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| 1. memo | Diane DeYulis to Kathy Mays re: personal information for meeting, 1p (partial) | 3/13/97 | P6/B6 |

P1 National security classified information [(a)(1) of the PRA].
P2 Relating to appointment to Federal office [(a)(2) of the PRA].
P3 Release would violate a Federal statute [(a)(3) of the PRA].
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

PRM Personal records misfile defined in accordance with 44 USC 2201 (3).

RESTRICTIONS

B1 National security classified information [(b)(1) of the FOIA].
B2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
B3 Release would violate a Federal statute [(b)(3) of the FOIA].
B4 Release would disclose trade secrets or confidential commercial financial information [(b)(4) of the FOIA].
B6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
B7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
B8 Release would disclose information concerning the regulation of financial institutions [(b)(9) of the FOIA].
B9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

John Sharp 3/26/97

UK Privatization

Andrea Cavan
512-463-4976

real simple deal
integrated enrollment - get computers
to talk to each other

5 places to get benefits. Jimmy Joe.

Bush - privatize the whole world

Inside deal. Bobba knows nothing about it.

Best case - told McEntee - feds say before
we privatize the world, issue waiver for
integrated enrollment.

One-stop shopping - would cut 2,000,
but deal through attrition.

In any given town, it's a bunch of
folks related to the ^{whichever is the} state senator at the time,
~~same or faster~~ They write some things down
and then people start getting checks.
complicated -

~ Calf looking at a new gate. - Bush

Bush-hoping like hell we don't give
him the whole waiver.

MEMORANDUM



Garnet F. Coleman
Texas House of Representatives
District 147

To: Bruce Reed, Director of Domestic Policy Council,
The White House
Attention: Kathy Mays

From: Garnet Coleman *GC*
Texas State Representative, District 147 Houston

Re: TIES

Date: March 25, 1997

WR-Privatization

VIA FACSIMILE

Enclosed please find the information we discussed. The Austin American Statesman article clearly reflects the concerns the state legislature has regarding the Texas Integrated Enrollment System (TIES). The Workforce Development Oversight Committee Report shows the problems with the agency's creation. I have also included an explanation of the alternative Department of Human Services (DHS) streamlining initiative and the State Auditor's summary of the Protective and Regulatory Services (PRS) automation. If you have any other questions or need further explanation of these documents, please do not hesitate to contact me at my office at (512) 463-0524 or you may page me at (713) 891-7979.

Thank you.

Member:
House Appropriations Committee
House Committee on Public Health

MAR 10 1997

Austin American-Statesman

Doubts build about welfare proposal

■ Legislators question turning process over to private companies

By SUZANNE GAMBOA
American-Statesman Capitol Staff



It began as a few innocuous paragraphs tucked into a multipage, multidimensional welfare reform bill. Legislators overwhelmingly gave it their stamp of approval.

Then the sentences that talked of streamlining and cutting costs blossomed into a grandiose welfare experiment. To the chagrin of some

lawmakers, the language became a proposal for a \$2 billion contract that would make Texas the first state to let private companies control who gets welfare.

Two years later, some legislators say it's time to back up.

Even as Gov. George W. Bush is pushing the federal government to approve the Texas Integrated Enrollment Systems proposal, doubt

is growing in the Legislature over the project's merits.

"I've been supportive of privatization when it makes sense, when there are cost savings, and we can perform a better service for the state," said Rep. Rob Junell, D-San Angelo, House Appropriations Committee chairman. "I'm not sure that's true in this case."

Rep. Garnet Coleman, D-Houston, said the objective of the legislation that started the proposal — to simplify the way Texans sign up for welfare and other benefits — has been lost in the push to go

private.

"Everybody is reviewing (the project) to see if there are other options," said Coleman, who co-sponsored the 1995 welfare reform law.

Already, the potential role of the private sector is being reduced.

"Even if we go through with privatization," said Mike McKinney, the state's health and human services commissioner. "It's not going to be at the level everybody thinks or as high as I've been led to believe from what I've read in the media."

McKinney is in charge of writing the proposal that would be used to solicit bids. Because federal rules dictate how states should

■ One prospective bidder, the Texas Workforce Commission, hasn't earned the confidence of state lawmakers with its performance. The abrupt departure of the agency's executive director and questions about the agency's spending controls have lawmakers skittish about possibly handing the agency billions in state and federal money.

■ Some believe the project has been tainted by revelations that Dan Shelley, the governor's former chief legislative aide who guided the law through the Legislature, is now lobbying for prospective bidder Lockheed Martin IMS.

■ Other automation projects by Arthur Andersen Co., another prospective bidder on the welfare project, have been costly and are behind schedule. One of those is a child-support collection system in the attorney general's office, the other a system in the Department

of Health Services. "I don't expect that this is a legislative issue."

Sen. Bill Ratliff, R-Mount Pleasant, said he supports turning functions over to the private sector if it saves taxpayer money and can be done more efficiently. But he also has questioned whether the state would save more in the long run if it does not deal with a for-profit company.

Waiting on Washington

Bullock said he doesn't think Texas should move ahead with the experiment until the federal government approves it.

"There is too much at stake at this to be gambling on it," Bullock said. "I've read a letter (from the federal government) that was sent in here, and it cast enough question in my mind that now is the time to stop, look and listen before we jump into this."

Bush remains committed to the project and to as much private sec-



Garnet Coleman

distribute social services money. Texas needs federal approval of the project before bids can be requested.

Lawmakers' doubts

The lack of federal approval is one of many concerns about the project. Consider what else is working against it:

- Some lawmakers believe the Legislature never endorsed turning over government-run welfare services to private companies.

- Thousands of state employees could lose their jobs and numerous state offices could be closed, something many lawmakers don't want in their districts.

OF PROTECTIVE MAIN INSURANCE SERVICES.

"I think the Legislature needs to take back this issue and have it resolved one way or another before we leave in June," Junell said.

The 1995 law directed the Council on Competitive Government, which includes representatives of Bush, Lt. Gov. Bob Bullock and House Speaker Pete Laney, to study whether the state could save the \$563 million a year that it spends deciding who gets more than \$11 billion in welfare, Medicaid, food stamps and other benefits.

"I certainly support the Council on Competitive Government," Junell said. "But I think in retro-

for involvement as possible. The governor last week called Donna Shalala, U.S. Health and Human Services secretary, to explain the project's importance and ask for approval or disapproval of the project.

Karen Hughes, Bush's press secretary, said Shalala promised to have an answer in three weeks.

Bush said if the federal government does not approve the project, it is dead.

"If they say no, I presume the project doesn't go forward because there will be a financial cost that will be hard for the state to bear," Bush said. "We just want an answer."

11.

DHS STREAMLINING INITIATIVE

The DIIS initiative is designed to streamline public assistance programs in an effort to cut costs, reduce fraud, increase efficiency and strongly encourage work while providing temporary assistance if needed. Linking appropriate state agencies (such as DHS, TWU, AG-Child Support Enforcement, TDH, etc.) will also save time and eliminate duplication by allowing people seeking aid to be simultaneously screened for services offered by different agencies. The DIIS initiative will:

- Improve client satisfaction and access to services through a single process with multiple access points. A virtual one-stop concept will provide a state-of-the-art integrated system that uses a single application process that can be accessed from the client's home, one stop centers, local faith-based and charitable groups, local providers, hospitals, nursing homes and other locations via telephone, computer terminal or face-to-face encounter. Night and weekend availability will better meet the needs of the working community. The process will emphasize and reward work and personal responsibility.
- Maximize efficiency through a streamlined reengineered process that eliminates duplicate data collection, reduces fraud, reduces time per case, allows flexibility to meet local community needs and for local options related to wage supplementation, child care and other benefits as a substitute for cash assistance, and optimizes employment and eligibility expertise. By combining the best of both the public and private sectors, the State's investment in staff, hardware and facilities will be protected while leveraging private sector technology and service expertise. Balancing the experience of the public sector with the innovation of the private sector will build on the strengths of both to create a system that really works.
- Increase responsiveness and accountability by employing a system that tracks and reports on the progress of programs. Detailed information on where Texas dollars are going, who is receiving assistance, and the efficiency of the implementation and ongoing process will allow problems to be spotted quickly, provide information for public policy decisions and measure results and performance outcomes.
- Texas will lead the nation in meeting federal welfare reform requirements for a central client registry by expanding the capability of the State's Integrated Data Base Network. This capability will give access to client demographic, screening and referral data to all appropriate agencies and legislative inquiry access to facilitate alternative policy development scenarios.

KEY ASSUMPTIONS

- DHS can enter into a contract with a private contractor for Call / Mail Center operations, development of procurement documents, and technical oversight without further competition
- DHS will implement a comprehensive transition placement program that will provide the maximum amount of assistance possible in helping staff adversely impacted by agency downsizing secure employment as quickly as possible
- Start date of 9/1/98 for application development (coding) includes time for competitive procurement of application development and hardware and education of the new contractor to reengineered processes
- Cost of severance package (insurance continuation, retention pay) not included in projected costs
- DHS administrative structure will be substantially changed to support the new business operation
- The current 10 region administrative structure will be realigned to a 6 area administrative structure
- Legislative authority to cancel leases and close offices will need to be obtained up front
- Current service locations (448 permanent locations and 35 itinerant locations) will be reduced to 221 permanent service locations and 84 itinerant locations (Closures FY 00 - 37, FY 01 - 46, FY 02 - 98)
- All service locations will be configured to comply with 153 square foot requirement and will optimize opportunities for collocation
- Legislative authority to transfer funds within DHS appropriation to pay for application development, technical infrastructure and hardware will be obtained
- The application development and hardware will be competitively procured in a single offering containing both hardware and application development. The awarded vendor will be paid in installments tied to client usage.

*NAFTA
Replacement
Funds*

Work in Progress

a report by the
**WORKFORCE DEVELOPMENT
LEGISLATIVE OVERSIGHT COMMITTEE**

to
**THE GOVERNOR,
THE LIEUTENANT GOVERNOR AND
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
OF THE STATE OF TEXAS**

December 31, 1996

**SENATOR RODNEY G. ELLIS, CHAIR
REPRESENTATIVE RENÉ O. OLIVEIRA, VICE-CHAIR
SENATOR ROYCE WEST
REPRESENTATIVE KIM BRIMER
REX MCKINNEY**

WORKFORCE DEVELOPMENT LEGISLATIVE OVERSIGHT COMMITTEE

SENATOR RODNEY ELLIS
CHAIRMAN
REPRESENTATIVE RENE OLIVEIRA
VICE CHAIRMAN



SENATOR ROYCE WEST
REPRESENTATIVE KIM BRIMER
MATTHEW DOWD
REX MCKINNEY

December 31, 1996

The Honorable George W. Bush
The Honorable Bob Bullock
The Honorable Pete Laney

Gentlemen:

The Workforce Development Legislative Oversight Committee is pleased to present its report pursuant to charges in House Bill 1863, SECTION 11.02(b).

Respectfully submitted,

Handwritten signature of Rodney G. Ellis in black ink.

Senator Rodney G. Ellis
Chair

(Sen. West was not present to sign this page, but has approved the full report)

Senator Royce West
Member

Handwritten signature of René O. Oliveira in black ink.

