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An Audit Report on

# **Border Security Funds**

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Report No. 09-022

## Overall Conclusion

As of November 30, 2008, the Governor's Division of Emergency Management (Division), the Department of Public Safety (DPS), and the Parks and Wildlife Department (TPWD) had spent approximately \$79.0 million (56 percent) of the \$142.3 million in state and federal funds available to them for border security operations for fiscal years 2006 through 2009. Of the \$79.0 million spent, 81 percent was for expenditures related to salaries (\$23.0 million), equipment (\$21.5 million), and contracts (\$19.3 million).

The Division's grant review process is an effective control to ensure that border security funds are used to pay for only valid costs in accordance with contracts or grants funded by Rider 60<sup>1</sup> or Rider 19.69<sup>2</sup> appropriations. The Division could improve its grant review process by ensuring that grantees submit all required supporting documentation prior to the review process to ensure the accuracy of payments. Furthermore, the Division should conduct a more thorough review of supporting documentation submitted by grantees to ensure that it identifies all payment miscalculations. As of November 30, 2008, the Division had reviewed \$6.3 million of \$17.2 million in Rider 60- and Rider 19.69-funded expenditures.

In addition, the Division's contracts and grants with local law enforcement and state agencies, as well as its April 2008 *Local Border Security Grant Guide* (Guide), permitted payments for costs that are not specifically authorized in Riders 60 or 19.69. Auditors identified \$364,661 in payments that were allowed by

### Background Information

In October 2005, the Governor announced a comprehensive State Border Security Plan to protect the Texas-Mexico border. This plan included:

- Enhancing patrol capacity on the ground, in the air, and on the water.
- Creating a centralized information and intelligence center.
- Centralizing command and control to improve communications.
- Leveraging technology.

The Governor established the Border Security Operations Center (Center) to coordinate federal, state, and local law enforcement intelligence about criminal activities along the border. The Center is under the direction of the Governor's Division of Emergency Management (Division).

In February 2006, the Governor launched the first of a series of border security operations to increase the presence of law enforcement personnel along the Texas-Mexico border. The first border security operation coordinated by the Division was Operation Rio Grande.

The 80th Legislature appropriated \$111.2 million for border security to the Governor's Division of Emergency Management, the Department of Public Safety, and the Parks and Wildlife Department. (See Appendix 5 for more information about fund distributions.)

Of the \$111.2 million, \$63.7 million was appropriated to the Division contingent upon the Governor's Office certifying to the Legislative Budget Board that all federal funds received during the last four years for homeland security purposes were no longer available. (See Appendix 4 for a copy of the certification.)

<sup>1</sup> Rider 60, page V-58, General Appropriations Act (80th Legislature).

<sup>2</sup> Rider 19.69, page IX-87, General Appropriations Act (80th Legislature).

the contracts, grants, and Guide but were not specifically authorized in Riders 60 or 19.69. In a letter dated January 23, 2008, the Governor's Office's Budget, Planning, and Policy Division authorized the Governor's Division of Emergency Management to use rider funds for additional categories of expenditures.

Rider 59<sup>3</sup> appropriated to DPS \$44.4 million for fiscal years 2008 and 2009 for the enhancement of border security operations. As of November 30, 2008, DPS had spent \$33.5 million on resources authorized in Rider 59; \$27.5 million of that amount was spent by the Texas Highway Patrol and Aircraft Divisions. However, resources paid for with these funds were not always allocated to counties within the Texas-Mexico border region (see Appendix 3 for information on which counties are included within the State's border security operational sectors). In addition, DPS and the Division did not coordinate the allocation of certain resources paid for with Rider 59 funds to ensure that the placement of these resources was maximized to enhance border security operations.

Rider 59 did not specify where DPS should place these resources to enhance border security operations, and auditors did not evaluate the strategic value of DPS's allocation of resources. Auditors communicated other, less significant issues to the Division and DPS in writing.

## ***Summary of Management's Response***

The Division and DPS generally agreed with the recommendations in this report. Management responses to the specific recommendations in this report are presented immediately following each set of recommendations in the Detailed Results section of this report. DPS provided attachments to its responses, which are presented in Appendix 7. The attachments include information that was not in the audit scope. For example, auditors did not review Rider 57 or Operation Wrangler because the operation was not paid for with 80th Legislature funds.

The Governor's Office did not provide detailed responses to the recommendations in this report; instead, the Governor's Office submitted a letter, which is presented in Appendix 6.

## ***Summary of Information Technology Review***

Auditors tested DPS access controls over the Uniform Statewide Accounting System (USAS), the Uniform Statewide Payroll System, and DPS's Management Science of America (MSA) accounting system. Auditors also reviewed general controls over the DPS network environment and application controls over DPS's MSA accounting system. DPS has adequate controls over these automated systems; however, DPS could improve access controls over its MSA system and USAS. To minimize security

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<sup>3</sup> Rider 59, page V-58, General Appropriations Act (80th Legislature).

risks, auditors communicated details about these issues in writing directly to DPS management.

## ***Summary of Objectives, Scope, and Methodology***

The objectives of this audit were to:

- Identify border security funding sources and verify the amounts spent in each category of expenditures for fiscal years 2004 through 2008, including expenditures for staff, capital budget purchases, and information technology.
- Determine whether border security expenditures were made in accordance with the Border Security Plan for Texas.
- Determine the status of compliance with the riders related to border security in the General Appropriations Act (80th Legislature).
- Determine whether audits conducted by the Division are effective in ensuring that border security funds are used to pay for only valid costs in accordance with contract or grant terms.

The scope of this audit included an analysis of state and federal funds awarded or appropriated to the Division for border security operations for fiscal years 2006 through 2009 and funds appropriated by the 80th Legislature to DPS and TPWD. The scope also included testing expenditures made from September 1, 2007, through November 30, 2008, by the Division and DPS. TPWD provided fiscal year 2008 expenditure information, which was self-reported and was not audited by the State Auditor's Office.

The audit methodology included identifying the Division's border security funding sources for fiscal years 2006 through 2009; conducting this analysis for DPS and TPWD for funds appropriated by the 80th Legislature; classifying expenditures from September 1, 2005, to November 30, 2008; reviewing the State Border Security Plan; analyzing and testing samples of expenditures, contracts, and grants from the Division and DPS; and reviewing the Division's grant review process and DPS's accounting system.

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# Detailed Results

## Chapter 1

### ***Three State Entities Spent Approximately \$79.0 Million as of November 30, 2008, in Support of the Governor's State Border Security Plan***

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As of November 30, 2008, the Governor's Division of Emergency Management (Division), the Department of Public Safety (DPS) and the Parks and Wildlife Department (TPWD) spent approximately \$79.0 million (56 percent) of \$142.3 million in state and federal funds that were available from fiscal years 2006 through 2009 in support of the Governor's State Border Security Plan (see text box for list of funding sources). Of the \$79.0 million in expenditures, 81 percent was related to salaries (\$23.0 million), equipment (\$21.5 million), and contracts (\$19.3 million).

#### Funding Sources

The \$142.3 million in state and federal funds for border security consisted of grants from the Governor's Office's Criminal Justice Division and other federal funds, as well as appropriations specified in the following riders in the General Appropriations Act (80th Legislature):

- Rider 32, page VI-43.
- Rider 59, page V-58.
- Rider 60, page V-58.
- Rider 19.55, page IX-83.
- Rider 19.56, page IX-83.
- Rider 19.69, page IX-87.

In a letter dated October 10, 2007, the Governor's Office certified to the Legislative Budget Board that all federal funds received during the last four years for homeland security purposes were expended, budgeted, or allocated and, therefore, the funds were no longer available. (See Appendix 4 for a copy of the certification letter.) Rider 60 and Rider 19.69 appropriations were contingent upon that certification.

Three state entities received border security funds in support of the Governor's State Border Security Plan.

A total of \$142.3 million in state and federal funds was available for border security operations at the Division, DPS, and TPWD for fiscal years 2006 through 2009. Specifically:

- The Division received \$94.8 million.
- DPS received \$45.4 million.
- TPWD received \$2.1 million.

In October 2005, the Governor announced a comprehensive State Border Security Plan to protect the Texas-Mexico border. This plan included:

- Enhanced patrol activity.
- A centralized information and intelligence center.
- A centralized command and control to improve communications.

- Leveraged technology.

To achieve the objectives of the State Border Security Plan, the Governor named the Division as the overall statewide coordinator for border security operations. In February 2006, Operation Rio Grande was launched as the first border security surge operation under the Division's direction. In addition to this operation, the Division has managed Operation Wrangler and Operation Border Star (see Appendix 3 for additional information on border security operations).

The Division, DPS, and TPWD had spent 56 percent of funds available for border security as of November 30, 2008.

Of the \$142.3 million available for border security operations, the Division, DPS, and TPWD reported they had spent \$79.0 million (56 percent) as of November 30, 2008. This does not include an additional \$9.4 million in advances made through grants and contracts by the Division to local jurisdictions and state agencies. Some local jurisdictions and state agencies received an advance of 80 percent of total grant or contract funds; not all of those advanced funds were spent as of November 30, 2008. The Division spent \$44.3 million and DPS spent \$33.5 million on border security operations from September 1, 2005, to November 30, 2008. In addition, TPWD spent a reported \$1.3 million on border security operations during fiscal year 2008.

Table 1 on the next page lists border security funds activity from September 1, 2005, to November 30, 2008. This includes only transactions recorded as expenditures as of November 30, 2008, in DPS's accounting system. In addition, TPWD expenditure information is based only on TPWD self-reported data for fiscal year 2008; this data was not audited.



