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**Chief Auditor**

*Eleazar Garcia, CIA, CRMA*

[www.tjjd.texas.gov](http://www.tjjd.texas.gov)

**Construction  
Audit Report  
Project 23-7  
November 2023**

## **Internal Audit Mission**

*To enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight.*

## **Internal Audit Team Members**

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TEXAS  
JUVENILE JUSTICE  
DEPARTMENT

## Memorandum

To: TJJJ Board Members  
Shandra Carter, Executive Director

From: Eleazar Garcia, Chief Auditor

Subject: Construction Audit 23-7

Date: November 3, 2023

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Attached for your review and approval is our draft report on the Construction audit. This is a full scope audit and is part of the fiscal year (FY) 2023 Audit Plan.

The overall objective for this audit was to determine if controls are in place over the construction process. The scope included review of construction project contracting documentation, construction project management, the effectiveness of the change order process, construction project safety and security requirements, and criteria defining compliance, efficiency, and effectiveness of construction contracting and management. Audit work was performed on construction contracts started between September 1, 2020 to December 31, 2022, and performance measure reporting of change orders as a percentage of Budgeted Project Construction Costs for FY 2019, FY 2020, and FY 2021. The testing included analysis of documentation, procedures, and practices related to sampled construction contracts. In addition, construction site safety and security procedures were tested for construction projects in progress at Texas Juvenile Justice Department (TJJJ) facilities.

Recommendations to strengthen controls and improve accountability were provided to management. Recommendations have been prioritized through the application of a rating system. The prioritization rating was determined based on the degree of risk or effect the finding has on the audited area. See Exhibit A for additional details on the rating system. Management concurs with the results of the work and responses to the recommendations are included within each reported finding. We appreciate the cooperation and assistance provided throughout the audit.

cc Executive Management

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## EXECUTIVE SUMMARY

This report presents the results of the Texas Juvenile Justice Department's (TJJD) Construction Audit, which is included in the FY 2023 Audit Plan. The audit objective was to determine if controls are in place over the construction process.

### Strengths identified were as follows.

- TJJD awards construction contracts in accordance with the Best Value Standard.
- Contracting meets the requirements of *The State of Texas Procurement and Contract Management Guide* and TJJD policy for certain requirements.
- The contractor's compliance with the terms of the contract is monitored by Construction Department Project Managers and by Architect/Engineer (A/E) service providers.
- Construction contract change order processes help ensure the scope of the contract is maintained.
- Safety and security requirements and the Standards of Conduct are required by TJJD construction contracts.

### Controls should be strengthened to ensure compliance with TJJD policies and *The State of Texas Procurement and Contract Management Guide* and to provide more effective construction contracting and management.

- The agency's link on the Texas Comptroller's webpage should be updated to ensure compliance with Texas Government Code Section 2261.256 Accountability and Risk Analysis Procedure.
- Agency policy should be updated to reflect current government codes and expectations.
- The agency should strengthen controls to ensure compliance with *The State of Texas Procurement and Contract Management Guide* as well as TJJD contracting expectations.
- Strengthening controls over construction bid evaluations would improve agency's support with compliance of the Best Value Standard.
- The agency should strengthen controls to ensure compliance with contract management requirements.
- The change order process should include controls to ensure separation of duties, as well as adherence to project timeframes and specifications.
- Management should strengthen controls to ensure accuracy in calculating the change order efficiency performance measure.
- Improved communication can ensure understanding and compliance with the safety and security requirements specified in the contract's Request for Proposal (RFP).

## BACKGROUND

The Texas Juvenile Justice Department (TJJJ) “establishes rules to provide quality facilities and maintain physical plants and grounds in good condition for the benefit of the youth.” Per General Administrative Policy (GAP) 385.1101, “the agency awards contracts for the construction of buildings and improvements in accordance with Chapter 2166, Government Code.” TJJJ employs a Director of Construction and Engineering and project managers to provide direction and oversight in the performance of construction projects.

TJJJ contracting guidance is provided by *The State of Texas Procurement and Contract Management Guide (Contract Management Guide.)* This guidance defines contract management as “actions taken following contract execution, including the assessment of risk, verification of contractor performance, monitoring compliance with deliverable and reporting requirements, enforcement of contract terms, monitoring and reporting of vendor performance, and ensuring that contract performance and practices are consistent with applicable rules, laws and the *State of Texas Procurement and Contract Management Guide.*”

TJJJ Finance and Support Operations includes a Contracts Department within Business Operations. The Director of Business Operations and specific Contract Specialists are responsible for the administration of construction contracts in conformance with state laws and agency policy. Projects are assigned separate account numbers and activity budgets to each construction and remodeling project after approval and prior to expenditure of funds. For projects started between September 1, 2020 to December 31, 2022, the Contracts Department processed contract awards totaling \$5,176,015 for 10 construction projects.

The overall objective of this audit was to determine if controls are in place over the construction process, with the following sub-objectives:

- Sub-objective 1: To determine if contracting for construction projects complies with state requirements.
- Sub-objective 2: To determine if project management helps ensure construction contract requirements are met.
- Sub-objective 3: To determine if processes over change orders are effective.
- Sub-objective 4: To determine if construction project safety and security requirements are specified in the contracting process and followed.

The scope included tests of sampled construction contracts starting between September 1, 2020 to December 31, 2022. This included review of documentation from the solicitation process to project completion, construction project management and change order process, and construction project safety and security processes at facilities. Testing of performance measure reporting for FY 2019, FY 2020, and FY 2021 was also completed. Construction site visits were conducted at the McLennan County State Juvenile Correctional Facility (Mart), Ayres House, and Evins Regional Juvenile Center during July 2023.

The methodologies used consisted of researching laws and regulations and reviewing agency policies and procedures; reviewing construction contract documentation and files; observing construction projects and safety and security procedures followed by staff and contractors; conducting interviews with management, Construction Department, Business Operations, the Office of the Inspector General, and contractor and facility staff; assessing system and process controls; and evaluating testing results.

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This audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* and *Generally Accepted Government Auditing Standards*. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. Furthermore, Internal Audit conforms to the independence requirements of the *Generally Accepted Government Auditing Standards* by reporting directly to the governing board and being free of operational responsibilities that would impair ability to make independent reviews of agency operations. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**Results**

**Strengths identified were as follows.**

- TJJJ awards construction contracts in accordance with the Best Value Standard.
- Contracting meets the requirements of *The Contract Management Guide* and TJJJ policy for Board, Executive Director, and Chief Financial Officer approvals and the maintenance of certain contract documents.
- Contractor compliance with the terms of the contract is monitored by Construction Department Project Managers and by Architect/Engineer (A/E) service providers.
- Construction contract change order processes are utilized to help ensure the scope of the contract is maintained.
- Safety and security requirements and Standards of Conduct are required by TJJJ construction contracts.

