. If you have any questions, please contact Valerie Hill, Audit Manager, at (512) 936-9500.

Sincerely,

Lawrence F. Alwin, CPA  
State Auditor

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Attachment

cc: Office of the Comptroller of Public Accounts  
The Honorable Carole Keeton Rylander, Comptroller  
Mr. Billy Hamilton, Deputy Comptroller

# Fifteen Percent of All State Entities Report That They Did Not Fully Comply With Contract Workforce Requirements

In fiscal year 2001, 15 percent (29 of 200) of state agencies and institutions of higher education (entities) self-reported that they did not comply with one or more contract workforce requirements set forth in Article IX, Section 9-11.18 of the General Appropriations Act (76th Legislature). (As detailed in Sections 1-A through 1-E, the reasons for noncompliance varied depending on the specific requirement addressed.)

As a result, entities spent approximately \$192 million on contract workforce services in violation of the expenditure restrictions contained in the General Appropriations Act. In fiscal year 2000, noncompliant entities spent approximately \$860 million on contract workforce services.

There are two types of contract workforce requirements in the General Appropriations Act: expenditure restrictions and reporting requirements. Based on the information entities self-reported and on unaudited information in the Uniform Statewide Accounting System (USAS):

- Twenty-seven entities spent \$192 million on contract workforce services without complying with at least one contract workforce expenditure restriction. The General Appropriations Act stipulates that entities may not spend appropriated funds for contract workforce services until they comply with those restrictions.
- Two institutions of higher education complied with all expenditure restrictions, but they did not comply with the contract workforce reporting requirement to perform an evaluation of the work performed by their contract workforce.

Statewide, entities spent \$1.7 billion on contract workforce services in fiscal year 2001.

Section 2 of this report contains detailed information on contract workforce expenditures for each entity that self-reported noncompliance during fiscal year 2001. Noncompliance with contract workforce requirements does not indicate that services

procured were inappropriate. However, it indicates an increased risk that the State may not receive the best value for its money because of contracts that are not economical and poor vendor performance.

To improve compliance with contract workforce requirements, state entity management and applicable staff should review and implement *Best Practices and Guidelines for Effectively Using a Contract Workforce* (SAO No. 99-326, March 1999). This guide, which was developed as a companion to the contract workforce requirements in the General Appropriations Act, provides detailed information

Contents	
Fifteen Percent of All State Entities Report That They Did Not Fully Comply With Contract Workforce Requirements.....	1
Detailed Contract Workforce Expenditure Information .....	5
Article IX, Section 9-11.18, General Appropriations Act (76th Legislature).....	8
Summary of Objective, Scope, and Methodology.....	9

about the issues that state entities should consider when using contract workers. It includes:

- Checklists of items that should be considered for each contract workforce requirement
- Examples of cost-benefit calculations
- Decision methodologies
- References and resources for further assistance

Section 1-A:

### **Twelve Percent of Entities Did Not Document The Role of a Contract Workforce in Their Staffing Strategies**

Twelve percent of all state entities (23 of 200) reported that they did not comply with the requirement to document the role of a contract workforce in their staffing strategies. These 23 entities spent approximately 11 percent (\$185 million) of the \$1.7 billion spent by all state entities on contract workforce services in fiscal year 2001.

Reasons cited for not complying with this requirement include:

- The use of a contract workforce is minimal.
- Management was in the process of developing a staffing strategy but had not completed it prior to expending appropriated funds on a contract workforce.
- Further clarification on how to develop a staffing strategy is needed.

Developing a staffing strategy that considers the use of contract workers allows entities to proactively assess their staffing needs and ensure that increases and decreases in staffing are planned and managed in the most efficient and effective manner. Organizations that do not prepare adequate staffing strategies must react quickly to fluctuations in the demand for workers, leaving little time to consider alternatives. Operating in a reactive manner is often more expensive and less productive than using a proactive approach.

Section 1-B:

### **Six Percent of Entities Did Not Conduct Cost-Benefit Analyses Regarding Contract Workers**

Six percent of all state entities (12 of 200) reported that they failed to conduct the required cost-benefit analysis before signing a new, amended, or renewed contract workforce contract. These 12 entities spent approximately 10 percent (\$163 million) of the \$1.7 billion spent by all state entities on contract workforce expenditures in fiscal year 2001.

