

A Review of Management Controls at the Interagency Council on Early Childhood Intervention

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Key Points Of Report

A Review of Management Controls at the Interagency Council on Early Childhood Intervention

November 1995

Overall Conclusion

The Interagency Council on Early Childhood Intervention (Council) has generally established a strong system of management controls. However, some controls need strengthening. With minor exceptions, the Council is in compliance with applicable laws and regulations.

Key Facts And Findings

- The language in provider contracts relating to sanctions for noncompliance or poor performance is vague. This has the potential to hinder the timely enforcement of requirements under the contract.
- Controls over internal audit should be improved. The Council has no internal audit charter. The internal audit contract did not restrict subcontracting, leaving the Council with no control over who would perform the work.
- The Council should strengthen provisions in the contract with the Department of Human Services. The contract's performance standards are not comprehensive, and there are no sanctions for poor performance. This hinders the Council's ability to address poor performance.
- The Council operates with a budget of \$42.7 million and a staff of 64. About one half of its funding is from the Federal Government. Over 90 percent of the Council's funds are disbursed to service providers.

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This management control audit was conducted in accordance with Government Code, §321.0133.

Issues and Recommendations

Overall Assessment

The Interagency Council on Early Childhood Intervention (Council) has generally established a strong system of management controls. It has a very good strategic planning process and strong or adequate controls in information management, organizational structure, and human resource management. It has continued to establish and improve controls since starting independent operations in September 1994. However, some controls need strengthening.

While generally in compliance with applicable state laws, the Council is not in compliance, in minor respects, with the Internal Auditing Act.

Section 1:

Controls Over Provider Contracts Should Be Improved

The Council generally has good controls over its provider contracts. It has developed fiscal, administrative, and program policy statements, which are current, for provider contractors. New and renewal contracts are thoroughly reviewed before approval. The Council monitors providers regularly by reviewing reports and performing on-site monitoring visits. The Council could improve its controls over these contracts by making improvements in contractual language and the organization of monitoring documents.

Section 1-A:

Provider Contracts Do Not Contain Specific Provisions for Imposing Sanctions

Contractual language relating to sanctions for noncompliance and poor performance is vague. According to the contracts, the Council “may withhold payments” or “may

terminate the contract” for noncompliance or poor performance. The contracts broadly refer to compliance with reporting and program requirements, as well as applicable statutes and regulations. However, they do not include or refer to the Council’s policies addressing noncompliance and poor performance. This has the potential to hinder the timely enforcement of contractual provisions.

Section 1-B:

Documentation of Work Performed by Program Monitors Is Disorganized

The documentation of work performed by program monitors is disorganized. These documents are filed loosely in the file wallets and are not indexed. This increases the risk of lost documentation and increases the difficulty of locating specific documents.

Recommendations:

- Include more specific language to contracts regarding the imposition of sanctions. This can be accomplished by including in contracts the procedures to be followed when providers do not comply with the terms of the contract. Alternatively, the Council could incorporate its policy relating to non-compliance or poor performance into contracts by specific reference.
- Establish and enforce minimum requirements for producing and organizing documents pertaining to provider monitoring. Ensure that the requirements include guidelines for binding and indexing the documents.

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Management's Response:

Management concurs that additions of specific reference to provisions for imposing sanctions to contractual language could clarify and potentially strengthen controls over provider contracts. The Agency has specific sanctions for non-compliance which are communicated to contractors in the following ways:

1. Every contractor is alerted to ECI's expectations of compliance and annually indicates their acceptance of these regulations, policies, guidelines, statutes and requirements by signing the "Assurances" section of their annual application.
2. Every contractor is provided with a copy of ECI's Policy and Procedures Manual and rules. Sanctions for non-compliance are clearly delineated in Section II.2 of the manual and in Title 25, Texas Administrative Code, Section 621.30.
3. The contract between ECI and providers has several specific references to sanctions for non-compliance in the "Attachment" and "General Provisions" sections of the contract:
 - a. In the "Attachment" section of the contract, the contractor agrees to comply with Human Resources Code, Sections 73.001-73.021, as well as 25 TAC 621.21-621.49 and 621.121 and 621.140, and all ECI policies and procedures. Included in these references are program performance requirements and sanctions for non-compliance.
 - b. The General Provisions section of the contract has specific language relating to the specific sanctions of denial of payments, cancellation of

funding, withholding of funds and terminating the contract (Articles 9, 11, 23), and denial of continuation funding (Article 24) for non-performance.

4. The Monitoring Classification System (Policy No. II.6) which establishes program compliance levels and specific sanctions for non-compliance was adopted in FY 95.
5. Every contractor agrees to cooperate with all monitoring and audit activities as a condition of their contract.