**Controls should be strengthened to ensure compliance with TJJJ policies and *The State of Texas Procurement and Contract Management Guide* and to provide more effective construction contracting and management.**

**Agency’s link on the Texas Comptroller’s webpage should be updated to ensure compliance with Texas Government Code Section 2261.256.**

Texas Government Code section 2261.256, Accountability and Risk Analysis Procedure, requires each state agency to comply with a purchasing accountability and risk analysis procedure to identify contracts that require enhanced contract monitoring, contracts requiring the immediate attention of contract management staff, procedures for establishing levels of purchasing accountability, and staff responsibilities related to purchasing.

**The Texas Comptroller's website does not have a current working link to TJJJ’s information** describing TJJJ’s procedures for identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and procedures for establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

- Texas Government Code section 2261.256 states, "(c) Each state agency shall post on the agency's Internet website the procedures described by Subsections (a)(2) and (3) and submit to the comptroller a link to the web page that includes the procedures."
- Upon notification of the non-working link, Business Processes management worked to finalize needed updates to the TJJJ Contract Management Guide’s Risk Management form before addressing the link with Comptroller’s Office.

**Working Link at Comptrollers’ Webpage Recommendation**

**Priority Level - High**

The Director of Business Operations should:  
 A. Ensure the agency has a webpage that details the information required by Texas Government Code section 2261.256;

**Management Action Plan - Concur**

Projected Implementation - October 31, 2024  
 Status - Underway

A. The Director of Business Operations will ensure the agency has a webpage that includes the information required by Texas Government Code section 2261.256.



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| <p>B. Provide the weblink to the Comptroller’s office; and</p> <p>C. Perform periodic reviews to ensure the link remains active.</p> | <p>B. The Director of Business Operations has contacted Texas Comptroller to update the link to the agency webpage.</p> <p>C. The Director of Business Operations will perform periodic reviews to ensure the link is active.</p> |
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**Agency policy should be updated to reflect current government codes and expectations.**

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**Language in GAP.10.01, Maintenance and Construction, is not updated to reflect the current processes and operations.** This policy establishes rules to provide quality facilities and maintain physical plants and grounds in good condition for the benefit of the youth. It provides requirements related to maintenance, new construction, and alterations to existing buildings, and was last updated in December 1996.

- The policy includes references to the Texas Youth Commission, as opposed to Texas Juvenile Justice Department.
- The policy references Human Resources Code Chapter 61 Texas Youth Commission § 61.048. Buildings and Improvements, which was replaced by Human Resources Code Title 12 Juvenile Justice Services and Facilities Section 242.052 Buildings and Improvements.
- Additionally, the procedures do not wholly reflect current agency requirements. For example, the policy requires approvals by the Assistant Deputy Executive Director for Finance and Construction for alterations and major repairs with an anticipated budget over \$10,000, which conflicts with GAP.385.1101 Contract Authority and Responsibilities requiring Board approval or Executive Director/designee approval.

**Reference to Texas Government Code 225.2202 Subchapter G is not accurately reflected in GAP or in the Request for Proposal contract document.** Texas Government Code Section 2252.202 Uniform Purchasing Condition; Rules, Subchapter G states, “The uniform general conditions for a project in which iron or steel products will be used must require that the bid documents provided to all bidders and the contract include a requirement that any iron or steel product produced through a manufacturing process and used in the project be produced in the United States.”

- GAP 385.1101, Contract Authority and Responsibilities, and the Request for Proposal (RFP) construction contract document refer to Texas Government Code Section 225.2202; however, both documents reference “Subchapter F” instead of “Subchapter G”. This section was amended to Subchapter G in September 2019.

**Construction Department Changes to Policy Recommendation**

**Priority Level - Medium**

The Director of Construction should work with policy writing section to identify needed updates to GAP.10.01, Maintenance and Construction, to reflect current government code, agency name, and processes.

**Management Action Plan - Concur**

Projected Implementation - June 1, 2024

Status – Planned

The Director of Construction will contact the policy writing section to review and make any necessary edits for GAP.10.01.

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Business Operations Changes to Policy Recommendation	Management Action Plan - Concur
<p style="text-align: center;"><b>Priority Level – Medium</b></p>	<p style="text-align: center;">Projected Implementation - October 31, 2024 Status – Planned</p>
<p>The Director of Business Operations should ensure GAP 385.1101, Contract Authority and Responsibilities, includes current citations to support contract requirements.</p>	<p>The Director of Business Operations will work to correct GAP 385.1101 to reflect the correct Subchapter of Texas Government Code Chapter 2252.</p>

**The agency should strengthen controls to ensure compliance with *The State of Texas Procurement and Contract Management Guide* as well as TJJJ contracting expectations.**

Texas Government Code Sec. 2262.053, Contract File Checklist; Certification of Agency Compliance, requires state agencies to include a checklist within each of its contract administration files to ensure the agency's compliance with state laws and rules during the stages of contract solicitation, development, formation and award, and management. *The Contract Management Guide* identifies the Contract Manager is responsible for maintaining a master contract file of records produced throughout the life of the contract. GAP.05.23, Contract File Maintenance and Access, describes documents produced during the contracting process, stating throughout the life of the contract, the contract administration file will contain documents produced in relation to the contract.

**Contract documentation does not fully meet requirements of *The Contract Management Guide* nor TJJJ policy.**

Strengths noted in this area were as follows:

- TJJJ Board approval was obtained for all six (100%) applicable construction contracts exceeding \$300,000 and for the one (100%) Architectural and Engineering contract.
- The Chief Financial Officer (CFO) and Executive Director's approvals were documented by electronic signature for all ten contracts (100%).
- The Chief of Staff's approval was documented by electronic signature on eight of the ten (80%) contracts.
- General Counsel approval was documented either by written legal review or electronic signature for nine (90%) of the ten contracts.
- The Notice of Award and Notice to Proceed were documented for the nine applicable construction project contracts (100%).
- Certificates of Insurance were documented for all (100%) nine construction project contracts.

