

NLWJC - Kagan

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Welfare-Privatization [2]

508 6946

WR - privatization

The Dallas Morning News, Saturday, May 17, 1997

Problems reported in privatizing welfare

Firms seeking Texas contract cite successes, though most have had troubles elsewhere

By George Rodriguez

Staff Writer of The Dallas Morning News

WASHINGTON — Virtually all the firms seeking Texas' five-year, \$2 billion contract to run food stamp, Medicaid and cash welfare programs have had significant problems in other states.

Texas Gov. George W. Bush says privatizing welfare will save the state \$10 million a month.

Officials in states that expected to save money by privatizing social services — using some of the same firms bidding in Texas — report cost overruns, slow performance and high error rates. Automation of California's child-support enforcement system, for example, has cost triple the promised price and is only about half done.

Opponents of Mr. Bush's plans — ranging from state employees'

unions to welfare advocates — say such stories are all too common.

"What these companies promise and what they deliver are very different," said Debbie Goldman, an economist at the Communications Workers of America in Washington. "They promise things so they can get a foot in the door. Then they say, 'Well, it's more complex than we thought. We have to charge more.' But by then they have the job."

The firms vying for Texas' business say they have had far more successes than problems. They — and Mr. Bush — argue that savings are almost inevitable when flexible entrepreneurs remake rigid bureaucracies, inject new technologies and restructure decades-old firms. Please see PROBLEMS on Page 22A.

ATTN: Kirk Adams
Rick Levy / Ed Stills
Mike Gross / Lynn McKee
Dee Simpson
Marcia Kinsler
Greg Leboy
Debbie Goldman

WR-privatization

**Food Stamp Privatization
6/12/97**

Talking Points

- The Administration believes that allowing a state to privatize food stamp operations would not be in the best interests of program beneficiaries and will oppose amendments allowing states to do so.
- Current food stamp law makes clear that eligibility determination must be performed by impartial, merit-based public employees.
- The Administration rejected Texas' request for food stamp and Medicaid waivers on the ground that discretionary judgments about eligibility for federal benefits should be made by public employees, and that privatizing such functions may not be in the best interest of program beneficiaries.
- The Administration will oppose amendments for the same reason. A draft amendment the Administration has seen allows private entities to perform functions integrally related to the food stamp eligibility determination process, such as obtaining and verifying information about income and other eligibility factors.
- Without this amendment, states can still privatize all aspects of the Temporary Assistance for Needy Families program. They can also hire private firms to design and operate information systems, develop and recommend revised eligibility processes, and provide management training and assistance.

Allows Private Contractors to:	Texas Proposal	Amendment	Administration Position
Obtain and Verify Information used to Determine Eligibility	Yes	Yes	No
Determine Eligibility	Yes	No	No

Wp-privatizati-



Cynthia A. Rice

06/11/97 01:12:20 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP

Subject: Opposing welfare privatization in House Ag Cmte SAP

As you all know, the Administration vigorously opposed an effort by the state of Texas to privatize the benefit eligibility determination process for food stamps and Medicaid. HHS sent an official letter to the state of Texas outlining our position on May 13th and Erskine Bowles and Bruce Reed then met with members of the Texas delegation to explain our position.

Rep. Stenholm sent DPC and OMB language last night of a proposed amendment which is contrary to our position. We believe we have no choice but to state in our SAP to the House Agriculture Committee that we would oppose such an amendment if offered. We did make a similar statement in a May 7th appropriations SAP (to a different version of a privatization memo that applied only to Texas).

I apologize in advance if you all are already working along these lines, but with so many SAPs in the works, I wanted to ensure that our views were understood.

Message Sent To:

Jacob J. Lew/OMB/EOP
Jill M. Blickstein/OMB/EOP
Joshua Gotbaum/OMB/EOP
Kenneth S. Apfel/OMB/EOP
Barry White/OMB/EOP
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Jeffrey A. Farkas/OMB/EOP
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Anne H. Lewis/OPD/EOP
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Matthew McKearn/OMB/EOP
Joseph M. Wire/OMB/EOP
Jill M. Pizzuto/OMB/EOP

wp privatize

DRAFT STATEMENT ON PRIVATIZATION FOR SAP
6/11/97 5:30 pm

The Administration understands that amendments may be offered which would allow food stamp operations to be privatized. While certain program functions, such as computer systems, can currently be contracted out to private entities, the certification of eligibility for benefits and related operations (such as obtaining and verifying information about income and other eligibility factors) remain public functions. The Administration is concerned that changes to current law would not be in the best interest of program beneficiaries, would strongly oppose such amendments.

wp-privatization

▶ **Diana Fortuna**
06/11/97 11:25:22 AM
.....

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP
Subject: Privatization language

We've talked to OMB and believe this language essentially puts into law the compromise we put forth in our memo.]

Keith says that Martha Foley will probably argue that we shouldn't offend Stenholm by criticizing his privatization language in our SAP. So she is key IF we decide we want this in.

FYI on other, unrelated language in the Stenholm draft: It would cap state food stamp administrative costs at 102% of current levels plus inflation and caseload. This is to address the fact that states now have an incentive to shift welfare admin costs to food stamps and Medicaid, because TANF caps admin costs at 15% of the total. CBO has scored this at some huge amount. Keith says he doubts OMB would support this, even though it has a certain budget policy logic to it. The big problem is that the states will hate it. Also, he says that the plan is for the money saved to go to other non-welfare things in the ag bill -- cotton, etc.

CQ's WASHINGTON ALERT 05/27/97

*** FULL REPORT -- DIGEST, LEGISLATIVE ACTION, COSPONSORS, SPEECHES ***

MEASURE: HR1709

SPONSOR: Archer (R-TX)

OFFICIAL TITLE: A bill to permit any state to use nongovernmental personnel in the determination of eligibility under the Medicaid, food stamps, and WIC programs.

INTRODUCED: 05/22/97

COSPONSORS: 14 (Dems: 2 Reps: 12 Ind: 0)

COMMITTEES: House Agriculture
House Commerce
House Education and the Workforce

RELATED BILLS: See S787

LEGISLATIVE ACTION:

05/22/97 Referred to Committee on Agriculture, Committee on Commerce, Committee on Education and the Workforce (for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned) (CR p. H3201)

05/22/97 *** Related measure (S787) introduced in Senate. ***

05/22/97 ARCHER, R-Texas, House speech: Introduces the Welfare Flexibility Act. (CR p. E1039)

05/22/97 Original Cosponsor(s): 14

- | | | |
|-------------------|-----------------|---------------------|
| Arney (R-TX) | Brady (R-TX) | Johnson, Sam (R-TX) |
| Barton, J. (R-TX) | Combest (R-TX) | Sessions (R-TX) |
| Bliley (R-VA) | DeLay (R-TX) | Smith, B. (R-OR) |
| Boehner (R-OH) | Granger (R-TX) | Stenholm (D-TX) |
| Bonilla (R-TX) | Hall, R. (D-TX) | |

There are no more items to display.

CQ's WASHINGTON ALERT 05/27/97

HR1709 Archer (R-TX) 05/22/97 (???? lines)
Introduced in House

A bill to permit any state to use nongovernmental personnel in the determination of eligibility under the Medicaid, food stamps, and WIC programs.

*** Full text not yet available ***

INTRODUCTION OF THE WELFARE FLEXIBILITY ACT

House speeches & inserts

(CRTEXT 05/22/97 p.E1039; 77 lines.)

Inserted text is preceded and followed by this symbol: #

Item Key: 10720

[pE1039]

INTRODUCTION OF THE WELFARE FLEXIBILITY
ACTHON. BILL ARCHER
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 22, 1997

Mr. ARCHER. Mr. Speaker, today I along with several of my colleagues are introducing the Welfare Flexibility Act.

During the 104th Congress, we passed and the President signed legislation "ending welfare as we know it." The principle of this legislation is to enable States to offer creative and innovative means for providing aid to citizens in need. Unfortunately, the President has blocked Texas' efforts to move forward with their reform proposal. A proposal that Deputy Secretary-Designate of Health and Human Services Kevin Thurme called innovative.

Therefore, I have introduced legislation that will permit any State to privately contract for the delivery of welfare benefits. In Texas, this legislation will have dramatic implications. Instead of beneficiaries traveling from agency to agency to enroll in various programs, they will now be able to "one-stop-shop" for all benefits.

Additionally, it is my understanding from Governor Bush that the Texas welfare proposal will save the State nearly \$10 million a month by eliminating unneeded and duplicative services. The Governor has committed these funds for providing health care to poor children; a goal I'm certain we all recognize as commendable.

I also believe that this legislation will benefit many other States that are seeking the opportunity to design a welfare system that will best serve their needs. Among them, Florida, Arizona, and Wisconsin are all attempting to move forward with innovative proposals. This legislation will give them the foundation they need to help their citizens in need.

In closing, I am disappointed that statutory change is required to give these States the ability to implement what I thought was the intent of the last Congress' actions. However, I am certain that we will be successful in passing this important bill and I look forward to having my colleagues, on both sides of the aisle, join me in support.

This legislation has been scored by the Congressional Budget Office as revenue neutral, and I submit a letter from CBO Director June E. O'Neill for the RECORD.

U.S. CONGRESS,

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 22, 1997.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, U.S. House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: At your request, CBO has reviewed a draft bill that would allow any state to use nongovernmental personnel in the determination of eligibility under the Medicaid, Food Stamp, and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) programs. Although the bill could either increase or decrease spending for these programs, CBO estimates that it would have no net effect on federal spending compared with current law.

Sincerely,
JUNE E. O'NEILL.

There are no more items to read.

CQ's WASHINGTON ALERT 05/27/97

*** FULL REPORT -- DIGEST, LEGISLATIVE ACTION, COSPONSORS, SPEECHES ***

MEASURE: S787

SPONSOR: Gramm (R-TX)

OFFICIAL TITLE: A bill to permit any state to use non-governmental personnel in the determination of eligibility under the Medicaid, Food Stamps, and WIC programs.

INTRODUCED: 05/22/97

COSPONSORS: 1 (Dems: 0 Reps: 1 Ind: 0)

COMMITTEES: Senate Finance

RELATED BILLS: See HR1709

LEGISLATIVE ACTION:

05/22/97 Referred to Committee on Finance (CR p. S5001)

05/22/97 *** Related measure (HR1709) introduced in House. ***

05/22/97 Original cosponsor(s): 1
Hutchison, K. (R-TX)

*** Full text not yet available ***

Bruce -
See pp. 1-2.
Elena

FAX COVER



Income Maintenance Branch

Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503



To: Elena Kagan + Diana Fortuna

Organization: x 6-5542 x 6-7028

Fax Number: _____

From: Keith Fontenot

Date/Time: _____

Number of Pages: Cover + 6

Notes: Stockholm language on Food Stamps
-- Note especially privatization

Income Maintenance Fax Number: (202) 395-0851
Voice Confirmation: (202) 395-4686

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[DISCUSSION DRAFT]**June 10, 1997**

At an appropriate place, insert the following (and make such technical and conforming changes as may be appropriate):

1 **SEC. — STATES AUTHORITY TO PERFORM CERTAIN AD-**
2 **MINISTRATIVE ACTIVITIES BY CONTRACT.**

3 Section 4(c) of the Food Stamp Act of 1977 (7
4 U.S.C. 2013(e)) is amended—

5 (1) by inserting “(1)” after “(c)”, and

6 (2) by adding at the end the following:

7 “(2) **APPROVAL OF STATE CONTRACTS.—(A) Not-**
8 **withstanding any other provision of this Act, such regula-**
9 **tions shall permit the State agency to enter into contracts**
10 **approved by the Secretary in accordance with subpara-**
11 **graph (B), with governmental or nongovernmental entities**
12 **to undertake certification of applicant households (includ-**
13 **ing verification of income and other eligibility factors, and**
14 **providing notice of expiration of certification) under the**
15 **food stamp program, but the State agency itself shall—**

16 “(i) **determine the eligibility of such households**
17 **to participate in such program; and**

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1 “(ii) hold any hearing or redetermination that
2 relates to eligibility or to allotments.