Representative René O. Oliveira
Vice-Chair

(Rep. Brimer submitted the letter in Section IV)

Representative Kim Brimer
Member

(Mr. McKinney was not present to sign this page, but has approved the full report)

Rex McKinney
Member

Executive Summary

WHY REFORM? THE FORCES FOR CHANGE

Three distinct forces converged to bring about Texas' workforce reforms. The hodgepodge of federal/state programs cobbled since the 1960s could not withstand the combined pressures of global competition, widespread dissatisfaction with job training and employment programs, and the shift to a new federalism.

Advances in information technology and communications thrust Texas and Texans—and their counterparts nationwide—into a global economy, where businesses and workers are as likely to find their competitors across continents as across town.

As policy makers and the general public realized that technology had changed the nature of work fundamentally and forever and that jobs which pay a living wage require more education and greater skills than in the past, there grew both a sense of dissatisfaction with public education and a perception that public job training and employment programs were not doing their jobs.

LEGISLATIVE FRAMEWORK FOR REFORM

The convergence of these three forces provided the impetus for systemic federal and state reform of workforce development efforts.

Federal proposals generally consolidated the categorical job training and employment programs, block granted funding to the states and provided relief from the more onerous federal workforce laws, rules and regulations. Federal reform efforts, unfortunately, stalled in the last Congress.

Workforce reform in Texas began with the passage of Senate Bill 642, the Workforce and Economic Competitiveness Act of 1993, and continued during the next legislative session with amendments to House Bill 1863, the welfare reform measure which became law in June 1995.

Texas' reforms were predicated on similar reforms at the federal level, but the failure of federal reforms should not be allowed to sink Texas' fledgling workforce system.

Forging a Statewide Workforce Development System

Together S.B. 642 and H.B. 1863 forge an integrated statewide workforce development system out of the myriad job training programs which previously operated independently of one another, without an overarching mission and without common purpose.

A better system is, however, simply a better means to Texas' larger goal: making Texas a state where employers create high-skill, high-wage jobs, where residents have the knowledge and training to fill them, and where everyone enjoys a high standard of living.

Decisions about implementing the new system should therefore be made in this context. State officials and local boards would serve Texas employers and residents well if they first asked, *Does the proposed change contribute to making Texas employers more competitive or to preparing Texas workers for high-skill, high-wage jobs?*

THE GOAL OF TEXAS' NEW SYSTEM

S.B. 642 and H.B. 1863 delineate roles and responsibilities, set limits, define governance and management structures, and parcel out the funds to build an integrated workforce system that will better serve employers and residents. A better system is, however, simply a better means to Texas' larger goal: making Texas businesses and residents more productive and therefore more competitive in the global economy.

In other words, the goal is to make Texas a state where employers create high-skill, high-wage jobs, where residents have the knowledge and training to fill them, and where everyone enjoys a high standard of living. S.B. 642 and H.B. 1863 create a system which supports getting there, but the system itself should not become the end of the state's workforce initiative.

Dancing Toward the Vision

Though structured and legalistic in setting the parameters of Texas' reformed system, S.B. 642 and H.B. 1863 also choreograph the broad outlines of a new state/local workforce dance, one that keeps the economy humming and makes room for all Texans to share in the prosperity.

Though unwritten, this choreography transcends the rules and regulations. It lays out a vision of sweeping movement, of partners moving in step to the same rhythm, of a dance which:

- Eliminates artificial boundaries between programs and streamlines administrative costs.
- Opens access to everyone.
- Offers services that make a difference in people's lives.
- Connects training and employment to real, well-paying jobs.
- Provides employers an adequate supply of qualified workers.

- Makes workers lifelong learners who earn living wages and whose education and skills keep pace with technology.

Moving with Principle

This dance moves in accordance with several underlying principles, principles state officials and local boards should follow as they design and implement Texas' integrated workforce delivery system. In order that it better serve employer and resident needs, the new system should:

- Offer universal access, opening access and information to all employers and residents, not just the unemployed or economically disadvantaged.
- Be customer oriented, operating with a "services first" philosophy that puts decisions about services and quality in the hands of customers.
- Be demand driven, recognizing that high-performance employers create and control the jobs of the future.
- Maintain a high-skill, high-wage focus, targeting special services to employers who invest in workers and reward them well.
- Take a systems approach to service delivery, asking about every activity and decision, *What does it contribute to meeting employer and resident needs?*
- Customizes services to customer needs, assessing those needs objectively and addressing them creatively.
- Is outcomes based and accountable, focusing on performance and results.

ROLES & RESPONSIBILITIES IN THE NEW SYSTEM

By statute, the roles and responsibilities for implementing Texas' integrated workforce system are divided among state and local governments. Over time, the state's new system will give local areas unprecedented freedom and responsibility to operate their workforce programs, but the front-end job of setting up the statewide integrated workforce system fell largely to the Texas Workforce Commission.

As if this alone were not challenge enough, the commission was given responsibility for building itself as a new state agency at the same time—while also continuing to deliver services without interruption. The commission faced a monumental task even before it had leadership or staff.

Workforce Development in Texas Makes an About-Face

It is the integration of programs into a single system that poses the greatest challenge to the Texas Workforce Commission. The paradigm under which services are provided to customers must make a radical shift. Employment and training programs for too long tried to sell what they had available. Adopting a customer-oriented approach—imposing the same market forces on Texas' workforce development system that the system's customers face every day—represents an about-face.

STATUS OF IMPLEMENTATION TO DATE

Changes of the magnitude envisioned for Texas' workforce system will take years. While much remains to do, much has been accomplished in the 18 months since H.B. 1863 passed in June 1995.

The state has made significant progress toward fulfilling its responsibilities.

- + The governor designated 28 local workforce development areas and appointed workforce commissioners as well as members of the Texas Skill Standards Board.
- + The Texas Council on Workforce and Economic Competitiveness drafted and the governor approved a strategic plan with statewide goals, objectives and core performance measures.
- + The Texas Workforce Commission is up and running as a new state agency. Commissioners have been appointed and key management positions filled. The commission has transferred 28 programs from 10 different agencies, made progress toward an integrated management structure organized along functional lines and begun developing the necessary management control systems to ensure accountability and performance.

Local areas have also made significant progress in the process that begins with their forming local workforce development boards and culminates in their receiving formula allocations of funds.

As of December 20, all but four of the 28 workforce areas had submitted applications for board certification. Twenty-two boards had received certification by the governor. In addition, two areas had submitted strategic and operational plans, and another had submitted a strategic plan.

START-UP PROBLEMS

Not surprisingly, most of the problems cited in this report reflect the challenge of simultaneously establishing a new state agency and a new state/local service delivery system.

Getting a Slow Start

The state was slow to get moving on forming the Texas Workforce Commission—appointing commissioners, hiring the executive director and filling key management staff positions—and recent staff turnover may also slow progress.

Giving Conflicting Instructions

Because the Texas Workforce Commission has not instituted a systematic process for developing and transmitting policy directives—and other information—it has given conflicting instructions and sent mixed signals to its own staff and others.

Offering Minimal Help, Limited Guidance

The commission offered local areas minimal help and limited guidance in the formation of local boards.

Limiting Local Flexibility

A policy determination by the U. S. Department of Labor has prevented the formula allocation of Employment Services dollars to local workforce boards. Not block granting these funds to local boards will limit their flexibility to design and operate service delivery systems offering universal access. To date the Texas Workforce Commission has been unsuccessful in obtaining approval to formula allocate Employment Services monies, but negotiations continue.

LONGER-TERM IMPLEMENTATION CONCERNS

Leaders at the state and local levels and in the business and labor communities report several concerns about longer-term implementation issues which may obstruct future progress.

At the State & Local Levels

CATEGORICAL THINKING CONTINUES CATEGORICAL PROGRAMMING

Each revision of the Texas Workforce Commission's organizational chart shows the functional integration of services has progressed, but conflicting cultures are evident among staff transferred from different categorical programs. Not evident, however, is any indication the commission is taking steps to help staff escape their categorical boxes and take a broader view. Categorical thinking continues categorical programming, jeopardizing the commission's chances of building an integrated statewide system.

FEDERAL FUNDING SILOS COMPLICATE REFORMS

Texas can implement an integrated workforce services delivery system without federal workforce reforms, but the job will be harder. As long as federal funds target specific groups and limit allowable services, Texas is denied the freedom to set its own workforce funding priorities and design creative, appropriate solutions to employers' and residents' workforce problems.

PERFORMANCE PRESSURES ENCOURAGE CREAMING

The tendency in systems held accountable for producing results is to serve those who need the least help, to "cream" the best candidates off the top. How does a workforce system that promises universal access to residents and high-quality workers to employers avoid this and reserve resources for those with multiple barriers to employment?

WELFARE REFORM THREATENS WORKFORCE REFORM

Welfare reform flips the issue of creaming over and raises the specter of welfare recipients' crowding out everyone else who needs help from Texas' workforce system.

AUDITOR TAGS INADEQUATE MANAGEMENT CONTROL SYSTEMS

A state auditor's report raised questions about the Texas Workforce Commission's progress in developing important management control systems to reduce the financial risk of allocating funds to local workforce boards, ascertain the effectiveness of state and local operations and ensure the accountability of local programs.

OTHERS FLAG TOP-DOWN MANAGEMENT INFORMATION DESIGN

State officials and local workforce board staff have also noted that the Texas Workforce Commission has not sought input from end users in designing the management information systems they will have to use. Instead of working bottom up, the commission is working top down.

MINORITY PARTICIPATION LAGS

Several state legislators have concerns about lagging minority participation in the new workforce system. They want top management staff at the Texas Workforce Commission to better reflect the diversity of the state, and they also want assurances of minority participation in providing workforce services at the state and local level.



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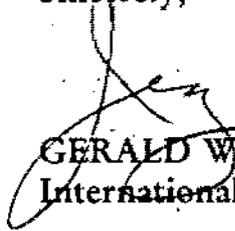
March 18, 1997

Mr. Bruce Reed
Assistant to the President of the United States
for Domestic and Policy Planning
Old Executive Office Building
17th & Pennsylvania Avenue, NW
Room 216
Washington, DC 20500

Dear Bruce:

I thought you would be interested in the enclosed March 17, 1997 article from the Houston Chronicle, which deals with Lockheed-Martin and the Bush administration in Texas.

Sincerely,


GERALD W. McENTEE
International President

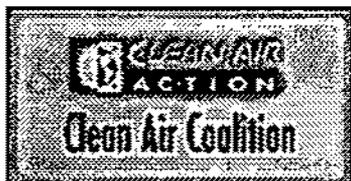
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9:55 PM 3/17/1997

Bush's ex-aide now lobbyist for firm in bid to run welfare

By POLLY ROSS HUGHES
Copyright 1997 Houston Chronicle Austin Bureau

AUSTIN -- As an aide to Gov. George W. Bush, Dan Shelley --who is now a lobbyist for Lockheed-Martin -- played a key role in changing legislation that resulted in a sweeping proposal by the company to privatize the state's welfare system, Democratic lawmakers revealed Monday.

Lockheed, better known for its defense contracts, is one of several technology companies hoping to land a \$2 billion, five-year contract to create and possibly run a system to screen Texas applicants for welfare and other social services benefits.

The groundbreaking project is undergoing federal scrutiny; Bush's office is expecting word by March 31 on whether the state can start taking bids.

Shelley protested Monday that he was only acting in behalf of the governor's welfare policy staff two years ago when he asked legislators to back a brief amendment to a 211-page welfare bill.