Bonds

- Performance and payment bonds were documented for eight of nine (89%) applicable construction contracts. For one contract (CON0001332 Evins Pole Lights), the bond was not available. The assigned Contracts Specialist advised auditors that a contract Notice to Proceed would not have been issued until bond and insurance information is received.

Approvals

- Centralized Accounting and Payroll/Personnel System (CAPPS) allows auto-approval for multiple employee positions. For example, in October 2020, August 2021, April 2023, and July 2023, the CFO's approval on construction contracts and requisitions also served as the Chief of Staff approval within the CAPPS automated workflow. In addition, the Construction Project Manager

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approval also auto-populates as the department head and Manager of Engineering/Construction. Per discussion, management has identified the need to update approval workflows and delegations in CAPPs to limit dual-approval authority. The agency has plans to start addressing this issue in December 2023.

- For nine (90%) of ten contracts, General Counsel’s review and approval was documented either by an email, or by CAPPs approval on the initial requisition. The single Architectural/Engineer contract in the sample did not have evidence of a legal review. This contract was one of the five Architectural/Engineering (A/E) contracts approved by the Board in 2018 for a two-year period, with option to renew. Although the Contracts Department indicated its uncertainty of the requirement, legal review was required by policy at the time.

**Procurement Checklist**

- *The Contract Management Guide* states, prior to contract award, the agency’s contract manager/procurement director must review the contract file, including the checklist, to ensure all required documents are present, and certify in a written document that the review was completed.
  - While the expectation is to complete the Procurement Checklist and Certification prior to award, only one of the nine (11%) Checklist and Certifications was completed prior to the award. Two (20%) were completed with dates soon after contract award, and six (60%) were completed subsequent to Internal Audit request for the document.
  - The Contracts Department stated their practice was to complete the checklist sometime after award.
- The Procurement Checklist and Certification form lists documents from the three contracting stages: Contract Solicitation Development, Contract Formation and Award, and Contract Management.
  - Not all procedures and documents required to be completed during each stage of the process are included on the Procurement Checklist and Certification form. For example, documentation reflecting contractor compliance with the terms of the contract is not included.
  - The Contracts Department master contract file for each contract does not include all contract documents required by GAP.05.23, Contract File Maintenance and Access.

**Scoring Bids**

- *The Contract Management Guide* advises contract files to include documentation of committee evaluation of vendor responses. Documentation was not complete to support Construction Department and Contracts Department evaluator scoring of contract bids.
  - While all ten (100%) of the contract files contained completed Bid Summaries, one (10%) of the contract files did not contain the evaluators’ bid score sheets.

**Missing Files**

- While there was a master contract file maintained for the two closed contracts reviewed, the Construction Project Manager’s file could not be located (CON0001302 \$297,000 and CON0001332 \$162,535). The Construction Project Management File includes the management of the project by the construction department. Both the Construction and Contracts departments have been unable to locate the files. A list identifying the location of contract documents, as required by *The Contract Management Guide*, has not been utilized by the Contracts department.

**Construction Contracting Requirements  
Recommendation**

**Management Action Plan - Concur**

**DRAFT – DO NOT RELEASE****Priority Level - Medium**

The Director of Business Operations should work with the Director of Construction and Engineering to ensure:

- A. Procedures are in place to maintain and track records produced throughout the life of the contract;
- B. Timely review of all documents required by state law and applicable agency rules prior to award are complete and present in the file, including timely completion of the checklist;
- C. Verify the appropriate contract approvals are documented and updated in CAPPs; and
- D. Evidence of legal review of Architectural/Engineering contracts is maintained and documented.

Projected Implementation – October 31, 2024  
Status - Planned

- A. Director of Business Operations and Director of Construction will work together to ensure procedures are in place for the maintaining and tracking of records for their respective departments in regard to contract development and contract management.
- B. Director of Business Operations will meet with Contracts Department to re-iterate the importance of completing the contracts checklist, and that all contract documents should be present in the contract file.
- C. Director of Business Operations will ensure Contracts Department includes the CAPPs approval workflow in the contract file, reviews any discrepancies due to auto-approvals, gains written approvals if needed for discrepancies, and adds the documentation to the contract file.
- D. Director of Business Operations will meet with Contracts Department to ensure legal review is documented for Architectural/Engineering Contracts, including ensuring Contracts Attorney is included on the CAPPs approval workflow for Architectural/Engineering contracts.

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**Strengthening controls over construction bid evaluations would improve agency's support with compliance of the Best Value Standard.**

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Texas Government Code Section 2155.0755, Verification of Use of Best Value Standard, requires each state agency to purchase goods or services using the best value standard and to document the best value standard used for the contract. *The Contract Management Guide* states, "for a purchase made through competitive sealed proposals, the agency must specify in the solicitation the known factors other than price that the agency will consider in determining which proposal offers the best value for the State. The agency shall make a written award of a contract to the respondent whose proposal offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and any other evaluation factors in the RFP."

**Score calculations used to determine the awarding of construction contracts were not always completed correctly and/or they were not following the RFP methodology.** While documentation is available to support all nine (100%) contracts reviewed met the Best Value Standard, and the correct vendor was selected, the Final Bid Summary Price Scores did not reflect the factors from the RFP methodology properly.

- Two (22%) reflected errors in the calculation when comparing to the RFP.
- One did not document all the evaluation factors to be utilized per the RFP description.

**Best Value Standard Recommendation****Priority Level – Medium**

The Director of Business Operations should ensure the Contracts Department:

- A. Adjusts its methodology for scoring contract proposals in accordance with the Project Description in the RFP;
- B. Records all evaluation factors used to award a contract to the respondent whose proposal offers the best value for the state; and
- C. Completes a review to ensure the accuracy of the bid proposal score calculations and document their review through a signature and date within the Bid Summary.

**Management Action Plan – Concur**

Projected Implementation – October 31, 2024  
Status – Planned

- A. Director of Business Operations will meet with the contracts department to discuss the findings, and the importance of scoring proposals in accordance with the RFPs and to ensure the methodology for scoring contract proposals is in accordance with the Project Description in the RFP;
- B. Director of Business Operations will ensure all evaluation factors affecting the award to the respondent whose proposal offers the best value for the state are recorded in the contract file.
- C. Director of Business Operations will amend the bid summary sheet to include a signature line for the Director of Business Operations to sign upon review to ensure compliance with the scoring methodology in the solicitation.