3 “(B) The Secretary shall approve a contract de-
4 scribed in subparagraph (A), and may approve such con-
5 tract only, if the Secretary determines that—

6 “(i) implementation such contract will not
7 reduce, or adversely affect, services that would
8 otherwise be provided directly to applicant
9 households by the State agency;

10 “(ii) the legislature of the State reviewed[,
11 or has authority to review,] such contract; and

12 “(iii) such contract—

13 “(I) specifies that the safeguards de-
14 scribed in section 11(e)(8) and contained
15 in the State plan will apply to all parties
16 to such contract; and

17 “(II) provides adequate protection to
18 the Secretary and to the State agency for
19 negligence or fraud that may be committed
20 in the implementation of such contract.”.

21 **SEC. -- LIMITATION ON REIMBURSEMENT FOR ADMINIS-**
22 **TRATIVE COSTS.**

23 (a) **LIMITATION.**—Section 16 of the Food Stamp Act
24 of 1977 (7 U.S.C. 2025) is amended—

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3

1 (1) in the 1st sentence of subsection (a) by
2 striking "The" and inserting "Subject to subsection
3 (k), the",

4 (2) in the 1st sentence of subsection (g) by
5 striking "The" and inserting "Subject to subsection
6 (k), the", and

7 (3) by adding at the end the following:

8 "(k) LIMITATION ON REIMBURSEMENT FOR ADMIN-
9 ISTRATIVE COSTS.—For each fiscal year beginning after
10 September 30, 1997, the aggregate amount the Secretary
11 may pay under subsections (a) and (g), excluding any
12 amount authorized to be paid under the proviso to sub-
13 section (a), to a State shall not exceed 102 percent of the
14 aggregate amount the Secretary paid to the State under
15 such subsections (excluding the amount (if any) paid to
16 the State under such proviso) for fiscal year 1996, ad-
17 justed on October 1, 1997, and on each October 1 there-
18 after, to reflect—

19 "(1) the percentage increase in the Consumer
20 Price Index for All Urban Consumers published by
21 the Bureau of Labor Statistics for the then preced-
22 ing 12-month period; and

23 "(2) the percentage change in the monthly av-
24 erage of the number of households participating in

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4

1 the food stamp program during the then preceding
2 12-month period."

3 **SEC. -- COORDINATION OF ADMINISTRATION WITH THE**
4 **ADMINISTRATION OF OTHER PROGRAMS.**

5 Section 11 of the Food Stamp Act of 1977 (7 U.S.C.
6 2020) is amended by adding at the end the following:

7 "(q) **COORDINATION OF ADMINISTRATION.**—The
8 State agency may coordinate its administration of the food
9 stamp program with the administration of any Federal or
10 State program that provides benefits on the basis of need
11 if—

12 "(1) the requirements applicable to the admin-
13 istration of the food stamp program by the State
14 agency are satisfied, and

15 "(2) as so coordinated, the administration of
16 the food stamp program provides timely, accurate,
17 and fair services to adequately serve applicant
18 households and recipient households throughout the
19 State."

20 **SEC. -- STUDY OF EFFECTS OF PUBLIC LAW 105-183 ON**
21 **THE PARTICIPATION IN THE FOOD STAMP**
22 **PROGRAM.**

23 Section 17 of the Food Stamp Act of 1977 (7 U.S.C.
24 2026) is amended by adding at the end the following:

1 “(2) **STUDY OF EFFECTS OF PUBLIC LAW 104-193**
2 on the Food Stamp Program.—

3 “(1) **STUDY.**—The Secretary shall conduct a
4 study of the extent to which, and the ways in which,
5 the Personal Responsibility and Work Opportunity
6 Reconciliation Act of 1996 (Public Law 104-193)
7 has affected—

8 “(A) the operation of this Act;

9 “(B) participation in the food stamp pro-
10 gram and in any other program that includes
11 benefits provided under this Act; and

12 “(C) eligibility to participate in the food
13 stamp program and in any other program that
14 includes benefits provided under this Act.

15 “(2) **REPORTS.**—The Secretary shall submit, to
16 the Committee on Agriculture of the House of Rep-
17 resentatives and to the Committee on Agriculture,
18 Nutrition, and Forestry of the Senate, an interim re-
19 port on the results of such study not later than
20 [date?] and a final report on the results of such
21 study not later than [date?].”

22 **SEC. — COMMODITIES FOR EMERGENCY FOOD ASSIST-**
23 **ANCE PROGRAM.**

24 Section 27(a) of the Food Stamp Act of 1977 (7
25 U.S.C. 2036(a)) is amended—

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- 1 (1) by striking "for each of the fiscal years
2 1997 through 2002, the Secretary shall purchase"
3 and inserting "the Secretary shall expend", and
4 (2) by inserting "for fiscal year 1997, and
5 \$150,000,000 for each of the fiscal years 1998
6 through 2002, to purchase" after "\$100,000,000".

Effort to privatize welfare screening sent to Gov. Bush

7:53 PM 5/30/1997

Effort to privatize welfare screening sent to Gov. Bush

Streamlining of pacts OK'd

By POLLY ROSS HUGHES
and KATHY WALT

Copyright 1997 Houston Chronicle Austin Bureau

AUSTIN -- A bill allowing Texas to hire private companies to streamline the state's screening for welfare programs is on its way to Gov. George W. Bush.

The measure, which calls for state lawmakers to closely scrutinize each step of the project, puts priority on automating the screening system but leaves the door open for a more comprehensive takeover by private companies later.

"We are very pleased that the Legislature approved overwhelmingly a bill that preserves Texas' options to streamline and improve our welfare eligibility system," said Bush spokeswoman Karen Hughes.

Meanwhile on Friday, state Sen. Teel Bivins, R-Amarillo and chairman of the Senate Education Committee, was scrambling to salvage bills aimed at strengthening the state's so-called "zero tolerance" policies that banish violent, disruptive, or substance-abusing kids from regular classrooms.

All but one of the zero-tolerance bills offered this session are stalled in the House, Bivins said. The Senate on Friday followed his urging and sent to conference committee the one bill that is still alive. Bivins said he hopes to amend it to pull in as much as possible from the doomed bills.

An earlier welfare proposal, backed by Bush, to let major corporations streamline and run the state's screening for welfare, Medicaid, food stamps and assorted social service programs ran into trouble earlier this month when the Clinton administration ruled it would violate federal laws.

Under federal law, the state was told, government employees -- not private companies -- must decide who is eligible for Medicaid and food stamps.

"This bill preserves that option (privatization of welfare screening) if our federal Congressional delegation is able to get federal legislation which would overrule the Clinton administration," Hughes said.

Democratic lawmakers who sought legislation to scale the project back to a simple automation project, had mixed interpretations of the intent of the compromise bill passed by the House and Senate.

"Most importantly the focus of the original privatization project has been narrowed to emphasize the automation part of the project," said Rep. Elliott Naishtat, D-Austin. "There are more options available than I would have preferred, but with legislative oversight firmly in place, it's less likely that the scope of the project will be expanded to go beyond what the Legislature originally intended."

Sen. Mike Moncrief, D-Fort Worth, said he remains concerned about where the line is drawn between the role of government and private companies.

Effort to privatize welfare screening sent to Gov. Bush

"It's a difficult balance," he said, calling the experiment "a potential minefield."

"As long as we make sure we put people first and dollars second I think we'll stay on point," Moncrief said. "If we lose focus and we only become concerned about the bottom line of some of the major corporations seeking these multi-billion dollar contracts, then we are going to find ourselves in deep trouble."

The bill, which Bush plans to sign, also requires cost-benefit analyses be made public before private companies are contracted to create a one-stop shopping approach for welfare benefits.

"I wanted a bill the governor would sign. The governor wants better efficiency. I want better efficiency," said Rep. Robert Junell, chairman of the House Appropriations Committee.

The legislation requires that, in addition to the governor, the Legislative Budget Board must approve the project and a legislative oversight committee must monitor it and hold public hearings.

"The governor and the Legislature both need to be involved in those decisions because in my mind those are major policy type decisions," Junell said.

Among the zero-tolerance measures that Bivins hopes to salvage are those that would allow schools to expel students for misdemeanor drug and alcohol offenses and that would guarantee due process procedures to students expelled from school.

Bivins also is trying to alleviate school administrators' concerns over provisions in existing state law that they contend puts them in the position of having to determine whether a student's behavior constitutes a felony offense before the student is sent to an alternative education program.

On another key education bill pending before lawmakers, State Sen. Gregory Luna, D-San Antonio, on Friday tried to kill a bill that would expand the charter school and public education grant programs -- the only school choice bills still alive.

But Luna withdrew a technical challenge to the bill, which would allow the State Board of Education to grant at least 100 more charter schools and would make public education grants available to an estimated 1.2 million students.

Texas currently has 20 charter schools, the maximum allowed under a pilot project the 1995 Legislature established. Charter schools, which operate free of most state rules, receive state funding for the public school students who elect to transfer to them.

Lawmakers also established the public education grants in 1995, but few students have taken advantage of them. Under proposed changes in the program, an estimated 1.2 million Texas students would be eligible and lawmakers would sweeten the financial pot to encourage schools to accept students wanting to escape low-performing campuses.

26 The Dallas Morning News Saturday, May 31, 1997 H

TEXAS & SOUTHWESTMore Texas & Southwest news
on Page 27A, 30-33A, 38A**Plan calls for supervision
of ex-inmates released early****Lawmakers forward welfare, court TV proposals**

Associated Press

AUSTIN — Violent criminals and sex offenders released early from prison would face nonstop supervision under a bill lawmakers forwarded to Gov. George W. Bush.

Mr. Bush and some legislators initially sought to retroactively end the so-called mandatory release program for violent and sex offenders. They gave up that effort after the U.S. Supreme Court ruled such a move unconstitutional in a Florida case.

Lawmakers already have ended the early release law for criminals convicted after September 1994. But thousands of criminals convicted before then remain eligible for the program. It was created in the 1980s to help relieve prison overcrowding.

Under the program, prisoners are required to be released to parole when their actual time served plus good-conduct time credit adds up to their original sentence.

Sex offenders and violent criminals released under the program would be under constant supervision during parole under the bill given a final OK Friday by senators.

A number of other bills were acted on.

Making welfare private

Texas' welfare system could be opened to privatization, with oversight from legislative leaders and the public, under a bill forwarded to Mr. Bush.

The move comes after state officials were stymied by federal officials in a far-reaching effort to let private companies run welfare programs.

The bill given a final approval Friday by the Senate would provide for development of an alternate plan, giving priority to more efficient automation of the system. Federal approval would be sought as needed.

The measure would authorize the Health and Human Services Commis-

LEGISLATURE '97

sion — with approval from the governor and Legislative Budget Board — to develop a plan to allow private companies to carry out welfare-related tasks. The board includes Lt. Gov. Bob Bullock, House Speaker Pete Lancy and other lawmakers.