The amendment sounded innocuous enough. It simply stated that the project would be done "in consultation and coordination with the State Council on Competitive Government." The council is made up of the governor, lieutenant governor, speaker of the house, comptroller of the currency and general services commissioner.

The result, however, was that the Council on Competitive Government later allowed companies such as Lockheed-Martin to propose broad privatization measures that went far beyond what legislators said they intended.

Shelley insisted that although he later went to work for Lockheed, he had no contact with the company at the time that he was pushing the amendment. He also said he knew of no private companies that were lobbying for the amendment at the time.

"I think you're trying to find some smoking gun or you think I did something sinister, when you're wrong," Shelley said.

Shelley was one of several former state officials targeted by the Texas State Employees Union in an ethics complaint filed with the Travis County district attorney and county attorney last fall. No action has been taken on that complaint, which also included other former state officials who went to work for Lockheed.

"The perception is very, very bad. That's why I have said the process is tainted -- because it is," state Rep. Garnet Coleman, D-Houston, said Monday.

"It's no one in this Legislature's fault that Lockheed-Martin ran into some difficulties perceptually early on. That's the fault of the people they chose to hire and that's the fault of some things that occurred," Coleman said.

Lockheed's controversial proposal goes the farthest in privatizing the state's welfare system and could set the company up as the employer for thousands of displaced state workers.

Several lawmakers say the proposal is far beyond the scope of what they had envisioned. Coleman and others are now seeking more legislative control over the welfare screening project known as the Texas Integrated Enrollment System, or TIES.

At least four bills aimed at limiting the role of private companies appeared by last Friday's pre-filing deadline. While not eliminating the participation of private companies altogether, the bills call for more legislative oversight and less private power.

Rep. Glen Maxey, D-Austin, said the new bills are necessary because the amendment Shelley proposed had unintended consequences.

"Since last session, that has grown into a huge privatization program the Legislature never considered, talked about or voted on," he said.

TIES, billed as a one-stop shopping approach for welfare applicants, has widespread support among lawmakers, but the role a private company would play has become increasingly controversial.

Companion bills in the House and Senate would limit the role of a private technology company to developing the technology itself and providing technical support.

"It scales it back," said Rep. Elliot Naishtat, D-Austin, the House sponsor. "It guarantees that people applying for (benefits) would spend more time interacting with a real person and less time with a computer or kiosk."

House Appropriations Chairman Robert Junnell, D-San Angelo, also filed a bill he said will give him flexibility to make changes in TIES legislation, depending upon the federal government's response.

"Members (of the committee) are going crazy hearing from state employees afraid they're going to lose their jobs," said Janice Carter, chief aide to the budget-setting committee. "It's the uncertainty of the state employees. It came up over and over again in appropriations."

Coleman said he hopes the philosophical objections to all-out privatization aren't lost in the upcoming debate. He fears that companies worried about the bottom line will not be sensitive to the needs of welfare applicants.

"What you want is to make sure that whoever is providing that service is sensitive to that family's need," he said.

WR-privatization

Copyright 1997 The Austin American-Statesman
Austin American-Statesman

March 10, 1997

SECTION: News; Pg. A1

LENGTH: 851 words

HEADLINE: Doubts grow about merits of taking welfare private; Doubts build

BYLINE: Suzanne Gamboa

BODY:

It began as a few innocuous paragraphs tucked into a multipage, multidimensional welfare reform bill. Legislators overwhelmingly gave it their stamp of approval.

Then the sentences that talked of streamlining and cutting costs blossomed into a grandiose welfare experiment. To the chagrin of a number of lawmakers, the language became a proposal for a \$2 billion contract that would make Texas the first state to let private companies control who gets welfare.

Two years later, some legislators say it's time to back up.

Even as Gov. George W. Bush is pushing the federal government to approve the Texas Integrated Enrollment Systems proposal, doubt is growing in the Legislature over the project's merits.

"I've been supportive of privatization when it makes sense, when there are cost savings, and we can perform a better service for the state," said Rep. Rob Junell, D-San Angelo, House Appropriations Committee chairman. "I'm not sure that's true in this case."

Rep. Garnet Coleman, D-Houston, said the objective of the legislation that started the proposal -- to simplify the way Texans sign up for welfare and other benefits -- has been lost in the push to go private.

"Everybody is reviewing (the project) to see if there are other options," said Coleman, who co-sponsored the 1995 welfare reform law.

Already, the potential role of the private sector is being reduced.

"Even if we go through with privatization," said Mike McKinney, the state's health and human services commissioner, "it's not going to be at the level everybody thinks or as high as I've been led to believe from what I've read in the media."

McKinney is in charge of writing the proposal that would be used to solicit bids. Because federal rules dictate how states should distribute social services money, Texas needs federal approval of the project before bids can be requested.

Lawmakers' doubts

The lack of federal approval is one of many concerns about the project. Consider what else is working against it:

- *Some lawmakers believe the Legislature never endorsed turning over --government-run welfare services to private companies.

- *Thousands of state employees could lose their jobs and numerous state --offices could be closed, something many lawmakers don't want in their districts.

- *One prospective bidder, the Texas Workforce Commission, hasn't earned the --confidence of state lawmakers with its performance. The abrupt departure of the agency's executive director and questions about the agency's spending controls have lawmakers skittish about possibly handing the agency billions in state and federal money.

- *Some believe the project has been tainted by revelations that Dan --Shelley, the governor's former chief legislative aide who guided the law through the Legislature, is now lobbying for prospective bidder Lockheed Martin IMS.

- *Other automation projects by Arthur Andersen Co., another prospective --bidder on the welfare project, have been costly and are behind schedule. One of those is a child-support collection system in the attorney general's office, the other a system in the Department of Protective and Regulatory Services.

I think the Legislature needs to take back this issue and have it resolved one way or another before we leave in June," Junell said.

The 1995 law directed the Council on Competitive Government, which includes representatives of Bush, Lt. Gov. Bob Bullock and House Speaker Pete Laney, to study whether the state could save the \$563 million a year that it spends deciding who gets more than \$11 billion in welfare, Medicaid, food stamps and other benefits.

I certainly support the Council on Competitive Government," Junell said. But I think in retrospect that this is a legislative issue."

Sen. Bill Ratliff, R-Mount Pleasant, said he supports turning functions over to the private sector if it saves taxpayer money and can be done more efficiently. But he also has questioned whether the state would save more in the long run if it does not deal with a for-profit company.

Waiting on Washington

Bullock said he doesn't think Texas should move ahead with the experiment until the federal government approves it.

There is too much at stake at this to be gambling on it," Bullock said. I've read a letter (from the federal government) that was sent in here and it cast enough question in my mind that now is the time to stop, look and listen before we jump into this."

Bush remains committed to the project and to as much private sector involvement as possible. The governor last week called Donna Shalala, U.S. Health and Human Services secretary, to explain the project's importance and ask for approval or disapproval of the project.

Karen Hughes, Bush's press secretary, said Shalala promised to have an answer in three weeks.

Bush said if the federal government does not approve the project, it is dead.

If they say no, I presume the project doesn't go forward because there will be a financial cost that will be hard for the state to bear," Bush said. We just want an answer."

GRAPHIC: Garnet Coleman

LOAD-DATE: March 10, 1997

Copyright 1997 The Austin American-Statesman
Austin American-Statesman

March 5, 1997

SECTION: Metro/State; Pg. B3

LENGTH: 519 words

HEADLINE: Official backs off fight over state welfare plan; Senate OKs college

BODY:

Official backs off fight over state welfare plan

The state's top welfare official is backing off for now in the fight over a welfare privatization plan after being warned Texas risked billions of federal dollars by moving forward without explicit approval.

"We're not going to endanger federal funds. I'm not stupid," Texas Commissioner of Health and Human Services Mike McKinney said in Tuesday's Houston Chronicle.

McKinney declared last week that nothing short of states' rights was at issue in the feud over the multibillion-dollar proposal. He called a truce Monday to protect federal welfare money.

McKinney and Gov. George W. Bush believe Texas has implicit federal approval to move ahead based on a federal rule that requires a definitive response to state proposals within 60 days, Bush spokesman Ray Sullivan said.

With Bush's approval, McKinney had planned to begin seeking bids on the contract within two weeks.

The contract would let a private technology company create and possibly run a system to screen applicants for more than \$8 billion in welfare benefits. The project includes 21 social service programs. Some have estimated it could lead to as many as 7,000 state job cuts.

--Associated Press

Senate OKs college admission bill

Prospective students would find it easier to apply to four-year universities under a bill passed by the Texas Senate that would require a uniform admissions form and one-stop filing at university systems.

The measure by Senate Education Committee Chairman Teel Bivins, R-Amarillo, passed 31-0 Tuesday and now goes to the House.

The goal ... is to increase access to higher education," Bivins said.

The bill would require the Higher Education Coordinating Board to adopt a uniform admissions application form to be used at four-year universities. The universities could require additional information from students, such as essays.

In addition, a student could apply to any or all campuses within a particular university system by submitting one form.

--Associated Press

Prison bills pass hurdle in House

The Texas House has given preliminary approval to two bills pertaining to the release of prison inmates.

The first measure, sponsored by Rep. Ruth Jones McClendon, D-San Antonio, would require Texas cities, counties and private jails that contract to house out-of-state criminals to require in the contract that the inmates be released from custody in the state that sent them.

The people of Texas shouldn't have to suffer for the crimes committed by those from other states," McClendon said.

The other bill, sponsored by Rep. Allen Place, D- Gatesville, would add second-degree murder and indecency with a child by exposure to the list of offenses that exclude an inmate from release on mandatory supervision.

Mandatory supervision allows inmates to be released from prison when their time credits for good behavior and their time served equal their sentence.

Both bills were approved Tuesday on a voice vote and still face a final House vote.

--Associated Press

LOAD-DATE: March 6, 1997

Copyright 1997 The Houston Chronicle Publishing Company
The Houston Chronicle

March 4, 1997, Tuesday, 3 STAR Edition

SECTION: a; Pg. 1

LENGTH: 870 words

HEADLINE: Welfare privatization hits snag;
State could lose federal funding

BYLINE: POLLY ROSS HUGHES, Houston Chronicle Austin Bureau; Staff

DATELINE: AUSTIN

BODY:

AUSTIN - Texas' top welfare official declared late last week that nothing short of states' rights was at issue in a feud with the federal government over a multibillion-dollar welfare privatization plan.

On Monday he called a truce - at least temporarily - after federal officials warned that Texas could be risking billions in federal welfare funding by moving ahead on the trailblazing project without first obtaining explicit federal approval.

"We're not going to endanger federal funds. I'm not stupid," said Texas Commissioner of Health and Human Services Mike McKinney.

"Because they did respond, negotiations are ongoing. We're still working with the federal government. We're still trying to get their approval," he added. "I'm not going to unilaterally thumb my nose at them and put (the offer for bids) on the street." McKinney and Gov. George W. Bush have said they believe Texas has implicit federal approval to move ahead on the project based on a federal rule that requires a definitive federal response to state proposals within 60 days. Bush spokesman Ray Sullivan said Monday that they still hold that opinion.

McKinney, who suspects national labor unions of contributing to a three-month delay of federal approval for the plan, said he retains the option at any time to start seeking bids for the contract.

