

STATE GOVERNMENT

Private firms do government work with little scrutiny

Is the state benefiting by farming out more jobs to outside firms? No one knows.

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First in an occasional series on the privatization trend in state government.

Over the years, Texas legislators have ordered state agencies to hire private firms to build and maintain the state's roads, operate its parks, oversee its prisons, sign up its welfare recipients and develop its information technology systems, among other things.

Each time the government signs another deal with these companies to take over jobs it has traditionally performed itself, politicians promise it will save tax dollars by bringing the efficiencies of the private sector to the cumbersome bureaucracies of government.

So how much money has outsourcing actually saved Texans?

No one knows.

Elected officials have proposed outsourcing even more having private companies run Texas' toll roads, operate its lotteries and administer child protective services. Meanwhile, some outsourcing ventures have fallen by the wayside.

So how much of the state's work is now done by for-profit companies?

No one knows.

But some of the few available statistics suggest the state is outsourcing more and more of its work. While the state budget has grown over the past decade, the number of full-time state employees excluding those at its fast-growing institutions of higher education has dropped about 4 percent. At the same time, the value of the state's contracts with outside vendors increased 55 percent between 2003 and 2007, a period during which state spending overall increased 24 percent.

Nationally, Texas is considered a pioneer in privatization, eager to capitalize on cost savings the private sector promises.

"Relying on entrepreneurship is just part of the Texas way," said Leonard Gilroy, director of government reform at the Reason Foundation. The Los Angeles-based pro-free market organization publishes an annual state privatization report that recently featured Gov. Rick Perry as an Innovator in Action for his commitment to public-private partnerships to build roads.

Yet in Texas, privatization has occurred piecemeal, without a plan, guidance or oversight. By contrast, Florida has a Council on Efficient Government that tracks all the state's outsourcing contracts and provides a cost-benefit analysis for each. "We want to outsource because it makes sense," said Executive Director Henry Garrigo, "not just because we can." The council also helps state agencies negotiate and monitor the arrangements and provides training for state employees displaced by privatization.

"I suggest (Texas) look into something like that," Gilroy said.

Indeed, for all its talk of public-private partnerships and hiring cheap private labor, Texas has never conducted a comprehensive study of what it has outsourced, whether it has proved more efficient than having state employees do the work, and how much if any money it has saved.

Asked for detailed analyses of outsourcing projects, state auditor John Keel cited only one. In 2005, auditors looked at how the Health and Human Services Commission had contracted out its human resources and payroll functions, which was supposed to save the agency \$21.7 million. The arrangement, auditors concluded, achieved no cost savings.

'Show me'

In the absence of hard data on privatization, proponents as well as opponents seize on the most egregious agency failures to bolster arguments for and against the trend.

In October, Perry ordered a temporary halt to IBM Corp.'s \$863 million data center consolidation project involving 27 state agencies, citing data losses. The deal was supposed to save taxpayers \$25 million in the first two years, but after 11 months, a private accounting firm put the net savings at \$500,000 — while roiling state agencies that complained the project wasn't working.

In December, more than a year after the implosion of what was originally an \$899 million deal to outsource enrollment of Texans to receive social services, the state officially parted ways with Accenture LLP.

"Show me where it works well," said state Sen. Bob Deuell, R-Greenville, vice chairman of the Senate Committee on Health and Human Services, on the subject of outsourcing. "Accenture is a billion-dollar company, and they're not getting it done."

At the same time, the U.S. Department of Justice's recent report of ongoing abuse and neglect at the state's institutions for people with mental retardation was seen by some as proof of government's systemic incompetence — a key argument for privatization.

"It's really a testament to what can go wrong in the public sector," said Brent Connett, a policy analyst at the Texas Conservative Coalition Research Institute. "Any mistakes made by the private sector pale in comparison to the abuse, neglect and crimes committed by state employees at state schools."

State Rep. Bill Callegari, R-Katy, said private contractors such as Accenture are unfairly pilloried because the state has a double standard of accountability.

"We don't know how long an applicant must sit in a government office, nor how many times they might have to return to complete an application," he wrote in a December opinion piece in the *American-Statesman*. "The state should hold itself to the same rigorous standard as it holds the private sector."

Periodically, lawmakers call for close monitoring of outsourced contracts, which can total hundreds of millions of dollars. "I want outsourcing of state business to have stricter accountability and oversight," Lt. Gov. David Dewhurst wrote in anticipation of the 2005 legislative session.

Systematic scrutiny, however, has yet to occur. Unlike its Florida counterpart, the Texas Council on Competitive Government is narrowly focused on identifying ways to save money — combining similar tasks across state agencies to get better deals from vendors, for example, according to Director Dustin Lanier. It currently oversees only five of the thousands of active state contracts.

The debate over hiring private companies to serve public functions cuts to the heart of what citizens expect from their government. Even privatization advocates agree that some jobs are too specialized and crucial to be trusted to private companies driven by profit margins.

"You never want to privatize the police or the DPS officers," said former state Rep. Arlene Wohlgemuth, a lobbyist and proponent of privatization whose clients have included Austin-based GHT Development, which had a state technology contract last year. "There are just some things that it's the appropriate role of government to do."

On the other side, outsourcing critics concede that even the most competent governments struggle to keep up with ever-changing information technology. "We don't have the expertise," said Celia Hagert, a senior policy analyst for the Center for Public Policy Priorities, which is an advocate for low- and middle-income Texans. Hiring consultants to update government computer systems, she said, "is a no-brainer."

