



Lawrence F. Alwin, CPA

Robert E. Johnson Building  
1501 North Congress Avenue  
Suite 4.224  
Austin, Texas 78701

Phone: (512) 936-9500  
Fax: (512) 936-9400

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

August 20, 2001

Members of the Legislative Audit Committee:

Nearly half (94 of 200) of all state agencies and institutions of higher education (entities) report that they did not comply with at least one contract workforce requirement of General Appropriations Act, Article IX, Section 9-11.18 (76th Legislature) during fiscal year 2000. These 94 entities spent almost \$860 million on contract workforce services, which represents approximately 58 percent of the \$1.5 billion spent statewide for fiscal year 2000 contract workforce services.

Our determination of noncompliance with the rider does not indicate that the dollars were spent inappropriately. However, it indicates an increased risk that the State may not receive the best value for its money. Furthermore, noncompliance with the contract workforce rider is significant because the State has spent over \$1 billion each year on its contract workforce expenditures for the past four years. We also found the following in our review of the self-reported survey results:

- One-third of state entities spending a combined total of \$458 million on contract workforce services did not perform the required cost benefit analysis before signing a new, amended, or renewed contract.
- Entities were least likely to comply with the requirement that they document why and how the use of contract workers fits into agency staffing strategies. Thirty-seven percent of state entities spending a combined total of \$391 million on their contract workforce reported noncompliance with this requirement.

The rider requires that state entities report annually to the State Auditor's Office on their compliance with contract workforce requirements. The attachment to this letter contains more detail on state entity compliance with contract workforce requirements. If you have any questions, please contact Valerie Hill, Audit Manager, at (512) 936-9500.

Sincerely,

Lawrence F. Alwin, CPA  
State Auditor

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Attachment

cc: The Honorable Carole Keeton Rylander, Comptroller of Public Accounts

SAO Report No. 01-037

# Nearly Half of All State Agencies and Institutions of Higher Education (Entities) Report That They Did Not Fully Comply With Contract Workforce Requirements in the General Appropriations Act

For fiscal year 2000, 94 out of 200 state entities reported that they did not fully comply with one or more contract workforce requirements set forth in the General Appropriations Act, Article IX, Section 9-11.18 (76th Legislature). Reasons for noncompliance varied depending on the specific requirement addressed, as detailed below. The entities that reported some aspect of noncompliance accounted for 58 percent (\$860 million) of the \$1.5 billion spent by all state entities on contract workforce services in fiscal year 2000.

Our determination of noncompliance with the rider does not indicate that the dollars were spent inappropriately. However, it indicates an increased risk that the State may not receive the best value for its money due to uneconomical contracts and poor vendor performance.

Section 1-A:

## Cost Benefit Analysis

One-third of state entities (68 entities) reported that they failed to conduct the required cost-benefit analysis before signing a new, amended, or renewed contract. These entities spent a combined total of \$458 million on contract workforce services in fiscal year 2000. Primary reasons the entities cited for noncompliance were:

- Infrequent use of contract workforce.
- Analysis was performed for new contracts, but not for contract renewals or contract amendments.
- Lack of procedures for conducting analysis.

Cost benefit analyses help an organization determine whether its use of contract workers is cost-effective. A previous State Auditor’s Office report, *An Audit Report on the State’s Contract Workforce* (SAO No. 99-028, February 1999), found that using contract workers was not always less expensive than hiring additional employees. Additionally, when organizations use large numbers of contract workers without assessing the benefits this approach provides, they risk undermining their ability to withstand unpredictable business cycles.

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Section 1-B:

## Staffing Strategies

State entities were least likely to comply with the requirement that they document the role of a contract workforce in their staffing strategies. Thirty-seven percent of all state entities (74 entities) reported that they did not fully comply with this requirement. These entities spent a combined total of \$391 million on contract workforce services in fiscal year 2000. Primary reasons the entities cited for noncompliance were infrequent use of contract workforce and incomplete planning.

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

Section 1-C:

## Evaluation of Contract Workforce

State entities were most likely to comply with the requirement that they submit an assessment of whether work was completed on time, within budget, and according to contract specifications. Only 7 percent of entities (14 entities) did not provide this evaluation. These agencies spent 23 percent (\$336 million) of all contract workforce expenditures in fiscal year 2000.

Section 1-D:

## Legal and Personnel Issues and Policies and Procedures

Twenty-eight percent of entities (55 entities) reported noncompliance with requirements that they perform an examination of the legal and personnel issues related to a contract workforce and develop contract workforce policies and procedures. However, the expenditures by these 55 entities represented only 7 percent of all contract workforce expenditures in fiscal year 2000.

