GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE

320 Sixth Avenue North – 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Representative Charles Curtiss
Chairman

Senator Don McLeary
Vice-Chairman

MEMORANDUM

TO: Members of the Fiscal Review Committee

FROM: James W. White, Executive Director

DATE: May 3, 2005

RE: Cost Comparison: State and Private Prison Contractor

Pursuant to Tenn. Code Ann. § 41-24-104, the Fiscal Review Committee is charged with the responsibility of comparing the costs of operating a contractor-operated correctional facility with the costs to the state to operate similar facilities.

In 2001, the statute governing the request for proposal, contract, and the process for the comparative evaluation for the contract for correctional management services was revised. These revisions provided:

1. No proposal shall be accepted unless:

   - the proposal offers a level and quality of services which are at least equal to those that would be provided by the state; and
   - the cost of the private operation and cost to the state to monitor the private operation shall be at least five percent less than the state's cost for essentially the same services.

2. Prior to the awarding of any contract to provide correctional services, the state shall establish objective performance criteria and cost criteria for both the state and private contractor. The performance criteria shall measure the quality of management, security and safety, personnel training, inmate programs,

treatment and other topics deemed appropriate. The performance criteria and cost criteria shall be established and incorporated as requirements in any proposed request for proposal and any contract and shall be used as the basis for any comparison between the state and any contractor.

3. Any request for proposals, any original contract, any contract renewal and any price or cost adjustment or any other contract shall first be approved by the following:

   - The State Building Commission;
   - The Attorney General and Reporter; and
   - The Commissioner of the Department of Correction

   The Select Oversight Committee on Corrections and the Fiscal Review Committee shall review any request for proposals, any original contract, and any proposed contract renewal and may submit comments to the authorities listed above.

   Any request for proposals, any original contract, and any proposed contract renewal shall be submitted by the Department of Correction to the Senate and House State and Local Government Committees. The committees may review and submit comments to the approving authorities.

4. After the first two years of operation, but before renewing the initial contract, the performance of the contractor shall be compared to the state for similar services as set out in the contract. The contract may be renewed only if the contractor is providing essentially the same quality of services as the state at a cost of 5% lower than the state as set out in the contract, or if the contractor is providing services superior in quality to those provided by the state at essentially the same cost as set out in the contract. For the purposes of this statute and comparison, "essentially the same" shall mean the difference is no greater than five percent. For the purpose of the statute and comparison, "superior" shall mean a difference greater than five percent. The methodology for determining the measurement of five percent differences shall also be set out in the request for proposal and contract.

5. The Select Oversight Committee on Corrections shall determine the quality of services provided by the contractor and the state by applying the performance criteria set out in the request for proposal and contract.

6. The Fiscal Review Committee shall compare the cost measures as set out in the request for proposal and the contract.

To carry out the statutory mandate, the state's cost for the operation of South Central Correctional Center under contract with Corrections Corporation of America was compared with the state's average cost of operating the Northeast Correctional Complex and the Northwest Correctional Complex. The period used for the comparison, as specified in the contract, was July 1, 2003 through June 30, 2004.

Appendices B through D provide cost schedules and notes explaining adjustments for Northeast Correctional Complex, Northwest Correctional Complex and South Central Correctional Center. The cost adjustments were included in the original request for proposal and contract and shown in *Appendix E Comparative Evaluation Guidelines.*

The Comptroller of the Treasury reviewed all accounting information provided by the Department of Correction. The accounting information to support taxes paid by Corrections Corporation of America was reviewed by the accounting firm of Frasier, Dean and Howard.

Based upon the information submitted to the Fiscal Review Committee staff, the adjusted blended cost per inmate day for the Northeast and Northwest Correctional Complexes was $44.64. The target cost per inmate per day at 95% of the state's cost per day that Corrections Corporation of America was required to meet was $42.41 per inmate per day.

Based upon the contract amount and adjustments, the South Central Correctional Center cost per inmate per day for the comparison year was $39.68 which is below the required $42.41 per inmate per day (see Appendix A).

The Contractor has met the requirements of Tenn. Code Ann. § 41-24-105 for renewal of the contract by being five percent lower in cost than the state.

If you have any questions or need additional information, please let me know.