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**The agency should strengthen controls to ensure compliance with contract management requirements.**

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GAP.385.1105, Contract Monitoring, states TJJJ establishes a monitoring schedule based on a risk assessment methodology with higher-risk contracts monitored more comprehensively than lower-risk contracts. The Contract Manager is responsible for ensuring that the contract requirements are satisfied. Primary responsibilities of the Contract Manager include monitoring the contractor's progress and performance to ensure conformance with the contract requirements and keeping timely records of findings.

**Requirements of construction contract management were not always completed.** These requirements include the risk assessment, documentation of project site visits by the Project Manager and Architect/Engineering service provider, and the contractor's quality control program and daily inspections.

Contract Risk Assessment

The TJJJ Risk Assessment Matrix (Form BSD-130) was either not completed or not completed timely for five (56%) of the nine assessments reviewed. As a result, the appropriate level of project monitoring was not determined. The purpose of the project's risk assessment is to identify opportunities for efficiency, including whether enhanced oversight was needed, or whether a lower level of monitoring would avoid expending unnecessary Project Manager resources.

- Four (44%) risk assessments were completed before or during the period of construction.
- Two (22%) risk assessments were not completed. For instance, a risk assessment had not been completed for one contract to determine if it required enhanced monitoring due to it exceeding one million dollars (\$1,230,407). Since start up, seven change orders totaling \$323,246, or 26% of the original contract, have been approved, and the contract exceeded its timeframe for

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completion by almost one year. At the time of Internal Audit visit to the project site on July 12, 2023, the work on the contract was not yet completed.

- Three (34%) files included a note acknowledging delayed completion of the project’s risk assessment. The projects had already been completed and the risk assessments were dated as conducted after Internal Audit’s request for the document.

Progress Meetings

The contractor’s compliance with the terms of the contract is monitored by Construction Department Project Managers and by Architect/Engineer (A/E) service providers, if one is assigned for the project. For the nine projects reviewed:

- Monthly progress meetings were documented as occurring regularly for the four (44%) most recent projects, started since September 21, 2021.
  - Internal Audit’s attendance at two monthly meetings observed project issues were part of the agenda items and discussions.
- For the five (56%) projects started prior to September 21, 2021, documentation of monthly progress meetings was not found.
  - Two construction project management files for the two closed contracts were not located by the Construction Department staff at the time of the audit. The two files would include project management information that is not available elsewhere, such as meeting minutes, site visit results, and project closeout.

Site Visits

- Project Manager reports of visits to the construction sites were not documented for the nine projects. Internal Audit’s attendance at the two monthly meetings observed site visits were conducted by both the Project Manager and the A/E following the meetings. Although the monthly meeting agendas and minutes were documented, the Department did not document the site visit observations.
- One of six (17%) contracts with A/E services had two reports documenting the A/E observations at the project site. A/E Contractors provide oversight for the construction project.
- Construction management had set up tracking documents to schedule site visits and other project management activities. These documents were only observed in one contract.

Quality Control

- One of nine (11%) contracts reviewed had no Quality Control/Safety Plan. The Construction Department scored the contractor’s bid proposal based on "completed similar project for TJJD - Quality Control was good." The department also noted on the score sheet that a quality control plan was needed.
- While the RFP requires a Daily Quality Inspection Report and Project Manager punch-list, Construction Project Managers stated communications with the contractors are verbal and the contractor's Daily Quality Inspection Reports are not used. The Department further stated a punch-list is used by the Project Manager to perform follow-up inspections of deficiencies for correction. Project Management stated they are working with the Contracts Department to improve the RFP information in accordance with current project management practices.

**Construction Contract Management  
Requirements**

**Priority Level - Priority**

**Management Action Plan - Concur**

Projected Implementation – October 31, 2024  
Status – Planned

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The Director of Business Operations should work with Director of Construction to:

- A. Determine conformance with *The Contract Management Guide* and TJJJ contract requirements regarding timely project risk assessment, documentation of site visits, and contractor provision of a quality assurance program;
- B. Review the RFP document to ensure current project management procedures are described and in accordance with the State of Texas requirements; and
- C. Ensure a periodic review is performed for implementation the above expectations for compliance with the State’s contract requirements.

A. Directors of Business Operations and Construction will meet to discuss contract management requirements. The contracts department will serve as a resource to the construction department to offer guidance on establishing procedures related to contract management. The Director of Construction will ensure these requirements are met for construction contracts.

B. Director of Business Operations, or designee, will review the RFP to ensure contract management procedures are in accordance with current requirements.

C. Director of Construction, or designee, will ensure a periodic review is performed to ensure that contract management procedures are being followed.

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**The change order process should include controls to ensure separation of duties, as well as adherence to project timeframes and specifications.**

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A change order is an authorization from the agency to perform additional work, to make adjustment to the contract amount, or to adjust the schedule of work. The Contract Manager is responsible for managing, approving, and documenting any changes to the contract through the amendment process. *The Contract Management Guide* states, “If a competitive process was used, the resulting contract must be consistent with what was solicited during the competition. Inconsistencies between the solicitation and contract can violate the competitive process requirements. If a change is needed to a contract, the change has to be within the scope, or parameters of the solicitation. A significant difference in the scope of work would be a material or substantial change and would not be allowed because it was not originally subject to fair competition.” A change order should document what is proposed to be changed and/or timeframe extension and the costs involved to make the change. The information is required to be documented within the following forms: 10.A.3 Change Proposal Request; 10.A.4 Pending Change Request Cost Analysis; and 10.A.6 Change Order Approval (Department level).

**Change order documentation was not always available or complete to support whether a change was within the project scope.**

A sample of nine construction contracts started within the period September 1, 2020 to December 31, 2022 were originally approved for a total of \$5,067,137.75. Seven of these contracts involved a total of 23 change orders resulting in a 10% overall cost increase of \$500,674.76.

- Twenty-one (91%) of 23 change orders were submitted for unforeseen conditions, reflecting the contractor discovered differing conditions not shown on design drawings, or were unknown prior to the start of the project, and which may also involve an extension of time to complete the project.
- Two (9%) of 23 change orders were a result of agency staff requesting an additional project or change.