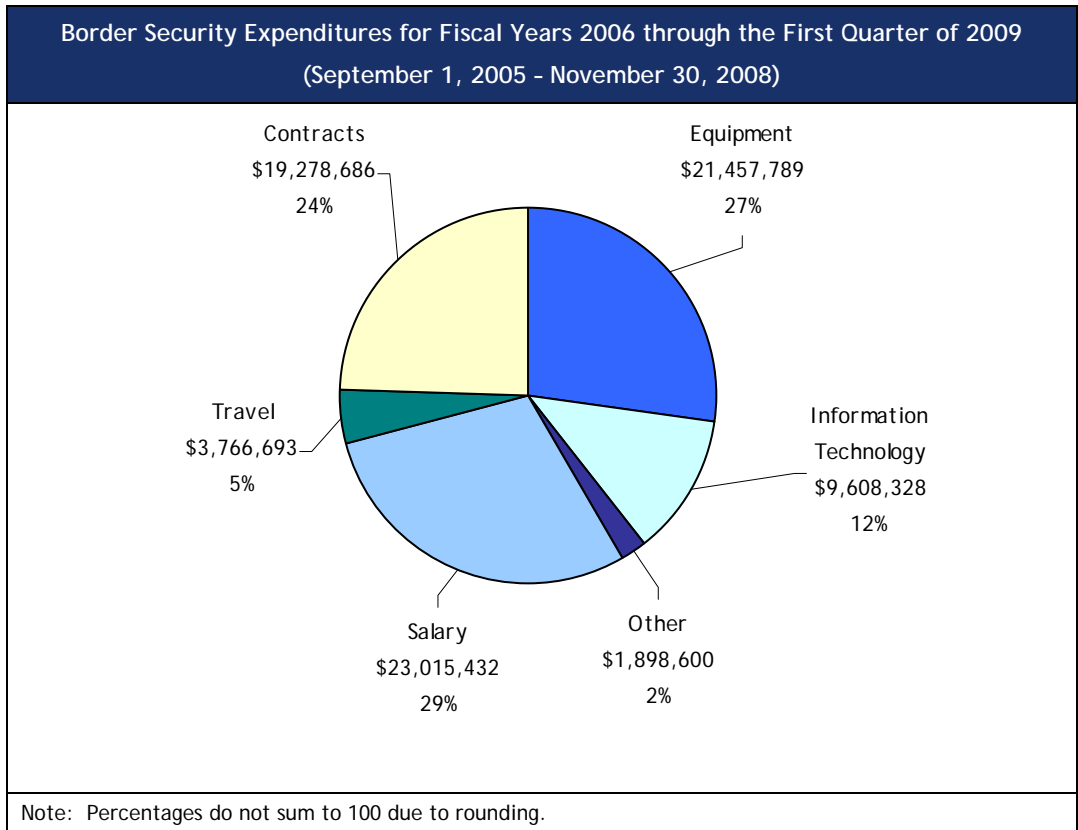
Table 1

Border Security Funds Activity for Fiscal Year 2006 through the First Quarter of Fiscal Year 2009 (September 1, 2005 - November 30, 2008)					
Funding Source	Period of Availability	Appropriated or Granted Funds	Funds Obligated Per Executed Contract/Grant	Total Expenditures	Unexpended Funds
<b>Funds Appropriated to DPS and TPWD by the 80th Legislature</b>					
Rider 59 (for DPS) - Border Security	September 1, 2007 August 31, 2009	\$ 44,444,865	Not Applicable	\$ 33,503,792	\$ 10,941,073
Rider 19.55 (for DPS) - Rio Grande Valley Border Security and Technology Training Center	September 1, 2007 August 31, 2009	1,000,000	\$ 0	0	1,000,000
Rider 32 (for TPWD) - Border Security	September 1, 2007 August 31, 2009	2,125,193	Not Applicable	1,270,612 <sup>a</sup>	854,581
<b>Total Appropriations to DPS and TPWD</b>		<b>\$ 47,570,058</b>	<b>\$ 0</b>	<b>\$ 34,774,404</b>	<b>\$ 12,795,654</b>
<b>Funds Appropriated to the Governor's Division of Emergency Management by the 80th Legislature</b>					
Rider 60 - Contingency for Surge Operation Overtime/Per Diem for Local Law Enforcement <sup>b</sup>	September 1, 2007 August 31, 2008	\$ 20,000,000	\$19,699,709	\$5,055,980	\$14,944,020
Rider 19.69 - Contingency for Border Security	September 1, 2007 August 31, 2009	43,704,714	26,607,260	12,163,149	31,541,565
<b>Grants Awarded by or through the Governor's Criminal Justice Division to the Governor's Division of Emergency Management</b>					
16.579 - Edward Byrne Memorial Formula Grant (Border Security Enhancement Operations (BSEO) and Statewide Implementation of the Texas Data Exchange System (TDEx))	June 1, 2006 August 31, 2007	1,300,000	1,300,000	1,300,000	0
16.592 - Local Law Enforcement Block Grant (BSEO)	May 1, 2006 November 30, 2006	808,175 <sup>c</sup>	808,175	805,380	2,795
16.738 - Edward Byrne Memorial Grant (Operation Free Safety, BSEO, and Statewide Implementation of TDEx)	January 1, 2006 September 30, 2008	12,900,000	12,900,000	10,738,501	2,161,499
State Criminal Justice Planning Fund (421) (Joint Law Enforcement and Intelligence Operations)	December 1, 2006 September 30, 2008	10,000,000	10,000,000	8,758,746	1,241,254
State Criminal Justice Planning Fund (421) (TDEx, Livescan, and Abrams Learning and Information Systems)	April 1, 2007 December 31, 2007	2,165,701	2,165,701	2,165,701	0
<b>Federal Grant Directly to the Governor's Division of Emergency Management</b>					
Stone Garden	November 1, 2006 October 31, 2008	3,911,568	3,911,568	3,263,663	647,905
<b>Total Appropriations and Grants to the Governor's Division of Emergency Management</b>		<b>\$ 94,790,158</b>	<b>\$77,392,413</b>	<b>\$44,251,120</b>	<b>\$50,539,038</b>
<b>Grand Totals</b>		<b>\$142,360,216</b>	<b>\$77,392,413</b>	<b>\$79,025,524</b>	<b>\$63,334,692</b>
<sup>a</sup> TPWD expenditures are based on unaudited, self-reported data for fiscal year 2008 only.					
<sup>b</sup> According to Section 17.04(b), page IX-67, of the General Appropriations Act (80th Legislature), funds appropriated for grants made by a state agency for a particular fiscal year may be distributed in subsequent fiscal years if the grant has been awarded and treated as a binding encumbrance by the grantor agency prior to the end of the appropriation year. Distribution of the grant funds is subject to Texas Government Code, Section 403.071.					
<sup>c</sup> The \$808,175 includes a \$724,842 grant from the Governor's Criminal Justice Division and \$83,333 in matching funds from the Governor's Division of Emergency Management.					

Sources: DPS accounting system, Division grant expenditures records, TPWD, and the Governor's Criminal Justice Division.

Of the \$79.0 million spent on border security operations as of November 30, 2008, 81 percent was related to salaries (\$23.0 million) paid primarily to DPS troopers and local law enforcement personnel; equipment (\$21.5 million), the majority of which were helicopters and vehicles; and contracts (\$19.3 million), primarily grants to local jurisdictions and a contract to support the Border Security Operation Center. The remaining \$15.2 million (19 percent) was spent on information technology, travel, and other expenditures (see Figure 1).

Figure 1



Sources: DPS accounting system and Division grants records.

## Recommendation

To ensure that appropriated funds and grants do not lapse, the Division and DPS should closely monitor expenditure activity and reallocate unspent funds as needed to areas with highest needs for border security funding.

## Management's Response

*DPS and DEM management agree with this recommendation. We have been and will continue to closely monitor expenditures and adjust grants and contracts with state agencies and local governments to de-obligate funds from organizations that have not used them and provide additional funding to those organizations that plan more active participation in border security programs.*

## ***The Division Could Strengthen Its Border Security Grant Review Process and Ensure Contracts, Grants, and Guidance Comply with Riders***

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Riders 60 and 19.69 appropriated \$63.7 million to the Division for border security operations in fiscal years 2008 and 2009. As of November 30, 2008, the Division had conducted grant reviews of \$6.3 million of \$17.2 million in expenditures of Rider 60 and 19.69 funds. The reviews were to determine whether the claims submitted by the grantees were for eligible costs according to the contracts, grants, or *Local Border Security Grant Guide* (Guide). These grant reviews are an effective control to ensure that border security-related funds are used to pay for only valid costs in accordance with the terms of contracts, grants, or Guide. However, the Division's contracts and grants with local law enforcement and state agencies, as well as its Guide, include costs that are not specifically authorized by Riders 60 or 19.69.

### Chapter 2-A

#### **The Division's Grant Review Process Is Adequate to Ensure Compliance with Grant and Contract Terms**

The Division's grant reviews are an effective control to ensure that border security-related funds are used to pay for only valid costs in accordance with the terms of contracts or grants funded with Rider 60 or Rider 19.69 appropriations. The Division's grant review supervisor and manager each reviewed and approved all 23 grant reviews tested by State Auditor's Office auditors (auditors). In addition, auditors determined that payments to local law enforcement jurisdictions and TPWD were appropriate according to the Division's policies and procedures, grant guidance, and contract terms. However, the policies and procedures, grant guidance, and contracts allow payment for expenditures that are not specifically authorized in Rider 60 or Rider 19.69 (see Chapter 2-B for more information).

The Division could further improve its grant review process. Specifically:

- The Division did not ensure that it consistently obtained required documentation to support expenditures. Of 18 Rider 60 invoices tested by auditors that the Division reviewed and paid, 6 (33 percent) lacked required supporting documentation, such as employee paycheck stubs from local jurisdictions. Reviewing employee paycheck stubs would help the Division ensure that the employee was paid by the jurisdiction for the same number of overtime hours reported to the Division for payment. For example, auditors noted that one local law enforcement employee was paid by the jurisdiction for 41.50 hours in overtime, but in the timesheet submitted to the Division, the jurisdiction requested and received payment for 91 overtime hours. In addition, 1 of 5 (20 percent) Rider 19.69b

invoices tested did not contain all supporting documentation for lodging or travel expenses.

- The Division did not identify all reimbursement errors during its grant reviews of Rider 60 invoices. Auditors reviewed 35 timesheets submitted by local law enforcement jurisdictions and identified \$4,544 in errors (4.62 percent of the \$98,384 in payments tested). These errors were in addition to the \$1,825 in errors identified by the Division during its review of the same 35 timesheets. The \$4,544 in errors included miscalculations on payments for overtime and mileage.
- The Division did not consistently ensure that grantees receiving grant funds in advance submitted interest checks as required by Division policy. Two of 9 (22 percent) invoices tested for Rider 60 grantees that received grant fund advances did not submit all interest checks. These two grantees received advances totaling \$226,270.

As of November 30, 2008, the Division had conducted grant reviews of \$6.3 million of the \$17.2 million in expenditures related to Rider 60 and Rider 19.69 contracts. The Division had not conducted grant reviews for nearly \$10.9 million in expenditures (see Table 2 on the next page). This includes expenditures related to:

- Contracts for the Joint Operation Intelligence Center, Border Security Operation Center, DPS's Highway Patrol Division, and DPS's Aircraft Division funded by Rider 19.69.
- Management and administration of Riders 60 and 19.69 funds.

