

OFFICE OF INSPECTOR GENERAL

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

AUDIT OF CONTRACTORS SELECTED AS NONCOMPETITIVE PROCUREMENTS OVER \$10 MILLION

*Newborn Screening Program Contract Between
Department of State Health Services and
PerkinElmer Health Sciences, Inc.*



November 22, 2016
IG Report No. IG-16-070



HHSC IG

TEXAS HEALTH AND HUMAN
SERVICES COMMISSION

INSPECTOR GENERAL

WHY THE IG CONDUCTED THIS AUDIT

The Texas Department of State Health Services (DSHS) administers the Newborn Screening program, which is designed to screen all newborns in Texas for certain genetic or heritable disorders. Approximately 760,000 newborn screening samples are tested in the DSHS public health laboratory each year.

PerkinElmer Health Sciences, Inc. (PerkinElmer) has provided the supplies, equipment, and software needed to test newborn screening samples since 2001. The value of the September 2013 through November 2015 newborn screening contract selected for audit review totaled \$26.5 million.

This is the first in a series of three performance audits on contracts from Health and Human Services (HHS) agencies. The audits are evaluating whether (a) contract funds were used as intended and (b) contractors performed in accordance with contract requirements. The contracts selected for review were noncompetitively awarded and had a contract value of \$10 million or greater.

WHAT THE IG RECOMMENDS

DSHS should post an open market solicitation for newborn screening services at the end of the current contract term in order to determine whether PerkinElmer remains the best value offer for the state.

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AUDIT OF CONTRACTORS SELECTED AS NONCOMPETITIVE PROCUREMENTS OVER \$10 MILLION

PerkinElmer Health Sciences, Inc.

WHAT THE IG FOUND

In order to determine whether PerkinElmer complied with key requirements related to supplies and pricing, the IG Audit Division tested contractor performance and verified supporting documentation associated with a sample of payments made under the contract. The IG Audit Division identified no material discrepancies and concludes that PerkinElmer complied with key contract requirements related to performance and the use of contract funds.

Additionally, the IG Audit Division obtained the following information about the history of procurements for the newborn screening contract:

- In 2002, DSHS opened a competitive procurement for the newborn screening contract. The contract was awarded to PerkinElmer with four one-year renewal options through 2007.
- In 2007, DSHS awarded PerkinElmer an emergency contract with four one-year renewal options while it conducted a legislatively requested study to determine the most cost-effective method of conducting newborn screening tests. DSHS extended the contract with PerkinElmer through 2015.
- In 2015, DSHS posted a sole source procurement that named PerkinElmer the sole source vendor for the contract, but allowed DSHS the option to receive responses from other qualified vendors. PerkinElmer was the single respondent to the solicitation, and was awarded the contract with four one-year renewal options through 2020.

While DSHS acted in accordance with state contracting rules and guidelines by posting a sole source procurement for the 2015 contract, this process potentially discouraged other vendors from submitting a proposal by stating a “sole source” vendor had already been identified for the contract. Posting an open market solicitation at the end of the current contract term would allow DSHS the opportunity to explore bids from multiple vendors in order to identify the best value offer for the state.

The DSHS Newborn Screening program concurred with the IG Audit Division recommendation detailed in this report, and plans to post an open market solicitation for newborn screening services once the current contract expires.

The IG Audit Division will continue to publish reports during its ongoing audit of contractors selected as noncompetitive procurements over \$10 million as it completes fieldwork, audit testing, and validation for selected HHS agency contracts.

LESSONS LEARNED

Posting an open market solicitation, rather than a sole source procurement, strengthens efforts to identify the vendor most able to fulfill contract requirements while providing the best value to the state.

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INTRODUCTION

The Texas Health and Human Services Commission (HHSC) Inspector General (IG) Audit Division is conducting an audit of contracts from Health and Human Services (HHS) agencies. The contracts selected for review were noncompetitively awarded and had a contract value¹ of \$10 million or greater. Due to the diversity of the contracts involved, the IG is issuing three separate reports.

This report details the results of the IG's audit of the contract awarded to PerkinElmer Health Sciences, Inc. (PerkinElmer) for the Texas Department of State Health Services (DSHS) Newborn Screening program. The PerkinElmer contract was selected for review due to (a) the expansion of the Newborn Screening program in May 2015, (b) the high dollar value of the contract, and (c) the noncompetitive award of the contract. Unless otherwise described, any year referenced is the state fiscal year, which covers the period from September 1 through August 31.

Objective

The audit objective was to determine whether (a) contract funds were used as intended and (b) contractors performed in accordance with contract requirements.

Background

DSHS administers the Newborn Screening program, which is designed to screen all newborns in Texas for certain genetic or heritable disorders. Originally initiated as a pilot program in 1963, the Newborn Screening program has expanded over the years to include testing for 53 conditions². Finding and treating these conditions early can prevent serious complications, such as growth problems, developmental delays, deafness, blindness, intellectual disabilities, seizures, and sudden or early death.

In accordance with the Texas Administrative Code, healthcare providers collect two newborn screening samples³ and send them to the DSHS public health laboratory in Austin, Texas. The first sample is collected within 24 to 48 hours after the birth, and the second sample is collected one to two weeks later, usually at the newborn's first check-up. Approximately 380,000 infants are born in Texas each year, resulting in approximately 760,000 newborn screening samples being sent to DSHS annually. Newborn Screening program staff test samples six days a week, averaging approximately 2,700 tests per day. When the results of a

¹ The contract value is the total maximum contract amount, or lifetime contract expenditure, from September 2011 through August 2015.

² Testing for one condition, cystic fibrosis, is conducted by a third-party laboratory based in Florida.

