Independent Accountant's Report on A Performance Audit of Correctional Managed Health Care Expenditures

Texas Department of Criminal Justice

For the Period September 1, 2010 through May 30, 2012

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To the Texas Department of Criminal Justice
Huntsville, Texas

PHBV Partners, LLP has completed the performance audit of expenditures related to the Texas Correctional Managed Health Care Program. Our audit covered the period from September 1, 2010 through May 30, 2012. The objectives of this audit were to:

1. Ensure that medical and administrative expenditures for State fiscal year (FY) 2011 were in compliance with the terms of the contracts with the University of Texas Medical Branch (UTMB) and the Texas Tech University Health Science Center (TTUHSC);
2. Ensure that medical and administrative expenditures for FY 2012 were in compliance with the terms of the contracts with UTMB and TTUHSC, and the General Appropriations Act, 82nd Legislature, Article V, Rider 55;
3. Ensure that accurate amounts were charged and paid in compliance with contracts with UTMB and TTUHSC, and UTMB and TTUHSC contracts with their providers;
4. Determine the cost of services to offenders by discipline (type of service); and
5. Determine the amounts, types and allowability of indirect costs charged to TDCJ through managed health care contracts.

This audit was conducted in accordance with the performance audit provisions of *Government Auditing Standards*, dated December 2011, issued by the Comptroller General of the United States. *Generally Accepted Government Auditing 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.

Management responses from UTMB and TTUHSC are included in this report. We did not audit their responses, and, accordingly, we do not provide any assurances on them.

This report is intended solely for the information and use of TDCJ, UTMB and TTUHSC management in compliance with the General Appropriations Act, 82nd Legislature, Article V, Rider 55 and with Texas Government Code Section 501.147(e). This report is not intended to be, and should not be, used by anyone other than for this specified purpose.

If we can be of any assistance to you, or if you have any questions concerning this report, please contact us.

Sincerely,

PHBV Partners LLP

December 20, 2012

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EXECUTIVE SUMMARY

The Texas Department of Criminal Justice (TDCJ) engaged PHBV Partners LLP to perform an independent performance audit of the health care expenditures charged to the Texas Correctional Managed Health Care Program (TDCJ Program) by the University of Texas Medical Branch (UTMB) and Texas Tech University Health Science Center (TTUHSC). Our objectives and overall results are as follows:

Objective 1 - *Ensure that medical and administrative expenditures for FY 2011 were in compliance with the terms of the contracts with UTMB and TTUHSC*

- We reviewed 90 FY 2011 medical and administrative expenditures for UTMB and 90 for TTUHSC determined that all reviewed expenditures complied with applicable contractual requirements.
- We followed up on Texas State Auditor's Office reports issued in February 2011 and identified an area regarding allowability of certain fringe benefits that warrants additional clarification.

Objective 2 - *Ensure that medical and administrative expenditures for FY 2012 were in compliance with the terms of the contracts with UTMB and TTUHSC, and the General Appropriations Act, 82nd Legislature, Article V, Rider 55*

- We reviewed 90 FY 2012 medical and administrative expenditures for UTMB and found that UTMB uses a different cost estimation methodology for hospital and laboratory services than that specified in the contract. However, the system used by UTMB resulted in lower interim charges to TDCJ than if the contractual percentages had been applied. We recommend that TDCJ audit UTMB's final FY 2012 cost calculations and reconciliations.
- The same issue regarding fringe benefits was also identified for FY 2012 expenditures.
- We reviewed 90 FY 2012 medical and administrative expenditures for TTUHSC and found that all complied with the contract and with Rider 55.

Objective 3 - *Ensure that accurate amounts were charged and paid in compliance with contracts with UTMB and TTUHSC, and UTMB and TTUHSC contracts with their providers*

- Objectives 1 and 2 address compliance regarding TDCJ contracts with UTMB and TTUHSC.
- Seven out of the 30 tested payments from UTMB to contracted providers exceeded the maximum rate specified by Rider 55 and the applicable contracts. However, the total amount overpaid was not material.
- All of the 30 TTUHSC payments tested complied with contractual and Rider 55 requirements.

Objective 4 - *Determine the cost of services to offenders by discipline (type of service)*

- The cost accounting systems for services provided by UTMB and TTUHSC at prison-based facilities do not track expenditures by medical discipline, and we were therefore unable to analyze prison-based services by discipline.
- Costs by discipline for services provided at facilities not on prison grounds are reported in Appendices C through F.

Objective 5 - *Determine the amounts, types and allowability of indirect costs charged to TDCJ through managed health care contracts*

- We tested 30 indirect costs charged to the TDCJ program by UTMB and determined that 13 were unallowable costs, for example expenditures for alumni functions, public relations company fees and private club dues. The 13 exceptions we identified totaled approximately $149,000. We recommend strengthening of controls over indirect cost allocation and additional analysis of questioned accounts.
- TTUHSC does not allocate actual indirect costs but rather uses a percentage of program revenue to estimate indirect costs. We were unable to evaluate the types and allowability of indirect costs charged to the TDCJ program. This methodology does not comply with the requirements of Rider 55. We recommend that TTUHSC implement a process to allocate actual indirect costs.

We obtained Management Responses from UTMB and from TTUHSC, included in their entirety as Appendix G and Appendix H, respectively.

BACKGROUND INFORMATION

The Texas Correctional Managed Health Care Program (the TDCJ Program) was created by the Texas State Legislature and operates as a partnership between the Texas Department of Criminal Justice (TDCJ) and two university health care providers (University Providers), the University of Texas Medical Branch at Galveston (UTMB) and Texas Tech University Health Science Center (TTUHSC). The TDCJ Program is overseen by the Correctional Managed Health Care Committee (CMHCC) and is responsible for providing health care services to all adults incarcerated in Texas prisons and state jails.

Under the TDCJ Program, TDCJ executed a contract with the CMHCC, which in turn contracted with UTMB and TTUHSC to provide comprehensive correctional health care services for state fiscal years (FY) 2010 and 2011. TDCJ directly executed a contract with TTUHSC to provide comprehensive correctional health care services for FY 2012 and 2013. TDCJ and UTMB operated under interim agreements during FY 2012, as negotiations for a new contract were pending. (As of the date of this report, TDCJ and UTMB are operating under an interim agreement for FY 2013, effective through May 2013.) These contracts and agreements cover all aspects of the Program, including services to be provided, compensation, performance measurement factors, and restrictions on expenditures.

As a result of reported deficits incurred in FY 2009 through 2011, TDCJ's FY 2012-13 appropriation in the General Appropriations Act, 82nd Legislature, Article V included the following relevant language in Rider 55:

d. Strategy C.1.8, Managed Health Care - Hospital and Clinical Care

1. *The University of Texas Medical Branch shall provide inpatient and outpatient hospital services and physician services at the University of Texas Medical Branch Hospital Galveston for offenders in the custody of the Department of Criminal Justice. Inpatient and applicable hospital outpatient services shall be reimbursed at an amount no greater than the University of Texas Medical Branch's Medicaid Tax Equity and Fiscal Responsibility Act (TEFRA) rates. Hospital outpatient services not subject to Medicaid TEFRA reimbursements shall be reimbursed at an amount not to exceed the published Medicaid fee schedules for such services. Physician services shall be reimbursed at a rate not to exceed cost.*

2. *The Texas Tech University Health Sciences Center and the University of Texas Medical Branch shall provide inpatient and outpatient hospital services through contract hospital providers for offenders in the custody of the Department of Criminal Justice at a rate not to exceed 100% of what would be paid for similar services according to the Medicare reimbursement methodology.*

3. *The Department of Criminal Justice may pay a rate in excess of Medicare reimbursement rates only after receiving prior written approval from the Legislative Budget Board.*

f. Reimbursement to Institutions...

2. *The Department of Criminal Justice shall reimburse the Texas Tech University Health Sciences Center and the University of Texas Medical Branch for actual costs, including indirect administrative services based on generally accepted accounting principles...*

TDCJ engaged PHBV Partners LLP to perform a performance audit to assess contractual compliance of expenditures incurred by UTMB and TTUHSC related to the TDCJ Program. The purpose of this report is to provide our findings, conclusions, and recommendations regarding the objectives as described below.

Objectives, Scope and Methodology

PHBV Partners, LLP was engaged to provide TDCJ with an independent performance audit of the health care expenditures charged to the TDCJ Program by UTMB and TTUHSC. The objectives were to:

1. Ensure that medical and administrative expenditures for FY 2011 were in compliance with the terms of the contracts with UTMB and TTUHSC;
2. Ensure that medical and administrative expenditures for FY 2012 were in compliance with the terms of the contracts with UTMB and TTUHSC, and the General Appropriations Act, 82nd Legislature, Article V, Rider 55;
3. Ensure that accurate amounts were charged and paid in compliance with contracts with UTMB and TTUHSC, and UTMB and TTUHSC contracts with their providers;
4. Determine the cost of services to offenders by discipline (type of service); and
5. Determine the amounts, types and allowability of indirect costs charged to TDCJ through managed health care contracts.