Management believes that it has clearly stated and well defined standards for performance and applicable sanctions for non-compliance under its contract terms and Agency rules.

Based on the auditors' recommendation, ECI contracts for FY 97 will be amended to include specific references to the monitoring classification system and appropriate sanctions.

Management concurs that the organization of provider files could be improved. Management will establish minimum requirements for organizing and filing documents pertaining to provider monitoring which will include guidelines for labeling, filing, and stapling documents. Management believes that binding and indexing monitoring reports is inefficient and not cost beneficial.

Section 2:

Controls Over Internal Audit Should Be Improved

The Council obtained internal audit services through a contract. The lack of agreed-upon criteria added to the time required to choose

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the auditor. The contract did not give the Council approval authority over subcontractors. Despite the Council's careful monitoring of the contractor, deadlines were missed, and the internal auditor notified the Council that he did not want to renew the contract. The lack of a charter may have resulted in the internal auditor being denied unrestricted access to certain agency records.

Section 2-A:

The Council Has No Internal Audit Charter

The Council does not have a charter for its internal auditor, as required by the *Standards for the Professional Practice of Internal Auditing*. Since the Internal Auditing Act requires that the *Standards* be followed, the Council is also not in compliance with the Act.

Among other things, the authorization for access to an agency's records is established by such a charter. The lack of a charter may have led to a restriction of the internal auditor's access to certain agency records. The access restriction did not prevent the auditor from performing the particular audit procedure that was planned. However, such restrictions have the potential to limit the audit scope and prevent audits from being performed in accordance with professional standards.

According to the *Standards for the Professional Practice of Internal Auditing*, the director of internal auditing is responsible for seeking the approval of senior management and the acceptance by the board of a formal written charter for the internal auditing department.

The charter should:

- Establish the internal auditor's position within the organization.
- Authorize access to records, personnel, and physical properties relevant to the performance of audits.
- Define the scope of internal auditing activities.

The Internal Auditing Act directs the auditor to perform "periodic audits of the agency's major systems and controls, including, . . . administrative systems and controls. . . ."

The *Standards for the Professional Practice of Internal Auditing* also require that the "scope of internal auditing should encompass the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance in carrying out assigned responsibilities."

The Council stated that unrestricted access to personnel records was denied because of concerns about violating privacy rights of individual employees. Most personnel records are subject to disclosure under the Open Records Act. Therefore, the internal auditor was denied access to records that are available to the general public. Also, internal auditors must comply with laws prohibiting the disclosure of confidential information that they become aware of while performing their work.

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Section 2-B:

The Council Did Not Agree on Specific Selection Criteria and Relative Weights in Advance of Selecting the Internal Auditor

The selection criteria used for choosing a contracted internal auditor and their relative weights were not agreed to in advance by the selection committee. However, committee members generally agreed on the factors that were important to the decision.

This caused the Council to take longer to choose the contractor than if the criteria and weights were spelled out. This resulted in the internal auditor getting a late start on the work. The deadline for proposals for contractors was August 31, 1994. Four prospective contractors submitted proposals before the deadline. The contractor wasn't selected until the October 25, 1994, board meeting, and the contractor signed the contract on November 1, 1994. The Request for Proposal indicated that the period of performance was to start no later than October 1, 1994.

Proposals should be evaluated based on the ability of the vendor to perform satisfactorily. Requests for Proposals should set forth any factors that will be used in evaluating bids or proposals.

Section 2-C:

The Internal Auditing Contract Does Not Restrict Subcontracting

The internal auditing contract did not restrict subcontracting the work. This allowed the contractor to assign the work to a subcontractor with no state government audit experience. Council employees that we have interviewed indicated that it was necessary to spend a great deal of time to acquaint the auditor with state laws and procedures.

Recommendations:

- The new internal auditor should draft an internal audit charter and have it formally adopted by the Board.

The charter should provide for unrestricted access to the agency's records to enable the internal auditor to carry out a full program of internal auditing. The Council should also advise the internal auditor of the Open Records status of internal audit working papers so that the auditor can use discretion in documenting sensitive or confidential matters.

- The Council should establish clear selection criteria and relative weights prior to evaluating proposals from prospective contractors.
- The Council should add restrictive language regarding subcontracting to the next internal auditing contract.

Management's Response:

Management concurs that controls over internal audit activities can be strengthened. An internal audit charter has been developed and is currently being reviewed by the sub-committee of the Interagency Council on Early Childhood Intervention. ECI will have an approved charter in place for FY 96. In addition, specific selection criteria will be established and included in a scoring instrument that will be used to select an internal auditor in FY 96. ECI will add restrictive language regarding sub-

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contracting in all professional services contracts in FY 96.

