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An Audit Report on

Residential Child Care Contract Management at the Department of Family and Protective Services

April 2007

Report No. 07-030



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Overall Conclusion

The Department of Family and Protective Services (Department) has developed contract policies and procedures to ensure that:

- It contracts with qualified residential child care providers.
- The payments it makes to those providers are for the delivery of quality services to children in their care.

Providers deliver residential child care services through unit rate contracts with the Department. Under these contracts, providers are paid an amount per child per day.

While the Department has policies and procedures to ensure that it contracts with qualified providers, it has not maintained adequate staffing levels to effectively perform its contracting processes. The Department originally hired qualified applicants to fill the 16 positions in its Residential Contracts Division. However, from September 2005 through January 2007, two individuals at the managerial level resigned and eight residential contract managers resigned. As of January 2007, 4 of the 16 positions remained vacant. In addition, the Department does not provide formal, job-specific training to contract managers in managing and monitoring providers and using the Department's case management system.

The high turnover in contract manager positions has required the remaining contract managers to manage higher workloads, which has limited their ability to

The Department's Residential Contracts Division

The Department's Residential Contracts Division contracts with licensed 24-hour residential child care providers to provide care to foster children. Through these contracts, the Department establishes the qualifications, standards, services, expectations, and outcomes for 24-hour child care facilities and child placing agencies.

In fiscal year 2006, the Department contracted with approximately 305 providers. It paid those providers an estimated \$370 million for providing services to approximately 20,495 foster children.

Approximately 71 percent of the funding for these services comes from the federal government and approximately 29 percent comes from the State.

Texas Government Code, Section 2155.1442 (a), requires the State Auditor's Office to examine the Department's Residential Contracts Division and make recommendations regarding the organization of and skills and educational requirements for employees. In addition, the State Auditor's Office is required to make recommendations concerning the implementation of financial accountability provisions and processes to ensure the effective and efficient use of state and other contract funds.

perform their responsibilities thoroughly. The normal workload for a contract manager is highly complex and involves:

- Managing the contract procurement process for new providers and the contract renewal process for existing providers.
- Performing an annual risk assessment of all providers.
- Continuously conducting on-site monitoring of high-risk provider services and financial activities.
- Participating in special assignments, including after-hours and emergency situations.

In addition, the Department should strengthen certain aspects of its contract procurement, renewal, and monitoring processes to improve its ability to ensure that providers comply with the terms of their contracts.

Key Points

The Department should ensure that its Residential Contracts Division maintains an adequate staffing level to effectively manage and monitor provider contracts.

The Department should examine the factors contributing to the high turnover in its Residential Contracts Division, including:

- The impact of a high turnover rate on the workload of current contract managers.
- The Residential Contracts Division's staffing levels for managing and monitoring its provider contracts.
- The job classifications and pay rates of its contract management staff.
- The adequacy of the training provided to contract managers.

The Department should improve its ability to monitor the services delivered by providers and its contracted third-party service level reviewer.

The Department's contract with each provider includes a performance outcome measure for measuring the safety of children in a provider's care. However, that outcome measure does not use complete information on the disposition of allegations of abuse or neglect reported at providers. That outcome measure focuses on confirmed allegations of abuse and neglect, rather than on all allegations. The Department reported that, during fiscal year 2006, there were a total of 344 confirmed allegations of abuse and neglect involving 284 child victims that were placed at 77 (25 percent) of its approximately 305 providers.

Although the Department requires providers to obtain “professional audits,” it does not specifically require providers to obtain periodic independent financial audits. (“Professional audits” can be limited in the areas and information auditors examine, but independent financial audits can identify significant deficiencies that could expose the provider to misappropriation of the payments it receives from the Department.) As a result, the Department has limited information regarding providers’ internal controls over financial processes. In addition, Department staff do not perform supervisory review and approval of contract monitoring activities and do not thoroughly document significant contract monitoring activities.

The Department does not obtain documentation sufficient to verify that its contracted third-party service level reviewer (which determines children’s service level authorizations) has incurred and paid the costs for which it is reimbursed by the Department.

The Department should strengthen its contract procurement and contract renewal processes to ensure the appropriateness of its contract award and contract renewal decisions.

The Department has not developed specific criteria to use in its contract renewal process for evaluating a provider’s performance and determining whether a provider’s contract should be renewed as a provisional contract, renewed as a full-year contract, or not renewed.

Summary of Management’s Response

The Department is in general agreement with the majority of the recommendations in this report; however, its responses indicate that it does not intend to implement our recommendations to:

- Require in its contracts that all providers submit independent financial audits.
- Develop and implement policies and procedures that (1) ensure all providers are subject to its monitoring risk assessment and (2) require reviewing detailed supporting documentation of all costs in its third-party service level reviewer’s monthly invoices prior to payment.

Summary of Information Technology Review

Auditors reviewed the integrity of data within the Department’s case management system (the Information Management Protecting Adults and Children in Texas system, also referred to as IMPACT). The Department’s contract managers use IMPACT to collect and manage financial data and contract information regarding providers. Although IMPACT has the automated controls necessary to protect the integrity of the data within the system, the Department should develop a formal process for ensuring the data that contract managers enter into IMPACT is

reviewed for accuracy and completeness. In addition, the Department should provide formal, job-specific training on IMPACT to its contract managers to ensure they understand how to use the system properly.

Auditors did not review IMPACT's automated payment process or system controls such as network access, computer room security, disaster recovery procedures, or interfaces with external automated systems. These controls have recently been audited at the Department, or they are in the process of being audited by the Department.

The Department reports that it is designing the Internet-based system required by Texas Government Code, Section 2155.1442 (d). That system is intended to allow providers to review their reimbursement accounts or other pertinent financial data and give them the ability to reconcile their accounts.

Summary of Objectives, Scope, and Methodology

The audit objectives were to:

- Conduct a management review of the residential contract management employees of the Health and Human Services Commission and the Department and make recommendations regarding the organization of, and skills and educational requirements for, those employees.
- Make recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds.

The audit scope included current and former residential contract managers employed by the Department in fiscal years 2006 and 2007. The scope also included reviewing the accuracy and completeness of contract procurement, renewal, and monitoring activities performed by residential contract managers during fiscal years 2006 and 2007.

The audit methodology included reviewing the contract monitoring records of judgmentally selected providers, collecting information and documentation, performing selective tests and other procedures, analyzing and evaluating the results of tests, and interviewing the Department's management and staff.

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Detailed Results

Chapter 1

The Department Should Ensure That Its Residential Contracts Division Maintains an Adequate Staffing Level to Effectively Manage and Monitor Provider Contracts

The Department of Family and Protective Services (Department) ensures that it has qualified contract management personnel to procure and manage its residential child care provider contracts (see Appendix 2 for additional details). However, the issues discussed below limit the Department's ability to effectively manage and monitor its provider contracts.

High turnover in contract manager positions has resulted in higher workloads for the remaining contract managers, which limits their ability to thoroughly perform their responsibilities.

Contract Specialist Positions

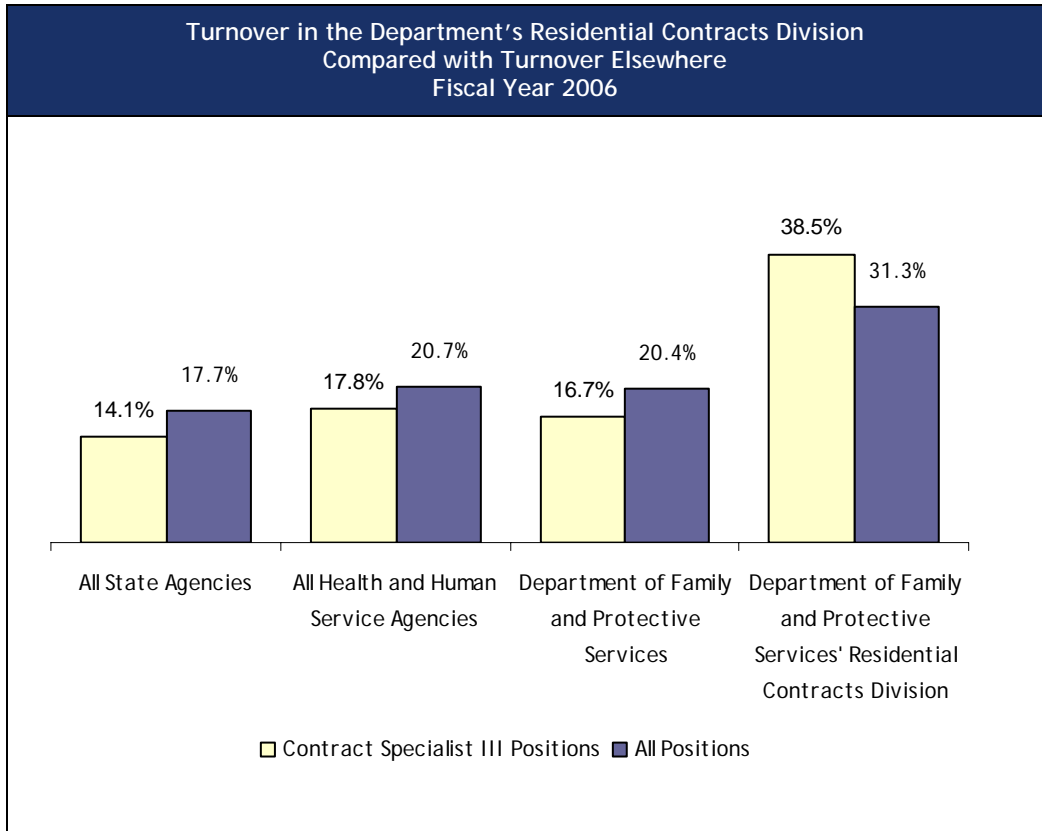
Contract Specialist III positions perform advanced contract management work. They develop, manage, and evaluate a broad range of contracts for various services. Employees in this position typically conduct needs assessments, participate in contract renewals, and monitor contract performance.