"It depends on the negotiations between now and in two weeks," he said. "It's a political issue. I think (opposition) is coming from people who are afraid of change. I think it's probably some unions who are opposed to anything that looks like efficiency."

With Bush's approval, McKinney had planned to start seeking bids within two weeks on the contract, the first of its kind in the nation.

The contract, called the Texas Integrated Enrollment Services, would let a private technology company create and possibly run a system to screen applicants for more than \$ 8 billion in welfare benefits. The project is comprehensive, encompassing 21 different social service programs. Some have estimated the project could cut up to 7,000 state jobs.

Worth an estimated \$ 2 billion over five years, the contract has drawn the attention of several companies interested in bidding: Lockheed-Martin, IBM, Electronic Data Systems, Unisys and Andersen Consulting.

The plan also has set off alarms throughout the national labor movement. Union leaders fear the precedent-setting Texas privatization project could spread to other states.

Last December, presidents of the AFL-CIO, American Federation of State, County and Municipal Employees and Communications Workers of America discussed the Texas project with President Clinton's outgoing chief of staff, Leon Panetta, and current Chief of Staff Erskine Bowles, according to Brooks Sunkett, national vice president of Public and Health Care Workers of the CWA.

"I think obviously they're taking a closer look at this because of our concerns," Sunkett said. "We suggested jobs being at stake nationally. We're also concerned that privatizers are going to be making a profit off of other people's misery. "

Uncertainty over the Texas project is frustrating members of the Texas Legislature. Lawmakers widely support the concept of a streamlined system for screening welfare applicants, but not all of them agree on how far privatization should go.

The state's desire to move forward on the project vs. the federal government's painfully slow approval process is cause for further anxiety.

"I have very mixed feelings about it," said state Sen. Judith Zaffirini, D-Laredo, chairwoman of the Senate Health and Human Services Committee. "They haven't raised any real objections.

It's frustrating. We're trying to deal with a situation, we're trying to save money and we're trying to serve people who need it. "

Sen. Bill Ratliff, R-Mount Pleasant, said he thinks the state should give serious thought to doing much of the project with state employees, especially considering the federal foot-dragging.

"I'm nervous about going ahead without explicit approval," said Ratliff, chairman of the

Senate Finance Committee. "Maybe we ought to consider doing it in-house. Someone might even make a case there would be some savings. It's possible."

Rep. Harvey Hildebran, R-Kerrville, chairman of the House Human Services Committee, said he is pleased that negotiations remain open between the state and federal governments.

"Obviously, if we're going to lose money, I wouldn't advise them to move forward today," he said. "They temporarily have put it on hold. I think that is the correct action."

Rep. Garnet Coleman, D-Houston, said it could be appropriate for private companies to supply computers and develop software programs for the new system, but he thinks the line on privatization should be drawn there.

"I believe some form of privatization is good," he said. "But knowing how to approach and deal with clients that have little education and have tremendous needs may be better left in the hands of those that have been doing this for a very long time and that's the Department of Human Services."

LANGUAGE: ENGLISH

LOAD-DATE: March 5, 1997

Copyright 1997 The Houston Chronicle Publishing Company
The Houston Chronicle

March 1, 1997, Saturday, 3 STAR Edition

SECTION: a; Pg. 1

LENGTH: 672 words

HEADLINE: Bush gives go-ahead on welfare overhaul

BYLINE: POLLY ROSS HUGHES, Houston Chronicle Austin Bureau; Staff

DATELINE: AUSTIN

BODY:

AUSTIN - Gov. George W. Bush has instructed his welfare czar to open bidding on the largest welfare overhaul contract in the nation, a decision U.S. officials say could put billions of federal dollars at risk.

The move is bold and controversial because it bypasses formal federal approval of the project. The federal government matches state welfare dollars 2 to 1 on several large programs.

Bush and the state's top welfare official say they believe they have de facto federal approval to move ahead with the plan that could result in a private company screening applicants for Texas' multibillion-dollar state safety net.

But two federal welfare officials on Friday said they do not.

At issue is how to interpret a federal rule saying state requests are deemed ""approved" if the federal Department of Health and Human Services does not approve, disapprove or send a written request for more information within 60 days.

""We believe the federal government's failure to act is deemed an approval" of the Texas project," said Bush spokeswoman Karen Hughes.

In a Feb. 19 letter to U.S. Secretary of Health and Human Services Donna Shalala, Texas Health and Human Services Commissioner Mike McKinney said the state would assume the federal government agrees with its reading of the ruling unless told otherwise by Friday.

""Should the state proceed with its plans . . . without our approval, it would be doing so at its own risk," said a letter McKinney's office received late Friday from Shalala's office and signed by a Kevin Thurm.

The letter warned of possible project delays that could increase cost of the project and "more seriously, potentially putting in question federal financial participation. "

The federal government had previously responded to the Texas plan in late January, saying it needed more time to review the plan based on its complexity and the sweeping nature of its scope.

"We cannot stop the state from proceeding, but our response does not mean that this is approval," said Michael Kharfen, spokesman for the health and human services department in Washington.

"If they proceed, then they do so at their own risk. They're jeopardizing federal funds. " Texas' leading welfare official insists the federal rule gives the state authority.

"It could end up in court. I think the rule's clear. I think we have permission," McKinney said.

"It's called fiddling while Rome burns," he said of the federal delays. "It's about state's rights and it's about \$ 10 million a month. "

McKinney said the state loses that amount in savings each month the new system is delayed, although others have said the savings would not be realized until the year 2000.

The state has waited three months for federal approval of its groundbreaking plan that would let a private technology company create and possibly run an eligibility system for more than \$ 8 billion in welfare benefits. Twenty-one social service programs are included in the project, some of which are not typically considered welfare.

Among the companies hungrily eyeing the contract are Lockheed-Martin and IBM in partnership with the Texas Workforce Commission; Electronic Data Systems and Unisys in partnership with the Texas Department of Human Services; and Anderson Consulting on its own.

Lockheed and EDS officials had differing views of Texas' decision to go forward with its plan, and of the standoff between the state and the federal government.

"I think it's excellent," said Gerald Miller, the former Michigan welfare expert who heads the Texas project team at Lockheed. "I understood (the offering document) was going to the printer and they would get it out quickly. We intend to bid on this project. "

EDS spokesman Roger Still said he hopes the state and federal government can come to terms and work together.

""We're kind of in the middle of this, obviously," he said.

""This is a brave new world and we need both parties involved. "

LANGUAGE: ENGLISH

LOAD-DATE: March 3, 1997

Copyright 1997 The Austin American-Statesman
Austin American-Statesman

February 28, 1997

SECTION: Metro/State; Pg. B1

LENGTH: 636 words

HEADLINE: State welfare project to move ahead; Official says plans to

BYLINE: Suzanne Gamboa

BODY:

A Texas official said he will move forward today -- without federal approval -- on a first-in-the-nation state project that could turn over some welfare operations to private companies.

Texas Health and Human Services Commissioner Mike McKinney said Thursday that the state has waited more than three months for federal permission to proceed. McKinney said he believes federal rules allow the state to go ahead if the U.S. Department of Health and Human Services has not acted within 60 days.

"We think we already have permission," McKinney said.

As McKinney prepared to move forward, some state legislators balked at the lack of federal approval and appeared to be having second thoughts about the scope of the project.

"I'm not sure I'm confident to see us proceeding into a multimillion-dollar project based on the fact they haven't said anything," said Sen. Bill Ratliff, who chairs the budget-writing Senate Finance Committee.

Ratliff, R-Mount Pleasant, also suggested the state consider changing the project, which has been criticized by state workers who fear they would lose their jobs.

As envisioned two years ago, the project would consolidate and streamline the application process for various welfare benefits, including cash assistance, Medicaid and food stamps, and turn over much of the job to private companies.

Start-up costs for the research and technology could amount to \$100 million to \$300 million. But the state could save as much as 40 percent of current costs through improved technology. Much of the savings, however, would come from closing offices and eliminating state jobs or replacing them with cheaper, private sector workers.

The project, which could be a prototype for other states, could lead to a \$2 billion, five-year contract. It has drawn interest from some of the nation's top high-technology companies,

including Electronic Data Systems, Unisys Corp., Lockheed Martin IMS and IBM.

Ratliff suggested that state officials consider keeping more of the work in state government. Although it would cost more up front, he said, the state would reap greater savings over time because you don't have the external profits." Rep. Rob Junell, chairman of the House Appropriations Committee, would not say whether he supports the project or moving ahead without federal approval. He seemed willing to consider a project with less private involvement.

"I don't think there's any question this state can do this project itself," said Junell, D-San Angelo.

Other lawmakers were less circumspect.

Rep. Glen Maxey, D-Austin, said he is concerned that the state could be risking federal welfare dollars if it moves ahead without federal approval.

"I hope we don't think we are bigger than the federal government in this debate," said Maxey, an opponent of the project.

Rep. Elliott Naishtat, D-Austin, said he plans to introduce legislation that would create legislative oversight for the project and protections for state employees.

McKinney argues that the longer the state waits, the longer it will take for it to reap the project's savings.

"They don't have a reason to say no," McKinney said of the federal government. "But they don't want to say yes. Nobody likes change, and this is a change."

Michael Kharfen, a spokesman for the U.S. Department of Health and Human Services, said late Thursday that a federal response was being drafted that continues the dialogue with the state, but doesn't give approval.

The project is the largest of many state projects to change the way welfare programs are operated. Although the federal government has encouraged states to experiment, it still must approve any projects that do not conform with federal law.

LOAD-DATE: February 28, 1997

TITLE: Texas preparing to privatize social service screening
BYLINE: Lou Chapman
CREDIT: Star-Telegram Writer
EST. PAGES: 2
DATE: 03/04/97
DOCID: FWST430290
SOURCE: The Fort Worth Star-Telegram; FWST
EDITION: FINAL AM; SECTION: METRO; PAGE: 7
(Copyright 1997)

AUSTIN - Acknowledging that they're putting millions of dollars at risk, Texas' highest officials are preparing to move ahead without federal approval on what has been described as the largest, broadest privatization of government programs in U.S. history.

The notion has some political leaders more than a little nervous.

"I think that's a dangerous thing to do. I don't look for the state to move forward on this," said Sen. Mike Moncrief, D-Fort Worth. "Any time we have attempted to second-guess the federal government, we have gotten ourselves in trouble."

At issue is the Texas Integrated Enrollment Project, a complex plan that is likely to result in private companies screening applicants for an array of welfare and government-assistance programs.

The state says it has already done all the federal paperwork necessary, but federal authorities say they want more time to review the plan.

"We want to move forward, and we want the federal government to recognize that Texans can run Texas," said Ray Sullivan, a spokesman for Gov. George W. Bush.

However, Michael Kharfen, a spokesman for the U.S. Department of Health and Human Services, which is reviewing the plan, said: "This is an unprecedented project in scope and in detail. We're trying to prevent potential problems down the road, problems that could mean more delays in the program, and the loss or delay of a lot of federal dollars."

If the state does proceed, it moves "at its own risk," wrote Kevin Thurm, deputy U.S. Health and Human Services commissioner, to Michael D. McKinney, state Health and Human Services commissioner, on Friday.

Two years ago, the Legislature ordered the state Health and Human Services Commission to study ways to streamline eligibility and enrollment processes in such diverse programs as welfare, food stamps, Medicaid, services for chronically ill or disabled children, foster care, adoption services, and in-home and family-support services.