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- Changes for two contracts did not go through the change order approval process.
    - A contractor-requested change for CON0001334 did not go through the required change order approval process, and was processed through the Maintenance budget as a purchase order for \$1,785.
    - Support for a management-requested change for CON0001463 was not available at the time of our initial request and has been recently provided. On July 13, 2023, Internal Audit observed work for an addition to the project had been completed in order to install fencing for the southeast side of the Ayres Halfway House at the request of Ayres HWH management. This work was not part of the initial scope of the contract. The Construction Department acknowledged that change order documentation had not been initiated or processed. A subsequent requisition to approve the \$23,623 change was requested on July 13, 2023, after the work had already been completed. It is noted the TJJJ Project Manager approved the 10.A.3 Change Proposal Request, and the CAPPs requisition without Construction Director approval on either document. Per discussion with management, the Contracts Department agreed the addition should have gone through the competitive bid process, in accordance with requirements of *The Contract Management Guide*; however, the Contracts Department did not have a process or procedures in place to ensure timely determination.
  - Five (22%) of the 23 change orders did not include complete information to support cost or whether the change was within the scope of the contract.
    - Three change orders were for one contract (CON0001336), and the total combined dollar amount was \$258,306.
      - The Proposal Request (10.A.3) for Change Order 1 was not available in the Construction Department hardcopy file. The Contracts Department had a copy within the Amendment to Contract letter signed by the Executive Director; however, specific costs were not described. The change was generally stated as attributed to 20% material cost increase and COVID-19. The change order total was \$246,081, which is 20% of the entire cost of the contract.
      - The 10.A.3 form for Change Order 4 was not available to determine if the building approved for repair was part of the contract. The change order cost was \$6,625.
      - Change Order 6 did not identify the building for repair; therefore, it could not be compared to the scope of work. The change order cost was \$5,600.
    - Two change orders did not include explanations for extending the projects; therefore, it couldn't be determined whether the extensions were related to project scope.
  - Change order documentation did not always support required Construction Department approvals prior to processing requisitions for change in contract amount or contract extension. One of the change orders was completed after the date of the requisition, and the other did not have a requisition to certify the extension.
  - Timeframes to complete a project were often extended. Fifteen (65%) of 23 change orders included an extension to the contracted timeframe to complete the project. For the 15 change orders with time extensions, seven (47%) involved a direct increase to the cost of the contract. Of these, two addressed issues that were not identified when the contract was bid and five (71%) were for one contract with seven change orders.



**DRAFT – DO NOT RELEASE****Construction Contract Management  
Recommendation****Priority Level – Priority**

The Director of Business Operations should:

- A. Ensure consistency between the solicitation and contract in accordance with the competitive process requirements;
- B. Provide training to departments on specific requirements from the Texas Procurement and Contract Management Guide to improve understanding when new bids may be required on a project.
- C. In conjunction with the Construction department, review each contract to determine if there is sufficient detail for the contract's project specifications; and whether contract timeframe is sufficient to complete the work by the contract's end date.
- D. Ensure the Contract department's review and approval is documented on the 10.A.3 Change Proposal Request and 10.A.4 Pending Change Request Cost Analysis.

**Construction Change Order Recommendation****Priority Level – Priority**

The Director of Construction should:

- A. Ensure separation of duties is maintained when construction requisitions are reviewed and approved without delegating the approval process.
- B. Ensure sufficient documentation is maintained to support the costs identified for the change orders.

**Management Action Plan - Concur**

Projected Implementation – October 31, 2024  
Status – Planned

- A. Director of Business Operations will meet with the contracts and construction departments to discuss ensuring solicitations and change orders are consistent with the competitive process requirements outlined in the guide.
- B. Director of Business Operations will provide training to the contracts and construction departments to provide clarification on the process of requiring a new solicitation when looking at change orders for a project.
- C. Director of Business Operations will serve as a resource for the Construction department when determining if the project timeline is accurate, and contracts department will work with construction department on any needed amendments to extend contract end date.
- D. Director of Business Operations will add a signature line for the contracts department to the Change order request forms.

**Management Action Plan – Concur**

Projected Implementation – February 1, 2024  
Status – Planned

- A. Construction Project Managers will not be routinely involved in the approval process of construction contract requisitions within CAPPs. Project managers may approve contract requisition if delegated on a case by case basis.
- B. The Director of Construction will provide approval on the change order and ensure sufficient itemized detail is included on the 10.A.4 Pending Change Request Cost Analysis form to support change in cost.

**Management should strengthen controls to ensure accuracy in calculating the change order performance measure.**

The performance measure for reporting change orders as a percent of construction projects was not consistently calculated in accordance with agency’s methodology as described in ABEST. The methodology is reflected as construction expenditures for change orders or add-ons divided by total construction dollars expended for the reporting period.

- Per discussion with management in Legislative Reporting & Statistics, this is a non-key performance measure and the total construction dollars expended would include the change orders or add-ons plus the initial budget within the denominator.
- In comparison, the Texas Facilities Commission (TFC) reports an efficiency measure related to change orders as, "Total of all change orders divided by the total of all initial contract amounts on active construction projects."

In reviewing the performance measures reported in the agency’s Legislative Appropriations Request (LAR) or the Operating Budget, the two methods have been used by the agency to report the performance measure. Per the documentation available, the TFC methodology was used to report the measure in FY 2019. Additionally, identifying projects to include for each reporting period has not been consistently tracked.

Review of performance measure reporting for fiscal years 2021, 2020, and 2019 based on available information were as follows:

- For fiscal year 2021, the performance measure reported in the LAR was 9.00% based on four projects. Auditor recalculation based on the four projects and in accordance with TJJD written methodology resulted in 10.59%. Auditor recalculation based on the seven actual projects reported by the Contracts Department as started in fiscal year 2021 and using the TJJD methodology resulted in a performance measure of 12.15%.
- For fiscal year 2020, the performance measure reported was 2.00%, based on unidentified projects. Auditor recalculation based on the projects reported as starting in fiscal year 2020 and using the TJJD methodology resulted in a performance measure of 13.80%.
- For fiscal year 2019, the performance measure reported in the LAR was 7.30% based on eight projects and was calculated in the same manner as the TFC methodology. Auditor recalculation based on four projects reported by the Contracts Department as started in fiscal year 2019 and using the TJJD methodology resulted in a performance measure of 7.47%.

**Construction Performance Measure Recommendation**

**Priority Level - High**

The Manager of Legislative Reporting and Statistics should work with the Director of Construction to:

- A. Evaluate to ensure the right methodology for calculating the performance measure is established.