Source: State of Texas, State Classification Job Description.

The average fiscal year 2006 turnover rate within the Department's Residential Contracts Division was 31.3 percent for all positions and 38.5 percent for the division's Contract Specialist III (contract manager) positions.

The turnover rate for contract manager positions in the Residential Contracts Division was significantly higher than for other similar positions within the Department and throughout the state (see Figure 1 on the next page).

Figure 1



Source: Comptroller of Public Accounts' Human Resources Information System, the Uniform Statewide Payroll/Personnel System, the Standardized Payroll/Personnel Reporting System, and the Department of Family and Protective Services.

From September 2005 through January 2007, 10 employees (two in managerial positions and eight in contract manager positions) resigned from the Department's Residential Contracts Division. The Residential Contracts Division has 16 positions, 12 of which are contract managers. As of January 31, 2007, the Residential Contracts Division had four vacant positions (see Table 1).

Table 1

Residential Contracts Division Staffing Levels as of January 2007 ^a				
Job Classification Title	Number of Total Positions	Number of Filled Positions	Number of Vacant Positions	Percent Vacant
Manager II ^b	1	1	0	0%
Manager IV	1	0	1	100%
Contract Specialist III	12	9	3	25%
Program Specialist V	1	1	0	0%
Administrative Assistant III	<u>1</u>	<u>1</u>	<u>0</u>	0%
Totals	16	12	4	25%
^a The listed positions report to the Director of the Residential Contracts Division. ^b This position functions as the section lead for the residential contract managers and also performs contract management work for the Residential Contracts Division.				

Source: Department of Family and Protective Services.

The high turnover in contract manager positions has resulted in an increased workload for the remaining contract managers (the causes for the Department's high turnover in contract managers are discussed later in this chapter). The management and monitoring of provider contracts that were assigned to former contract managers have been shifted to the remaining contract managers. In addition to increased workloads, high turnover has resulted in residential contract management staff having limited contract monitoring experience. Six of the 10 current contract managers have fewer than two years of experience in their current positions, and four of those employees have less than one year of experience in their current positions.

The Residential Contracts Division's current staffing levels do not support the complexity and workload of its contract manager's duties and responsibilities.

The Residential Contracts Division does not have an adequate number of contract manager positions and lacks the administrative support necessary to effectively perform its contract management and monitoring responsibilities. Although the Residential Contracts Division manages only 8.6 percent of the Department's total number of contracts, those contracts represent 79.3 percent of the Department's total contract service dollars (see Table 2). However, the Residential Contracts Division has significantly fewer contract manager and administrative positions than other Department divisions that manage and monitor contracts (see Table 3).

Table 2

Comparison of Contracts Managed by Divisions within the Department					
Department Division	Approximate Number of Contracts	Percent of All Department Contracts	Total Dollar Amount of Contracts	Percentage of All Department Contract Dollars	Average Expenditures per Contract
Prevention and Early Intervention	122	3.5%	\$ 34,044,482	7.9%	\$ 279,053
Regional Contracts ^a	3,106	87.9%	54,904,285	12.8%	17,677
Residential Contracts	<u>305</u>	<u>8.6%</u>	<u>341,285,567</u>	<u>79.3%</u>	<u>1,118,969</u>
Totals	3,533	100.0%	\$ 430,234,334	100.0%	\$ 1,415,699

^a Regional contracts include other types of service contracts for the Adult Protective Service Division and the Child Protective Service Division.

Source: Department of Family and Protective Services.

Table 3

Comparison of Staffing in Department Divisions That Perform Contract Management and Monitoring					
Department Division	Total Positions in Division	Number of Contract Specialist Positions	Number of Administrative or Technical Support Positions	Number of Supervisory or Management Positions	Number of Other Positions
Prevention and Early Intervention	32	12	7	3	10
Regional Contracts	72	42	20	1	9
Residential Contracts	<u>16</u>	<u>12</u>	<u>1</u>	<u>2</u>	<u>1</u>
Totals	120	66	28	6	20

Source: Department of Family and Protective Services.

Contract managers in the Residential Contracts Divisions have demanding workloads. They are responsible for performing both the managerial and administrative responsibilities associated with the following activities:

- Managing the procurement process for new providers (see Chapter 3-B for additional details).
- Managing annual contract renewal assessments for all providers (see Chapter 3-A for additional details).
- Performing an annual risk assessment of all providers (see Chapter 2-B for additional details).
- Conducting on-site monitoring of selected providers' program operations and financial compliance as part of the annual statewide monitoring plan (see Chapter 2-B for additional details).

Facility Intervention Team Staffings

Weekly meetings are held among the following Department divisions responsible for licensing, regulating, and monitoring providers (see Appendix 3 for additional details):

- Child Protective Services.
- Child Care Licensing.
- Purchased Client Services.

These three divisions discuss serious violations of licensing standards or abuse and neglect findings and coordinate efforts to address concerns identified. Contract managers are occasionally involved to gather additional information that is related to assessing a provider's performance.

- Participating in special assignments, including working on after-hours and emergency situations, as determined by the Department's Facility Intervention Team Staffings (see text box for additional details).

Because their monitoring activities involve verifying that providers comply with standards and requirements of both the Department's Child Care Licensing Division and Child Protective Services Division, contract managers in the Residential Contracts Division must coordinate their contract management and contract monitoring activities with those of other divisions to avoid duplication of effort.

The Department should ensure that its Residential Contracts Division has the necessary management and staff to thoroughly manage and monitor its approximately 305 provider contracts.

Contract managers' current job classification and pay rates may not align with the duties they perform.

Contract manager positions within the Residential Contracts Division perform demanding work and are intensely involved in monitoring the performance of complex provider programs. This work goes beyond the traditional scope of a contract manager's position within a state agency, which typically focuses on individual services. Contract managers in the Residential Contracts Division also monitor providers' performance based on providers' compliance with terms of the contract and the impact of services that providers deliver to the children in their care. The current state job classification for contract managers—Contract Specialist III—is not an appropriate classification for contract managers, given the additional program-related duties they must perform.

When compared to other similarly classified positions, the salary paid to contract managers in the Residential Contracts Division appears equitable (see Table 4).

Job Classification

Employees are assigned to job classifications within the State's Position Classification Plan (Plan) for many state agencies. The Plan designates job titles and outlines general duties and qualifications for work performed in the state. This allows agencies to appropriately classify employees according to the type of work and their level of responsibility. Appropriate job classifications are also important in determining salary rates that are competitive for the nature of the work performed. Misclassified positions may result in agencies underpaying or overpaying employees for work performed.

Table 4

Comparison of Contract Specialist Positions in the Department's Residential Contracts Division with Similar Positions in Other Agencies Fiscal Year 2006				
Division or Agency	Journey-Level Positions (Contract Specialist I and II) ^a		Senior-Level Positions (Contract Specialist III and IV)	
	Total Number	Average Salary	Total Number	Average Salary
Department of Family and Protective Services - Residential Contracts Division	n/a	n/a	10	\$41,408
Department of Family and Protective Services - All Divisions	n/a	n/a	72	\$36,750
Other health and human services agencies ^b	34	\$36,352	84	\$38,802
Other state agencies	117	\$36,427	95	\$42,948
All state agencies	151	\$36,408	261	\$41,753

^a The Department did not have any employees in the Contract Specialist I or II positions during fiscal year 2006.

^b This includes the Department of Aging and Disability Services, the Department of State Health Services, the Health and Human Services Commission, and the Department of Assistive and Rehabilitative Services.

Source: Comptroller of Public Accounts' Human Resources Information System, the Uniform Statewide Payroll/Personnel System, and the Standardized Payroll/Personnel Reporting System.

However, in September 2006 the State Auditor’s Office reported that contract specialist positions across the state may not be paid appropriately for the work they perform.¹ The report recommended developing a higher level contract specialist position, as well as moving current positions to a higher salary group (see Table 5) to be competitive with the labor market.