JWW:MSS:jmr

Attachments

Northeast, Northwest, and South Central Correctional Centers
Comparison of Average Daily Cost Per Inmate Per Day
For the Year Ended June 30, 2004

	Appendix B NECC	Appendix C NWCC	Blended Calculation	Appendix D SCCC
Adjusted Expenditures at 97.8% of capacity	$ 26,344,987	$ 24,302,592	$ 50,647,579	$ 23,124,344
Inmate Population at 97.8% of capacity	1639	1626	3,265	1,639
Average daily cost per inmate per day before overhead allocation	$ 43.92	$ 40.84	$ 42.38	$ 38.55
Overhead allocation per inmate per day	2.26	2.26	2.26	1.13
Total average daily cost per inmate per day	$ 46.18	$ 43.10	$ 44.64	$ 39.68
95% of the Blended Rate for NECC and NWCC			$ 42.41	

Northeast Correctional Complex
Average Daily Cost Per Inmate Per Day
For the Year Ended June 30, 2004

Expenditures	
Security and Control	$ 12,716,727
Inmate Care	9,744,440
Inmate Programming	1,504,625
Safety and Physical Plant	2,763,815
Institutional Administration	4,033,909
Less: Revenue	(1,332,466)
Total Expenditures before Adjustments	29,431,050
Adjustments	
Equipment (Note 1)	(37,580)
Rental Vehicle Depreciation (Note 2)	(55,978)
Rental Equipment Depreciation (Note 3)	(9,208)
Chain Bus Operation (Note 4)	(94,110)
Canine (Note 5)	(32,691)
Medical (Note 6)	(12,586)
HIV/AIDS Medications (Note 7)	(249,568)
Change in Inventory (Note 8)	15,178
Repairs of Wrecked Vehicle (Note 9)	(13,685)
Total Adjustments	(490,228)
Adjusted Expenditures for Northeast Correctional Complex	28,940,822
Reduction for expenditures relating to the Carter County Annex (Note 10)	(2,635,544)
Adjusted Expenditures for Northeast Correctional Center only	26,305,278
Increased cost to operate at 97.8% of capacity (Note 11)	39,709
Adjusted Expenditures for Northeast Correctional Center at 97.8% of capacity	$ 26,344,987
Inmate Population at 97.8% of capacity (Note 11)	1,639
Average daily cost per inmate per day before overhead allocation	$ 43.92
Overhead allocation per inmate per day (Note 12)	2.26
Total average daily cost per inmate per day	$ 46.18

Northeast Correctional Complex
Notes to Appendix B
For the Year Ended June 30, 2004

Note 1 Equipment with a value greater than $1,000 purchased for use in the facilities. (Appendix E, item j)

Note 2 The portion of the monthly motor vehicle rental fee attributable to the depreciation/replacement factor paid to Motor Vehicle Management. (Appendix E, item k)

Note 3 The portion of the monthly motorized equipment rental fee attributable to the depreciation/replacement factor paid to the Equipment Revolving Fund. (Appendix E, item k)

Note 4 Transportation and security expenditures associated with the transfer of inmates to work sites at different facilities within the applicable region. (Appendix E, item m)

Note 5 Transportation and security expenditures associated with the operation of a canine team. The canine team is necessary at this facility because of the location and limited law enforcement personnel available to this area. (Appendix E, item m)

Note 6 Medical costs for inpatient hospitalization exceeding the contract cap. (Appendix E, item p)

Note 7 Expenditures for HIV/AIDS medications. (Appendix E, item p)

Note 8 The change in value of the supply and commissary inventory from July 1, 2003, to June 30, 2004. (Appendix E, item i)

Note 9 The one-time expenditure for the repair of a wrecked vehicle. (Appendix E, item m)

Note 10 The payroll and operating costs and the average daily census were decreased by the amounts associated with the Carter County Annex to arrive at a cost per day for just the main facility (Northeast Correctional Center). To calculate this adjustment, the percentage of the average daily census at the Carter County Annex was determined by applying the facility's individual average daily census to the average daily census of the entire complex. Payroll costs were calculated by identifying the salaries and benefits associated with the positions assigned to the Carter County Annex and by adding the portion of the salaries and benefits of the positions that are shared between the Carter County Annex and the Northeast Correctional Center based on the Carter County Annex's percentage of the average daily census. Other expenditures were calculated by multiplying the total of other expenditures by the Carter County Annex's percentage of the average daily census. (Appendix E, item o)