Of this \$10.9 million in expenditures, auditors tested expenditures totaling \$1.5 million from September 1, 2007, to November 30, 2008, and identified only minor errors.

Table 2

Rider 60 and Rider 19.69 Border Security Funds Expended by the Division					
As of November 30, 2008					
Funding Source	Amount Appropriated	Total Grant Amount	Total Amount Expended	Expenditures That Have Been Through the Division's Grant Review Process	Percentage of Expenditures Processed Through the Division's Grant Review Process
<b>Rider 60</b>					
Overtime and Per Diem for Local Law Enforcement Officers Participating in Surge Operations	\$19,780,000	\$19,699,709	\$5,044,913	\$5,044,913	100%
Administrative and Management	220,000	Not Applicable	11,067	0	0%
<b>Rider 19.69</b>					
A. Joint Operation and Intelligence Centers and the Border Security Operation Center's Equipment and Operations	6,500,000	4,016,135	3,567,757	0	0%
B. Overtime, Per Diem, and Related Travel Expenses for Commissioned Peace Officers or National Guard, Consisting of the Following Four Contracts:	19,780,000				
1. Adjutant General		3,441,312	1,221,652	1,221,652	100%
2. Parks and Wildlife Department		1,197,127	44,903	44,903	100%
3. Department of Public Safety - Texas Highway Patrol		8,000,000	7,107,985	0	0%
4. Department of Public Safety - Aircraft Operations		3,073,332	184,460	0	0%
C. Overtime and Per Diem to Local Law Enforcement Agencies Participating in Surge Operations or for Training, Equipment, and Technology Acquisition	16,994,609	6,879,354	10,827	0	0%
Administrative and Management	430,105	Not Applicable	\$ 25,565	\$0	0%
<b>Totals</b>	<b>\$63,704,714</b>	<b>\$46,306,969</b>	<b>\$17,219,129</b>	<b>\$6,311,468</b>	<b>37%</b>

Sources: DPS accounting system and Division grant expenditures records.

In its grant review reports, the Division states that "This audit was conducted in accordance with the generally accepted government auditing standards (GAGAS)." However, the Division did not establish or follow basic GAGAS regarding ethics, independence, auditors' professional competence and judgment, quality control, the performance of field work, and reporting when it conducts grant reviews. The Division is not required to conduct grant reviews in accordance with GAGAS, but the inclusion of a statement in its reports indicating that the Division follows GAGAS may mislead

management and the public by implying that the Division's grant review process provides the same level of assurance associated with audits subject to GAGAS.

## Recommendations

The Division should:

- Require grantees and agencies to submit all required supporting documentation before it completes its grant monitoring review to ensure payments are accurately calculated.
- Ensure that all grantees submit interest checks as required by Division policy.
- Ensure its grant reviews are subject to a more thorough review by the Division's monitors and approving supervisor to identify all payment miscalculations.
- Remove the statement that it conducts audits in accordance with GAGAS from its grant review reports or ensure that its grant reviews conform to all GAGAS requirements.

## Management's Response

- *Require grantees and agencies to submit all required supporting documentation before it completes its grant monitoring review to ensure payments are accurately calculated.*

*DEM management agrees with this recommendation.*

*Upon receipt of Border Security reimbursement invoices from grant technicians, DEM compliance monitors will review packets to ensure the Border Security Reimbursement Invoice (Form R-1), Individual Time Allocation Report (Form R-2), Personnel Summary Expenses (Form R-3), Travel Expenses (Form R-4), Operational Mileage Expenses (Form R-5), Operating Expenses (Form R-6) and all supporting documentation has been received. If the documents received are incomplete or unclear, monitors will contact the applicant to resolve the issue before proceeding with the compliance review. Monitors will follow the prescribed procedural guidelines to obtain missing documentation. Continuing difficulties in obtaining required documentation from grantees and contractors will be discussed with the Operations Section Administrator and Grants & Contracts Administrator, and, if necessary, the Chief.*

- *Ensure that all grantees submit interest checks as required by Division policy.*

*DEM management agrees with this recommendation.*

*The Division has already sent a second notice to the grantees that still owed interest on February 4, 2009. The letter included a reminder of the grant requirement to submit interest earned to the Division at least quarterly and the penalties for non-compliance. The penalties include withholding remaining grant funds or barring future awards of border security grant funds. DEM Grant Technicians will continue to record the interest checks in the Border Security grant spreadsheet as they are received. Grant technicians will also regularly review the status of each grantee and, at least quarterly, provide the Operations Section Administrator with a list of non-compliant grantees. The Division will implement progressive sanctions for grantees with a record of non-compliance.*

- *Ensure its grant reviews are subject to a more thorough review by the Division's monitors and approving supervisor to identify all miscalculations.*

*DEM management agrees with this recommendation.*

*Since the arrival of a new Grants & Contract Administrator in December 2008, DEM has implemented new procedures to reduce miscalculations. Older versions of border security spreadsheets have been eliminated from the Support Services Section so that they cannot be inadvertently used. Since January 9, 2009, all personnel working on border security financial data have been required to use a common Border Security spreadsheet. Similarly a common data source will be used by all grants personnel for information on changes in awards and advances. Re-verifying data entry is now required, not optional. Internal peer reviews of compliance reviews are now being conducted to help identify errors in calculation. The Supervising Auditor will conduct random reviews of each completed compliance review package before the package is submitted through the chain of command for signature. The Border Security Audit Guide is being updated to a Border Security Program Compliance Guide, which will incorporate the actions described above and also outline grant and contract monitoring responsibilities of each DEM and DPS workcenter that is involved in administering border security programs. The new Guide should be completed by April 30, 2009.*

- *Remove the statement that it conducts audits in accordance with GAGAS auditing standards from its grant review reports or ensure that its grant reviews conform to all GAGAS requirements.*

*DEM management agrees with this recommendation and is implementing it.*

*DEM will no longer use its previous template that contained reference to GAGAS standards for its reviews of the use of border security funds. DEM personnel will instead be conducting compliance reviews of recipients of border security funds to assess if local governments and state agencies*



*expended and accounted for all state and federal funds awarded by grant or contract in accordance with state and federal policies, regulations and guidelines for the use of those funds. The objective of these reviews is to provide management with reasonable assurance that the funds were expended for authorized purposes.*

Chapter 2-B

### **The Division's Contracts, Grants, and *Local Border Security Grant Guide* Authorize Costs That Are Not Specifically Authorized By Riders**

The Division's contracts and grants with local law enforcement and state agencies, as well as its April 2008 *Local Border Security Grant Guide* (Guide), permit payments for costs that are not specifically authorized in Riders 60 or 19.69. Auditors identified differences between the Division's contracts or Guide and rider language. These differences resulted in at least \$364,661 in additional allowed payments. Specifically:

- Rider 60 states that funds shall be used to provide grants to local law enforcement agencies for payment of overtime and per diem to local law enforcement officers. The Division's Guide authorizes overtime payments to local law enforcement officers, dispatchers, jailers, and administrative personnel. Neither Rider 60, nor the Division's contract or Guide, provides a definition for a local law enforcement officer; therefore, it is unclear as to who qualifies to be paid with Rider 60 funds. The Guide also authorizes payment for operating costs, including mileage, fuel, and lubricants for vehicles, aircrafts, boats, generators, and similar equipment; the cost of consumables; emergency repair costs; equipment rental fees; and payments for contractors at a rate determined by the grantee. Fifteen of 18 (83 percent) grant reviews that auditors tested included payments for overtime to dispatchers, jailers, and administrative personnel, as well as payments for mileage and repairs. These costs totaled \$51,999, or 18 percent of the total amount of invoices tested.
- The Guide defines overtime as the hours that an employee works on border operations that are above the employee's 40 regular duty hours during a seven-day period. An employee's regular duty hours for grant purposes may include sick leave and vacation leave, holidays, and compensatory time. According to Rider 60, funds are to be used to provide additional manpower by local law enforcement agencies for state surge operations for improved border security. Auditors noted several timesheets on which a local law enforcement officer took 8 to 12 hours of sick leave or vacation leave and, on the same day, worked 8 hours or more on border security; the hours worked on border security were claimed as overtime. Law enforcement officers who claim leave hours and overtime hours on the same day may not be providing additional manpower for

border security operations. DPS's overtime policy for its commissioned law enforcement officers does not allow officers to use sick leave and personal leave toward the required number of regular hours an officer must work prior to claiming overtime. However, the Division's contracts or grants with local law enforcement jurisdictions do not require local law enforcement jurisdictions to comply with DPS's overtime policy.

Auditors also noted differences between the Division's contract with the Adjutant General's Department and Rider 19.69 language. Specifically:

- The contract allowed payment of base pay to National Guard personnel, even though Rider 19.69(b) specifies that payment shall be made only for overtime. However, it should be noted that National Guard personnel are not eligible to earn overtime pay. Base pay payments totaling \$290,342 were made on two invoices tested.
- The contract did not specify that National Guard personnel must work in a county that is not the county of their employment or assigned duty station, as specified by Rider 19.69(b).
- The National Guard pays all personnel \$36.00 per day for meals whether personnel are local or from out of town. On two invoices that auditors tested, payments totaling \$22,320 were made for meals claimed by 10 local National Guard personnel.

All four contracts paid for with Rider 19.69(b) funds—contracts with the Adjutant General, TPWD, Texas Highway Patrol, and DPS-Aircraft Operations—allowed recipients to claim operating expenses for consumables, such as flashlight and radio batteries and equipment rental. However, Rider 19.69(b) states that funds may only be expended for payments of overtime, per diem, and related travel expenses. Auditors did not identify any of those types of operating expenditures in the 30 invoices tested.

Although some costs included in the Division's contracts and Guide were not specifically authorized in Rider 60 or Rider 19.69, in a letter dated January 23, 2008, the Governor's Office's Budget, Planning, and Policy Division authorized the Governor's Division of Emergency Management to use rider funds for border security-related expenditures for local law enforcement officers and support personnel and for fuel, training, equipment, and technology acquisition (see Appendix 4 for a copy of the letter).

Additionally, as required by Rider 60, the Division provided a proposal for expenditure of the funds to the Legislative Budget Board.

## Recommendations

The Division should:

- Include in its contracts, grants, and *Local Border Security Program Grant Guide* a clear definition of a law enforcement officer who is eligible for Rider 60 funding.
- Ensure that its contracts, grants, and *Local Border Security Program Grant Guide* are consistent with the specifications of riders and, when necessary, seek clarification in writing from a rider's legislative sponsor.