A special oversight panel of lawmakers would receive information and conduct public hearings around the state as the plan was developed and implemented.

In addition, the commission would have a public hearing within 10 days after the release of a request for bids relating to the plan.

Texas Health and Human Services Commissioner Mike McKinney and other state officials have said privatization could save the state \$120 million of the \$350 million Texas spends annually to administer welfare programs.

'Wheels for Work'

Welfare recipients entering the work force could get cars at a nominal cost under a measure sent to the governor.

A bill by Sen. Rodney Ellis, D-Houston, would require the Texas Work force Commission to establish a "Wheels for Work" program. The program would make donated cars available at low cost to welfare recipients who need only transportation to become employed.

Court TV

Defendants could enter a plea to their crimes by closed-circuit television under a bill sent to Mr. Bush.

Currently, incarcerated defendants must be present in open court to enter a plea or waive their rights. An analysis of the bill by Sen. Teel Bivins, R-Amarillo, says the requirement is burdensome on counties that must transport and supervise such defendants.



Wz-privatizatic

05/19/1997 15:49

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HHS REG DIR RO VI

PAGE 02

Copy to
Bruce Reed
Cynthia Rice
Elean Kagan
Olivia Geller

Dallas Morning News 5/17/97

Problems reported in privatizing welfare

5/17/97

Firms seeking Texas contract cite successes, though most have had troubles elsewhere

By George Rodrigue

Washington Bureau of The Dallas Morning News

WASHINGTON — Virtually all the firms seeking Texas' five-year, \$2 billion contract to run food stamp, Medicaid and cash welfare programs have had significant problems in other states.

Texas Gov. George W. Bush says privatizing welfare will save the state \$10 million a month.

Officials in states that expected to save money by privatizing social services — using some of the same firms bidding in Texas — report cost overruns, slow performance and high error rates. Automation of California's child-support enforcement system, for example, has cost triple the promised price and is only about half done.

Opponents of Mr. Bush's plans — ranging from state employees'

unions to welfare advocates — say such stories are all too common.

"What these companies promise and what they deliver are very different," said Debbie Goldman, an economist at the Communications Workers of America in Washington. "They promise things so they can get a foot in the door. Then they say, 'Well, it's more complex than we thought. We have to charge more.' But by then they have the job."

The firms vying for Texas' business say they have had far more successes than problems. They — and Mr. Bush — argue that savings are almost inevitable when flexible entrepreneurs remake rigid bureaucracies, inject new technologies and restructure decades-old

Please see PROBLEMS on Page 32A.

05/19/1997 15:49 2147673617

HHS REG DIR RD VI

PAGE 03

Continued from Page 1A.
programs.

"We have greater use of technology. . . . We can set (productivity) standards for our staff. . . . We can give rewards," said Audrey Rowe, senior vice president and managing director of children and family services for Lockheed Martin Information Management Services.

When she worked in state government, she said, even simple things such as pizza parties for successful teams of workers raised eyebrows.

Welfare advocates, meanwhile, are concerned that the Texas approach will make social services harder to get for the people they're designed to support.

"We don't want to see caseloads reduced because offices were closed and parents couldn't find anyone to help them," said Deborah Weinstein, a spokeswoman for the Children's Defense Fund.

Some experts say that even successful privatization risks making the state captive to a contractor. Lacking the ability to take over if the contractor does badly, a state could be forced to grant requests for higher payments, said Dr. Robert A. Dorwart, a Harvard University expert on privatization of mental health services.

"There are reasons . . . not to just jump in and assume that everything that is being done by the government can be done by the private sector," he said.

Texas' precise privatization plans are a matter of great debate, in Washington and in Austin. After the White House this week rejected Mr. Bush's plan for total privatization, the governor asked the Legislature to grant authority for the

state to contract out as much of the program as Washington permitted.

Texas' would-be contractors say that social-services contracts in general are challenging. They require expertise, hard work, good relationships with state officials and a bit of luck. Absent any of those elements, problems can arise:

■ Lockheed Martin Information Management Services, which leads a team of bidders for the Texas welfare job including IBM and the Texas Workforce Commission, promised to build California an automated child-support enforcement system by 1998. Total price tag: \$99 million.

"Now it's \$304 million. There have been major cost overruns," said state spokeswoman Corrine Chee. So far, 23 of the state's 38 counties are served. "And we are not rolling out in any more counties," she added, "because there have been problems with the system. It is just not working properly."

Lockheed Martin said some of the problems stem from changes the federal government imposed after the contract was issued. Ms. Chee agreed but added that many are Lockheed Martin's responsibility. A consulting firm recently told the state it found 1,400 errors caused by Lockheed Martin, the state — or both.

A recent legislative report said there is no guarantee that the system will ever work statewide.

Lockheed Martin cites successes elsewhere, such as a dramatic boost in child-support collections in the six months since it won a contract in Baltimore.

■ Electronic Data Systems, which leads a second team of bid-

ders including Unisys and the Texas Department of Human Services, recently had a Virginia Medicaid contract canceled. Officials said the contract was 20 months late.

State officials, who are negotiating with EDS, declined requests for interviews. In a letter to EDS, the state's Medicaid director, Joseph M. Teefey, said Virginia "has relied to its detriment on EDS' repeated promises regarding the level of EDS' technical experience and competence, and the extent of EDS' commitment to this project."

EDS spokesman Randy Dove called the problem "a contractual dispute," which the firm hopes to resolve amicably.

Among its success stories, EDS lists Texas' Medicaid system, which it has run since 1977. The firm says it has saved Texas hundreds of millions of dollars by cutting waste and fraud.

■ Unisys ran into trouble on two large contracts in Florida.

State officials said they imposed fines of \$4 million due to slow performance and high error rates in their employee health insurance program.

A Unisys executive further displeased state leaders by declining to appear before a grand jury, according to Florida Department of Law Enforcement spokeswoman Mandy Wettstein.

Gail Sittig, a spokeswoman for Florida Gov. Lawton Chiles, credits Unisys with trying hard to get things right. But the effort was much more complex than the company had thought it would be, she said.

"They had originally thought they would run it with 150 people," she said. "There were times when

they had 500. And we've still had times when we had error rates (in claims processing) that were way out of sync with industry standards. Over 20 percent. It's unbelievable."

Unisys' administration of Florida's Medicaid contract also came under fire, after several well-publicized thefts.

This spring, Darien Jerome Reynolds pleaded guilty to stealing \$226,614 from Medicaid funds. Officials said that Mr. Reynolds, an \$8 per hour temporary employee, had been stationed in a room with boxes full of blank checks and the rubber stamp needed to sign them. He wrote checks to his sister for 14 months, until a bank employee noticed something unusual and called investigators.

Florida prosecutors also charged that a ring of thieves, including at least one low-level Unisys employee, had stolen \$20 million in Medicaid funds.

Unisys spokesman Brian Daly declined to comment on the situation in Florida. He noted, however, that Louisiana praises Unisys for saving it \$130 million over the past few years by blocking fraudulent or unnecessary Medicaid claims.

■ Andersen Consulting, Texas' third major bidder, has been criticized by auditors in Texas and Nebraska.

Costs of a Nebraska effort to unify food stamp, welfare and Medicaid administration have ballooned from \$23 million in 1994 to at least \$44 million as of February, officials said.

"And there's no light at the end of the tunnel," said state Auditor John Breslow. Among other things, he said, Andersen has won an \$8 million contract to teach state em-

ployees how to use the computer system it built for \$30 million.

"I've been auditor for six years now and this is the most wasteful project I have ever heard of," Mr. Breslow said. "It's like pouring money down a deep, dark hole."

Andersen Consulting did not respond to requests for an interview. Mr. Braslow acknowledged some of Nebraska's problems were caused by the state. The unified social services system is functioning, he said, but still has a lot of bugs.

In January, Texas' auditors criticized Andersen for its efforts to modernize the state's child-support enforcement system, which they said was \$63.7 million over budget and four years behind schedule.

Changing federal requirements was part of the problem, the auditors said, but so was Andersen: "System testing required more hours than estimated. . . . A large number of errors were detected. . . . The project required hours for project planning that were not included in Andersen's schedule. . . ."

In a written reply, Andersen said the state had mischaracterized its work and blamed it for problems beyond the firm's control or responsibility.

Texas' problems were not unique. This month, the U.S. Health and Human Services Department reported that various contractors in 27 states failed to deliver as promised on child-support systems. Twenty-four states said their contractors did "poor-quality" work.

Speaking for Lockheed Martin, Ms. Rowe conceded that the California child-support enforcement system had been a nightmare. Even so, she said, the firm never walked

away from the project and learned valuable lessons it hopes to apply in Texas.

Like the Texas contract, California's was a massive statewide effort.

But county officials were used to doing things their own way, Ms. Rowe said, and many demanded modifications to the standard system. None of those individual changes caused major problems. But together, they wreaked havoc.

"We started finding ourselves with systems failures, things happening that we didn't know why they were happening," Ms. Rowe said.

The lesson, she added, is that states such as Texas will require a standard set of "core services" and procedures. Then contractors can customize systems for counties with special problems, such as teenage parents or Spanish-speaking residents, she said.

Ms. Goldman of the Communications Workers of America said the security breaches in Florida illustrate the potential dangers of abandoning well-tested government procedures in a rush to privatize.

A spokesman for EDS agreed that the danger exists and said his firm chose to work with the Texas Department of Human Services because it wanted to avoid that peril.

"We don't think the wheel needs re-inventing. We do believe that there are ways to improve it," said Louis Matrone, EDS' vice president for state and local government. "We have been struggling for two years to see that we bring the best that the public has to offer and the best that the private sector has to offer."

Staff writer Bill Minutaglio in Austin contributed to this report.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

WR - privatization

May 23, 1997

MEMORANDUM FOR KEVIN THURM
BRUCE VLADECK
OLIVIA GOLDEN
BRUCE REED
ELENA KAGAN
CYNTHIA RICE
EMILY BROMBERG

FROM:


John Monahan

Attached you will find legislation and amendments passed on Tuesday by the Texas Senate regarding TIES. As you can see, the Senate bill authorizes privatization to the extent permitted by the federal government subject to oversight by the Legislative Budget Board (a bipartisan, bicameral entity composed of legislative leaders) and a special TIES oversight committee. Governor Bush does not oppose the Senate bill.

You may recall that the Texas House overwhelmingly approved a bill which provides specific authorization only for development of a new computer system and remains silent on the issue of privatization of the eligibility process.

On Thursday, May 22, the Texas House appointed its conferees on this bill, and the Senate is expected to follow suit imminently. Sources in Austin predict a very short conference.

