



An Audit Report on

Selected Contracts at the Department of Criminal Justice

May 2017
Report No. 17-032



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Overall Conclusion

The Department of Criminal Justice (Department) planned, procured, and formed the five contracts audited in accordance with applicable statutes, rules, and Department policies and procedures. The contracts audited included four contracts for the operation and management of state jail facilities (state jail contracts) and a contract for the Department's unit network infrastructure refresh project (UNIR contract) (see text box for more information about the contracts audited).

The Department had processes to monitor its four state jail contracts with Corrections Corporation of America¹ to ensure compliance with the contract terms; however, it should strengthen certain aspects of that monitoring. The Department's monitoring processes included (1) having an onsite contract monitor at each state jail, (2) conducting onsite compliance reviews, and (3) performing monthly desk reviews. However, the Department should improve certain processes within its onsite compliance reviews. Specifically, the Department should strengthen its processes to ensure that it (1) completes an onsite compliance review at each state jail for all 27 applicable contract terms each year or creates a risk assessment to effectively allocate monitoring resources and (2) maintains complete copies of the review checklists it uses during the onsite compliance reviews.

Background Information on the Contracts Audited

State Jail Contracts. The Department of Criminal Justice (Department) entered into four contracts with Corrections Corporation of America¹ for the operation and management of four state jail facilities:

- Bartlett State Jail - \$75 million.
- Bradshaw State Jail - \$99 million.
- Lindsey State Jail - \$68 million.
- Willacy State Jail - \$65 million.

The contract terms for each of the state jail contracts are January 16, 2011, through August 31, 2017; each contract also includes two renewals for two years.

Unit Network Infrastructure Refresh (UNIR) Contract. The Department entered into a contract with Sunrise IT Solutions Group for the installation of fiber optic network cabling at multiple Department units and facilities. The effective date of the UNIR contract was October 26, 2016, and the completion date of the contract is August 31, 2017. The initial cost of the contract was \$2.4 million. The UNIR contract was subject to legislation passed by the 84th Legislature, which provided additional requirements for state contracting effective September 1, 2015.

Source: The Department.

¹ The contractor's name changed twice during the scope of this audit. Effective January 1, 2013, the contractor's name changed from Corrections Corporation of America to CCA of Tennessee, LLC. After that, effective October 28, 2016, the contractor's name changed to CoreCivic.

Table 1 presents a summary of the findings in this report and the related issue rating. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating ^a
1	The Department Complied with State Requirements for Contract Planning, Procurement, and Formation for the Contracts Audited	Low
2	The Department Had Processes to Monitor the State Jail Contracts Audited; However, It Should Improve Certain Aspects of Its Monitoring	Medium
<p>^a A chapter is rated Priority if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.</p> <p>A chapter is rated High if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.</p> <p>A chapter is rated Medium if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.</p> <p>A chapter is rated Low if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>		

Auditors communicated other, less significant issues to Department management separately in writing.

Summary of Management's Response

At the end of one chapter in this report, auditors made recommendations to address the issues identified during this audit. The Department agreed with the findings and recommendations in this report.

Audit Objective and Scope

The objective of this audit was to determine whether the Department has administered certain contract management functions for selected contracts in accordance with applicable requirements.

The scope of this audit covered five contracts that the Department procured. Those five contracts included:

- Four contracts procured with one contractor, Corrections Corporation of America, effective on January 16, 2011, for the operation and management of four state jail facilities (state jail contracts).

- One contract procured with Sunrise IT Solutions Group, effective on October 26, 2016, for the installation of fiber optic network cabling at multiple Department units and facilities as part of a unit network infrastructure refresh project for the Department (UNIR contract).

For the four state jail contracts, auditors reviewed the Department's contract planning, procurement, formation, and monitoring processes through the first quarter of fiscal year 2017. For the UNIR contract, auditors reviewed the Department's contract planning, procurement, and formation processes through the contract award date of October 26, 2016.

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Detailed Results

Chapter 1

The Department Complied with State Requirements for Contract Planning, Procurement, and Formation for the Contracts Audited

**Chapter 1
Rating:**
Low ²

Contract Planning, Procurement, and Formation

Planning - Identify contracting objectives and contracting strategy.

