

# Texas Register

Volume 14, Number 46, June 23, 1989

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## Texas Register

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Governor—appointments, executive orders, and proclamations

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Emergency Sections—sections adopted by state agencies on an emergency basis

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections adopted following a 30-day public comment period

Open Meetings—notices of open meetings

In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3."

**How To Research:** The public is invited to research rules and information; of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

### Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

**How To Cite:** Under the TAC scheme, each agency section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).



## Texas Register Publications

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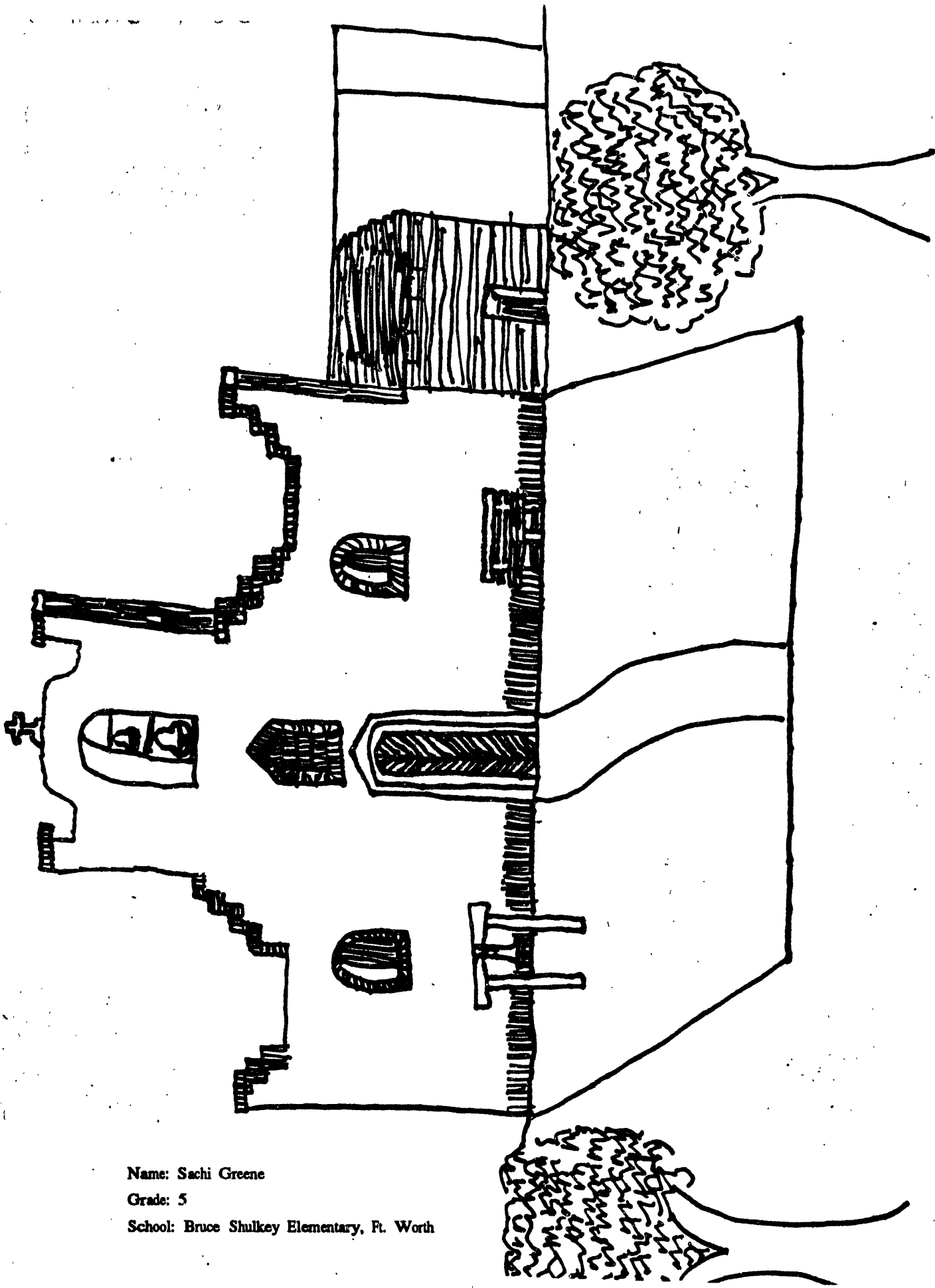
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# TAC Titles Affected

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## TAC Titles Affected—June

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1 TAC §§113.1, 113.2, 113.5, 113.6—2739

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4 TAC §11.2—2651

4 TAC §19.1—3105

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10 TAC §9.41—3043

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19 TAC §§21.251-21.266—2993

#### *Part II. Texas Education Agency*

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19 TAC §149.43—2681

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# Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a section.

## TITLE 10. COMMUNITY DEVELOPMENT

### Part V. Texas Department of Commerce

#### Chapter 178. Texas Community Development Program

##### Subchapter B. Contract Administration

###### • 10 TAC §178.41

The Texas Department of Commerce (Commerce) proposes new §178.41, concerning variances under the uniform grant and contract management standards (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167. The variances pertain to contracts awarded to units of general local government under the Texas Community Development Program (TCDP). The new section establishes additional assurances required by federal statute and regulations with which TCDP recipients are required to comply.

Bruce W. Anderson, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Anderson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be compliance with the uniform grant and contract management standards adopted by the Office of the Governor. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Bruce W. Anderson, General Counsel, P.O. Box 12728, Austin, Texas 78711, within 30 days of the date of this publication.

The new section is proposed under Texas Civil Statutes, Article 4413(301), which provide Commerce with the authority to allocate Community Development Block Grant nonentitlement area funds to eligible counties and municipalities according to department rules.

###### §178.41. Uniform Administrative Requirements

(a) Purpose. The purpose of this rule is to establish variations from the Uniform Grant and Contract Management Standards (UGCMS) adopted by the Office of the Governor in 1 TAC §5.141-5.167.

(b) Applicability. This rule applies to all units of general local government, as

defined in 42 United States Code (USC), §5302(a)(1), which apply for, or are awarded a contract under the Texas Community Development Program (TCDP).

###### (c) Variations.

(1) The federal laws and regulations specified in the Housing and Community Development Act of 1974, as amended (42 USC, §5302 et seq.), and federal Community Development Block Grant (CDBG) Program regulations in 24 Code of Federal Regulations (CFR), Part 58, concerning federal laws and regulations with which nonentitlement area CDBG recipients are required to comply, constitute additional assurances under the UGCMS with which TCDP recipients must comply.

(2) The provisions of 42 USC, §5306(d)(5) constitute additional assurances under the UGCMS with which TCDP applicants and recipients must certify they will comply.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 14, 1989.

TRD-8905271

J. William Lauderback  
Executive Director  
Texas Department of  
Commerce

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 320-9666

## Chapter 179. Texas Rental Rehabilitation Program

### Subchapter A. Contract Administration

#### • 10 TAC §179.1

The Texas Department of Commerce (Commerce) proposes new §179.1, concerning variances from the uniform grant and contract management standards (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167. The variances pertain to contracts awarded to units of general local government under the Texas Rental Rehabilitation Program (TRRP). The new section establishes variances from the uniform administrative principles applicable to TRRP recipients and establishes additional assurances required by federal statute and

regulations with which TRRP recipients are required to comply.

Bruce W. Anderson, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Anderson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be compliance with the UGCMS adopted by the Office of the Governor. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Bruce W. Anderson, General Counsel, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, within 30 days after the date of this publication.

The new section is proposed under Texas Civil Statutes, Article 4413(32g), which provide Commerce with the authority to establish variations from the UGCMS through rule making, if such variations are required as specifically authorized by federal statute or regulation or state statute.

###### §179.1. Uniform Administrative Requirements

(a) Purpose. The purpose of this section is to establish variations from the uniform grant and contract management standard (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167 concerning uniform grant and contract management standards for state agencies.

(b) Applicability. This section applies to all units of general local government, as defined in 24 Code of Federal Regulations, Part 511.2, and hereinafter referred to as program recipients, which are eligible for funding and are awarded a contract under the Texas Rental Rehabilitation Program (TRRP).

(c) Variations. The rental rehabilitation and development grants under the United States Housing Act of 1937 (42 United States Code 1437o), §17, federal rental rehabilitation grant program regulations in 24 Code of Federal Regulations, Part 511, and other pertinent federal laws and regulations contain financial management conditions and assurances with which program recipients are required to comply and which are at variance with the standard financial management conditions and uni-

form assurances applicable to local governments under the UGCMS. The variations required by these federal statutes and regulations shall be applicable to contracts awarded to local governments under the TRRP and shall modify or supersede the UGCMS in the manner hereinafter specified.

(1) Office of Management and Budget Circular A-102, Attachment C, as adopted by reference in the UGCMS, §5.154, is modified as follows.

(A) Paragraph 3 is amended to read: The retention period starts from the final closeout of the rental rehabilitation grant award to the State of Texas under which monies to program recipients were made available.

(B) Paragraph 6 is amended by adding independent auditor to the list of persons authorized to have access to recipient's books, records, documents, and papers.

(2) Office of Management and Budget Circular A-102, Attachment H, as adopted by reference in the UGCMS, §5.159, shall be used only to the extent consistent with the United States Department of Housing and Urban Development's most recent cash and management information system for the Rental Rehabilitation Program, and any modifications thereto. The cash and management information system shall be used as the basis for generating required financial reports, disbursing rental rehabilitation funds, collecting data, accounting for funds, and determining the frequency of reporting and the contents of reports.

(3) In addition to the standard assurances (Office of Management and Budget Circular A-102, Attachment M, Standard Form 424, Part V) made by a program recipient in its application for rental rehabilitation funds, and in addition to the code of conduct (Office of Management and Budget Circular A-102, Attachment O, Paragraph 7) governing the performance of program recipients, employees, and agents, program recipients must ensure that no person who is an employee, agent, consultant, officer, or elected or appointed official of the program recipient that receives rental rehabilitation funds and who exercises or has exercised any functions or responsibilities with respect to assisted rehabilitation activities or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(4) The United States Housing Act of 1937 (42 United States Codes §1437o), §17, and federal rental rehabilitation grant program regulations in 24 Code of Federal Regulations Part 511, concerning federal laws and regulations with which program recipients are required to comply, constitute additional assurances under the UGCMS with which program recipients must comply.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 14, 1989.

TRD-8905272

J. William Lauderback  
Executive Director  
Texas Department of  
Commerce

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 320-9666

◆ ◆ ◆  
**TITLE 22. EXAMINING  
BOARDS**  
**Part XI. Board of Nurse  
Examiners**  
**Chapter 217. Licensure and  
Practice**

• 22 TAC §217.1, §217.3

The Board of Nurse Examiners proposes amendments to §217.1 and §217.3, concerning definitions and handicapped candidates. The board is proposing to revise the definitions under licensure and practice by adding a statement regarding testing accommodations and including the phrase "specific learning disability" under the definition of handicapped candidate. In addition, new language is being added to §217.3, concerning handicapped candidates and as to what information is needed to determine the candidate's testing needs.

Louise Waddill, executive secretary, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Waddill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the handicapped candidate and his/her respective school of nursing will have the necessary information as to what documentation is required in order to determine whether the candidate is eligible for special consideration when writing the licensure exam. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Louise Waddill, Executive Secretary, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The amendments are proposed under Texas Civil Statutes, Article 4514, §1, which provide

the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

**§217.1. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Appropriate accommodations for testing**—In general, those life style accommodations which candidates use to compensate for their disabilities, and which have become accepted practice for the individual in his/her nursing education program.

**Handicapped candidate**—An individual who has successfully completed an accredited nursing program and requires modifications in the NCLEX-RN procedures because of a physical or sensory impairment [.] and/or a specific learning disability.

**§217.3. Handicapped Candidate.**

(a) A handicapped candidate for the NCLEX-RN who otherwise is qualified shall not be deprived of the opportunity to take the licensing examination solely by reason of that handicap. [Such handicaps may include, but not be limited to, visual and hearing impairments and/or other physical disabilities.]

(b) A written request for appropriate accommodations for testing shall be submitted to the Board of Nurse Examiners as specified as follows:

(1) if the request is for modification of the NCLEX-RN examination procedures only, such as extra time, separate testing room, or a reader, the request [it] must be received at least 40 days prior to the examination;

(2) if the request is for modification of the examination materials, [(such as large type, braille, or audio-visual tapes),] the request [it] must be received at least 130 days prior to the examination.

(c) The request shall include:

(1) a letter from the candidate requesting specific modifications, including a description of the candidate's handicap and when it was diagnosed;

[(1)](2) a letter from the candidate's nursing education program [.] director explaining what modifications were made by the nursing program to accommodate the candidate during his/her program of study [indicating the need for the

modification and explaining how the educational program handled the problem]; and

(2)(3) a report [letter] from an appropriate professional person confirming the diagnosis of a handicap and what testing modifications are warranted based on the candidate's condition. In the case of a learning disability, the report must be submitted by a person certified or trained in the area of learning disabilities [the disability].

(d) The request for consideration of special testing accommodations must occur prior to the candidate's first writing of the NCLEX-RN.

(d)(e) Handicapped candidates requiring a separate examination room shall write the NCLEX-RN in Austin.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 14, 1989.

TRD-8905265 Louise Waddill  
Executive Secretary  
Board of Nurse Examiners

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 835-4880

## TITLE 25. HEALTH SERVICES

### Part II. Texas Department of Mental Health and Mental Retardation

#### Chapter 401 System Administration

#### Subchapter E. Contracts Management

##### • 25 TAC §§401.371-401.393

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§401.371-401.393, concerning contracts management. The new subchapter describes systemwide contracts policy and procedure for all TDMHMR components. It also implements the provisions of Senate Bill 1426 of the 71st Texas Legislature.

Virginia Leininger, staff services officer, Office of Budget and Fiscal Services, has determined that for the first five year period the proposed sections are in effect there will be fiscal implications for state and local government and small businesses as a result of enforcing or administering the sections. The cost to state government will be \$2,207,500 annually for additional contracts management staff at central office (\$20,000) at state facilities (\$700,000) and at community mental health and mental retardation centers (\$1,487,500). The cost to local government will be the cost of required local match to for funding for additional contracts management staff and related costs, to average \$7,500 per

community mental health and mental retardation center. The anticipated fiscal cost to small businesses required to comply with the sections cannot be determined because any additional cost would be associated with the contract performance of the individual small business.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a comprehensive and uniform approach to the procurement of goods and services using state funds. The anticipated economic cost to individuals who are required to comply with the sections as proposed cannot be determined, because any additional cost would be associated with individual contract performance.

A public hearing to accept oral and written comment concerning the proposed sections will be held on July 7, 1989, from 1-5 p.m. in the auditorium of the central office of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin.

Comments on the proposal may be sent to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

**§401.371. Purpose.** The purpose of this subchapter is to provide policies and procedures governing the administration of contracts which are funded in whole or part by the Texas Department of Mental Health and Mental Retardation (TDMHMR) and which are not governed by the rules, regulations and procedures manual of the State Purchasing and General Services Commission pursuant to Texas Civil Statutes, Article 601b.

**§401.372. Application.** This subchapter applies to the facilities and central office of TDMHMR; to mental health and mental retardation authorities (MHMRAs); and to their respective contractors and subcontractors.

**§401.373. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Acceptable bid or acceptable offer**—A bid or offer which has been prepared and submitted according to the timeframes, procedures, and format specified in the procurement package; which indicates the offeror can meet the minimum requirements specified in the procurement package; and which is made by an offeror who is legally eligible to receive state and/or federal funds.

**Administrative law judge**—An attorney appointed to preside at a hearing.

**Adverse action**—Any action in which the department:

(A) terminates or suspends a contract between a contractor and the department before the contract's stated expiration date;

(B) terminates or suspends payments in whole or part to a contractor;

(C) exacts financial penalties for contract or rules violations, including failure to submit timely written reports as required; or

(D) reduces a contractor's funds by 25% or more of the amount the department reimburses if the department plans to allocate the withheld funds to another contractor for similar services in the same geographic area. This applies only if the contractor alleges that the reduction was in violation of department rules, was discriminatory, or was without reasonable basis in law or fact. It does not apply to funding or contracts subject to the department's competitive procurement rules.

**Board**—The Texas Board of Mental Health and Mental Retardation.

**Client services contract**—A contract between the department and a contractor or an MHMRA and a subcontractor in which the contractor/subcontractor agree to provide residential or nonresidential mental health or mental retardation services to individuals as designated by the department or the MHMRA. The term includes, but is not limited to, contracts for residential services, vocational training, psychosocial programs, and other services to individuals in the priority population. The term excludes all program contracts, including consultant contracts and professional services contracts, support services contracts, and contracts for services.

**Community center**—A community mental health and mental retardation center established under Texas Civil Statutes, Article 5547-201 et seq.

**Consultant contract**—A contract to retain the services of an individual or organization to study an existing or proposed operation or project, or to provide advice with regard to the operation or project consistent with Texas Civil Statutes, Article 6252-11c, to exclude employment of registered professional engineers or registered architects for the design or construction of state facilities; private legal counsel; investment counselors; actuaries; or physicians, dentists, or their medical or dental services providers.

**Contract**—Any written document (or series of documents) that obligates the department or the MHMRA to pay money to a person or organization in exchange for goods or services from that person or organization or that obligates the department or the MHMRA to provide goods or services in exchange for money.

**Contract manager**—A staff person designated to assume primary responsibility for protecting the department, the MHMRA, and clients' interest in a contract by ensuring that the contractor/subcontractor complies with the terms, conditions, and specifications of the contract. Functions include communicating and coordinating with contractors/subcontractors and other department or MHMRA staff; monitoring contracts; modifying contracts and obtaining appropriate approvals; providing technical assistance; settling disputes and recommending adverse action, including termination, as appropriate; and ensuring fulfillment of plans of correction in keeping with designated time intervals. At central office, the contract manager is the staff so designated on the contract, except that for all contracts for services, the contract manager is the assistant deputy commissioner appropriate to the programmatic area. Contract managers for facilities and MHMRAs are staff so designated on the contract.