Table 5

Recommended Changes to the Contract Specialist Job Classification Series ^a				
Job Classification Level	Current Pay Range		Proposed Pay Range	
	Minimum	Maximum	Minimum	Maximum
Journey Level (Contract Specialist I and II)	\$31,345	\$47,253	\$31,345	\$50,171
Senior Level (Contract Specialist III and IV)	\$35,337	\$57,164	\$39,990	\$68,745
Additional Proposed Senior Level (Contract Specialist V)	n/a	n/a	\$51,225	\$82,590

^a The State Auditor’s Office made these recommendations in *A Biennial Report on the State’s Classification Plan* (State Auditor’s Office Report No. 07-702, September 2006). These recommendations have not yet been implemented.

Source: *A Biennial Report on the State’s Classification Plan* (State Auditor’s Office Report No. 07-702, September 2006).

The potential misclassification of contract managers in positions that do not accurately reflect their duties and responsibilities can lead to low morale in the Department, which can increase turnover and affect the Department’s ability to recruit and retain qualified personnel.

The Department does not provide sufficient training to contract managers that would allow them to effectively manage and monitor both the program-related activities and the financial activities of providers.

Although the Department’s contract managers have the necessary education and experience to manage the program-related activities of a provider contract, the educational and experience background of its contract managers do not reflect the financial skills and experience necessary to perform their financial management and monitoring activities (see Chapter 2-B for additional details). The Department has provided contract management and monitoring training to contract managers; however, the information provided during the training was general information about contract management, and it did not provide information concerning the job-specific, program-related and financial management and monitoring responsibilities, including the use of

¹ See *A Biennial Report on the State’s Classification Plan*, State Auditor’s Office Report No. 07-702, September 2006.

any related automated systems (see Chapter 4 for additional details about the use of automated systems).²

In addition, the Department's contract managers are required by statute to complete training developed by the Texas Building and Procurement Commission.³ This training is intended to provide contract managers with information on how to manage and monitor contract agreements. The Texas Building and Procurement Commission began offering this training in February 2006.⁴ As of January 31, 2007, contract managers in the Residential Contracts Division had not participated in this training.

The Department has not developed or provided a formal, job-specific training program for its contract managers. Nor has the Department developed a training manual specific to assisting contract managers in understanding and performing their responsibilities. Limited training of contract managers can result in (1) contract managers not identifying a provider's financial risks or accounting process weaknesses and (2) inconsistent, incomplete, and inaccurate documentation of contract monitoring activities. During this audit, auditors identified instances in which contract monitoring activities were not properly documented (see Chapter 2-B for additional details).

Recommendations

The Department should:

- Identify the factors that have contributed to turnover among contract managers in its Residential Contract Division and develop and implement a corrective action plan to address those factors.
- Evaluate the activities and resources needed to effectively manage and monitor provider contracts. At a minimum, the evaluation should determine the number of residential contract management staff that is necessary to effectively manage and monitor provider contracts.
- Conduct a formal job analysis of the contract manager positions in its Residential Contract Division to determine appropriate job classifications and salary rates.

² The Department's Purchased Client Services Division holds an annual conference for all staff; however, the specific contract management training provided is limited and does not address the job-specific responsibilities of contract managers.

³ See Texas Government Code, Section 2262.053.

⁴ The Texas Building and Procurement Commission provides contract management training in a four-part series: (1) State Government Contracting, (2) Project Management for State Contract Managers, (3) Power Negotiations; and (4) Supply Chain Optimization. The first of the training series was offered in February 2006.

- Develop a formal, job-specific training program and manual for contract managers in its Residential Contracts Division. This training program and manual should include the performance of program-related and financial monitoring activities and the use of related automated systems.

Management's Response

DFPS recognizes that the Residential Contract Division is not appropriately resourced for the increasing number of contractors and complexity of services and support provided through the Residential Child Care Contract. Further, DFPS agrees that staffing is not at the level appropriate to manage the volume of the workload required for residential contracts.

DFPS has identified staffing as an issue for Residential Contracts and as part of CPS Reform Continued: Improving Services for Children and Families has included a strategy – “Improve the Quality and Accountability of Foster Care” – that addresses strengthening contract oversight of residential contracts, including additional staff. The request includes additional contract managers, contract technicians, program specialists and supervisory staff to adequately support and manage residential contracts. If this funding is included in the Department's FY08/09 budget, Residential Contracts should be able to improve management and monitoring of provider contracts.

Another component included in the budget request is an upgrade to residential contract manager positions so that they can be appropriately classified for the scope, complexity and level of independent judgment required by the work they perform. If included in the FY08/09 budget, this request should improve management and monitoring of provider contracts and have an impact of staff turnover in Residential Contracts. The Department will also engage in a process to identify the factors that contribute to high turnover among contract managers and develop strategies to reduce the turnover rate.

To immediately address the needs identified by the Department and in this report to strengthen residential contract management and monitoring, the Residential Contract Division will be increased by 5 staff in FY07 – 1 team lead, 3 contract managers and 1 contract technician. A job audit will also be submitted to upgrade the contract manager position classification.

The Department agrees that training and manuals are an integral component to ensure that all contract staff have the tools needed to perform their job duties. Currently job-specific training is provided through annual conferences for all employees of the Purchased Client Services Division. The Department is also in the final stages of completing an annual training plan for all contract staff as part of a HHSC Contract Council goal for FY07. This plan will include training goals for all PCS staff members including the TBPC

requirement and other training specifically for client service contract management and monitoring.

In addition, Residential Contract staff attends Austin-based quarterly meetings, monthly scan calls and on-the-job-training by the section lead for Residential Contracts. Further, Residential Contracts has completed business process mapping of critical functions performed by residential contract managers. Residential Contracts plans to build upon the business process maps to be utilized as an operating manual. The additional staff referenced above will ensure adequate resources are available to complete the documentation and maintenance of the operating manual and facilitate additional on-going training for staff.

The Department Should Improve Its Ability to Monitor the Services Delivered by Providers and Its Contracted Third-Party Service Level Reviewer

The Department has policies and procedures to monitor (1) providers' delivery of services to children, (2) the accuracy of provider invoices, and (3) child placing agencies' payments to foster parents.

However, the Department should strengthen certain aspects of its monitoring to provide greater assurance of providers' performance in delivering services and financial accountability. Specifically, the Department should improve the following areas:

- Measuring the performance of its providers. The Department's contract with each provider includes a performance outcome measure for calculating the safety of children in a provider's care. However, that outcome measure does not use complete information on the disposition of all allegations of abuse or neglect reported at providers. That outcome measure focuses on confirmed allegations of abuse and neglect, rather than on all allegations.
- Ensuring the use of consistent, complete, and accurate information in its contract monitoring activities. The Department does not require its providers to obtain periodic independent financial audits. As a result, the Department has limited information regarding providers' internal controls over financial processes. In addition, Department staff do not perform supervisory review and approval of contract monitoring activities and do not thoroughly document significant contract monitoring activities.
- Ensuring the adequacy of its payments to and the contractual compliance of its third-party service level reviewer. The Department does not obtain documentation sufficient to verify that the contracted third-party service level reviewer (which determines children's service level authorizations) has incurred and paid its reported costs.

The Department Should Improve the Outcome Measure in Its Contracts That Measures the Safety of Children in a Provider's Care

Although the Department has developed policies and procedures for monitoring and assessing the safety of children in a provider's care, it has not established sufficient performance outcome measures in its contracts with providers to measure a provider's performance in ensuring the safety of children in its care.

The Department's contract with each provider includes a performance outcome measure for calculating the safety of children in a provider's care. However, that outcome measure does not use complete information on allegations of abuse and neglect. Specifically, when measuring the safety of

children in a provider's care, the outcome measure does not consider:

- The total number of allegations of abuse and neglect reported at a provider each reporting period. Instead, the outcome measure defines the methodology for measuring a provider's success as the ratio of confirmed victims of abuse or neglect to the total number of children placed at the provider during a given reporting period.⁵
- The disposition of reported allegations of abuse and neglect (see text box for additional details).

The Department reported that, during fiscal year 2006, 184 investigations confirmed 344 allegations of abuse or neglect.⁶ The 344 confirmed allegations of abuse or neglect involved 284 child victims that were placed at 77 (25 percent) of the Department's approximately 305 providers (see Table 6 on the next page for additional details).⁷

The Department's Dispositions of Allegations of Abuse and Neglect

The Department's administrative rules define the following types of dispositions for investigations of alleged abuse or neglect:

- **Reason-to-believe (confirmed allegations).** Department investigators conclude that abuse or neglect has occurred.
- **Ruled-out.** Department investigators determine that it is reasonable to conclude that abuse or neglect has not occurred.
- **Unable to complete.** Department investigators could not draw a conclusion regarding whether alleged abuse or neglect occurred, because the [involved parties]:
 - ♦ Could not be located to begin the investigation or moved and could not be located to finish the investigation; or
 - ♦ Were unwilling to cooperate with the investigation.
- **Unable-to-determine.** Department investigators conclude that none of the above types of dispositions is appropriate.

Source: Title 40, Texas Administrative Code, Section 700.511.

⁵ The performance outcome measure in the Department's contracts with providers for calculating the safety of children in a provider's care is intended to correspond to one of the federal performance outcome measures that the U.S. Department of Health and Human Services uses to evaluate the Department.

⁶ A single investigation can confirm multiple allegations of abuse or neglect.