## Management's Response

- *Provide a clear definition of a law enforcement officer who is eligible for Rider 60 funding.*

*DEM management agrees with this recommendation.*

*For purposes of Rider 60 or any similar future riders, we believe the definition of a local law enforcement officer should include:*

- a. Commissioned local peace officers (police, sheriff's deputies, and constables). It should be noted that sheriff and constables are elected and some state and federal grants prohibit the use of grant funds to pay the salaries of elected officials.*
  - b. Dispatchers and jailers assigned to a local law enforcement agency who provide support for the commissioned peace officers.*
- *Ensure that its contracts and Local Border Security Program Grant Guide is consistent with the specifications of the legislative riders, and when necessary, seek clarification in writing from a rider's legislative sponsor.*

*DEM management agrees with this recommendation.*

*The Department provided the Legislative Budget Board proposed language for future versions of Rider 60 and Section 19.69 as part of the Legislative Authorization Request process. DEM provided very specific suggestions for clarifying the authorized uses of border security funds for personnel, equipment, and operating expenses. We hope this will help bill authors provide detailed guidance for the use of any border security funds included in the FY 2010-11 General Appropriations Act which can be easily incorporated into future grants administered by DEM for the use of funds. If this does not occur, we will seek clarification in writing from the bill's sponsor.*

***DPS Spent Funds on Items Authorized by Rider; However, Resources Paid for with Border Security Funds Were Not Always Allocated to Border Counties***

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Rider 59 states that DPS shall use \$44.4 million from State Highway Fund 006 in fiscal years 2008 and 2009 for enhanced border security operations, including salaries, training, operating costs, and equipment for an additional 106 commissioned officers and 14 administrative employees. As of November 30, 2008, DPS had spent \$33.5 million; the Texas Highway Patrol and Aircraft Divisions spent \$27.5 million of that amount on resources authorized in Rider 59 (see Appendix 5).

As discussed in Chapter 1, the Governor's Division of Emergency Management (Division) is responsible for the coordination of border security operations. In September 2007, the Division launched Operation Border Star with the objective to "dominate the Texas-Mexico border," within six operational sectors comprised of 45 Texas counties. (See Appendix 3 for a list of counties in each operational sector.) Operation Border Star is funded with appropriations by the 80th Legislature and DPS generally complied with Rider 59 requirements and purchasing guidelines. DPS did not allocate all Rider 59 funded resources within the six operational sectors identified as eligible participants in Operation Border Star. In addition, DPS and the Division did not coordinate the allocation of certain resources paid for with Rider 59 funds to ensure that the placement of these resources was maximized to enhance border security operations.

Rider 59 did not specify where DPS should place these resources to enhance border security operations, and auditors did not evaluate the strategic value of DPS's allocation of resources.

DPS generally complied with Rider 59 requirements and purchasing guidelines.

Auditors tested 15 transactions totaling \$9.4 million and identified the following:

- Eight of nine (89 percent) expenditures that were subject to state and DPS procurement guidelines complied with these guidelines. These included:
  - ♦ Three of three (100 percent) expenditures subject to DPS procurement card guidelines complied with guidelines.
  - ♦ Eight of nine (89 percent) expenditures totaling more than \$10,000 were approved by the chief financial officer as required by DPS procurement guidelines.

- ♦ Eight of eight (100 percent) expenditures totaling more than \$100,000 were approved by the DPS Director as required by DPS procurement guidelines.

DPS correctly calculated salaries for the Texas Highway Patrol and Aircraft Divisions' personnel under Rider 59. However, 8 of 61 (13 percent) employees were compensated \$156,309 from other funds despite being assigned to border security operations. DPS indicated it would correct this error after auditors brought this issue to its attention.

Not all resources paid for with border security funds were allocated to border counties.

DPS allocated resources funded by Rider 59 appropriations to geographic areas outside the six operational sectors along the Texas-Mexico border. Specifically:

- Five of the 18 additional commissioned officer positions authorized for the Aircraft Division were assigned to duty stations in counties that were not within one of the six border operational sectors. These five commissioned officers, who were compensated \$170,342 from Rider 59 funds, were assigned to duty stations in Bexar, Travis (two employees), Potter, and Harris counties.
- DPS's Aircraft Division purchased four helicopters for approximately \$15.0 million for border security operations. To fulfill its requirement to enhance border security operations, DPS placed four helicopters into service along the border. Three of the new helicopters cost a total of approximately \$7.6 million and were placed into service in Del Rio, Alpine, and El Paso counties. The fourth helicopter, which cost \$7.4 million, was retained at DPS's headquarters in Austin. DPS transferred one of its existing helicopters, which was a similar model to the three new helicopters purchased and assigned to border areas, from its Austin headquarters to a duty station in Laredo.
- Rider 59 authorized DPS to increase its workforce by 106 commissioned officers, and it purchased 105 vehicles totaling \$2,194,407. DPS fulfilled Rider 59 requirements by transferring 106 existing vehicles to border counties; however, none of the newly purchased vehicles was placed into service in border counties.
- DPS purchased 396 multikeys, a data protection device installed on radios to encrypt or decrypt communication codes or messages, for a total \$238,788. Rider 59 authorized the purchase of equipment for 106 commissioned officers. A purchase of 106 multikeys would have totaled \$63,918. However, DPS used \$174,870 from Rider 59 funds to purchase an additional 290 multikeys. While DPS placed some of the additional

multikeys in border counties, it placed some multikeys outside of border security operational sectors.

- DPS used \$14,612 in Rider 59 funds to pay for maintenance on five aircraft that it did not use in border security operations.

DPS and the Governor's Division of Emergency Management did not coordinate the allocation of certain resources.

Although the Division is responsible for the coordination of border security operations, DPS and the Division did not coordinate the allocation of resources such as personnel and vehicles paid for with Rider 59 funds to ensure that the placement of these resources was maximized to enhance border security operations as specified by the rider. Specifically:

- The Texas Highway Patrol Division assigned 56 trooper positions and vehicles funded by Rider 59 to border counties without consulting the Governor's Division of Emergency Management to determine the most strategic placement of these resources for enhancing border security.
- Rider 19.56 required DPS to transfer 10 used vehicles in good condition and whose mileage did not exceed 80,000 to border counties and municipalities in fiscal year 2008. While DPS transferred these vehicles, it did not perform any analysis to support that vehicles were placed in the most needed areas, nor did the Governor's Division of Emergency Management have input on the placement of these vehicles.

Rider 19.55 required DPS to establish the Rio Grande Valley Border Security and Technology Training Center in Hidalgo County with \$1 million appropriated elsewhere in the General Appropriations Act. According to DPS, it did not comply with this requirement due to the lack of funding.

#### Recommendation:

DPS and the Division should coordinate the allocation of resources paid for with Rider 59 funding to ensure resources are placed in the most critical areas.

#### Management's Response

*DPS and DEM management agree with this recommendation and believe we have been adequately coordinating the allocation of resources provided for border security with other participants in the state border security program since it began. The SAO recommendation indicates that resources should be placed in the most critical areas of the border. We note that the criticality of various areas of the border varies because of a constantly changing threat and that, in stationing resources, criticality must be balanced with the need for office space, communications, maintenance facilities for equipment,*

*technical support, and housing for the people assigned to the areas. We believe DPS divisions, the Aircraft Section, and other state agencies have been adequately consulted about the resource stationing plans of other divisions and organizations and that we have provided external agencies information regarding the planned stationing of resources by DPS. The combination of resources stationed on along the border and deployment of additional resources into the area as needed has helped law enforcement agencies respond to a constantly changing threat and new tactics used by criminals. Should the current Legislature provide additional resources for border security, we expect to participate in a meeting of the affected agencies to review and discuss each agency's bed-down plans for its new resources as a basis for future interagency planning..*

*Attachment 1 includes explanatory information bearing on this finding provided by the DPS Aircraft Section. [See Appendix 7]*

*Attachment 2 to this document includes explanatory information bearing on this finding provided by the Texas Highway Patrol Division. [See Appendix 7]*

# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### **Objectives**

The objectives of this audit were to:

- Identify border security funding sources and verify the amounts spent in each category of expenditures for fiscal years 2004 through 2008, including expenditures for staff, capital budget purchases, and information technology.
- Determine whether border security expenditures were made in accordance with the Border Security Plan for Texas.
- Determine the status of compliance with the riders related to border security in the General Appropriations Act (80th Legislature).
- Determine whether audits conducted by the Governor's Division of Emergency Management (Division) are effective in ensuring that border security funds are used to pay for only valid costs in accordance with contract or grant terms.

### **Scope**

The scope of this audit included an analysis of state and federal funds awarded or appropriated to the Division for border security operations for fiscal years 2006 through 2009 and funds appropriated by the 80th Legislature to the Department of Public Safety (DPS) and the Parks and Wildlife Department (TPWD). The scope also included testing of expenditures made from September 1, 2007, through November 30, 2008, by the Division and DPS. TPWD provided fiscal year 2008 expenditure information, which was self-reported and was not audited by the State Auditor's Office.

### **Methodology**

The audit methodology included identifying the Division's border security funding sources for fiscal years 2006 through 2009 and classifying expenditures from September 1, 2005, to November 30, 2008. Auditors also conducted this analysis for DPS and TPWD only for funds appropriated by the 80th Legislature. The methodology also included reviewing the State Border Security Plan and analyzing and testing samples of expenditures, contracts, and grants from the Division and DPS. Auditors also reviewed the Division's grant review process and DPS's payroll and purchasing information systems.



Information collected and reviewed included the following:

- State Border Security Plan and related Rio Grande, Wrangler, and Border Star operation orders.
- Selected contracts, related procurement documentation, and payment documentation.
- DPS procurement policies and procedures.
- The Division's *Local Border Security Program Grant Guide* and *Border Security Standard Operating Procedures*.
- The Division's monitoring reports of border security funds.
- Payroll documentation, such as timesheets and paycheck stubs, and travel reimbursement documentation from DPS and selected local jurisdictions receiving border security funds.
- Expenditure data from DPS's Management Science of America (MSA) accounting system.
- Expenditure data from the Uniform Statewide Accounting System (USAS).
- Spreadsheets used by the Division to track expenditures for Rider 60 and Rider 19.69.
- TPWD expenditures related to border security for fiscal year 2008.
- List of grants and awards from the Governor's Criminal Justice Division to the Governor's Division of Emergency Management.
- Information from interviews with management and staff at the Governor's Homeland Security Office; Governor's Criminal Justice Division; Governor's Division of Emergency Management; National Guard personnel; and DPS's accounting department, Texas Highway Patrol Division, Aircraft Division, fleet operations, and information technology staff.