**Contract for services**—The contract between TDMHMR and a designated provider in which TDMHMR agrees to pay the designated provider a specified sum in consideration for the provision of specified mental health and mental retardation services in a local service area pursuant to the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Article 5547-204.

**Contractor**—An entity that is party to a contract or seeks to become party to a contract with the department.

**Department**—A facility or the central office of the Texas Department of Mental Health and Mental Retardation.

**Designated provider**—Pursuant to the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Article 5547-204, a service provider with whom the department contracts for the delivery of community-based mental health or mental retardation services in a specified local service area of the state. The term includes, but is not limited to, community mental health and mental retardation centers. The term does not refer to departmental facility community-based services.

**Emergency**—A state of imminent peril to the health, safety, or welfare of employees, clients, or the general public.

**Employee**—A person legally employed by TDMHMR or an MHMRA to perform the work of a position and being paid a salary, wage, or other form of compensation for personal services, e.g., stipend, or a person who has been employed in such capacity by TDMHMR or an MHMRA in the preceding 12 months.

**Employee education and training contract**—A contract to acquire professional expertise for in-facility or other in-house training of employees. The term does not refer to training sponsored by another organization at conferences, seminars, or training sessions.

**Facility**—Any state hospital, state school, state center, or other entity which is

now or is hereafter made a part of the Texas Department of Mental Health and Mental Retardation.

**Financial or other interest**—The condition that exists when an employee or officer of TDMHMR or an MHMRA who initiates or approves contracts has or intends employment with a contractor; paid consultation with a contractor; membership on a contractor's board of directors; or ownership of stock, partnership, or other monetary interest in a contracted agency, as defined in Texas Civil Statutes, Article 988b. The term also applies to the condition that exists when a person related within the second degree of consanguinity or affinity (as described in §401.391 of this title (relating to Exhibits)) to such an employee or officer participates in such activities.

**Hospital services agreement**—A contract between the department and a contractor to provide inpatient and outpatient hospital services including 24-hour emergency room services and 24-hour in-house physician coverage in the primary specialties of internal medicine, surgery, anesthesiology, pediatrics, and obstetrics/gynecology to all residential clients/patients referred to the contractor by a department physician or department consultant physician.

**Local match**—Required local financial participation/contributions which represent on a contract-specific basis the amount of local funding the MHMRA commits to complement the TDMHMR funding for the contracted services, expressed in the contract as a dollar amount or as a funding percentage of the total contract, to include city government tax funds; county government tax funds; other tax funds, which are funds from other local taxing authorities such as a school district, a hospital district, etc.; patient fee insurance reimbursement, including reimbursement for patient services, drugs, and tuition from patient's resources and/or patient's personal insurance policies and sources such as a local school district (Senate Bill 230), COG, Champus, Veterans Administration, and other allowable city or county patient fee reimbursements; miscellaneous income and contributions, including income from production income from work activities, transfers from reserve funds of local revenues, interest and rental income donations, contributions, and other non-taxing authority income or earnings; and in-kind goods and services.

**Mental health and mental retardation authority (MHMRA)**—A local service provider selected by the department to plan, facilitate, coordinate, or provide services to mentally ill and/or mentally retarded persons in a local service area; this includes designated providers and departmental facility community services programs.

**Minority business**—A business that is at least 50% owned by minority group members.

**Officer**—A member of the Texas Board of Mental Health and Mental Retardation or a member of the governing board

of the contract agency.

**Procurement package**—The invitation for bids or request for proposals and any other associated documentation that serves to describe the requirements of the contract.

**Professional services**—Those services within the scope of the practice of accounting, architecture, optometry, medicine, or professional engineering as defined by state law, or services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, or professional engineer in connection with his professional employment or practice, as specified in Texas Civil Statutes, Article 664-4. Services within the scope of medicine include hospital services, nursing, physical therapy, occupational therapy, and professional consultation relative to radiology, laboratory services, and pharmacy.

**Program contract**—A contract between the department and a contractor or between an MHMRA and a subcontractor to deliver mental health or mental retardation services to individuals or to provide consultation relative to the delivery of mental health or mental retardation services to individuals for a designated sum using TDMHMR funds. The term includes consultant contracts, professional contracts, hospital service agreements, and employee education and training contracts. The term excludes contracts for services and contracts for support services.

**Small business**—A corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated and has either fewer than 100 employees or less than \$1 million in annual gross receipts.

**Subcontract**—A contract between the party contracting with the department and the subcontractor which is paid for with funds from the contract with the department.

**Support services contract**—A contract between the department and a contractor or between an MHMRA and a subcontractor to provide specified ancillary and support service for a designated sum in areas including, but not limited to laundry, house-keeping, grounds maintenance, plant maintenance, food service, vehicle maintenance, and technical services in radiology, laboratory services, and pharmacy.

#### *§401.374. Principles of Contracting at TDMHMR.*

(a) A fundamental principle of procurement by government agencies is to obtain the most effective use of public monies. This means that contracting is the preferred alternative to direct provision of government services when contracting obtains the same or higher quality of services at a lower cost than possible through governmental provision. To facilitate this, the department and the MHMRA conduct all procurements to promote maximum free and open competition whenever feasible.

(b) To provide a foundation for administering contracts funded in whole or part by or through TDMHMR, the department and the MHMRA must:

(1) consider the best interests of persons served, the public, and TDMHMR at all times;

(2) promote competition to the extent appropriate and allowable by state and federal laws and policies to secure a better price and quality and to provide opportunity for all qualified organizations to apply to do business with the department or the MHMRA;

(3) use funds to meet only documented needs for authorized goods and services;

(4) base contract decisions on findings of fact appropriately documented and on good business practices and judgment;

(5) take reasonable steps to provide potential contractors/subcontractors fair and impartial treatment;

(6) take prudent steps to make purchases that are allowable, within the limits of available funds, reasonable, and necessary considering price, quantity, and quality;

(7) require contract managers to identify contracts for which a personal, financial, or other conflict of interest exists and to request and receive reassignment of the contract without prejudice;

(8) take steps to enhance mutual understanding of the contract terms by parties to the contract;

(9) ensure that every contract or group of contracts is assigned to a department or MHMRA's contract manager who ensures that the terms of the contract are met;

(10) take reasonable steps to inform contractors/subcontractors of their responsibilities and liabilities under contract;

(11) ensure that all agreements between contractual parties are in writing and in the contract or contract file as appropriate;

(12) make changes to the contract only if they are legal and are approved by the parties to the contract;

(13) monitor the terms of the contract to determine if the contractor/subcontractor is meeting them;

(14) upon identifying a contractual problem, take appropriate corrective action to resolve the problem and other potential problems;

(15) expedite the settlement of disputes to limit liabilities incurred by the contractor/subcontractor and the department and MHMRAs; and

(16) release a contractor/subcontractor from liabilities incurred by violating

the terms of the contract only if the reason is properly justified, documented, and approved by the department or the MHMRA.

*§401.375. General Requirements for the Department and MHMRAs.*

(a) Unless otherwise noted, all programs funded by or through TDMHMR, including those operated or subcontracted by MHMRAs using state or federal funds, are governed by this subchapter and, as applicable, the TDMHMR *Contracts Manual*.

(1) The department and the MHMRA may implement additional requirements to meet the particular needs of certain program areas if those requirements are in writing and do not conflict with the provisions of this subchapter and, as applicable, the TDMHMR *Contracts Manual*.

(2) Programs cannot implement policies and procedures that deviate from or alter the contract policy expressed in this subchapter and, as applicable, the TDMHMR *Contracts Manual*.

(b) There must be some basis in state or federal law or regulation for the department or the MHMRA to provide a mental health or mental retardation service which is to be contracted in whole or part using state or federal funds. The statutory authority must be referenced in the contract.

(c) The department and the MHMRA must ensure that small and minority-owned business enterprises have an equal opportunity to compete for and to be selected for the award of contracts and subcontracts.

(1) The department and the MHMRA will include in all contracts language that states that the contractor/subcontractor will comply with the Civil Rights Act of 1964, as amended.

(2) The department and the MHMRA will include in all contracts language which states that the contractor/subcontractor will ensure that no person, on the basis of race, color, national origin, religion, sex, age, handicap, or political affiliation, will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any of the policies of the Texas Board of Mental Health and Mental Retardation, including this subchapter, or the policies of the governing body of a designated provider.

(d) Employees and officers of the department and the MHMRA must not participate in the selection, award, or administration of a contract paid by federal or state funds if a conflict of interest, real or apparent, is involved. A conflict of interest arises anytime such an employee or officer has a financial interest or other interest, e.g., dual employment, in the entity selected for an award.

(e) An employee or officer of the department or the MHMRA who partici-

pates in the selection, award, or administration of a contract and has a financial interest in a contractor/subcontractor must report the financial interest to the commissioner or the executive director, if the MHMRA is a community center, within 10 days after the contractor/subcontractor submits a offer to the department or the MHMRA. Failure to provide this information will result in a voided contract.

(f) The department or the MHMRA must specify in the procurement package and contract the nature of the financial penalties that will be exacted for failure to perform according to the terms of the contract.

(g) The department or the MHMRA must use the standard contract forms when specified by the department.

(1) For services for which a standard contract form is specified, nonstandard contracts will not be approved or funded.

(2) The standard contract forms may be modified to accommodate unique circumstances only as follows:

(A) modifications may take the form of additional requirements, but no standard contract provision may be deleted;

(B) any modifications to the standard contract provisions must be equally or more restrictive, not less restrictive.

(C) any contract or contract amendment of any amount that modifies a standard contract provision requires central office approval.

(h) If a contractor/subcontractor is required to comply with an additional requirement pursuant to compliance with standards, regulations, resolutions, settlements, or plans, and compliance results in a material change in the contractor's rights or obligations under the contract or places a significant financial burden on the contractor/subcontractor, the contractor/subcontractor may, upon giving 60 days' notice of such intention, be entitled to renegotiate the contract.

(i) The department and the MHMRA must ensure that all contracts specify a date of termination, a maximum allowable total payment for the contract term, and the method of payment. Contracts that do not have termination dates, maximums, and method of payment will not be approved for payment.

(j) If the department or the MHMRA determines that the contractor/subcontractor has placed the health and safety of any client in immediate jeopardy, the department or the MHMRA will take such steps as are necessary, including but not limited to removal of the client from the

program or termination of the contract without prior notice.

**§401.376. General Requirements for Contractors.**

(a) A contractor/subcontractor must comply with all applicable federal and state laws, rules, and regulations, and standards. Unless explicitly stated otherwise in this subchapter, a contractor/subcontractor will not be subject to the general personnel rules, regulations, and policies which affect the activities of employees of the department or the MHMRA with which it contracts.

(b) A contractor/subcontractor must provide the department or the MHMRA with unrestricted access to all facilities, service providers, individuals served, records, data, and other information under the control of the contractor/subcontractor as necessary to enable the department or the MHMRA to audit, monitor, and review all financial and programmatic activities and services associated with the contract.

(c) A contractor/subcontractor must keep financial and supporting documents, statistical records, and any other records pertinent to the services for which a claim or cost report was submitted to the department or the MHMRA, including client records, for a period of five years unless otherwise specified by the department or the MHMRA in the contract.

(d) For the purpose of confidentiality of client records, contractors and subcontractors are subject to the requirements of Chapter 403, Subchapter K of this title (relating to Client-Identifying Information).

(e) A contractor/subcontractor must disclose to the department or the MHMRA if it is currently held in abeyance from or barred from the award of a federal or state contract. A contractor/subcontractor currently held in abeyance from or barred from the award of a federal or state contract may not contract or subcontract with the department or the MHMRA.

(f) The department or the MHMRA may refuse to enter into a contract or may terminate a contract if it determines that the contractor/subcontractor did not fully and accurately disclose the following information concerning persons convicted of crimes:

(1) the identity of any employee, officer, or other person directly or indirectly involved in the contract who has been convicted of a criminal offense related to any state or federally funded program;

(2) the identity of any employee, officer, or other person directly or indirectly involved in the contract who is in direct contact with clients, who has been convicted of any crime annotated in Exhibit B, referred to in §401.391 of this title (relating to Exhibits).

(A) Should any person have such a conviction, the contractor shall, unless otherwise agreed to by the department or the MHMRA, immediately remove the person from direct contact with clients.

(B) If the contractor has such a conviction, the contract may be terminated without prior notice.

(g) For a period of one year following the date of termination of employment or service, former employees and officers of TDMHMR, the Texas Department of Human Services (TDHS), and community centers may not, directly or indirectly, attempt or aid in the attempt to procure a contract with TDMHMR or a community center in which the individual was employed or served if the contract relates to a program or service for which the individual had administrative responsibility.

(1) In this subsection, the term "employee" means a person who on the last date of employment was compensated at or above the amount designated for a Salary Group 17, Step 1, of the state position classification salary schedule, including a state employee who is exempt from the state position classification plan.

(2) This subsection does not apply to a former officer or employee if the person was employed by a state agency other than TDMHMR or TDHS or was employed by a community center other than a community center with which a contract is being sought.

(3) Violation of this subsection is a criminal offense.

(h) The contractor/subcontractor operating a Medicaid-contracted facility shall comply with federal regulations relative to supplementation for recipient-residents, as contained in Title 42 Code of Federal Regulations 447.15; Public Law 95-142 (Medicare-Medicaid Antifraud and Abuse Amendments); and TDHS-TDMHMR-TDH joint agency policy interpretations.

(i) Before a corporation's offer or contract renewal can be considered, the corporation must give the department or the MHMRA franchise tax certification. For-profit corporations subject to Texas' franchise tax must provide certification that their payments are current. All other corporations must certify that they are not subject to the franchise tax.

(1) If the contractor/subcontractor is or becomes delinquent in the payment of its Texas franchise tax, payment to the contractor/subcontractor may be withheld until such delinquency is remedied.

(2) Making a false certification is a material breach of contract and grounds for contract termination.

(j) A contractor/subcontractor must report to the department or the MHMRA allegations of client abuse and neglect in compliance with federal and state law and departmental rules, as applicable, including but not limited to, Chapter 404, Subchapter A (relating to Client Abuse and Neglect in TDMHMR Facilities); Chapter 404, Subchapter B (relating to Client Abuse and Neglect in Community Mental Health and Mental Retardation Centers); Chapter 404, Subchapter C (relating to Patient Abuse in Private Psychiatric Hospitals); or Chapter 404, Subchapter D (relating to Client Abuse and Neglect in Registered Boarding Homes).

(k) A contractor/subcontractor must report to the appropriate state board any allegation that a professional licensed or certified by the State of Texas and employed by the contractor/subcontractor has committed an action that constitutes a grounds for the denial or revocation of the certification or licensure, e.g., physicians, nurses, psychologists, etc., and must submit a copy of its report to the department or the MHMRA at the time the report is filed.

**§401.377. Criteria for Determination of Method of Procurement.**

(a) Criteria for competitive procurement using sealed bids. In competitive sealed bids, the department or the MHMRA publicly solicits sealed bids from interested bidders through an invitation for bids (IFB). This method of procurement is typically used for contracts including, but not limited to, support services contracts. The department or the MHMRA awards a firm fixed-price contract (lump sum or unit price) to the lowest bidder whose bid conforms with all terms and conditions of the invitation for bids. Staff use competitive sealed bids when the following conditions exist:

(1) the exact specification for the service or product to be purchased is available;

(2) following advertising, two or more responsible bidders are willing and able to compete for the contract;

(3) the procurement lends itself to a firm fixed-price contract (unit rate or cost reimbursement with a maximum not to exceed the reimbursable amount);

(4) the contract can appropriately be awarded to a responsible bidder on the basis of the lowest price;

(5) sufficient time is available for the department or the MHMRA to prepare specifications on which it can purchase the service and for bidders to prepare and submit bids.

(b) Criteria for competitive procurement using request for proposal. In competitive negotiation, the department or the MHMRA requests proposals from a number of sources by soliciting responses



to a request for proposal. This method of procurement is typically used for contracts including, but not limited to, consultant contracts, client services contracts, and employee education and training contracts. Contracts staff may use competitive negotiation if:

(1) the service to be purchased cannot be quantified and specified in terms of price alone; or

(2) negotiation is authorized by applicable law, rule, or regulation, e.g., the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Article 5547-202, §2.13

(c) Criteria for noncompetitive procurement (sole source contracting). In noncompetitive negotiation, the department or the MHMRA solicits a proposal from only one source. Noncompetitive negotiation may be used only when the award of a contract is not feasible under competitive sealed bids or competitive negotiation (request for proposal) procedures. This method of procurement is always used for professional services contracts and contracts for services, and may be used for other types of contracts that meet one or more of the following criteria:

(1) noncompetitive negotiation is authorized or required by law, rule, or regulation, e.g., Texas Civil Statutes, Article 664-4 prohibits contracting for professional services on a competitive bid basis.

(2) the contract is between governmental entities, e.g., a community center or designated provider and a state facility;

(3) in an emergency, it is necessary to proceed without formal advertising because of the delay it causes;

(4) the material or service to be procured is available from only one source;

(5) no acceptable bids or offers, as defined in §401.373 of this title (relating to Definitions) using a competitive procurement method are received;

(6) the purchases are for highly perishable material or medical supplies; or for services for which the prices are established by law; or for experimental, developmental, or research work.

**§401.378. Requirements for competitive Procurement: Competitive sealed Bid and competitive Negotiation (Request for Proposal).**

(a) The provisions of this section apply to both forms of competitive procurement: competitive sealed bid and competitive negotiation.

(1) Additional requirements relative to competitive sealed bids are contained in §401.379 of this title (relating to Additional Requirements Specific To Competitive Procurement (Sealed Bid)).

(2) Additional requirements relative to competitive negotiation (request for proposal) are contained in §401.380 of this title (relating to Additional Requirements Specific to Competitive Procurement: Competitive Negotiation (Request for proposal)).

(b) The department or the MHMRA must formally advertise procurements by publishing a notice of the intent to contract when the contract is to be awarded by competitive sealed bid or competitive negotiation.

(1) Staff must ensure that all solicitations (notice of intent to contract) contain the following minimum information:

(A) the service to be purchased;

(B) the geographic area to be served;

(C) funding limitations;

(D) method of payment;

(E) the beginning through the ending date of the contract;

(F) any limitations on who may submit an offer and any limitations in the services or products to be provided;

(G) the place and method of obtaining a procurement package and the deadlines for obtaining and submitting it.