⁷ A single allegation can involve more than one child as a victim of abuse or neglect.

Table 6

Disposition of Abuse or Neglect Investigations Fiscal Year 2006								
Type of Provider ^a	Number of Providers	Number of Children Served ^b	Number of Investigations	Dispositions of Investigations			Number of Confirmed Allegations	Number of Child Victims
				Confirmed ^c	Ruled Out	Unable to Determine		
Foster Care Family Home	6	56	7	0	7	0	0	0
Foster Care Group Home	9	171	10	0	9	1	0	0
Emergency Shelter	58	7,913	184	10	148	26	14	13
Operation Providing Basic Child Care	42	1,517	69	5	58	6	7	4
Residential Treatment Center	79	3,784	601	41	484	76	65	58
Therapeutic Camp	3	97	19	2	17	0	2	2
Operation Serving Children With Mental Retardation	2	92	13	0	12	1	0	0
Child Placing Agency	<u>106</u>	<u>26,950</u>	<u>1,923</u>	<u>126</u>	<u>1,603</u>	<u>194</u>	<u>256</u>	<u>207</u>
Totals	305	40,580	2,826	184	2,338	304	344	284

^a See Appendix 5 for details about the types of providers.

^b A child may have been placed with more than one provider during the fiscal year.

^c See Appendix 4 for details about the confirmed allegations.

Source: Department of Family and Protective Services.

Based on the confirmed victims, the Department determined that 99 percent of children placed with providers were safe. However, as discussed above, the outcome measure does not consider the total number of allegations of abuse or neglect that have been reported at each provider. The outcome measure also does not consider the number of allegation investigations that have been disposed of as (1) “ruled-out,” (2) “unable to complete,” or (3) “unable-to-determine.” High numbers of “unable to complete” or “unable to determine” allegation investigations at a provider should be considered a risk factor when measuring a provider’s performance in ensuring the safety of children in its care.

Identifying the number of confirmed allegations of abuse or neglect is significant in measuring providers’ performance. However, not considering all allegations and the disposition of those allegation investigations in its

outcome measure provides the Department with an incomplete and inaccurate measurement of a provider's performance in protecting the children in its care.

Recommendations

The Department should:

- Develop and include in its contracts with providers a performance measurement methodology that considers a provider's total number of allegations of abuse or neglect and the disposition of those allegations per reporting period as risk factors.
- Consider a high number of confirmed allegations of abuse and neglect at a provider (regardless of the number of children placed with a provider) as a risk factor in measuring providers' performance in ensuring the safety of children in their care.

Management's Response

The Department acknowledges that additional outcome performance measures will augment the contract monitoring procedures currently used by staff to assess a contractor's success at ensuring the safety of children in foster care. Contract and CPS program staff continue the process of identifying measurable performance outcomes to which contractors can be held accountable. Once identified, additional outcome measures will be added to the contract.

The safety outcome was developed to provide a tool for measuring a contractor's ability to protect children. The Department firmly believes that this performance measure include only counts of victims from investigations with reason-to-believe dispositions. Including other dispositions such as unable-to-determine or unable-to-complete would require the department to hold a contractor accountable for incidents that might not have occurred or for incidents that a contractor was not responsible.

However, the safety outcome is not the only means of measuring a contractor's success at protecting children. Specifically, the Department considers all allegations and the disposition of those allegations in its process of performing an annual assessment of each contractor. Processes and procedures used to monitor and assess a contractor provide the additional information needed to complete an overall measure of contractor's ability to protect the children in its care. Contract term 27, which includes the outcome measure, also states that a contractors performance is based on other factors including compliance with contract requirements, compliance with licensing

standards, compliance with service level standards (attachment C) measured by the third-party contractor, and contract monitoring.

The Department agrees a risk measure – not a performance measure – that includes counts of all allegations is a good recommendation and one that is already in use during the annual assessment process. The recommendation to consider high numbers of allegations as a risk factor without regard to a contractor’s child population is simplistic. Even one confirmed allegation is seriously considered by this agency. When evaluating risk to children, other factors are considered, such as:

- *Pattern/repetition of allegations*
- *Nature/type of allegation*
- *Level/extent of self-reporting by the a provider*
- *Size of the facility*
- *Number of locations for a facility*
- *Number of children in care at a facility*
- *Compliance history with Child Care Licensing and contractual requirements*

The Department Should Ensure That Its Contract Monitoring Activities Use and Report Consistent, Complete, and Accurate Information Regarding Providers

The Department has formal policies and procedures that address which

Selecting Providers to Monitor

The Department has developed an annual statewide, risk-based process to select only providers considered high-risk to monitor each fiscal year. This process produces the Statewide Monitoring Plan.

Just prior to beginning of the fiscal year, contract managers conduct a risk assessment of each provider using the Department's risk assessment instrument. The risk assessment instrument scores different categories of risk for performance, financial conditions, and internal processes. Contract managers use information collected by the internal control structure questionnaires, which are submitted to and received from providers during the contract renewal process (see Chapter 3-A for additional details).

The risk scores for each provider are assessed for selection in the Department's Statewide Monitoring Plan. Of the approximately 305 providers the Department contracted with in fiscal year 2006, 90 (30 percent) were selected to be part of the Statewide Monitoring Plan.

providers will be monitored and how monitoring will occur (see text box for additional details). However, the Department should strengthen several aspects of its monitoring of providers' financial operations and programmatic performance.

The Department does not specifically require its providers to obtain a periodic independent financial audit.

Although the Department recently adopted licensing requirements specifying that providers must receive "professional audits" annually, it does not specifically require providers to obtain periodic independent financial audits.⁸ In addition to reporting on whether a provider's financial statements are materially correct and presented in accordance with generally accepted accounting principles, financial audits can provide information about significant deficiencies that could expose the provider to misappropriation of the payments it receives from the Department. In contrast, "professional audits" can be limited in the areas and information auditors examine.

In addition, the Department's monitoring of providers' financial processes focuses on only those providers it selects as part of its annual statewide monitoring plan. During that monitoring effort, the Department ensures:

- The accuracy of provider's submitted billing invoices.
- The compliance of child placing agencies' payments to foster parents with the terms and conditions of the contract.

The Department's understanding of providers' processes for submitting invoices and making payments to foster parents is limited to providers' self-reported responses on internal control structure questionnaires. Because providers' responses to the questionnaire are self-reported and not verified, there is a risk that those responses could be incomplete or inaccurate. In addition, the Department's contract managers do not either (1) possess the financial accounting knowledge or (2) receive the training necessary to evaluate a provider's financial processes for significant risks or weaknesses

⁸ Effective January 1, 2007, Title 40, Texas Administrative Code, Sections 748.163 and 749.165, established licensing requirements specifying that providers must have a "professional audit completed annually."

(concerns about the financial knowledge of contract managers are also discussed in Chapter 1-A).

Not specifically requiring providers to obtain periodic independent financial audits increases the risk that the Department will not be aware of significant internal control deficiencies that could result in the misuse or abuse of federal and state funds.

The Department's supervisors do not review and approve completed risk assessment instruments or the performance of contract monitoring activities.

Provider Monitoring Performed by Contract Managers

Contract managers conduct on-site monitoring of select providers according to the Statewide Monitoring Plan. The on-site monitoring performed by contract managers uses two monitoring tools: the programmatic monitoring tool and the fiscal monitoring tool.

The **programmatic monitoring tool** is used to evaluate compliance with contract terms and conditions including:

- Quality of services delivered.
- Inspected facility living conditions.
- Child-specific requirements relative to care.
- Adequacy of documentation for admission and placement, subsequent placement, and discharges.

The **fiscal monitoring tool** is used to evaluate:

- The accuracy of payments the Department made to a provider.
- The compliance of child placing agencies' payments to foster parents with terms and conditions of the contract.

A formal report is generated outlining a summary of the results of a contract manager's monitoring. In instances when non-compliance or significant concerns have been identified, a provider will be required to develop a corrective action plan. Depending on the issues addressed by the corrective action plan, contract managers may revisit a provider to ensure the corrective action plan has been implemented.

The Department has policies and procedures to direct the activities required to complete its risk assessment and specific tools for monitoring providers (see text box for additional details). However, other than the review and approval of the final monitoring reports, these policies and procedures do not require management review and approval of these activities. As a result, auditors identified inaccurate risk assessment instruments, incomplete or missing contract monitoring tools, and instances in which contract monitoring activities had not been completed.

Auditors determined that the risk assessment instruments were inaccurate because providers reported inaccurate information on internal control structure questionnaires. Specifically, auditors reviewed the contract monitoring files for fiscal years 2006 and 2007 for 42 (14 percent) of the Department's approximately 305 providers and identified the following:

- Five questionnaires specified that an independent financial audit had been performed at the provider when no audit had been performed.
- Two questionnaires were for a period other than the period for which the risk assessment instruments were completed or did not specify the applicable period.

Auditors also determined that program and financial monitoring records contained incomplete documentation or lacked certain documentation. Specifically, program monitoring records lacked:

- Documented summaries of monitoring activities (in six instances).
- Completed programmatic monitoring tool (in seven instances).
- Required documented observations (in four instances).