Procurement - Fairly and objectively select the most qualified contractors.

Contract Formation/Rate/Price Establishment - Ensure that the contract contains provisions that hold the contractor accountable for producing desired results, including all relevant terms and conditions, and establish processes that are cost-effective and aligned with the cost of providing goods and services.

Source: *State of Texas Contract Management Guide*, version 1.10.

The Department of Criminal Justice (Department) complied with applicable statutes and the *State of Texas Contract Management Guide* for contract planning, procurement, and formation for (1) its four contracts with Corrections Corporation of America³ for the operation and management of the four state jail facilities (state jail contracts), awarded in January 2011, and (2) its contract with Sunrise IT Solutions Group for the installation of fiber optic network cabling at multiple Department units and facilities (UNIR contract), awarded in October 2016. (See text box for more information about the phases of contract management).

Contract Planning. The Department performed and completed the requirements for contract planning for all four state jail contracts and the UNIR contract. That included identifying needs, involving appropriate levels of sponsorship, and having cost estimates.

Contract Procurement. The Department followed requirements in applicable statutes and the *State of Texas Contract Management Guide* to procure the state jail contracts and the UNIR contract. Specifically, for the five contracts audited, it properly advertised the solicitations and verified that each vendor proposal included a historically underutilized business subcontracting plan and disclosed conflicts of interest. For the state jail contracts, the Department evaluated responses using published criteria and ensured that each evaluator used the same scoring and point scales. For the UNIR contract, the Department selected the contractor based on the lowest offer.

² The risks related to the issues discussed in Chapter 1 are rated as Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

³ The contractor's name changed twice during the scope of this audit. Effective January 1, 2013, the contractor's name changed from Corrections Corporation of America to CCA of Tennessee, LLC. After that, effective October 28, 2016, the contractor's name changed to CoreCivic.

Contract Formation. The contracts audited contained all essential clauses required by the *State of Texas Contract Management Guide*. All required persons signed and dated the contracts' routing forms, indicating review and approval.

The Department Had Processes to Monitor the State Jail Contracts Audited; However, It Should Improve Certain Aspects of Its Monitoring

**Chapter 2
Rating:
Medium ⁴**

The Department had processes to monitor the four state jail contracts audited to ensure compliance with the contract terms. Those processes included (1) having an onsite contract monitor at each state jail, (2) conducting onsite compliance reviews, and (3) performing monthly desk reviews.

However, the Department should improve certain processes within its onsite compliance reviews. Specifically, the Department should ensure that it (1) completes an onsite compliance review at each state jail for all 27 applicable contract terms each year or creates a risk assessment to effectively allocate monitoring resources and (2) maintains complete copies of the review checklists it uses during the onsite compliance reviews.

The Department's monitoring processes are discussed in further detail below.

Onsite Contract Monitor at the State Jail. The Department stations a contract monitor at each state jail; that individual is responsible for monitoring contractor compliance with the terms of the contract. The contract monitor, who is a Department employee, acts as a liaison between the Department and the contractor. Examples of the contract monitor's duties include conducting daily walkthroughs of the facility, reviewing contractor staffing levels to verify they meet contract requirements, reviewing the Department's state-owned property located at the state jails to ensure that it is in working order, and monitoring the contractor's security staff physical agility tests to ensure the contractor is properly recording the results. The Department stated that the onsite monitor informally communicates identified issues to the warden and tracks whether the issues have been corrected.

Onsite Compliance Reviews. In addition to having onsite contract monitors, the Department conducts onsite compliance reviews to formally document contractor compliance with the contract terms. Those reviews result in written reports that contain, if applicable, corrective action plans from the contractor. To conduct those onsite compliance reviews, the Department developed various checklists to monitor the 27 different contract terms.

⁴ The risks related to the issues discussed in Chapter 2 are rated as Medium because they present risks or results that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited.

The Department asserted that its goal is to complete onsite compliance reviews so that, each year, it monitors all 27 contract terms at each state jail. However, as Table 2 shows, the Department did not meet that goal in any year from fiscal year 2012 through fiscal year 2016. The Department stated that it put compliance reviews on hold during fiscal years 2015 and 2016 as it updated the checklists it used for compliance reviews in response to recommendations in *An Audit Report on Selected Contracts at the Department of Criminal Justice* (State Auditor’s Office Report No. 14-019, February 2014).