(2) Staff must attempt to reach as many potential contractors/subcontractors as possible.

(A) The department or the MHMRA must publicize a solicitation in one or more of the following ways:

(i) advertisement in local newspapers;

(ii) publication in the *Texas Register*;

(iii) announcements in professional association newsletters.

(B) The department or the MHMRA may additionally solicit offers through announcements by direct mail to all known potential contractors/subcontractors.

(C) The department or the MHMRA shall document all transactions concerning contracts.

(c) Persons who have questions about a procurement package must request the information according to the instructions in the package. Oral answers to questions about a procurement package are

nonbinding. They are not official until released in writing.

(d) Unless information is exempted by the Texas Open Records Act, i.e., information which, if released, would give advantage to competitors or bidders, all information in an offer is confidential only until:

(1) bid opening; or

(2) the department or the MHMRA sends both written notification to the successful offeror(s) and written notification of nonselection to the unsuccessful offeror(s) concerning requests for proposal.

(e) The department or the MHMRA has the right to reject all bids/offers submitted in response to a solicitation. The department or the MHMRA may cancel a solicitation for any of the following reasons:

(1) funds to purchase goods or services are not available;

(2) the supplies or services are no longer required;

(3) the bids/offers received indicated that the services requested can be purchased by a different, less expensive method;

(4) all otherwise acceptable bids/offers received are for unreasonable prices;

(5) staff have good reason to believe during the course of the procurement that the bids/offers were collusive or were submitted in bad faith;

(6) none of the bids/offers is acceptable;

(7) the specifications and costs given in the IFB/RFP were inadequate, ambiguous, or otherwise deficient;

(8) the responsible contracting authority determines cancellation is in the best interest of the department, the MHMRA, and the individuals to be served.

(f) The department or the MHMRA has the right to issue addenda prior to the closing date for bids/offers provided. All bidders/offerors are provided fair opportunity to respond. All such addenda become, upon issuance, an inseparable part of the specifications which must be met for the bid/offer to be considered.

(g) A solicitation suspended because of uncertainty in federal or state regulations, departmental policy, or similar requirements may nevertheless be processed if the procurement is still in the best interest of the department, the MHMRA, and the individuals to be served and uncertainties about purchasability are amenable resolved.

(h) The department or the MHMRA develops procurement packages based on a clear and accurate description of the services to be purchased. The department or

the MHMRA must include in the package all requirements the offeror must fulfill for the proposals to be evaluated. In competitive procurements, the department or the MHMRA may not include in the service descriptions any requirement which unduly restricts competition by eliminating or limiting potential contractors/subcontractors' participation in the procurement process.

(i) When responding to a solicitation, offerors must respond to all items, including those about their financial ability to perform.

(j) Upon written request, an unsuccessful offeror is entitled to receive information from the department or the MHMRA concerning why its offer was not accepted.

(k) If the department or the MHMRA receives fewer than two offers, staff should determine whether competition was inadequate and the reasons. The department or the MHMRA, however, may still award the contract.

(l) Corrections, deletions, or additions to offers may be made prior to the closing date for solicitations or the date for opening of bids. No oral, telephone, telegraphic, fax, E-mail, or other electronically transmitted corrections, deletions, or additions will be accepted. The offeror must submit either a comprehensive form for this purpose, if provided, or substitute pages in the appropriate number of copies with a letter documenting the changes and the specific pages for substitution. The signatures on the form or the letter must be original and must be the same as on the offer.

(m) Corrections, deletions, or additions which affect the competitiveness of other offers will not be accepted.

(n) For withdrawals, the offeror must submit a letter prior to the closing date. The signature on the letter must be original and must be the same as the signature on the offer.

(o) The department or the MHMRA must establish mechanisms beforehand for evaluating the offers, including ways of determining responsible offerors, providing information for debriefings, and selecting successful offeror(s) for contract award(s).

(p) If a procurement package is to be considered by the department or the MHMRA, the offeror must meet the department or the MHMRA requirements, demonstrate the ability to perform successfully and responsibly under the terms of the prospective contract, and submit the completed offer according to the timeframes, procedures, and format stipulated by the department or the MHMRA in the solicitation.

(q) The department or the MHMRA may validate any information in a bid or offer by using outside sources or materials.

(1) If the department or the MHMRA validates the information in one

offer or application for a specific program site or project, it must apply the process without providing unfair advantage to any offer or range of offers for that site or project.

(2) If validation discloses that information provided by an offeror is deliberately false, the offer will be ineligible for consideration.

(r) When the purpose of the procurement is to obtain client services, the determination of the lowest and best bid or offer must address the offeror's response to the procurement package, including:

(1) price;

(2) the ability of the offeror to perform the contract and to provide the required services;

(3) whether the offeror can perform the contract or provide the services within the period required, without delay or interference;

(4) the offeror's history of compliance with the laws relating to the offeror's business operations and the affected services and whether the offeror is currently in compliance;

(5) whether the offeror's financial resources are sufficient to perform the contract and to provide the services;

(6) whether necessary or desirable support and auxiliary services are available to the offeror;

(7) the character, responsibility, integrity, reputation, and experience of the offeror;

(8) the quality of the facilities and equipment available to or proposed by the offeror;

(9) the ability of the offeror to provide continuity of services; and

(10) the ability of the offeror to meet all applicable written departmental policies, principles, and regulations.

(s) Each offeror whose offer meets the screening requirements but is not selected for a contract is entitled to timely notification in writing that the offer is no longer being considered.

*§401.379. Additional Requirements Specific to Competitive Procurement (Sealed Bid).*

(a) Requirements for procurement using competitive sealed bids. At its discretion, the department or the MHMRA may require a bid bond, a certified check, or cashier's check drawn on a solvent bank in the State of Texas and made payable to the Texas Department of Mental Health and Mental Retardation or the MHMRA in an amount to be specified in the procurement package. The bid security shall be a guarantee, legally assigned without limitation, that the bidder will, if awarded the contract,

within a reasonable time of such award, furnish the performance/payment bond (if required) and execute a contract in full accordance with the proposal. No other form of security will be accepted.

(1) If the offer is not accepted within 60 days after the closing date for acceptance of bids, or upon the successful execution and delivery of contracted services, the bid bond, certified check, or cashier's check will be returned to the bidder.

(2) If the offer is accepted but the contractor/subcontractor through failure, neglect, or refusal does not execute and deliver according to the terms of the contract, the security will be retained by the department or the MHMRA to the measure of the liquidated damages.

(b) Procedures for awarding the contract.

(1) All bids received are opened at the same time in the presence of all interested persons. Bids are read aloud and recorded.

(2) After the public opening of the competitive sealed bids, anyone present may examine the bids in the presence of the department or the MHMRA's representative. Individuals may not inspect the original bids if copies of the bids are available for public inspection. If copies are unavailable, the original bids may be examined only under the supervision of an official of the department or the MHMRA and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration of the bids.

(3) Bids are evaluated only on the basis that they meet the specific requirements of the invitation for bids. All bids meeting the exact service specifications are rated in terms of cost or cost and other factors as designated in the specifications.

(4) The department or the MHMRA awards the contract to a bidder who is both responsive and responsible and who has the lowest and best bid consistent with terms and conditions of the invitation for bids. The contract is not necessarily awarded at the time of bid opening.

(5) When two or more low bids are equal in all respects, the department or the MHMRA gives priority to the low bid of a minority, small business, women's enterprise, or labor surplus areas. If the low bids are from more than one of these priority groups lots will be drawn, duly recorded, and witnessed.

(6) No negotiation is used in the competitive bid method.

*§401.380. Additional Requirements Specific to Competitive Procurement: Competitive Negotiation (Request for Proposal).*

(a) Before the department or the MHMRA negotiates a contract, the prospec-



tive contractor/subcontractor must complete a procurement package and submit it to the department or the MHMRA.

(b) Negotiations are conducted with one or more of the sources submitting offers.

(c) Negotiation may be conducted either to complete the procurement process or to complete an evaluation of acceptable offers. When only one offer has a reasonable chance of being selected for the contract award, contract staff and the potential contractor/subcontractor negotiate the contract requirements as necessary to complete the procurement process. When more than one acceptable offer is received, negotiation is used to further evaluate competitive offers and to select one or more for contract award. In this situation, no potential contractor/subcontractor is given information that will give him a competitive advantage over the other potential contractors.

(d) During negotiation, the offeror must clearly identify all changes in and/or revisions to the offer.

(e) The department or the MHMRA shall award the contract to the offeror with the lowest and best offer.

(f) The department or the MHMRA awards either a flat rate, unit rate, or a cost-reimbursement contract, as appropriate.

*§401.381. Requirements for Noncompetitive Procurement: Noncompetitive Negotiation (Sole Source Contracting).*

(a) The department or the MHMRA may validate any information in an offer by using outside sources or materials. If validation discloses that information provided by an offeror is deliberately false, the offer will be ineligible for consideration.

(b) The department or the MHMRA must justify and document awarding a sole source contract funded by or through TDMHMR to a contractor/subcontractor. Documentation will be submitted which accurately and concisely substantiates the necessity for a sole source contract on the basis of one or more of the reasons listed in §401.377(c) of this title, (relating to Criteria for Determination of Method of Procurement).

*§401.382. Requirements specific to Type of Contract: Support Services Contracts.*

(a) Pursuant to Texas Civil Statutes, Article 601b, department support services contracts and purchases governed by the rules, regulations, and procedures manual of the State Purchasing and General Services Commission and the *TDMHMR Supply Manual* are exempted from the requirements of this subchapter. All other department purchases and contracts are governed by this subchapter.

(b) For MHMRAs that are community centers or designated providers, support

services contracts using TDMHMR funds are governed by this subchapter or local government code, if applicable. For such MHMRAs that elect compliance with this subchapter, the dollar limits requiring competitive procurement will pertain to support services contracts as follows:

(1) when the expenditure will not exceed \$50, no bid is required;

(2) when the expenditure will be between \$50 and \$1,000, three telephone bids are required; and

(3) when the expenditure will be more than \$1,000, three written bids must be solicited.

*§401.383. Requirements Specific to Type of Contract: Department Program Contracts.*

(a) Consultant contracts.

(1) Facilities must submit the following contracts and contract amendments to the Office of Contracts Management to be approved by the appropriate central office authorities prior to execution:

(A) contracts or contract amendments through which the department will pay the consultant more than \$10,000 in a fiscal year;

(B) contracts or contract amendments in which the consultant will be paid more than \$65/hour; or

(C) contracts or contract amendments in which the consultant will be paid more than \$400 in a 24-hour period.

(2) Central office staff must submit all consultant contracts and amendments to the office of contracts management to be approved by appropriate central office authorities prior to execution.

(3) The office of contracts management must coordinate the *Texas Register* publication of the solicitation, the finding of fact requirements, and the award of the contract for all department contracts and contract amendments in which the consultant will be paid more than \$10,000 in a fiscal year. Existing contracts for more than \$10,000 may be extended or otherwise amended without advertising if both the department and the contractor agree and the department does not incur additional costs from the contractor.

(4) Verification that contracted services were provided as required must be documented in the contract file. For services provided on an hourly or other unit basis, each consultant and a responsible staff member who can certify to the presence and the duties performed by the consultant will record the information required on the independent contractor (consultant) log, which is referenced in §401.391 of this title (relating to Exhibits), as Exhibit C. The

consultant and responsible staff member must sign the form, which becomes a part of the contract file.

(b) Professional services contracts.

(1) Facilities must submit the following contracts and contract amendments to the office of contracts management to be approved by the appropriate central office authorities prior to execution:

(A) contracts or contract amendments through which the department will pay the contractor more than \$10,000 in a fiscal year;

(B) contracts or contract amendments in which the contractor will be paid more than \$65/hour; or

(C) contracts or contract amendments in which the contractor will be paid more than \$400 in a 24-hour period.

(2) central office must submit all professional services contracts and amendments to the office of Contracts Management to be approved by appropriate central office authorities prior to execution.

(3) Verification that contracted services were provided as required must be documented in the contract file. For client services provided on an hourly or other unit basis, each contractor and a responsible staff member who can certify to the presence and the duties performed by the contractor will record the information required on a professional services log, which is referenced in MDS/MDNM/§401.390 of this title, (relating to Exhibits), as Exhibit D.

(A) The contractor and responsible staff member must sign the form, which becomes a part of the contract file.

(B) For contractors who perform services involving large numbers of clients, the file and file location of individual case numbers of clients seen may be referenced rather than listed in full. If case numbers are referenced to another file, that file must be readily accessible.

(4) In cases of emergency medical treatment or required nonemergency surgical procedures performed off campus or on campus, the mandatory prior approval required in subsection (b)(1) of this section is waived. In such cases, the fees paid shall not exceed those normally charged for the service in the area in which the services are provided.

(5) Contracts for professional services may not be procured through the use of bids.

(c) Hospital services agreement. The hospital must be licensed as either a private psychiatric hospital or as a general

hospital, maintain joint commission accreditation and/or Medicare certification, or provide services in accordance with joint commission and/or Medicare standards. In the later case, there is evidence that a waiver has been obtained from the appropriate deputy commissioner for the use of such a nonaccredited or noncertified hospital.

(d) Employee education and training contract.

(1) Prior to execution, facilities must submit to the office of contracts management for approval any contract or contract amendments through which the department will pay the contractor more than \$10,000 annually.

(2) Central office staff must submit to the office of contracts management all contracts and contract amendments to be approved by appropriate central office authorities prior to execution.

(3) Employee education and training contracts may be procured using a method other than sealed bid.

*§401.384. Requirements Specific to Type of Contract: Client Services Contracts.*

(a) The method of procurement of all client services contracts must be in compliance with §401.377 of this title (relating to Criteria for Determination Of Method Of Procurement).

(b) The department or the MHMRA must require the contractor/subcontractor to:

(1) comply with the client's treatment plan, including ensuring consultants are knowledgeable of the plan within 30 days of client placement and that staff providing direct care receive training necessary to implement the plan in accordance with the terms of the contract; and

(2) to comply with specified rules and standards governing client services.

(c) Prior to execution of the contract, the facility must submit to the office of contracts management for approval by the appropriate central office authorities any contract or contract amendment through which the department will pay the contractor more than \$25,000 in a fiscal year.

(d) Contractors/subcontractors for residential services must sign an acknowledgement of awareness of applicable federal and state rules, regulations, laws, and executive orders that govern the provision of services to clients using the form referenced in §401.391 of this title (relating to Exhibits), as Exhibit E.

(e) Contractors/subcontractors must provide insurance, including liability coverage, for the residence or other structure and its contents and any vehicles used to transport clients.

(f) Contractors/subcontractors providing residential services will assume fiduciary responsibility for client trust funds, unless otherwise specified in the contract requirement. Prior to executing a residential contract, the contractor/subcontractor must submit for central office approval a written policy and procedure to protect and account for client trust funds according to generally accepted accounting principles and applicable laws, rules, and standards, including, as applicable, §405.625 of this title (relating to Rights of Clients Receiving Residential Mental Retardation Services, and §407.2 of this title (relating to Trust Funds and Personal Effects). Any amendments to the client trust fund policy and procedure must be submitted to central office for approval prior to implementation.

(g) To facilitate continuity of services and to prevent disruption of services, the MHMRA may not require competitive bidding on the renewal of a client services contract.

(1) If funding is available and if the MHMRA plans to continue the services, when a contract is scheduled for renewal, the MHMRA shall review the contract and shall renew the contract if the MHMRA finds that:

(A) the subcontractor is in substantial compliance with each material provision of the contract, unless the MHMRA determines and documents that the provision is not legal and enforceable under applicable state and federal law;

(B) the subcontractor is providing a reasonably adequate level of service in accordance with the contract;

(C) the subcontractor agrees to a renewal contract that is substantially in compliance with a standard contract developed by the department;

(D) the subcontractor was during the term of any contract with the MHMRA and is at the time of renewal in compliance with applicable laws governing the subject matter of the contract; and

(E) neither the subcontractor nor any of its officers, directors, or principal employees has been convicted or found by a final administrative decision to have been guilty of fraud or abuse in the provision of health care services under a contract with a state or federal agency.

(2) The MHMRA and subcontractor shall negotiate a contract renewal at arms length and in good faith.

(h) In the event that the MHMRA determines that the subcontractor is not fulfilling its contractual obligations, the head of the MHMRA shall send the subcontractor

notice describing the nature of the deficiencies. If the MHMRA determines that a more immediate form of notice is required, notice may be provided by telegram or fax.

(1) The notice includes enough details of the subcontractor's noncompliance with the provision of the contract, unsuccessful efforts at resolution, or other basis for potential termination of the contractor to enable the contractor to rectify the identified problems. The notice also provides a timeline for rectification of the problem. The head of the MHMRA shall also send a copy of the notice to the appropriate assistant deputy commissioner(s) in central office.

(2) The MHMRA shall closely monitor the progress of the subcontractor in rectifying the identified deficiencies.

(3) If, by the time specified in the notice, the subcontractor has not rectified the identified deficiencies, the head of the MHMRA shall send notification of contract termination by certified mail, return receipt requested, to the subcontractor, and shall also send a copy of the notification of contract termination to the appropriate deputy commissioner(s) in central office.

(4) Nothing in this subsection is meant to abridge the right of the MHMRA to terminate a contract without notice when the life, health, or safety of individuals served is endangered.

(i) If the MHMRA fails to resolve problems relative to the contractor/subcontractor's noncompliance with the terms of the contract or fails to terminate the contract, as appropriate, the department may exercise its option to withhold funds from the MHMRA.

(j) Upon termination of the contract, the contractor/subcontractor shall immediately return the individual and the individual's personal belongings and records to the department or the MHMRA.

(k) Quality care must be maintained for all clients during the transition from one provider to another.