Procedures and tests conducted included the following:

- Reviewed the State Border Security Plan and related operation orders.
- Identified border security funding sources and classified related expenditures into the following categories: salaries, contracts, information technology, equipment, travel, and other.
- Conducted interviews with selected employees.

- Analyzed DPS accounting data.
- Tested expenditures and support documentation.
- Reviewed the Division's methodology, documentation, and results of its reviews of border security funds.
- Evaluated DPS's general and application automated system controls over the Uniform Statewide Payroll System, USAS, and MSA accounting system.

Criteria used included the following:

- General Appropriations Act (80th Legislature).
- State of Texas procurement manual.
- Texas Government Code, Chapter 660 (Travel Regulations).
- The Division's *Local Border Security Program Grant Guide*, *Border Security Standard Operating Procedures*, and contracts with local jurisdictions and state agencies.
- The Division's State Border Security Plan and operation orders.
- DPS's procurement policies and procedures.
- Generally accepted government auditing standards (GAGAS).

### **Project Information**

Audit fieldwork was conducted during January 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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

- Ileana Barboza, MBA, CGAP, CICA (Project Manager)
- Ann E. Karnes, CPA (Assistant Project Manager)
- Kelley I. Bellah
- Lauren Godfrey, CGAP
- Barbette J. Mays

- Kristyn Scoggins
- Tamara Shepherd, CGAP
- Michael A. Simon, MBA, CGAP
- Parsons Townsend
- Gary Leach, MBA, CQA, CISA (Information Systems Audit Team)
- Stephen Randall, MBA (Information Systems Audit Team)
- Leslie P. Ashton, CPA (Quality Control Reviewer)
- Kels Farmer, CISA, MBA (Quality Control Reviewer)
- Lisa R. Collier, CPA (Assistant State Auditor)

## ***General Appropriations Act (80th Legislature) Riders Related to Border Security Funding***

The 80th Legislature appropriated \$111.2 million and created 150 positions to enhance border security during the 2008-2009 biennium. The Governor's Division of Emergency Management (Division) and the Department of Public Safety (DPS) were appropriated a total of \$109.1 million and 120 positions, while the Parks and Wildlife Department (TPWD) was appropriated \$2.1 million and 30 positions.

The appropriations in Rider 60<sup>4</sup> and Rider 19.69<sup>5</sup> were contingent on the Governor's certification to the Legislative Budget Board that all homeland security and disaster assistance federal funds<sup>6</sup> used during the past four years for border security were no longer available. Table 3 describes Rider 60 and Rider 19.69 border security appropriations to the Division.

Table 3

Description of Riders Appropriating Border Security Funds to the Division 2008-2009 Biennium		
Rider	Description	Appropriation for 2008-2009 Biennium
60 <sup>a</sup>	The Division is appropriated \$20,000,000 in fiscal year 2008 from General Revenue Funds to provide additional manpower by local law enforcement agencies for state surge operations for improved border security. These funds shall be used to provide grants to local law enforcement agencies for payment of overtime and per diem for local law enforcement officers. Prior to expenditure of the funds, the Division of Emergency Management shall provide a proposal for expenditure of the funds to the Legislative Budget Board.	\$ 20,000,000
19.69 (a)	In addition to amounts appropriated elsewhere, \$6,500,000 from the General Revenue Fund may only be used to equip and operate joint operation and intelligence centers and the Border Security Operation Center.	6,500,000
19.69 (b)	In addition to amounts appropriated elsewhere, \$20,000,000 from the General Revenue Fund may only be expended for payment of overtime, per diem, and related travel expenses for commissioned peace officers or National Guard cooperating in a surge operation by working in a county other than the county of their employment or assigned duty station.	20,000,000
19.69 (c)	In addition to amounts appropriated elsewhere, \$17,204,714 from the General Revenue Fund may only be used to provide grants to local law enforcement agencies for overtime and per diem when cooperating in a surge operation, or for training, equipment, and technology acquisition.	17,204,714
<b>Total Appropriations</b>		<b>\$63,704,714</b>
<sup>a</sup> Rider 60 appropriations were for fiscal year 2008.		

Sources: Rider 60 and Rider 19.69.

<sup>4</sup> Rider 60, page V-58, General Appropriations Act (80th Legislature).

<sup>5</sup> Rider 19.69, page IX-87, General Appropriations Act (80th Legislature).

<sup>6</sup> This included funds from homeland security and disaster assistance programs, such as the Law Enforcement Terrorism Prevention Program, the State Homeland Security Program, and the Urban Areas Security Initiative Program. For Rider 19.69 appropriations, funds from the Edward Byrne Memorial Justice Assistance Program were excluded from this requirement.

Rider 59<sup>7</sup> and Rider 19.55<sup>8</sup> appropriated \$45.4 million to DPS for the 2008-2009 biennium for enhanced border security operations. Table 4 describes the border security-related appropriations and directives of Rider 59, Rider 19.55, and Rider 19.56.<sup>9</sup>

Table 4

Legislative Appropriations and Directives to DPS for Border Security 2008-2009 Biennium							
Rider	Description	Fiscal Year 2008	Fiscal Year 2009	Total	Additional Commissioned Officers Authorized	Other Staff Authorized	Total Additional Staff Authorized
59(a)	DPS shall use \$6,517,794 in fiscal year 2008 and \$3,835,802 in fiscal year 2009 for Highway Patrol salaries, training, operating costs, and equipment for 61 additional staff, including 56 commissioned officers.	\$ 6,517,794	\$ 3,835,802	\$ 10,353,596	56	5	61
59(b)	DPS shall use \$1,874,829 in fiscal year 2008 and \$974,697 in fiscal year 2009 for Narcotics Enforcement salaries, training, operating costs, and equipment for 15 additional staff, including 9 commissioned officers.	1,874,829	974,697	2,849,526	9	6	15
59 (c)	DPS shall use \$1,132,196 in fiscal year 2008 and \$726,392 in fiscal year 2009 for Vehicle Theft Enforcement salaries, training, operating costs, and equipment for 10 additional staff, including 9 commissioned officers.	1,132,196	726,392	1,858,588	9	1	10
59 (d)	DPS shall use \$1,177,975 in fiscal year 2008 and \$727,992 in fiscal year 2009 for Special Crimes salaries, training, operating costs, and equipment for 10 additional staff, including 9 commissioned officers.	1,177,975	727,992	1,905,967	9	1	10
59 (e)	DPS shall use \$606,707 in fiscal year 2008 and \$375,888 in 2009 for Texas Rangers salaries, training, operating costs, and equipment for five commissioned officers.	606,707	375,888	982,595	5	0	5
59 (f)	DPS shall use \$2,546,532 in fiscal year 2008 for training new commissioned officers (recruit schools).	2,546,532	-	2,546,532	0	0	0
59 (g)	DPS shall use \$20,917,633 in fiscal year 2008 and \$3,030,428 in fiscal year 2009 for the purchase of four helicopters and 19 additional aircraft operations staff, including 18 commissioned officers.	20,917,633	3,030,428	23,948,061	18	1	19

<sup>7</sup> Rider 59, page V-58, General Appropriations Act (80th Legislature).

<sup>8</sup> Rider 19.55, page IX-83, General Appropriations Act (80th Legislature).

<sup>9</sup> Rider 19.56, page IX-83, General Appropriations Act (80th Legislature).

**Legislative Appropriations and Directives to DPS for Border Security  
2008-2009 Biennium**

Rider	Description	Fiscal Year 2008	Fiscal Year 2009	Total	Additional Commissioned Officers Authorized	Other Staff Authorized	Total Additional Staff Authorized
19.55	From funds appropriated elsewhere in the General Appropriations Act (80th Legislature), DPS shall use \$500,000 in fiscal year 2008 and \$500,000 in fiscal year 2009 to establish the Rio Grande Valley Border Security and Technology Training Center in Hidalgo County.	500,000	500,000	1,000,000	0	0	0
19.56	From funds appropriated elsewhere in the General Appropriations Act (80th Legislature), DPS shall transfer 10 used vehicles to border counties and municipalities during fiscal year 2008. The vehicles shall have mileage not to exceed 80,000 and be in good working condition.	0	0	0	0	0	0
<b>Totals</b>		<b>\$35,273,666</b>	<b>\$10,171,199</b>	<b>\$ 45,444,865</b>	<b>106</b>	<b>14</b>	<b>120</b>

Sources: Rider 59, Rider 19.55, and Rider 19.56.

Rider 32<sup>10</sup> appropriated \$2,125,193 to TPWD for the 2008-2009 biennium to enhance border security. Table 5 details these appropriations.

Table 5

Description of Riders Appropriating Border Security Funds to TPWD 2008-2009 biennium							
Rider	Description	Fiscal Year 2008	Fiscal Year 2009	Total for 2008-2009 Biennium	Additional Commissioned Officers Authorized	Other Staff Authorized	Total Additional Staff Authorized
32	TPWD is appropriated out of the General Revenue Fund \$837,100 and 6.3 additional full-time equivalent positions (FTEs) in fiscal year 2008 and \$854,400 and 15.0 additional FTEs in fiscal year 2009 for enforcement programs.	\$837,100	\$854,400	\$1,691,500	0	21.3	21.3
32	TPWD is appropriated out of the General Revenue Fund \$413,693 and 8.7 additional FTEs in fiscal year 2008 for a Warden Training Academy.	413,693	0	413,693	0	8.7	8.7
32	TPWD is appropriated out of the General Revenue Fund \$20,000 in fiscal year 2008 for information resources for the purposes of enhancing border security.	20,000	0	20,000	0	0	0
<b>Totals</b>		<b>\$1,270,793</b>	<b>\$854,400</b>	<b>\$2,125,193</b>	<b>0</b>	<b>30.0</b>	<b>30.0</b>