Table 2

Number of Contract Terms Receiving an Onsite Compliance Review Fiscal Years 2012 through 2016				
Fiscal Year	Bartlett State Jail	Bradshaw State Jail	Lindsey State Jail	Willacy State Jail
2012	23 (85.2%)	24 (88.9%)	25 (92.6%)	24 (88.9%)
2013	21 (77.8%)	24 (88.9%)	22 (81.5%)	24 (88.9%)
2014	24 (88.9%)	24 (88.9%)	23 (85.2%)	22 (81.5%)
2015	14 (51.9%)	18 (66.7%)	17 (63.0%)	15 (55.6%)
2016	7 (25.9%)	11 (40.7%)	12 (44.4%)	7 (25.9%)

Source: The Department’s onsite compliance review tracking logs for fiscal years 2012 through 2016.

According to Department management, as of November 2016, it had updated 75 percent of the checklists. In addition, the Department asserted that it receives other operational reviews and security reviews. Those reviews are used to help determine compliance with Department policies and procedures at each state jail facility. Those operational and security reviews are not conducted by the same division that is responsible for the onsite compliance reviews.

From fiscal year 2012 through fiscal year 2016, the Department consistently reviewed contractor’s compliance with two high-risk contract terms each year: (1) security, which includes the security of the buildings, the physical custody of the offenders, and the schedule of activities for each facility and (2) disciplinary rules and regulations, which includes verifying that the contractor imposed discipline through rules, regulations, and orders that complied with Department policy. The Department did not review compliance with one contract term—progress report/transition plans—at any of the four state jails from fiscal year 2012 through fiscal year 2016. The progress report/transition plans contract term states that the contractor is responsible for completing progress reports and/or transition plans for certain offenders. It should be noted that the Department asserted that it performs overall operational reviews every three years and performs security

reviews every two years at each facility to verify the facility's compliance with Department policies and procedures.

If the Department determines that completing an onsite compliance review for all contract terms each year at each facility is not feasible, it should consider completing a risk assessment, as required by the *State of Texas Contract Management Guide*. Performing a risk assessment could help the Department allocate its resources to ensure that it consistently monitors high-risk areas and monitors lower-risk areas as often as determined to be necessary to help ensure compliance.

The Department should strengthen other areas of its onsite compliance reviews. Specifically:

- The Department did not maintain complete copies of all review checklists for 7 (29.2 percent) of the 24 applicable compliance reviews tested, as required by its policies and procedures. The Department uses the checklists to complete the compliance reviews and to provide support for the Department's findings.
- The Department did not consistently include in the final report to the contractor all issues identified during its onsite compliance reviews. For 3 (12.5 percent) of the 24 compliance reviews tested that identified noncompliance, the Department did not include one to two identified issues in the final report, as required by its policies and procedures. However, all issues that were in the final reports were adequately supported, had a written response from the contractor, and were resolved prior to the closure of the review.
- The Department did not have an effective process to consistently identify possible adjustments to contract payments for contractor noncompliance identified during onsite compliance reviews. The contract contains payments adjustments that should be applied for identified noncompliance. Of the 24 onsite compliance reviews tested that identified contractor noncompliance with contract terms, only 2 identified possible payment adjustments in the onsite compliance review report. For the other 22 reviews, the Department did not identify in the report whether potential payment adjustments for the noncompliance were considered, as required by its policies and procedures. For the two reviews that identified payment adjustments in the report, the Department did not have documentation showing the final disposition of the payment adjustment. For example, auditors could not determine (1) whether the Department waived a payment adjustment, (2) whether the Department applied a payment adjustment and the total amount of that adjustment, or (3) when the contractor paid a payment adjustment.

Monthly Desk Reviews. Although the Department did not consistently apply payment adjustments for noncompliance identified in onsite compliance reviews, it consistently conducted monthly desk reviews of contractor invoices and applied payment adjustments for identified noncompliance when needed. Of the 25 payments to the contractor that auditors tested, totaling \$22.2 million, 24 contained payment adjustments as a result of the contractor's noncompliance with contract requirements.⁵ For those 24 payments, the Department applied a total of \$542,439 in payment adjustments. In addition, the Department ensured that all 25 payments tested complied with contract requirements and were approved by authorized parties.