Reasons cited for not complying with this requirement include:

- The use of a contract workforce is minimal.

- Management considers a cost-benefit analysis to be unnecessary because it is unable to hire employees to perform this work, either because of full-time equivalent (FTE) employee caps or because of the competitiveness of the marketplace.

Cost-benefit analyses help an entity determine whether its use of contract workers is cost-effective. A previous State Auditor's Office document, *Best Practices and Guidelines for Effectively Using a Contract Workforce* (SAO No. 99-326, March 1999), stated that using contract workers was not always less expensive than hiring additional employees.

Section 1-C:

### **Four Percent of Entities Did Not Develop Contract Workforce Policies and Procedures**

Four percent of all state entities (8 of 200) did not comply with the requirement to develop comprehensive policies and procedures for their contract workforce. These eight entities spent approximately 2 percent (\$39 million) of the \$1.7 billion spent by all state entities on contract workforce services in fiscal year 2001.

Reasons cited for not complying with this requirement include:

- The use of a contract workforce is minimal.
- Management was in the process of developing policies and procedures but had not yet implemented them.
- Further clarification on how to establish such policies and procedures is needed.
- There are no contract workers on-site.

Policies and procedures help management ensure that contract workers are managed as intended. They provide guidance on how to select, monitor, and evaluate contract workers' performance to ensure that these individuals consistently provide quality services and that public funds are spent effectively and efficiently.

Section 1-D:

### **Two Percent of Entities Did Not Evaluate Their Contract Workforce**

Two percent of all state entities (4 of 200) did not submit an assessment of whether work was completed on time, within budget, and according to contract specifications. These four entities spent approximately 1 percent (\$11 million) of the \$1.7 billion spent by all state entities on contract workforce services in fiscal year 2001.

Evaluation of contract workers assists in ensuring that these individuals consistently provide quality services and that public funds are spent effectively and efficiently.

Section 1-E:

### **One Percent of Entities Did Not Examine Legal and Personnel Issues Related to Their Contract Workforces**

One percent of all state entities (2 of 200) did not comply with the requirement that they perform an examination of the legal and personnel issues related to a contract workforce. These two entities spent approximately 1 percent (\$9 million) of the \$1.7 billion dollars spent by all state entities on contract workforce services in fiscal year 2001.

Reasons cited for not complying with this requirement include:

- The use of a contract workforce is minimal.
- Management was in the process of examining legal and personnel issues but had not yet completed this analysis.

State entities must be familiar with the legal considerations and consequences involved with using and managing contract workers. Entities may be unaware that legal obligations may become more complicated when a contracting company is involved. Entities need to achieve a balance between employing good management practices and avoiding exposure to unnecessary liability.

Section 1-F:

### **All Entities Filed the Required Report on Their Use of a Contract Workforce**

All state entities submitted to the State Auditor's Office the required report on their use of a contract workforce. The General Appropriations Act requires that entities annually report to the State Auditor's Office and describe how they have complied with contract workforce requirements. Without this report, it is more difficult to assess the compliance status of the individual entity and the overall compliance of all state entities.

Section 2:

## Detailed Contract Workforce Expenditure Information

Table 1 shows how much individual entities that reported noncompliance spent on contract workforce services in fiscal year 2001. It also shows how much individual entities that reported noncompliance in two consecutive years spent on contract workforce services in fiscal year 2000.

Table 1

Contract Workforce Expenditures for Entities Reporting Noncompliance								
Entity Name	Fiscal Year 2001						Fiscal Year 2000	
	Expenditure Requirements				Reporting Requirements	Total Expenditures for Contract Workforce Services	Noncompliant in Any Requirement Category	Total Expenditures for Contract Workforce Services
	Policies and Procedures	Legal and Personnel Issues	Cost-Benefit Analysis	Staffing Strategy	Contractor Evaluation			
Department of Human Services			X	X		\$103,682,700	X	\$77,249,375
Health and Human Services Commission	X		X	X		35,878,601	X	10,796,344
State Board for Educator Certification				X		10,611,501	X	9,264,617
General Services Commission <sup>a</sup>		X	X	X	X	9,848,242	X	8,529,619
University of Houston System Administration				X		5,916,936	X	976,672
Teacher Retirement System			X			5,903,714		N/A
Workers' Compensation Commission			X	X		3,715,987	X	4,195,031
University of Houston				X		3,146,592	X	3,646,856
The University of Texas System Administration				X		2,956,249	X	2,697,415
Telecommunications Infrastructure Fund Board				X		2,852,756	X	3,427,970
Sam Houston State University			X	X		2,412,778		N/A
State Soil and Water Conservation Board	X		X	X		1,455,558	X	678,501
Angelo State University					X	823,366	X	943,642
Board of Nurse Examiners	X			X		577,263	X	682,152
Fire Fighters' Pension Commissioner				X		513,833	X	477,767
Board of Architectural Examiners	X			X		497,299	X	509,223
Texas A&M University – Texarkana				X		461,704	X	640,218
University of Houston – Downtown	X			X		451,514	X	513,098