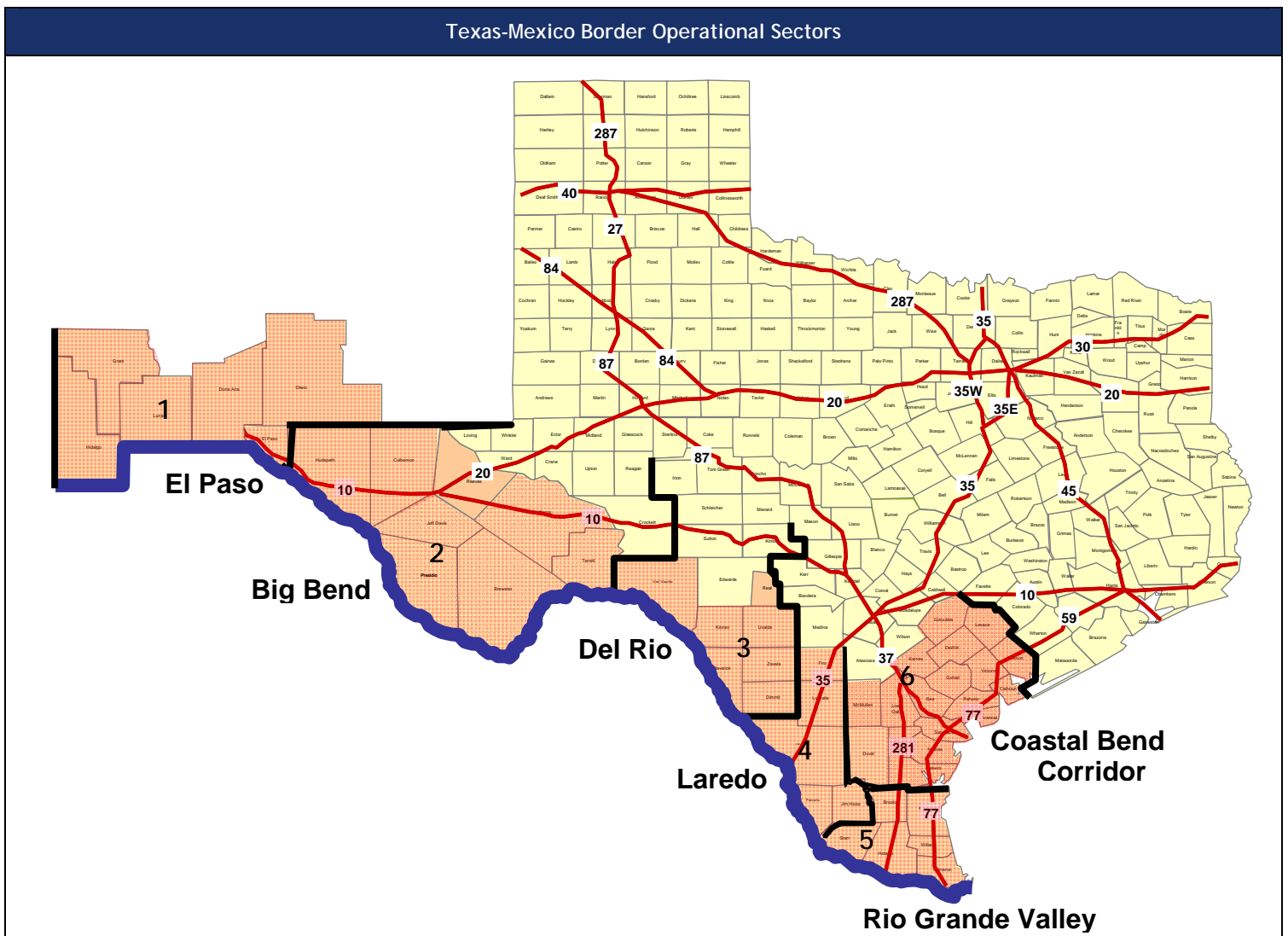
Source: Rider 32.

<sup>10</sup> Rider 32, page VI-43, General Appropriations Act (80th Legislature).

## Texas-Mexico Border Operational Sectors

The Governor’s Division of Emergency Management (Division) classifies 45 Texas counties into six operational sectors—El Paso, Big Bend, Del Rio, Laredo, Rio Grande Valley, and Coastal Bend Corridor. The El Paso sector also contains five New Mexico counties because it coordinates border security efforts with these New Mexico counties. The New Mexico counties are not eligible to receive border security funding from Texas. The Division has conducted three border security operations since 2006: Rio Grande, Wrangler, and Border Star. While Operation Wrangler included statewide activity, the Rio Grande and Border Star operations focused activities within the six operational sectors shown in Figure 2.

Figure 2



Source: Map provided by the Governor’s Division of Emergency Management.



Table 6 lists the counties in Texas and New Mexico in each of the six operational sectors.

Table 6

Border Counties within Each Operational Sector					
El Paso	Big Bend	Del Rio	Laredo	Rio Grande Valley	Coastal Bend Corridor
El Paso Dona Ana, NM Grant, NM Luna, NM Hidalgo, NM Otero, NM	Brewster Culberson Hudspeth Jeff Davis Pecos Presidio Reeves Terrell	Dimmit Kinney Maverick Real Uvalde Val Verde Zavala	Frio Jim Hogg La Salle Webb Zapata	Brooks Cameron Hidalgo Kennedy Starr Willacy	Aransas Bee Calhoun DeWitt Duval Goliad Gonzales Jackson Jim Wells Karnes Kleberg Lavaca Live Oak McMullen Nueces Refugio San Patricio Victoria

Table 7 lists the three border security operations the Division has coordinated since February 2006, the participating law enforcement agencies, and the duration of each operation.

Table 7

Border Operations Managed By the Division		
Operation	Participants	Operation Duration
Operation Rio Grande Phases 1-5	Local, state, and federal authorities	May 2006 - August 2006
Operation Wrangler Phases 1 - 5	Local, state, and federal authorities with some assistance from private companies	January 2007 <sup>a</sup>
Operation Border Star Phases 1 - 5	Local, state, and federal authorities	September 2007 - August 2009
<sup>a</sup> Operation Wrangler was a statewide operation with an undisclosed duration.		

## Letters from the Governor's Office Regarding Border Security Funds

The appropriations in Riders 60 and 19.69 were contingent on the Governor's certification to the Legislative Budget Board that all federal funds used during the past four years for homeland security were no longer available. This letter satisfied that requirement.



OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

October 10, 2007

Mr. John O'Brien  
Director  
Legislative Budget Board  
Post Office Box 12666, Capitol Station  
Austin, Texas 78711-2666

Dear Mr. O'Brien:

Pursuant to Rider 60, Department of Public Safety, and Sec. 19.69, Article IX, in the General Appropriations Act, 80<sup>th</sup> Legislature, I am notifying you on behalf of the Governor that all federal funds received over the last four years for homeland security purposes are either expended, budgeted, or allocated and therefore unavailable.

The attached spreadsheet provides a summary of these federal funding sources. It shows each grant and the amount that has been spent, budgeted or allocated.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Steve McCraw".

Steve McCraw  
Homeland Security Director

cc: Susan Combs, Texas Comptroller of Public Accounts

Enclosure

Post Office Box 12428 Austin, Texas 78711 (512) 463-2000 (Voice)/Dial 7-1-1 For Relay Services

2005-2007 HS Grant Summary

	Award Amount	Allocated to Local Projects	Allocated to State Projects	Allocated to Admin	State Projects Funds not Expended	Constraints on Use
<b>2005</b>						
Homeland Security Grant Program	\$ 55,665,843	\$ 44,594,625	\$ 9,513,955	\$ 1,672,298	\$ -	To build HS capabilities at state & local levels
State Homeland Security Program (SHSP)	\$ 70,270,283	\$ 16,216,227	\$ 3,445,948	\$ 606,108	\$ -	Must be used for law enforcement programs
Law Enforcement Terrorism Prevention Program (LETPP)	\$ 49,842,990	\$ 49,842,990	\$ -	\$ -	\$ -	DHS allocates specific amounts to each UASI
Urban Area Security Initiative (UASI)	\$ 707,881	\$ 501,259	\$ 206,402	\$ -	\$ -	For Citizen Corps volunteer programs only
Citizen Corps Program (CCP)	\$ 2,959,898	\$ 2,959,898	\$ -	\$ -	\$ -	To specific cities for medical preparedness only
Metropolitan Medical Response Systems (MMRS)	\$ 2,652,878	\$ 2,306,874	\$ -	\$ -	\$ -	To support state & local emer migrant programs
Emergency Management Performance Grant (EMPG)	\$ 132,084,349	\$ -	\$ -	\$ -	\$ -	
Infrastructure Protection Program	\$ 6,550,000	\$ 6,353,500	\$ -	\$ -	\$ 25,860	Limited to use for facilities designated by DHS
Buffer Zone Protection Program (BZPP)	\$ 4,820,575	\$ 4,731,458	\$ -	\$ -	\$ 89,117	Limited to DHS designated transit system
Transit Security Grant Program (TSGP)	\$ 143,468,324	\$ -	\$ -	\$ -	\$ 25,860	Cannot be used for Border Security
<b>2006</b>						
State Homeland Security Grant Program (SHSP)	\$ 26,140,000	\$ 20,900,894	\$ 3,602,308	\$ 1,307,000	\$ -	To build HS capabilities at state & local levels
Law Enforcement Terrorism Prevention Program (LETPP)	\$ 24,740,000	\$ 19,792,000	\$ 3,711,000	\$ 1,237,000	\$ -	Must be used for law enforcement programs
Urban Area Security Initiative (UASI)	\$ 34,960,000	\$ 33,911,200	\$ 1,048,800	\$ -	\$ -	DHS allocates specific amounts to each UASI
Citizen Corps Program (CCP)	\$ 1,020,062	\$ 880,059	\$ 140,003	\$ -	\$ -	For Citizen Corps volunteer programs only
Metropolitan Medical Response Systems (MMRS)	\$ 3,020,290	\$ 3,020,290	\$ -	\$ -	\$ -	To specific cities for medical preparedness only
Operation Stronghold	\$ 3,070,081	\$ 3,070,081	\$ -	\$ -	\$ -	Border Security only
Infrastructure Protection Program	\$ 92,950,433	\$ -	\$ -	\$ -	\$ -	
Buffer Zone Protection Program (BZPP)	\$ 2,268,000	\$ 2,154,000	\$ -	\$ -	\$ 205,022	Limited to use for facilities designated by DHS
Chem Buffer Zone Protection Plan (Chem BZPP)	\$ 5,109,700	\$ -	\$ -	\$ -	\$ -	Limited to use for facilities designated by DHS
Pest Security Grant Program	\$ 800,000	\$ 778,000	\$ -	\$ -	\$ 24,000	Limited to DHS designated transit systems
Transit Security Grant Program (TSGP)	\$ 8,177,700	\$ -	\$ -	\$ -	\$ 265,922	Cannot be used for Border Security
<b>Other Grants:</b>						
Emergency Management Performance Grant (EMPG)	\$ 9,245,864	\$ 4,537,586	\$ -	\$ -	\$ 4,708,318	To support state & local emer migrant programs
<b>2007</b>						
State Homeland Security Grant Program	\$ 34,400,000	\$ 27,770,000	\$ 5,160,000	\$ 1,470,000	\$ -	To build HS capabilities at state & local levels
Law Enforcement Terrorism Prevention Program (LETPP)	\$ 24,500,000	\$ 19,898,000	\$ 3,694,000	\$ 978,000	\$ -	Must be used for law enforcement programs
Urban Area Security Initiative (UASI)	\$ 98,540,000	\$ 56,783,800	\$ -	\$ 1,756,200	\$ -	DHS allocates specific amounts to each UASI
Citizen Corps Program (CCP)	\$ 3,335,887	\$ 772,774	\$ -	\$ -	\$ -	For Citizen Corps volunteer programs only
Metropolitan Medical Response Systems (MMRS)	\$ 121,604,681	\$ -	\$ -	\$ -	\$ -	To specific cities for medical preparedness only
Infrastructure Protection Program	\$ 2,810,000	\$ 2,689,500	\$ -	\$ -	\$ 140,500	Limited to use for facilities designated by DHS
Buffer Zone Protection Program (BZPP)	\$ 2,788,951	\$ 2,704,991	\$ -	\$ -	\$ 83,660	Limited to DHS designated transit system
Transit Security Grant Program (TSGP)	\$ -	\$ -	\$ -	\$ -	\$ -	For security only for non-profit orgs in designated urban areas
UASI Non-Profit Security Grant	\$ 5,984,891	\$ -	\$ -	\$ -	\$ -	
<b>Other Grants:</b>						
Emergency Management Performance Grant (EMPG)	\$ 10,058,516	\$ 4,788,241	\$ 5,308,275	\$ -	\$ -	To support state & local emer migrant programs
Public Safety Interoperable Communication Grant Program	\$ 65,069,247	\$ 52,065,388	\$ 11,712,494	\$ 1,301,385	\$ -	
UASI Public Non-Profit Security	\$ -	\$ -	\$ -	\$ -	\$ -	
	\$ 75,164,783	\$ -	\$ -	\$ -	\$ -	