**Management Action Plan - Concur**

Projected Implementation – December 31, 2024  
Status – Planned

Manager of Legislative Reporting and Statistics will collaborate with Director of Construction and:

- A. Determine if the agency should request a change to the performance measure methodology during the next budget structure change request process;

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| <p>B. Ensure understanding of the methodology by those responsible for calculating the performance measure.</p> <p>C. Ensure processes are in place to calculate the performance measure (correct contracts are identified and consistent methodology is utilized for calculating the measure) and for maintaining the supporting documentation.</p> <p>D. Review the calculation for accuracy prior to reporting.</p> | <p>B. Ensure at least two TJJJ employees in the Construction and Maintenance Division understand how to accurately calculate the performance measure and consistently maintain supporting documentation;</p> <p>C. Verify with the Contracts Department the actual projects started in the reporting period;</p> <p>D. Add an appendix to the TJJJ Performance Measure Procedure Manual, including the performance measure data collection, calculation, and controls. Review the performance measure calculation for accuracy prior to reporting in the Operating Budget December 2023 and the Legislative Appropriations Request August 2024.</p> |
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**Improved communication can ensure understanding and compliance with the safety and security requirements specified in the Contract’s Request for Proposal (RFP).**

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The TJJJ construction contract Request for Proposal (RFP), as published by the State Comptroller to solicit bids for construction contracts, includes safety and security standards the contractors and contractors’ employees are required to follow. It also describes procedures contractors are subject to, such as background checks, facility entry processing, and tool control. The specific standards are found within the RFP’s Exhibit F “Standards of Conduct for Civilian Construction Contractors Employees” (see Appendix C) and “Section X Special Conditions.”

**Compliance and understanding of the safety and security standards in the contract were inconsistent at the facilities.** Auditors visited Ayres Halfway House (Ayres), McLennan County State Juvenile Correctional Facility (Mart), and Evins Regional Juvenile Center (Evins) to observe safety and security procedures as specified in the RFP of the construction projects that were on-going at those locations.

The following related to the safety standards were identified:

- At Ayres and Evins, a list of contractor employee names with I.D. and social security numbers had not been provided to TJJJ to ensure prior clearance for access.
- At Ayres and Evins, the Standards of Conduct for Civilian Construction Contractor’s Employees (Exhibit F of the RFP) was not provided to contract employees to read and sign.
- At Ayres and Evins, a TJJJ-provided picture I.D. was not worn by the civilian construction contractors’ employees while at the facility.
- At Mart, Evins, and Ayres, contract employees’ tattoos were visible, though none were identified as offensive or derogatory. Per the Contract’s Standards of Conduct, tattoos are forbidden on campus.
- At Ayres, the contractor did not utilize safety fencing that was to be used solely as a non-secure deterrent for the construction site. At Evins, although a safety fence had been erected for the construction site, unsecured construction materials were stored within the fenced area. It was further observed there were large gaps in the fencing to allow for movement in and out of the

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fenced area, but still within the facility perimeter. This could potentially provide youth access to the materials maintained within the safety fencing.

- At Mart and Ayres, all vehicular equipment and ladders were not secured outside the security perimeter at the end of the workday.

**Safety and security standards are not job-site specific and not communicated consistently to responsible parties.**

- Responses to Internal Audit’s questionnaire from the three facilities reflect facility management was unaware of the contract’s safety and security requirements and were not sure who was responsible for issuance and tracking of temporary picture IDs for contract employees. The facilities did not have a consistent process in place for the issuance and return of I.D.’s.
- TJJJ uses one standard contract for all construction projects. Because safety and security requirements differ between secure facilities and halfway houses, requirements in the contract may not always apply.
- The contract standards state the contractor secures the construction site with fencing in accordance with project drawings. For the Evins Roof and the Ayres Security Fencing projects, the Architect/Engineer exhibits do not include contractor safety fencing in the drawings for the project site.
- The Construction Department stated the RFP’s Exhibit F Standards of Conduct should be signed and submitted in the bidder’s proposal; however, the contractor’s submitted proposals were not always complete.
  - The RFP published in the Electronic State Business Daily does not have the requirement for contractors to include Exhibit F within their bid proposals.
  - For the Ayres Fence contract and Evins Roofing contract, Exhibit F was not included in the contractors’ submitted proposals. The Mart Paint Project contract included Exhibit F.
- Exhibit F states contractors and their employees read and sign the Exhibit F Standards of Conduct. Because the Standards of Conduct was not always signed by contract employees, they may not be aware of all safety standards applicable to TJJJ such as prohibited contact with youth, not displaying tattoos, or that debris and construction materials must be cleared from within safety fencing.
  - Only one of three (33%) proposals submitted by the vendors included Exhibit F; however, it was signed only by the contractor and did not include the contractor’s employees.
  - Subsequent to Internal Audit inquiry, Mart HR began requiring the contract employees to sign Exhibit F when they report to HR to obtain a picture ID.
  - Evins and Ayres House did not have a process in place to have the document signed by the contractor and employees.
- Pre-construction meeting minutes for seven (78%) of nine construction contracts reflected the safety and security requirements were discussed; however, it was not recorded whether the specific safety and security requirements of Exhibit F and Section X of the RFP were discussed.
- Based on discussions with facility and construction staff, the responsibility is not clear as to who:
  - Issues and tracks temporary IDs issued to the contractor.
  - Conducts background checks on contract employees.
  - Ensures contract employees read and sign Exhibit F Standards of Conduct document.
  - Identifies contract employees that are cleared to come on to the facility each day to work; and,
  - Ensures contract employees are not on youth visitation lists.

**DRAFT – DO NOT RELEASE****Procedures related to contractor employee background checks and facility escort of contractors were not consistent for the three facilities we visited.**

- At the Mart facility, escort procedures and background check procedures were conducted.
- At Evins, the contractors were escorted at all times and background checks were not conducted. Human Resources provided a directive dated September 5, 2020, from the CFO, which supported escort in lieu of background checks for contractors and subcontractors.
- At Ayres House, contract employees were not escorted by agency employees and background checks were not conducted.

**Contract requirements state a contracted employee may not be an approved visitor of TJJJ youth. Facilities do not have a procedure in place to ensure contracted employees are not approved visitors of TJJJ Youth.**

- Staff at Mart indicated a Family Liaison validates visitation lists but there was currently not a Family Liaison at the time of the audit visit.
  - Management at Ayres House and Evins facility indicated the facility is not aware of the procedure.
  - The Construction Department indicated it is the responsibility of the Facility, Business services, and OIG to ensure construction contract employees are not on youths' approved visitors lists.
- Office of Inspector General (OIG) assisted with overseeing facility access for contract employees for two secure facilities visited (100%). OIG completed security check searches at the sally ports before escort was provided to the work sites by maintenance employees. OIG checked tools against a tools form, conducted physical search of the contract employees, and search of the work vehicles. OIG supervisors stated TJJJ maintenance is to provide names of the contract employees to the gatehouse; however, Evins gatehouse is not provided a list of cleared contract employees.