- Completed overall summary of the contract managers' monitoring conclusions (in two instances).
- Documentation of the contract managers' interviews with children (in two instances).
- Documentation of the sampling methodology used to select children to interview (in one instance).

Financial monitoring records reviewed lacked:

- Evidence of completion of the proper payment monitoring tool (in six instances).
- Completed overall summary of the contract managers' monitoring conclusions (in three instances).
- Documented summaries of monitoring activities (in two instances).
- Documentation of the tests to determine whether payment amounts tested were correct (in one instance).
- Evidence of supervisory review and approval of a corrective action plan that was developed as a result of an initial monitoring visit (in one instance).
- Evidence that follow-up monitoring required as the result of a corrective action plan actually took place (in one instance).

The Department's risk assessment instrument and contract monitoring activities are intended to ensure that (1) high-risk providers are selected for the statewide monitoring plan and (2) the providers selected for monitoring are complying with the terms of the contract and meeting the Department's performance expectations. Without a formal review and approval process, the Department has no assurance that contract managers are consistently performing risk assessment and contract monitoring activities. In addition, the Department has no assurance that information resulting from its risk assessment instrument and contract monitoring activities is accurate and complete.

The Department lacks documentation of its monitoring of out-of-state providers.

The Department's policies and procedures lack specific guidance on the monitoring of out-of-state providers. The Department has contracts with three out-of-state providers that it paid \$141,837 to deliver services to seven children in fiscal year 2006.

The Department's contracting monitoring policies and procedures are based on monitoring only providers selected as part of its annual statewide monitoring plan. Out-of-state providers are not typically selected for monitoring as part of the statewide monitoring plan because (1) the number of children placed with out-of-state providers and the associated dollar amount of payments is relatively small and (2) certain attributes of the risk assessment instrument are not applicable to out-of-state providers, which results in these providers having relatively low risk assessment scores.

The Department has no formal communication procedures for contract managers to maintain contact with either (1) the Department's caseworkers for children placed with out-of-state providers or (2) out-of-state licensing and regulatory agencies. Without formal communication, there is a risk that performance concerns regarding out-of-state providers would not be reported to the Department's contract managers. This puts the children in these providers' care at risk of receiving or being exposed to poor or noncompliant services and conditions.

The Department's risk assessment process does not include all providers.

The Department does not complete the risk assessment instrument for new providers. Additionally, the Department excludes providers that make less than \$10,000 in expenditures from its risk assessment process. By excluding these providers, the Department does not consider the potential risks these providers may have with regard to the safety, care, and well-being of children in their care.

The Department did not complete a risk assessment instrument for 21 (7 percent) of the approximately 305 provider contracts. Fiscal year 2006 payments to these 21 providers totaled \$2,299,575 for services delivered to approximately 403 children.

The Department does not consistently maintain supporting documentation for its calculation of risk assessment scores.

The Department did not maintain supporting documentation for scores given to 32 (78 percent) of 41 provider risk assessments tested for fiscal year 2006 and 27 (71 percent) of 38 provider risk assessments tested for fiscal year 2007.⁹ Without this supporting documentation, the Department cannot determine whether providers' risk assessment scores are calculated accurately and objectively. Inaccuracies or the lack of objectivity in risk assessment scores can result in providers being erroneously included in or excluded from the Department's monitoring process.

⁹ A total of 42 providers were tested overall; however, the Department had contracts with only 41 of those providers in fiscal year 2006 and 38 of those providers in fiscal year 2007.

Recommendations

The Department should:

- In its contract with providers, require providers to obtain independent financial audits annually.
- Develop and implement objective policies and procedures that:
 - ♦ Require supervisors to review and approve all contract monitoring activities completed by contract managers.
 - ♦ Provide for the monitoring of providers that are not in Texas.
 - ♦ Ensure that all providers are subject to its monitoring risk assessment.
 - ♦ Ensure that supporting documentation used to calculate risk assessment scores is retained.

Management's Response

The Texas Administrative Code §748.163 and §749.165 requiring “professional audits” to be conducted on residential operations is an obligation regulated under the purview of DFPS Child Care Licensing (effective January 1, 2007). Residential Contracts will consider utilizing the professional audits required by DFPS Child Care Licensing in the Risk Assessment process but does not intend to require all residential contractors to submit independent financial audits.

Residential Contracts will review methods used to assess financial risk for vendor contractors paid by daily unit rate to determine if additional processes are needed to address this finding. However, it should be noted that the focus of oversight for Residential Contracts staff is on monitoring the required level of care and quality of services provided under the contract, and taking immediate corrective action when those requirements are not met; instead of reviewing receipts (as with cost reimbursement contracts) or auditing financial weaknesses of the provider organization (as with sub-recipient contractors). This approach is consistent with the HHSC/DFPS Management Response to the SAO pursuant to the October 2006 On Site Audit of Residential Child Care Providers which describes the accountability expectations for contractors paid using a daily unit rate.

In regard to the development of policies and procedures the Department offers the following response:

- *Current DFPS Contract Policy (CM-S-16) requires that staff concluding a monitoring review “Obtain and document supervisory approval” prior to distribution of the final monitoring report. Residential Contracts management staff will assess the current process and determine if development of a secondary review process will enhance compliance with these requirements. The additional staff resources requested through CPS Reform Continued will assist with allowing more in depth review of contract monitoring activities.*
- *Residential Contracts is committed to continuing to strengthen documentation of policies, procedures and processes that lead to appropriate and consistent monitoring of residential contracts. DFPS residential contract managers monitor few out-of-state contracts, most of which are time-limited for individually identified children. Residential Contract Managers follow the DFPS Contract Policies regarding risk assessment and monitoring for these out-of-state contracts. In addition, as with Texas Residential Contractors, residential contract managers document licensing/ regulatory performance information in the annual assessment. For each out-of-state contract, the residential contract manager must accommodate the varying methods for gathering performance information from licensing/regulatory authorities in other states. DFPS will review the need for additional procedures, above the current DFPS Contract Policies to ensure that performance information is adequately documented and responded to by Residential Contracts staff.*
- *The Department believes that its monitoring risk assessment process adequately covers all contracted service providers. While the risk assessment instrument is not required for some designated providers (as described below), residential contract management staff are responsible for requesting the addition of individual contracts to the Statewide Monitoring Plan (SMP) whenever new or additional risk associated with them is identified.*

For new contracts without history with the department (referred to as “new/new”), a risk assessment is not required because many of the measurable risk factors depend on historical knowledge that the contract managers do not have. It is important to note that these contracts can be incorporated into the Statewide Monitoring Plan, based on funding amounts. In FY06, 6 of the 21 residential contracts for which the risk assessment was not completed were added to the SMP based on funding amounts. The FY06 expenditures for these 6 contracts totaled \$1,649,049 (72%) of the \$2,299,575 cited in this report.

Because the Department must prioritize contract monitoring activities in order to make the most effective use of agency resources, completion of a risk assessment instrument is not required for vendor contracts under \$10,000.

However, as noted above, contract management staff is required to request the addition of a contract to the SMP if and when increased risk is identified.

Residential contract managers conduct annual assessments to thoroughly evaluate the safety, care and well-being of children in each contracted provider's care, and to determine whether or not the Department will continue to contract with each provider. The Department believes that this process, combined with the formal contract risk assessment and SMP monitoring processes, ensures fulfillment of the agency's obligation to assess and mitigate contract-related risk (from both programmatic and business perspectives).

Current DFPS Contract Policy (CM-M-12) requires that "A copy of each completed Risk Assessment Instrument and supporting documentation for each risk factor are to be maintained in the contract file. Furthermore, DFPS Contract Policy (CM-S-49) provides a detailed description of this requirement and the underlying rationale, which focuses on the need for contract management staff to be able to reference documentation regarding a contractor's risk status whenever there is a need to do so (not solely in association with monitoring activities). The Residential Contracts management staff will assess and enhance its process for supervisory review of this RAI requirement.

DFPS Contract Oversight and Support (COS) Division maintains a quality assurance (QA) function which develops an agency QA plan, based on internal risk, resources and agency issues, to assess staff compliance with contract policies and procedures. Any existing or developed policy requirement may be subject to COS QA review.

The Department Should Ensure That Payments It Makes to the Third-Party Service Level Reviewer Are for Costs That Have Been Incurred and Paid

Third-party Service Level Reviewer

The contracted third-party service level reviewer determines and authorizes the initial and reauthorization of children's treatment and service needs for 24-hour residential child care.

Cost Reimbursement Contracts

Cost-reimbursement contracts reimburse the vendor for the actual cost of providing services, up to a maximum amount specified in the contract. Contracts require funds to be spent in accordance with the approved budget. Contract provisions specify acceptable uses of funds and require reimbursement of funds used inappropriately.

The Department does not obtain and review detailed supporting documentation associated with the monthly invoices submitted by its contracted third-party service level reviewer. The third-party service level reviewer determines children's service level authorizations (see text box for additional details).

The Department pays the third-party service level reviewer on a cost reimbursement contract (see text box for additional details). The Department's billing process, as defined in its request for proposal for third-party service level reviewer services for the contract effective September 1, 2006, specifies that only costs incurred and paid by the third-party service level reviewer will be reimbursed.