With regard to unrestricted record access, ECI did restrict the internal auditor's access to Agency personnel records on the grounds of employee privacy. We offered alternate methods of access to allow the internal auditor to perform his audit function. This limited restriction did not prevent the auditor from performing the necessary audit function.

Our reluctance to allow the internal auditor unrestricted access to Agency records was occasioned by our concern for the delicate balance between disclosure and employee privacy protected under statute. It was also occasioned by the fact that our legal counsel was unable to locate an Open Records decision which was clearly dispositive of this issue.

After extensive discussion with Open Records experts at a recent Freedom of Information seminar and staff members of the Attorney General's Office, we will establish clearer parameters in the future for discovery and disclosure of Agency records to internal auditors through the Internal Audit Charter. The Charter will allow access to records except in circumstances where release is expressly prohibited through statute.

Section 3:

Strengthen Provisions in the Contract with the Department of Human Services

Since September 1, 1994, the Council has contracted with the Department of Human Services to perform a variety of administrative duties. These tasks include processing accounting transactions and payroll and maintaining inventories. The Council diligently prepared for the contract by

communicating extensively with the Texas Department of Health and the Department of Human Services. The contract amount is based on estimates of resources necessary for the Department of Human Services to perform the specific tasks covered by the contract. The contract could be strengthened by adding more comprehensive performance standards and including sanctions for poor performance.

Performance standards in the contract with the Department of Human Services do not generally address accuracy or quality. The contract includes comprehensive standards for timeliness, but with the exception of payroll processing, quality and accuracy are not addressed. Consequently, the Department of Human Services is not held to a contractual requirement to produce accurate or quality work for significant portions of the contract.

The contract has no sanctions for poor performance. Therefore, the Council has no recourse against the Department of Human Services for poor performance.

Contracts should contain provisions that are sufficiently specific and detailed to permit enforcement of performance.

Recommendation:

Include more comprehensive performance standards for accuracy in future contracts with the Department of Human Services.

Include sanctions, such as withholding or reducing payments, in the next contract with the Department of Human Services.

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Management's Response:

Management concurs with the recommendations and included more comprehensive performance standards and performance sanctions in the FY 96 contract with the Department of Human Services (DHS).

Section 4:

Improve Controls Over Human Resources

Controls over human resources are generally effective. The Council has recently updated its operating procedures manual. Job descriptions are current and have been prepared with employee input. The Council conducts an annual survey on training needs to determine training received and training needed.

There are, however, areas in which improvements are needed. The Council was not in compliance with the Fair Labor Standards Act. The leave accounting process is duplicative and inefficient. The timekeeping system is inefficient and limited in its ability to ensure accountability for the use of state time.

Section 4-A:

The Council Was Not in Compliance with the Fair Labor Standards Act

The Council determined employees' status under the Fair Labor Standards Act (FLSA) based on employee pay grade. This practice was not in compliance with FLSA standards, which requires the status to be based on an analysis of job duties. Employees who are determined to be subject to FLSA are entitled to be paid at the rate of one and one-half

times the regular pay rate for all overtime worked. After this instance of noncompliance was brought to the Council's attention, it was resolved by having job descriptions reviewed for FLSA status.

Section 4-B:

The Leave Accounting System Is Duplicative and Inefficient

The leave accounting system is duplicative and inefficient. This results in the use of resources on unnecessary tasks. The Council contracts with the Department of Human Services to maintain a leave accounting system. In addition, the Council maintains an in-house system on a series of electronic spreadsheets. To ensure accuracy, leave request and overtime request forms are checked against output from both systems. These source documents are checked against both detail and summary reports from the Council's in-house system. The Council's system requires data to be entered into both the detailed reports and two summary reports. Individual leave data from both systems is distributed to employees.

Section 4-C:

Time Sheets, or Positive Statements of Time Worked, Are Not Used

The exception-based employee timekeeping system is inefficient and hinders the Council's ability to ensure accountability for the use of state time. Employees request leave and overtime in advance by submitting a request form to their division director. Leave taken and overtime worked are documented on another form completed by the division timekeeper and signed by the division director.

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The Council's recourse against employee abuse of leave privileges is limited because of its use of an exception-based timekeeping system. The use of separate documents for approving leave and overtime and documenting them results in the inefficient use of resources and excess paperwork. Division directors approve leave and overtime, but are not always in a position to monitor the attendance of all of their employees.

Recommendations:

Now that the Council is in compliance with the Fair Labor Standards Act, it should ensure continued compliance.