Note 11 During the year ended June 30, 2004, the Department of Correction system operated at an average of 97.8% of capacity (or 97.8% of total beds available system-wide.) In order to adjust for the population variance at each facility, the average daily census was increased

to 97.8% of the capacity at the facility. The increase in expenditures was calculated by multiplying the total of non-payroll expenditures by the proportionate increase from the average daily census to the population at 97.8% of capacity. Payroll and overhead expenditures were not increased for the population variance. (Appendix E, item o)

Note 12 The overhead allocation consists of three different cost areas: administration (central office), major maintenance (fence detection), and training (Tennessee Correction Academy). (Appendix E, items a and b)

The administrative allocation was computed by determining the percentage of the department's activities involving residential prisoners. This percentage was applied to the department's administrative costs (excluding the costs relating to a federal grant program.) These administrative costs for residential prisoners were further allocated into the costs applicable to every prisoner regardless of Annex, and the costs applicable to prisoners in state operated facilities. (This allocation was based on the ratio of the total state appropriated expenditures for adult institutions to the department's total state appropriated expenditures.) The administrative cost applicable to all inmates was divided by the total average inmate population and the cost applicable to state operated facilities was divided by the average inmate population in state operated facilities. These amounts were then divided by 366 days.

The major maintenance allocation was computed by dividing the costs associated with fence detection and major maintenance administration by the average number of inmates in state operated facilities and then by 366 days.

The training academy allocation was computed by dividing the training academy costs by the number of Department of Correction personnel positions and then by 366 days. This total was then multiplied by the percentage of the number of Department of Correction personnel positions at the applicable institution to the average inmate population at the applicable institution.

Administrative cost allocated to all inmates $8,132,560.77 ÷ 19,679 ÷ 366	$ 1.13
Administrative cost allocated to inmates in state managed facilities only $1,196,742.84 ÷ 14,566 ÷ 366	0.22
Major maintenance $1,634,809.89 ÷ 14,566 ÷ 366	0.31
Tennessee Correction Academy cost $4,086,100 ÷ 5,159 ÷ 366 × 457 ÷ 1,639	0.60
Total overhead allocation per inmate per day at Northeast–Main	$ 2.26

Northwest Correctional Complex
Average Daily Cost Per Inmate Per Day
For the Year Ended June 30, 2004

Expenditures	
Security and Control	$ 15,854,918
Inmate Care	11,667,113
Inmate Programming	3,145,156
Safety and Physical Plant	2,505,063
Institutional Administration	4,774,151
Less: Revenue	(1,607,305)
Total Expenditures before Adjustments	36,339,096
Adjustments	
Equipment (Note 1)	(79,494)
Rental Vehicle Depreciation (Note 2)	(64,842)
Rental Equipment Depreciation (Note 3)	(12,960)
Chain Bus Operation (Note 4)	(93,962)
Medical (Note 5)	(13,429)
HIV/AIDS Medications (Note 6)	(511,995)
Change in Inventory (Note 7)	5,676
Reimbursement from Dept of Education for Title 1 (Note 8)	129,031
Total Adjustments	(641,975)
Adjusted Expenditures for Northwest Correctional Complex	35,697,121
Reduction for expenditures relating to the Lake County Facility (Note 9)	(11,726,922)
Adjusted Expenditures for Northwest Correctional Center only	23,970,199
Increased cost to operate at 97.8% of capacity (Note 10)	332,393
Adjusted Expenditures for Northwest Correctional Center at 97.8% of capacity	$ 24,302,592
Inmate Population at 97.8% of capacity (Note 10)	1,626
Average daily cost per inmate per day before overhead allocation	$ 40.84
Overhead allocation per inmate per day (Note 11)	2.26
Total average daily cost per inmate per day	$ 43.10

Northwest Correctional Complex
Notes to Appendix C
For the Year Ended June 30, 2004