Attachment

05/21/1997 08:23 2147673617

HHS REG DIR RD VI

PAGE 83

MAY 20 '97 18:29 FR SENATE FINANCE COMM. 512 463 5752 TO 92147673209

P.02/08

75(A) HB 2777 Senate committee report - Bill Text

http://lis/cgi-bin/lis/viewtext.o...B&BILLSUFFIX=02777&VERSION=4&TYPE=

1-1 By: Junell, et al. (Senate Sponsor - Ratliff) H.B. No. 2777
 1-2 (In the Senate - Received from the House May 2, 1997;
 1-3 May 5, 1997, read first time and referred to Committee on Health
 1-4 and Human Services; May 17, 1997, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays
 1-6 0; May 17, 1997, sent to printer.)
 1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2777 By: Moncrief
 1-8 & BILL TO BE ENTITLED
 1-9 AN ACT
 1-10 relating to the eligibility determination and service delivery by
 1-11 health and human service agencies, the Texas Workforce Commission
 1-12 and other agencies.
 1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-14 SECTION 1. Sections 9.12(a), (b) and (d), Chapter 655, Acts
 1-15 of the 74th Legislature, Regular Session, 1995, are amended to read
 1-16 as follows:
 1-17 (a) ~~(Not later than September 1, 1996, the Health and Human~~
 1-18 ~~Services Commission, subject to the availability of funds to the~~
 1-19 ~~commission and to health and human services agencies, shall have~~
 1-20 ~~completed the development and substantial implementation of a plan~~
 1-21 ~~for an integrated eligibility determination and service delivery~~
 1-22 ~~system for health and human services at the local and regional~~
 1-23 ~~levels.) In consultation and coordination with the Legislative~~
 1-24 ~~Budget Board as to the expenditure of appropriated funds, the~~
 1-25 ~~Health and Human Services Commission shall, subject to the approval~~
 1-26 ~~of the Governor, develop and implement a plan for the integration~~
 1-27 ~~of services and functions relating to eligibility determination and~~
 1-28 ~~service delivery by health and human services agencies, the Texas~~
 1-29 ~~Workforce Commission, and other agencies. The plan shall (specify~~
 1-30 ~~the dates by which all elements of the plan must be implemented)~~
 1-31 ~~include a reengineering of eligibility determination business~~
 1-32 ~~processes, streamlined service delivery, a unified and integrated~~
 1-33 ~~access to benefits and services for clients. In developing and~~
 1-34 ~~implementing the plan, the commission may contract for appropriate~~
 1-35 ~~professional and technical assistance, and shall also consult with~~
 1-36 ~~agencies whose programs are included in the plan, including the~~
 1-37 ~~Texas Department of Human Services, the Texas Department of Health,~~
 1-38 ~~and the Texas Workforce Commission. In developing and implementing~~
 1-39 ~~the plan, the commission may utilize the staff and resources of~~
 1-40 ~~agencies whose programs are included in the plan. If requested by~~
 1-41 ~~the commission, such agencies shall cooperate with the commission~~
 1-42 ~~to provide available staff and resources that will be subject to~~
 1-43 ~~the direction of the commission.~~
 1-44
 1-45 (b) The integrated eligibility determination and service
 1-46 delivery system shall be developed and implemented to achieve (at
 1-47 least one percent) savings in the cost of providing
 1-48 administrative and other services and staff resulting from
 1-49 streamlining and eliminating duplication of services. The
 1-50 commission may ~~(shall)~~ use the resulting savings, subject to any
 1-51 spending limitation in the General Appropriations Act, to further
 1-52 develop the integrated system and to provide other health and human
 1-53 services.
 1-54 (d) ~~(In consultation and coordination with the State Council~~
 1-55 ~~on Competitive Government, the commission shall make and implement~~
 1-56 ~~recommendations on services or functions of the integrated~~
 1-57 ~~eligibility determination and service delivery system that could be~~
 1-58 ~~provided more effectively through the use of competitive bidding or~~
 1-59 ~~contracting with local governments and other appropriate~~
 1-60 ~~entities. If the commission determines that private contracting~~
 1-61 ~~may be effective) Upon receipt by the state of any necessary~~
 1-62 ~~Federal approval, the commission may, subject to approval of the~~
 1-63 ~~Legislative Budget Board and Governor, contract for implementation~~
 1-64 ~~of the plan or parts of the plan, if the commission determines that~~
 2-1 ~~contracting may advance the objectives of subsections (a) and (b).~~

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HHS REG DIR RD VI

PAGE 04

FMT 20 '97 18:29 FR SENATE FINANCE COMM. 512 463 5752 TO 92147673209

P.03/09

75(A) HB 2777 Senate committee report - Bill Text

http://lis/cgi-bin/lis/viewtext.c...B&BILLSUFFIX=02777&VERSION=4&TYPE=I

2-2 ~~[automate the determination of client eligibility by contracting~~
 2-3 ~~with a private firm to conduct application processing]. The~~
 2-4 ~~design, development, and operation of an automated data processing~~
 2-5 ~~system to support the plan may be financed through the issuance of~~
 2-6 ~~bonds or other obligations pursuant to Article 60d, V.A.C.S.~~
 2-7 SECTION 2. The importance of this legislation and the
 2-8 crowded condition of the calendars in both houses create an
 2-9 emergency and an imperative public necessity that the
 2-10 constitutional rule requiring bills to be read on three several
 2-11 days in each house be suspended, and this rule is hereby suspended,
 2-12 and that this Act take effect and be in force from and after its
 2-13 passage, and it is so enacted.
 2-14

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HHS REG DIR RO VI

PAGE 05

MAY 20 '97 18:29 FR SENATE FINANCE COMM. 512 463 5752 TO 92147673209

P.04/09

Floor Amendment No. 1

By Moncrief

Amend CSHB 2777 as follows:

1) On page 1, line ²⁵ 2, delete "the Legislative Budget Board as to the expenditure of appropriated funds" and substitute the following:

the Texas Integrated Enrollment Services Legislative Oversight Committee established under Sec. 531.051, Government Code,

2) On page 1, line ³⁴ 3, insert the following between "Governor," and "develop":

and the Legislative Budget Board,

3) On page 1, line ⁴⁶⁻⁴⁷ 4, insert the following between "achieve" and "savings":

increased quality of and client access to services, and

4) On page 2, after line ⁶ 6, insert a new SECTION 2 to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 2. Chapter 53 i, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. LEGISLATIVE OVERSIGHT

Sec. 531.051. DEFINITION. (a) In this subchapter, "committee" means the Texas Integrated Enrollment Services Legislative Oversight Committee.

(b) In this subchapter, "commission" means the Texas Health and Human Services Commission.

(c) The committee is abolished September 1, 2002.

Sec. 531.052. COMPOSITION OF COMMITTEE; PRESIDING OFFICER.

(a) The committee is composed of:

(1) three members of the senate appointed by the lieutenant governor;

and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

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HHS REG DIR RD VI

PAGE 06

MAY 20 197 18:30 FR SENATE FINANCE COM. 512 463 5752 TO 92147673209

P.05/08

(b) A member of the committee serves at the pleasure of the appointing official.

(c) The lieutenant governor and speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis. The presiding officer shall serve a two-year term expiring February 1 of each odd-numbered year. Sec. 531.053. COMMITTEE POWERS AND DUTIES. (3) The committee shall:

(1) meet at the call of the presiding officer;
(2) receive information about rules proposed or adopted by the commission; and
(3) review specific recommendations for legislation proposed by the commission.

(b) The committee shall advise the commission in the development of the plan and monitor the implementation and efficiency of the Texas Integrated Enrollment Services.

(c) The commission shall, at the committee's request, provide reports and other information relating to the operation of the integrated enrollment system.

(d) The committee may use staff of standing committees in the senate and house of representatives with appropriate jurisdiction, the Department of Information Resources, the State Auditor, Legislative Council and the Legislative Budget Board in carrying out its responsibilities.

Sec. 531.054. REPORT. (a) The committee shall report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each year.

(b) The report must include:
(1) identification of significant problems in the Texas Integrated Enrollment Services, with recommendations for action by the commissioner;
(2) the status of the effectiveness of the Texas Integrated Enrollment Services in providing necessary services to the people of this state, with recommendations for any necessary research; and
(3) recommendations for legislative action.

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HHS REG DIR RO VI

PAGE 07

MAY 20 '97 18:30 FR SENATE FINANCE COMM. 512 463 5752 TO 92147673209

P.06/08

Floor Amendment No. 1a

By: Barrientos

Amend Floor Amendment No. 1 by amending Sec.531.053.(a), by adding a new subsection as follows:

"(4) hold public hearings concerning the development and implementation of the plan in at least four geographically diverse locations in the state.

yes

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HHS REG DIR RO VI

PAGE 08

MAY 20 '97 18:30 FR SENATE FINANCE COMM. 512 463 5752 TO 92147673209

P.07/09

FLOOR AMENDMENT NO. 2

By: B. [Signature]

Amend CSHB 2777 as follows:

On page 2, line 1, after the phrase "of subsections (a) and (b)", insert the following:

Within 10 days after the release of a request for bids, proposals, offers, or other applicable expressions of interest relating to the development or the implementation of a plan for the integration of services and functions relating to eligibility determination and service delivery, the commission shall hold a public hearing and receive public comment on the request. The commission may coordinate with a legislative committee to hold the hearings.

yes

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HHS REG DIR RD VI

PAGE 09

MAY 20 '97 18:30 FR SENATE FINANCE COM. 513 463 3752 TO 92147673209

P.08/08

AMENDMENT NO. 4

BY *[Signature]*

1 Amend C.S.H.B. 2777, committee printing, on page 2, line 7, by
2 inserting a new SECTION 2, as follows, and renumber the remaining
3 SECTIONS appropriately:

4 SECTION 2. Section 11(d) and Section 12, Chapter 885, Acts of
5 the 74th Legislature, Regular Session, 1995, is repealed.

Yes

A
20 A

The Dallas Morning News

Wednesday, May 21, 1997

H

TEXAS & SOUTHWEST**Senate OKs welfare oversight bill**

By Bill Minutaglio

Austin Bureau of The Dallas Morning News

AUSTIN — Any plans for private control of Texas' sprawling welfare system would have to be aired at public hearings and approved by a special legislative committee under a bill passed Tuesday by the Senate.

The measure would require that the governor, the Legislative Budget Board and a legislative oversight committee approve any privatization. It also would call for public hearings in four parts of Texas.

The bill now goes back to the House, where marked differences between it and a House measure approved earlier will be considered.

To date, aside from testimony to legislative committees and forums for prospective bidders, there have been no public hearings on proposals by state officials to hand parts of the welfare system to such firms as EDS, Lockheed Martin and Andersen Consulting.

Those privatization proposals, introduced months ago, have been turned down by the White House. In response, Texas officials, including Gov. George W. Bush, have said they would pursue federal or state legislation to begin the privatization process.

"I think the legislative oversight and the public hearings are fabulous, because what they say is that this has been a process that has been shrouded in secrecy up to this point," said Marcia Kinsey, an analyst with the Center for Public Policy Priorities, an Austin-based organization studying issues affecting low-income Texans.

"They [state lawmakers] are basi-

cally saying they want taxpayers, the citizens and the poor people to have the ability to participate in this process," said Ma Kinsey.

Companies have been vying for a chance to bid on contracts that may be worth \$2.8 billion over five years. Officials for the firms have said they want to pursue similar contracts in other states.

The Texas welfare system supplies millions of elderly, disabled and low-income residents with food stamps, cash and health care.

Advocates for those residents have repeatedly said that privatization would place those who most need public assistance in the hands of profit-minded corporations.

It would also, according to critics of privatization, put thousands of state jobs in jeopardy and endanger the confidentiality of records of clients of those programs.

A version of the welfare bill approved by the House would, unlike the Senate bill, require any privatization to be confined to updating the welfare system computers. Supporters of that House measure said it was a way to protect some state employees and to close the door on the wholesale privatization of the welfare system.

"What this bill does is to put a legislative oversight committee, and the Legislative Budget Board, as well as the governor, in an oversight position to see what we will do in the next two years," said Sen. Bill Ratliff, R-Mount Pleasant, sponsor of the Senate measure.