Eliminate one of the leave accounting systems and streamline procedures on the remaining system. Redundant comparisons between source documents and leave accounting system records should be eliminated. If the Council chooses to retain its in-house system, the spreadsheets should be linked so that multiple entries are not necessary. Alternatively, the Council should consider using data base software to account for leave.

Require employees to fill out weekly time sheets, sign them, and have their supervisors sign them. Incorporate documentation for prior approval of leave on the same form used for entering leave data into the Council's leave accounting system. Consider giving time sheet approval authority to supervisory personnel below the division director level.

Management's Response:

Management concurs and will develop a procedure to evaluate each position when created or on an annual basis for status under the Fair Labor Standards Act (FLSA).

In January 1996 the Agency will convert its payroll system from DHS to the State Uniform Payroll System through the State Comptroller's Office. After this change, ECI will not utilize the DHS leave system thus reducing any duplication.

We are currently analyzing our leave accounting system and will give specific attention to the auditor's recommendation on use of time sheets and streamlining.

Appendices

Appendix 1:

Objectives, Scope, and Methodology

Objectives

The objectives of the audit were:

- To determine if the Interagency Council on Early Childhood Intervention is in compliance with applicable statutes and regulations. The State Auditor's Office is required, by Rider 1 to the Council's appropriation, SB 5, 73rd Legislature, R. S., to perform this audit.
- To determine if management controls are in place at the Council to promote efficient and effective service delivery in compliance with legislative intent.

Scope

We reviewed controls over the following areas:

- Contracted services
 - Service Providers
 - Administrative services provided by the Department of Human Services
 - Internal Audit
- Human Resources
- Strategic Planning

- Information Management
- Organization Structure

We also determined if the Council was in compliance with applicable statutes and regulations.

Methodology

We reviewed agency records, board meeting minutes, policy and procedure manuals, and internal audit reports. We also interviewed Council management, staff, and board members.

Other Information

Fieldwork was conducted from June 1995 through August 1995. The audit was conducted in accordance with generally accepted governmental auditing standards.

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

- Henrietta Cameron-Mann, CPA (Project Manager)
- Helen S. Baker, MBA
- Marcia L. Carlson
- Gilberto F. Mendoza, CPA
- Barbara S. Hankins, CPA (Audit Manager)
- Craig D. Kinton, CPA (Director)

Appendices

Appendix 2:

Background Information

Mission

The Interagency Council on Early Childhood Intervention provides services to children below the age of three who are at risk of or with developmental delays. The Council's mission is "to develop and provide early childhood programs that increase the likelihood that all Texas children will develop to their highest potential."

Organization and History

The Council is governed by a board consisting of three parents of children with developmental delays and one representative from each of the following agencies:

- Texas Commission on Alcohol and Drug Abuse
- Texas Department of Health
- Texas Department of Human Services
- Texas Department of Mental Health and Mental Retardation
- Texas Department of Protective and Regulatory Services
- Central (Texas) Education Agency

The Council was created in 1981 and was largely administered by the Department of Health. The Council became a separate agency on September 1, 1993. After a period of transition, the Council started operating independently on September 1, 1994.

The Council has experienced significant growth in recent years. According to the Council's Request for Legislative Appropriations for the 1996-1997 biennium, full-time equivalent employees increased 130 percent from 30 employees in 1993 to 69 budgeted positions in 1995. Also, total

budgeted expenditures increased 71 percent from \$25 million in 1993 to \$42.7 million in 1995.

Operations

The Council operates with a budget of \$42.7 million and a staff of 64. About one half of its funding is from the Federal Government. Most of the Council's funds are disbursed to service providers. It fulfills its mission through the following activities:

- **Public Awareness** - The Council disseminates information relating to the program so that professionals and parents know who provides services. This process involves mailing brochures to physicians, etc., and operating a hot line. The Council is exploring ways to increase the knowledge of services among underserved populations.
- **Milestones** - The Council tracks children at risk of developmental delays and ensuring that they are evaluated and referred to intervention programs as necessary.
- **Intervention** - The Council contracts with service providers throughout the State to provide services to children with developmental delays and their families. These services include family training and counseling, speech, physical, and occupational therapy, transportation, social work services, audiological services, and transportation services.
- **Personnel Development** - The Council operates a training program for service

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provider staff, parents, school employees, day-care workers, and referral sources.

On September 1, 1995, the Council implemented a competency-based system for recognizing Early Intervention Specialists. The Council identified specific skills and

knowledge necessary to practice as a Specialist. A person newly employed as a Specialist after September 1, 1995, must demonstrate these skills and knowledge in order to become recognized as an Early Intervention Specialist. According to Council employees, this approach is unique to Texas.