Many other state functions have come up for grabs since 1991, when then-Comptroller John Sharp issued the first in a series of reports urging state leaders to involve the private sector in more of the government's business. Later, Sharp's successor — and current Austin mayoral candidate — Carole Keeton Strayhorn recommended applying what she called the "yellow-pages test": If a service was listed in the phone book, the state should consider getting out of that business.

Public work by private hands

Today, many Texans might be surprised to learn how many chores of state government are performed by private companies. The vast majority of the \$29 billion annual budget for its health and human services agencies, for example, is spent on contracted services — from paying doctors to treat clients to compensating agencies for recruiting, training and paying foster parents who care for children the state has removed from their parents.

The prison system hires private counselors for most of its alcohol, drug abuse and sexual offender treatment programs and contracts for all of its halfway housing programs and pre-parole transfer facilities. Juvenile parole services in some rural counties are handled by a private company. The attorney general uses a private vendor to collect child support payments, and the Texas Employment Commission contracts with JPMorgan Chase & Co. to distribute unemployment benefits by debit card.

When Perry in 2007 proposed leasing the lottery to a company that would pocket the revenue, critics said it would amount to selling off a valuable state asset. Yet nearly every aspect of the lottery is already outsourced, from Gtech's 10-year, \$750 million contract to operate the lottery to Tracy Locke's three-year, \$90 million contract to advertise it.

Similarly, critics pounced when state transportation executives began signing deals that would have private companies plan, build and operate highways and, in some cases, toll roads. The Texas Transportation Commission is on a mission "to privatize the second-largest (highway) system in the world," Sen. Kirk Watson, D-Austin, said last year.

But Transportation Department employees haven't built a road in decades; hired help does that. Nearly 80 percent of state highway maintenance and two-thirds of Texas' road engineering work already are outsourced to contractors.

Those in favor of increased outsourcing say that if it is carefully done — with strict accountability and defined authority — retaining private companies to conduct work once done by the state can save taxpayers money. "Outsourcing and privatization have a long and proven track record of providing better services and better results at a lower ultimate cost to taxpayers," Connett said.

State officials point to a handful of success stories. Longhorn Cavern State Park in Burnet has been privately run since the 1940s. In recent years, it has returned more than \$100,000 annually to the parks department budget.

The Texas Department of Criminal Justice contracts with private companies to operate seven prisons, which by law must provide the same services for at least 10 percent less than the state's cost. However, private operators cannot make important decisions about the prisoners, including calculating release or parole eligibility dates, awarding good conduct time and giving medical care.

Connett also cites Oz Systems, hired by the state health department to develop software and create a system for screening the hearing of newborns. With that system, Texas screened 99 percent of newborns in 2006 a rate higher than the national average, according to the National Center for Hearing Assessment and Management in Utah.

Unrealistic expectations

The state has seen its share of privatization flops, too. Some, such as the proposed 50-year, multibillion-dollar deals with a Spanish company to develop the Trans-Texas Corridor, ran into trouble when their huge scope generated widespread opposition.

"The Trans-Texas Corridor lost support at the Legislature because of the grandness of concept," said John Barton, TxDOT's assistant executive director for engineering operations. "Using the private company model for everything clearly is still something the government and public is grappling with."

TxDOT recently announced it was scrapping the name — though not the necessarily the key elements — of the corridor.

Unrealistic expectations can backfire, too. Hagert of the Center for Public Policy Priorities said the Health and Human Services Commission's promise that privately staffed call centers would save \$646 million over five years "damned the Accenture contract from the beginning."

Realistic financial expectations depend on reliable data, however. That's been in short supply in Texas.

In 2007, the auditor's office was asked to examine TxDOT's controversial plans to let a private contractor operate toll roads as part of the Trans-Texas Corridor.

Its conclusion: There wasn't enough reliable information on "projected toll road construction costs, operating expenses, revenue, and developer income" to accurately assess the plans.

Fuzzy, misleading or inaccurate cost projections make the bidding process problematic. "It's really difficult for the state to judge the bid — whether they're getting a good offer or whether it's horribly low-balled," Hagert said.

And money is not all of the equation.

While acknowledging that hiring out custodial duties in some state buildings might be cheaper than using state employees, Texas Facilities Commission Executive Director Edward Johnson asked, "Is it a savings if the buildings aren't being cleaned all that well?"

Johnson, whose agency has been directed by the Sunset Advisory Commission to find more outsourcing opportunities, recently expressed his concerns in a letter to the commission.

"We have seen large-scale outsourcing projects result in large-scale problems for the state, costing considerable time and money and we suggest that great caution be exercised," he wrote.

But outsourcing could gain new adherents if the recession strengthens its grip on state governments.

"State budget writers are attracted to the concept that the private sector can do it for less," Hagert said. "They're dealing with shrinking budgets and higher demand. It's an issue all over the country."

Minnesota is toying with privatizing the Minneapolis-St. Paul International Airport, Massachusetts is contemplating leasing out its turnpike and New York has formed a commission to consider outsourcing management of several assets, including some of its toll bridges.

Though Texas is not in dire straits, its budget analysts say revenues could plummet by the 2011 legislative session. Lawmakers have already expressed interest in revisiting the private sector's role in transportation and child protective services, among other areas.

"There seems to be an almost ideologically driven, long-term movement to reduce the size of government and transfer work to private contractors in the face of failure after failure," said Mike Gross of the Texas State Employees Union.

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