Note 1 Equipment with a value greater than $1,000 purchased for use in the facilities. (Appendix E, item j)

Note 2 The portion of the monthly motor vehicle rental fee attributable to the depreciation/replacement factor paid to Motor Vehicle Management. (Appendix E, item k)

Note 3 The portion of the monthly motorized equipment rental fee attributable to the depreciation/replacement factor paid to the Equipment Revolving Fund. (Appendix E, item k)

Note 4 Transportation and security expenditures associated with the transfer of inmates to work sites at different facilities within the applicable region. (Appendix E, item m)

Note 5 Medical costs for inpatient hospitalization exceeding the contract cap. (Appendix E, item p)

Note 6 Expenditures for HIV/AIDS medications. (Appendix E, item p)

Note 7 The change in value of the supply and commissary inventory from July 1, 2003, to June 30, 2004. (Appendix E, item i)

Note 8 Reimbursement from the Tennessee Department of Education for Title 1 expenditures. (Appendix E, item m)

Note 9 The payroll and operating costs and the average daily census were decreased by the amounts associated with the Lake County Facility to arrive at a cost per day for just the main facility (Northwest Correctional Center). To calculate this adjustment, the percentage of the average daily census at the Lake County Facility was determined by applying the facility's individual average daily census to the average daily census of the entire complex. Payroll costs were calculated by identifying the salaries and benefits associated with the positions assigned to the Lake County Facility and by adding the portion of the salaries and benefits of the positions that are shared between the Lake County Facility and the Northwest Correctional Center based on the Lake County Facility's percentage of the average daily census. Other expenditures were calculated by multiplying the total of other expenditures by the Lake County Facility's percentage of the average daily census. (Appendix E, item o)

Note 10 During the year ended June 30, 2004, the Department of Correction system operated at an average of 97.8% of capacity (or 97.8% of total beds available system-wide.) In order to adjust for the population variance at each facility, the average daily census was increased to 97.8% of the capacity at the facility. The increase in expenditures was calculated by multiplying the total of non-payroll expenditures by the proportionate increase from the average daily census to the population at 97.8% of capacity. Payroll and overhead

expenditures were not increased for the population variance. (Appendix E, item o)

Note 11 The overhead allocation consists of three different cost areas: administration (central office), major maintenance (fence detection), and training (Tennessee Correction Academy). (Appendix E, items a and b)

The administrative allocation was computed by determining the percentage of the department's activities involving residential prisoners. This percentage was applied to the department's administrative costs (excluding the costs relating to a federal grant program.) These administrative costs for residential prisoners were further allocated into the costs applicable to every prisoner regardless of facility, and the costs applicable to prisoners in state operated facilities. (This allocation was based on the ratio of the total state appropriated expenditures for adult institutions to the department's total state appropriated expenditures.) The administrative cost applicable to all inmates was divided by the total average inmate population and the cost applicable to state operated facilities was divided by the average inmate population in state operated facilities. These amounts were then divided by 366 days.

The major maintenance allocation was computed by dividing the costs associated with fence detection and major maintenance administration by the average number of inmates in state operated facilities and then by 366 days.

The training academy allocation was computed by dividing the training academy costs by the number of Department of Correction personnel positions and then by 366 days. This total was then multiplied by the percentage of the number of Department of Correction personnel positions at the applicable institution to the average inmate population at the applicable institution.

Administrative cost allocated to all inmates $8,132,560.77 ÷ 19,679 ÷ 366	$ 1.13
Administrative cost allocated to inmates in state managed facilities only $1,196,742.84 ÷ 14,566 ÷ 366	0.22
Major maintenance $1,634,809.89 ÷ 14,566 ÷ 366	0.31
Tennessee Correction Academy cost $4,086,100 ÷ 5,159 ÷ 366 × 448 ÷ 1,626	0.60
Total overhead allocation per inmate per day at Northwest–Main	$ 2.26

South Central Correctional Center
Average Daily Cost Per Inmate Per Day
For the Year Ended June 30, 2004