**Contract Safety and Security Requirements Recommendation****Priority Level - High**

The Director of Business Operations should work with the Construction Department, facility management, and the OIG to improve communication of contract expectations and ensure consistency in complying with safety and security requirements specified in the contract Request for Proposal (RFP).

- A. Ensure responsibilities are clarified for the following:
- Issuance of temporary IDs for contractor's employees and a consistent process is in place for the issuance and return of temporary picture I.D.'s;
  - Performance of background checks of contractors and their employees and/or escort expectations; Providing a listing of contract employees cleared to enter the

**Management Action Plan - Concur**

Projected Implementation – October 31, 2024  
Status – Planned

- A. Director of Business Operations will meet with Director of Construction, Chief OIG, Director of Human Resources, and Chief Financial Officer Emily Anderson to discuss the recommendations. After discussion, and any necessary changes to policy, contract templates, etc., Director of Business Operations will communicate these responsibilities to facility leadership.
- B. Director of Business Operations will discuss 9/5/2020 Directive with CFO Emily Anderson to determine if clarification should be added to GAP.385.8181, and if so, will work with the policy writing department to update policy.
- C. Director of Business Operations will work with the contracts department to ensure construction contracts include safety fencing,

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facility each day to staff responsible for access to the facility; Evaluating the verbiage related to tattoos on Exhibit F (possibly working with OIG) and updating accordingly;

- Verifying contractors and their employees are not on the youth visitation lists; and
  - Ensuring Exhibit F Standards of Conduct is provided and signed by contract employees.
- B. Revisit with facility staff and/or formalize CFO Emily Anderson's email directive dated 9/5/2020 to clarify GAP.385.8181 Background Checks and the conditions under which background checks can be waived.
- C. Review construction contracts requirements per facility and project as well as provide assurance that safety fencing, Exhibit F Standards of Conduct, and Section X Special Conditions are included in the submitted contract proposals.

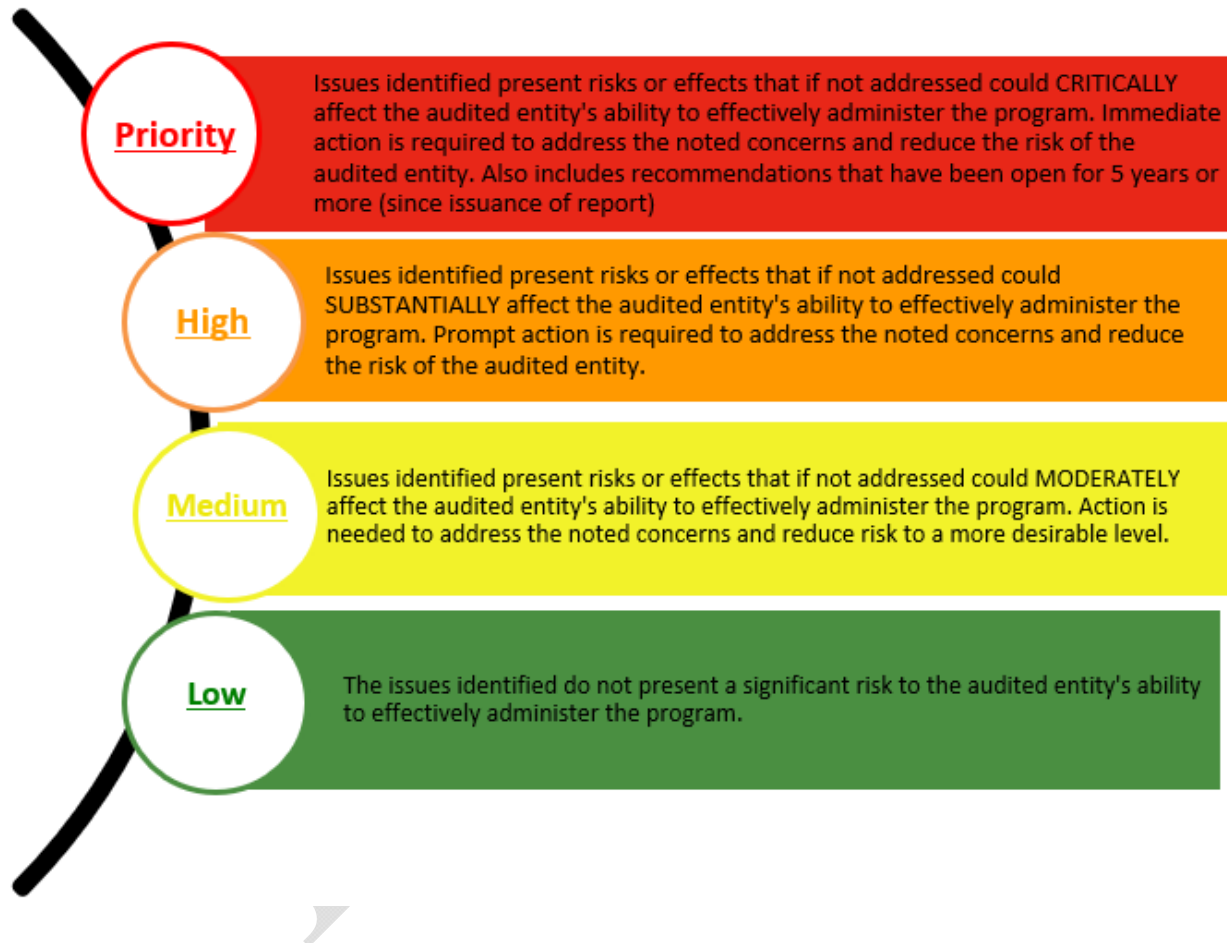
Exhibit F Standards of Conduct, and Section X Special Conditions.

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## Appendix A Recommendation Prioritization and Status Definitions

### Prioritization of Audit Recommendations

The prioritization ratings identified for each recommendation were determined based on the degree of risk or effect the finding has on the audited entity. Recommendations issued after 9/1/2023 were ranked with management input. Rankings issued by State Auditor's Office will remain that same unless the recommendation was issued more than 5 years ago, in which case, the ranking will be "Priority" status.



### Management Action Plan Status Definitions

- **PLANNED:** Management concurs with the recommendation but actual implementation of the recommendation has not begun.
- **UNDERWAY:** The implementation process of the recommendation has been started.
- **IMPLEMENTED:** All procedures, policies, systems, processes, related documents, and other elements relevant to the audit recommendation have been prepared, approved, and put into operation.