Several state and federal agencies would be affected, with applicants screened simultaneously for eligibility in different programs under various agencies.

Huge private corporations have teamed up with state agencies to compete for the project.

One group lists Lockheed Martin, IBM and the Texas Workforce Commission. Another counts Electronic Data Systems, Unisys and the Texas Department of Human Services. Anderson Consulting has also shown an interest in bidding on the project.

Sen. Judith Zaffirini, a Laredo Democrat and head of the Senate Health and Human Services Committee, said she wants to move ahead, but she has reservations.

"I would think that the most cautious road would be to wait for word from the federal government, but my gosh, so much time has passed for us on this. We passed the legislation to move on this in 1995, and for goodness sakes, here we are in another session," she said.

REGION: NME TX; NORTH AMERICA; TEXAS
OTHER TERMS: Texas 75th Legislature

TIES ISSUES: MERIT SYSTEM REQUIREMENTS AND DELEGATION OF AUTHORITY

In the course of Texas' TIES discussions with DHHS and USDA, federal agency staff have raised two issues:

- Are the merit system requirements of the Food Stamp Act and the Social Security Act applicable to a privatized eligibility work force?
- Do the merit system provisions prohibit the state from delegating eligibility determination functions to a contractor?

Texas has taken the position in those discussions that:

- (1) under the TIES proposal, the relevant Texas state agencies retain all responsibilities for administration that are associated with their designations as single state agencies;
- (2) the state is obligated to ensure that state-administered portions of TIES programs will use a merit system of personnel administration. That merit system, however, is not applicable to any private work force with which the state contracts to administer other parts of the eligibility determination process;
- (3) nothing in federal statute or regulation prohibits the state from delegating certain eligibility determination functions to a contractor, including some certification-related functions under the Food Stamp program.

Texas does not argue that, in order to comply with federal requirements, only the individual "pushing the button" to certify eligibility must be a public, merit system-protected employee. But the federal government has no basis for arguing the other extreme, namely that all eligibility functions beyond data intake must be performed by public employees.

Texas has asked the federal agencies repeatedly to identify where they draw the line between public and private employees in the eligibility certification process. Federal agency staff to date has refused to take a position on that issue.

The issue of whether private employees can certify client eligibility is a red herring for the following reasons:

- (A) The eligibility determination process and automation system are rules-based which minimizes the possibility of public or private employees exercising unbridled discretion.

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HESC RECEIPTION

0003

- (B) The state at all times will retain responsibility for the promulgation of program rules and policy. In other words, the objective criteria used by staff and systems in determining client eligibility in all instances will be defined by public employees.
- (C) The state will retain final approval and disapproval authority over all eligibility determinations and the state, not a private contractor, will be responsible for assuring the due process rights of all applicants whose eligibility is denied.
- (D) The state will retain control over all eligibility determination functions by holding the contractor to strict performance standards through stringent oversight of contractor operations.
- (E) While holding the contractor strictly responsible for results, the state will remain the party that is accountable to the federal government for compliance with all federal requirements.

WR Privatiz.

WR Privatization

Wisc: 10% private, the rest public
FS waiver - months

HCFA: outstationing/intake
- contract out data processing
- where does evaluative decision take place?
- If final approval is real process

USDA: never made distinction b/w intake & decision
- does it affect service? Perverse incentive?
Effect on D.C. program integrity. How will
accountability work in this situation?

OMB: FS error rate - 10% in TX, 13% in WI

NEC: Evaluation - overpending & underpending

OMB: fuse WI & TX

HCFA: for co-regions look anything far co. of a state

ELC: lot of 1st refusal; displaced workers

Thurn: Medical time -

HCFA: Accountability is more a prob than incentives

USDA: Ready to grant, WI waiver

OMB: Mtg on WI later.

Thurn: We've been there - to Ann on losing job employees

THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 1
LISTED IN THE WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

THE FOLLOWING PAGE HAS HAD MATERIAL REDACTED. CONSULT THE
WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER FOR FURTHER
INFORMATION.

American Federation of Labor and Congress of Industrial Organizations



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A.L. "Mike" Monobe
Robert E. Wagner

March 13, 1997

MEMORANDUM

To: Kathy Mays/Bruce Reed's office

From: Diane DeYulis/Gerry Shea's office

The attendees for the Welfare/Privatization Meeting with Bruce Reed are as follows:

Gerald M. Shea, AFL-CIO

DOB 12-16-46

SSN [REDACTED]

Marc Baldwin, AFL-CIO

DOB 7/12/62

SSN [REDACTED]

Debbie Goldman, CWA

DOB 3/17/52

SSN [REDACTED]

Lee Saunders, AFSCME

DOB 5/15/51

SSN [REDACTED]

Marie Monrad, AFSCME

DOB 11/25/58

SSN [REDACTED]

Carol Golubock, SEIU

DOB 12/21/48

SSN [REDACTED]

John Howley, SEIU

DOB 9/26/57

SSN [REDACTED]

Please call me at 202-637-5224 if you need additional information.



AFL

SHUA: Look at on indiv. basis

DOBBIE: Initial interview → Elg. worker (computer)
Most work is redetermination (every 6 mos.)

→ Spanish

NT: Initial redetermination - Cox as many as redeterm.

TIES → 14,000. 46% is eligib. workers

SHUA: Line = decisionmaking. Contractor scandals in Tx.
Determin. of elig. for pub. benefits

TREBBIE: If denied, goes to appeal
Investigations, quality assurance
Integrated eligibility

BARRY: Student loans, Pell grants. Aid officer discretion.

MARIA: 1) Discretion 2) Financial incentives 3) Concern about poor

DOBBIE: HHS. Tx document?

WLP Privatization

WR Privatization

Welfare privatization hits snag

HOUSTON CHRONICLE

By POLLY ROSS NUGHES
Houston Chronicle Austin Bureau

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McKinney and Gov. George W.

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"I have very mixed feelings about it," said state Sen. Judith Zaffrini, D-Laredo, chairwoman of the Senate Health and Human Services Committee. "They haven't raised any real objections. It's frustrating. We're trying to deal with a situation, we're trying to save money and we're trying to serve people who need it."

Sen. Bill Ratliff, R-Mount Pleasant, said he thinks the state should give serious thought to doing much of the project with state employees, especially considering the federal foot-dragging.

"I'm nervous about going ahead without explicit approval," said Ratliff, chairman of the Senate Finance Committee. "Maybe we ought to consider doing it in-house. Someone might even make a case there would be some savings. It's possible."

Rep. Harvey Hildebran, R-Kerrville, chairman of the House Human Services Committee, said he is pleased that negotiations remain open between the state and federal governments.

"Obviously, if we're going to lose money, I wouldn't advise them to move forward today," he said. "They temporarily have put it on hold. I think that is the correct action."

Rep. Garnet Coleman, D-Houston, said it could be appropriate for private companies to supply computers and develop software programs for the new system, but he thinks the line on privatization should be drawn there.

"I believe some form of privatization is good," he said. "But knowing how to approach and deal with clients that have little education and ... needs may be better left in the hands of those that have been doing this for a very long time and that's the Department of Human Services."

Gas company overcharged \$11 million

Lone Star says it will repay customers starting in April

DALLAS MORNING NEWS
By Richard A. ...

AUSTIN — Lone Star Gas Co. charged customers more than \$11 million too much from 1991 to 1995, but company officials didn't tell state regulators they would repay the money until a few days ago when the overbilling came under scrutiny at the Texas Railroad Commission.

In papers filed with state regulators Thursday, Lone Star Gas and sister company Lone Star Pipeline Co., which transport and distribute natural gas to 730,000 homes and businesses in Dallas-Fort Worth, promised to repay customers over a 12-month period beginning in April.

Company officials said that the average homeowner would get back a total of \$4.80 reflected in a lower bill and that the problem with overcharging has now been corrected.

The disclosure comes at a critical time because Lone Star Pipeline has asked the Railroad Commission for its first rate increase in 14 years, while 74 Texas cities served by it have simultaneously asked regulators to reduce the rates. The case will be decided later this year.

Lone Star Gas and Lone Star Pipeline are both divisions of Dallas-based Enserch Corp., which is being acquired by Texas Utilities Co. to form the dominant power company in North Texas.

Lone Star Gas officials say they learned of the problem in August, but it wasn't until last week that they promised state regulators they would repay the money.

In fact, during a hearing earlier last week, a company lawyer had told officials at the Railroad Commission that regulators had "no authority" to order a refund and that the company was "still considering" what to do, according to a transcript of the hearing.

But despite what the lawyer said, Lone Star Gas president Dick Williams said in an interview Monday that the company always intended to repay the money.

"Essentially, by implication ... we were prepared to do that last fall" after the error was discovered, Mr. Williams said. It was "not something we were trying to cover."

He said the charges in question resulted from what he said was the

CHARLES W. STENHOLM

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TEXAS

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Congress of the United States
House of Representatives
Washington, DC 20515

February 24, 1997

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RANKING MEMBER

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The Honorable Franklin Raines
Director
Office of Management and Budget
Old Executive Office Building
Washington, D.C. 20500

*cc: Elena
Cynthia
Diana*

Federal Privatization

Dear Frank:

I am writing on behalf of my constituents in the 17th District and the State of Texas to request your prompt attention to Texas' request for approval of the Request for Offers for the Texas Integrated Enrollment System (TIES). This request has been pending for several months and has reached a critical point for a decision.

When the welfare reform debate began in earnest in 1995, I set up welfare task forces in my district and asked them to put together their recommendations on how to structure the welfare delivery system. The number one recommendation of the task force was that the application process be streamlined and simplified across various means-tested programs. The task force concluded that streamlining the application process would provide better service to needy individuals and would use scarce resources more efficiently. I was therefore pleased that the Texas legislature directed the Texas Human Services Commission to develop an integrated enrollment system as part of the state's welfare reform plan. I have been even more pleased that the Commission has taken this direction very seriously and developed an integrated enrollment proposal very consistent with the goals outlined by the welfare task force I established.

I am enclosing a copy of a letter that Dr. Mike McKinney, Commissioner of the Texas Human Services Commission, sent to Secretary Donna Shalala on February 19 informing the Department of Health and Human Services of his intention to proceed with the release of the TIES Request for Offers. The Commission is proceeding under the authority of HHS regulations that deem requests to be approved if the Department does not provide the state with approval, disapproval or a written request for more information within 60 days.

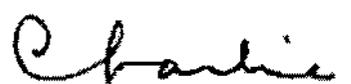
While I share Dr. McKinney's disappointment that the Commission has found it necessary to proceed without formal approval from HHS or USDA, I believe that the Commission has been extremely patient throughout the approval process and has ample legal and substantive justification to proceed with the program at this point. The Texas Human Services Commission has been developing the TIES at the direction of the Texas legislature since June of 1995. The initial RFC was presented to HHS and USDA in June of 1996. Since that time, state officials have worked extensively with the administration to refine and improve the proposal and have responded to several requests for information. Further delay risks jeopardizing the

success of the Texas welfare reform initiative, which anticipated implementation of the TIES. The timing is especially critical because the Texas legislature will only be in session for a few months. Dr. McKinney and his staff need to begin to work with the legislature very soon if any changes need to be made to the TIES that need legislative approval, or if the welfare reform legislation needs to be modified to adjust to the absence of the TIES.