The amendment creating the oversight was added to the Senate

measure in response to concerns of some lawmakers that they were being excluded from the privatization process. In the last few days, questions about the heavily debated privatization proposal have centered on who would sign off on any future plans.

Sen. Mike Moncrief, D-Fort Worth, added the amendment with the approval of Mr. Bush.

He also added language to the welfare bill that would make "increased quality" and "client access to services" priorities in any future plans for the welfare system.

Sen. Gonzalo Barrientos, D-Austin, added the amendment that would require public hearings on privatization.

Some lawmakers said Tuesday that the track record of the prospective private bidders needs to be carefully weighed.

"Some of these companies planning to bid on this project ... have had major problems with similar projects in other states," said Mr. Moncrief.

Mr. Ratliff, whose measure has been supported by Mr. Bush, said Texas lawmakers "should not tie our hands to not being able to do anything ... in the private sector once we get these mechanical systems set up. We should not restrict ourselves that tightly."

Texas Republicans vow to pass welfare measure

By George Rodrigue

Washington Bureau of The Dallas Morning News

WASHINGTON — Texas Republicans vowed Wednesday to permit privatization of welfare services nationally after spurning tentative Clinton administration offers of a compromise that would let part of the state go private.

"What we ought to do is add [amendments] that would allow any state that concluded that it could serve people better and provide more services by doing it on a competitive [private] basis, that they'll have the right to do it," said Sen. Phil Gramm, R-Texas.

Some Democratic lawmakers said such a bill would never pass.

Democrats also have said the idea of a partial-state experiment deserved study, but Texas Gov. George W. Bush's aides have said the test would be too small to make economic sense.

Federal officials have talked of permitting a test in only about 10 percent of Texas.

Meeting separately with White House Chief of Staff Erskine Bowles

Foes say privatizing won't be approved

and chief domestic policy adviser Bruce Reed, Texas Democrats praised the administration's ban on letting private firms administer welfare, food stamp, Medicaid and job-training programs.

Republicans charged that President Clinton rejected Texas' privatization plans because of pressure from public-employee unions, who fear the move would allow states to lay off (from one-third to two-thirds of their members.

"The president is taking care of organized labor and that is all it amounts to," said House Majority Leader Dick Armey, R-Irving.

An April 4 White House memorandum indicated that opposition from labor factored in Mr. Clinton's decision. That memo also said Mr. Clinton had legal authority to partly waive federal laws that require only government employees to handle food stamp applications.

Mr. Bowles later said that Mr. Clinton believed it was simply un-

wise to turn poverty programs over to private firms, which could conceivably boost profits by cutting services to the needy.

Democratic legislators leaving a separate meeting with Mr. Bowles agreed.

"There are a lot of things I think we could work out with Texas to make sure that it can run an efficient system — and that it is not someone in private business who is deciding whether someone needs food on their table or a roof over their head," said Rep. Gene Green, D-Houston.

Rep. Charles Stenholm, D-Stamford, was the only legislator to attend both meetings with the White House team. He urged his colleagues to wait and see what plan finally emerges from the Texas Legislature, which is trying to reconcile competing House and Senate bills on the matter.

Mr. Stenholm, who has admitted to some frustration at the White House's rejection of Gov. Bush's plan

for a sweeping waiver of food stamp and Medicaid laws, said Republicans had no real hope of getting the two-thirds majorities in the House and Senate that would be required to override Mr. Clinton's decision.

"No way. Not to override a [presidential] veto," he said. "Absolutely not."

Republicans called the issue a matter of principle. "It seems to me that Congress passed a law that says states should be more efficient, they should run their own systems," said Sen. Kay Bailey Hutchison, R-Texas. "Texas did that, and big brother federal government stepped in and said, 'Nice try, but no banana.' And I think that it's just time that we passed a different law."

Even if they cannot pass a welfare-privatization bill over Mr. Clinton's veto, Texas Republicans have other levers at their disposal.

Mr. Gramm's spokesman, Larry Neal, said the senator had put a "hold" on the nomination of Deputy Health and Human Services Secretary Kevin Thurm, who officially vetoed Texas' privatization plans.

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PAGE 03

MAY-23-1997 11:17

109

WR-privatization

Copy to:
- Steele
- Reed
- King
- Rie
- Stahler
- Collier

P.02/02

TOTAL P.02

5-21-97 Dem. mtg in Texas

Green - shouldn't be private in eligibility.

Tachibana - shouldn't privatize elig. determ.

Past efforts - Lockheed/EDS - haven't worked so well.

- Lockheed said p. wouldn't work - go to save \$\$. Can support some aspects of plan. Automatic - OK. But when it comes to dealing w/ insurers... has to be state

Steinbock - Allow lists to be printed - That's all.

Grant The waiver!

- inherent conflicts. Priv bus v. pub health.
- Supportive of Steinbock. We privatized Medicaid. safeguards + recovers. But pub/priv partnership OK.

EDS - Draw Medicaid line

Everyone else - That's the hard stuff - just not eval + make elig determ.

5-21-77

Repub. Mtg - TX

Archer:

Cram: Good govt. policy. Trust oppos. of crisis.

Mukherjee: win-win sit. Facing and in ch health

EB: Substrate optin, w/ time limit, eval.

State rejected.

Graham: Let them do it for 2 yrs; then evaluate

EB: Elg, deliver-care funct- of govt

Cory - what evaluati-?! Just collecting info.

Archer - Ashley is Johnny's elig?!

Also - not a waiver request!

May 13, 1997

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED, CYNTHIA RICE

SUBJECT: ADMINISTRATION DECISION ON TEXAS WELFARE PLAN

Today, HHS provided the state of Texas with written guidance under which the state could release a "request for offers" (RFO) for private contractors to operate state-wide system of offices where residents would apply for Medicaid, food stamps, welfare, and other public assistance. The letter recounts the options HHS and USDA officials discussed with Texas Health and Human Services Commissioner Michael McKinney at their meeting on May 2nd. The Texas proposal is known as TIES, the Texas Integrated Enrollment Services project.

The guidance notes that under current Medicaid and food stamp law:

- The state has broad authority to administer the Temporary Assistance for Needy Families (TANF) program, the block grant created by last year's welfare law, and can use private contractors without limitation there.
- The state can also use private contractors to design and operate information systems, develop and recommend revised eligibility processes, and provide training and assistance in the management of TIES.

However, the guidance says:

- A non-public employee may not take actions involving discretion or value judgments, including all elements of the benefit eligibility determination process that relate to the evaluation of information provided by an applicant or which bears on the eligibility decision.
- In an integrated enrollment system, most if not all activities involving personal contact with an applicant or recipient, including data entry during an interactive discussion with the applicant, have the potential to involve the use of discretion or judgment and must be performed by state merit system employees.

Texas Welfare Plan
5/13/97

Talking Points

- The welfare reform bill passed by the Congress and signed by the President allowed states to privatize their cash assistance programs, but did not change the law for Medicaid or food stamps.
- The President believes states need flexibility to make welfare what it was meant to be: a second chance, not a way of life, a system that helps people draw a paycheck instead of a welfare check. That's why he signed the welfare reform law last year in the face of much opposition from many in his party.
- We're concerned that allowing a state to privatize Medicaid and food stamp operations will not be in the best interests of program beneficiaries.
- Current Medicaid and food stamp law makes clear that eligibility determination must be performed by impartial, merit-based public employees.
- We offered the state of Texas the chance to conduct a sub-state demonstration of privatization, but the state declined.
- The letter we sent Texas yesterday allows the state to proceed with contracting out for a statewide computer system to do integrated enrollment. The state is also free to privatize its welfare operations.

Q &As

Question: Haven't you blocked the state from developing an integrated enrollment system?

Answer: No. The state could develop an integrated enrollment system so long as public employees perform the essential eligibility determination functions. The state could issue a "request for offers" seeking private contractors for those functions which the law allows to be privatized -- designing and operating information systems, developing and recommending revised eligibility processes, and providing management training and assistance. The state could also privatize all aspects of the Temporary Assistance for Needy Families program.

Question: How can you claim that data entry is eligibility determination?

Answer: Any activity which involves discretion and value judgments can affect the eligibility decision. In an integrated process, the person who asks the applicant questions about eligibility may be the same one that types it into a computer.

Question: Doesn't your guidance contradict the welfare reform law signed by the President which grants states the flexibility to run their own programs?

Answer: No. Based on the welfare law that the President signed in August, Texas already has the authority to proceed now with the welfare portion of their proposal. However, Congress and the President retained the laws on Medicaid and food stamps. Our guidance to Texas is consistent with current law.

Question: How can you say the President supports state flexibility when he denies Texas' proposal?

Answer: The President has a strong record of supporting state flexibility. First, after granting 80 waivers to 43 states to test innovative strategies to move people from welfare to work, he signed the welfare law which allows states to reform welfare without seeking permission from Washington. The President has also granted 13 Medicaid waivers to help states make their programs more efficient and effective. The President clearly supports state flexibility; however his first priority is protecting beneficiaries.

Question: Texas says it would expand health care to an additional 150,000 needy children with the savings generated from TIES. How could the President oppose that?

Answer: Obviously, the President supports expanding health care coverage to uninsured children -- his budget, and the budget agreement he negotiated with Congress, would expand coverage to 5 million more children. But he does not support jeopardizing health and nutritional benefits to seniors, the disabled, and families already on Medicaid in order to expand coverage to additional children.

Question: Would the Administration approve a sub-state waiver?

Answer: HHS and USDA officials told Texas representatives that they would consider a sub-state project which was time limited and had an evaluation, so we could find out the effects. However, Commissioner McKinney apparently indicated that the state was not interested in such an option.

Question: Didn't the President's senior advisers propose another solution -- one that would have allowed more privatization -- but the President rejected it?

Answer: The President did ask us to take another look at this issue. His principal interest is what's best for families who rely on Medicaid and Food Stamps, and he wanted to make sure that the decision would be consistent with that interest.

Question: Why did it take the Administration so long to give Texas an answer?

Answer: The Texas proposal is a very complicated project involving multiple federal programs and agencies. There were a great many legal questions to consider. And we wanted to make sure that the decision we reach was right and would protect families who rely on Medicaid and food stamps.

Question: Isn't this just a payback to the unions?

Answer: Obviously, the unions feel strongly about this; so does the state of Texas. We met with both during the decision-making process. However, we made our decision based on what we think is best for the program beneficiaries.

Question: Why do you assume that public employees are better than private ones in protecting the rights of beneficiaries?

Answer: We are simply following the laws passed by Congress which are designed to let states seek innovative approaches to improve the efficiency of benefit programs while protecting the rights of beneficiaries. Making decisions about the eligibility of needy people for benefits is one of the most fundamental functions of government.

Question: Doesn't the Medicaid program now allow private contractors to enroll individuals?

Answer: No. Private employees, such as hospital workers, can only gather information and forward it to state workers. They cannot evaluate it or make eligibility determinations.

Question: Would the President support an legislative amendment to allow Texas -- and other states -- proceed?

Answer: We opposed granting individual state waivers legislatively -- that authority rests in the executive branch. We would also oppose legislation which would completely privatize or block grant Medicaid or food stamps. We would of course want to see the language before commenting on any particular amendment.

Question: Why couldn't you just let the state release the Request for Offers and see what particular proposals come back?

Answer: We are letting the state release the RFO. But we thought it was only fair to let the state know what type of contracts we would approve and what type we would not since the exact nature of the TIES system would depend upon the terms of the agreement between Texas and the contractor.