*§401.385. Requirements Specific to Type of Contract: Contracts for Services.*

(a) The department shall identify and contract with one or more designated provider to ensure the provision of the following services for each local service area:

(1) 24-hour emergency screening and rapid crisis stabilization services;

(2) community-based crisis residential service or hospitalization;

(3) community-based assessments, including the development of interdisciplinary treatment plans and diagnosis and evaluation services;

(4) family support services, including respite care;

(5) case management services;

(6) medication-related services, including medication clinics, laboratory monitoring, medication education, mental health maintenance education, and the provision of medication;

(7) psychosocial rehabilitation, including social support activities, independent living skills, and vocational training;

(8) aftercare services or continuity of care, including the assignment of a case manager, for individuals discharged from TDMHMR facilities; and

(9) other direct or indirect services as determined necessary and appropriate by the department.

(b) In identifying designated providers for service areas served by community centers, preference shall be given to community centers. The department may identify other local agencies, private providers, or organizations to serve as the designated provider or as an additional designated provider for a service area if any one of the following circumstances occurs:

(1) the department is unable to negotiate a satisfactory contract with a community center for any or all services to be provided to the extent and in a manner necessary to accomplish the purposes of the contract;

(2) the department determines that a community center does not have the capacity to ensure the availability of any or all services that the department intends to provide;

(3) the department determines that a community center is in significant noncompliance with the contract for services and the arrangement is terminated in accordance with applicable clauses of the contract for services and this subchapter;

(4) there are no community centers in a service area.

(c) When circumstances require more than a single designated provider for MR services or more than a single designated provider for MH services in a service area, the funds identified for that service area will be contractually available to the designated providers in proportion to the services that the department requires to be performed by the respective providers.

(d) In the event the conditions described in subsections (b) or (c) of this section should occur, the department may use competitive or noncompetitive methods of procurement to designate other providers to deliver specified services.

(e) Contracts for services shall be negotiated to ensure compliance with the legislative intent of the current appropriations bill.

(f) Each designated provider shall provide, either directly or by subcontract,

specific performance outcomes or services to address the needs of the priority client populations as required by the department. Allocations shall be guided by consideration of needs of the severely mentally disabled who are the department's priority population and by the performance of local authorities in meeting needs. Contracts based on specific need indicators and performance factors shall be favored.

(1) Factors to determine need may include, but are not limited to:

(A) population;

(B) population density;

(C) poverty and other socioeconomic factors;

(D) numbers of members of the priority population; and

(E) availability, or lack of, other community resources to share the burden of care.

(2) Factors to determine performance may include, but are not limited to:

(A) number of priority population served;

(B) efficiency and effectiveness in the use of resources;

(C) local contributions to services from taxes, fees, and other sources;

(D) quality of care provided;

(E) use of state facilities by local citizens; and

(F) other departmental funds or programs available to the local area.

(g) The commissioner shall not renew a contract or shall terminate a contract with a designated provider and shall select other agencies, providers, or organizations to be the designated provider if an evaluation of the original provider's performance by the department indicates an inability to ensure the availability of the specific services to priority client populations as required by the department.

(h) Quality care must be maintained for all clients during the transition from one designated provider to another.

(i) The department may include in the terms of its contract with a designated provider a requirement that some or all of the state funds be matched by local support in such proportions and amounts as may be determined by the department. If local

match is specified, it shall be uniformly required of all designated providers in the service area. Contracts for services with designated providers requiring local match for funding must state the amount directly supporting the service being purchased.

(1) The department shall biennially determine the amount of local match required. Local match recognized by the department is limited to the following:

(A) allowable cash expenditures by the contractor directly related to providing service to eligible clients under the terms of the contract; and

(B) noncash expenditures limited to in-kind goods and services subject to the terms of the contract.

(2) On each annual report that the designated provider submits to the department, the provider must certify the amount of local match for the period covered by the report.

(j) No person shall be denied services due to inability to pay for such services. The designated provider must provide the services specified in the contract for services to members of the priority client population without regard to the individual's ability to pay. Reasonable fees to cover costs for services provided shall be charged, except where prohibited by other service contracts or law.

(k) Contracts for services shall be between the commissioner and the board of trustees of the community center or between the commissioner and the governing body or chief executive officer of other designated providers.

#### §401.386. Fiscal Policy.

(a) Advance payments. The department may make advance payments to contractors provided that the contractor is a community mental health and mental retardation center or governmental entity; funds designated for advance payments are available for the department to make advance payments to contractors; and the contractor uses the advance payments for operating expenses allowed under an existing contract to provide services to eligible clients.

(1) A contract must be in effect before the department makes an advance payment.

(2) The advance payment for each specific contract is based on need and must not be more than the contractor's allowable reimbursable expenditures for one quarter of the fiscal year. Designated providers may submit a quarterly request approximating 25% of the provider's annual funding allocation, but in no event may submit a request for more than 30% of the annual allocation in any quarter and not more than 80% of the annual allocation in

the first three quarters of the fiscal year. Quarterly requests shall be made on a State of Texas purchase voucher in a form to be prescribed by the department.

(3) The department may adjust the advance payment amount based on the contractor's cash outflow and service level variations.

(4) The contractor must liquidate the advance payment either at the end of each contract period consistent with the terms of each specific contract or at other times determined necessary by the department.

(5) The department stops making advance payments to a contractor if the contractor has not liquidated the advance payment for the previously contracted period according to the terms of the contract.

(6) The contractor shall not make advance payments to subcontractors for services with the exception of other governmental entities whose advance payments may not exceed one quarter.

(b) Cost reimbursement. In a cost reimbursement contract, the department or the MHMRA monitors the contractor/subcontractor's internal processes and budgeted items that result in service delivery to individuals and other services. The contractor/subcontractor must substantiate all claims.

(c) Start-up funds. Every effort should be made to contract with contractors who will not require the department to provide start-up funds. As a last resort, contractors who are expanding into a new service area or are just beginning to provide services may, if allowed by program-specific policy and with appropriate TDMHMR approvals, budget and bill for start-up costs. Start-up funds shall be used for operating costs, such as hiring and orienting staff, purchasing supplies, utilities, maintenance and repairs, and recruiting eligible clients. Start-up funds shall not be used to purchase capital property or equipment.

(1) If a contractor who requires start-up funds does not receive required licensure, accreditation and/or certification to provide contracted services within the time frame designated in the contract, no start-up funds are allowed.

(2) The contractor shall not provide start-up funding using TDMHMR funds to subcontractors.

(3) The contractor will provide documentation to support the amount of start-up funds requested. Justification should be adequately documented to include a projected cash flow analysis.

(4) The contractor must repay the start-up funds according to the terms of the contract, either by direct repayment or by providing services for a period designated in the contract.

(d) Disposition of property. Equipment and furniture are defined as nonconsumable property having a value of \$500 and a useful life of more than one year. Equipment and furniture specifically purchased under a contract budget by a governmental entity, a private non-profit entity, or private for-profit entity are subject to an equitable claim by state and federal government as follows.

(1) Disposition of property purchased by governmental and private non-profit entities.

(A) Control of equipment and furniture. A control system must be maintained by the contractor to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated. The control system must indicate the source of funds (state, federal, other) used in the purchase of the equipment and furniture.

(B) Disposition of property. Equipment and furniture purchased with state funds by a designated provider and/or other governmental entities become the property of the designated provider and/or other governmental entity. Disposition of equipment and furniture purchased with federal funds by a designated provider and/or other governmental entity must be made according to the provision of federal OMB A-102 and any other applicable federal regulations. Any equipment and furniture purchased by a private non-profit provider from state or federal funds belongs to the department and cannot be disposed without approval from the department.

(2) Disposition of property purchased by private for-profit entities. The purchase of equipment and furniture by private for-profit entities under a specific contract budget should not be approved, but such entity should include the depreciation of furniture and equipment as costs of providing the services under the contract.

(e) Designating source of contract funds. The department must specify in the contract the facility, program, and responsibility center to which contract costs will be charged, and the designation must be signed by the person responsible for managing the budget of the responsibility center.

(f) Recoupment of improper payments. The department or the MHMRA recovers improper payments when it is verified that contractors/subcontractors have been overpaid because of improper billing or accounting practices or failure to comply with the contract terms, e.g., the department or the MHMRA will not pay for contracted services not received, and repayment will be claimed, at the proportional daily rate of payment, for such days. The determination of impropriety is based on federal, state, and local laws and rules; department proced-

dures; contract provisions; or statistical data on program use compiled from paid claims.

(1) The contractor is notified in writing of the types of discrepancies, the method of computing the reasonable dollar amount to be refunded, and any other actions the department or the MHMRA may take.

(2) The contractor/subcontractor may request that the department's office of internal audit conduct an audit of 100% of the records or conduct an additional audit of the records by sampling which work may be performed by the office of internal audit, or at its discretion, by consulting auditors. The contractor may also request a presentation of the audit results at a hearing with the department. When a contractor requests additional audit work, he must agree to pay the costs to the department of performing the work.

(g) Recoupment of unencumbered funds. At the end of each contract period, the community center or the designated provider must return to the department any state or federal funds received from or through TDMHMR which have not been encumbered for contracted services.

#### *§401.387. Adverse Action.*

(a) The commissioner or his designee is authorized to make decisions concerning adverse action.

(b) The commissioner or his designee sends the contractor a notice advising him of any adverse action. The notice is sent by certified mail, return receipt requested, unless the department determines that a more immediate form of notice is required, in which case notice is provided by telegram or fax. The notice includes enough details of the contractor's noncompliance with the provisions of the contract, unsuccessful efforts at resolution, or other basis for the adverse action to enable the contractor to request a hearing. The notice also informs the contractor that he has the right to a hearing to contest the adverse action by sending a written request to the commissioner. Notices advising contractors of contract cancellations must specify whether the contract will remain in force pending completion of the hearing process.

(c) If the commissioner or his designee is unable to state the matters in detail at the time the notice is served, the notice may be limited to a statement of the issues involved. Later, and with a timely application from the petitioner, the department's legal representative must furnish the petitioner with a more definite and detailed statement no less than three days before the date set for the hearing.

(d) The department is responsible for:

(1) making reasonable attempts to keep contractors informed of compliance issues, and

(2) resolving, whenever appropriate, compliance issues before adverse action is necessary.

**§401.388. Administrative Hearing to Contest Adverse Action.**

(a) A contractor has the right to a hearing on any adverse action as defined in §401.373 of this title (relating to Definitions).

(1) A contractor must file a written request for a hearing so that the department receives it within 15 days after the contractor receives the department's official notice of action. The request for the hearing must be addressed to the commissioner. The request for the hearing may be in the form of a petition or a letter. It must state the reasons the contractor considers he should not be subject to the adverse action.

(2) Upon receipt of the contractor's written request for a hearing, the matter will be referred to the administrative law judge, also known as the hearing officer, for disposition according to Chapter 403, Subchapter O of this title (relating to Administrative Hearings of the Department in Contested Cases).

(3) If a request does not state specific reasons, the administrative law judge, on his own motion or a motion from the department representative, may order the contractor to file a written statement of the specific reasons or show good cause why the reasons cannot be stated.

(b) Contracts with contractors may be cancelled before the completion of the hearing process.

(c) At any time before the conclusion of the hearing, the petitioner may submit written notification to the department of withdrawal of the hearing request. Informal disposition may be made of any case by written stipulation, agreed settlement, consent order, or default.

(d) The department may exercise the option to withhold payment on all or a portion of a contract pending a hearing decision.

**§401.389. Contract Terminations.**

(a) Terminations of contracts occur when the term of the contract expires, both parties mutually agree to end the contract, and/or when either party terminates a contract because of irreconcilable differences.

(b) The department or the MHMRA may immediately terminate a contract if the department or MHMRA determines it is in its best interest and the best interest of the individuals served.

(c) The department or the MHMRA may immediately terminate a contract for cause.

(1) Termination for cause is the contractual right to terminate, in whole or in

part, the contractor's/subcontractor's right to proceed with contract by reason of the contractor's/subcontractor's failure, actual or anticipatory, to perform obligations under the contract. Included are failure to:

(A) deliver supplies or perform services within the time specified in the contract;

(B) perform any other provision of the contract; or

(C) progress, thus endangering the performance of the contract.

(2) Under a termination for cause, the department or the MHMRA is not liable for the contractor's/subcontractor's costs on undelivered work.

(3) Upon termination for cause the department is entitled to the repayment of any advance payments or other payments for such work.

(4) The department may elect to require the contractor to transfer title and deliver to the department completed supplies and materials in the manner and to the extent directed by the commissioner or his designee.

(d) Either party, unless stated differently in the contract, may terminate the contract at will if the other party is given a notice of termination at least 31 days before the termination date.

(e) The department or the MHMRA may terminate a contract for default if the contractor/subcontractor submits falsified documents or fraudulent billings or makes false statements.

(f) When a contract is terminated, a fiscal audit is conducted as necessary to determine any over- or underpayment. Disposition of equipment purchased under contract with the department will be subject to disposition according to departmental determinations.

(g) The contractor/subcontractor is responsible for establishing proof of the amount claimed to be due for settlement of a terminated contract to the department's or the MHMRA's satisfaction by submitting sufficient proof.

(h) The department or the MHMRA must give the contractor/subcontractor no less than 15 days notice by certified mail (return receipt requested) to submit on or before a stated date written evidence substantiating the claim amount before issuing a determination of the settlement amount.

(i) Upon termination of a contract between the department and a contractor or between the MHMRA and a subcontractor, the contractor/subcontractor is responsible for the prompt settlement of the termination claims, including claims from employees/subcontractors, and vendors.

**§401.390. Abeyance and Removal of Current or Potential Contractual Rights.**

(a) Abeyance is a pending status. It may be imposed immediately, as appropriate, by the department upon a contractor's right to conduct a contract or a potential contractor's right to make an offer or bid for a department contract until an investigation, hearing or trial result is concluded and the department can make a determination about the contractor's or potential contractor's right to contract or subcontract.

(1) The department may withhold payments to a contractor during the abeyance.

(2) If the final determination is favorable to the contractor, the department must, if applicable:

(A) pay the withheld payments for any services that were provided during the abeyance; and

(B) resume contract payments.

(b) Removal of contractual rights by the department is the abrogation of rights to conduct a contract or to make an offer or bid for a department contract. The removal is for a reasonable and specified time and commensurate with the seriousness of the cause for removing contractual rights. Removal of rights may, but does not have to, be limited to those components of the contractor or potential contractor involved in the conduct leading to removal of rights.

(c) The department is authorized to remove contractual rights from an agency or individual for causes including, but not limited to, the following:

(1) pleading guilty or nolo contendere, receiving a deferred adjudication, or being found guilty in a court judgment for a violation relating to:

(A) obtaining, attempting to obtain, or performing a public or private contract or subcontract;

(B) the Organized Crime Control Act of 1970, embezzlement, theft, forgery, bribery, falsification or destruction of records, other forms of fraud, receipt of stolen property, moral turpitude, or any other offense indicating a lack of business integrity or honesty that seriously and directly affects the question of responsibility as a contractor with the department;

(C) dangerous drugs, controlled substances, or other drug-related offense;

(D) federal antitrust statutes arising from the submission of bids or proposals;

(2) violating contract provisions including

(A) failing to perform according to the terms, conditions, and specifications or within the time limit(s) specified in the contract, including, but not limited to, the following:

(i) failing to abide by applicable federal and state statutes, such as those regarding handicapped persons and civil rights;

(ii) failing to meet standards that are required by state or federal law, department rule, or department policy concerning contractors;

(iii) failing to execute amendments, if required in the contract;

(iv) billing for services or merchandise not provided to the client or patient;

(v) submitting cost reports containing costs not associated with and/or not covered by the contract;

(vi) submitting a false statement or misrepresentation which, if used, may increase individual or statewide rates or fees;

(vii) charging client or patient fees contrary to TDMHMR rules or policy;

(viii) failing to notify and reimburse the department for services the department paid for when the contractor received reimbursement from a liable third party;

(ix) failing to disclose or make available, upon demand, to the department or representatives (including appropriate federal and state agencies) any records the contractor is required to maintain;

(x) failing to provide and maintain services within standards required by statute, regulation, or contract;

(xi) violating the Texas Mental Health and Mental Retardation Act (Texas Civil Statutes, Article 5547-201, et seq.) provisions applicable to the contract or any rule or regulation issued under the act;

(B) having a record of failure to perform or of unsatisfactory performance according to the terms of one or more contracts or subcontracts if that failure or unsatisfactory performance has occurred within five years or two contracting periods (preceding the determination to remove contractual rights) for long-term contracts. Failure to perform and unsatisfactory performance includes, but is not limited to, the following:

(i) failing to correct contract performance deficiencies after receiving written notice about them from the department; and

(ii) failing to repay or make and follow through with arrangements satisfactory to the department to repay identified overpayments or other erroneous payments;

(C) rebating or accepting a fee or part of a fee in violation of contractual provisions;

(3) submitting an offer or bid that contains a false statement or misrepresentation or omits pertinent facts or documents material to the procurement;

(4) any other cause affecting the contractor's or potential contractor's responsibility of such a serious nature that the commissioner or his designee determines it to warrant removal of contractual rights. Grounds include, but are not limited to, engaging in any abusive or neglectful practice that results in or could result in death or injury to the contractor's clients;

(5) removal of contractual rights by some other state or federal agency.

(d) The department may place a contractor's or potential contractor's contractual rights in abeyance whenever the department finds that there is a reasonable basis to believe that grounds for removal of contractual rights exist. In addition, abeyance may be imposed on a potential contractor if he has an outstanding indictment for an offense that is grounds for removal of contractual rights. The following conditions for removal of contractual rights apply.

(1) Violations of contract provisions do not necessarily cause abeyance and/or removal of contractual rights. Depending upon circumstances, the department's options range from a notice to the contractor explaining the violation or cause and requiring corrective actions to the removal of contractual rights.

(A) Causes in subsection (c)(1) of this section are established by proof of pleading guilty or nolo contendere, receiving a deferred adjudication of guilt, or being a defendant in a court judgment of guilt for violations relating to charges enumerated in subsection (c)(1) of this section. If an appeal results in a reversal, contractual rights must be restored upon written request, unless another cause for their removal exists.

(B) The existence of causes for removal of contractual rights in subsections (c)(2) through (c)(4) of this section must be established by a preponderance of the evidence.