Before paying an invoice submitted by the third-party service level reviewer, the Department ensures only that the total of the monthly invoices submitted thus far does not exceed the total annual budget in the contract. The Department does not obtain and review supporting documentation for the third-party service level reviewer's invoices to ensure that it reimburses that organization only for incurred and paid costs.

Recommendations

The Department should establish and implement objective policies and procedures that require obtaining and reviewing detailed supporting documentation of all costs in the third-party service level reviewer's monthly invoices prior to the payment of those invoices.

Management's Response

The Department followed the policies and procedures that define and detail the system in which a review of invoiced costs at the level of specific line item detail are approved and tested. These policies can be found in the DFPS Contract Handbook. The process includes:

- *Current DFPS Contract Policy (CE-M-01) requires that at contract establishment a budget supporting the proposed program and the contractor's assurance of its ability to provide said program is obtained.*

- *Current DFPS Contract Policy (CM-M-07) requires the review of the contractor's fiscal internal controls within the procurement and monitoring activities.*
- *Current DFPS Contract Policy (CM-S-33) requires a review of invoices for improper costs and details the actions to be taken. Contract staff track cost category expenditures and compare these to the budget to conclude that funds are being spent according to the approved budget and the program objectives. In this contract a monthly and quarter service delivery report serves to support the expenditures and program being provided.*
- *Current DFPS Contract Policy (CM-S-37) requires monitoring activities include the testing of line item expenditures paid to the contractor by testing for detailed supporting documentation of all invoiced costs in the sample. These activities are conducted to determine if expenditures were allowable, authorized, properly supported and correctly allocated to the DFPS contract.*

The third party service level reviewer contract is scheduled for monitoring in FY07.

The Department Should Strengthen Its Contract Procurement and Contract Renewal Processes to Ensure the Appropriateness of Its Contract Award and Contract Renewal Decisions

The Department has policies and procedures for managing its procurement of new provider contracts and renewal of existing provider contracts. It can strengthen these policies and procedures by:

- Ensuring its contract renewal decisions are based on objective, complete, and accurate information.
- Ensuring it consistently collects and maintains required documentation of providers' financial condition for new contract procurements and contract renewals.

Chapter 3-A

The Department Should Ensure That Its Contract Renewal Decisions Are Based on Objective, Complete, and Accurate Information

Contract Renewal Process

The Department has developed an annual process through which contract managers complete a contract renewal assessment that evaluates a provider's operations and quality of care.

Based on the results of the contract renewal assessment, contract managers make one of the following contract renewal recommendations based on their professional judgment:

- Recommend a provisional contract. A provisional contract is a short-term contract that can vary in contract length (three, five, or six months). Provisional contracts are recommended when a contract manager identifies significant non-compliance or performance concerns with a provider. Contract managers reassess the specific non-compliance or performance concerns prior to the end of the provider's contract term.
- Recommend a full-year contract.
- Recommend that the contract not be renewed.

Source: Department of Family and Protective Services.

The Department has developed guidelines for determining whether to (1) renew existing contracts with providers as provisional contracts or full-year contracts or (2) not renew contracts (see text box for additional details). However, it does not have formal criteria to ensure it makes objective contract renewal decisions based on complete and accurate information.

The Department has not established formal criteria for determining whether a provider's contract should be renewed as a provisional contract, renewed as a full-year contract, or not renewed.

The Department does not have defined criteria for determining whether to renew contracts with providers. Although the Department has established guidelines that allow its contract managers to make recommendations on whether to renew provider contracts, these guidelines lack defined performance and risk criteria or other factors contract managers should consider in their assessments of a provider's performance. In addition, these guidelines do not describe what specific information or factors from the

contract renewal assessments' recommendations the Department considers in making its contract renewal decisions.

Auditors identified inconsistencies between the contract renewal assessment recommendations made by contract managers and the Department's contract renewal decisions for 7 (20 percent) of 35 providers tested for fiscal year 2006 and 6 (18 percent) of 33 providers tested for fiscal 2007. Specifically:

- Contract managers recommended that four providers receive provisional contracts; however, the Department awarded each of these providers a full-year contract. This occurred in both fiscal years 2006 and 2007 for two providers. For one provider, this occurred only in fiscal year 2006. For the other provider, this occurred only in fiscal year 2007.
- Contract managers recommended that the contracts of two providers not be renewed for fiscal year 2006; they also recommended that one of these provider's contracts not be renewed for fiscal year 2007. However, the Department renewed one provider's contract as a provisional contract and renewed the other provider's contract as a full-year contract for fiscal year 2006. The provider that was awarded the full contract voluntarily chose not to have its contract renewed.
- Contract managers recommended that the contracts for two providers (one provider for fiscal year 2006 and the other provider for fiscal year 2007) be renewed as full-year contracts, but the Department renewed the providers' contracts as provisional contracts. The provider contract for fiscal year 2007 was not renewed at the end of the provisional period.
- A contract manager recommended that one provider's contract be renewed as a full-year contract for fiscal year 2007, but the Department's division manager recommended that the same provider's contract be renewed as a provisional contract. However, executive management made the final decision to renew the provider's contract as a full-year contract.
- One contract renewal assessment did not make a recommendation about whether to renew a provider's contract for fiscal year 2006. The Department renewed the provider's contract as a provisional contract.

Not using defined criteria in the contract renewal process prevents the Department from ensuring that a contract manager's contract renewal recommendation and its contract renewal decisions are based on an objective and reasonable evaluation of a provider's performance.

The Department does not ensure that the review and approval of contract renewal assessments are properly documented.

The Department renewed contracts with providers whose contract renewal assessments were not signed as complete, reviewed, or approved by appropriate management and staff. Auditors determined that contract renewal assessments for 4 (11 percent) of 35 providers tested for fiscal year 2006 and 5 (15 percent) of 33 providers tested for fiscal year 2007 were not properly

signed as completed, reviewed, or approved by appropriate management and staff. Specifically:

- Three contract renewal assessments were approved by the Department division manager before the contract managers had signed and dated the renewal assessments. Each of these contract renewal assessments was for fiscal year 2007.
- Six contract renewal assessments completed by contract managers were not properly reviewed and approved. Specifically, auditors identified the following:
 - ♦ Four contract renewal assessments were not signed as completed, reviewed, or approved. Three of these contract renewal assessments were for fiscal year 2006 and one was for fiscal year 2007.
 - ♦ One contract renewal assessment for fiscal year 2006 was not signed by the Department division manager as having been reviewed.
 - ♦ One contract renewal assessment for fiscal year 2007 was not approved by the Department's regional manager. The regional manager elected not to approve the contract renewal assessment because of concerns about the provider's history of noncompliance with licensing standards.¹⁰ However, the Department renewed this provider's contract as a provisional contract.

Not ensuring that all contract renewal assessments are completed, reviewed, and approved hinders the Department's ability to ensure that its contract renewal decisions are based on complete and accurate information on its providers.

Recommendations

The Department should

- Develop and implement objective policies and procedures that (1) define specific and measurable performance and risk-based criteria for contract managers to use in evaluating whether to recommend renewing a provider's contract as a provisional or full-year contract or whether to cease contracting with the provider and (2) require documentation of the factors the Department considered in its final contract renewal decisions. In addition, the Department should document its reasons for those contract renewal decisions that differed from contract managers' recommendations.

¹⁰ The provider's renewal assessment had 13 noted deficiencies related to the abuse and neglect of children in its care. The 13 deficiencies occurred within a two-year period.

- Ensure that management and staff have documented their completion, review, and approval of contract renewal assessments prior to making contract renewal decisions.

Management's Response

The Department has defined criteria for determining whether to renew contracts with providers which are utilized by the Residential Contracts Division Manager to make recommendations to management regarding renewal of contracts. Residential Contracts management and DFPS executive leadership review the detailed performance information as well as recommendations made by contract managers to make the best decision in support of safety, permanency and well being of children. In making these decisions regarding renewal of existing contractors DFPS leadership may make decisions that are not in accordance with residential contract managers. With high turnover, it is to be expected that newer contract managers may not have all of the historical knowledge or experience to consider all relevant factors when making renewal decisions.

The Department will ensure that residential contract managers use the same criteria utilized by the Division Manager to make recommendations regarding renewal decisions. Furthermore, DFPS will document decisions that differ from the recommendations made by the residential contract manager in the renewal assessment.

All assessments are completed by the residential contracts managers and submitted to the Division Manager for approval. Although the dates documented on a few assessments may not have been in accordance with the actual chronological order in which they were reviewed and approved, the Department is confident that the assessment review and approval process results in the appropriate level of scrutiny and facilitates appropriate decision making regarding contract renewal decisions.

The Department Does Not Consistently Collect and Maintain Documentation on the Financial Condition of New Providers and Providers Whose Contracts It Renews

Auditors identified provider procurement and contract renewal records that were incomplete because they did not contain required provider financial documentation. The Department has not clearly designated which of its divisions, the Procurements Division or the Residential Contracts Division, is responsible for maintaining complete documentation of either its contract procurement or contract renewals process.