Expenditures	
Private Contract	$ 22,460,370
Medical	276,252
Security	3,000
Safety and Physical Plant	12,860
Institutional Administration	292,741
Less: Revenue	(19,260)
Total Expenditures before Adjustments	23,025,963
Adjustments	
Medical (Note 1)	(26,184)
Franchise and Excise Taxes Paid (Note 2)	(62,952)
Sales and Use Taxes Paid (Note 2)	(313,608)
Total Adjustments	(402,744)
Adjusted Expenditures for South Central Correctional Center	22,623,219
Increased cost to operate at 97.8% of capacity (Note 3)	441,628
Adjusted Expenditures for South Central Correctional Center at 97.8% of capacity	$ 23,064,847
Inmate Population at 97.8% of capacity (Note 3)	1,639
Average daily cost per inmate per day before overhead allocation	$ 38.45
Overhead allocation per inmate per day (Note 4)	1.13
Total average daily cost per inmate per day	$ 39.58

South Central Correctional Center
Notes to Appendix D
For the Year Ended June 30, 2004

Note 1 Medical costs for inpatient hospitalization exceeding the contract cap. (Appendix E, item p)

Note 2 Franchise and Excise and Sales and Use Taxes paid by the contractor to the state for operations at South Central Correctional Center. (Appendix E, item m)

Note 3 During the year ended June 30, 2004, the Department of Correction system operated at an average of 97.8% of capacity (or 97.8% of total beds available system-wide.) In order to adjust for the population variance at each facility, the average daily census was increased to 97.8% of the capacity at the facility. The increase in expenditures was calculated by multiplying the total of non-payroll expenditures by the proportionate increase from the average daily census to the population at 97.8% of capacity. Payroll and overhead expenditures were not increased for the population variance. (Appendix E, item o)

Note 4 The administrative allocation was computed by determining the percentage of the department's activities involving residential prisoners. This percentage was applied to the department's administrative costs (excluding the costs relating to a federal grant program.) These administrative costs for residential prisoners were further allocated into the costs applicable to every prisoner regardless of facility, and the costs applicable to prisoners in state operated facilities. (This allocation was based on the ratio of the total state appropriated expenditures for adult institutions to the department's total state appropriated expenditures.) The administrative cost applicable to all inmates was divided by the total average inmate population and then by 366 days. (Appendix E, items a and b)

Administrative cost allocated to all inmates $8,132,560.77 ÷ 19,679 ÷ 366	$ 1.13
Total overhead allocation per inmate per day at South Central	$ 1.13

Appendix E

Comparative Evaluation Guidelines
For the Comparative Evaluation of the South Central Correctional Center RFP and Contract Performance, dated November 2, 2001

(Included as Appendix G in the contract between the State of Tennessee Department of Correction and Corrections Corporation of Tennessee, Inc., d/b/a Corrections Corporation of America, for the period March 1, 2002, through June 30, 2005)

SECTION 7—COST COMPARISON

TCA 41-24-105(e) requires the Fiscal Review Committee to provide a prisoner per day cost for the State and the Contractor based upon cost measures set out in the Request for Proposal and the Contract. Those costs are to be used in the evaluation to determine if the Contractor is providing essentially the same quality of services as the State at a cost of five percent (5%) lower than the State, or if the Contractor is providing services superior in quality to those provided by the State at essentially the same cost pursuant to TCA 41-24-105(c).

The financial information to be compared will be for the Fiscal Year 2003/2004. This is necessary in order to comply with the statutory mandates which state that the comparison is to be made after the second year of the Contract, but before any renewal can occur at the end of the third year. The Fiscal Year 2003/2004 information would be the most current information available at the time of the comparison evaluation and will match the review period that will be used for the performance evaluation.

The institutions included in the Contract for comparison with the South Central Correctional Center (SCCC) are Northeast Correctional Complex (NECC) and Northwest Correctional Complex (NWCC). The two state operated institutions have been selected for previous comparisons because of the similarity in age of the facilities, design of the facilities, and inmate populations. These two facilities continue to be the most comparable. Since the early institution comparisons were made, consolidation of state institutions resulted in other facilities being combined administratively with both NECC and NWCC. In order to restore a reasonable level of comparability, adjustments will be made for staff and operating costs.