(2) Removal of contractual rights because another state or federal

agency has removed contractual rights is based entirely upon the initial agency's official notice that the rights have been removed.

(e) Contractors who have been placed in abeyance or who have had their contractual rights removed have all the rights in Chapter 403, Subchapter O of this title (relating to Practice and Procedure with Respect to Administrative Hearings of the Department in Contested Cases).

(f) Offerors and bidders found ineligible for a contract, who are placed in abeyance, or who have their contractual rights removed do not have a right to a hearing.

(g) In addition to the information required in the notice of adverse action, the required content for notices of abeyance and removal of contractual rights includes:

(1) the grounds for the actions. If an indictment filed by the department is underway, the nature of the irregularities is described in general terms without disclosing evidences;

(2) the length of the abeyance or removal of contractual rights;

(3) a statement that responses to RFPs, IFBs, and other proposals will not be accepted or approved; and

(4) a statement of whether the abeyance or removal of contractual rights is in effect throughout the department and for all MHMRAs.

(h) The department may impose additional program-specific requirements if the requirements do not conflict with the abeyance and removal of contractual rights requirements in this section.

*§401.391 Exhibits.* The following exhibits referred to in this subchapter are herein adopted by reference and are available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668:

(1) Exhibit A—Persons Related within the Second Degree of Consanguinity or Affinity;

(2) Exhibit B—National Crime Information Center Uniform Offense Classifications;

(3) Exhibit C—Independent Contractor (Consultant) Log;

(4) Exhibit D—Professional Services Log; and

(5) Exhibit E—Acknowledgement.

*§401.392 References.* The following laws and rules are referred to in this subchapter:

(1) the Civil Rights Act of 1964, as amended;

(2) the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Article 5547-201 et seq.;

(3) the Texas Medical Practices Act.

(4) Chapter 403, Subchapter K of this title (relating to Client-Identifying Information);

(5) Chapter 404, Subchapter A of this title (relating to Client Abuse and Neglect in TDMHMR Facilities);

(6) Chapter 404, Subchapter B of this title (relating to Client Abuse in Community Mental Health and Mental Retardation Centers);

(7) Chapter 404, Subchapter C of this title (relating to Patient Abuse in Private Psychiatric Hospitals);

(8) Chapter 404, Subchapter D of this title (relating to Client Abuse and Neglect in Registered Boarding Homes).

(9) Chapter 405, Subchapter Y of this title (relating to Client Rights--Mental Retardation Services); and

(10) Chapter 407, of this title (relating to Standard Operating Procedures).

**§401.393. Distribution.** This subchapter shall be distributed to members; the Texas Board of Mental Health and Mental Retardation; the medical director; deputy commissioners; assistant deputy commissioners; directors of central office; superintendents/directors; all TDMHMR facilities; chairpersons; board of trustees; executive directors; chairpersons; governing body; chief executive officers; all other designated providers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 16, 1989.

TRD-8905299

Pattlou Dawkins  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 465-4670



## Subchapter F. Internal Audit

### • 25 TAC §§401.401-401.413

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§401.401-401.413, concerning internal audit. The new sections describe the procedures by which management audits of state facilities, community mental health and men-

tal retardation centers, and contractors and subcontractors receiving departmental funds are conducted. They reflect the intent of the Texas Internal Auditing Act of the 71st Texas Legislature.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that there will be no additional fiscal cost to state or local government or small businesses as a result of administering the new sections as proposed.

Ms. Dillard also has determined that the public benefit is the provision of public notice concerning management audits of services to Texas citizens. There is no anticipated economic cost to individuals required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

**§401.401. Purpose.** The purpose of this subchapter is to describe policies and procedures governing internal audits of operations in the purview of the Texas Department of Mental Health and Mental Retardation and to serve as the charter for the Office of Internal Audit.

**§401.402. Application.** This subchapter applies to the facilities and central office of the Texas Department of Mental Health and Mental Retardation, to community mental health and mental retardation centers, and to contractors and subcontractors receiving departmental funds.

**§401.403. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Audit committee**—The audit committee of the Texas Board of Mental Health and Mental Retardation.

**Board**—The Texas Board of Mental Health and Mental Retardation.

**Community center**—A community mental health and mental retardation center authorized by Texas Civil Statutes, Article 5547-203.

**Commissioner**—The commissioner of the Texas Department of Mental Health and Mental Retardation.

**Department**—The Texas Department of Mental Health and Mental Retardation.

**Facilities**—TDMHMR state centers, schools, and hospitals.

**Internal audit**—The Office of Internal Audit.

**Management audit**—An independent appraisal activity performed by staff of the Office of Internal Audit which includes determining whether the entity is acquiring,

protecting, and using its resources economically and efficiently; identifying the causes of inefficiency or uneconomical practice; and determining whether the entity has complied with laws and regulations.

**Superintendent/director**—The head of a TDMHMR facility or a community center.

### §401.404. Authority and Function.

(a) The Office of Internal Audit shall be responsible for all management audits of the department, community centers, contractors, and subcontractors.

(b) The director of Internal Audit shall serve at the pleasure of the board and report to members of the board as specified by board policy. The director of Internal Audit shall have access to the commissioner, to whom the board delegates administrative supervisory responsibilities that do not involve substantive internal audit issues.

(c) The commissioner shall appoint the director of Internal Audit subject to the approval of the board.

(d) The Internal Audit staff shall not exercise direct authority over the persons in the organization whose work is under review.

(e) The Internal Audit staff's activities in reviewing, reporting, and appraising of established policies, plans, and procedures shall not in any way relieve operating line department personnel of responsibilities assigned to them.

(f) Follow-up of the implementation of, or action taken on, Internal Audit recommendations shall be the responsibility of operating line department personnel in accordance with Directive 1, Standard Operating Procedure, §1.37.

### §401.405. State Board of Mental Health and Mental Retardation.

(a) The board shall ensure the independence of the Internal Audit function.

(b) The board shall notify the commissioner prior to executing any personnel actions affecting the director of Internal Audit.

(c) The chairman of the audit committee of the board shall initiate, control, and receive reports on all audit activities directly concerning the office of the commissioner.

(d) The director of Internal Audit shall recommend to the chairman of the audit committee routine audits of the commissioner's office and provide information that may call for the special audit of the office of the commissioner.

(e) The director of Internal Audit may advise the chairman of the audit committee on matters relating to the qualifications and selection of independent



consulting auditors capable of performing audit activities of the office of the commissioner.

(f) The director of Internal Audit shall submit through the commissioner to the board audit committee for approval:

(1) the annual plan for the audit workload program, which shall be based on risk analysis and which shall identify individual audits to be performed during the year; and

(2) the internal audit annual operating budget and biennial budget requests.

(g) On a quarterly basis, or more frequently as requested by the chairman of the audit committee, the director of Internal Audit shall provide to the chairman of the audit committee the status of the audit workload program, including exceptions to the timely accomplishment of the annual plan; the status of management's resolution of audit findings; a report of consultations undertaken pursuant to subsection (d) of §401.407 of this title, concerning scope of audit work; and other significant issues involving Internal Audit for its report to the full board.

(h) The director of Internal Audit shall inform the commissioner of any potential issues that may affect the department.

(i) The director of Internal Audit, at the direct request of the chairman of the audit committee, shall provide necessary logistical support services to any independent consulting auditors engaged by the audit committee.

**§401.406. Access to Records.** Members of Internal Audit and consulting auditors shall have unrestricted access to all TDMHMR and community center employees and records that are relevant to the designated scope and objectives of particular audit assignments, including employees and records at all facilities of the department, central office, community centers, and contract and subcontract providers.

**§401.407. Scope of Audit Work.**

(a) Internal audit staff shall evaluate the systems of internal control and the quality of performance of assigned responsibilities at each facility, community center, and central office, and shall:

(1) plan the audit, examine and evaluate operations, communicate results, and follow-up on recommendations within the limits of budgetary constraints, time available, and the significance of findings;

(2) review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;

(3) review the system established to ensure compliance with those poli-

cies, plans, procedures, laws, and regulations that could have a significant impact on operations and reports;

(4) review the means of safeguarding assets and, when appropriate, verify the existence of assets;

(5) appraise the economy and efficiency with which resources are employed;

(6) review operations to ascertain whether results are consistent with established objectives and goals and whether the activities are being implemented as planned;

(7) evaluate the internal and management controls of the department's automated systems during the planning, design, installation, and production phases of the system; and

(8) evaluate the internal and management controls of the department's new programs during development, implementation, and operational stages.

(b) The internal audit staff shall independently conclude on the results of the audit, issue a report to the board and the commissioner identifying significant deficiencies or instances of noncompliance, and recommend corrective action and/or economy and efficiency improvements in the audited entity.

(c) When authorized by the board or the commissioner, Internal Audit shall perform independent investigations of potential fraud and illegal acts and report the results to the chairman of the board, the commissioner, and the Office of Legal Services, except that any reports of fraud or illegal acts involving the office of the commissioner shall not be reported to the commissioner.

(d) The director of Internal Audit may consult the board, the Office of the Governor, the State Auditor's Office, and other legislative agencies or committees concerning matters affecting internal audit duties or responsibilities.

**§401.408. Routine Audits.**

(a) Each facility, community center, and central office shall be audited on a routine basis as described in the annual plan for the audit program.

(b) Audits shall include a site review of the efficiency and economy of management operations as set out in the departmental rules and directives, departmental procedures, and performance contracts.

(c) At the conclusion of the site audit, the following procedures shall be followed:

(1) The internal audit team shall conduct an exit conference with the superintendent/director and his/her staff, at which

time exceptions noted during the course of an audit will be discussed. An attempt will be made to resolve all exceptions at the facility or center level prior to the writing of the audit report.

(2) Within 60 days of the exit conference, Internal Audit shall issue a report to the superintendent/director of a facility or board of trustees and/or executive director at a community center.

(3) Within 30 days of the receipt of the report, facility and community center management shall submit to the director of Internal Audit the management audit response, detailing action to be taken in response to each finding and recommendation contained in the report.

(4) The director of Internal Audit shall issue the report as described in paragraph (2) of this subsection immediately upon publication and shall issue the management response as described in paragraph (3) of this subsection immediately upon receipt to the members of the audit committee of the board and other board members, as requested, with copies distributed to:

(A) the commissioner;

(B) the executive deputy commissioner;

(C) the deputy commissioner for management and support;

(D) the deputy commissioner for Mental Retardation Services;

(E) the deputy commissioner for Mental Health Services;

(F) the director, Budget and Fiscal Services;

(G) the director, Office of Contracts Management, if for a community center;

(H) the director, Legislative Budget Office;

(I) the director, Governor's Budget and Planning Office;

(J) the State Auditor's Office;

(K) the Legislative Reference Library;

(L) the superintendent/director of the audited entity; and



(M) members of the board of trustees of the audited center.

(5) Copies of all routine reports issued by Internal Audit shall be released on request to others by the director, Office of Legal Services.

#### §401.409. Fraud or Other Illegal Acts.

(a) When, during the course of an audit, an internal auditor detects situations or transactions that could be indicative of fraud or other illegal acts, or receives information from external sources alleging such actions, the auditor shall immediately notify the director of Internal Audit who shall:

(1) immediately contact the commissioner providing all pertinent information, except in the case involving the commissioner, in which instance the chairman of the audit committee will be contacted;

(2) formally request approval from the commissioner or chairman of the audit committee to expand audit procedures or perform an investigation, providing an estimate of the personnel resources needed to complete the investigation and an estimated completion date;

(3) extend audit procedures or perform an investigation, upon the authorization of the commissioner or chairman of the audit committee, to obtain sufficient evidence to determine whether in fact such acts have occurred and, if so, the cause of the problem and the possible effect on the entity's operations and programs;

(4) provide interim reports of the investigation to the commissioner as appropriate, but no less frequently than every 115 workdays on critical issues; and

(5) provide the commissioner or chairman of the audit committee a formal report on the results of the investigation, with limited distribution to the board, deputy commissioners and legislative/regulatory bodies. Upon receipt of evidence of illegality, the commissioner or chairman of the audit committee should forward findings to the appropriate legal entity.

(b) The director of Internal Audit shall immediately report to the chairman of the audit committee any impediment to the investigation of fraud or other illegal acts presented by staff in the office of the commissioner.

#### §401.410. Audit Standards.

(a) Audits shall be conducted to conform to audit processes as set out in this subchapter.

(b) Internal Audit shall conduct its activities in a manner that is consistent with the most recent edition of:

(1) *Standards for the Professional Practice of Internal Auditing*, the Institute of Internal Auditors, Inc.;

(2) *Standards for Audit of Governmental Organizations, Programs, Activities and Functions*, the Comptroller General of the United States, as applicable;

(3) the Code of Ethics of the Institute of Internal Auditors, Inc.; and

(4) the Statement of Responsibilities of Internal Auditing of the Institute of Internal Auditors, Inc.

(c) Sufficient and relevant evidence shall be obtained to afford a reasonable basis for the auditor's findings and recommendations.

(d) A written record of the auditor's work shall be retained in the form of working papers.

#### §401.411. Standards of Conduct.

(a) Auditors shall be free from personal or external impairments to independence in order that opinions, conclusions, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties.

(b) Internal auditors shall be prudent in the use of information acquired in the course of their duties.

(c) Auditors shall not use any information obtained in an audit for any personal gain nor in a manner which would be detrimental to the welfare of the department, facilities, or community centers or their officers and employees.

§401.412. *References.* References is made to the following rules, statutes, and publications:

(1) Chapters 401, 403, 405, and 407 of this title, especially Chapter 403, Subchapter A (relating to Community Mental Health and Mental Retardation Centers), and related procedures;

(2) directives of the Texas Department of Mental Health and Mental Retardation and related procedures;

(3) the current General Appropriations Act;

(4) *Texas Laws Relating to Mental Health and Mental Retardation*, a publication of the department which contains Texas laws affecting the operation of the department;

(5) *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions*, the Comptroller General of the United States;

(6) *Standards for the Professional Practice of Internal Auditing*, Institute of Internal Auditors, Inc.;

(7) the Code of Ethics of the Institute of Internal Auditors;

(8) the Statement of Responsibilities of Internal Auditing of the Institute of Internal Auditors, Inc.;

(9) the Governor's Executive Order WPC 87-18, executed November 12, 1987; and

(10) the Texas Internal Auditing Act.

#### §401.413. Distribution.

(a) This subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation, the medical director, deputy commissioners, assistant deputy commissioners, directors, and internal auditors of central office; superintendents/directors of all department facilities; and board of trustees and executive directors of all community centers.

(b) The superintendent/director of a facility and the executive director of a community center shall be responsible for the dissemination of this subchapter to all appropriate staff members.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 16, 1989.

TRD-8905290

Pattlou Dawkins  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 465-4670

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part X. Texas Employment Commission

#### Chapter 305. Interagency Matters

##### Subchapter A. Memorandum of Understanding with Texas Commission for the Deaf (TCD)

###### • 40 TAC §305.1

The Texas Employment Commission (TEC) proposes new §305.1, concerning general provisions pertaining to a memorandum of understanding with the Texas Commission for the Deaf (TCD). The proposal is made pursuant to House Bill 550 of the 70th Texas Legislature, which mandates specified state agencies to adopt by rule memoranda of understanding that describe their respective responsibilities, coordinate the delivery of services to persons who are deaf, and reduce duplication of services.

Section 305.1 adopts by reference an agreement between the Texas Commission for the Deaf and the Texas Employment Commission. The introduction and purpose and the description of programs/services have been adopted by the Commission for the Deaf as 40 TAC §181.913(a) and §181.914(a), respectively, and were published in the November 25, 1988, edition of the *Texas Register* (13 TexReg 5901). The remaining text of this memorandum of understanding is contained in 40 TAC §181.915 published in the March 21, 1989, edition of the *Texas Register* (14 TexReg 1452). Copies of the memorandum of understanding are available from both the Texas Employment Commission and the Texas Commission for the Deaf.

James Hine, deputy administrator, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Hine also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be coordination of effort between TEC and TCD. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Carolyn Calhoun, Office of Special Counsel, TEC Building, 101 East 15th, Room 660, Austin, Texas 78778, (512) 463-2291.

The new section is proposed under Texas Civil Statutes, Article 5221b, which provide the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

*§305.1. Memorandum of Understanding with Texas Commission for the Deaf.* The Texas Employment Commission hereby adopts by reference the terms of a memorandum of understanding entered into with the Texas Commission for the Deaf set out in §§181.913(a), 181.914(a), and 181.915

of this title (relating to the Texas School for the Deaf; the Texas Department on Aging; the Texas Employment Commission). Copies of the memorandum of understanding are available at the Texas Employment Commission, 101 East 15th, Room 660, Austin, Texas 78778.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 14, 1989.

TRD-8905240

Carolyn Calhoun  
Administrative Technician  
IV  
Texas Employment  
Commission

Earliest possible date of adoption: July 24, 1989

For further information, please call: (512) 463-2291

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# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 19. Seed Division

##### Texas Seed Law

###### • 4 TAC §19.1

The Texas Department of Agriculture adopts an amendment to §19.1, without changes to the proposed text as published in the May 12, 1989, issue of the *Texas Register* (14 TexReg 2322).

The amendment is adopted to establish consistency in the use of the term "originator seed" in the marketing of cotton seed.

The amendment adds a definition for originator seed.

Comments generally in favor of the amendment were received from Rio Vista Gin Company, Inc., Fertilizer and Chemical Company, Inc., and Seed Company, Inc.

The amendment is adopted under the Texas Agriculture Code, §61.002 which provide the Texas Department of Agriculture with the authority to adopt rules for administration of the Texas Seed Law, Texas Agriculture Code, Chapter 61.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 13, 1989.

TRD-8905260

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: July 6, 1989

Proposal publication date: May 12, 1989

For further information, please call: 463-7583

###### • 4 TAC §19.3, §19.12

The Texas Department of Agriculture adopts amendments to §19.3 and §19.12, without changes to the proposed text as published in the April 14, 1989, issue of the *Texas Register* (14 TexReg 1815).

The amendments are made in order to aid in the prevention of the spreading of serrated tussock, a noxious weed seed, into Texas.