Figure 1 on the next page summarizes state entity self-reported compliance status, as both a percentage of entities and as a percentage of contract workforce expenditures.

### Recommendation:

To improve compliance, state entity management and applicable staff should review and implement *Best Practices and Guidelines for Effectively Using a Contract Workforce* (SAO No. 99-326, March 1999) when addressing the requirements of the rider. This guide, which was developed as a companion to the rider, provides detailed information about the issues that state entities should consider when using contract workers. It includes:

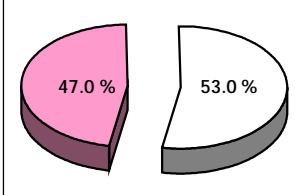
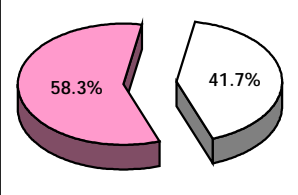
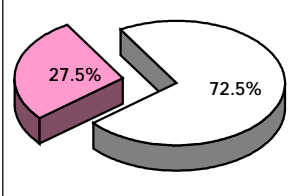
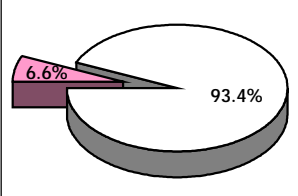
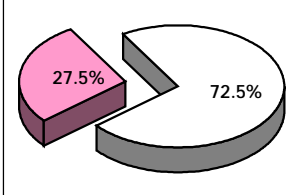
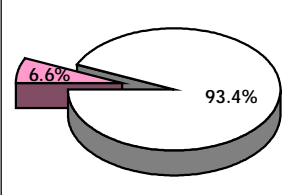
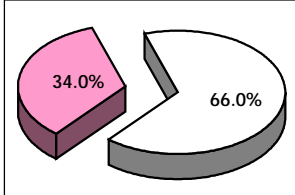
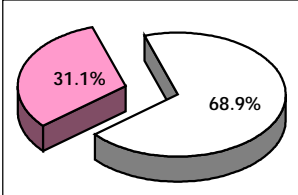
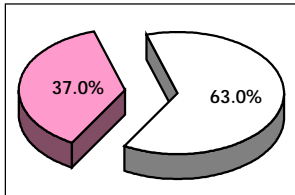
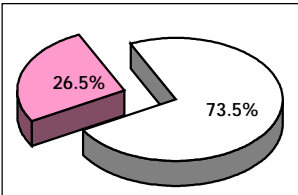
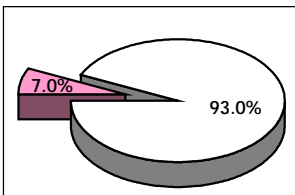
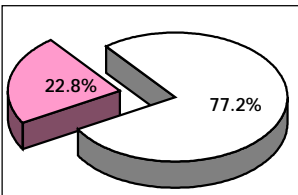
- Checklists of items that should be considered for each rider requirement
- Examples of cost benefit calculations
- Decision methodologies
- References and resources for further assistance

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Figure 1:

### Summary of State Entities' Compliance with Contract Workforce Requirements – Fiscal Year 2000

The Shaded Areas Indicate the Percentage of Entities	That Did Not Comply With These Requirements	And Spent These Percentages (Shaded) of the State's Contract Workforce Expenditures
	<p>One or More of the Requirements of the General Appropriations Act Article IX, Section 9-11.18 (76th Legislature)</p>	
	<p>Subsection (b)(1): Develop comprehensive policies and procedures for contract workforce.</p>	
	<p>Subsection (b)(2): Examine the legal and personnel issues related to the use of a contract workforce.</p>	
	<p>Subsection (b)(3): Conduct a cost benefit analysis prior to amending, renewing, or executing a new contract workforce contract.</p>	
	<p>Subsection (b)(4): Document why and how the use of contract workers fits into agency staffing strategies.</p>	
	<p>Subsection (c)(2): Submit an evaluation of the work performed by a contract workforce: was work completed on time, within budget, and according to specifications?</p>	
<p style="text-align: center;"><b>Noncompliant</b></p> <p style="text-align: center;"><b>Compliant</b></p>		

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## A List of Ninety-Four State Entities Reporting Noncompliance