Question: We understand you're planning to let Wisconsin privatize but not Texas. How is that fair?

Answer: We have not responded to Wisconsin's request. However, their proposal is very different from Texas' -- it would allow private contractors for food stamps in only a limited number counties, in a time limited demonstration which would be independently evaluated.

Copy to:
Bruce Reed
Cynthia Rice
Elean Kagan
Oliver Gabel

Dallas Morning News 5/17/97

Problems reported in privatizing welfare

5/17/97

Firms seeking Texas contract cite successes, though most have had troubles elsewhere

By George Rodriguez
Business Bureau of the Dallas Morning News

WASHINGTON — Virtually all the firms seeking Texas' five-year, \$2 billion contract to run food stamp, Medicaid and cash welfare programs have had significant problems in other states.

Texas Gov. George W. Bush says privatizing welfare will save the state \$10 million a month.

Officials in states that expected to save money by privatizing social services — using some of the same firms bidding in Texas — report cost overruns, slow performance and high error rates. Automation of California's child-support enforcement system, for example, has cost triple the promised price and is only about half done.

Opponents of Mr. Bush's plans — ranging from state employees'

unions to welfare advocates — say such stories are all too common.

"What these companies promise and what they deliver are very different," said Debbie Goldman, an economist at the Communications Workers of America in Washington. "They promise things so they can get a foot in the door. Then they say, 'Well, it's more complex than we thought. We have to charge more.' But by then they have the job."

The firms vying for Texas' business say they have had far more successes than problems. They — and Mr. Bush — argue that savings are almost inevitable when flexible entrepreneurs remake rigid bureaucracies, inject new technologies and restructure decades-old. Please see PROBLEMS on Page 21A.

Continued from Page 1A.
programs.

"We have greater use of technology. . . . We can set [productivity] standards for our staff. . . . We can give rewards," said Audrey Rowe, senior vice president and managing director of children and family services for Lockheed Martin Information Management Services.

When she worked in state government, she said, even simple things such as pizza parties for successful teams of workers raised eyebrows.

Welfare advocates, meanwhile, are concerned that the Texas approach will make social services harder to get for the people they're designed to support.

"We don't want to see caseloads reduced because offices were closed and parents couldn't find anyone to help them," said Deborah Weinstein, a spokeswoman for the Children's Defense Fund.

Some experts say that even successful privatization risks making the state captive to a contractor, lacking the ability to take over if the contractor does badly, a state could be forced to grant requests for higher payments, said Dr. Robert A. Dorwart, a Harvard University expert on privatization of mental health services.

"There are reasons . . . not to just jump in and assume that everything that is being done by the government can be done by the private sector," he said.

Texas' precise privatization plans are a matter of great debate, in Washington and in Austin. After the White House this week rejected Mr. Bush's plan for total privatization, the governor asked the Legislature to grant authority for the

state to contract out as much of the program as Washington permitted.

Texas' would-be contractors say that social-services contracts in general are challenging. They require expertise, hard work, good relationships with state officials and a bit of luck. Absent any of those elements, problems can arise:

■ Lockheed Martin Information Management Services, which leads a team of bidders for the Texas welfare job including IBM and the Texas Workforce Commission, promised to build California an automated child-support enforcement system by 1995. Total price tag: \$99 million.

"Now it's \$304 million. There have been major cost overruns," said state spokeswoman Corrine Chee. So far, 23 of the state's 38 counties are served. "And we are not rolling out in any more counties," she added, "because there have been problems with the system. It is just not working properly."

Lockheed Martin said some of the problems stem from changes the federal government imposed after the contract was issued. Ma Chee agreed but added that many are Lockheed Martin's responsibility. A consulting firm recently told the state it found 1,400 errors caused by Lockheed Martin, the state — or both.

A recent legislative report said there is no guarantee that the system will ever work statewide.

Lockheed Martin cites successes elsewhere, such as a dramatic boost in child-support collections in the six months since it won a contract in Baltimore.

■ Electronic Data Systems, which leads a second team of bid-

ders including Unisys and the Texas Department of Human Services, recently had a Virginia Medicaid contract canceled. Officials said the contract was 20 months late.

State officials, who are negotiating with EDS, declined requests for interviews. In a letter to EDS, the state's Medicaid director, Joseph M. Teehey, said Virginia "has relied to its detriment on EDS' repeated promises regarding the level of EDS' technical experience and competence, and the extent of EDS' commitment to this project."

EDS spokesman Randy Dove called the problem "a contractual dispute," which the firm hopes to resolve amicably.

Among its success stories, EDS lists Texas' Medicaid system, which it has run since 1977. The firm says it has saved Texas hundreds of millions of dollars by cutting waste and fraud.

■ Unisys ran into trouble on two large contracts in Florida.

State officials said they imposed fines of \$4 million due to slow performance and high error rates in their employee health insurance program.

A Unisys executive further displeased state leaders by declining to appear before a grand jury, according to Florida Department of Law Enforcement spokeswoman Mandy Weinstein.

Gail Strig, a spokeswoman for Florida Gov. Lawton Chiles, credits Unisys with trying hard to set things right. But the effort was much more complex than the company had thought it would be, she said.

"They had originally thought they would run it with 150 people," she said. "There were times when

they had 500. And we've still had times when we had error rates [in claims processing] that were way out of sync with industry standards. Over 20 percent. It's unbelievable."

Unisys' administration of Florida's Medicaid contract also came under fire, after several well-publicized thefts.

This spring, Darton Jerome Reynolds pleaded guilty to stealing \$226,614 from Medicaid funds. Officials said that Mr. Reynolds, an \$8 per hour temporary employee, had been stationed in a room with boxes full of blank checks and the rubber stamp needed to sign them. He wrote checks to his sister for 14 months, until a bank employee noticed something unusual and called investigators.

Florida prosecutors also charged that a ring of thieves, including at least one low-level Unisys employee, had stolen \$20 million in Medicaid funds.

Unisys spokesman Brian Daly declined to comment on the situation in Florida. He noted, however, that Louisiana praises Unisys for saving it \$130 million over the past few years by blocking fraudulent or unnecessary Medicaid claims.

■ Andersen Consulting, Texas' third major bidder, has been criticized by auditors in Texas and Nebraska.

Costs of a Nebraska effort to unify food stamp, welfare and Medicaid administration have ballooned from \$23 million in 1994 to at least \$44 million as of February, officials said.

"And there's no light at the end of the tunnel," said state Auditor John Breslow. Among other things, he said, Andersen has won an \$8 million contract to teach state em-

ployees how to use the computer system it built for \$30 million.

"I've been auditor for six years now and this is the most wasteful project I have ever heard of," Mr. Breslow said. "It's like pouring money down a deep, dark hole."

Andersen Consulting did not respond to requests for an interview. Mr. Breslow acknowledged some of Nebraska's problems were caused by the state. The unified social services system is functioning, he said, but still has a lot of bugs.

In January, Texas' auditors criticized Andersen for its efforts to modernize the state's child-support enforcement system, which they said was \$63.7 million over budget and four years behind schedule.

Changing federal requirements was part of the problem, the auditors said, but so was Andersen: "System testing required more hours than estimated. . . . A large number of errors were detected. . . . The project required hours for project planning that were not included in Andersen's schedule. . . ."

In a written reply, Andersen said the state had mischaracterized its work and blamed it for problems beyond the firm's control or responsibility.

Texas' problems were not unique. This month, the U.S. Health and Human Services Department reported that various contractors in 27 states failed to deliver as promised on child-support systems. Twenty-four states said their contractors did "poor-quality" work.

Speaking for Lockheed Martin, Ms. Rowe conceded that the California child-support enforcement system had been a nightmare. Even so, she said, the firm never walked

away from the project and learned valuable lessons it hopes to apply in Texas.

Like the Texas contract, California's was a massive statewide effort.

But county officials were used to doing things their own way, Ms. Rowe said, and many demanded modifications to the standard system. None of those individual changes caused major problems. But together, they wreaked havoc.

"We started finding ourselves with systems failures, things happening that we didn't know why they were happening," Ms. Rowe said.

The lesson, she added, is that states such as Texas will require a standard set of "core services" and procedures. Then contractors can customize systems for counties with special problems, such as teenage parents or Spanish-speaking residents, she said.

Ms. Goldman of the Communications Workers of America said the security breaches in Florida illustrate the potential dangers of abandoning well-tested government procedures in a rush to privatize.

A spokesman for EDS agreed that the danger exists and said his firm chose to work with the Texas Department of Human Services because it wanted to avoid that peril.

"We don't think the wheel needs re-inventing. We do believe that there are ways to improve it," said Louis Matrone, EDS' vice president for state and local government. "We have been struggling for two years to see that we bring the best that the public has to offer and the best that the private sector has to offer."

Staff writer Bill Minutaglio in Austin contributed to this report.

Elena - 6-2878
from KA

Whose welfare?



Open the door, carefully, to private companies

IN TEXAS, as everyone knows, spending on the poor is as popular as a rattlesnake at a picnic. And President Bill Clinton, as everyone also knows, has a backbone of reptilian sinuosity when dealing with public-sector unions. It is therefore no surprise that Mr Clinton has decided to veto large parts of a plan that would have allowed businesses in Texas to run social-service programmes. But it was the wrong decision, made for the wrong reasons.

The governor of Texas, George W. Bush (a red-hot Republican hope for 2000) wanted to contract out the administration of about 30 programmes—including income support, nutrition supplements, food stamps and the Medicaid programme for the poor—to a private company or consortium. His aim was simple: to improve efficiency and save money. At present, social services in Texas cost \$550m a year to run. Business and government officials think privatisation could cut these costs by 20-30%.

Mr Bush's plan would have been the most profound, and provocative, change in the delivery of social services yet attempted. Claimants who go to the benefits office today deal with a (usually surly) public servant, as they have done since Roosevelt's New Deal brought in benefits for the needy in the first place. Under the Texas proposal, they might have made

their case to a private employee—who might, for example, judge that since their earnings had gone up, their allotment of food stamps should go down.

The White House could not stomach that. Private workers, it said, should not be in a position to determine eligibility for food stamps and Medicaid. Only public officials should make such decisions, because they operate with the public good in mind. Private companies, especially in hard-bitten states like Texas, care mostly about their shareholders and about the bottom line. Privatising social spending—pass the Kleenex!—could enrich big business at the expense of widows and orphans.

This argument would be more convincing if public-sector employees were really so high-minded, and did not often care more about keeping their own jobs than helping the poor, and if it did not fly in the face of a trend already established, partly by Mr Clinton himself. Since the 1970s, American social policy has been drifting steadily towards private provision. Government may still be the arranger—deciding which benefits should exist, and broadly who should get them—but private companies are increasingly the administrators. The government, for example, issues vouchers with which the poor can buy private housing, and pays non-profit groups to

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LEADERS

run orphanages. Besides, in the welfare bill passed last summer, when the national system of income support was handed over to the states, the states were explicitly allowed to contract out this programme to firms who could decide who was eligible and who was not. Texas is simply taking the logical next step.

Necessary safeguards

All that said, the administration has one legitimate fear: that private companies, if given their heads, may run social services so leanly and meanly that deserving cases may be turned away. The answer to this, however, is simple enough: keep government as the final arbiter. Private providers of social services should be on formal contracts with the government, and accountable to it. If they are determining eligibil-

ity, they should be told which criteria to apply. Incentives should be crafted so that bad habits never start—no reward for, say, tossing four-year-olds off Medicaid. Any profits should come from savings in administrative costs, and not from reductions in the numbers of people legitimately on the rolls. And if the companies do a bad job, fire them.