This audit was conducted in accordance with the performance audit provisions of *Government Auditing Standards*, dated December 2011, issued by the Comptroller General of the United States. *Generally Accepted Government Auditing 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 scope of this audit covered the FY ending August 31, 2011 (FY 2011) and the period September 1, 2011 through May 31, 2012 (short FY 2012).

Our methodology included reviewing the contracts between the CMHCC and TDCJ, between TDCJ and UTMB and between TDCJ and TTUHSC; reviewing the February 2011 Texas State Auditor's Office (SAO) reports *Correctional Managed Health Care at the University of Texas Medical Branch at Galveston* and *Correctional Managed Health at the Texas Tech University of Health Sciences Center;* reviewing the General Appropriations Act, 82nd Legislature, Article V, Rider 55; and reviewing financial statements prepared by CMHCC with the results of operations at UTMB and TTUHSC for FY 2011 and for the period September 1, 2011 through May 31, 2012. We also reconciled expenditure amounts in the CMHCC financial statements to the detailed expenditure data provided by UTMB and TTUHSC and tested a stratified, random sample of expenditures made by UTMB and TTUHSC during the audit period for compliance with the applicable contract, including review of supporting documentation and accounting records.

Our methodology also included reviewing internal controls and policies and procedures relevant to our audit objectives; analyzing expenditure data to determine the cost of services to offenders by discipline; reviewing the indirect cost allocation methodologies used by UTMB and TTUHSC for compliance with Generally Accepted Accounting Principles; and testing a judgmental sample of indirect costs charged to the TDCJ Program by UTMB and TTUHSC for compliance with the applicable contract.

CHAPTER ONE – Fiscal Year 2011 Compliance for Medical and Administrative Expenditures

We reviewed a random sample of 90 FY 2011 medical and administrative expenditures charged to the TDCJ Program by UTMB and 90 FY 2011 medical and administrative expenditures charged by TTUHSC. To ensure the sample included a representative cross-section of expenditures, we separated the population into three categories:

- expenditures for hospital and physician services,
- expenditures for contract hospital provider services, and
- all remaining expenditures.

We selected an equal number of sample items from each category.

The contract in effect during FY 2011 between the Correctional Managed Health Care Committee (CMHCC) and UTMB, and the contract between the CMHCC and TTUHSC, were identical in most respects. The contracts listed the healthcare services to be provided at onsite prison-based facilities and offsite at UTMB, TTUHSC and privately contracted community providers, known as free world providers. Payment was based upon capitation rates to be paid to UTMB and TTUHSC (University Providers) by the CMHCC for offender health care and referenced the incorporated Offender Health Services Plan. The contracts specified that "all expenditures will be made in accordance with the State Comptroller's guidelines for utilization of general revenue funds. These guidelines include definitions for allowable and unallowable expenditures of general revenue funds." The contracts specified that certain items were unallowable, including non-travel food for employees, flowers or plants, employee gifts, and costs of employee celebrations such as retirement parties.

Although UTMB and TTUHSC were primarily paid based upon capitation rates in their respective contracts, supplemental appropriations provided additional funding to cover shortfalls between the capitation payments and the actual expenditures for correctional managed health care. Because the total payment received by each University Provider was ultimately based upon actual expenditures rather than solely on the basis of capitation, we tested only the compliance of the medical and administrative expenditures charged to the TDCJ Program.

We identified no exceptions in our testing of 90 FY 2011 UTMB medical and administrative expenditures charged to the TDCJ Program. All expenditures reviewed were allowable based upon the terms of the contract between the CMHCC and UTMB.

We identified no exceptions in our testing of 90 FY 2011 TTUHSC medical and administrative expenditures charged to the TDCJ Program. All expenditures reviewed were allowable based upon the terms of the contract between the CMHCC and TTUHSC.

Follow-up on Prior Audit Finding

We reviewed the February 2011 SAO reports *Correctional Managed Health Care at the University of Texas Medical Branch at Galveston* and *Correctional Managed Health at the Texas Tech University of Health Sciences Center*. The SAO concluded that certain fringe benefits, provided to all UTMB and TTUHSC employees, including those assigned to the TDCJ Programs, were prohibited by the terms of the contracts between CMHCC and the University Providers. In reaching this conclusion, the SAO appears to have relied primarily on Article XII, Section K of the FY 2010-11 contracts (clause K), which states:

The undersigned parties understand and agree that all persons employed by [the University Providers] and paid from the proceeds of this Agreement shall be considered as general revenue funded employees for the purpose of allocating fringe benefit charges and, with the exception of [unemployment insurance and worker's compensation], the CMHCC shall not be responsible for such charges. Such charges shall be made against Teachers Retirements System (TRS), Employees Retirement System (ERS), or State Comptroller or other appropriations as determined by the State Comptroller of Public Accounts.

However, the General Appropriations Act, 81st Legislature prohibits UTMB and TTUHSC from expending any of their appropriations for inmate health care by including the following language in riders to each University Provider's appropriation:

Appropriation of Costs for Health Care to Inmates None of the funds appropriated above shall be expended to provide or support the provision of health care to inmates of the Texas Department of Criminal Justice (TDCJ). It is the intent of the Legislature that all costs for providing health care to inmates of the TDCJ including costs of operating TDCJ hospital facilities in Galveston County and Lubbock County shall be paid from appropriations made to the TDCJ and from any financial reserves from contracts with TDCJ that are held by the University for the correctional health care services. Appropriations made to the TDCJ for the provision of inmate health care services shall be expended in accordance with Government Code, Chapter 501, Subchapter E.

UTMB, TTUHSC and TDCJ all believe the purpose and intent of clause K was to prevent the University Providers from claiming as TDCJ Program costs any fringe benefit expenditures that would be reimbursed out of state general revenue funds. None of the three organizations believe that clause K prohibited the University Providers from claiming fringe benefit expenditures provided to all University Provider employees, but not reimbursed from general revenue funds, as TDCJ Program costs. Therefore, UTMB and TTUHSC have continued to charge the TDCJ Program for these costs.

During our testing of FY 2011 medical and administrative expenditures, we identified 7 items at UTMB totaling $5,007.28 and 7 items at TTUHSC totaling $17,255.95 that would be considered as prohibited under the SAO's interpretation of clause K. Given the apparent conflicting language in clause K and the General Appropriations Act, we do not believe there are sufficient clear criteria to enable us to assess whether these 14 expenditures are allowable.

Recommendation

We recommend that TDCJ and the University Providers obtain clarification of legislative intent as to whether the fringe benefit expenditures referenced above are allowable Program expenditures and revise their respective contracts to clarify the allowability of these costs.

Management Responses

See Appendices G and H for UTMB and TTUHSC responses.

CHAPTER TWO – Fiscal Year 2012 Compliance for Medical and Administrative Expenditures

We reviewed a random sample of 90 short FY 2012 medical and administrative expenditures charged to the TDCJ Program by UTMB and 90 short FY 2012 medical and administrative expenditures charged to the TDCJ Program by TTUHSC. To ensure each sample included a representative cross-section of expenditures, we separated the population into three categories:

- expenditures for hospital and physician services,
- expenditures for contract hospital provider services, and
- all remaining expenditures.

We selected an equal number of sample items from each category..

University of Texas Medical Branch

Rider 55 in Article V of the General Appropriations Act, 82nd Legislature for fiscal years 2012 and 2013 specifies the payment methodology by which TDCJ will reimburse UTMB for offender medical care, with the rates based primarily on UTMBs payment rates for Medicaid services. Certain hospitals, including state-owned teaching hospitals like UTMB, are paid for Medicaid services under the Medicaid Tax Equity and Fiscal Responsibility Act (TEFRA) methodology rather than under a fee schedule.

Under the TEFRA methodology, hospitals are paid on a reasonable cost basis subject to cost reporting, cost reconciliation, and cost settlement processes. Under TEFRA, services are billed during the year at a percentage of charges, with the percentage being based upon prior year Medicaid cost reports. At the end of the calendar year, the hospital files its Medicaid cost report and, depending upon whether actual costs exceeded or were below the interim billings, the hospital will either receive additional Medicaid payments or will have to return money previously paid for Medicaid services. UTMB will not file its Medicaid cost report for calendar year 2012 until early 2013. Therefore actual costs were not known at the time of our audit.

Rider 55 specifies payment rate methodologies for various types of UTMB services. Inpatient and most outpatient hospital services provided at UTMB in Galveston are to be reimbursed at an amount not to exceed UTMB's TEFRA rates. Hospital outpatient services not subject to TEFRA are to be reimbursed at an amount not to exceed the published Medicaid fee schedule. The Rider specifies that physician services are to be reimbursed at a rate not to exceed cost. Rider 55 prohibits payment over Medicare reimbursement rates without prior approval from the Legislative Budget Board (LBB). Finally, the Rider requires that TDCJ reimburse for actual costs, including indirect costs based upon generally accepted accounting principles (GAAP). (See Chapter Five for work performed relating to indirect costs.)