State Entities Reporting Noncompliance						
Entity Number	Name	Policies and Procedures	Legal and Personnel Issues	Cost Benefit	Staffing Strategy	Contractor Evaluation
<b>Entities Reporting Noncompliance With 5 Requirements</b>						
306	Library and Archives Commission	X	X	X	X	X
529	Health and Human Services Commission	X	X	X	X	X
732	Texas A&M University - Kingsville	X	X	X	X	X
764	Texas A&M University - Texarkana	X	X	X	X	X
<b>Entities Reporting Noncompliance With 4 Requirements</b>						
221	First Court of Appeals District, Houston	X	X	X	X	
225	Fifth Court of Appeals District, Dallas	X	X	X	X	
226	Sixth Court of Appeals District, Texarkana	X	X	X	X	
233	Thirteenth Court of Appeals District, Corpus Christi	X	X	X	X	
234	Fourteenth Court of Appeals District, Houston	X	X	X	X	
242	Commission on Judicial Conduct	X	X	X	X	
335	Commission for the Deaf and Hard of Hearing	X	X	X	X	
367	Telecommunications Infrastructure Fund Board	X	X	X	X	
477	Commission on State Emergency Communications	X	X	X	X	
502	Board of Barber Examiners	X	X	X	X	
507	Board of Nurse Examiners	X	X	X	X	
520	Board of Examiners of Psychologists	X	X	X	X	
533	Executive Council of Physical & Occupational Therapy Examiners	X	X	X	X	
555	Texas Agricultural Extension Service	X	X	X	X	
556	Texas Agricultural Experiment Station	X	X	X	X	
576	Texas Forest Service	X	X	X	X	
592	Soil and Water Conservation Board	X	X	X	X	
596	Red River Compact Commission	X	X	X	X	
598	Canadian River Compact Commission	X	X	X	X	
715	Prairie View A&M University	X	X	X	X	
716	Texas Engineering Extension Service	X	X	X	X	
717	Texas Southern University	X	X	X	X	
720	The University of Texas System: System Administration	X	X	X	X	
730	University of Houston	X	X	X	X	
737	Angelo State University	X	X	X	X	
758	Texas State University System	X	X	X	X	
759	University of Houston - Clear Lake	X	X	X	X	
760	Texas A&M University - Corpus Christi	X	X	X	X	
761	Texas A&M International University	X	X	X	X	
772	School for the Deaf	X	X	X	X	
783	University of Houston System Administration	X	X	X	X	
784	University of Houston - Downtown	X	X	X	X	
787	Lamar University - Orange	X	X	X	X	
808	Historical Commission	X	X	X	X	
<i>An "x" denotes that the entity reported it did not comply with that requirement.</i>						

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Entity Number	Name	Policies and Procedures	Legal and Personnel Issues	Cost Benefit	Staffing Strategy	Contractor Evaluation
<b>Entities Reporting Noncompliance With 3 Requirements</b>						
300	Office of the Governor - Fiscal	X	X	X		
301	Office of the Governor	X	X	X		
318	Commission for the Blind			X	X	X
325	Fire Fighters' Pension Commission	X	X		X	
333	Office of State-Federal Relations	X	X	X		
356	Ethics Commission	X	X		X	
401	Adjutant General's Department	X	X		X	
406	Texas Military Facilities Commission	X	X		X	
411	Commission on Fire Protection	X	X		X	
453	Workers' Compensation Commission	X	X	X		
467	Board of Private Investigators & Private Security Agencies	X	X		X	
473	Public Utility Commission	X	X	X		
665	Juvenile Probation Commission	X	X		X	
727	Texas Transportation Institute	X	X	X		
729	The University of Texas Southwestern Medical Center at Dallas	X	X	X		
731	Texas Woman's University			X	X	X
757	West Texas A&M University	X	X	X		
809	Preservation Board	X	X	X		
<b>Entities Reporting Noncompliance With 2 Requirements</b>						
313	Department of Information Resources	X	X			
324	Department of Human Services*			X	X	
355	Children's Trust Fund of Texas Council			X	X	
476	Racing Commission			X	X	
501	Department of Health				X	X
503	Board of Medical Examiners			X	X	
557	Texas Veterinary Medical Diagnostic Laboratory			X	X	
655	Department of Mental Health Mental Retardation				X	X
710	Texas A&M University System			X		X
711	Texas A&M University			X	X	
713	Tarleton State University			X	X	
718	Texas A&M University at Galveston			X	X	
724	The University of Texas at El Paso			X	X	
744	The University of Texas Health Science Center at Houston				X	X
752	University of North Texas			X		X
763	University of North Texas Health Science Center at Ft. Worth			X	X	
771	School for the Blind and Visually Impaired			X	X	
781	Higher Education Coordinating Board			X	X	
<b>Entities Reporting Noncompliance With 1 Requirement</b>						
303	General Services Commission					X
347	Texas Public Finance Authority				X	
450	Savings and Loan Department				X	
452	Department of Licensing and Regulation				X	
456	Board of Plumbing Examiners				X	
<i>An "x" denotes that the entity reported it did not comply with that requirement.</i>						

\* Results validated by the State Auditor's Office.