I have worked with Dr. McKinney in seeking federal approval of the TIES and several other issues, most notably approval of a waiver for the Texas welfare reform plan in 1995. In all of these instances, I have found Dr. McKinney to be extremely reasonable and willing to make accommodations to address administration concerns. Dr. McKinney remains willing to work with the administration to resolve any problems preventing federal approval of the TIES. I am willing to work with you, Dr. McKinney, Governor Bush and other state and administration officials to foster a constructive dialogue that can lead to prompt resolution of this matter. If the administration determines that legislation is necessary to allow approval of the TIES, I will work in my capacity as Ranking Member of the House Committee on Agriculture to pursue such legislation, and believe that there would be bipartisan support for such an effort. I hope that the cooperation between the State of Texas, my office and the administration that led to the approval of the Texas welfare waiver under terms that were acceptable to all parties can serve as a model for dealing with this issue.

Thank you in advance for your attention to this matter. I look forward to working with both the State of Texas and the Administration to see that we continue to make progress toward final implementation of the Texas Integrated Enrollment System. Please feel free to contact me if I can be of assistance. With kind regards, I remain

Sincerely yours,


Charles W. Stenholm
Member of Congress

CWS:esl
Enclosure
cc: Governor George Bush
Lieutenant Governor Bob Bullock
Dr. Mike McKinney
Bruce Reed
Ken Apfel

JC



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

MICHAEL D. MCKINNEY, M. D.
COMMISSIONER

February 19, 1997

Donna E. Shalala, Ph.D.
Secretary
United States Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D. C. 20201

Re: Texas Integrated Enrollment Services Project

Dear Secretary Shalala:

The purpose of this letter is to respond to correspondence dated January 31, 1997, from Mr. Mark Ragan, Director of the Office of State Systems, Administration for Children and Families, to my office regarding the review of the State of Texas' request for approval of the Request for Offers for the Texas Integrated Enrollment Services [TIES] project. [Copy attached.] Mr. Ragan advises that the ACF and HCFA continue to review the RFO and that a final decision cannot be given at this time. He states that discussions were being conducted at the highest levels within DHHS.

It is therefore appropriate to direct my concerns about the approval process to your office and to inform you of my office's plans, based on our understanding of applicable federal regulations, to release the TIES Request for Offers [RFO].

As you may know, the State of Texas, through this agency and the State Council on Competitive Government, has embarked on a challenging initiative to integrate the eligibility determination and client enrollment functions of several public assistance programs, including Medicaid and cash assistance under the Temporary Assistance to Needy Families program. The State's overarching goal is to improve service to recipients of public assistance by maximizing efficiencies and taking advantage of technical and business innovations available through the marketplace. The State also has selected this project as a means to encourage public-private competition and, in the process, stimulate the formation of public-private partnerships.

The Texas Legislature directed this agency and the Council to determine the potential benefits of contracting out these functions and, if this option was deemed feasible, authorized this agency to contract out those functions. Following an extensive study of the programs to be included in the project and an assessment by the Council, the Council determined that there was a compelling business case to support the contracting out of eligibility determination and enrollment functions. The Council directed this agency to prepare and conduct a competitive procurement to implement the Council's findings.

We first presented the RFO for an integrated enrollment service for required prior approval to your agency and the Department of Agriculture in June of 1996. Following an extensive review and

Secretary Donna E. Shalala
February 19, 1997
Page 2

comment by the federal agencies, we met with agency representatives in Austin on July 23, 24, and 25. Based on the input and direction we received from federal staff and others, we resubmitted the RFO and Planning APD for the project for prior federal approval on October 17, 1996. We received acknowledgment in a letter from Mr. Joseph F. Costa, Director of the State Systems Policy Staff for ACF, dated October 24, 1996.

We met once again with federal staff at the offices of the Food and Consumer Service in Alexandria on November 15, 1996, where we received additional comments and direction. We received requests for clarification from DHHS and USDA on November 19th. We submitted information in response to these requests on November 27 and December 13, 1996. Mr. Ragan's letter is the most recent correspondence we have received from the Department on this matter.

Although your agency has indicated more time is needed to make a final decision on our request for approval, we believe a DHHS regulation adopted last year authorizes the State of Texas to proceed with the implementation of the TIES on a provisional basis without the Department's prior approval. The regulation, codified at 45 C.F.R. section 95.611(d), promises prompt agency action on states' requests for prior approval of Planning APDs, Implementation APDs, RFPs, contracts, and certain contract amendments. Under the new regulation, a state's request is automatically deemed to have provisionally met the prior approval conditions of the regulations if DHHS has not, within 60 days following the date of the its letter acknowledging receipt of the state's request, provided the state written approval, disapproval, or a request for information.

Based on our understanding of the purpose and intent of the regulation, we believe that, due to the delay in federal action, the State has provisionally met the prior approval conditions of DHHS and USDA regulations.

In the notice of proposed rule making that appeared in the Federal Register, the Department explained that the "prompt action" regulation was proposed in the interest of increasing efficiency and reducing federally-imposed burdens on the states. The Department's avowed intention was to help states contain costs by minimizing the delay in granting required approvals. The Department acknowledged that states which are confident their proposed ADP projects satisfy federal requirements should not be penalized by excessive delay in the Department's approval. See 60 Fed. Reg. 37859 (July 24, 1995). On final adoption of the regulation, the Department responded to a comment that the regulation may be employed to delay the approval of state requests by offering explicit assurance that "this will not happen." 61 Fed. Reg. 39894, 39896 (July 31, 1996).

Unfortunately, it appears that this is precisely what has occurred with the State's request for approval of the TIES RFO. Our concern is that the current and - if we interpret your agency's actions correctly - potentially interminable delay in the approval of the TIES RFO violates the spirit, if not the letter, of the prompt action regulation. Certain that this is not the Department's intention, we believe it is reasonable to interpret the regulation to authorize the State of Texas to proceed with the TIES project under the provisional approval criteria of the regulation.

The regulation is silent as to the Department's duty and a state's reasonable expectations in cases where federal approval takes longer than 60 days. It seems clear, though, that the policy basis for the regulation was to bring closure to a process that unfairly delays and adds costs to proposed state action. The Department's actions imply, however, that it interprets the regulation to permit an extension of the period of review for an additional 60 days upon delivery of written notice to the state. This application is plainly at odds with the Department's justification for the rule.

Secretary Donna E. Shalala

February 19, 1997

Page 3

If the regulation is to apply in this instance, we think the more reasonable application would be to permit the Department to receive an additional 60 days to review a state request for approval when it either (1) requests additional information from the state or (2) receives information from the state in response to such a request. Under this interpretation, the Department would be required, within the 60 days following the request or receipt of information, to provide the state a written approval, disapproval, or request for additional information. Mr. Ragan's letter of January 31, then, would not extend the Department's review period because it did not provide approval, disapproval, or request additional information from the State.

Accordingly, under this reading of the prompt review regulation, the State of Texas was deemed to have provisionally met the prior approval conditions of regulations, at the earliest, on January 18, 1997 (60 calendar days following November 19, 1996, the date of the Department's request for more information) or February 11, 1997, at the latest (60 days following the State's December 13, 1996, submission in response to the November 18 request).

Based on this understanding of the regulation, my staff is proceeding with final preparation of the TIES RFO for formal release to the marketplace. If we are incorrect in our reading of the regulations, we believe it is the Department's responsibility to so advise and provide the State of Texas information necessary to fulfill the prior approval requirement. If we receive no direction from the Department by February 28, 1997, we will assume you concur in our reading of the regulations and we will formally issue the TIES RFO.

We have conducted the dialog with our federal partners in the utmost good faith and in the spirit of partnership. We think this commitment is critical to the ultimate success of the TIES project. Almost without exception, our federal counterparts have been extremely helpful in providing my staff useful advice and direction. Their input has been indispensable to ensuring the success of the project. Yet, despite these efforts and repeated assurances of a prompt federal decision, we appear no closer to approval than we were nearly nine months ago when we first approached our federal partners. To my knowledge, we have responded (or have attempted to respond) to every request for information and clarification from federal oversight agencies. We are unaware of any reason why the RFO cannot be issued at this time. Mr. Ragan's letter discloses no lingering or insurmountable issues regarding the project. Thus, we are left to speculate whether the delay in approval is for reasons other than the adequacy of the RFO and compliance with federal requirements.

I agree with Mr. Ragan that a project as large and ambitious as TIES deserves careful consideration, and we are committed, as your staff are, to ensuring that the needs of our clients and taxpayers' interests are protected. However, each month of delay in the release of the RFO costs the taxpayers of Texas. To date, the State of Texas has invested approximately \$1.6 million in the planning and development of the TIES project. Additional expenditures will no doubt be necessary to accommodate further federal delay.

More important, we conservatively estimate that each month of delay in the statewide implementation of integrated enrollment in Texas costs the taxpayers of this state at least \$10,000,000. The Texas Legislature, in authorizing this project in 1995, instructed my office to direct the savings generated by integrated enrollment to fund additional health and human services programs. I estimate that the annual savings in administrative costs alone generated by TIES could provide health care coverage an additional 150,000 needy Texas children. Thus, the inability of the federal authorities to fulfill their

Secretary Donna E. Shalala

February 19, 1997

Page 4

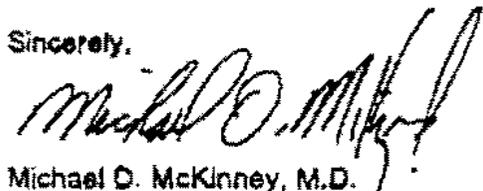
responsibilities frustrates the intent of the Texas Legislature and is borne directly by our agencies' clients and the citizens of Texas.

I regret that this action has become necessary, but it is my duty to ensure the intent of the Texas Legislature is implemented and the interests of the people of Texas are advanced. We firmly believe that the TIES project is the right thing for recipients of public assistance and the State of Texas, and it is long overdue. I understand our efforts have been criticized by people whose interests may be to preserve the status quo. Unlike your staff, these persons either have not taken the time to consult with us, have not given us the courtesy of an open and honest discussion of the issues, or have chosen to ignore the clear commitments we have made to improve service to our clients and give value to the taxpayers.

We view the TIES project as an opportunity to realize President Clinton's vision of a nation where the important and critical decisions of government are made closest to the people whose lives they affect. We also share his belief that restoring to the states this responsibility and authority is critical to reforming the welfare system and meeting the challenges of the next century. And we agree with your recent remarks that "when we target our resources responsibly and innovatively, when we team up with our private and public partners, and when we act as tough, savvy managers, the federal government can help lead the way in creating a stronger and healthier nation - a nation capable of meeting challenges both old and new." With your help, the State of Texas can follow a similar path.

Consequently, I respectfully ask for your assistance in resolving the apparent impasse over the approval of the Texas Integrated Enrollment Services Request for Offers. As always, we are prepared to supply any information you or your staff may need to reach a prompt and correct decision.

Sincerely,



Michael D. McKinney, M.D.

Commissioner

Attachment

c: Governor George W. Bush
Lieutenant Governor Bob Bullock
Speaker Pete Laney
Comptroller John Sharp

Bruce - Just received from
Ken. Tomorrow's meeting
is at 1:00 in case you
want to come.