The FY 2012 interim contracts between TDCJ and UTMB specified the following regarding rates to be paid:

- UTMB Inpatient Hospital Services – TEFRA rates, with interim rates equal to 50% of UTMB's billed charges
- UTMB Outpatient Hospital Services – TEFRA rates, with interim rates equal to 37% of UTMB's billed outpatient charges and 13.6% of UTMB's billed outpatient lab charges)
- Physician Services – Cost, equal to 49% of UTMB's billed charges
- Free-World Contract Providers – No greater than 100% Medicare rates without prior LBB approval

The interim contracts are consistent with Rider 55, with the exception that the interim contracts do not contain any mention of hospital outpatient services not subject to TEFRA.

UTMB Inpatient and Outpatient Hospital Services

Rather than billing the percentages of billed charges as stated in the interim contracts, UTMB uses a decision support system that calculates an estimated cost amount for each service, which is then charged to the TDCJ Program. Under UTMB's system, final cost figures and applicable adjustments will not be determined until the calendar year 2012 cost report is issued in early 2013. Therefore, we were unable to determine whether accurate actual costs have been charged to date.

Our sample included seven inpatient and outpatient hospital expenditures charged to the TDCJ Program for FY 2012. We compared these payments to the TEFRA rates. Because UTMB uses a system-generated cost amount rather than the TEFRA rate, none of the seven expenditures equaled the TEFRA amount. Three of the seven resulted in an overpayment by TDCJ of $245.23, based on the TEFRA rates, while the other four expenditures resulted in an underpayment by TDCJ of $37,832.94, resulting in a net underpayment of $37,587.71. Therefore, the total amount charged to TDCJ for our sampled items was significantly below the amount that would have been charged using the TEFRA rates, as shown below:

Sample Item Category (Number)	Billed Charges	Amount Calculated per TEFRA Rates	Actual UTMB Charge to TDCJ	Net Overpayment / (Underpayment) by Category
Inpatient Hospital (2)	$ 314,723.08	$ 157,361.54	$ 119,959.25	$ (37,402.29)
Outpatient Lab (1)	36.65	4.98	7.39	2.40
Outpatient Hospital (4)	3,696.34	1,367.65	1,179.82	(187.82)
Total (7)	$ 318,456.07	$ 158,734.17	$ 121,146.46	$ (37,587.71)

In the aggregate, the amount charged to the TDCJ Program was significantly below what would have been charged if the TEFRA rates as set out in the interim agreement had been used. For the period September 1, 2011 through May 31, 2012, we calculated that using the TEFRA rates would have resulted in an increase of approximately $9 million in interim charges to the TDCJ Program over UTMB's system generated estimates. UTMB management believes that using its system-wide cost accounting system minimizes excess interim payments. The results of our testing would support this, given that the amounts charged to the TDCJ Program during the interim period were substantially lower than if the TEFRA rates had been used. However, this methodology does not comply with the language in Rider 55 or the interim agreements between TDCJ and UTMB.

Rider 55 states that hospital outpatient services not subject to Medicaid TEFRA reimbursements are to be reimbursed at an amount not to exceed the published Medicaid fee schedules for such services. However, the interim agreements between TDCJ and UTMB do not contain any separate payment provisions for these services. UTMB management stated that, as the contract does not specify a different payment methodology, UTMB charges the system-generated amount for all hospital outpatient services. UTMB follows the same methodology for all non-TDCJ Medicaid hospital outpatient services and does not identify any such services for payment under the Medicaid fee schedule. Because UTMB does not identify any hospital outpatient services not subject to TEFRA, we were unable to determine whether any such services had been charged incorrectly to the TDCJ Program.

Recommendation

We recommend that TDCJ audit UTMB's final FY 2012 cost reconciliation submitted after UTMB prepares its 2012 Medicaid cost report. We also recommend that TDCJ clarify whether any hospital outpatient services provided by UTMB are not subject to Medicaid TEFRA and, if so, determine whether these services must be reimbursed at or below the published Medicaid rate rather than using the current TEFRA cost methodology.

UTMB Physician Services

Rider 55 and the FY 2012 interim agreements between TDCJ and UTMB note that physician services are to be reimbursed at cost (49% of UTMB's billed charges). UTMB applies the 49% of billed charges throughout the fiscal year and then adjusts these amounts based upon actual cost at year end. Our sample included 25 physician expenditures from the period September 1, 2011 through May 31, 2012. All were charged to TDCJ at 49% of billed charges in compliance with Rider 55 and the FY 2012 agreements.

At the end of the fiscal year, UTMB will calculate an adjustment based upon final actual cost figures, which are allocated on a pro rata basis to the TDCJ Program by using Relative Value Units (RVUs) for physician services and units for anesthesia services. Because our audit period ended May 31, 2012, we were unable to determine whether physician services for the entire fiscal year were reimbursed at cost.

Recommendation

We recommend that TDCJ audit UTMB's final FY 2012 physician cost calculations to ensure that physician services were reimbursed at actual cost.

Texas Tech University Health Science Center

Rider 55 in Article V of the General Appropriations Act, 82nd Legislature for fiscal years 2012 and 2013 specifies that TTUHSC will provide inpatient and outpatient hospital services through contract providers at a rate not to exceed 100% of the Medicare rate. Payment exceeding Medicare reimbursement rates are prohibited without prior approval from the Legislative Budget Board (LBB). Finally, the Rider requires that TDCJ reimburse for actual costs, including indirect costs based upon generally accepted accounting principles (GAAP). (See Chapter Five for indirect costs.)

The FY 2012 contract between TDCJ and TTUHSC specifies that payments cannot exceed 100% of the Medicare rate without prior LBB approval. The contract is silent regarding indirect costs.

We found that TTUHSC was in compliance with contract and Rider 55 requirements. We examined a sample consisting of 90 short FY 2012 medical and administrative expenditures and found that all complied with the applicable contract terms and Rider 55 requirements. However, during our interviews, TTUHSC disclosed that an Internal Audit Department investigation into potentially improper expenditures made by a TTUHSC employee was being conducted. It is believed that a portion of the improper expenditures being investigated were reported as Program costs, and therefore, not all expenditures would comply with the applicable contract terms and Rider 55 requirements. At the conclusion of our audit, the potential amount of any improper payments reported as TDCJ Program costs was unknown pending the results of the investigation.

Recommendation

We recommend that TTUHSC, in consultation with TDCJ, complete the investigation to determine if improper expenditures were charged to the correctional managed health care program and, if so, repay any overpayments identified to TDCJ.

Management Response

See Appendix H.

Follow-up on Prior Audit Findings

We reviewed the February 2011 SAO reports *Correctional Managed Health Care at the University of Texas Medical Branch at Galveston* and *Correctional Managed Health at the Texas Tech University of Health Sciences Center*. The SAO concluded that certain fringe benefits, provided to all UTMB and TTUHSC employees, including those assigned to the TDCJ Programs, were prohibited by the terms of the contracts between the CMHCC and the University Providers. In reaching this conclusion, the SAO appears to have relied primarily on Article XII, Section K of the FY 2010-11 contracts (clause K), which states:

> *The undersigned parties understand and agree that all persons employed by [the University Providers] and paid from the proceeds of this Agreement shall be considered as general revenue funded employees for the purpose of allocating fringe benefit charges and, with the exception of [unemployment insurance and worker's compensation], the CMHCC shall not be responsible for such charges. Such charges shall be made against Teachers Retirements System (TRS), Employees Retirement System (ERS), or State Comptroller or other appropriations as determined by the State Comptroller of Public Accounts.*

However, the General Appropriations Act, 82nd Legislature prohibits UTMB and TTUHSC from expending any of their appropriations for inmate health care by including the following language in riders to each University Provider's appropriation:

> *Appropriation of Costs for Health Care to Inmates None of the funds appropriated above shall be expended to provide or support the provision of health care to inmates of the Texas Department of Criminal Justice (TDCJ). It is the intent of the Legislature that all costs for providing health care to inmates of the TDCJ including costs of operating TDCJ hospital facilities in Galveston County and Lubbock County shall be paid from appropriations made to the TDCJ and from any financial reserves from contracts with TDCJ that are held by the University for the correctional health care services. Appropriations made to the TDCJ for the provision of inmate health care services shall be expended in accordance with Government Code, Chapter 501, Subchapter E.*

UTMB, TTUHSC and TDCJ all believe the purpose and intent of clause K was to prevent the University Providers from claiming as the TDCJ Program costs any fringe benefit expenditures that would be reimbursed out of state general revenue funds. None of the three organizations believe that clause K prohibited the University Providers from claiming fringe benefit expenditures provided to all University Provider employees, but not reimbursed from general revenue funds, as TDCJ Program costs. Therefore, UTMB and TTUHSC have continued to charge the TDCJ Program for these costs.