Homeland Security Grants 05-07

This letter from the Governor's Office's Budget, Planning, and Policy Division authorized the Governor's Division of Emergency Management to use rider funds for additional categories of expenditures that are not specifically authorized in Riders 60 or 19.69.



OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

January 23, 2008

Mr. Jack Colley, Chief  
Governor's Division of Emergency Management  
P.O. Box 4087  
Austin, TX 78773-0220

Dear Chief Colley,

This letter serves to clarify use of General Revenue funds appropriated in H.B. 1, 80<sup>th</sup> Legislature, from the Department of Public Safety Rider 60, Surge Operation Overtime for Local Law Enforcement and Art. IX, Sec. 19.69, Contingency for Border Security, for border operations to improve border security. Approval includes using 1.1% of the \$63.7 million to ensure accountability of these funds to hire six temporary workers to carry out accounting, audit, budget analysis, and payment processing for the state border security funds.

Also, authorization includes approval for funding for overtime and per diem for local law enforcement officers and support personnel, as well as fuel, training, equipment, and technology acquisition for surge operations.

This authorization is effective immediately.

If you need additional information regarding this matter, please contact Jerry Tucker at 463-1781 or myself.

Sincerely,

A handwritten signature in cursive script that reads "Mike Morrissey".

Mike Morrissey, Director  
Budget, Planning and Policy

cc: Col. Thomas A. Davis Jr.

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 (512) 463-2000 (Voice)/(512) 475-3165 (TDD)

## ***Border Security Fund Activity from September 1, 2005, through November 30, 2008***

Table 8 lists the Governor's Division of Emergency Management (Division) border security-related funds appropriated or granted from September 1, 2005, to November 30, 2008. It also includes funds that the 80th Legislature appropriated to the Department of Public Safety (DPS) and the Parks and Wildlife Department (TPWD) for fiscal years 2008 and 2009. "Period of Availability" is the time period that a state agency or grantee had to spend the funds. As of November 30, 2008, a total of \$63.3 million had not been spent by the Division, DPS, or TPWD. This amount does not include an additional \$9.4 million in advances made through grants and contracts by the Division to local jurisdictions and state agencies, but not spent as of November 30, 2008.

Table 8

<b>Border Security Funds Activity</b>					
<b>September 1, 2005, to November 30, 2008</b>					
Funding Source	Period of Availability	Appropriated or Granted Funds	Funds Obligated per Executed Contract/ Grant	Total Expenditures Reported as of November 30, 2008	Unexpended Funds as of November 30, 2008
<b>Funds Appropriated to DPS by the 80th Legislature</b>					
Rider 59(a) - Highway Patrol	September 1, 2007 - August 31, 2009	\$ 10,353,596	Not Applicable	\$ 7,635,910	\$ 2,717,686
Rider 59(b) - Narcotics Enforcement	September 1, 2007 - August 31, 2009	2,849,526	Not Applicable	917,278	1,932,248
Rider 59(c) - Vehicle Theft Enforcement	September 1, 2007 - August 31, 2009	1,858,588	Not Applicable	855,267	1,003,321
Rider 59(d) - Special Crimes	September 1, 2007 - August 31, 2009	1,905,967	Not Applicable	892,652	1,013,315
Rider 59(e) - Texas Rangers	September 1, 2007 - August 31, 2009	982,595	Not Applicable	564,643	417,952
Rider 59(f) - Recruit School	September 1, 2007 - August 31, 2009	2,546,532	Not Applicable	2,739,935	(193,403) <sup>a</sup>
Rider 59(g) - Aircraft Operations	September 1, 2007 - August 31, 2009	23,948,061	Not Applicable	19,898,107	4,049,954
Rider 19.56 - Rio Grande Valley Border Security and Technology Training Center	September 1, 2007 - August 31, 2009	1,000,000	0	0	1,000,000
<b>Total Appropriations to DPS</b>	September 1, 2007 - August 31, 2009	<b>\$45,444,865</b>	<b>\$ 0</b>	<b>\$33,503,792</b>	<b>\$ 11,941,073</b>
<b>Funds Appropriated to TPWD by the 80th Legislature</b>					
Rider 32 - Border Security	September 1, 2007 - August 31, 2009	2,125,193	Not Applicable	1,270,612 <sup>b</sup>	854,581

**Border Security Funds Activity**  
September 1, 2005, to November 30, 2008

Funding Source	Period of Availability	Appropriated or Granted Funds	Funds Obligated per Executed Contract/ Grant	Total Expenditures Reported as of November 30, 2008	Unexpended Funds as of November 30, 2008
<b>Funds Appropriated to the Division of Emergency Management by the 80th Legislature</b>					
Rider 60 - Contingency for Surge Operation Overtime for Local Law Enforcement	September 1, 2007 - August 31, 2008 <sup>C</sup>	19,780,000	19,699,709	5,044,913	14,735,087
Rider 60 - Management and Administration	September 1, 2007 - August 31, 2008 <sup>C</sup>	220,000	Not Applicable	11,067	208,933
Rider 19.69 (a) - Joint Operation and Intelligence Centers and the Border Security Operation Center equipment and operations	September 1, 2007 - August 31, 2009	6,500,000	4,016,135	3,567,757	2,932,243
Rider 19.69 (b) Overtime, per diem, and related travel expenses for commissioned peace officers or National Guard	September 1, 2007 - August 31, 2009	19,780,000	15,711,771	8,559,000	11,221,000
Rider 19.69 (c) - Overtime and per diem to local law enforcement agencies or for training, equipment, and technology acquisition	September 1, 2007 - August 31, 2009	16,994,609	6,879,354	10,827	16,983,782
Rider 19.69 - Management and Administration	September 1, 2007 - August 31, 2009	430,105	Not Applicable	25,565	404,540
<b>Grants Awarded by or through the Governor's Criminal Justice Division to the Division of Emergency Management</b>					
16.579 - Edward Byrne Memorial Formula Grant (Border Security Enhancement Operations (BSEO))	June 1, 2006 - May 31, 2007	600,000	600,000	600,000	0
16.579 - Edward Byrne Memorial Formula Grant (Statewide Implementation of Texas Data Exchange System (TDEx))	January 1, 2007 - August 31, 2007	700,000	700,000	700,000	0
16.592 - Local Law Enforcement Block Grant (BSEO)	May 1, 2006 - November 30, 2006	808,175 <sup>d</sup>	808,175	805,380	2,795
16.738 - Edward Byrne Memorial Grant (Operation Free Safety)	January 1, 2006 - December 31, 2006	1,000,000	1,000,000	909,948	90,052
16.738 - Edward Byrne Memorial Grant (BSEO - Part 1)	May 1, 2006 - September 30, 2008	4,800,000	4,800,000	3,760,312	1,039,688
16.738 - Edward Byrne Memorial Grant (BSEO - Part 2)	June 1, 2006 - September 30, 2008	4,100,000	4,100,000	3,069,573	1,030,427
16.738 - Edward Byrne Memorial Grant - Statewide Implementation of TDEx	October 1, 2007 - September 30, 2008	3,000,000	3,000,000	2,998,668	1,332
State Criminal Justice Planning Fund (421) (Joint Law Enforcement and Intelligence Operations)	December 1, 2006 - September 30, 2008	10,000,000	10,000,000	8,758,746	1,241,254
State Criminal Justice Planning Fund (421) (TDEx, Livescan, Abrams Learning and Information System)	April 1, 2007 - December 31, 2007	2,165,701	2,165,701	2,165,701	0

**Border Security Funds Activity**  
September 1, 2005, to November 30, 2008

Funding Source	Period of Availability	Appropriated or Granted Funds	Funds Obligated per Executed Contract/ Grant	Total Expenditures Reported as of November 30, 2008	Unexpended Funds as of November 30, 2008
<b>Federal Grant Made Directly to the Division of Emergency Management</b>					
Stone Garden	Not Applicable	3,911,568	3,911,568	3,263,663	647,905
<b>Total Appropriations and Grants to the Division</b>	<b>Not Applicable</b>	<b>\$ 94,790,158</b>	<b>\$ 77,392,413</b>	<b>\$ 44,251,120</b>	<b>\$ 50,539,038</b>
<b>Grand Totals</b>		<b>\$142,360,216</b>	<b>\$77,392,413</b>	<b>\$79,025,524</b>	<b>\$63,334,692</b>

<sup>a</sup> DPS had overspent its appropriation for Rider 59(f) as of November 30, 2008.

<sup>b</sup> TPWD expenditures are for fiscal year 2008 only. Expenditures are self-reported and unaudited.