WR
Privatization

EXECUTIVE OFFICE OF THE PRESIDENT

Elena

Office of Management and Budget
Associate Director for Human Resources
260 Old Executive Office Building
Washington, DC 20503

Fax #: 395-5730

Phone #: 395-4844

FACSIMILE COVER SHEET

DATE: 2-19

TO: Elena Kagan AND DIANA Fortney

Fax Number: _____

Number of pages (including cover sheet): 14

FROM: Ken Apfel

REMARKS:
Re: - Privatization / for tomorrow's
- Let's talk; meeting.

February 7, 1997



Income Maintenance Branch

Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Please route to:

Ken Apfel

- Decision needed
- Please comment
- For your information
- Per your request
- See remarks below

With informational copies for:

Phone: 202/395-4686
Fax: 202/395-0851
Room: #8222

Subject: Background paper on Texas
Privatization

From: Stacy Dean 

Attached  is a draft interagency issue paper on the Texas TIES privatization proposal. You and others may find it helpful for Monday's meeting with Bruce on the subject. I would caution you though that the agencies have not provided final comments on the paper -- Medicaid in particular will probably want to change quite a bit since the perspective of the paper is largely Food Stamps.

Also, agency principals have not yet seen the paper. Our goal was to share it with them by Wednesday of next week.

February 7, 1997



Income Maintenance Branch

Office of Management and Budget
 Executive Office of the President
 Washington, DC 20503

Please route to:

- Barbara Farmer, ETA/DOL
- Margaret Pugh, ACF/HHS
- Terry Watt, ACF/HHS
- Marty Svolos, HCFA/HHS
- David Cade, HCFA/HHS
- Dana Sitnik, US/OPM
- Ron Hill, GC/USDA
- Carolyn Foley, FCS/USDA

- Decision needed
- Please comment
- For your information
- For your request
- See remarks below

With informational copies for:
 Harry White, Carole Kitti, Meg
 Murray, Jett Parkus, Bob Kidout

Phone: 202/395-4686
 Fax: 202/395-0851
 Room: 48222

Subject: Background paper on Texas
 Privatization

From: Stacy Dean

Attached is a draft interagency issue paper on the Texas TIES privatization proposal. This paper was pulled together by USDA and OMB using the information provided to us by USDA, ACF, HCFA, OPM and DoL. This paper is intended to provide background information and not to serve as a decision paper. Please review the paper and let me know if you have any comments. At the moment, the paper has quite a bit of information on each program and many of the issues relating to privatization. It probably needs a bit more of a global view and more of an effort to draw out commonalities and distinctions among the programs. During the process of compiling each agency's paper into one piece we've taken some liberties. If we've inadvertently obscured or deleted important information from your section, please let us know.

By Tuesday morning, we'd like your comments on the paper. By then we should be able to pull together a final piece which we can all share with our principles on Wednesday.

Thank you very much for your timely and valuable input.

- | | | |
|-------------------------|------------------|------------------|
| Barbara Farmer, ETA/DOL | ph: 202-219-5585 | fx: 202-219-6510 |
| Margaret Pugh, ACF/HHS | ph: 202-401-6944 | fx: 202-401-4678 |
| Terry Watt, ACF/HHS | ph: 202-690-6437 | fx: 202-401-6400 |
| Marty Svolos, HCFA/HHS | ph: 410-786-4582 | fx: 410-786-3252 |
| David Cade, HCFA/HHS | ph: 410-786-3870 | fx: 410-786-0025 |
| Dana Sitnik, US/OPM | ph: 202-606-2840 | fx: 202-606-2663 |
| Ron Hill, GC/USDA | ph: 202-720-6181 | fx: 202-720-6910 |
| Carolyn Foley, FCS/USDA | ph: 703-305-2473 | fx: 703-305-2098 |
| Stacy Dean, OMB | ph: 202-395-7762 | fx: 202-395-0851 |

PRIVATIZATION OF FEDERAL PUBLIC ASSISTANCE PROGRAMS

OVERVIEW

This paper has been prepared jointly by staff from the Departments of Agriculture (Food and Consumer Service), Health and Human Services (Health Care Financing Administration and Administration for Children and Families), Labor (Employment and Training Administration), and the Office of Personnel Management (OPM). The Federal agencies have been meeting recently to discuss the general background and issues surrounding privatization initiatives that are under review within the Departments and to explore options for making final decisions and responding to States.

ISSUES REQUIRING DECISION

To what extent should the States be permitted to transfer the responsibility for eligibility determination for Federal public assistance programs to the private sector through competitively bid contracts? And, may the Merit System of Personnel Administration requirements be waived to allow States to enter into contract agreements?

BACKGROUND

There is increasing interest among the State welfare agencies in transferring the administration of public assistance programs to the private sector through competitively bid contracts. This interest stems in part from the efforts of the Federal and State governments to test new methods to improve program services and to increase self-sufficiency among program recipients.

Contracting or privatizing certain functions of the public assistance programs is not new. For instance, all States that have implemented an Electronic Benefit Transfer (EBT) system for the issuance of benefits have a contract agreement with a private entity.

What is new is the possibility of contracting with private entities to perform functions that have historically been the responsibility of the public sector, such as conducting the determination of eligibility and certification for public assistance programs such as the Federal Food Stamp Program and Medicaid. While the new welfare law explicitly permits States to privatize TANF administration and service provision, no other major Federal public assistance program has such broad latitude¹. Privatization would require a waiver of current statutory and regulatory provisions related to the Merit System of

¹ Note that eligibility for \$6 billion in Pell Grants and \$25 billion in student loans are routinely determined by largely non-Federal, non-public entities.

Personnel Administration as required under section 11(e)(6) of the Food Stamp Act of 1977, as amended, and as required under section 1902(a)(4) of the Social Security Act (Medicaid Program).

In addition to its TIES proposal for welfare programs, Texas also plans to privatize labor exchange services authorized by the Wagner-Peyser Act. Therefore, the Department of Labor (DOL) is in the process of a broad policy and legal review of the extent to which entities other than the State employment security agencies may deliver basic labor exchange and unemployment insurance services.

CURRENT PROPOSALS REQUIRING DECISIONS ABOUT THE MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Texas Integrated Enrollment Services (TIES)

TIES is a statewide privatization initiative of the Texas Health and Human Services Commission (HHSC) and the Texas Council on Competitive Government (CCG) in support of a State law enacted in 1995. Under TIES, the certification and eligibility determinations for most public assistance programs, including the Food Stamp, Special Supplemental Nutrition Program for Women, Infants and Children (WIC), TANF and Medicaid programs, would be contracted to the private and/or public sectors through competitive bids. The TIES proposal does not address contracting out the delivery of unemployment insurance or employment services funded by the Department of Labor.

The TIES proposal would require a waiver of the merit system requirements under the Food Stamp Act. HCFA is reviewing the extent to which merit system requirements may be waived. The Federal agencies and the State of Texas have been negotiating the conditions for releasing a Request for Offers (RFO) for TIES since May 1996. With the exception of a final decision about the merit system provisions contained in the RFO, all other issues have been resolved.

Texas was expecting final approval of the RFO in January to be able to release the RFO by the end of the month. Two consortia have been developed with the intention of bidding on the RFO. One consortium is composed of the Texas Workforce Commission, International Business Machines Corporation and Lockheed Martin Corporation. The other consortium consists of the Texas Department of Human Services, Electronic Data Systems Corporation and the Unisys Corporation. Arthur Anderson has also indicated an interest in the proposal but has not aligned itself with a State agency.

Wisconsin Works (W-2)

Under the W-2 proposal, the State is contracting on a competitive basis with public or private agencies for certification actions such as gathering client eligibility information, conducting eligibility interviews and data input. The State, presuming the Department of Agriculture's approval of its waiver request of the merit system requirements for the Food Stamp Program, released its Request for Proposals (RFP). We have been advised by State officials that the contract process has been completed for one County (with over 60 percent of the State caseload) without the inclusion of the Food Stamp Program. Contracts have been awarded to six private, non-profit agencies.

[Insert information on Wisconsin and Medicaid.]

Employment Services - One-Stop Grant

Legislation enacted in the State of Texas, effective September 1, 1996, provides for the delivery of labor exchange services that are authorized under the Wagner-Peyser Act and currently delivered by State employment security agencies by local workforce development boards and private, non-governmental providers. Thus far, Texas has not considered contracting out the delivery of unemployment insurance services. The Department of Labor has urged Texas to delay implementation until the Department's review is completed.

In addition, the State of Massachusetts, with the Department of Labor's approval of a grant to implement a One-Stop Career Center system throughout the State, has awarded contracts to private-for-profit entities to deliver labor exchange services in several local areas under that grant. Other States such as Montana, Utah, Pennsylvania, and Iowa are on the threshold of requesting similar approval.

ORGANIZED LABOR RESPONSE

The Departments of Agriculture and Health and Human Services have received numerous letters from employee unions about the TIES proposal, including the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the American Federation of State, County, and Municipal Employees (AFSCME) and the Service Employees International Union. The unions assert that a waiver of the merit system would result in a decline of client services, including access to program benefits and client confidentiality. The Department of Agriculture received over 1,000 letters from employees in Wisconsin objecting to the W-2 project.

In the case of the Texas workforce development legislation, the Department of Labor has received a letter from the AFL-CIO questioning the legality of privatizing employment services.

CURRENT PROGRAMS - Certification and Other Program Requirements

Food Stamp Program

The Food Stamp Act requires certification, i.e., the application and eligibility determination process, to be completed by merit system employees. Certification, however, is not defined in statute. As supported by legislative history to the Act, current regulations specify that the required interview be conducted by merit system employees. Given the complexity and discretion that may be required in the food stamp certification process, the food stamp interview is crucial to accurate determinations of eligibility and benefit level. It is through the food stamp interview that the worker solicits most household information, determines the necessity for additional verification or resolution of questionable information, and ascertains the need for appropriate policy decisions. It is also the applicant household's opportunity to have face-to-face contact with a public employee. Volunteers and other non-merit employees may assist an applicant household in other actions related to certification but may not conduct the food stamp interview or certify a household. During recent debate on welfare reform legislation, Congressional conferees reinserted the merit system provisions in the Food Stamp Act that a previous Senate bill had deleted.

Medicaid

Similar to Food Stamps, the entire application process, from taking an application to making the final eligibility determination, is performed almost entirely by employees of the State agency responsible for administering the Medicaid program. The Medicaid statute and regulations contain very little about the eligibility determination process, and virtually nothing about what entities may or may not perform specific functions within that process, except that the determination of eligibility must be made by the agency or agencies specified in the State plan.

Unlike Food Stamps, the Social Security Act provides for "out stationing" which allows the State to use private sector employees to perform some eligibility process at locations other than State TANF offices for certain groups of applicants. Outstationing was incorporated into the law as to increase program access when the law was amended to substantially broaden the categories of eligible individuals.

States have the option of staffing outstation locations with State employees or non-State employees (e.g., contractors or volunteers), or a combination of both. Because out stationing can involve the use of non-State employees to perform certain eligibility-related functions, regulations specify which functions can be performed by non-State employees and which must be performed by State workers.

Non-State employees staffing outstation locations can perform "initial processing" which includes: (1) taking applications; (2) assisting applicants in completing the application; (3) providing information and referrals; (4) obtaining required documentation; (5) assuring that information contained in the application is complete; and (6) conducting any necessary interviews.