During our testing of FY 2012 medical and administrative expenditures, we identified 5 items at UTMB totaling $2,845.22 and 6 items at TTUHSC totaling $3,252.40 that would be considered as prohibited under the SAO's interpretation of clause K. Given the apparent conflicting language in clause K and the General

Appropriations Act, we do not believe there are sufficient, clear criteria to enable us to assess whether these 11 expenditures are allowable.

Recommendation

We recommend that TDCJ and the University Providers obtain clarification of legislative intent as to whether the fringe benefit expenditures referenced above are allowable Program expenditures and revise their respective contracts to clarify the allowability of these costs.

Management Responses

See Appendices G and H for UTMB and TTUHSC responses.

CHAPTER THREE – Accuracy of Amounts Charged and Paid to Contracted Providers

Objective 3 of our audit was to ensure that accurate amounts were charged and paid in compliance with contracts with UTMB and TTUHSC (University Providers), and in compliance with UTMB and TTUHSC contracts with their providers. Chapters One and Two address compliance with contracts between the CMHCC, TDCJ and the University Providers for the fiscal years 2011 and 2012. This chapter focuses on compliance of amounts charged and paid by the University Providers to their outside providers, known as "free world" providers for these two fiscal years. The University Providers charge the TDCJ Program for all payments to these providers. The University Providers have contracts with many free world providers, but also purchase services from providers without a written contract.

Our procedures for testing payments to free world providers included verifying that the service paid for matched the service provided, that the payment was for an allowable service, that the service was provided during the proper period, and that the payment amount complied with any applicable contractual or statutory requirements.

University of Texas Medical Branch

Fiscal Year 2011

The contract between the CMHCC and UTMB for FY 2011 did not specify the rates to be paid to free world providers. According to UTMB management, free world providers were paid according to provider-specific written agreements, or, if there was not a formal written agreement between UTMB and a contracted provider, UTMB generally paid 100% of the Medicare rate. We tested a random sample of 30 FY 2011 payments to free world providers and noted that 17 payments were not supported by written contracts between UTMB and the providers. We noted four instances, totaling $607.06, where a rate higher than the Medicare rate was paid. Since the FY 2011 contract between the CHMCC and UTMB did not specify rates to be paid to free world providers, these four payments did not violate the contract.

Fiscal Year 2012

Rider 55 for FY 2012 prohibited any payments above the Medicare reimbursement rates without prior approval from the Legislative Budget Board (LBB). The FY 2012 interim agreements between TDCJ and UTMB also specify that free world contract providers be paid at no greater than 100% of the Medicare rate without prior LBB approval. We tested a random sample of 30 short FY 2012 payments to contracted providers and noted that contracts were not in place to support 22 of the payments.

We identified the following reportable conditions:

- Two provider services exceeded 100% of the Medicare rate, resulting in a total overpayment of $64.64. UTMB indicated that a waiver request had been submitted to the Legislative Budget Board (LBB) to allow payment in excess of 100% of Medicare to this provider as the provider would not accept the Medicare rate. However, UTMB had not received a response from the LBB and continued paying above the Medicare rate while the waiver request was pending. Subsequent to completion of our audit fieldwork, UTMB provided evidence of LBB approval of the waiver request on August 31, 2012, to be effective for the remainder of the FY 2012-2013 biennium.

- Four claims were paid for lab-related professional services that were not separately reimbursable under Medicare. These errors resulted in a total overpayment of $460.43 and occurred because controls were not in place to prevent payment for non-reimbursable services. UTMB indicated that their payment processes for this service provider were not updated to comply with Rider 55 requirements until June 2012, despite the fact that Rider 55 was effective September 1, 2011.

- One claim for anesthesia services was paid in excess of 100% of the Medicare rate due to a clerical error in the units used to calculate the payment, resulting in an overpayment of $62.31.

Recommendation

We recommend that UTMB develop and implement internal controls to ensure that payments for free world provider services comply with the terms of the contract with TDCJ and the requirements of Rider 55, in order to prevent any overcharges to the TDCJ Program. We recommend that UTMB analyze FY 2012 payments to the provider in the first exception above and quantify any payments above 100% of the Medicare rate that were made prior to LBB approval of the waiver. We also recommend that UTMB analyze payments to all providers for the lab-related professional services that are not separately reimbursable under Medicare, and quantify any overpayments. Based on these analyses, we recommend that TDCJ determine whether recoupments are appropriate.

Management Response

See Appendix G.

Texas Tech University Health Science Center

Fiscal Year 2011

The contract between the CMHCC and TTUHSC for FY 2011 did not specify the rates to be paid to free world providers contracted by TTUHSC to provide services. We tested 30 FY 2011 payments to contracted providers and found that 15 payments were not supported by written contracts between TTUHSC and the providers. According to TTUHSC management, free world providers were either paid according to provider-specific written agreements, or, if there was not a formal written agreement between TTUHSC and a contracted provider, TTUHSC paid 100% of the Medicare rate. We identified no exceptions in our testing of the 30 FY 2011 payments.

Fiscal Year 2012

Rider 55 in Article V of the General Appropriations Act, 82nd Legislature for fiscal years 2012 and 2013 specifies that TTUHSC will provide inpatient and outpatient hospital services through contract providers at a rate not to exceed 100% of the Medicare rate. Payments exceeding Medicare reimbursement rates are prohibited without prior approval from the Legislative Budget Board (LBB).

The FY 2012 contract between TDCJ and TTUHSC specifies that payments cannot exceed 100% of the Medicare rate without prior LBB approval. We tested 30 short FY 2012payments to contracted providers and found that 11 were not supported by written contracts between TTUHSC and the provider. We noted 6 payments above the Medicare rate. However, because TDCJ and TTUHSC had properly obtained prior LBB approval to pay above the Medicare rate, no exceptions in the payment amounts were noted.

CHAPTER FOUR – Cost of Services to Offenders by Discipline

Objective 4 of our audit was to determine the cost of services to offenders by discipline or type of service. However, cost accounting systems at UTMB and TTUHSC for services provided at the prison-based facilities do not track expenditures by medical discipline. (UTMB and TTUHSC are not contractually required to track these expenditures by discipline.) We were therefore unable to analyze prison-based services by discipline.

Using claims data provided by UTMB, we classified expenditures by code groupings for UTMB physician and hospital services and for services of "free world" providers contracted by UTMB. Please refer to Appendices C and D.

TTUHSC provided the tables in Appendices E and F, with expenditures for services of "free world" providers contracted by TTUHSC. We did not perform procedures to validate the accuracy of the amounts reported by TTUHSC for each discipline/type of service and, therefore, make no representations as to their accuracy.

CHAPTER FIVE – Indirect Costs Charged to the Texas Department of Criminal Justice Programs

University of Texas Medical Branch

We reviewed UTMB's reasoning for selecting each allocation basis as shown in the table below and found the reasoning to be sound and consistent with Generally Accepted Accounting Principles. UTMB's indirect cost allocation methodology first classifies the departments considered to be indirect costs into broad shared services categories, including Utilities, Logistics, Human Resources, Finance, Administration, Finance Direct, Environmental Services, Facilities and Information Technology Services/Security. [1] UTMB determined that indirect costs included in the Utilities, Finance Direct, Environmental Services, and Facilities categories were not applicable to the correctional managed health care program and did not allocate any of these costs to the TDCJ Program. The remaining indirect cost shared services categories, including individual departmental costs detailed in Appendix B, were allocated to various UTMB departments on the basis of the factors shown in the following table. Departments that generated net revenue were included in the shared services categories and reduced the net indirect costs allocated to the TDCJ Program.

Human Resources were allocated according to the number of full time equivalent employees in each UTMB department, while the Logistics category costs were allocated based upon each department's respective management and operating expenses. Finance and Administration costs were allocated using each department's revenue as a percentage of total UTMB revenue, while Information Technology (IT) and IT Security costs were allocated according to the number of full time IT/IT Security equivalent employees.

We determined that the overall methodology, and the general allocation bases applied, were appropriate. We also verified that the allocated costs were computed accurately according to the allocation methodologies used by UTMB.

Shared Services Category	Allocation Basis	FY 2011 % Allocated to TDCJ Program	FY 2012 % Allocated to TDCJ Program
Human Resources	HR Expenditures / Full Time Employee Equivalents	19.53%	21.63%
Logistics	Management and Operating Expenses	4.11%	4.12%
Finance	Revenue	16.59%	21.34%
Administration	Revenue	21.33%	21.35%
Information Technology Services	Full Time IT Equivalents	15.80%	17.37%
Information Security	Full Time IT Security Equivalents	Included in IT Services in FY 2011	15.81%

[1] See Appendices A and B UTMB Expenditures by Shared Services Category and Department.