The amendment to §19.3 adds serrated tussock to the list of prohibited noxious weed seeds. The amendment to §19.12 adds serrated tussock to the list of weed seeds for which no tolerance is allowed.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code, §61.002 which provide the Texas Department of Agriculture with the authority to promulgate rules to enforce Chapter 61; and §61.008 which authorizes the Texas Department of Agriculture by rule to classify noxious weeds and prohibit the inclusion of a noxious weed in a container of agricultural or vegetable seed.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 13, 1989.

TRD-8905261

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: July 6, 1989

Proposal publication date: April 14, 1989

For further information, please call: 463-7583

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 50. Day Activity and Health Services

##### Standards of Operation

###### • 40 TAC §50.3915

The Texas Department of Human Services adopts an amendment to §50.3915 without changes to the proposed text as published in the May 16, 1989, issue of the *Texas Register* (14 TexReg 2411).

The amendment is justified because it provides for a formal agreement between the DAHS facility and the transportation donor.

The amendment will function by allowing donated transportation to be counted (at no cost to the recipient or facility) when determining the hours of service provided to the recipient.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 16, 1989.

TRD-8905287

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: July 17, 1989

Proposal publication date: May 16, 1989

For further information, please call: (512) 450-3765.

## Part III. Texas Commission on Alcohol and Drug Abuse

### Chapter 141. General Provisions

#### Minutes and Recordings

###### • 40 TAC §141.23

The Texas Commission on Alcohol and Drug Abuse adopts an amendment to §141.23, without changes to the proposed text as published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6265).

The amendment was made in order to comply with the mandatory provisions of the Texas Open Meetings Act with respect to recording of meetings by the public, and certification of the agenda of that portion of meetings held in executive session.

The amendment will clarify and express current practices of the commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5561c-2, §1.12 and §1.13, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the function of the commission and make information of public interest available to the public.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 15, 1989.

TRD-8905284

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: July 6, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 463-5510



# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

## Texas State Board of Public Accountancy

The Texas State Board of Public Accountancy will meet at Suite 340, 1033 La Posada, Austin. Dates, times, and agendas will follow.

**Friday, June 23, 1989, 8:30 a.m.** The Executive Committee will review legislative matters; status of report on staff implementation of The Act; discuss possible changes to Texas State Board Report; review of the board's financial matter; review of board's financial statement; review of FY 89 purchases; discussion of FY 90-91 appropriations; discuss revenue forecasts; review of status of computer purchase; review of NASBA/AICPA matters; NASBA regional meeting June 9-10, 1989, Louisville, KY; AICPA/FTC agreement; report on the status of GAO referrals against Texas accounting firms-executive session; discuss implementation of computerized examination on The Rules of Professional Conduct; review of request for reinstatement by Brooks Wilson; assignment of board committees; discussion of status of Sunset report; request to register firm under the "KPMG Peat Marwick"; comments regarding the May 20, 1989, swearing-in ceremony and other matters.

Contact: Bob Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 15, 1989, 2:09 p.m.

TRD-8905266

**Tuesday, June 27, 1989, 9:30 a.m.** The Exam Public Hearing Committee will discuss hearing on complaint number 89-06-01X.

Contact: Bob Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 19, 1989, 4:06 p.m.

TRD-8905344

**Wednesday, June 28, 1989, 9 a.m.** The Behavioral Enforcement Committee will consider status report for May; recommendations regarding specific complaints-licensees; recommendations regarding spe-

cific complaints-nonlicensee; discussion of Barker; Collins; Hamilton; Hoffer; Roe; Smith; Womack; Rose; review of backlog of complaints; proper disposal of confidential materials following Board and committee meetings; proposed schedule of information available over the telephone regarding licenses and exam candidates; change in enforcement procedures regarding initial inquiry letters and information supplied to complainants; walk-on discussion of Hullum, Start and Company.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 19, 1989, 4:06 p.m.

TRD-8905345

**Wednesday, June 28, 1989, 11 a.m.** The Informal Conferences will discuss complaint numbers 88-04-20L and 88-09-10L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 19, 1989, 4:06 p.m.

TRD-8905343

## Texas Department of Agriculture

**Tuesday, July 18, 1989, 1 p.m.** The Department of Agriculture will meet at 122 Heimann Street, First Floor, San Antonio. According to the agenda, the department will meet to review alleged violations of Texas Pesticide laws by Wyatt Birkner doing business as Wyatt's Flying Service, holder of commercial applicator license.

Contact: Cordelia L. Martinez, P.O. Box 12847, Austin, Texas 78711, (512) 465-1609.

Filed: June 19, 1989, 1:59 p.m.

TRD-8905339

## Texas Animal Health Commission

**Thursday, June 15, 1989, 4 p.m.** The Subcommittee of the Texas Animal Health Commission held an emergency meeting in First Floor Conference Room, 210 Barton Springs Road, Austin. According to the agenda, the subcommittee reviewed Brucellosis vaccination regulations, chapter 35.4 and availability of the card test. The emergency status was necessary because needed to discuss necessity of discontinuing field use of the card test because of lack of card test kits; discuss the necessity of changing brucellosis vaccination regulations to reflect actual agency practice.

Contact: Jo Ann Conner, 210 Barton Springs Road, Austin, Texas (512) 479-6697.

Filed: June 15, 1989, 10:21 a.m.

TRD-8905256

## Texas Department of Commerce

**Friday, June 23, 1989, 10:30 a.m.** The Board of Directors will meet in the Teak Room, 111 North Post Oak Lane, Houston. According to the agenda, the board will consider and possibly take action on adoption of TSBIDC resolutions authorizing certain changes to the by-laws and conversion of interest rate on TEXCAP bonds to fixed rate, executing and delivery of certain documents therewith, approving certain projects to be financed under the TEXCAP program and related matters; adjournment.

Contact: Mary Lane, Texas Department of Commerce, (512) 320-9660.

Filed: June 15, 1989, 4:48 p.m.

TRD-8905285

**Monday, June 26, 1989, 9 a.m.** The State Job Training Coordinating Council-Executive Committee will meet at Stouffer Hotel, 9721 Arboretum Boulevard, Austin. According to the agenda summary, the committee will consider policies for programs under the Job Training Partnership

Act (JTPA); action will be taken by the committee on PY89 Title III substate plans; PY89 governor's coordination and special services plan modification; JTPA eligibility policy-definition of family; title III eligibility policy-certificate of continuing eligibility; JTPA eligibility documentation (AFDC/Food Stamps/ JTPA referral form); and PY90-PY91 JTPA goals and objectives/coordination criteria.

Contact: Leslie Ross, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6143.

Filed: June 15, 1989, 3:20 p.m.

TRD-8905273

## Texas Commission for the Deaf

Monday, June 19, 1989, 9 a.m. The Board for Evaluation of Interpreters (BEI) met in emergency session at 23 North Carolina Park, Conroe. According to the agenda, the board discuss new rules proposal; BEI budget; BEI calendar. The executive session reviewed certificate recommendations, evaluations, and revocations; voting on recommendations and chairperson's report. The emergency status was necessary because board needs to complete business remaining from last meeting to submit final report to Commissioners' Meeting on June 22, 1989.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: June 15, 1989, 2:14 p.m.

TRD-8905267

## Texas Education Agency

Friday and Saturday, June 23 and 24, 1989, 8:30 a.m. The State Parent Advisory Council for Migrant Education will meet at Embassy Suites, 300 South Congress Avenue, Austin. According to the agenda, the council will consider minutes; review motions; national migrant conference update; review changes in new legislation for migrant programs; report of dropout effort in state plan; discuss parental involvement policies; discuss the Texas Academic Skills Program; review school improvement plan for chapter 1; update state board of education issues impacting the migrant child; discuss early childhood program; state parent advisory council recommendations for fall 1989 meeting.

Contact: Frank Contreras, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9067.

Filed: June 15, 1989, 3:10 p.m.

TRD-8905268

## Employees Retirement System of Texas

Tuesday, June 27, 1989, 9 a.m. The Board of Trustees will meet in Room 401, ERS Building, 18th and Brazos, Austin. According to the agenda summary, the board will review and approve minutes to trustee meeting; consider and act on investment advisor recommendations and investment of system's funds; request for proposal for master trust custody banking services; procedures to administer appropriations act rider concerning state contribution to group insurance; emergency/proposed amendment to §81.7(e); emergency/proposed amendment to §81.7(f); final adoption of proposed amendment to §81.7(f)(3); proposed amendment to §85.1; proposed amendments to §85.5; proposed amendment to §85.3; adoption of Amendment No. 5 to TexFlex employee benefit plan; appeals of contested cases; agenda development for future meeting.

Contact: William S. Nail, 18th and Brazos, Austin, (512) 476-6431 ext. 213.

Filed: June 16, 1989, 1:52 p.m.

TRD-8905312

## Texas Department of Health

Tuesday, June 27, 1989, 10:30 a.m. The Hospital Data Advisory Committee will meet in Room M-653, 1100 West 49th Street, Austin. According to the agenda summary, the board will conduct new member orientation; introduce committee members and consider Texas Department of Health and Bureau of State Health Data and Policy Analysis; statutory charge to the committee (function and responsibility); hospital data collection; hospital financial and utilization data; hospital discharge abstract data; committee accomplishments; bylaws; travel reimbursement policy and procedures.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1989, 4:06 p.m.

TRD-8905322

Tuesday, June 27, 1989, 1:30 p.m. The Hospital Data Advisory Committee will meet in Room M-653, 1100 West 49th Street, Austin. According to the agenda summary, the committee will introduce new members; approve minutes of previous meeting and consider bureau report from chief of bureau of state data and policy analysis; reporting and collection systems for hospitals, Texas 1987; the 1988 survey status report; discharge data collection system development; Attorney General special task force on non-profit hospitals and unsponsored charity care; fiscal year 1990 workplan; election of officers; next meeting date.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 16, 1989, 4:06 p.m.

TRD-8905323

Friday and Saturday, June 30 and July 1, 1989, 3 p.m. and 10 a.m. respectively The Respiratory Care Practitioners Advisory Board will meet at Ramada Inn Airport, 5660 North IH 35, Austin. According to the agenda summary, the board will approve minutes of previous meeting and consider chairperson's report; program administrator's report; medical direction of home health agencies and durable medical equipment dealers; amendments to rules (25 TAC §§123.1-123.14); applications disapproved by program administrator; other matters not requiring board action.

Contact: Kathy Craft, (512) 458-7631.

Filed: June 16, 1989, 4:03 p.m.

TRD-8905326

## State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street Austin. Dates times, rooms and agendas follow.

Tuesday, June 27, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to hold a public hearing to consider the application of Rudy R. Villarreal, San Antonio, for a local recording agent's license and renewal application for a group II, life health and accident insurance agent's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 16, 1989, 3:58 p.m.

TRD-8905318

Tuesday, June 27, 1989, 10 a.m. The board will meet in Room 414, to consider final action on amendments to 28 TAC §21.102 and §21.104; extension of emergency effectiveness of 28 TAC §7.57, 28 TAC §7.73 and amendments to 28 TAC §9.1; personnel matters; litigation; solvency matters; ethics policy.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 16, 1989, 3:40 p.m.

TRD-8905316

Tuesday, June 27 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to conduct a public hearing to consider the application of John David Everhart, El Paso, for a group I, legal reserve life insurance agent's license.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 16, 1989, 3:38 p.m.

TRD-8905317

Wednesday, June 28, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to reopen a public hearing to consider whether disciplinary action should be taken against Jesse A. Martin, Houston, who holds a group I, legal reserve life insurance agent's license and a group II, life health and accident insurance agent's license issued by the State Board of Insurance.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:31 a.m.

TRD-8905356

Wednesday, June 28, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to conduct a public hearing to consider the disciplinary action against Oscar Humberto Rodriguez, El Paso, and his group I, legal reserve insurance agent's license issued by the State Board of Insurance.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:31 a.m.

TRD-8905355

Wednesday, June 28, 1989, 1:30 p.m. The Board will meet in Room 353, to hold a public hearing to consider a request by staff of the Commissioner of Insurance for determination by the State Board of Insurance of appropriate rates for previously approved rate filings by Pre-Paid Legal Casualty, Inc.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 15, 1989, 11:21 a.m.

TRD-8905262

Wednesday, June 28, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to conduct a public hearing to consider the disciplinary action against Steven Valencia, El Paso, who holds a local recording agent's license issued by the State Board of Insurance.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:33 a.m.

TRD-8905352

Thursday, June 29, 1989, 8 a.m. The Commissioner's Hearing Section will meet in Room 442, to conduct a public hearing to consider the application for approval of amendments to the Articles of Incorporation

of Insurance Investors Life Insurance Company, Fort Worth, changing the location of the company's home office and increasing the company's authorized capital.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:33 a.m.

TRD-8905351

Thursday, June 29, 1989, 8:30 a.m. The Commissioner's Hearing Section will meet in Room 442, to conduct a public hearing to consider the application of LSW Holding Corporation, a Texas corporation, to acquire control of Insurance Investors Life Insurance Company, Fort Worth, pursuant to the Insurance Code, Article 21.49-1, §5; the issuance of a \$58,000,000.00 surplus debenture by Insurance Investors Life Insurance Company, to LSW Holding Corporation, pursuant to the Insurance Code, Article 21.49-a, §4(d); and the investment by Insurance Investors Life Insurance Company, in 100% of the issued and outstanding common capital stock of Life Insurance Company of the Southwest, Dallas, pursuant to the Insurance Code, Article 21.49-1, §4(d) and §6(b)(4).

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:32 a.m.

TRD-8905354

Thursday, June 29, 1989, 8:30 a.m. The Commissioner's Hearing Section will meet in Room 442, to conduct a public hearing to consider the application of LSW Holding Corporation, a Texas corporation, to, directly or through a designated subsidiary, acquire control of Life Insurance Company of the Southwest, Dallas, pursuant to the Insurance Code, Article 21.49-1, §5; and the investment by Insurance Investors Life Insurance Company, Fort Worth, in 100% of the issued and outstanding common capital stock of Life Insurance Company of the Southwest, Dallas, pursuant to the Insurance Code, Article 21.49-1, §4(d) and §6(b)(4).

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:32 a.m.

TRD-8905353

Thursday, June 29, 1989, 8:45 a.m. The board will meet in Room 414, to consider extension of effective date of Personnel Manual.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 20, 1989, 9:01 a.m.

TRD-8905350

Thursday, June 29, 1989, 9 a.m. The board will meet in Room 414, to conduct a public hearing to consider the appeal of Julius Ott Duncan, Jr. from commissioner's order 88-1336.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 16, 1989, 3:38 p.m.

TRD-8905314

Thursday, June 29, 1989, 10:30 a.m. The board will meet in Room 414, to conduct a public hearing to consider the appeal of Billy Arnold Baker from commissioner's order 88-1713.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 16, 1989, 3:38 p.m.

TRD-8905315

Friday, June 30, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to conduct a public hearing to consider the application of Charles Lee Johnson, Austin, for a group I, legal reserve life insurance agent's license to be issued by the State Board of Insurance.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 20, 1989, 9:31 a.m.

TRD-8905357

## Interagency Council on Early Childhood Intervention

Wednesday, June 28, 1989, 8:30 a.m. The Council will meet in Room M-418, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear public comments and consider medicaid enhancement projects; Texas Department of Health Management Audit and need for external audit; research and evaluation responses; request for salary upgrades from Texarkana special education center; approval of request to the office of the governor to establish an exempt position; and performance evaluation of administrator.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: June 16, 1989, 4:04 p.m.

TRD-8905325

## Texas Juvenile Probation Commission

Friday, July 7, 1989, 8:30 a.m. The Board will meet at 1253 West 19th Street, San Angelo. According to the agenda, the board

will approve minutes of April 7, 1989; legislative report; approval of revision of FY 1989 administration budget; approval of state aid fund allocations for FY 1990; approval of challenge grant programs for FY 1990; discuss and approve community corrections programs for FY 1990; public comment. Members of the public are invited to attend this meeting and speak on any issue under the jurisdiction of the commission.

Contact: Bill Anderson, P.O. Box 13547, Austin, Texas 78711

Filed: June 15, 1989, 10:31 a.m.

TRD-8905263

### Texas Department of Labor and Standards

Tuesday, June 27, 1989, 9 a.m. The Board of Boiler Rules will meet at Houston Dow Center, 400 West Belt South, Houston. According to the agenda, the board will discuss approval of March 9, 1989 minutes; review assignments; discuss future assignments; next meeting date.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: June 19, 1989, 8:54 a.m.

TRD-8905330

Friday, June 30, 1989, 9 a.m. The Air Conditioning and Refrigeration Section will meet at Tenth Floor, E. O. Thompson State Office Building, 920 Colorado Street, Austin. According to the agenda, the committee will receive comments from the public on the air conditioning and refrigeration section's adoption of 16 TAC, §75.100(b) pursuant to numerous requests from the public.

Contact: George Bynog, P.O. Box 12172, Austin, Texas 78711, (512) 463-2904.

Filed: June 19, 1989, 8:54 a.m.

TRD-8905331

### Board of Pardons and Paroles

Tuesday, June 27, 1989, 1:30 p.m. The Board will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: June 19, 1989, 11:35 a.m.

TRD-8905338

### Structural Pest Control Board

Monday, July 10, 1989, 8:30 a.m. The board will meet in Suite 201, 9101 Burnet Road, Austin. According to the agenda, the board will approve minutes of May 22 and 23, 1989 board meetings; discuss pending litigation; William A. Cohn will appear before the board; miscellaneous.

Contact: David A. Ivie, 9101 Burnet Road, Suite 201, Austin, Texas (512) 835-4066.

Filed: June 16, 1989, 10:28 a.m.

TRD-8905294

Tuesday, July 11, 1989, 8:30 a.m. The board will meet at Suite 201, 9101 Burnet Road, Austin. According to the agenda summary, the board will consider executive director's report; approval of the proposed rules for criteria for continuing education programs; public notice proposed rules for license fees, insurance, administrative penalties, and license requirement; Ron Adams to appear before the board; Tommy Tomlin doing business as Tomlin Termite and Pest Control to appear before board; Faye Hawkins to appear before the board; miscellaneous.

Contact: David A. Ivie, 9101 Burnet Road, Suite 201, Austin, Texas (512) 835-4066.