## Appendix B Audit Methodology

The overall objective for this audit was to determine if controls are in place over the construction process. The methodology used in conducting the audit consisted of collecting information, performing audit tests and procedures, analyzing the information, and evaluating the information against established criteria.

The audit evaluated construction project contracting documentation, construction project management documentation and practices, the effectiveness of the change order process, construction project safety and security requirements against practices, and criteria defining compliance, efficiency and effectiveness of construction contracting and management processes. The period covered construction contracts with Notice to Proceed dates between September 1, 2020 to December 31, 2022. Nine of ten construction contracts were judgmentally selected for evaluation.

Contract Number	Name	Original Contract Cost
CON0001289	Mart Campus Wide Fire Alarm Replacement	\$169,750
CON0001302	Evins Recreation Security Fencing for Dorms	\$297,000
CON0001309	Gainesville and Giddings Fence Detection System	\$496,750
CON0001332	Evins Perimeter Lighting Conversion to LED	\$149,393
CON0001333	Giddings Chiller, Boiler, and HVAC Replacement	\$1,244,777
CON0001334	Giddings Renovations of Two Dorms	\$374,000
CON0001336	Evins Roof and Exhaust Fan Replacement	\$1,230,407
CON0001460	Gainesville, Brownwood, Mart, and Edinburg Painting Projects	\$459,631
CON0001463	Ayres House Perimeter Fence Installation	\$645,429

### Procedures performed in accomplishing the audit objective include:

- Reviewed the TJJD website for organizational information;
- Reviewed Texas Government Code and Human Resources Code;
- Reviewed *The State of Texas Procurement and Contract Management Guide*;
- Reviewed TJJD policies and procedures within:
  - TJJD General Administrative Policy Manual;
  - TJJD Procurement Procedures Manual; and
  - Construction Department Manual and written procedures;
- Reviewed Ombudsman Quarterly reports for the period of FY 2020 through FY 2023
- Reviewed FY 2020 to FY 2022 Risk Management facility site visit, monthly, and quarterly reports;
- Identified and examined Architect/Engineer contract information;
- Examined fiscal year 2019 through 2021 change order performance measure information reported in the operating budget and/or the legislative appropriations request (LAR);
- Interviewed appropriate Construction and Contracts Departments management and staff;
- Interviewed appropriate Legislative Reporting and Statistics, Office of Inspector General, and Facilities and Halfway House management and staff,
- Observed procedures at secure and halfway house facilities with active construction projects;
- Reviewed Legislative Budget Board website information; and,
- Reviewed Texas Comptroller of Public Accounts' information.



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**Appendix C –  
Exhibit F Standards of Conduct**

**EXHIBIT F  
STANDARDS OF CONDUCT  
FOR CIVILIAN CONSTRUCTION CONTRACTORS EMPLOYEES**

**I. SECURITY MEASURES**

A. No person working for or otherwise connected with the Contractor (agents, subcontractors, or employees) shall be allowed to bring onto the Owner's (State of Texas) property firearms, alcoholic beverages, drugs, tobacco products or any other controlled substances, with the exception of prescription medication. No such person shall cross any fences, except those fences designated to allow egress and ingress to the construction site. All vehicles shall be kept locked with windows up while on the Owner's property. Contractors' employees, subcontractors, or agents shall avoid all contact with TJJ Youth; no employee shall converse with or otherwise communicate with any TJJ Youth. In addition to the usual civil and/or criminal penalties for violations of the above regulations, the Owner reserves the right to refuse further entry to the job site to any individual who has violated the above restrictions. Further, the Owner reserves the right to immediately remove from the job site any individual who has violated the above restrictions.

B. The Contractor's employees and subcontractors will be subject to a criminal background check performed through the agency which provides the National Instant Criminal Background Check (NICS).

**II. EXPECTATIONS OF CONTRACTORS AND SUBS**

**A. ALL CONTRACTORS, SUBS, AND THEIR EMPLOYEES WILL:**

Read and sign the Texas Juvenile Justice Department of Conduct for Civilian Contractor Employees.

Refrain from bringing firearms, ammunition, alcoholic beverages, tobacco products, drugs (with the exception of prescription drugs) or any other contraband items on the property of the Texas Juvenile Justice Department. This includes in the personal vehicles of the on-site workers.

Assure that vehicles will remain locked at all times when operator is absent.

Assure that there shall be no contact with any TJJ Youth in the TJJ facility.

Understand that approved visitors of TJJ Youth will not be allowed to work on any project that involves contractor work at this facility.

Understand that vehicles are subject to search at any time while on TJJ/State property.

Understand that shorts, opened-toed shoes, sleeveless tops, tattoos or body paintings, metal nail files or nail clippers, any type of pornographic materials, pagers & cell phones (unless job issued and necessary), cameras, glass bottled drinks, and opened container drinks are strictly forbidden on campus. Only plastic bottles or unopened carton drinks will be allowed.

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**B. GENERAL SECURITY FOR TOOL CONTROL.**

All tools including Class "A" are to be inventoried and properly accounted for at the end of each work day.

Any changes to an individual's tool box inventory should be immediately reported to the Facility Superintendent or their designee.

Tools should be accounted for at all times by the individual responsible for the use of such tools. When Class "A" tools are not in use, they shall be kept and locked under key in a secure area and if possible rendered inoperable. Class "A" tools include, but are not limited to, tools most likely to be used in an escape attempt or do bodily harm. These generally include hacksaw blades, files, pipe wrenches, ladders, acetylene cutting tips, pipe and bolt cutters, etc.

At no time are Class "A" tools to be left unattended and when in use, special care taken to ensure their security. Any loss of any tool shall be reported to the Facility Superintendent or their designee.

Generators, ladders, and acetylene cutters all must be secured at the end of each work day.

Emery wheels will be locked and rendered inoperable when not in use unless stored outside of the secured perimeter.

All hazardous and poisonous chemicals, not in use, are to be stored in a locked tool trailer or other secure area. An inventory shall be maintained and direct supervision provided when the items are used at the work site. Upon completion of the project, the Contractor will be responsible for the removal of all hazardous materials and all hazardous waste generated under his control.

I have received a copy of the "STANDARDS OF CONDUCT FOR CIVILIAN CONSTRUCTION CONTRACTORS EMPLOYEES" issued by the Texas Juvenile Justice Department or its contracted construction manager.

I have read, understand, and will comply with this policy.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

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CITY

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