[2] https://fmx.cpa.state.tx.us/fm/pubs/purchase/

[3] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=food_equip&page=food_equip

We reviewed the contract for FY 2011 and the FY 2012 interim agreements for guidance regarding allowability of costs. The FY 2011 contract specifies that certain items are not allowed including:

- food for employees or prospective employees except as part of reimbursement for state travel,
- flowers or decorative plants,
- gifts and awards for employees except for service awards under certain limitations in Government Code Section 2113.201, and
- costs related to staging employee celebrations such as retirement parties.

The FY 2011 contract also states that "...the parties agree that all expenditures will be made in accordance with the State Comptroller's guidelines for utilization of general revenue funds." The interim agreements in effect for FY 2012 referenced and extended the relevant language contained in the FY 2011 contract.

We also reviewed the Texas Comptroller of Public Accounts' guidelines regarding allowable and unallowable expenditures of general revenue funds, as contained in eXpendit, the online reference for state agencies and institutions of higher education. [2] We judgmentally selected a sample of 15 indirect expenditures for FY 2011 and 15 for short FY 2012 to test for compliance with the terms of the contracts between TDCJ and UTMB and with the Comptroller's guidelines. We questioned 13 of the 30 expenditures as being for items or services prohibited by the contract and/or by the Comptroller's guidelines (See table below for specific exceptions for each year. The amounts shown are the total UTMB expenditures, prior to allocation to the TDCJ Program using the applicable percentages.).

Questioned expenditures, and the corresponding guidance from eXpendit, included:

- Food and beverages for alumni and fundraising events – State agencies may not purchase food or beverages that employees of or visitors to the agency would consume.[3] In addition, higher education institutions are prohibited from spending funds on alumni activities.[4] State agencies may pay entertainment expenses including food for persons who are not state officers or employees if the payment furthers a state purpose connected with the agency's statutory responsibility. Alcoholic beverages are excluded.[5]
- Salaries for employees whose duties include influencing legislation – State agencies may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.[6],
- Galveston Artillery Club monthly dues – State agencies may pay membership fees only if the agency has statutory authority for the payment, the payment would serve a proper public purpose, and the agency would receive adequate consideration in exchange for the payment.[7]
- Public relations firm retainer and media monitoring/tracking services by a public relations firm – State agencies may not use appropriated money to pay a public relations agent or business.[8]
- UTMB Health external marketing campaign expenses – State agencies may not engage in advertising or public relations campaigns without specific statutory authority to do so.[9]
- An employee retirement gift, specifically a rocker costing $298. State agencies may purchase awards for professional achievement or outstanding service, up to a limit of $100 per employee.[10]

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[2] https://fmx.cpa.state.tx.us/fm/pubs/purchase/
[3] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=food_equip&page=food_equip
[4] https://fmx.cpa.state.tx.us/fm/pubs/purchase/highed/index.php?section=provisions&page=alumni_organizations
[5] https://fmx.cpa.state.tx.us/fm/pubs/purchase/misc/index.php?section=entertainment&page=entertainment
[6] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=state_relation&page=lobbying
[7] https://fmx.cpa.state.tx.us/fm/pubs/purchase/misc/index.php?section=payments&page=membership
[8] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=publications&page=publicity
[9] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=publications&page=publicity
[10] https://fmx.cpa.state.tx.us/fm/pubs/purchase/state_emp/index.php?section=state_emp&page=employee_awards

- Employee beverages – State agencies may not purchase food or beverages that employees of or visitors to the agency would consume.[11]

Expense/Account Type	FY 2011		Short FY 2012	
	Number	Amount	Number	Amount
Alumni Relations/Advancement Services	1	$ 2,500.00	3	$ 60,157.17
Public Relations/Marketing/Business Development	1	$ 25,000.00	2	$ 29,196.69
Government Relations/ Legislative Affairs	2	$ 14,986.57	1	$ 16,575.51
Private Club Dues	1	$ 386.67		
Employee Gift / Beverages			2	$ 338.29
Totals	**5**	**$42,873.24**	**8**	**$106,267.66**

As noted above, the Texas State Comptroller's eXpendit reference guide states that expenditures for alumni activities as well as food and beverages in most instances are not allowable uses of appropriated money. The guide also notes that state agencies may not use appropriated money to pay a public relations business or agent and may not engage in advertising or public relations campaigns without specific statutory authority to do so. Based upon this guidance, we believe that the entire Expense/Account Types for Alumni Relations/Advancement Services and Marketing/Business Development contain unallowable expenditures. As a result, we recalculated the total amounts charged to the TDCJ Program from these Expense/Account Types during the audit period by applying UTMB's allocation methodology to the total indirect costs for the departments included in each grouping. The following table shows our calculated amounts of potential questioned costs allocated to the Program from September 1, 2010 through May 31, 2012.

Expense/Account Type	Calculated Amounts Allocated to TDCJ Program
Alumni Relations/Advancement Services	$ 1,089,084
Marketing/Business Development	$ 495,965
Totals	**$ 1,585,048**

Recommendation

We recommend that UTMB implement controls over its indirect cost allocation methodology process to ensure that all indirect costs allocated to the TDCJ Program are allowable according to applicable contracts, Rider 55, and the Comptroller's guidelines. Categories of expenditures that are clearly unallowable, such as alumni events, should be excluded entirely from the calculation of indirect costs for the TDCJ Program.

We recommend that UTMB and TDCJ work together to analyze the questioned Expense/Account Types listed above and determine whether unallowable indirect expenses were charged to the Program. If so, TDCJ should determine a plan for repayment of unallowable expenses.

[11] https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=food_equip&page=food_equip

Management Response

See Appendix G.

Texas Tech University Health Science Center

Article IV, Section A of the applicable contracts between TDCJ and TTUHSC states that the financial reports are to detail all expenditures made to provide services under the contract and reflect the actual costs of providing health care. Furthermore, Section 55(f)(2) of Rider 55 states, "The Department of Criminal Justice shall reimburse the [University Providers] for actual costs, including indirect administrative services based on generally accepted accounting principles." TTUHSC's indirect cost allocation methodology is based on a percentage of TDCJ Program revenue rather than actual costs and is therefore not in compliance with contracts or with Rider 55.

TTUHSC allocated a fixed percentage of TDCJ Program revenue as indirect costs, using a rate of 6% in FY 2011 and 3.5% in FY 2012. TTUHSC explained that the difference between FY 2011 and FY 2012 occurred because an additional 2.5% of costs classified as indirect costs in FY 2011 were classified as direct costs in FY 2012. The costs that were reclassified as direct costs for FY 2012, totaling $1,864,283 through May 2012, were for Regional Administration Operations for the TDCJ Program and are appropriately classified as direct costs.

Total indirect costs charged to the Program were:

- FY 11 $6,110,129
- FY12 $2,360,131 (through May 31, 2012)

Because the indirect cost allocation methodology used by TTUHSC was not based on actual and identifiable expenditures, we were unable to perform audit procedures to evaluate the types and allowability of indirect costs charged to the TDCJ Program.

In addition to the 6% charged in FY 2011, we identified an additional $132,729 related to a pharmaceutical management subcontract that the TTUHSC Correctional Managed Health Care program has with the Texas Tech School of Pharmacy for the provision of pharmacy services to offenders onsite at the prisons as well as other related services that was charged as an indirect cost. This addition resulted in an actual indirect cost rate of 6.133% for FY 2011 rather than 6.0% as originally planned.

As support for its allocation methodology based upon a percentage of revenue, TTUHSC provided a comparison of actual indirect costs to budgeted revenues for the entire Health Science Center, including all programs. While this comparison supports the allocation percentages used by TTUHSC, there are significant operational differences between the TDCJ Program and the Health Science Center as a whole. In addition, the indirect costs chargeable to the Health Science Center as a whole are not subject to the same contractual restrictions that apply to the TDCJ Program. We do not believe that this comparison justifies the percentage of revenue methodology. Therefore, TTUHSC is not in compliance with the Rider regarding charges to TDCJ for indirect costs.

Recommendation

We recommend that TTUHSC implement an indirect cost allocation methodology to allocate actual indirect costs to the correctional managed health care program as required by Rider 55.

Management Response

See Appendix H. TTUHSC disagrees with the recommendation. TTUHSC believes that their latest indirect cost agreement, approved by the U.S. Department of Health and Human Services supports a rate of 5.2%, higher than the 3.5% charged to the TDCJ Program.

Auditor Follow-up

We did not receive the indirect cost agreement referenced by TTUHSC and therefore did not review it. However, we believe that using a percentage of program revenue to estimate indirect costs does not comply with the Rider 55 requirement that TDCJ reimburse the University Providers "for actual costs, including indirect administrative services based on generally accepted accounting principles."

