



Office of the State Auditor

Keys to Success



Improving Accountability, Contract Management &
Fiscal Oversight
at the Department of Corrections

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Vermont State Auditor

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Mission Statement

The mission of the State Auditor's Office is to be a catalyst for good government by promoting reliable and accurate financial reporting as well as promoting economy, efficiency and effectiveness in State government.

Cover Photo: Northwest State Correctional Facility in Swanton.
Courtesy of the Department of Corrections

Message from the Auditor

This review of selected contracts at the Department of Corrections (DOC) was requested by a number of legislators, State employees, and citizens. It demonstrates that since 2000, the DOC has neglected to properly manage key contracts, valued at nearly \$50 million, with private companies and individuals.

The failure to monitor its contracts has resulted in significant financial impacts, services that were paid for and not received, and, in some cases, serious reports of poor living conditions, substandard medical and dental care, and inadequate programming for inmates.

We found several key findings with financial implications:

1. The DOC routinely allowed its health services contractor, Correctional Medical Services (CMS), of St. Louis, MO, to bill the State for full health care staff coverage at all correctional facilities without reducing bills or assessing penalties. We estimate questioned costs related to insufficient staffing by CMS to be \$144,547, based on testing selected records for a six-month period. Further review of other time periods could identify additional questioned costs.

2. The DOC has failed to deduct from CMS invoices the amount of money that the State contributed to the Vermont Health Assistance Plan as required by the contract. Our Office estimates the amount due the State from CMS is \$166,540.

3. The DOC allowed nearly 75 percent of mental health pharmaceutical prescriptions to be more costly “off-formulary” prescriptions. The CMS pharmacy receives a 12 percent “overhead” fee for labor, packing and shipping of drugs. These two factors have contributed to the State paying \$239,643 in additional pharmacy charges in the three fiscal years ending June 30, 2003.

4. The DOC did not require CMS to submit quarterly and annual financial reports required by the contract, with accumulated potential penalties of \$279,000 since January 1, 2001.

Contractors are getting a new message from the DOC since legislators asked this Office to undertake this review. The health services contractor CMS, for example, has recently credited the DOC more than \$100,000 for missed staff hours.

5. The DOC paid a total \$46,809 in interest charges for late payments on five different monthly invoices from the State of Virginia for out-of-state inmate housing in 2002.

This report also demonstrates that the DOC's failure to properly monitor its contracts may have a direct impact on quality assurance, and, in some cases, has resulted in the failure on the part of contractors to provide adequate living conditions, medical and dental care, and programming for inmates.

For example, our Office has received complaints regarding inadequate or long-delayed medical, dental and mental health care, as well as substandard programming and housing conditions in the out-of-state prisons. In one of the Kentucky facilities housing Vermont inmates, there was no kitchen or dining room and meals were delivered from another building and served in a hallway. In each of these instances, Corrections Commissioner Steven Gold has promised to follow up quickly. (See Appendix B.)

We found:

1. The DOC does not have an adequate, independent system to evaluate the quality of medical services to inmates through its \$23.9 million contract with CMS, and cannot assure that all services are being provided.
2. The out-of-state housing contract with Corrections Corporation of America does not specify minimum standards for inmate housing, kitchen and dining areas, inmate programming or for hiring and training correctional officers, and relies instead on national accreditation guidelines.
3. CMS has consistently failed to provide adequate dental services, and the DOC has not assessed full penalties despite staff and inmate reports of excessive delays and inadequate treatment.

In the past decade, the number of Vermonters in jail or prison has more than doubled, from roughly 900 in 1994 to nearly 1,900 in 2004. To achieve its mission and meet the demands of this rising population, the DOC has increased reliance on private contractors for medical, dental and mental health, as well as special programs such as drug abuse counseling and sex offender treatment.

But the failure to monitor these contracts is widespread and systemic.

Therefore, the DOC must immediately strengthen its process of reviewing and approving invoices from its many contractors. For example, we found that:

- The DOC does not require contractors to provide enough detail with each bill to allow the State to verify that it is paying for personnel hours actually worked and services actually provided;

- There is no system in place at prisons and jails for the DOC to verify that contractors are providing the required hours and services or that the quality of these services meets the terms of the contract; and,
- The DOC often issues multiple contracts to the same firm to provide both direct services and evaluation services for the same activities.

This lack of accountability and oversight has led the DOC to pay for services that were never delivered, and to pay for workers who never set foot inside a prison.

Since undertaking our special review in February, the DOC, under the leadership of Commissioner Gold and Deputy Commissioner Janice Ryan, has taken strides to improve accountability. Their Action Plan responds to issues raised in the Marks-McLaughlin Report, and in *Who's Keeping Watch? A Review of the Department of Corrections' Oversight and Management of Mental Health Services Contracts* issued by this Office.

Contractors are getting a new message from the DOC since legislators asked our Office to undertake this review. The health services contractor CMS, for example, has recently credited the DOC more than \$100,000 for missed staff hours. The mental health services contractor, Paul Cotton, M.D., P.C., has credited the DOC approximately \$60,000.

Our Office's recommendations aim to help the DOC ensure that its Action Plan is more than just another report for the shelf. We believe that it can provide long-term solutions to improve the DOC's ability to manage and oversee contractors and ensure that the State receives all the services agreed to in its contracts.

Among other suggestions, this Office has recommended that the DOC:

- Manage all service contracts to ensure contract performance and cost containment;
- Develop a contract monitoring and administration oversight team to:
 - Enforce current invoicing requirements in each service contract;
 - Establish better controls to account for professional hours worked and services provided in each facility or field site by contractors;
 - Review all non-staffing responsibilities in the service contracts, assess penalties where necessary and renegotiate and amend the current contract to reflect realistic work goals; and,
 - Require that all service contracts be fully executed before services are delivered.

- Review past invoices to assess possible overpayments due to insufficient staffing;
- Establish written policies and procedures to provide contract monitors with clear protocols to evaluate the performance of contractors;
- Amend the out-of-state housing contract as necessary to ensure that the contractor meets appropriate standards for inmate housing, kitchen and dining areas, programming and for the hiring and training of correctional officers; and,
- Conduct post-contract meetings with contractors.

These recommendations are just the beginning and will not serve the DOC in the long term unless positive efforts within the department are nourished. This will take an ongoing support from the Administration and the General Assembly.

As mentioned, the DOC does not have in place an independent system to evaluate the quality of services delivered by medical and mental health contractors. Therefore, our Office did not extensively examine the quality of care provided by these private firms. Given the substantial complaints our Office has received from inmates, family members and DOC staff, we believe this is an area that deserves further attention from the General Assembly and the DOC. An independent review could answer some of these lingering questions and re-occurring complaints.

In closing, I would like to thank Commissioner Gold and Deputy Commissioner Ryan and the DOC's staff for their cooperation and professional assistance during our Office's review.

Sincerely,



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May 26, 2004

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