With government peering over their shoulders, private companies would probably behave themselves. Besides, they have another incentive: preserving their own reputations. Turn down the claim of a sick child or a pregnant mother, and it will be on the evening news in an instant. Such motives are not particularly high-minded; but they may still result in social services that are run more efficiently and effectively than government can manage. Wasn't this what "ending welfare as we know it" was meant to be all about?

THE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAY 13 1997

Michael D. McKinney, M.D.
Commissioner
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

Dear Commissioner McKinney:

I am writing to follow up on our most recent meeting and to respond to your letter dated March 5, 1997 to me concerning the Texas Integrated Enrollment Services (TIES) project. You asked that I provide, on behalf of the Administration, guidance under which Texas could release the TIES request for offers (RFO), if it so chooses.

In this letter, I describe the current status of our discussions, the flexibility available to the State under current law, the limitations regarding functions which must be performed by State merit system employees, and next steps in the process of moving forward with the TIES project. Because Texas is considering an integrated eligibility system, I address both Medicaid and Food Stamp policy in this letter, the content and language of which have been approved by the Department of Agriculture. Official notification by the Food and Consumer Service (FCS) of the Department of Agriculture will be provided to you by the FCS regional office.

Current Status of Our Discussions

Our staffs have been working together to resolve many issues related to the development of the TIES project, a highly complex undertaking by the State that involves the integration of three large Federal programs (Temporary Assistance for Needy Families, Medicaid and Food Stamps), as well as a number of other Federal and State programs. The State has submitted for review a draft RFO which seeks innovative approaches to the delivery of public services. The draft RFO calls for proposals which would replace the State's computer system and which would re-engineer the methods by which eligibility is determined. Among the important technical and policy issues potentially raised by the draft RFO is the fundamental question of the extent to which functions historically performed by State merit system employees could be performed by private contractors.

The State has not submitted an actual proposal to privatize State functions, nor requested a waiver of any Federal statutes or regulations. Rather, we have engaged in discussions so that the State would be in a position to communicate to the vendor

Page 2 - Commissioner McKinney

community any restrictions regarding those activities which could be performed by non-merit system, non-State employees (hereinafter "non-public employees"). Recognizing that you did not express interest in discussing a time-limited, sub-State demonstration during last week's meeting, this letter addresses the limitations set forth in Food Stamp and Medicaid law and regulations.

Flexibility Available in Current Statutes and Regulations

Current Food Stamp and Medicaid statutes, regulations and precedent provide the State with the opportunity to automate and re-engineer business processes, as well as to use contract staff to perform a number of functions. Such functions include design, development and operation of the large and complex information system which the State expects to implement in TIES. The State could also employ contract staff to develop and recommend an integrated and re-engineered eligibility process for the programs included in TIES. Contract staff could provide training and assist management in the transition to TIES. In addition, as you know, Texas has very broad authority to administer the Temporary Assistance for Needy Families (TANF) program and, with respect to the administration of TANF, can use non-public employees without limitation.

Therefore, significant opportunities exist for the State to take advantage of the efficiencies and expertise available through the vendor community in developing and administering TIES. There are, however, limitations imposed by law on contractor involvement related to client certification and eligibility determination, as described below.

Extent of Work by Non-Public Employees

Section 1902 of the Social Security Act and section 11(e)(6) of the Food Stamp Act and implementing regulations reflect the principle that most activities included in the eligibility determination process (referred to as the certification process in the Food Stamp Act) must be performed by public agencies. A non-public employee may not take actions involving discretion or value judgments, including all elements of the eligibility determination process that relate to the evaluation of information provided by an applicant or bearing on the eligibility decision.

Redesigning the eligibility determination process could have the effect of merging discretionary and non-discretionary activities. Whereas previously a series of separable administrative steps occurred as part of the eligibility determination process, current technology may enable the State to combine multiple steps into a single, seamless process. The initial contact, application, data entry, interview process, request for and

Page 3 - Commissioner McKinney

evaluation of appropriate documentation, as well as the resulting eligibility decision and benefit calculation, may no longer necessarily be separable and sequential steps. To attempt to separate certain portions of the eligibility determination process for the purpose of isolating individual activities involving discretion would seem to defeat the State's purpose in integrating and streamlining program enrollment.

It is more appropriate to restate the intent of these provisions -- i.e., in an integrated and streamlined process, most if not all activities involving personal contact with an applicant or recipient, including data entry during an interactive discussion with the applicant, have the potential to involve the use of discretion or judgment, and to directly influence or affect the eligibility determination process. Therefore, these activities, and any other activities in which specific eligibility criteria are discussed with an applicant or eligibility-related information is collected and evaluated, must be performed by a State merit system employee.

As we discussed in our meeting, there are narrow instances in which Medicaid and Food Stamp law and regulations permit involvement of non-public employees for the purpose of expanding and enhancing State outreach efforts. In the outstationing provisions of the Medicaid program, non-public employees are permitted to perform a number of initial processing activities, but are not permitted to evaluate the information presented by the applicant, or make the actual eligibility determination. Under the Food Stamp Program, volunteers may simply assist potential clients in filing applications with the State. In both cases, these non-public employees are precluded from engaging in activities that could have the effect of screening out potential applicants. Activities involving the use of discretion that could result in potential applicants being screened out must be performed by State merit system employees. A significant non-State presence in the integrated enrollment process could result in some screening out of potential applicants by non-public employees.

Possible Next Steps

The State may release the draft RFO, under the condition that the State include the applicable language from this letter in the draft RFO. HHS will approve Federal matching funds for project planning activities for the costs incurred through the planning phase.

In order for HHS to consider approving and funding a contract which may result from release of the RFO, the State must submit an implementation advanced planning document (IAPD) for HHS' prior approval following the solicitation process, in accordance with the rules at 45 CFR Part 95, Subpart F. The IAPD must meet

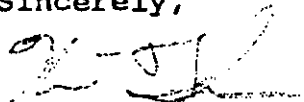
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the requirements specified in the cited rules and provide a rigorous and positive cost benefit analysis for the project. The State may want to advise potential offerors to make use of HHS' cost benefit analysis guidance for State systems. We will consider HHS funding for the actual project itself at such time as the State submits an IAPD for approval by the Federal agencies.

HHS and USDA staff are available to continue their ongoing discussions with your office. Mark Ragan, Director of the Office of State Systems, Administration for Children and Families or his staff will be in contact with your office shortly. Ruthie Jackson, FCS Regional Administrator will also be in contact with your office to advise you of FCS funding.

I want to express my appreciation for your understanding of the complex issues raised during our consideration of the TIES project. I also appreciate the time and effort you and your staff have contributed towards moving these issues to resolution. If you have any questions concerning the content of this letter, please do not hesitate to call me or Mr. Ragan at (202) 401-6960.

Sincerely,



Kevin Thurm

THE WHITE HOUSE
WASHINGTON

March 9, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: BRUCE REED *BR/ck*

SUBJECT: UNION MEETING

Attached is background material and proposed talking points on the subjects most likely to arise during tomorrow's meeting with union leaders.

In the welfare area, two issues dominate: (1) whether to apply protective labor laws (such as the minimum wage) to welfare participants and (2) whether to grant Texas's request to privatize the operation of public assistance programs (including Medicaid, food stamps, and other nutrition programs). DPC and OMB have managed an interagency process on these issues and hope to have a recommendation to the President by the end of the week. The recommendation on the minimum wage issue will favor the unions; the recommendation on the privatization issue is likely to favor the States. For this reason, we would like to announce the two at roughly the same time; indeed, we have held back our recommendation on the minimum wage issue for this reason. Accordingly, you should say no more tomorrow than what we have said before -- essentially, that we are quite sympathetic to the unions' position on the minimum wage issue.

In the Medicaid area, the two issues that the unions will primarily focus on are Medicaid Disproportionate Share (DSH) payment allocations and state flexibility concerns, including a privatization issue that raises similar questions as Texas's waiver request. (As you know, the unions also are extremely upset about the per capita cap and DSH payment reductions included in the President's budget; they are unlikely, however, to raise these issues to any significant degree at tomorrow's meeting.) Chris (who, of course, will attend the meeting) has been working with the unions on both of these issues, but we have not yet finalized our policy positions. We therefore recommend that you acknowledge the unions' concerns and commit to further discussions on these issues, but that you not indicate any support of the unions' proposals.

WELFARE ISSUES

Application of Labor Laws

As the work requirements of the new welfare law begin to go into effect, a critical question for both the labor movement and the states is whether worker protection laws -- particularly the minimum wage law (Fair Labor Standards Act) -- protect welfare recipients who take part in workfare or subsidized employment programs. The DPC and OMB have been running an interagency process (involving DOL, HHS, USDA, and others) to hammer out an answer to this question. We expect to have a recommendation for the President within the next week, as well as a strategy for rolling out this controversial Administration policy. The unions should view this recommendation, if approved, as satisfactory.

There is general agreement among the agencies, as a matter of both law and policy, that the Fair Labor Standards Act should be read to require payment of at least the minimum wage to most people in workfare and wage supplementation programs. On this reading, participants in such programs usually would count as "employees" under the Act, thus qualifying for minimum wage protection. (A few might count as "trainees," not entitled to the minimum wage, under normal labor law principles that the unions would expect to apply.) Bruce has given the AFL private assurances that the Administration will adopt this basic position. And the Vice President dropped some strong hints to the same effect at the recent AFL meeting.

Requiring the minimum wage for workfare recipients, however, will raise obvious difficulties for the states, in light of the new welfare law's work provisions. Even if a recipient is working only 20 hours each week, the existing welfare grant in many states will fall short of a minimum wage salary. As the work requirement in the law increases to 25 and then to 30 hours, and as the minimum wage also increases, more and more states will discover that their welfare grants are insufficient.

One way to mitigate this new burden on the states is to count benefits other than cash assistance toward the minimum wage. There is a strong legal argument, based on provisions in the food stamp law, that states may add the value of food stamps to the basic welfare grant for purposes of complying with the minimum wage. Even if both these streams of benefits are counted, however, a number of Southern states will immediately come up short, and as the minimum wage increases and the work requirements become more severe, other states will join them over time. Allowing states to count the value of other benefits -- child care, housing, or transportation -- toward the minimum wage would remove this problem, but this proposal raises a number of legal and policy questions that make it difficult (though not impossible) to pursue.

The interagency group also has reviewed what other labor protections apply to welfare recipients in workfare or subsidized employment programs. The consensus view is that OSHA, unemployment insurance, and anti-discrimination laws will apply in the same way they do for other workers. We do not yet have an absolutely final opinion from Treasury as to whether the

monies paid to these welfare recipients will be subject to FICA and other taxes, and if these monies will make recipients eligible for the EITC, but all indications are that they will not. Finally, these workers may well become eligible to unionize. Recent newspaper articles have suggested that some unions will undertake large-scale organizing efforts targeting welfare recipients, and we probably should expect some of these efforts to succeed.

We should expect the announcement of Administration policy along these lines to provoke strong criticism from the States. Governor Whitman wrote to the President last week that applying minimum wage laws to workfare participants would “end welfare reform as we know it” by placing states in the position of either failing to meet the law’s work requirements or incurring large new costs. We also should not be surprised if Congress reacts to our decision by passing a measure that would exempt workfare participants from many labor protections, including the minimum wage, or that would require benefits such as Medicaid and child care to count towards the minimum wage. Even the New York Times editorial board, in discussing union plans to organize workfare participants, has opined that “what they are doing does not amount to a job” -- a view consistent with what the States and Congress will be saying.