APPENDICES

Appendix A

UTMB Indirect Costs Allocated to the TDCJ Program by Shared Services Category

Shared Services Category	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Logistics	$ 250,439	$ 171,752
Human Resources	2,103,680	1,590,352
Finance	1,173,566	1,308,388
Administration	1,818,284	1,511,755
Information Technology and Security	4,751,609	3,374,487
Totals	**$ 10,097,578**	**$ 7,956,734**

Source: University of Texas Medical Branch, verified by PHBV.

Appendix B

UTMB Indirect Costs Allocated to the TDCJ Program by Category and Department

(Negative numbers represent departments in which revenues exceeded expenses)

Department	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Logistics	$ 250,439	$ 171,752
Human Resources		
Corporate	$ 60,016	$ 45,486
Corporate Administration	331,332	365,179
Human Resources	75,736	501
Work School Program	(33)	(11)
Special Programs	(3)	1
Solutions and Analytics	78,478	64,108
Workforce Solutions and Analytics	22,052	16,398
Recruitment	174,389	127,337
Recruitment Offices	8,997	11,673
Compensation	81,025	52,775
Compensation and Benefits	1,465	137
Organizational Effectiveness Training & Recognition	135,123	118,515
Institutional Training	71,718	60,684
Organizational Effectiveness	26,428	(9,961)
Institutional Recognition	9,077	17,505
Organizational Effectiveness Training & Recognition Nursing Development	24,193	(26,834)
Employee Assistance Program	56,969	47,444
Employee Health & Wellness	(1,823)	8,675
Health Promotion	65,098	50,520
Employee Health	196,187	169,382
Employee Injury Management	39,383	30,227
Leave Management	34,711	26,787
Employee Relations	177,828	131,953
Diversity	17,005	11,614
Institutional Programs	3	3
Employee Health Services	486	(76)

Department	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Benefits	113,768	90,666
Employee Records	32,040	33,572
Nurse Recruitment	272,032	117,343
Business Center	N/A	28,749
Human Resources Subtotal	***$ 2,103,680***	***$ 1,590,352***
Finance		
Finance	$ 147,302	$ 165,731
SISTM EAST	10,387	7,766
Contract Administration	34,886	40,642
Payroll Services	198,226	207,061
Accounts Payable	217,647	197,735
Asset Management	63,673	57,327
Budget	37,891	121,515
Accounting	126,316	137,619
Treasury Services	63,702	57,824
Finance Reporting	170,672	144,477
Planning and Performance Management	102,864	84,722
Grants and Contract Accounting	N/A	72,754
Vice President Financial Accounting and Reporting	N/A	13,215
Finance Subtotal	***$ 1,173,566***	***$ 1,308,388***
Administration		
Office of the President Operations	$ 98,877	$ 72,195
President's Office	807,424	711,137
President's Support Fund - OUA	33,915	32,698
President's Cabinet	N/A	760
Center Eliminate Health Disparities	57,753	28,020
3-Share Program	91,995	1,423
McGovern Academy of Oslerian Medicine	(31,394)	(33,099)
University Events	62,517	63,633
University Events Administration	22,468	34,357
Health Policy & Legislative Affairs	235,116	69,557

Department	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Health Policy	(1,495)	7
Legislative Affairs	81,582	59,836
Community Health Network	75,805	(633)
Community Health Program	194,761	(120)
Strategic Planning	543	397
Government Relations	70,037	52,547
Community Based Mental Health Services & Policy	14,611	149,691
Osher Lifelong Learning Institute	17	126
Knowledge Management & Data Resource	26,781	19,910
Community Partnerships	543	327
Community Relations	115,316	62,893
Office Of County Affairs	81,753	(0)
Office of Technology Transfer	160,224	268,164
University Advancement	1,905	(2,663)
Public Affairs	349,797	272,113
Advancement Services	247,811	264,308
Alumni Relations	257,263	136,727
Development	154,797	87,531
Development Communications	59,776	40,010
Executive Vice President	(759,146)	(534,212)
EVP Business & Finance Initiatives	N/A	31,900
Audit Services	204,453	167,293
Department of Legal Affairs	330,590	246,376
Office of Institutional Compliance	295,322	290,702
Office of Legal and Regulatory Affairs	87,605	78,179
VP For Business Affairs	269	80
Business Development & Marketing	344,769	151,196
Catering	(29,361)	15,327
International Affairs Office	51,595	37,833
Institutional Administration	(2,077,526)	(1,519,902)
University Banking Expenses	98,944	69,883
Government Relations	26	N/A
OUA - Institutional Support	246	N/A

Department	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Office of the President – Special Use Facilities	N/A	20,486
Office of the President – Strategic Initiatives	N/A	64,762
Administration Subtotal	***$ 1,818,284***	***$ 1,511,755***
Information Technology and Security		
Security	$ 57,437	$ 38,044
Information Services	436,607	(197,662)
Operations - Data Center	515,221	(72,528)
Operations - Desktop Enterprise	344,877	257,585
Operations - Access Management	67,036	53,665
Administrative Systems - General	1,111,903	441,715
Operations - Network	45,027	866
Clinical Rev - Billing	221,553	105,854
Leadership	173,316	147,560
Training	37,107	18,629
Clinical Documentation - Support	179,554	47,181
Clinical Revenue - General	299,932	83,204
Clinical Documentation - Projects	1,706	0
Clinical Doc - Rad	N/A	1
Enterprise	245,802	135,007
Operations-Projects	958	17
Administrative Systems - Flow Management	(1,090)	1
Administrative Systems - Solution Management	(1,997)	1
Operations-Technical Services	(106)	266
EMR - Operations	779,894	368,311
CMC - Technical Operations	(3,101)	(2,853)
Institutional Support - ITII	199,367	183,053
Finance Support	147	120
Administrative Systems User Support	50	41
Administrative Systems Production Support	532	421
Administrative Systems - Incident Management	42,527	N/A
Administrative Systems - App Management	(2,699)	N/A

Department	FY 2011 Allocation	FY 2012 Allocation through 5-31-12
Administrative Systems PS HCM Implementation	49	N/A
UTMB Connect	N/A	22,203
Non Controlled Expenses	N/A	1,743,785
IT Subtotal	***$ 4,751,609***	***$ 3,374,487***
Total Indirect Costs Allocated	***$ 10,097,578***	***$ 7,956,734***

Source: University of Texas Medical Branch, verified by PHBV.

Appendix C

FY 2011 UTMB Correctional Managed Care Expenditures
By Medical Discipline

FY 2011 Physician Services by CPT Code Groupings	Paid Amount
Anesthesia (0100 – 01999)	$ 2,238,014
Evaluation/Management (99201 – 99499)	4,461,353
Maternity (59000 – 59999)	298,034
Medical (90000 – 99199)	1,278,908
Pathology (80000 – 89999)	819,860
Radiology (70000 – 79999)	1,780,484
Surgery (10000 – 58999)	5,900,190
Other - 60000 codes (60000 – 69999)	1,178,215
Other - D codes (D1000 – D9999)	210,754
Other - G codes (G1000 – G9999)	28,885
Unclassified Services	238,441
Total	***$ 18,433,138***

Source: Calculated by PHBV from data provided by UTMB.

FY 2011 Hospital Services by ICD-9 Code Groupings	Expected Revenue
Certain conditions originating in the perinatal period (760 – 779)	$ 1,982,364
Complications of pregnancy, childbirth, and the puerperium (630 – 679)	2,774,489
Congenital anomalies (740 – 759)	900,347
Diseases of the blood and blood-forming organs (280 – 289)	1,733,319
Diseases of the circulatory system (390 – 459)	9,726,077
Diseases of the digestive system (520 – 579)	3,107,079
Diseases of the genitourinary system (580 – 629)	2,740,388
Diseases of the musculoskeletal system and connective tissue (710 – 739)	2,705,990
Diseases of the nervous system (320 – 359)	2,124,582
Diseases of the respiratory system (460 – 529)	6,140,251
Diseases of the sense organs (360 – 389)	3,170,188
Diseases of the skin and subcutaneous tissue (680 – 709)	2,178,479
Endocrine, nutritional and metabolic diseases, & immunity disorders (240 – 279)	5,682,389
External causes of injury and supplemental classification (E & V codes)	1,139,313
Infectious and parasitic diseases (001 – 139)	8,786,805
Injury and poisoning (800 – 999)	12,254,583
Mental disorders (290 – 319)	3,470,662
Neoplasms (140 – 239)	12,278,212
Symptoms, signs, and ill-defined conditions (780 – 799)	8,214,839
ICD-9 code not provided	2,407,106
State employee benefits paid from General Revenue	6,634,940
Accounting Adjustments	(92,712)
Total	***$ 100,059,690***

Source: Calculated by PHBV from data provided by UTMB.