The cost comparison will review the full costs of the Contractor with the full costs of the State's comparable facilities (NECC and NWCC). The costs attributable to the Contractor will include any costs of monitoring the Contract incurred by the State, which would not have been incurred by the State otherwise. In addition to monitoring costs, other adjustments and allocations will be made. The cost comparison will be for the period of July 1, 2003, through June 30, 2004.

Allocations will be based on the following:

a) Divide Central Office or Overhead costs between activities involving residential prisoners and other activities based on direct expenditures for residential facilities versus direct expenditures for other activities to obtain percentage of Central Office or Overhead expenditures applicable to residential facilities.

b) Allocate the amount of Central Office or Overhead expenditures applicable to residential facilities based on the census for each residential facility to the total census for all residential facilities.

c) Expenditures for revenue generating activities such as commissary, inmate labor, inmate telephones, inmate fines, recycling, and art and craft sales at institutions are to be included in facility expenditures and will be offset by total revenues collected.

Costs will be allocated to the South Central Correctional Center for:

d) The pro rata costs of the Tennessee Offender Management Information System (TOMIS), which are applicable to the handling of information on prisoners assigned to the SCCC facility

e) The amounts expended by the State for monitoring the Contractor's operations during the 2003/2004 fiscal year

f) The amounts expended by the State for the benefit of the Contractor during the 2003/2004 fiscal year

g) Any other amounts expended by the State (including any state agency) which would not have been expended by the State in the absence of the Contract

h) State overhead items determined not to be applicable to the SCCC will not be added to the contract cost

Adjustments will also be made for:

i) Year-end supply inventories

j) Equipment items purchased for use in the facilities with a cost in excess of $1,000 will be deducted from the total cost of operations for all facilities. Equipment purchased for use by the State's monitors at the SCCC will not be deducted from the State's cost of operating the SCCC

k) Expenditures for the use of motor vehicles and motorized equipment purchased for use by NECC and NWCC will be reduced by the depreciation/replacement factor included in the reimbursement rate to the Department of General Services

The Fiscal Review Committee will further adjust the reported costs to ensure comparability in making the comparison of the relative costs of operating the facilities for the period July 1, 2003, through June 30, 2004. This would include, but not be limited to the following:

l) Any costs that appear to be made ahead of the time needed or are deferred to a subsequent period if, in the opinion of the committee staff, such costs are in an amount sufficient to materially affect the comparison

m) The State's or the Contractor's costs for any program or functional areas which it determines to be not substantially comparable to the operations of the facilities being compared

n) Any cost items not accounted for in a similar manner

o) Necessary adjustments for population variance to include fixed and variable cost items for payroll and operational support expenditures

p) The medical component of cost will be adjusted to equalize the costs of each facility due to the $4,000 stop-loss provision for medical care in the Contract

Requests for clarification should be made during the Pre-proposal Conference or should be requested in the form of a Written Comment during the Request for Proposal process. The State's written responses will become part of the final Contract.

As required by the contract, the Comptroller of the Treasury will review all accounting information submitted to Fiscal Review by the Department of Correction, and all accounting information provided by the Contractor to Fiscal Review is to be analyzed by an independent accounting firm. The reports generated by those reviews will be utilized during the evaluation process.

The Fiscal Review Committee staff will calculate the State's and the Contractor's cost per inmate day. The final draft report will be given to both the State and the Contractor for comment before it is delivered to the Fiscal Review Committee. If either the State or the Contractor chooses, they can submit a written response to the final report that will be included when the report is submitted to the Fiscal Review Committee.

John D. Ferguson
President and Chief Executive Officer

April 28, 2005

Mr. James W. White
Executive Director
Fiscal Review Committee
320 Sixth Avenue North—8th Floor
Nashville, TN 37243

Dear Mr. White:

On behalf of Corrections Corporation of America, I acknowledge receipt of the final report on the cost comparison of our South Central Correctional Center and TDOC's Northeast Correctional Complex and Northwest Correctional Complex. The company accepts the outcome of the report and looks forward to the committee's review and approval of the report at its next meeting.

The company values its long-standing partnership and is pleased that we are continuing to provide quality correctional management and cost savings to the citizens of Tennessee.

Sincerely,

John D. Ferguson

10 Burton Hills Boulevard, Nashville, Tennessee 37215, Phone: 615-263-3001, Fax: 615-263-3010