Non-State employees are specifically precluded from: (1) evaluating the information contained in the application and supporting documentation; and (2) making a determination of eligibility or ineligibility. Actual evaluations and determinations can be made at the outstation location or at a State Medicaid agency office, but they must be made by a State employee authorized to make eligibility determination for the State Medicaid agency.

Temporary Assistance for Needy Families and Foster Care Programs

Section 104 of the Block Grant for Temporary Assistance for Needy Families (TANF) specifically allows States to "administer and provide services" under title I and II of the welfare reform legislation through contracts with charitable, religious or private organizations. Therefore, there are no prohibitions to privatization initiatives, such as TIES, related to merit personnel provisions for the TANF.

However, the merit system requirements remain in effect for the Title IV-E of the SSA (Foster Care). Even though no State has proposed to privatize any aspect of its Foster Care Program, the Administration of Children and Families is examining the implications of the merit system requirements for Title IV-E.

WAIVER AUTHORITY TO CONDUCT DEMONSTRATION PROJECTS

The Food Stamp and Social Security Acts provide the Departments with the authority to waive most statutory requirements to allow the States to conduct demonstration projects. However, because authority for the Merit System of Personnel Management was transferred from the Departments to OPM under the Intergovernmental Personnel Act of 1970, USDA would need to obtain concurrence from OPM prior to approving any demonstration project that would waive the Merit System of Personnel Management. However, HHS believes they would not need OPM's concurrence for such a waiver.

INTERGOVERNMENTAL PERSONNEL ACT

When the Intergovernmental Personnel Act (IPA) was written, it was presumed that services would be provided directly by State or local employees who were acting in lieu of Federal employees; this was the reason for establishing for a Merit System of Personnel Administration. While the IPA is silent on whether States or local

governments may contract for services, the law does provide for maximum flexibility within the requirements for merit principles in the administration of grant-in-aid programs by grantees. However, as the roles of government and the relationships between the State and the Federal government continue to evolve, a determination must be made as to whether new ways of doing business can be carried out under existing laws, or whether change in those laws is required. While government contracting with the private sector for commercial products and services is not new, the Texas proposal raises the possibility of contracting with private entities to perform functions that have historically been the responsibility of the private sector. This proposal would require a waiver by OPM of current statutory and regulatory provisions related to the Merit System of Personnel Administration provision of the IPA.

The current proposals under review by Federal agencies appear to conflict with the requirements of the IPA. Although OPM has not consulted with their General Counsel for a legal opinion, OPM is confident that it does not have authority to waive any provisions of the statute. In fact, OPM counsels have consistently held that OPM does not have authority to waive its own regulations, unless such waiver is specifically provided for. The Administration could elect to seek legislative change.

This leads us back, then, to examining the Texas proposal and shredding out what is inherently governmental and must therefore be performed by merit system employees, and what is commercial and can therefore be contracted out. The OPM General Counsel has relied on OMB Circular A-76 to define what is and is not an inherently governmental function. Included in the definition of governmental functions are "those activities which require either the exercise of discretion in applying Governmental authority or the use of value judgment in making decisions for the Government. ...Governmental functions normally fall into two categories: (1) The Act of governing;....(2) Monetary transactions and entitlements...." It would appear that some contracting is appropriate but wholesale contracting may violate the intention of Congress to ensure that administration of grant-in-aid programs be conducted by employees covered by a merit system of personnel administration.

OPTIONS FOR TEXAS TIES

Approve Waiver of Merit System of Personnel Administration. This option would allow the State to almost fully privatize its eligibility process, requiring only that the State certify the final determination. This approval would require use of the Food Stamp Program and Medicaid programs' statutory demonstration authority, with the necessary approval of waivers of the Merit System of Personnel Administration by OPM. The Departments' waiver authority for demonstrations is intended to test innovations and is not intended to approve long-term operational alternatives such as those proposed by Texas.

Approval of the waiver may result in additional objections from employee unions and advocacy groups but would be supported by States, the National Governors Association and private corporations which have formed alliances with public agencies to respond to the RFO.

Deny Waiver of Merit System of Personnel Administration. This option would require the State to perform all Medicaid eligibility functions, including intake, interview, processing, and final determination and certification. Even though this is the most restrictive option, it may be the most legally supportable option for the Medicaid program based on statutory and regulatory requirements involving proper and efficient administration of the program. A legal argument could be made that the Medicaid statute restricts third-party eligibility activities to specific eligibility groups and situations and, thus, is not applicable to the TIES proposal.

This option also would require the State to continue to be responsible for the Food Stamp interview and determinations of eligibility and benefit level. It is also important to note that during the recent debate on welfare reform legislation, Congressional Conferees reinstated the merit system provisions in the Food Stamp Act that a previous Senate bill had deleted.

A denial of a waiver for the TIES proposal may seriously disrupt the progress the Federal and State agencies have made on the proposals. The Federal agencies would receive serious objections from the State and private corporations. Also, a denial may be viewed as inconsistent with the Administration's support for allowing the private sector to be more involved in the administration of public assistance programs.

Redefine Certification. The Food Stamp statute requires certification to be completed by merit system employees, while the Medicaid statute allows non-merit personnel outstationed personnel to perform some elements of the application process. States want to reinterpret the laws so that compliance could be achieved through the automated processing of data by computers which are programmed under State agency direction to make eligibility and benefit decisions.

A middle ground could preserve more merit system involvement in a complex eligibility determination process that requires judgment. The Federal agencies could to revise regulations (Food Stamp Program) or publish an appropriate Notice in the Federal Register (Medicaid) to require merit system review of applications and interview results before benefits were determined (a process comparable to the Medicaid outstations or supervisory reviews currently used by many State agencies in the Food Stamp Program). However, this option may not allow the States to make privatization initiatives financially worthwhile.

Approve small-scale demonstration projects. The Departments support privatization initiatives that may result in improved services and/or administrative costs savings. However, both Departments have concerns about statewide initiatives that have not been proven to be effective and may seriously affect program access to low-income households. For instance, TIES is a Statewide initiative in a State that issues annually approximately 10 percent of food stamp benefits issued nationwide. The Department of Agriculture further believes it would be imprudent to eliminate the interview from merit employees on a statewide basis without further testing.

A demonstration limited to a small number of counties may be supportable by the advocacy groups. Private corporations may object or lose interest in small-scale demonstration projects. It is unclear how the unions and other States would react to such a compromise. It is estimated that an evaluation of a Food Stamp Program demonstration would cost about \$1 million.

BROAD POLICY CONCERNS

Relationship to the Texas Employment Services Proposal

The issue of whether an entity other than the SESA may deliver basic labor exchange and unemployment insurance services has been raised in the context of Employment and Training (ETA) sponsored initiatives to build new State workforce development systems utilizing One-Stop Career Centers. This system building at the local level involves the delivery of labor exchange services under the Wagner-Peyser Act and may involve the unemployment insurance program for payment of benefits under the Social Security Act (SSA). Basic labor exchange and unemployment insurance services are funded through a dedicated employer tax, the Federal Unemployment Tax Act (FUTA).

Unemployment Insurance - Contracting out of benefit eligibility determination and tax functions are unlikely to be permitted because these functions involve the use of value judgments in Government decision making. However, it may be permissible to contract out those data gathering functions that can be broken out in an effective, cost-efficient manner, without deterioration of services to claimants and employers.

Employment Services - Contracting out beyond support functions may be permitted for the delivery of many basic labor exchange services.

Confidentiality

As a result of negotiations between the State of Texas and Department of Agriculture, the RFO was revised to include language ensuring that the contractor would adhere to the confidentiality provisions under the Food Stamp Act and that applicants and

recipients would have the right to fully understand how information would be used in determining eligibility. The RFO currently includes language specifying that the use or disclosure of information about applicants or clients during the screening and referral and the eligibility determination and enrollment processes shall be restricted to purposes directly connected with the administration of assistance programs. Information supplied for the purpose of determining eligibility may not be made available to other programs in TIES without the consent of the client. Bidders must demonstrate how clients will be advised of their right to confidentiality and how their concurrence would be obtained.

While these revisions ensure compliance with the Food Stamp and Social Security Acts, the Departments continue to have concerns that wide-scale privatization and potential loss of merit system protections may undermine the client confidentiality. Merit Personnel systems have historically established incentives for maintaining the integrity of public assistance programs. It is uncertain how privatization would influence the relationship between case workers and clients.

Conflict of Interests

It should not be assumed that a public employee would be more interested in operating public assistance programs better than a private employee on the basis of his or her status as a merit employee. However, private employees hired to carry out the TIES system may be affected negatively if the contractor does not realize a profit. The profit incentive raises numerous questions regarding the effect such wide-scale privatization would have on employees who are responsible for the determination of eligibility as well as the effect on overall client services. For instance, the TIES RFO proposes to use client surveys to measure the contractor's performance. Will the interest in maintaining client satisfaction increase a caseworker's incentive to approve benefits, even if questionable information about the applicant's eligibility exists? Would profit incentives alter the current incentives out stationed non-merit employees have for their role in the Medicaid certification process?

Also, a conflict of interest may be created by the increased flexibility provided to the States through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. While the State of Texas retains the authority to establish program policy decisions, the State may come under heavy influence by the contractor to approve policies that assist the contractor in containing costs, possibly at the expense of client services.

State/Contractor Program Responsibilities

Under the proposed TIES RFO, the State maintains responsibility for developing

program policy, conducting Quality Control (QC) reviews and fair hearings. The TIES contractor is responsible for implementing program policy. The TIES system, therefore, adds an additional level to the current bureaucratic structure. The FCS and the State of Texas have negotiated revisions to the RFO to clarify Federal/State and State/Contractor relationships. However, the Departments continue to have serious concerns about the increased complexity of the certification process under a Statewide privatization initiative and whether any resulting barriers to participation would be created as a result of these split relationships. These relationships may become even further complicated if the responsibility for the certification process becomes split between State and contract employees.

Risk of Loss

The draft TIES RFO specifies the financial incentives for good performance and fiscal penalties for poor performance. One financial penalty to the contractor is the liability of QC sanctions. The Department and State of Texas have negotiated regarding additional language that clarifies that the Federal Government will continue to hold the State liable for the QC sanctions and that the Federal and State governments would be responsible for negotiating the resolution of any Federal QC liability.

The Departments have concerns that the contractor may have more interest in cost savings and less interest in resulting QC liabilities. Should a contractor experience a financial loss due to a QC liability, the potential for litigation between the State and contractor would appear to be great. The Departments also share concerns about the potential of increased litigation between the State and contractor if the certification process becomes a joint responsibility between State and private contract employees. The Departments have concerns about how these potential conflicts would affect the ongoing operations of the Food Stamp and Medicaid Programs throughout the State.

Inherently Governmental Decisions

The certification process for determining eligibility for Federal benefits is a discretionary action. Thus, it is important to review any transfer of the certification process to the private sector under OMB guidance. OMB Circular A-76 provides guidance to Federal agencies in determining activities that may be contracted to the private sector. Activities that are "inherently governmental functions" may not be contracted to the private sector. The OMB Circular specifies that an inherently governmental function is, "so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of the value judgment in making decision for the Government".

While OMB Circular A-76 may not be binding on State agencies, the concept of functions that are inherently governmental is basic to the review of the TIES. The State of Texas indicates that it is prohibited by State law from entering into private contracts for discretionary activities.