Recommendations

The Department should:

- Evaluate whether its monitoring goal for onsite compliance reviews is achievable, and consider creating and documenting a risk assessment for the four state jail contracts to help it allocate its resources to ensure that it consistently monitors high-risk areas and monitors lower-risk areas as needed.
- Strengthen its compliance review process by:
 - ♦ Maintaining complete copies of all review checklists.
 - ♦ Documenting all items of noncompliance identified during an onsite compliance review in the final report submitted to the contractor.
 - ♦ Making payment adjustments when applicable.
 - ♦ Documenting the final disposition of payment adjustments.

⁵ The Department performed a desk review on the remaining invoice and did not identify any noncompliance that needed a payment adjustment.

Management's Response

- 1. Evaluate whether its monitoring goal for on-site compliance reviews is achievable and consider creating and documenting a risk assessment for the four state jail contracts to help it allocate its resources to ensure that high risk areas are consistently monitored and lower risk areas are monitored as needed.**

The Texas Department of Criminal Justice agrees with this recommendation. The Private Facility Contract Monitoring / Oversight Division (PFCMOD) will create and document a risk assessment utilizing the State of Texas Contract Management Guide as a resource for the four state jail contracts. The risk assessment will consider how noncompliance with specific contractual requirements could, to a greater or lesser degree:

- *Jeopardize the Department accomplishing its' mission (providing public safety, promoting positive change in offender behavior, reintegrating offenders, and assisting victims of crime),*
- *Result in a financial liability, and/or*
- *Threaten the daily operations of the facility.*

Contract areas indicating the highest risk, such as security procedures, will be monitored annually while lower risk areas, such as monitoring telecommunications, will be monitored biennially. The assessment will also consider the totality of the Department's monitoring efforts (e.g. Quality Assurance, Security and Division Level Reviews, etc) when scheduling specific contract compliance reviews. For example, a review of a specific contract compliance review may not occur during the same time period of a Divisional Level Review.

Responsible Party: PFCMOD Deputy Director of Operations Monitoring

Target Date: August 31, 2017

- 2. Strengthen its compliance review process by:**
 - **Maintaining complete copies of all review checklists.**
 - **Documenting all items of non-compliance identified during the on-site compliance review in the final report submitted to the contractor.**
 - **Making payment adjustments when applicable.**
 - **Documenting the final disposition of payment adjustments.**

The Texas Department of Criminal Justice agrees with this recommendation. The Private Facility Contract Monitoring / Oversight Division (PFCMOD) will ensure contract compliance reviews include complete documentation such as checklists, items of noncompliance and final disposition of any payment adjustments. The PFCMOD will ensure payment adjustments are made, when applicable.

Responsible Party: PFCMOD Deputy Director of Operations Monitoring

PFCMOD Deputy Director of Compliance Monitoring

Target Date: April 30, 2017

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Department of Criminal Justice (Department) has administered certain contract management functions for selected contracts in accordance with applicable requirements.

Scope

The scope of this audit covered five contracts that the Department procured. Those five contracts included:

- Four contracts procured with one contractor, Corrections Corporation of America⁶, effective on January 16, 2011, for the operation and management of the four state jail facilities (state jail contracts).
- One contract procured with Sunrise IT Solutions Group, effective on October 26, 2016, for the installation of fiber optic network cabling at multiple Department units and facilities as part of a unit network infrastructure refresh project for the Department (UNIR contract).

For the four state jail contracts, auditors reviewed the Department's contract planning, procurement, formation, and monitoring processes through the first quarter of fiscal year 2017. For the UNIR contract, auditors reviewed the Department's contract planning, procurement, and formation processes through the contract award date of October 26, 2016.

Methodology

The audit methodology included gaining an understanding of the Department's contracting processes; collecting and reviewing the contracts and the related procurement documentation, financial information, and monitoring tools; conducting interviews with Department staff; reviewing statutes, rules, Office of the Comptroller of Public Accounts (Comptroller's Office) requirements, and Department policies and procedures; and performing selected tests and other procedures on the information obtained.