Table 1

Contract Workforce Expenditures for Entities Reporting Noncompliance								
Entity Name	Fiscal Year 2001						Fiscal Year 2000	
	Expenditure Requirements				Reporting Requirements	Total Expenditures for Contract Workforce Services	Noncompliant in Any Requirement Category	Total Expenditures for Contract Workforce Services
	Policies and Procedures	Legal and Personnel Issues	Cost-Benefit Analysis	Staffing Strategy	Contractor Evaluation			
School for the Blind and Visually Impaired				X	X	390,679	X	323,706
State Library and Archives Commission			X			375,878	X	221,117
Texas A&M University – Kingsville					X	364,925	X	321,197
Texas Military Facilities Commission			X	X		191,440	X	36,533
Board of Private Investigators and Private Security Agencies				X		162,442	X	124,286
The University of Texas – Pan American				X		125,066		N/A
Tarleton State University	X		X			97,688	X	116,996
Board of Barber Examiners				X		78,133	X	39,184
State Pension Review Board			X			47,223		N/A
Aerospace Commission	X			X		27,116		N/A
Court of Criminal Appeals	X	X	X	X		18,910		N/A
<b>Total Number of Entities Not Complying</b>	<b>8</b>	<b>2</b>	<b>12</b>	<b>23</b>	<b>4</b>	<b>\$193,586,093<sup>b</sup></b>	<b>23</b>	<b>\$126,411,519<sup>c</sup></b>

An x denotes the entity reported it did not comply with the requirement.

Agency dollar amounts represent net expenditures for selected object codes as recorded by the Uniform Statewide Accounting System (USAS) for fiscal years 2000 and 2001. These expenditures were not audited.

<sup>a</sup> Now referred to as the Texas Building and Procurement Commission.

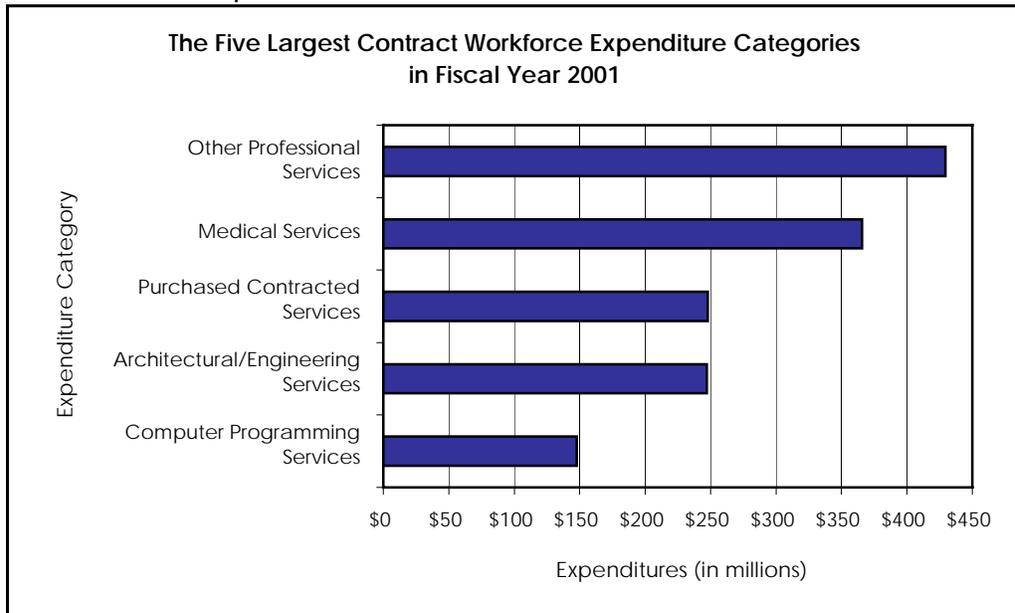
<sup>b</sup> San Angelo State University and Texas A&M University – Kingsville self-reported that they were in violation of workforce reporting requirements. Expenses related to these reporting requirements totaled \$1,188,291. Therefore this amount is excluded from the total expenditure violations associated with the General Appropriations Act (\$193,586,093 minus 1,188,291 equals \$192,397,802).