Filed: June 16, 1989, 10:28 a.m.

TRD-8905295

### Public Utility Commission of Texas

Thursday, July 6, 1989, 1:30 p.m. The Hearings Division will meet at Suite 450N, 8610 Shoal Creek Boulevard, Austin. According to the agenda, the commission will consider Docket No. 8631-complaint of Michael Schaefer against Houston Lighting and Power Company regarding the sufficiency of security deposit has been rescheduled from Thursday, June 22, 1989 to this date.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 16, 1989, 3:16 p.m.

TRD-8905320

Tuesday, September 5, 1989, 9 a.m. The Hearings Division will meet at Suite 450N, 8610 Shoal Creek Boulevard, Austin. According to the agenda, the commission will consider Docket No. 8806 application of Southwestern Bell Telephone Company for approval of a two-year renewal of Shell Development Company's Plexar (sm) custom service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 16, 1989, 3:16 p.m.

TRD-8905319

### Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Friday, June 30, 1989, 10 a.m. The Committee will meet on Fifth Floor, Room 5502, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will introduce guests; accept minutes from March 31, 1989 meeting; discuss and act on proposed rule changes for review of TIBH budget; new services; renewal services; centex training center's rest area maintenance contract; contracts with six months provisional approval; technical enhancement services; new products; product changes and revisions; federal government pricing; report by state auditor; discuss highway department time and motion studies on litter pickup.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: June 20, 1989, 8:27 a.m.

TRD-8905348

### Texas Racing Commission

Monday, June 19, 1989, 8 a.m. The Texas Racing Commission submitted an emergency revised agenda for a meeting held on Third Floor Auditorium, First State Bank Building, 400 West 15th Street, Austin. According to the agenda summary, the commission will discuss and vote on procedure to finalize approval of licensed racetracks; vote to adopt as emergency rules and propose new §§303.84-303.85, 305.36, 305.47-305.48, 309.67, 309.363, 311.156, 313.6, 313.26, 313.53-313.61, 313.111, 313.310-313.314, 313.410, 319.13-319.14, 319.109, 319.112; vote to adopt as emergency rules and propose amendments to §§301.1, 305.247, 309.26, 309.53, 309.102, 309.155, 309.181, 309.193, 309.351; adopt as emergency rules new §§303.42, 305.35, 309.32, 309.66, 309.198-309.201, 311.155, Chapter 311, Subchapter c, Chapter 313, and Chapter 321; adopt as emergency rules amendment to §§303.151, 305.6, 305.13, 305.33, 309.12, 309.56, 309.114, 309.116, 309.196; vote to adopt §§303.102, 309.362, 311.153, 311.172, Chapter 319; vote to adopt amendments to §309.63; discuss §§305.62, 305.709; executive session of greyhound racing section to consider management agreement of Valley Greyhound Park, Inc.; vote to approve management agreement. The emergency status was necessary because commission needed to expedite the receipt of state revenue from pari-mutuel wagering on horse and greyhound races by ensuring the



rules of horse racing are adopted and by approving certain aspects of licensed race-tracks' proposals.

Contact: Paula Cochran Carter, 400 West 15th Street, Austin, Texas, (512) 476-7223.

Filed: June 15, 1989, 4:32 p.m.

TRD-8905282

Sunday, June 25, 1989, 1 p.m. The Greyhound Section will meet at Guido's Restaurant, Meeting Room, 3828 Sea Wall Boulevard, Galveston. According to the agenda, the commission will discuss the purpose of viewing potential sites for the Galveston County greyhound racetrack. The commission will proceed by car to Bay Greyhound Racing Associates, Ltd. Partnership Galveston Island, Port Industrial Boulevard; Galveston Greyhound Associates, FM 1765 and Delanuy Road; Gulf Greyhound partners, Ltd; South of FM 1764 and West of FM 2004; Lone Star Greyhound Park, Inc., North of FM 1764 - .8 miles southwest of Interstate 45 and Calder Road, then the commission will return by car to Scholes Arifield.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 476-7223.

Filed: June 16, 1989, 4:53 p.m.

TRD-8905328

## Railroad Commission of Texas

Monday, June 26, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters. Discussion of the development of a natural gas clearing house that would match companies that need gas to fuel new plants with producers that have gas to sell-possible action.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7257.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905302

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905309

The commission will consider and act on the executive director's report on commis-

sion budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905308

The commission will consider and act on the Flight Division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6787.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905304

The commission will consider and act on the Office of Information Services/Office of Research and Statistical Analysis Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-6710.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905300

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905303

The commission will consider and act on the Legal Division report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation including the following matters: cause 465,506 Parkway Transport Inc., et al. v. Railroad Commission of Texas. Report to commission on gas storage.

Contact: Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905305

The commission will consider and act on the LP Gas Division director's report on division administration, budget, procedures,

and personnel matters. Consideration of proposal for public comment amendment to §13.13 and proposed new §13.100 pertaining to the regulations for compressed natural gas of the Liquefied Petroleum Gas Division of the commission.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905299

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Andy Taylor, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6924.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905297

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905301

The commission will consider use of additional state funds for the plugging of the Murchison, West Lease, Well 1, Richland Field, Navarro County.

Contact: Willis Steed, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6830.

Filed: June 16, 1989, 10:17 a.m.

TRD-8905310

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline, and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905307

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may

take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905306

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date. Consideration of a declaratory order to interpret the certificates listed in Appendix A.

Contact: Raymond Bennett, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7122.

Filed: June 16, 1989, 10:27 a.m.

TRD-08905296

### Texas National Research Laboratory Commission

Friday, June 30, 1989, 9:30 a.m. The commission will meet at 2800 Momentum Place, 1717 Main Street, Dallas. According to the agenda, the commission will discuss approval of May 25, 1989 minutes; chairman's comments; executive director's report; committee reports; commission old business; commission new business.

Contact: Frances K. Springer, 1801 North Hampton Road, Suite 252, DeSoto, Texas 75115, (214) 709-6481.

Filed: June 20, 1989, 8:32 a.m.

TRD-8905349

### Texas Department of Public Safety

Thursday, June 29, 1989, 10 a.m. The Public Safety Commission will meet in Commission Room, Department of Public Safety Headquarters, 5805 North Lamar, Austin. According to the agenda, the commission will consider approval of minutes; budget matters; personnel matters; real estate matters; pending and contemplated litigation; miscellaneous and other unfinished business.

Contact: Joe Milner, 5805 North Lamar, Austin, Texas (512) 465-2000, ext. 3700.

Filed: June 16, 1989, 11:04 a.m.

TRD-8905298

### Texas Small Business Industrial Development Corporation

Friday, June 23, 1989, 10 a.m. The Board of Directors will meet in Teak Room, Houstonian Club, 111 North Post Oak Lane, Houston. According to the agenda, the board will introduce board members; approve minutes of May 9 and May 30, 1989 meetings; consider and possibly act upon to authorize certain changes to the by-laws due to H.B. 4 and other changes relating to activities of the corporation; consider and possibly act upon conversion of interest rate on TEXCAP bonds to fixed rate; executing and delivery of certain documents therewith, approving certain projects to be financed under the TEXCAP program and related matters.

Contact: Mary Lane, (512) 320-9660.

Filed: June 15, 1989, 4:45 p.m.

TRD-8905283

### Texas Southern University

Friday, July 7, 1989, 9 a.m. The Board of Regents will meet in University Library, Fifth Floor, Houston. According to the agenda, the board will consider minutes; budget changes; investments; and consideration of the 1990 Annual Budget; budgets for restricted and/or grants and projects funds; construction change orders; payment to architects contractors and engineers; authorization and ratification of contracts and awards; review of on going construction and current contractual relations; personnel actions; report on progress of academic activities and programs; report of the president; executive session.

Contact: Everett O. Bell, 3100 Cieburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: June 19, 1989, 10:29 a.m.

TRD-8905336

### Texas State Library and Archives Commission

Thursday, June 29, 1989, 2 p.m. The Records Management and Preservation Advisory Committee will meet in Training Room, 4400 Shoal Creek Boulevard, Austin. According to the agenda, the committee will review bills that passed legislative session; review responses to the micrographics questionnaire; discuss recommendations to the legislature due March 1, 1990; report of the status of submission of retention schedules; other business brought before the committee.

Contact: Susan Ternison, Mail Code 833-C, P.O. Box 2960, Austin, Texas (512) 450-4557.

Filed: June 19, 1989, 9:28 a.m.

TRD-8905335

### TEXCAP Financing Corporation

Friday, June 23, 1989, 10:24 a.m. The Board of Directors of the TEXCAP Financing Corporation will meet in Teak Room, Houstonian Club, 111 North Post Oak Lane, Houston. According to the agenda, the board will consider and possibly take action on adoption of resolution authorizing execution and delivery of second amendment to letter of credit agreement.

Contact: Mary Lane, (512) 320-9660.

Filed: June 15, 1989, 4:48 p.m.

TRD-8905284

### University of Texas at Arlington

Monday, June 26, 1989, 1 p.m. The Institutional Animal Care and Use Committee will meet at 323 Life Sciences Building, Psychology Department, University of Texas at Arlington. According to the agenda, the committee will discuss findings of facilities inspection; orientation for animal personnel scheduled for September 1989.

Contact: Dr. Verne Cox, University of Texas at Arlington, Psychology Department, (817) 273-3164.

Filed: June 20, 1989, 8:21 a.m.

TRD-8905347

### University System of South Texas

Thursday, June 22, 1989, 8:30 a.m. The Board of Director's Building Committee met at Founders' Room, Lewis Hall, Texas A&I University, Kingsville. According to the agenda, the board will consider renovation project of Corpus Christi Hall at Corpus Christi State University; Lewis/Eckhardt Hall air conditioning project at Texas A&I; increased cost estimates for swimming pool project at Texas A&I; discuss other construction needs within the system.

Contact: Frederick Bigelow, P.O. Box 1238, Kingsville, Texas (512) 595-2208.

Filed: June 16 1989, 10:36 a.m.

TRD-8905292

Thursday, June 22, 1989, 9 a.m. The Board of Directors' Academic Programs Review Committee met at Founders' Room, Lewis Hall, Texas A&I University, Kingsville. According to the agenda, the board will consider master of Science Degree in Mariculture at Corpus Christi State University.

sity; Master of Science Degree in Environmental Engineering at Texas A&I University; Science Degree in Industrial Engineering at Texas A&I University; Graduate School of International Trade at Laredo State University.

Contact: Frederick Bigelow, P.O. Box 1238, Kingsville, Texas (512) 595-2208.

Filed: June 16 1989, 10:36 a.m.

TRD-8905291

Thursday, June 22, 1989, 9:30 a.m. The Board of Director's met at Founders' Room, Lewis Hall, Texas A&I University, Kingsville. According to the agenda the board will consider April 21 minutes; routine budget changes; gifts and donations; small class reports, fee changes; awarding professor emeritus status to retirees; recommendations from Building Committee regarding renovation and construction projects and recommendations from Academic Programs Review Committee regarding master science in Mariculture at CCSU, Master of science in Environmental Engineering at Texas A&I, and graduate school in International Trade at Laredo State; discuss routine personnel changes, legal matters and naming interim president at Texas A&I; consider routine personnel changes and signature changes; appointment of Interim President at A&I reports from chancellor and presidents; time and place of next meeting.

Contact: Frederick Bigelow, P.O. Box 1238, Kingsville, Texas (512) 595-2208.

Filed: June 16 1989, 10:36 a.m.

TRD-8905293

## Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times and agendas follow.

Monday, June 26, 1989, 10 a.m. The commission will consider various matters within the regulatory jurisdiction of the Texas Water Commission of Texas. In addition, the Texas Water Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Texas Water Commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: June 15, 1989, 2:52 p.m.

TRD-8905279

Thursday, July 6, 1989, 10 a.m. The commission will consider whether to issue a temporary order to the City of McKinney,

222 North Tennessee, McKinney, Texas 75069. The order would authorize the City of McKinney to discharge 1,924 cubic feet of untreated domestic wastewater effluent from its Greenville Avenue sanitary sewer lift station into a temporarily constructed earthen holding pit adjacent to the lift station. The lift station and proposed holding pit are located west of the Southern Pacific right-of-way and approximately one mile south of U.S. Highway 380 in Collin County, Texas. The temporary order would terminate twenty days from the date of issuance of four hours after repairs at the lift station are completed, whichever comes first.

Contact: Irene L. Montelongo, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: June 15, 1989, 2:52 p.m.

TRD-8905280

Tuesday, August 29, 1989, 10 a.m. The commission will consider R. Marvin Shipman/Trust Estate - application no. 5141, seeks to divert and use not to exceed 108 acre-feet of water per annum directly from the Frio River, tributary of the Nueces River, Nueces River Basin to irrigate 54 acres of land within two tracts totaling 99.742 acres (a 54.523-acre tract and a 45.219-acre tract) in the J. Hodges Survey No. 27, Abstract No. 259 and the E. Pennington Survey No. 631, Abstract No. 389, approximately 2 miles northeast of Concan, Uvalde County, Texas.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 15, 1989, 2:54 p.m.

TRD-8905275

Tuesday, August 29, 1989, 10 a.m. The commission will consider Charles R. Irwin-application 4339a, applicant, seeks to amend Permit No. 4118 to authorize an extension of the term of the permit beyond the current expiration date of December 31 1989. Permit No. 4118 authorizes the direct diversion and use of not to exceed 50 acre-feet of water per annum from the Leona River, tributary of the Frio River, tributary of the Nueces River, Nueces River Basin, to irrigate 25 acres of land out of a 27.8 acre tract, approximately 24 miles northeast of Crystal City, Zavala County, Texas.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: June 15, 1989, 2:54 p.m.

TRD-8905274

Tuesday, August 29, 1989, 10 a.m. The commission will consider the Luling Foundation, Application No. 5234, applicant seeks to divert a total of 1,022 acre-feet of water per annum from the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, to irrigate 511 acres of land out of 1,127.37 acres within several tracts in the Solomon Seals Survey, Ab-

stract No. 24, and Isaacs Weldon Survey, Abstract No. 27, approximately two miles west of Luling, Caldwell County, Texas.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 15, 1989, 2:54 p.m.

TRD-8905278

Tuesday, September 5, 1989, 10 a.m. The commission will consider Phillips Petroleum Company, Applicant No. 5242, applicant seeks to divert not to exceed 1,552 acre-feet of water per annum from the underflow of the Brazos River, Brazos River Basin for mining purposes. The water will be injected into the ground for oil field secondary recovery purposes within the William Marshall Survey No. 2, Abstract No. 468 in Stonewall County and the J. G. Eustis Survey No.2, Abstract No. 553, in King County. The areas where water is to be injected are located approximately 25 miles northeast of Aspermont, Texas.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 15, 1989, 2:53 p.m.

TRD-8905276

Tuesday, September 12, 1989, 10 a.m. The commission will consider David L. Kelley & Suzanne S. Kelly, Application No. 4419a, applicants seek to amend Permit No. 4091 to authorize the diversion and use of not to exceed 448 acre-feet of water per annum from the reservoir for the irrigation of 224 acres of land out of two tracts totaling 224.28 acres in the William Ashworth Survey, Abstract No. 24, Williamson County, approximately 12 miles east of Georgetown, Texas. Water will be diverted from several points on the perimeter of the reservoir at a maximum combined diversion rate of 2.6 cfs (1,200 gpm).

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266.

Filed: June 15, 1989, 2:53 p.m.

TRD-8905277

Tuesday, September 12, 1989, 10 a.m. The commission will consider Brewster Farms, Inc., Application No. 4310A, applicant seeks to amend Permit No. 4112 by deleting or extending the term provision included in the permit. Permit No. 4112 was issued on May 7, 1984 authorizing the diversion and use of not to exceed 84 acre-feet of water per annum from the Leona River, tributary of the Frio River, tributary of the Atascosa River, tributary of the Nueces River, Nueces River Basin, at a maximum rate of 1.1 cfs (500gpm) to irrigate 42 acres of land in Zavala County approximately 30 miles northeast of Crystal City, Texas.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: June 15, 1989, 2:54 p.m.

TRD-8905269

Tuesday, September 12 1989, 10 a.m. The commission will consider Texas-New Mexico Power Company, Application No. 5148A, applicant seeks to amend water use Permit No. 5148 to increase the amount of water authorized for diversion and use for industrial purposes from Pond 001, located approximately 13.25 miles west-northwest of Franklin, Robertson County; and Pond 002, located approximately 13.6 miles west-northwest of Franklin. Applicant seeks to divert and use not to exceed 70 acre-feet of water per annum from the perimeter of Pond 003 at a maximum rate of 1.1 cfs (500 gpm) for industrial purposes at the plant. The dam for Pond 003 will be in the Thomas Mudd Survey, Abstract no. 229, approximately 12.5 miles northwest of Franklin. The diversions and usage will be from tributaries in the Brazos River Basin.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: June 15, 1989, 2:54 p.m.

TRD-8905324

## Regional Meetings

### Meetings Filed June 15, 1989

The Coryell County Appraisal District, Appraisal Review Board, met at Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, on June 22, 1989, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Education Service Center, Region VIII, Board of Directors, met at Education Service Center, F.M. 1734, Mt Pleasant, on June 22, 1989 at 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75455.

The Education Service Center, Region XX, Board of Directors, will meet at 1314 Hines Avenue, San Antonio, on June 28, 1989 at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208 (512) 299-2400.

The Gray County Appraisal District, Appraisal Review Board, held an emergency meeting at 815 North Sumner, Pampa, on June 16, 1989, at 9 a.m. Information may be obtained from P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791.

The Gregg Appraisal District, Appraisal Review Board, met at 2010 Gilmer Road, Longview on June 20-23, 1989, at 8:15 a.m., 9 a.m., 9 a.m. and 8:45 a.m. respectively. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Kendall County Appraisal District, Appraisal Review Board, will meet at 123 West John Road, Boerne Independent School District Board Room, on June 21-23

at 9 a.m. daily. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 780067, (512) 249-8012.