⁶ The contractor's name changed twice during the scope of this audit. Effective January 1, 2013, the contractor's name changed from Corrections Corporation of America to CCA of Tennessee, LLC. After that, effective October 28, 2016, the contractor's name changed to CoreCivic.

Data Reliability and Completeness

Auditors used information from the Department's compliance review report status logs to determine the population of compliance reviews that the Department performed for fiscal year 2011 through the first quarter of fiscal year 2017. For the sample selected, auditors traced key information from the report status logs to the source documentation and determined that the data in the report status logs was sufficiently reliable for the purposes of this audit.

Auditors also reviewed contract expenditure data from the Department's accounting system, Lonestars, for fiscal year 2011 through the first quarter of fiscal year 2017. Auditors compared the Lonestars expenditure data to the data in the Uniform Statewide Accounting System (USAS) and determined that the Department's contract expenditure data was sufficiently reliable for the purposes of this audit. Auditors used the contract expenditure data to test the Department's payments of contractor invoices for the state jail contracts during the scope of the audit.

Additionally, auditors reviewed user access for the Department's Lonestars accounting system and determined that the Department had adequate separation of duties in place for processing contractor payments.

Sampling Methodology

Auditors used professional judgment to select a sample of 25 of the Department's contractor payments for the state jail contracts. The sample items were generally not representative of the population; therefore, it would not be appropriate to project the test results to the population.

Auditors also used professional judgment to select a sample of 25 compliance reviews the Department performed for the state jail contracts to determine whether the Department adequately monitored the contractor's compliance with contract terms. The sample items were generally not representative of the population; therefore, it would not be appropriate to project those test results to the population.

Information collected and reviewed included the following:

- The Department's four state jail contracts with Corrections Corporation of America.
- The Department's UNIR contract with Sunrise IT Solutions Group.
- The Department's policies and procedures, directives, and monitoring tools.

- The Department's solicitation and bid documentation, evaluation criteria and documentation, and related supporting documentation for the selected contracts.
- The Department's contract procurement documentation, including planning documentation, approvals, and other supporting documentation for the selected contracts.
- The Department's contract expenditures for the selected state jail contracts obtained from Lonestars and USAS.
- Contractor employee information in the vendor proposals for the selected contracts.

Procedures and tests conducted included the following:

- Conducted interviews with Department management and employees.
- Tested selected Department planning, procurement, formation, and monitoring processes for compliance with the *State of Texas Contract Management Guide*, *State of Texas Procurement Manual*, Department policies and procedures, and applicable statutes and rules.
- Reviewed applicable conflict of interest and nondisclosure documents.
- Reviewed certifications of applicable purchasing staff for compliance with Comptroller's Office requirements.
- Tested the Department's monitoring of the contractor's compliance with applicable contract provisions for the state jail contracts.
- Tested contractor invoices and the Department's contractor payments for the state jail contracts to determine whether those payments were properly supported, accurate, reviewed and authorized prior to payment, processed in a timely manner, and allowable according to the terms of the contracts audited.

Criteria used included the following:

- *State of Texas Contract Management Guide*, version 1.7 through version 1.16.
- *State of Texas Procurement Manual*.
- Department policies and procedures.
- Comptroller's Office requirements.

- Title 34, Texas Administrative Code, Chapter 20.
- Texas Government Code, Chapters 322, 507, 572, 2155, 2156, 2161, 2251, 2252, 2261, and 2262.
- Contract terms for the selected contracts, including the final executed contracts, requests for proposal, and vendor proposals, as modified and agreed upon by the Department and the contractors.

Project Information

Audit fieldwork was conducted from October 2016 through March 2017. 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:

- Becky Beachy, CIA, CGAP (Project Manager)
- Kelly Bratton, CFSA, CRMA (Assistant Project Manager)
- Jonathan W. Morris, MBA
- Melissa M. Prompuntagorn
- Daniel Spencer, MSA
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- Cesar Saldivar, CGAP (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgement and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 3 provides a description of the issue ratings presented in this report.

Table 3

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Related State Auditor's Office Work

Related State Auditor's Office Work		
Number	Product Name	Release Date
14-019	An Audit Report on Selected Contracts at the Department of Criminal Justice	February 2014

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The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable John Zerwas, House Appropriations Committee
The Honorable Dennis Bonnen, House Ways and Means Committee

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