FY 2011 "Free World" Expenditures	Amount Expended
Ambulance Service	$ 5,404,129
Anesthesiology	71,639
Cardiology	184,533
Dermatology	406
Dialysis	453,615
Durable Medical Supplies	1,204
Emergency Medicine	710,514
Family Medicine	777,798
Gastroenterology	37,729
General Hospital	25,315,748
General Surgery	6,718
Gynecology	449
Hematology	2,127
Infectious Disease	8,552
Internal Medicine	535,107
Laboratory	1,048,669
Medicine	32,084
Mobile X-Ray	107,872
Nephrology	55,284
Neurology	12,876
Neurosurgery	5,292
Obstetrics	4,193
Oncology	36,351
Ophthalmology/Optometry	2,235
Oral/Maxillofacial Surgery	5,108
Orthopedics	8,955
Pathology	453,193
Pediatric Allergy	10,100
Podiatry	2,738
Psychiatry	263
Pulmonary Medicine	83,887
Radiology	258,357
Rheumatology	326

FY 2011 "Free World" Expenditures	Amount Expended
Surgery	55,944
Ultrasound	55,754
Urology	6,354
Vascular Surgery	2,648
Prior Year IBNR Reversals	(531,548)
Unclassified	608
Total	***$ 35,227,811***

Source: Calculated by PHBV from data provided by UTMB.

Appendix D

FY 2012 UTMB Correctional Managed Care Expenditures
By Medical Discipline through May 31, 2012

FY 2012 Physician Services by CPT Code Groupings	Paid Amount
Anesthesia (0100 – 01999)	$ 1,340,471
Evaluation/Management (99201 – 99499)	3,114,981
Maternity (59000 – 59999)	200,363
Medical (90000 – 99199)	852,631
Pathology (80000 – 89999)	540,516
Radiology (70000 – 79999)	1,186,913
Surgery (10000 – 58999)	3,602,129
Other - 60000 codes (60000 – 69999)	597,708
Other - D codes (D1000 – D9999)	167,152
Other - G codes (G1000 – G9999)	14,529
Unclassified Services	(3,731)
Total	**$ 11,613,662**

FY 2012 Hospital Services by ICD-9 Code Groupings	Expected Revenue
Complications of pregnancy, childbirth, and the puerperium (630 – 679)	$ 1,484,485
Congenital anomalies (740 – 759)	210,063
Diseases of the blood and blood-forming organs (280 – 289)	1,117,925
Diseases of the circulatory system (390 – 459)	9,261,186
Diseases of the digestive system (520 – 579)	5,070,170
Diseases of the genitourinary system (580 – 629)	2,264,088
Diseases of the musculoskeletal system and connective tissue (710 – 739)	2,896,346
Diseases of the nervous system (320 – 359)	921,202
Diseases of the respiratory system (460 – 529)	2,545,710
Diseases of the sense organs (360 – 389)	1,019,096
Diseases of the skin and subcutaneous tissue (680 – 709)	1,008,790
Endocrine, nutritional and metabolic diseases, & immunity disorders (240 – 279)	1,403,847

FY 2012 Hospital Services by ICD-9 Code Groupings	Expected Revenue
External causes of injury and supplemental classification (E & V codes)	3,854,033
Infectious and parasitic diseases (001 – 139)	4,235,042
Injury and poisoning (800 – 999)	6,518,130
Mental disorders (290 – 319)	158,463
Neoplasms (140 – 239)	9,249,755
Symptoms, signs, and ill-defined conditions (780 – 799)	8,904,789
ICD-9 code not provided	1,264,356
Accounting Adjusting Entries	N/A
Total	***$ 63,387,476***

FY 2012 "Free World" Expenditures	Amount Expended
Ambulance Service	$ 4,273,778
Anesthesiology	43,258
Cardiology	86,376
Dentistry	2,895
Dialysis	363,595
Durable Medical Supplies	735
Emergency Medicine	472,252
Family Medicine	545,805
Gastroenterology	26,925
General Hospital	8,578,081
General Surgery	8,460
Hematology	2,629
Infectious Disease	5,840
Internal Medicine	259,782
Laboratory	593,780
Medicine	4,248
Mobile X-Ray	50,996
Nephrology	35,218
Neurology	11,198

FY 2012 "Free World" Expenditures	Amount Expended
Neurosurgery	8,923
Obstetrics	2,847
Oncology	9,100
Ophthalmology/Optometry	136
Orthopedics	1,094
Pathology	289,249
Pediatric Allergy	2,088
Podiatry	1,231
Pulmonary Medicine	77,252
Radiology	154,086
Surgery	49,408
Urology	2,910
Vascular Surgery	4,113
Total	***$ 15,968,288***

Source: Calculated by PHBV from data provided by UTMB.

Appendix E

FY 2011 TTUHSC Correctional Managed Care Expenditures
By Medical Discipline, Unaudited

FY 2011 "Free World" Expenditures	Amount Expended
Ambulance	$ 713,292
Anesthesiology	218,935
Audiology	3,097
Cardiology	2,038,049
Dermatology	12,468
Emergency	3,378,638
ENT	251,534
Gastroenterology	1,593,639
Internal Medicine	798,279
Nephrology	184,168
Neurology	1,967,531
Oncology	1,863,072
Ophthalmology	221,489
Optometry	88,034
Oral Surgery	589,410
Orthopedics	812,555
Pathology	201,275
Physical Therapy	28,525
Prosthesis	77,625
Pulmonology	659,665
Radiology	676,785
Surgery	2,947,449
Urology	838,869
Total	***$ 20,164,383****

*Note: Total does not reflect FY11 accruals and reversal of FY10 accruals.

Source: Provided by TTUHSC.

Appendix F

FY 2012 TTUHSC Correctional Managed Care Expenditures
By Medical Discipline through May 31, 2012, Unaudited

FY 2012 "Free World" Expenditures	Amount Expended
Ambulance	$ 462,298
Anesthesiology	116,968
Audiology	540
Cardiology	1,949,649
Dermatology	14,585
Emergency	1,261,184
ENT	205,792
Gastroenterology	817,345
Internal Medicine	903,676
Nephrology	168,372
Neurology	1,055,283
Oncology	1,411,746
Ophthalmology	154,969
Optometry	9,341
Oral Surgery	194,743
Orthopedics	275,527
Pathology	148,398
Physical Therapy	10,268
Prosthesis	24,654
Pulmonology	582,751
Radiology	258,843
Surgery	1,837,592
Urology	535,510
Total	***$ 12,400,035****

* Note: Total does not reflect reversals of FY 2011 accruals.

Source: Provided by TTUHSC.

Appendix G

Management Response from UTMB

utmb Health

Executive Vice President,
Chief Business and Finance Officer
301 University Blvd
Galveston, Texas 77555-0128
O 409 266 2006 F 409 266 2005

December 20, 2012

PHBV Partners, LLP
ATTN: Marty Parker
11044 Research Boulevard, Suite C-500
Austin, TX 78759

Dear Ms. Parker:

Thank you for the opportunity to review the draft report for the audit of Correctional Managed Health Care at the University of Texas Medical Branch at Galveston (UTMB). We have carefully reviewed the draft report, and the responses of our leadership team are included below.

Chapter One – FY2011 Compliance for Medical and Administrative Expenditures

Recommendation – We recommend that TDCJ and the University Providers obtain clarification of legislative intent as to whether the fringe benefit expenditures referenced above are allowable Program expenditures and revise their respective contracts to clarify the allow ability of these costs.

Management Response - UTMB believes that legislative intent is clear and clarification is not needed. The language in the contract between UTMB and TDCJ needs to be updated to more accurately reflect fringe benefit expenses charged to the contract. Providing competitive benefits is critical in the correctional healthcare setting to recruit and maintain a workforce within the current healthcare market and its practices.

Chapter Two – FY2012 Compliance for Medical and Administrative Expenditures

Recommendation – We recommend that TDCJ audit UTMB's final FY 2012 cost reconciliation submitted after UTMB prepares its 2012 Medicaid cost report. We also recommend that TDCJ clarify whether any hospital outpatient services provided by UTMB are not subject to Medicaid TEFRA and, if so, determine whether these services must be reimbursed at or below the published Medicaid rate rather than using the current TEFRA cost methodology.

Management Response – UTMB agrees with the recommendation that TDCJ audit the final FY 2012 cost reconciliation. As noted in the auditor's report, had UTMB used TEFRA rates rather than cost during the nine month period reviewed, approximately $9 million more in interim charges would have been charged

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to the TDCJ program. UTMB also notes that treating certain charges differently for interim payments would result in unnecessary additional processing costs, when the contract intent is to charge and reconcile to cost.

Recommendation – We recommend that TDCJ audit UTMB's final FY 2012 physician cost calculations to ensure that physician services were reimbursed at actual cost.

Management Response – UTMB agrees with the recommendation. It is anticipated that a reconciliation of physician cost calculations to interim charges will be completed at approximately the same time as the FY2012 Medicaid Cost Report, and any differences in interim payments and cost will be considered in the final, yearend reconciliation per the terms of the TDCJ contract.