³ Texas Administrative Code, Title 25, Chapter 37, Subchapter D, § 37.56 (December 31, 2013).

screening produce abnormal results, Newborn Screening program staff arrange clinical care coordination to ensure any necessary follow-up testing and treatment is provided for the newborn associated with the abnormal results.

In 2002, DSHS opened a competitive procurement for the supplies, equipment, and software needed for Newborn Screening program staff to conduct screening tests. The contract was awarded to PerkinElmer with four one-year renewal options through 2007. In 2007, DSHS awarded PerkinElmer an emergency contract with four one-year renewal options while it conducted a legislatively requested study to determine the most cost-effective method of conducting screening tests, including determining whether newborn screening services should be outsourced to a qualified entity.

As a result of the study, DSHS determined that newborn screening services would continue to be performed by Newborn Screening program staff, and the emergency contract with PerkinElmer was extended through 2015. The value of the September 2013 through November 2015 contract selected for audit review totaled \$26.5 million. In 2015, DSHS used a sole source procurement process to award PerkinElmer the contract with four one-year renewal options through 2020.

Scope and Methodology

This audit included the period from May 2014 through November 2015. To accomplish its objective, the IG Audit Division reviewed the contract between DSHS and PerkinElmer to identify key requirements related to the supplies and pricing arrangement negotiated in the contract. Additionally, the IG Audit Division collected information by:

- Interviewing key staff at DSHS, the Newborn Screening program, and PerkinElmer.
- Reviewing relevant documentation, including payment vouchers, invoices, purchase requisitions, delivery tickets, and packing slips.
- Conducting a site visit of the DSHS public health laboratory in May 2016 to observe the processes, controls, and equipment necessary to conduct newborn screening tests.

After conducting an initial assessment of risk across key requirements, the IG Audit Division tested payments made under the contract. Based on the dollar value of the payments to test, the IG Audit Division selected 9 from a total of 101 payments DSHS made to PerkinElmer during the period reviewed. The value of the payments selected for testing totaled \$5.1 million, which represented approximately 32 percent of the \$16 million in payments PerkinElmer received from DSHS during the period reviewed. For each payment tested, the IG Audit Division evaluated whether the supplies purchased from PerkinElmer were (a) allowable, (b) within the pricing structure negotiated in the contract, and (c) received by the Newborn Screening program.

The IG Audit Division conducted this audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that auditors plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the issues and conclusions based on the audit objective. The IG Audit Division believes that the evidence obtained provides a reasonable basis for its conclusions based on the audit objective.

RESULTS AND RECOMMENDATIONS

Based on the results of its review, the IG Audit Division determined that 100 percent of the 9 payments tested were for supplies (a) allowable under the contract, (b) within the negotiated pricing structure, and (c) received by the Newborn Screening program. The IG Audit Division identified no material discrepancies and determined that PerkinElmer complied with key contract requirements regarding performance and the use of contract funds.

Additionally, DSHS followed state contracting rules and guidelines⁴ by posting a sole source procurement for the 2015 contract. A sole source procurement allows HHS agencies to name a sole source vendor for the procured services, but also provides other qualified vendors the opportunity to respond to the solicitation. If other vendors respond to the solicitation, the HHSC Procurement and Contracting Services Division works with the HHS agency to evaluate and select the vendor able to provide the best value to the state. PerkinElmer was the sole respondent to the 2015 solicitation.

While DSHS acted in accordance with state contracting rules and guidelines by posting a sole source procurement, this process potentially discouraged other vendors from submitting a proposal by stating a “sole source” vendor had already been identified for the contract. Posting an open market solicitation, rather than a sole source procurement, would help strengthen efforts to identify the vendor most able to fulfill the contract requirements while providing the best value to the state.

Recommendation

DSHS should consider posting an open market solicitation for newborn screening services at the end of the current contract term in order to identify a best value offer for the state.

DSHS Management Response

DSHS agrees an open market solicitation would ensure best value offer for the state. DSHS will seek guidance from the Procurement and Contracting Services Division and HHSC Legal so that this procurement can be processed in a timely manner.

⁴ Texas Administrative Code, Title 34, Part 1 Chapter 20, Subchapter C, § 20.33 (September 1, 2007) and guidelines set by the Texas Comptroller in the State of Texas Procurement Manual.

CONCLUSION

The IG Audit Division determined that PerkinElmer complied with key contract requirements related to performance and the use of contract funds. However, DSHS should consider posting an open market solicitation for newborn screening services and determine, through a competitive process, that it receives the best value to the state for the procured services.

The IG Audit Division presented audit results and recommendations to applicable DSHS management in a draft report dated September 21, 2016. DSHS management was provided the opportunity to study and provide management responses to the recommendation contained in the report. DSHS management concurred with the IG Audit Division recommendation, and will ensure it posts an open market solicitation for newborn screening services once the current contract term expires.

The IG Audit Division thanks management and staff at the Newborn Screening program and PerkinElmer for their cooperation and assistance during this audit.

Appendix A: REPORT TEAM AND REPORT DISTRIBUTION

Report Team

The IG staff members who contributed to this audit report include:

- Kacy J. VerColen, CPA, Audit Director
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Appendix B: IG MISSION AND CONTACT INFORMATION

Inspector General Mission

The mission of the IG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of IG's mission and statutory responsibility includes:

- Stuart W. Bowen, Jr. Inspector General
- Sylvia Hernandez Kauffman Principal Deputy IG
- Christine Maldonado Chief of Staff and Deputy IG for Operations
- Olga Rodriguez Senior Advisor and
Director of Policy and Publications
- James Crowley Deputy IG for Investigations
- David Griffith Deputy IG for Audit
- Quinton Arnold Deputy IG for Inspections
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