<sup>c</sup> The \$126,411,519 figure above represents the amount spent on contract workforce services in fiscal year 2000 by entities that also self-reported noncompliance in fiscal year 2001.

Source: USAS and CART (Contract Workforce Automated Reporting Tool)

In fiscal year 2001 state entities (including those that did and those that did not comply with contract workforce requirements) spent \$429 million on “Other Professional Services,” the largest single category of contract workforce expenditures (see Figure 1). Expenditures in this category of services accounted for 25 percent of the \$1.7 billion spent on all contract workforce services in fiscal year 2001. This category has a broad definition and contains several different types of services. Services under this category relate to a person or company that provides specific skills such as mediation services, which are not included in other contract workforce categories.

Figure 1  
Expenditures for “Other Professional Services” represented the largest category of fiscal year 2001 contract workforce expenditures.



Source: Uniform Statewide Accounting System (unaudited)

**Article IX, Section 9-11.18, General Appropriations Act  
(76th Legislature)**

- (a) *In this section, contract workers are defined as independent contractors, temporary workers supplied by staffing companies, contract company workers, and consultants.*
- (b) *No appropriated funds may be expended for payment of a contract workforce in which the contract is executed, amended, or renewed on or after September 1, 1999, until an agency or institution:*
  - (1) *develops comprehensive policies and procedures for its contract workforce;*
  - (2) *examines the legal and personnel issues related to the use of a contract workforce;*
  - (3) *conducts a cost benefit analysis of its current contract workforce prior to hiring additional contract workers or amending or renewing existing contracts; and*
  - (4) *documents why and how the use of contract workers fit into agency staffing strategies, including consideration of agency mission, goals and objectives, existing and future employee skills needed, compensation costs, productivity, nature of services to be provided, and workload.*

*Agencies shall consult Best Practices and Guidelines for Effectively Using a Contract Workforce (SAO No. 99-326) when planning for and implementing the requirements of this section.*

- (c) *No later than December 1 of each year of the biennium, an agency shall file with the Legislative Budget Board, the Governor's Office, and the State Auditor a report on the agency's use of a contract workforce in the preceding fiscal year. The report shall be prepared according to a format prescribed by the State Auditor and shall include:*
  - (1) *a description of how the agency has complied with provisions of this rider; and*
  - (2) *an evaluation of the work performed by a contract workforce, including an assessment of whether work was completed on time, within budget, and according to contract specifications.*
- (d) *The State Auditor shall notify the Comptroller and the Legislative Audit Committee if an agency fails to comply with this section.*
- (e) *The State Auditor may require an agency to provide interim reports or additional information as necessary to ensure compliance with this section. The State Auditor shall review each agency's report and follow up based on identified risks.*

## Summary of Objective, Scope, and Methodology

The objective of this review was to determine compliance with contract workforce requirements set forth in Article IX, Section 9-11.18 of the General Appropriations Act (76th Legislature) during fiscal year 2001. The State Auditor's Office is required to report on compliance with these requirements to the Legislative Audit Committee and the Comptroller of Public Accounts.

The State Auditor's Office based its assessment of noncompliance solely on information reported by state agencies and institutions of higher education. The General Appropriations Act requires that entities report annually to the State Auditor's Office on their use of a contract workforce. Entities report via a survey on the State Auditor's Office Web site. The information used in this report has not been subjected to the tests and confirmations performed in an audit.

It is important to note that all of the contract workforce expenditure amounts appearing in this report are based on 25 object codes in the Uniform Statewide Accounting System. These 25 object codes are the codes that entities should use to record expenditures for contract workforce services.

We did not audit the USAS expenditure data, nor did we perform tests to determine whether the 200 agencies and institutions of higher education included in the survey properly and consistently used the 25 object codes to record expenditures for contract workforce services.