The Lampasas County Appraisal District, Appraisal Review Board, met at 109 East Fifth, Lampasas, on June 20 and 21, at 9 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main, Hallettsville, on June 26, 1989 at 1 p.m. Information may be obtained from Dinae Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main, Hallettsville, on June 28, 1989 at 9 a.m. Information may be obtained from Dinae Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Leon County Central Appraisal District, Board of Directors, met at Gresham Building, Leon County Central Appraisal District, Centerville, on June 19, 1989, at 7:30 p.m. Information may be obtained from Robert M. Winn, P. O. Box 536, Centerville, Texas 75833, (512) 536-2252.

The North Texas Private Industry Council, Inc., will meet in Room 215, Wichita Falls Activities Center, 10th and Indiana, Wichita Falls, on June 28, 1989 at 12:15 p.m. Information may be obtained from Art Frerich, 4515 Allendale Road, Wichita Falls, Texas 76310, (817) 691-0020.

The Panhandle Regional Planning Commission, Board of Directors, met at 2736 West Tenth, PRPC Conference Room, Amarillo, on June 22, 1989 at 1:30 p.m. Information may be obtained from Pamela Nielsen, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381.

The San Antonio River Authority, Board of Directors, met at 100 East Guenther Street, San Antonio, on June 21, 1989 at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0028, (512) 227-1373.

The Wood County Appraisal District, Appraisal Review Board, met at 217 North Main, Conference Room, Wood County Appraisal District, Quitman, on June 19-23, 1989 at 9 a.m. daily. Information may be obtained from Carson Wages, 217 North Main, Quitman, Texas.

TRD-8905257

### Meetings Filed June 16, 1989

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on June 23, 1989 at 5 p.m. Information may be obtained from

Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Central Counties Center for MHMR Services, Board of Trustees, met at 304 South 22nd Street, Temple, on June 20, 1989 at 7:45 p.m. Information may be obtained from Michael K. Muegge, 304 South 22nd Street, Temple, Texas 76503.

The Coastal Bend Council of Governments, Membership, will meet in Commissioners Courthouse, Third Floor, Nueces County Courthouse, 901 Leopard Street, Corpus Christi, on June 23, 1989 at 2 p.m. Information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

The Dallas Area Rapid Transit, Budget and Finance Committee and Planning and Development Committee, met at 601 Pacific Avenue, Board Conference Room, Dallas, on June 20, 1989 at 2 p.m. and 3 p.m. respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center, Region III, Board of Directors, met at Ramada Inn Conference Room, 3901 Houston Highway, Victoria, on June 19, 1989 at 1:30 p.m. Information may be obtained from Dr. Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901.

The Education Service Center, Region XV, Board of Directors, will meet in Conference Room #1, 612 South Irene Street, San Angelo, on June 22, 1989 at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571.

The Edwards County Appraisal District, Appraisal Review Board, will meet in New County Annex Building, Rocksprings, on June 23, 1989, at 9:30 a. m. Information may be obtained from Natalie McNealy, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189.

The Houston-Galveston Area Council, Projects Review Committee and Board of Directors, met at Fourth Floor Board Room, 3555 Timmons Lane, Houston, on June 20, 1989 at 9 a.m. and 10 a.m. respectively. Information may be obtained from Rowena Ballas, (713) 627-3200.

The Jack County Appraisal District, Appraisal Review Board, met at Los Creek Office Building, 216-D South Main Street, Jacksboro, on June 21 and 22, 1989, at 8 a.m. Information may be obtained from Gary L. Zeitler or Donna Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Jack County Appraisal District, Appraisal Review Board, met at Jack County Agriculture and Science & Technology Building, 819 West Belnap, on June 23, 1989, at 9 a.m. Information may be obtained from Gary L. Zeitler or Donna

Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lower Colorado River Authority, Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, on June 20, 1989 at 1 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 3700, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Planning and Public Policy Committee, Natural Resources Committee, Energy Operations Committee, Finance and Operations Committee, and Audit and Budget Committee, met at 3700 Lake Austin Boulevard, Austin, on June 21, 1989 at 9 a.m. Information may be obtained from Glen Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The South Texas Development Council, Board of Trustees, will meet in Commissioners Courtroom Courthouse Annex, Zapata on June 23, 1989, 11 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The South Texas Development Council, Board of Directors, will meet in Commissioners Courtroom, Courthouse Annex, Zapata on June 23, 1989, 2 p.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Tarrant Appraisal District, Board of Directors, met at 2301 Gravel Road, Fort Worth, on June 22, 1989 at 9:30 a.m. Information may be obtained from Olive Miller, (817) 595-6005.

The Trinity River Authority of Texas, Administration Committee, met at 5300 South Collins, Arlington, on June 20, 1989 at 10:30 a.m. Information may be obtained from Jack Worsham, 5300 South Collins, Arlington, Texas 76004, (817) 467-4343.

The Trinity River Authority of Texas, Resources Development Committee, met at 5300 South Collins, Arlington, on June 20, 1989 at 2 p.m. Information may be obtained from Jack Worsham, 5300 South Collins, Arlington, Texas 76004, (817) 467-4343.

The Upshur County Appraisal District, Appraisal Review Board, met at Upshur County Appraisal District Office, Warren & Trinity Street, Gilmer, on June 20 and 22, 1989 at 8 a.m. daily. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

TRD-8905286

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**Meetings Filed June 19, 1989**

The Austin-Travis County MHMR Center, Board of Trustees, will meet at 1430 Collier Street, Room 191, Austin, on June 29, 1989 at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, (512) 447-4141.

The Barton Springs/Edwards Aquifer Conservation District, Work Session Board of Directors, will at 1124 Regal Row, Austin, on June 23, 1989 at 2 p.m. Information may be obtained from Bill Couch, 1124 Regal Row, Austin, Texas 78745.

The Bastrop County Appraisal District, Appraisal Review Board, will meet at 1200 Cedar Street, Bastrop, on June 27 and June 29, 1989 at 7 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Cass County Appraisal District, Appraisal Review Board, met at 400 North Main Street, Linden, on June 22 and 26, 1989, at 9 a.m. daily. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (214) 756-7545.

The Central Appraisal District of Johnson County, Appraisal Review Board, will meet at Room 202, 109 North Main, Cleburne, on July 6 and 7, 1989 at 9 a.m. daily. Information may be obtained from Jackie Gunter, 109 North Main, Cleburne, Texas 76031, (817) 645-3987.

The Central Appraisal District of Taylor County, Appraisal Review Board, will meet at 1534 South Treadaway, Abilene, on June 26-30, July 5-7, 10-14, and 17-20, 1989 at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Dallas Central Appraisal District, Appraisal Review Board, will meet at 1420 West Mockingbird Lane, Suite 500, Dallas, on June 23, 1989, at 2 p.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Deep East Texas Regional MHMR Services, Board of Trustees, will meet at Ward R. Burke Community Room-Administration Facility, 4101 South Medford Drive, Lufkin, on June 27, 1989 at 4 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901.

The Deep East Texas Council of Governments, Board of Directors, met at Lufkin Civic Center, Lufkin, on June 22, 1989, at 11 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar, Jasper, Texas 75951.

The Erath County Appraisal District, Appraisal Review Board, will meet at Board Room, 1390 Harbin Drive, on June 28 and 30, 1989 at 9 a.m. daily. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Gonzales County Appraisal District, Appraisal Review Board, met at 928 St. Paul Street, Gonzales, on June 22, 1989, at 6 p.m. Information may be obtained from

Glenda Strackenbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Henderson County Appraisal District, Appraisal Review Board, met at 1751 Enterprise, Athens, on June 22 and 23, 1989, at 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

The Lamar County Appraisal District, Board of Directors, will meet at Lamar County Appraisal District, 521 Bonham Street, Paris, on June 27, 1989 at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas (214) 785-7822.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee, will meet at 403 East Nopal, Carrizo Springs, on June 26, 1989 at 4 p.m. Information may be obtained from Dora Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Middle Rio Grande Development Council, Regional Review Committee, will meet at Commissioner's Court, Uvalde County Courthouse, Uvalde, on July 7, 1989 at 1:30 p.m.

The Mills County Appraisal Review Board, Appraisal Review Board, will meet at Mills County Courthouse, Goldthwaite, on June 27-28, 1989 at 8:30 a.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The Texas Municipal League (Risk & Insurance Management Services), Board of Trustees, met at Wyndham Corpus Christi, Corpus Christi, June 22, 1989 at 10 a.m. Information may be obtained from Rhonda Ruckel, 211 East Seventh Street, Suite 1020, Austin, Texas 78701, (512) 478-6601.

The North Central Texas Council of Governments, Executive Board, met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, on June 22, 1989, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 760056-5888, (817) 640-3300.

The Northeast Texas Municipal Water District, Board of Directors, will meet at Highway 250 South, Hughes Springs, on June 26, 1989 at 10 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (214) 639-7538.

The Sabine River Authority of Texas, Executive Committee Budget Workshop, will meet at Golden Corral Restaurant, Carthage on June 26, 1989 at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-3200.

The Tyler County Appraisal District, Appraisal Review Board, will meet at 806 West Bluff, Woodville, on June 28, 1989 at

9 a.m. Information may be obtained from  
Linda Lewis, P.O. Drawer 9, Woodville,  
Texas 75979, (409) 283-3726.

TRD-8905329

### Meeting Filed June 20, 1989

The Gillespie Central Appraisal District,  
Board of Directors, will meet in City Hall  
Assembly Room, Fredericksburg, on June  
29, 1989, at 9 a.m. Information may be

obtained from Mary Lou Smith, P.O. Box  
429, Fredericksburg, Texas 78624, (512)  
997-9807.

TRD-8905346

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department of Commerce Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1989, is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a) (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000 with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, June 5, 1989-June 9, 1989.

Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds as Pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the \$279,750,000 subceiling for qualified mortgage bonds under the Act as of June 9, 1989: \$93,251,166.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of June 9, 1989: \$164,812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of June 9, 1989: \$2,500.

Total amount of the \$839,250,000 state ceiling remaining unreserved as of June 9, 1989: \$258,066,166.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from June 5, 1989-June 9, 1989: None.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from June 5, 1989-June 9, 1989: None.

Issued in Austin, Texas on June 15, 1989.

TRD-8905270 J. William Lauderback  
Executive Director  
Texas Department of Commerce

Filed: June 15, 1989

For further information, please call (512) 472-5059

## Texas Department of Community Affairs

### Correction of Error

The Texas Department of Community Affairs submitted a Notice of Block Grant Hearings which contained an error as published in the June 13, 1989, issue of the *Texas Register* (14 TexReg 2961).

The third paragraph should read: "Four public hearings have been scheduled at the locations and times listed below: June 28, 1989, TDCA First Floor, 1:30 p.m., Conference Room 1-96, 8317 Cross Park Drive, Austin; June 29, 1989, Conference Room, 1:30 p.m., Coastal Bend Council of Governments, 2910 Leopard Street, Corpus Christi; July 5, 1989, Committee Room, 7 p.m., City of Lubbock Public Library, 1306 Ninth Street, Lubbock; July 6, 1989, Committee Room--Second Floor, 7 p.m., North Central Texas Council of Governments, Centerpoint Two Building, 616 Six Flags Drive, Arlington.

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> /Agri- cultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	06/19/89-06/25/89	18.00%	18.00%

Monthly Rate <sup>(1)</sup> Art. 1.04(c)	06/01/89-06/30/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	07/01/89-09/30/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	07/01/89-09/30/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	07/01/89-09/30/89	17.31%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	07/01/89-09/30/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	07/01/89-09/30/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	07/01/89-09/30/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	06/01/89-06/30/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on June 12, 1989.

TRD-8905237 Al Endsley  
Consumer Credit Commissioner

Filed: June 14, 1989

For further information, please call: (512) 479-1290

### Texas Department of Health Correction of Error

The Texas Department of Health submitted an adopted amendment which contained an error as submitted by the department in the May 30, 1989, issue of the *Texas Register* (14 TexReg 2618).

In §145.212, paragraph (c)(9) should read: "(9) Facilities shall comply with Subchapter O of this chapter (relating to Architectural Manual of Facilities Serving the Mentally Retarded)."

### Intent to Revoke Radioactive Material Licenses

The Bureau of Radiation Control, Texas Department of Health, filed complaints against the following licensees, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the radioactive material licenses, order the licensees to cease and desist use of such radioactive materials, and order the licensees to divest themselves of the radioactive material, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the fee is paid within 30 days of the date of each complaint, no order will issue. The complaints are as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street,



Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday 8 a. m. to 5 p.m. (except holidays).

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its Division Director, and makes the following complaint against Houston Coagulation Consultants, Inc., 1200 Binz, Suite 950, Houston, Texas 77004 (the licensee), holder of Radioactive Material License Number G 11-1403.

*Texas Regulations for Control of Radiation (TRCR) 12.11(b)* requires payment of an annual fee for a radioactive material license, in the amount indicated for the appropriate category in Schedule 12.21 of TRCR. The fee shall be received each year on or before the last day of the expiration month of the license. On November 25, 1985, October 15, 1986, October 16, 1987, and October 14, 1988, the licensee was billed \$50, \$50, \$50, and \$50 for fees due on Radioactive Material License Number G 11-1403, covering the period from November 1985-October 1986, November 1986-October 1987, November 1987-October 1988, and November 1988-October 1989, respectively. In correspondence dated July 9, 1986, the agency informed the licensee of the delinquency of payment, giving the licensee opportunity to show compliance with all requirements of the law for retention of the radioactive material license. Payment of fees has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the radioactive material license of the licensee and ordering the licensee to cease and desist use of such radioactive materials, and further that the licensee, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, divest himself of the radioactive materials, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the fees are paid within 30 days of the date of this complaint, no order will be issued.

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its Division Director, and makes the following complaint against Dalworth Medical Laboratory, Inc., 800 Fifth Avenue, Suite 120B, Fort Worth, Texas 76101 (the licensee), holder of Radioactive Material License Number G 5-198.

*Texas Regulations for Control of Radiation (TRCR) 12.11(b)* requires payment of an annual fee for a radioactive material license, in the amount indicated for the appropriate category in Schedule 12.21 of TRCR. The fee shall be received each year on or before the last day of the expiration month of the license. On August 4, 1987, and July 18, 1988, the licensee was billed \$50 and \$50 for fees due on Radioactive Material License Number G 5-198 covering the period from August 1987-July 1988 and August 1988-July 1989, respectively. In correspondence dated April 29, 1987, the agency informed the licensee of the delinquency of payment, giving the licensee opportunity to show compliance with all requirements of the law for retention of the radioactive material license. Payment of fees has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the radioactive material license of the licensee and ordering the licensee to cease and desist use of such radioactive materials, and further that the licensee, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, divest himself of the radioactive materials, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the fees are paid within 30 days of the date of this complaint, no order will be issued.

Issued in Austin, Texas on June 13, 1989.

TRD-8905238 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: June 14, 1989

For further information, please call (512) 835-7000

## Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license.

Radioactive Material License Number L03919, issued to Syncor International Corporation for their facility located in Houston (mailing address: Syncor International Corporation, 6950 Portwest Drive, Suite 190, Houston, Texas 77024).

The amendment to this license authorizes storage and processing of radioactive waste at 8389 Almeda, Suite G, in Houston.

The Division of Licensing, Registration, and Standards has determined that: a) the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; b) the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; c) the issuance of the license amendment should not be inimical to public health and safety, or have a detrimental impact on the environment; and d) the licensee satisfies any applicable special requirements of the Texas Regulations for Control of Radiation (TRCR).

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers

himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas on June 14, 1989.

TRD-8905281      Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: June 15, 1989

For further information, please call (512) 835-7000

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**Revocation of Radioactive Material  
Licenses**

The Texas Department of Health, having duly filed complaints pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following radioactive material licenses.

Clark Tubular Services, Inc., 11-4068, Houston, April 14, 1989; Yellow Jacket Wireline, 12-3369, Odessa, April 14, 1989; and Analytical Consulting Services, 11-2976, Houston, April 14, 1989.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a. m. to 5 p.m. (except holidays).

Issued in Austin, Texas on June 13, 1989.

TRD-8905239      Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: June 14, 1989

For further information, please call (512) 835-7000

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**Texas Department of Human Services  
Request for Proposals**

The Texas Department of Human Services (DHS) is announcing this request for proposals (RFP) to re-procure

shared (client managed) attendant care services on a demonstration project basis.

**Description of Services** : Services are primarily designed for physically disabled adults who are functionally limited in the performance of daily activities, but who are capable of directing their own care. Attendant services include personal care, home management, and escort tasks. Twenty-four hour attendant availability is required, and the contract agency is responsible for case management activities including the implementation of a co-payment schedule. Eligible provider agencies are not limited to specific organizations; however, experience in working with handicapped adults is desired. In addition, they must be a profit or non-profit private corporation or a public agency and have an administrative office within the contracted area. Caseloads to be transferred to the agencies awarded the contracts reflect full capacity and include waiting lists of additional applicants.

**Geographic Area** : One contract will be awarded in each of the following areas: Area 1 - Southeast Texas, to include at least Orange, Jefferson, and Newton counties, plus the city of Nacogdoches; Area 2 - Bexar County; and Area 3 - South Texas, to include at least Bee, Hidalgo, Jim Wells, Kleburg, Live Oak, Refugio, and Willacy counties.

**Amount of Contracts** : The amount of the contract for Areas 1 and 2 will be \$400,000. The amount of the contract for Area 3 will be \$300,000.

**Term of the Contracts** : The contract period for each area will be September 1, 1989-August 31, 1990.

**Contact Person** : To obtain an RFP packet, contact German Valtierra, Texas Department of Human Services, P.O. Box 149030, Mail Code 340-W, Austin, Texas 78714-9030, (512)450-3136.

**Offerors Conference** : An offerors conference will be held at 9 a. m. on Tuesday, June 27, 1989, at the Joe C. Thompson Center Room 1.124, located at Red River and 26th Streets, University of Texas campus, Austin. Responses to this RFP are due by 5 p.m. on July 10, 1989. Award of the contracts will be based on an evaluation of the administrative structure, proposed service description, and financial considerations.

Issued in Austin, Texas on June 16, 1989.

TRD-8905288      Charles Severson  
Acting Commissioner  
Texas Department of Human Services

Filed: June 16, 1989

For further information, please call (512) 450-3765.