



# INVESTIGATION OF ALLEGATIONS OF IMPROPER VENDOR PAYMENTS

## AUDIT 2311-01

*July 5, 2023*

### OUR MISSION

*The mission of the Internal Audit Division is to assist agency administrators by furnishing independent analyses, appraisals, and recommendations concerning the adequacy and effectiveness of the agency's system of internal control procedures, and the quality of performance in carrying out assigned responsibilities.*

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### PROJECT TEAM

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Members of the Board:

We have completed our investigation of allegations of improper vendor payments made to the Management and Training Corporation (MTC) and found no evidence of malicious or misleading activities. This investigation does not constitute an audit conducted in conformance with auditing standards and no conclusion should be drawn outside of the specific details included in this letter.

We thank management and staff of the Rehabilitation Programs and Private Facilities Contract Monitoring and Oversight Divisions for their courtesy and cooperation extended to us during the investigation.

Sincerely,

Chris Cirrito, CIA, CFE, CGAP  
Chief Audit Executive  
Director, Internal Audit Division  
Texas Board of Criminal Justice

Xc:

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# RESULTS OF INVESTIGATION

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*On November 21, 2022, Latino Justice PRLDEF (“Latino Justice”) submitted a complaint to the Texas State Auditor’s Office and the Texas Department of Criminal Justice alleging fraudulent activity by the Management and Training Corporation and/or the TDCJ related to pre-release programs at the Gist, Glossbrenner, Hamilton, Havins and Halbert units during and after the COVID-19 pandemic.*

*The Internal Audit Division agreed to complete this investigation after consultation with the TDCJ Executive Director, Inspector General, and Texas State Auditor’s Office.*

*The Texas State Auditor’s Office conducted a detailed audit of the business processes related to ensuring TDCJ appropriately monitored contract provisions for pre-release services. Therefore, we focused on the specific allegations of potentially fraudulent activity made by Latino Justice.*

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We evaluated the complaint received from Latino Justice to identify the primary areas of concern and conducted detailed testing to determine whether the conditions described in the complaint existed, the extent to which they were present, and if true, why they occurred. The complaint included detailed declarations from four inmates making allegations regarding programming by MTC. As part of our review, we discovered two of the four inmates making these allegations were never referred nor assigned to an MTC program. While this reduced the credibility of the complaint, we were thorough in our review and exercised due professional care when developing our opinions.

The COVID-19 pandemic was unprecedented and forced radical changes to most daily prison operations. The Private Facilities Contract Monitoring and Oversight Division was responsible for ensuring contracted pre-release programming was continued while maintaining the safety of inmates and staff. Through coordination with the Rehabilitation Programs Division and MTC, alternative treatment methods were developed which included social distancing and movement control to prevent spread of the virus. Approaches included providing written assignments in lieu of direct counselor contact, counselors monitoring group sessions from outside of housing areas, rotation of participants to maintain social distancing, etc. These process modifications, while not conventional, allowed the continuation of pre-release programming and release to

parole during the pandemic. However, once the pandemic ended, these practices were not reevaluated and continued to exist through calendar year 2022.

The most concerning allegation in the complaint was an accusation inmates were coerced to document direct contact hours which were not received. Consistent with the complaint, we found inmates did not always receive direct programming. However, documentation supported these deviations were approved by the Texas Department of Criminal Justice (TDCJ) and disclosed by MTC.

We identified flaws in the design and delivery of program participation documentation which could cause an inmate to believe he was directed to falsify records. Specifically, inmates were required to complete a *Weekly Summary Progress Note* documenting their treatment activities during a given week. A portion of their modified treatment included completing worksheets, peer discussions, etc., relating to topics typically covered through direct contact with counseling staff. It appeared inmates were directed to record these assignments on the portion of the form dedicated to direct treatment hours, as this is where the subject was listed. However, once the inmates submitted the forms, staff routinely documented direct

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hours were achieved through alternative means. In many cases it appeared this disclosure may have been already typed on the form before it was given to the inmate for completion.

## RECOMMENDATION 1

*Private Facilities Contract Monitoring and Oversight Division management should ensure requirements for documenting direct treatment hours achieved through alternative treatment are clearly defined. This may require adding to the existing “Weekly Summary Progress Note” or designing a new form with specific instructions for documenting alternative treatment.*

## MANAGEMENT RESPONSE:

*The Texas Department of Criminal Justice (TDCJ) agrees with the recommendation. The Private Facilities Contract Monitoring and Oversight Division (PFCMOD) is currently reviewing the forms utilized to track direct and indirect treatment hours. A process is being developed to articulate how the documentation will capture treatment hours both direct and indirect for all participants.*

**Target Date:** June 13, 2023

The complaint also alleged group programming delivered by counselors was conducted in the dormitory setting, included too many participants, and was not loud enough to be heard in all areas. It was our opinion this method of delivery was reasonable and most likely the only available option during the pandemic. We interviewed TDCJ and vendor staff who confirmed this practice existed, but steps were taken to increase the likelihood all inmates could hear. For example, two units informed us they utilized a microphone and speaker system. We also physically inspected various housing areas and conducted testing to determine whether it was likely a counselor could be heard under those conditions. While our testing could never be entirely conclusive, it was reasonable to believe an inmate who desired to hear the presentation would be able to do so.

Although we found no evidence indicating the vendor deceived TDCJ, we identified significant staffing issues during and after the pandemic which directly impacted the vendor’s ability to provide direct treatment hours. This has resulted in the vendor continuing to request approval for alternative treatment delivery. We reviewed MTC treatment staffing levels at the Glossbrenner, Halbert, and Havins units and found vacancies remained at 20 (63%), 16 (50%), and 7 (23%) at the time of our testing. It is our belief these staffing shortages will continue to represent risk to program delivery and consideration should be given to reevaluating contract provisions to ensure future success.

We identified an additional issue not directly related to the complaint which was shared with management.

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## RECOMMENDATION 2

*Private Facilities Contract Monitoring and Oversight Division management should work with applicable vendors to review contracts and develop long term contingencies for periods in which required staffing levels cannot be maintained and programs cannot be delivered as described in the contract. This may require consideration of innovative treatment delivery methods (e.g., tablet based, video conference, etc.) and significant contract modifications.*

### MANAGEMENT RESPONSE:

*The Texas Department of Criminal Justice (TDCJ) agrees with the recommendation. The Private Facilities Contract Monitoring and Oversight Division (PFCMOD) and contracted vendor Management Training Corporation (MTC) are exploring new delivery options to include virtual treatment. The division also revamped the Weekly Summary Progress Note to ensure there is clarity in how direct and alternative treatment hours are documented.*

**Target Date:** June 13, 2023

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