Auditors reviewed files for 6 new provider contracts¹¹ for fiscal years 2006 and 2007 and 33 provider contract renewals for fiscal year 2007 and identified the following:

- Files for three (50 percent) of the six new provider contracts lacked required documentation. Specifically:
 - ♦ One file lacked documentation indicating the provider met the Department's insurance requirements.
 - ♦ One file lacked documentation of the provider's current balance sheet and income statement.
 - ♦ One file lacked documentation that the Department verified the provider's tax status with the Comptroller of Public Accounts.
- Files for 7 (21 percent) of the 33 contract renewals tested either lacked documentation or contained insufficient documentation to meet the Department's renewal requirements. Specifically:
 - ♦ Files for three providers lacked evidence of liability insurance coverage or had insufficient evidence of the carrier's insurance rating.
 - ♦ Files for three providers lacked documentation of the providers' current financial condition (including a copy of the provider's current balance sheet and income statement).
 - ♦ One provider disclosed that it intended to use subcontractors, but it did not provide information on those subcontractors.

Not maintaining documentation of a provider's financial condition at the time of contract procurement or contract renewal exposes the Department to the risk that it may place children in the care of providers that may not be financially capable of delivering quality services.

¹¹ A total of 27 new applicants were reviewed during fiscal years 2006 and 2007.

Recommendations

The Department should:

- Establish and enforce an organized process for maintaining documents related to contract procurements and renewals.
- Assign specific divisions responsibility for collecting and maintaining documents related to contract procurements and renewals.

Management's Response

The Procurement Division uses an organized method to document what is collected and maintained by the Procurement Division in the procurement files. The process for screening residential documents was recently expanded to specifically identify the items under larger categories. For example, previously the screening document asked if all responses to the plan of operation were included. The revised version now lists each policy tab requested in the plan of operation individually in order to ensure that the requested information is included. This revised screening tool added almost 30 subcategories of information to the 36 categories that already existed. The Department is confident this new process will ensure that all required documents will be properly screened and included in the files.

The Residential Contract Division uses Form 2044 and 2044b "Contract Routing Document" to document what is collected and maintained by the Residential Contract Division in the contract files for renewal. This form not only provides for a forms review checklist but also provides a checklist review guide for further explanation.

The Department will emphasize to staff the importance of following and properly documenting these policies and procedures.

DFPS Contract Oversight and Support (COS) Division maintains a quality assurance (QA) function which develops an agency QA plan, based on internal risk, resources and agency issues, to assess staff compliance with contract policies and procedures. Any existing or developed policy requirement may be subject to COS QA review.

The Department Should Strengthen the Training It Provides to Contract Managers to Ensure the Provider Data They Enter into the Case Management System Is Complete and Accurate

The Department's Information Management Protecting Adults and Children in Texas (IMPACT) system—which is the case management system the Department uses to manage contract and financial information regarding providers—has the automated controls necessary to protect the integrity of the data within that system.

Information Management Protecting Adults and Children in Texas (IMPACT)

The IMPACT system is the Department's repository for information regarding foster and adoptive homes, service providers, and available resources.

The system tracks foster care and adoptive home applications and licensing decisions, as well as any instances of abuse and neglect involving foster or adoptive homes.

IMPACT contains information regarding available resources and services statewide. Information about service providers also supports financial management and contract management.

An automated interface between IMPACT and the Health and Human Services Administrative System (HHSAS) supports payments to a variety of service providers. The Department's contract managers use IMPACT to manage information regarding contracts and payments to providers.

Source: Department of Family and Protective Services.

However, the Department should ensure that data its contract managers enter into IMPACT is complete and accurate.

The Department does not provide its contract managers with formal, job-specific training for using IMPACT.

The Department's contract managers have not received the training necessary to use IMPACT effectively. In fiscal year 2007, the Department transferred the responsibility for managing provider contract and financial information in IMPACT from the Residential Contracts Division's section lead to the contract managers in its Residential Contracts Division.

Although the decision to transfer these responsibilities was reasonable, contract managers have not received the training necessary for them to use IMPACT effectively. The Department provided contract managers with a brief training session describing an overview of IMPACT and a Department-developed training guide with basic information on using IMPACT. Contract managers indicated that this

basic information explained how data should be entered into IMPACT, but it did not provide detailed information on how the information should be managed in IMPACT.

An inadequate understanding of how to use IMPACT could result in contract managers entering incomplete or inaccurate information into IMPACT. This could lead to errors in information about a provider's contract or incorrect payments to providers.

The Department does not review contract and financial information that contract managers enter into IMPACT for completeness and accuracy.

The Department does not ensure that contract and financial information that contract managers enter into IMPACT is properly reviewed for completeness and accuracy. The Department does not have policies and procedures for this type of review. The Department's contract managers are responsible for

managing and updating contract and financial information on the Department's approximately 305 provider contracts. The lack of review increases the risk that information managed by IMPACT is incomplete or inaccurate.

Recommendations

The Department should:

- Develop a training manual for contract managers that provides detailed guidance on the contract and financial information they are required to enter and manage in IMPACT.
- Establish objective policies and procedures for reviewing data that contract managers enter into IMPACT.

Management's Response

Residential Contracts will build upon the business process maps to be utilized as an operating manual to provide guidance on the contract and financial information that they are required to enter and manage in IMPACT. The additional staff solicited through the CPS Reform Continued budget request will ensure adequate resources are available to complete the documentation and maintenance of the operating manual and facilitate on-going training for staff.

The additional staff solicited through the CPS Reform Continued budget request will ensure adequate resources are available to enable designated Residential Contracts staff to review data that contract managers enter into IMPACT. Pending approval of requested additional positions, the Department will work to document policies and procedures for reviewing information entered into IMPACT.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The audit objectives were to:

- Conduct a management review of the residential contract management employees of the Health and Human Services Commission and the Department of Family and Protective Services (Department) and make recommendations regarding the organization of, and skills and educational requirements for, those employees.
- Make recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds.

Scope

The scope of this audit covered current and former residential contract managers employed by the Department in fiscal years 2006 and 2007. The scope also included reviewing the accuracy and completeness of contract procurement, renewal, and monitoring activities performed by residential contract managers during fiscal years 2006 and 2007.

Methodology

The audit methodology included reviewing judgmentally selected residential child care providers' contract files, collecting information and documentation, performing selective tests and other procedures, analyzing and evaluating the results of tests, and interviewing the Department's management and staff.

Information collected and reviewed included the following:

- Information from interviews with the Department's residential child care program management and staff.
- The Department's organizational charts.
- Contracts between the Department and providers.
- The Department's policies and procedures for management of provider contracts.
- The Department's functional job descriptions.

- The Department's personnel files for residential contracts management and staff.
- The Department's monitoring records, interoffice memoranda, provider reports, and accounting records.
- Contract procurement documents.
- Comptroller of Public Accounts' Human Resources Information System.
- Uniform Statewide Payroll/Personnel System.
- Standardized Payroll/Personnel Reporting System.
- The University of Texas at Austin's Survey of Organizational Excellence.
- The Health and Human Service Contract Council's *Skills and Training Workgroup Report*.
- The State Auditor's Office's Employee Exit Survey.
- Prior State Auditor's Office reports and classification compliance audits.

Procedures and tests conducted included the following:

- Review of residential contracts management and staff qualifications and experience.
- Limited review of contract procurement and contract monitoring documents.
- Assessment of program staff contract management workload.
- Limited review of select contracts and amendments.
- Limited review of the contract management and monitoring policies and procedures.

Criteria used included the following:

- Texas statutes and the Texas Administrative Code.
- Provider contracts with the Department.
- The Department's Contract, Licensing, and Child Placing Agency Minimum Standard handbooks.
- Texas Building and Procurement's *Contract Management Guide*.
- State of Texas classified salary schedules and job descriptions.

- The Department's policies and procedures.

Project Information

Audit fieldwork was conducted from October 2006 through March 2007. This audit was conducted in accordance with generally accepted government auditing standards.

The following members of the State Auditor's staff performed the audit:

- Willie J. Hicks, MBA (Project Manager)
- Michael Simon, MBA, CGAP (Assistant Project Manager)
- Christine Bailey, CCP (State Auditor's Office's State Classification Office)
- Kelli Davis
- Darrell Edgar
- Michael Gieringer, MSHCA
- Marlen Kraemer, MBA, CISA
- Joseph Mungai, CIA, CISA
- Jim Yerich, CPA (Ohio), CGFM
- Charles P. Dunlap Jr., CPA (Quality Control Reviewer)
- Dave Gerber, CIA, CISA, CGAP (Audit Manager)

Contract Manager Experience and Education

The Department of Family and Protective Services (Department) ensures that it has qualified personnel to procure and manage its provider contracts. In a review of the education and experience of the Department's contract managers, the State Auditor's Office State Classification Team determined that contract managers exceeded the minimum qualifications for their positions (see Table 7).