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Entity Number	Name	Policies and Procedures	Legal and Personnel Issues	Cost Benefit	Staffing Strategy	Contractor Evaluation
<b>Entities Reporting Noncompliance With 1 Requirement</b>						
459	Board of Architectural Examiners				X	
479	State Office of Risk Management				X	
532	Interagency Council on Early Childhood Intervention				X	
582	Natural Resource Conservation Commission				X	
601	Texas Department of Transportation			X		
701	Texas Education Agency					X
705	State Board for Educator Certification			X		
712	Texas Engineering Experiment Station				X	
723	The University of Texas Medical Branch at Galveston			X		
738	The University of Texas at Dallas			X		
739	Texas Tech University Health Sciences Center			X		
742	The University of Texas of the Permian Basin				X	
743	The University of Texas at San Antonio				X	
745	The University of Texas Health Science Center at San Antonio					X
751	Texas A&M University - Commerce				X	
<b>94</b>	<b>Total Number of Entities Not Complying</b>	<b>55</b>	<b>55</b>	<b>68</b>	<b>74</b>	<b>14</b>
<i>An "x" denotes that the entity reported it did not comply with that requirement.</i>						

Section 3:

## Results From Pilot Testing Suggest That Additional Data Verification May Be Necessary

In addition to analyzing state entities' self-reported compliance status, the State Auditor's Office conducted pilot testing at one large state agency to validate the compliance information the agency reported.

Results of the pilot test indicated that the agency did not comply with two of the five contract workforce requirements. However, the agency's self-reported survey responses indicated complete compliance with the rider. Although the self-reported status differed from the audit results, we found no indication that the agency intentionally misrepresented its compliance status. We sent a management letter to the agency that detailed the inconsistencies we identified.

We cannot make a determination as to the reliability of survey data for all state entities based on the results of pilot testing at one agency. However, the results of the pilot test indicate that there may be a need to conduct more audits of the information that state entities report.

The State Auditor's Office has developed the **Contract workforce Analysis & Reporting Tool (CART)** that will automate the survey analysis process and will allow audit staff more time to conduct reviews to validate survey responses.

Additionally, we have also revised the survey instrument and the survey instructions to assist agencies in understanding what is expected to achieve compliance.

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

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

*Agencies shall consult Best Practices and Guidelines for Effectively Using a Contract Workforce (SAO No. 99-326) when planning for and implementing the requirements of this section.*
- (c) *No later than December 1 of each year of the biennium, an agency shall file with the Legislative Budget Board, the Governor's Office, and the State Auditor a report on the agency's use of a contract workforce in the preceding fiscal year. The report shall be prepared according to a format prescribed by the State Auditor and shall include:*
  - (1) *a description of how the agency has complied with provisions of this rider; and*
  - (2) *an evaluation of the work performed by a contract workforce, including an assessment of whether work was completed on time, within budget, and according to contract specifications.*
- (d) *The State Auditor shall notify the Comptroller and the Legislative Audit Committee if an agency fails to comply with this section.*
- (e) *The State Auditor may require an agency to provide interim reports or additional information as necessary to ensure compliance with this section. The State Auditor shall review each agency's report and follow up based on identified risks.*



## Objective, Scope, and Methodology

The objective of this review was to determine compliance with a rider set forth in the General Appropriations Act, Article IX, Section 9-11.18 (76th Legislature) during fiscal year 2000. The State Auditor's Office is required to report to the Legislative Audit Committee and the Comptroller of Public Accounts in accordance with subsection (d) of this rider.

The State Auditor's Office based its assessment of noncompliance solely on information reported by state agencies and institutions of higher education (except for one agency, as described below). The rider requires that entities report annually to the State Auditor's Office on their use of a contract workforce, including compliance with the rider and an evaluation of the contract workforce. Entities report via a survey on the State Auditor's Office website. Information regarding contract workforce expenditures was also reported by entities. The information used in this report has not been subjected to the tests and confirmations performed in an audit.

The State Auditor's Office audited one large agency's fiscal year 2000 compliance with the rider in accordance with Generally Accepted Auditing Standards and Generally Accepted Government Auditing Standards.