Recommendation – We recommend that TDCJ and the University Providers obtain clarification of legislative intent as to whether the fringe benefit expenditures referenced above are allowable Program expenditures and revise their respective contracts to clarify the allow ability of these costs.

Management Response - UTMB believes that legislative intent is clear and clarification is not needed. The language in the contract between UTMB and TDCJ needs to be updated to more accurately reflect fringe benefit expenses charged to the contract. Providing competitive benefits is critical in the correctional healthcare setting to recruit and maintain a workforce within the current healthcare market and its practices.

Chapter Three – Accuracy of Amounts Charged and Paid to Contracted Providers

Recommendation – We recommend that UTMB develop and implement internal controls to ensure that payments for contracted provider services comply with the terms of the contract with TDCJ and the requirements of Rider 55, in order to prevent any overcharges to the TDCJ Program. We recommend that UTMB analyze FY2012 payments to the provider in the first exception noted in the auditor's report and quantify any payments above 100% of the Medicare rate that were made prior to LBB approval of the waiver. We also recommend that UTMB analyze payments to all providers for the lab-related professional services that are not separately reimbursable under Medicare, and quantify any overpayments. Based on these analyses, we recommend that TDCJ determine whether recoupment is appropriate.

Management Response – UTMB agrees with the recommendation and will ensure the appropriate internal controls are established to ensure payments for contracted providers comply with Rider 55 and the contract.

UTMB notes that FY2012 was a transition year and significant effort was made to meet the Rider 55 requirements in an expeditious manner. The wording in Rider 55 section d.2 denotes "*the Universities shall provide for inpatient and outpatient <u>hospital services</u> through <u>contract hospital providers</u> at a rate not to exceed 100% of Medicare.*" UTMB focused its efforts on converting established hospital contracts to the Rider 55 wording. Historically, UTMB contracted with hospitals using the Houston area's Medicare published base rate for inpatient hospital services and a fixed percentage of charges for outpatient hospital services. Rider 55, in many instances while increasing inpatient payment amounts, generated corresponding savings through a reduction in outpatient payments. However, UTMB identified several hospital contracts established prior to Rider 55, which if converted to the Rider 55 language would result in increased costs to the State. Therefore, these contracts were left in place and disclosed to the LBB.

UTMB's historical practice was to pay physicians providing correctional healthcare services at Medicare rates. However, due to the large volume of providers performing these services in hospitals across Texas, contracts were not established with each individual provider. Additionally, prior to Rider 55, UTMB began initiating agreements with EMS vendors using Medicare rates as the starting basis for payment terms. Based on this historical practice and our understanding of Rider 55, with regards to the reportable conditions noted in chapter 3, UTMB would like to provide the following additional information:

- The two claims exceeding 100% Medicare (overpaid compared to Medicare rates by $64.64) were made to a physician group, not a hospital provider, who are affiliated with one of the noted hospital exceptions where a change was going to be more costly to the State.
- Four claims (overpaid compared to Medicare rates by $460.43) were lab related professional services, not hospital providers. UTMB-CMC had historically been paying certain components of these claims, where applicable, at Medicare rates and utilized a fixed percentage on the balance of charges. As noted, effective June 2012 we are now only paying the Medicare allowed charges.
- One claim for anesthesia services (overpaid compared to Medicare rates by $62.31) was due to UTMB claims staff utilizing outdated reference materials in our calculations. The outdated materials have since been replaced.
- Where noted that 17 of 30 payments in FY11 and 22 of 30 in FY12 did not have contracts in place, this is due to the historic practice of only contracting with hospitals and not each individual provider within those hospitals. The majority of claims sampled were physician claims.

Chapter Four – Cost of Services to Offenders by Discipline

No Recommendations

Chapter Five – Indirect Costs Charged to the Texas Department of Criminal Justice

Recommendation – We recommend that UTMB implement controls over its indirect cost allocation methodology process to ensure that all indirect costs allocated to the TDCJ Program are allowable according to applicable contracts, Rider 55, and the Comptroller's guidelines. Categories of expenditures that are clearly unallowable, such as alumni events, should be excluded entirely from the calculation of indirect costs for the TDCJ Program.

We recommend that UTMB and TDCJ work together to analyze the questioned Expense/Account Types listed above and determine whether unallowable indirect expenses were charged to the Program. If so, TDCJ should determine a plan for repayment of unallowable expenses.

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Management Response – UTMB agrees with the auditor's recommendation and will implement the appropriate controls to ensure only allowable indirect costs are allocated to the TDCJ Program. The noted departments of Alumni Relations, Advancement Services, Marketing and Business Development will be excluded in the final FY 2012, yearend reconciliation per the terms of the TDCJ contract.

As noted in the auditor's report, UTMB also allocated certain revenues to the TDCJ contract including investment income, gift income, grant indirect cost recovery, catering operations net income and other revenues. These revenues do not relate to indirect services received by TDCJ and therefore should not be netted against these costs. These revenues totaled approximately $2.9m in FY 2011. See **Appendix B** of the audit report for examples such as Institutional Administration ($2,077,526), Executive Vice President ($759,146), Catering ($29,361), etc. These amounts will be excluded in the final FY 2012, yearend reconciliation per the terms of the TDCJ contract.

Should you have any additional questions, please feel free to contact David Connaughton - Vice President Finance – Clinical Enterprise.

Regards,

William R. Elger, CPA, CGMA
Executive Vice President,
Chief Business and Finance Officer

Appendix H

Management Response from TTUHSC

TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER

Office of the Executive Vice President
for Finance and Administration

December 20, 2012

PHBV Partners, LLP
ATTN: Marty Parker
11044 Research Boulevard, Suite C-500
Austin, TX 78759

Dear Ms. Parker:

Thank you for the opportunity to review and respond to the draft report for the Correctional Managed Health Care at Texas Tech University Health Sciences Center (TTUHSC). The responses of our leadership team are included below.

PHBV Recommendation
We recommend that TDCJ and the University Providers obtain clarification of legislative intent as to whether the fringe benefit expenditures referenced above are allowable Program expenditures and revise their respective contracts to clarify the allowability of these costs.

TTUHSC Response
This PHBV audit references the prior State Auditor's Office (SAO) audit findings in February 2011 regarding fringe benefit expenses and the state's reimbursement of most of these fringe benefit expenses on this TDCJ contract. TTUHSC does not agree that clarification is needed from the Texas legislature. The next renewal of the contract between TDCJ and TTUHSC needs language updated to more accurately reflect the fringe benefit expenses and the fringe benefit reimbursement allowable by the Texas legislature.

PHBV Recommendation
We recommend that TTUHSC, in consultation with TDCJ, complete the investigation to determine if improper expenditures were charged to the correctional managed health care program and, if so, repay any overpayments identified to TDCJ.

TTUHSC Response
TTUHSC's Internal Audit department is currently conducting an investigation of improper expenditures by a former TTUHSC employee. TTUHSC agrees with the auditors finding and pending the outcome of the investigation, will take the necessary action needed.

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PHBV Recommendation

We recommend that TTUHSC implement an indirect cost allocation methodology to allocate actual indirect costs to the correctional managed health care program as required by Rider 55.

TTUHSC Response

TTUHSC does not agree with PHBV's recommendation on indirect costs.

In reference to the prior SAO audit report in February 2011, TTUHSC's response to indirect costs stated that: "Effective with the renewal of this contract on September 1, 2011, TTUHSC will charge these direct administrative costs to the contract, thereby lowering the indirect cost rate to 3.5%. TTUHSC is currently preparing the indirect cost study for fiscal year 2010 in order to support our rate renewal with the federal government. The results of this study will be available to document the fact that an indirect cost rate of 3.5% for this contract is well-justified".

Testimony was also provided in February 2011 by Mr. Elmo M. Cavin, Executive Vice President for Finance and Administration of TTUHSC, to the Senate Finance Committee during the last legislative session regarding indirect costs emphasizing the above audit response. No objections were given by this legislative body and none to date received from the Texas legislature regarding indirect costs.

Our latest Facilities & Administrative cost rate agreement (indirect cost study) was approved by the U. S. Department of Health & Human Services' Division of Cost Allocation on January 20, 2012. The study calculated TTUHSC's general administrative rate at 5.2%. TTUHSC is charging 3.5% to this TDCJ contract, 67% of the calculated rate. The rate covers actual costs of Human Resources, Budget, Accounting, Information Technology, and general administrative support related to the TDCJ contract, calculated in accordance with Office of Management & Budget Circulars A-21 & A-110, and generally accepted accounting principles.

TTUHSC believes we are in compliance with Rider 55.

Sincerely,

Elmo M Cavin

Elmo M. Cavin
Executive Vice President for Finance and Administration
Texas Tech University Health Sciences Center