Table 7

Qualifications of the Department's Contract Managers					
Position	Related Education and Experience Prior to the Current Position ^a				
	Bachelor's Degree	Master's Degree	Certification or Licensure	Social Service Program Experience (Years and Months)	Contract Management (Years and Months)
Contract Manager 1	Bachelors of Business Administration, Management	No	No	6 years, 1 months	0
Contract Manager 2	Bachelor of Science, Psychology/Sociology	No	Child Protective Service Supervisor Certification, Child Protective Service Specialist Certification	10 years, 4 months	0
Contract Manager 3	Bachelor of Science, Biology	No	No	4 years, 8 months	5 years, 2 months
Contract Manager 4	Bachelor of Science, Social Work/ Psychology	Master of Science, Social Work	Licensed Master Social Worker (LMSW)	8 years, 6 months	9 years, 1 month
Contract Manager 5	Bachelors of Arts, Psychology/Music	Master of Science, Social Work	Licensed Master Social Worker (LMSW)	5 years, 11 months	0
Contract Manager 6	Bachelor of Science, Health Education/ Biology	No	No	5 years, 6 months	0
Contract Manager 7	Bachelor of Science, Business Education and Social Psychology	No	No	7 years, 10 months	0
Contract Manager 8	Bachelor of Arts, Psychology	Master of Science, Social Work	No	6 years, 7 months	0
Contract Manager 9	Bachelor of Science, Psychology	Master of Arts, Clinical Psychology	No	10 years, 9 months	0
Contract Manager 10	Bachelor of Science, Social Work	Master of Arts, Interdisciplinary Studies	Licensed Baccalaureate Social Worker (LBSW)	8 years, 3 months	6 years, 5 months
Average Experience, All Positions				7 years, 5 months	2 years, 1 month

^a Minimum requirements for the contract manager position are: (1) a four-year degree or substitute education and (2) two years of experience in contract management or/and program-related experience.

Source: Department of Family and Protective Services.

Residential contract managers had an average of 9 years and 6 months of relevant experience (including 7 years and 5 months of social service program experience; and 2 years and 1 month of contract management experience) prior to obtaining their current positions, and they all had related bachelor's degrees. Five (50 percent) of the 10 contract managers had a master's degree in a related social services field and four (40 percent) had a license or certification in social services.

Overview of the Department's Oversight Functions of 24-hour Residential Child Care Providers

The Department of Family and Protective Services (Department) has the responsibility to license, monitor, and regulate all residential child care operations in Texas. It also has the responsibility to ensure the care and safety of children who are placed with 24-hour residential child care providers.

Three Department programs are involved in monitoring services delivered by providers:

- Child Protective Services acts as the "parent" and is responsible for ensuring that the children placed with a provider are receiving required routine care and services.
- Child Care Licensing is responsible for licensing and regulating provider operations and facilities.
- Purchased Client Services is responsible for procuring contracts with providers and monitoring the contractual compliance of providers through its Residential Contracts Division. The Residential Contracts Division is responsible for both (1) procuring, renewing, and terminating provider contracts and (2) ensuring that providers comply with applicable state and federal regulations, the Department's policies and procedures, and the terms of their contracts with regard to the delivery of services and use of state and federal funds. The Residential Contracts Division has contract managers located in six of the Department's 11 regional offices to manage and monitor its approximately 305 provider contracts (see Table 8 on the next page).

Table 8

Contract Managers in the Residential Contracts Division's Six Regional Offices		
Region	Number of Current Contract Managers	Number of Vacant Contract Manager Positions
1- Amarillo ^a	1	1
2- Midland	1	0
3- Arlington	2	0
6- Houston	3	1
7- Austin	2	0
8- San Antonio	<u>1</u>	<u>1</u>
Totals	10	3
^a The current contract manager is classified as a Manager II and serves as the section lead for the Residential Contracts Division.		

Source: Department of Family and Protective Services as of January 31, 2007.

Confirmed Allegations of Child Abuse or Neglect for Fiscal Year 2006

In fiscal year 2006, the Department of Family and Protective Services (Department) determined that a total of 344 confirmed allegations of abuse or neglect occurred among its approximately 305 providers that delivered 24-hour residential child care services to children. Table 9 on the next page presents detailed information on the confirmed allegations. The categories of abuse or neglect include:

- **Physical abuse.** A physical injury including (1) any bodily harm, including minor scrapes, cuts, and bruises; (2) any bodily harm resulting from the discipline of a child; (3) any substantial physical injury; or (4) causing, expressly permitting, or encouraging a child to use alcohol or a controlled substance.
- **Sexual abuse.** Sexual conduct that constitutes the offense of indecency with a child, sexual assault, or aggravated sexual assault as defined under the state Penal Code, including the failure to make reasonable efforts to prevent sexual conduct to a child.
- **Emotional abuse.** Emotional harm that is (1) an observable impairment in a child's psychological growth, development, or functioning; (2) any significant change in a child's physical health or social behavior, including changes in sleeping and eating patterns; or (3) any substantial emotional harm. A mental health professional does not have to determine that there is emotional harm.
- **Medical neglect.** Failure to seek, to obtain, or to follow through with medical care for a child including:
 - ♦ Failure to provide a child with food, clothing, and shelter necessary to sustain the life or health of the child.
 - ♦ Failure to comply with an individual treatment plan, plan of service, or individualized service plan that causes substantial emotional harm or substantial physical injury to a child.
 - ♦ Repeated failures (two or more) to comply with an individual treatment plan, plan of service, or individualized service plan, after notice and an opportunity to correct the failure, that may cause substantial emotional harm or substantial physical injury to a child.
- **Physical neglect.** A substantial physical injury including bodily harm that warrants treatment by a medical professional or substantial emotional harm. Also includes an observable impairment in a child's psychological

growth, development, or functioning that is significant enough to require treatment by a medical or mental health professional.

- Neglectful supervision. Failure to take an action that a reasonable member of that profession, reasonable caregiver, or reasonable person should take in situations that (1) require judgment or actions beyond the child's level of maturity, physical condition, or mental abilities; (2) expose a child to physical injury or emotional harm; or (3) expose a child to the risk of sexual conduct.

Table 9

Confirmed Allegations of Child Abuse or Neglect At 24-hour Child Care Providers that Contracted with the Department of Family and Protective Services Fiscal Year 2006						
	Category of Provider ^{a b}					Totals
	Emergency Shelter	Operation Providing Basic Child Care	Residential Treatment Center	Therapeutic Camp	Child Placing Agency	
Number of Providers	10	4	24	2	37	77
Number of Confirmed Allegation Investigations ^c	10	5	41	2	126	184
Number of Confirmed Victims ^d	13	4	58	2	207	284
Category of Abuse or Neglect:						
Physical Abuse	4	4	30	0	52	90
Sexual Abuse	2	0	2	1	39	44
Emotional Abuse	0	0	0	0	2	2
Medical Neglect	2	0	1	0	13	16
Physical Neglect	0	0	0	0	4	4
Neglectful Supervision	6	3	32	1	146	188
Total Confirmed Allegations of Abuse or Neglect	14	7	65	2	256	344
^a There were no confirmed allegations of abuse or neglect at independent foster family homes, independent foster family group homes, or operations serving children with mental retardation during fiscal year 2006. ^b See Appendix 5 for details about the types of providers. ^c A single investigation can confirm multiple allegations of abuse or neglect. ^d A single allegation can involve more than one child as a victim of abuse or neglect.						

Source: Department of Family and Protective Services.

Types of Residential Child Care Providers

The Department of Family and Protective Services contracts with the following types of residential child care providers (24-hour providers):

- Foster Family Home (Independent): An operation that provides care for six or fewer children up to the age of 18 years.
- Foster Group Homes (Independent): An operation that personally provides care for seven to twelve children up to the age of 18 years.
- Emergency Shelter: An operation that provides short-term care (less than 30 days) for 13 or more children up to the age of 18 years.
- Operation Providing Basic Child Care: An operation that provides care for 13 or more children up to the age of 18 years. The care does not include specialized care programs.
- Residential Treatment Center: An operation that provides care and treatment for 13 or more emotionally disturbed children up to the age of 18 years.
- Therapeutic Camp: An operation that provides a camping program for 13 or more children, ages 13 up to the age of 18 years. It is designed to provide an experiential therapeutic environment for children who cannot function in their home, school, or community.
- Operation Serving Children With Mental Retardation: An operation that provides care for 13 or more children up to the age of 18 years. The children in care are significantly below average in general intellectual functioning and also have deficits in adaptive behavior.
- Child Placing Agency (CPA): A person, agency, or organization other than a parent that places or plans for the placement of a child in an adoptive home or other residential care setting.
- CPA Foster Family Home: An operation that provides care for six or fewer children, up to the age of 18 years, under the regulation of a child-placing agency.
- CPA Foster Group Home: An operation that provides care for seven to twelve children, up to the age of 18 years, under the regulation of a child-placing agency.

Other State Auditor's Office Work

Other SAO Work		
Number	Product Name	Release Date
07-002	A Report on On-Site Audits of Residential Child Care Providers	October 2006
04-044	A Financial Review of the Department of Family and Protective Services	July 2004
03-046	A Review of New Foster Care and Adoption Subsidy Rates Proposed by the Department of Protective and Regulatory Services	August 2003

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