<sup>c</sup> According to Section 17.04(b) of the General Appropriations Act (80th Legislature), funds appropriated for grants made by a state agency for a particular fiscal year may be distributed in subsequent fiscal years if the grant has been awarded and treated as a binding encumbrance by the grantor agency prior to the end of the appropriation year. Distribution of the grant funds is subject to Texas Government Code, Section 403.071.

<sup>d</sup> The \$808,175 included a \$724,842 grant from the Governor's Criminal Justice Division and \$83,333 in matching funds from the Governor's Division of Emergency Management.

Sources: DPS accounting system, Division grant expenditures records, TPWD self-reported data, and the Governor's Criminal Justice Division.

## Response Letter from Office of the Governor



### OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

March 5, 2009

John Keel, CPA  
State Auditor  
P.O. Box 112067  
Austin, Texas 78711-2067

Dear Mr. Keel:

We value the work provided by the audit team to ensure accountability over tax dollars expended for border security initiatives by the Texas Department of Public Safety (DPS) and the Governor's Division of Emergency Management (GDEM), which is physically and administratively housed at DPS. The audit results highlight areas for improvement at DPS and GDEM in administration and accounting.

The chief of GDEM is an employee of DPS and reports through the DPS chain of command, except during emergency preparation and responses, when the chief takes direction from the governor. All administrative activities of GDEM are based at DPS and supported by DPS accounting staff. Accordingly, the majority of audit responses are the responsibility of DPS.

We agree with the SAO recommendations that DPS improve its administrative and accounting procedures.

We appreciate the opportunity to comment on this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Kimbrough".

Jay T. Kimbrough  
Chief of Staff  
Office of the Governor

JK:lak



## ***Attachments to Management Responses from the Department of Public Safety***

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Attachment 1

**DPS Aircraft Section  
Explanatory Information Relating to Finding 4  
in the SAO Audit Report on Border Security Funds**

1. Page 15 - Bullet 1: Five of the new commissioned officer positions authorized for the Aircraft Division were not assigned to duty stations in one of the six border operations sectors.
  - A. The new duty station in Amarillo, Potter County, is in response to Rider 57 and those expenditures are paid through budget 09511. The three FTEs that were initially assigned to that duty station, and that are currently assigned to that duty station, are Sgt. Gordon Wade, Sgt. Clay Shelton, and Tactical Flight Officer (TFO) Wayne Beighle. Sgt. Wade was assigned to the Amarillo duty station on September 1, 2007, under the Rider 57 - 09511 budget. On the same date Sgt. Shelton was promoted under Rider 59 and temporarily assigned to Austin for initial training. Three months later, on December 1, 2007, Sgt. Shelton was assigned to the Amarillo duty station and his salary was drawn from the Rider 57 - 09511 budget. Sgt. Wayne Beighle was selected as the TFO on November 1, 2008, under the Rider 57 - 09511 budget.
  - B. Bullet 1 includes 2 employees stationed in Travis County as part of the 5 commissioned officers assigned outside the border operational sectors. In addition to the 18 commissioned officers (9 pilots and 9 TFOs) the rider allowed for one administrative technician. The Section had two administrative technicians at the Section's headquarters in Austin. The additional administrative technician was added to the Austin office as the record keeping, budget tracking, and other various duties performed by those technicians was already established at the Austin location. No additional office space was required as the third administrative technician was able to utilize the existing facility. The establishment of an office in one of the border operational sectors for the administrative technician would have required a duplication of equipment and office space, isolated the new technician from the knowledge and experience of the other two senior technicians, and would have required the information, some in paper format as required by statute, to have been consolidated at the field location and then delivered to the Austin office for inclusion in the Section's records, resulting in two movements as opposed to one. The additional administrative work, added by the 18 commissioned officers, is being processed in the Section's Austin office by the administrative technicians.
  - C. Since January of 2006 the Aircraft Section has been assisting the multi-agency efforts of the border security initiative. The primary participants in this effort have been the Governor's office through Homeland Security, the Department of Public

Safety through the office of the Governor's Division of Emergency Management, and a unified commitment of federal, state, and local governments. The State Auditor's Office is correct in stating on page 14 that, "Rider 59 did not specify where DPS should place these resources to enhance border security operations..." thus leaving it to the discretion of the individual Divisions and Sections where to place resources and personnel. In the first half of 2007 the unified command operated under operation "Wrangler." This operation pinpointed corridors throughout the state and focused on interior areas that have been highly affected by the criminal element associated with the illegal border activities. San Antonio (Bexar), Austin (Travis) and Houston (Harris) were strike locations identified by operation Wrangler, and for this reason one TFO, who operates the helicopter's highly technical thermal imager, mapping equipment, and police communications radios, was assigned to each of those stations to increase the effectiveness of the air units. Additionally San Antonio is a co-station with Del Rio and Houston is a co-station with Corpus Christi. Both of the TFOs assigned to San Antonio and Houston frequently assist in those counties identified as the operational sector in Appendix 3.

2. Page 15 - Bullet 2: Placement of the fourth DPS helicopter in Austin.
  - A. Rider 59 allowed DPS to expand the overall capabilities of the Section by funding a twin engine multi-use helicopter. The EC-145 has an 800 lb. useful load increase over the 13 existing AS350 (A-Star) helicopters, hoist and fire bucket provisions, and is instrument flight rule (IFR) certified. The additional capabilities of the helicopter allow for the deployment of police personnel with specialized skills, such as special weapons and tactics (SWAT) personnel and crime lab personnel with specialized skills in the gathering of crime scene evidence – those teams being primarily based in and around the Travis County area due to the centralized location. To maximize these capabilities pilots must be IFR and/or Airline Transport Pilot (ATP) rated. At this time no pilots have these qualifications in border stations, however Austin has four. Due to the advanced equipment aboard the EC-145 a pilot must complete a two week training course at a cost of \$20,380. For this reason it becomes impractical to train a large number of pilots in the operation of the aircraft and it cannot be shared among different duty stations and pilots - a detriment to border operations as aircraft and pilots are frequently swapped to meet operational needs.
  - B. The majority of border flying is in close support of ground units, utilizing a 60 knot orbit, and loitering for extended periods of time. The EC-145 is equipped for and capable of performing this mission; however, utilizing it in place of the A-Star is not as cost effective due to fuel burn and maintenance costs. The A-Star helicopter uses 33 gallons of fuel per hour in this search profile while the twin engine EC-145 uses 65 gallons of fuel per hour. Because of the second engine, the maintenance costs and eventual replacement costs of timed components are greater for the EC-145 than for the single engine A-Star. Additionally, the current pace of flight operations on the border, due to increased border security

operations, exceed that of the Austin station by a minimum ratio of two to one. For these economic and operational reasons, Austin's A-Star helicopter was transferred to Laredo and the EC-145 was placed into service in Austin, in order to better utilize the EC-145's particular capabilities.

3. Page 16 - Bullet 1: \$14,612 was used for maintenance on 5 aircraft not used in border security operations.

During fiscal 2008, prior to the border security helicopters being purchased, completed with the specialized equipment necessary for the police mission, and then delivered to DPS, the Aircraft Section supported the border security operations with the Department's existing aircraft from across the state. Primarily the aircraft were flown to the border cities and manned using veteran pilots from other duty stations, the process beginning in 2006 and continuing into 2008. Aircraft and personnel were continuously repositioned to fill the needs created by the vacancies and all aircraft were used in the primary and secondary roles as described above to assist in manning the border operations. The expenditures for maintenance were determined based upon the percentage of time spent on either border security operations or the Section's other police support missions. To the best of the Section administration's knowledge, all Rider 59 funds expended for maintenance was in accordance with the described procedure, though with the volume of flights performed and the complexity of tracking the flight times and maintenance costs, it is possible that an error(s) occurred.

Attachment 2

**Texas Highway Patrol Division  
Explanatory Information Relating to Finding 4  
in the SAO Audit Report on Border Security Funds**

1. Page 15 – Bullet 3: Rider 59 authorized DPS to increase its workforce by 106 commissioned officers and it purchased 105 vehicles totaling \$2,194,407. DPS fulfilled Rider 59 requirements by transferring 106 existing vehicles to border counties; however, none of the newly purchased vehicles were placed into service in border counties.

Explanatory Information:

105 new vehicles were purchased and placed into service in border counties. However, the vehicles were not purchased specifically with Rider 59 funds.

2. Page 15 – Bullet 4: DPS purchased 396 multikeys, a data protection device installed on radios to encrypt or decrypt communication codes or messages, totaling \$238,788. Rider 59 authorizes the purchase of equipment for 106 commissioned officers. A purchase of 106 multikeys would have been \$63,918. However, DPS used \$174,870 from Rider 59 funds to purchase an additional 290 multikeys. While some of the additional multikeys were placed in border counties, some were placed outside border security operational sectors.

Explanatory Information:

The Department did purchase 290 additional multi-key data encryption devices above the allotted 106 commissioned authorized positions. This mistake is in the process of being corrected and funded out of other agency funding, at which time the Rider 59 budget will be credited.

3. Page 16 – Bullet 2: The Texas Highway Patrol Division assigned 56 trooper positions and vehicles funded by Rider 59 to border counties without consulting the Division to determine the most strategic placement of these resources for enhancing border security.

Explanatory Information:

THP Division field commanders responsible for operations in the border counties were consulted to determine where the 56 trooper positions and vehicles funded by Rider 59 should be placed. Those commanders are familiar with the 1,254 miles of

Texas-Mexico border within the boundaries of their Districts and carefully considered the long-term commitment to border security when identifying the placement of the trooper positions.

4. Page 16 – Bullet 3: Rider 19.56 required DPS to transfer 10 used vehicles in good condition and whose mileage did not exceed 80,000 miles to border counties and municipalities in fiscal year 2008. While DPS transferred these vehicles, it did not perform any analysis to support that vehicles were placed in the most needed areas nor did the Division have input on the placement of these vehicles.

Explanatory Information:

The following vehicles were transferred to border counties and municipalities in compliance with Rider 19.56 as required by the 80th Legislature.

City of LaGrulla – Starr County

F06-180  
F05-388  
F05-318  
F05-242

City of El Cenizo – Webb County

F06-252  
F05-336  
F06-297

City of Escobares – Starr County

F05-356  
F06-326  
F05-208

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The Honorable Joe Straus III, Speaker of the House, Joint Chair  
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The Honorable Rene Oliveira, House Ways and Means Committee

### **Office of the Governor**

The Honorable Rick Perry, Governor

### **Department of Public Safety**

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