Talking Points:

- This Administration is committed to moving people from welfare to work. It’s also committed to making sure workers get at least the minimum wage for their efforts. Workers shouldn’t be paid a subminimum wage, whether or not they come off the welfare rolls.
- The Administration, however, is still studying precisely how the FLSA and other worker protection laws play out in the welfare context; in particular, we’re trying to figure out if there are ways to address certain concerns that States have about how application of these laws would actually work. We may not be able to do that, but we thought it was worth making the effort to prevent a firestorm of opposition from Congress and the States.
- We know this decisionmaking process has taken longer than you -- or we -- anticipated. But we thought it was worth the time to get things right. We expect to have a final answer within the next couple of weeks.

Allowing privatization of assistance programs through waivers:

The new welfare law explicitly allows states to administer and provide Temporary Assistance to Needy Families (TANF) through contracts with private entities. Now, two states (Texas and Wisconsin) are seeking federal approval to contract out certain functions of the Food Stamp and Medicaid programs as well. (Private contractors determining eligibility for Medicaid

and Food Stamps would have to follow federal eligibility rules, since those programs remain federally guaranteed individual entitlements.) These states believe that a competitive contracting process will result in greater program efficiencies while protecting recipients. Organized labor is concerned that privatizing these government functions will displace state and local government workers (with a resulting loss of union membership) and will undermine beneficiary rights to due process and confidentiality.

Federal agencies and the State of Texas have been negotiating since May 1996 over a proposal from the State to privatize TANF, Medicaid, Food Stamps, and certain other federally-funded nutrition programs. Under the Texas plan, private contractors would conduct the application and eligibility determination process, and the state would certify the final determinations. The State also would retain control over the appeals and quality control processes. HHS still has not responded to Texas's proposal. Rep. Charles Stenholm, one of the Administration's strongest welfare reform allies, complained about the delay to Frank Raines in a February 24th letter, saying the state of Texas is "willing to make accommodations to address administration concerns." Secretary Shalala has promised Texas an answer within two weeks.

If the Administration does not allow private contracting for Food Stamps and Medicaid, then states will be discouraged from contracting out the TANF program because having separate eligibility systems would create administrative difficulties. For example, it would require some individuals to go to one location to apply for TANF and another to apply for Food Stamps and Medicaid, whereas now nearly all states have one-stop, government-run eligibility centers.

Current Administration thinking on this issue is to allow Texas at least a partial waiver, allowing the State to privatize public assistance operations now performed by State employees. We are still debating whether the Administration should allow Texas to privatize almost all of what it wants to, or whether the Administration should insist that state employees retain control over certain public assistance functions (most notably, the eligibility interview). We hope to have a recommendation for the President by the end of the week.

Talking Points:

- We appreciate your concerns about the effect of granting waivers to states to allow them to privatize public assistance operations, such as the Medicaid and Food Stamps program.
- It is important, if we do approve these waivers, to ensure adequate protections for recipients and assistance for displaced workers and we welcome any further information you'd like to give us on these issues over the next few weeks.

MEDICAID ISSUES

Background

There is almost nothing about the Medicaid policy in the President's budget that AFSCME supports. They are opposed to having any Medicaid savings, arguing that recent downward baseline adjustments mitigate the need for further deficit reduction contributions by Medicaid. They oppose how we achieve the savings, arguing that a per capita cap could hurt vulnerable populations and that cuts in disproportionate share (DSH) payments will hurt public hospitals, the patients they serve, and the employees who work in the institutions. And finally, they are extremely uncomfortable with providing more administrative flexibility to the states, publicly arguing that it will subject beneficiaries to substandard care and reductions in access, and privately worrying that states will contract out with non-union employees to administer Medicaid.

At this time, there is nothing we can do relative to AFSCME's concerns about how we achieve our savings. Our budget is now public and we certainly cannot run away from the per capita cap and the DSH savings proposals. Although they will grumble about our savings policy, AFSCME understands we cannot modify it at this stage in the process. Instead, they are focusing on two issues that they believe we can address: (1) the allocation of DSH savings and (2) our yet to be submitted state flexibility language, particularly as it relates to personnel requirements.

DSH Allocation/Targeting.

AFSCME and the public hospitals agree that there may be limited savings in DSH, but only if it is combined with much better targeting of DSH dollars to the hospitals they say are providing care to the greatest numbers of uninsured, underinsured and high cost Medicaid patients -- the public hospitals. While most of the players (the private hospitals, public hospitals, physicians, the unions, consumer groups, and even some states) all acknowledge there could be better targeting, no one agrees on how best to do it. It is for this reason that we chose to punt on this issue, saying that we wanted to work with interested parties on how best to design an improved allocation formula. Consistent with that, we have already held meetings in the last week and a half with both the unions and the public hospitals, and we plan do to more.

Talking Points:

- I understand your concerns about both the size of the DSH cut and the need for better targeting of these dollars. We agree that we need to find ways to better target dollars, but -- as you know -- the devil is in the details.

- We did not release a specific, new targeting formula because we thought it would more likely hurt, rather than help, the chances of reforming the current allocation approach. If we went ahead with almost anything, the states and many hospitals would have used up all of their energy killing it, rather than working together to find consensus on this difficult issue.
- We have held some constructive preliminary meetings with your policy experts on this issue, and we plan on doing more. Let's keep talking to see if we can come up with something we both can agree on.

State flexibility/personnel requirement issues.

AFSCME is particularly concerned about two provisions in our Medicaid flexibility proposal: (A) the elimination of the waiver process for managed care and (B) a proposal potentially allowing more extensive privatization of the Medicaid program.

Elimination of managed care waivers. AFSCME opposes the elimination of the managed care waiver process. They like this process because it gives them time to weigh in on issues they are concerned about, thus giving them the opportunity to push the Department to make changes before final approval. AFSCME recognizes, however, that our proposal to eliminate the waiver process is extremely popular with the Governors and would be difficult to back away from. Their more realistic goal is to persuade us to develop new quality standards that would address many of the same concerns they now raise in the waiver process. While they will push us in this direction, you should be careful about promising them to participate in our Medicaid flexibility drafting process.

Proposal allowing Medicaid privatization. AFSCME is significantly concerned about our proposals to relax personnel requirements on state Medicaid programs. They charge that such changes will undermine quality and, at least as important to AFSCME, potentially lead to further reductions in force in Medicaid programs around the country. They believe, for example, that allowing non-government employees to make eligibility determinations may create conflict of interest problems for companies that are also overseeing managed care plans. (AFSCME is similarly concerned that the Administration will grant a waiver to certain states allowing them to privatize significant parts of many of their public assistance programs, including Medicaid and food stamps. An earlier section of this memo addresses these issues.)

Unlike the new welfare law, our current Medicaid language does not unambiguously allow states to completely privatize the administration of the program. The language could be interpreted broadly, however, to allow quite extensive privatization. The Administration is still trying to determine exactly how we want to interpret our new Medicaid proposal, particularly on the issue of whether it would allow private personnel to make eligibility determinations. We

have an interagency/OMB/DPC working group finalizing our position in these issues.

Talking Points:

- I understand your concerns about the Medicaid flexibility provisions. We want to work with you on these important issues.
- While we cannot back-track on our position on the elimination of the waiver process, we do want to work with you to assure that appropriate quality standards are in place. When we send up the statutory language, you will see that we are improving our Medicaid quality provisions.
- We understand your concerns about the merit system protections. We are committed to adopting an approach to administering Medicaid that assures a high quality program. I know you have met with Donna Shalala on this issue and I believe we should continue our conversations.

CLOSE HOLD - For Internal Use Only
Additional Q&AS on TIES

Q Texas says that all they want to do is let private employees collect data and let public employees determine eligibility. What is wrong with that?

A There would be nothing wrong if that was what Texas would be doing under the TIES project. We want to help Texas go forward to make its programs efficient, but still be consistent with current law and protect the beneficiaries. We offered the State several options to move forward and believe any of them could be the basis of a mutually acceptable agreement. These options were designed to let the state proceed as quickly as possible with their RFO, because they would be consistent with all of the relevant statutes and regulations governing cash assistance, Medicaid, and Food Stamps.

However, our current understanding is that Texas may want to accept an offer that goes beyond this, that would combine data entry with eligibility assistance. In fact, most if not all activities involving personal contact with an applicant or recipient, including data entry during an interactive discussion with the applicant, have the potential to involve the use of discretion or judgment, and to directly influence or affect the eligibility determination process. According to Food Stamp and Medicaid laws and regulations, these activities, and any other activities in which specific eligibility criteria are discussed with an applicant or eligibility-related information is collected and evaluated, must be performed by a State merit system employee.

Q You say that you offered Texas a sub-State waiver. But Texas said that even if their waiver demonstration project was successful, you would never allow the State to implement the project statewide. Isn't this unreasonable?

A One of the options we offered the State was to submit a waiver for a time-limited, sub-State demonstration. This is a reasonable approach for allowing states to test new, untried programs. And it is a practice that we have followed to enable states to test other innovative programs to help move people from welfare to work. For example, initially we allowed states to test time limiting cash assistance and imposing a family cap, only on a sub-state, time-limited basis.

However, if Texas' sub-State project was successful, we would be more than willing to look at a range of options to extend the project statewide, including any state flexibility or legislative proposals which might let them proceed.

Q Today the Dallas Morning News is reporting that Texas State officials have revised their proposal and are now focused on replacing the State's computer system. How do you respond?

A We cannot comment because we have not seen the States's latest proposal yet. However, we want Texas to move forward and make their programs efficient, while remaining consistent with current law and protecting beneficiaries. We have provided options designed to let the State proceed as quickly as possible with their RFO, because they would be consistent with all of the relevant statutes and regulations governing cash assistance, Medicaid and Food Stamps. So we believe that the State's goals are achievable within the authority and flexibility permitted by law and look forward to hearing back from the State on how it intends to proceed with its project.

CLOSE HOLD - For Internal Only**Q&A's on Texas TIES letter**

- Q** Texas State officials say that the letter sent today for all purposes blocks the State from proceeding with its project. How do you respond?
- A** In last week's meeting, we told Commissioner McKinney that Texas could proceed with its Request for Offers (RFO), under the conditions we discussed. We agreed to provide the State with a letter recounting our meeting. The letter clarifies the flexibility available to the State under current law, the limitations regarding functions which must be performed by State merit system employees, and next steps in the process of moving forward with the TIES project. The letter was sent to Commissioner McKinney this afternoon.
- Q** Does the letter say anything different than was discussed in the meeting?
- A** No. The letter restates the issues and guidance we discussed in last week's meeting. We want to help Texas go forward to make its programs efficient, but still be consistent with current law and protect the beneficiaries of the three federal programs - cash assistance (TANF), Medicaid and Food Stamps.
- Q** In Governor Bush's letter to Secretary Shalala, he says that Texas will proceed with a different way to achieve its goals. What will you do if Texas implements its project without your approval?
- A** We share Governor Bush's goals to move forward as quickly as possible and make Texas' programs efficient, but we must be consistent with current law and protect beneficiaries. Since Texas first contacted us, we have working closely with the State to resolve many issues related to the development of the TIES project, a highly complex undertaking by the State that involves the integration of three large Federal programs. We have provided options designed to let the State proceed as quickly as possible with their RFO, because they would be consistent with all of the relevant statutes and regulations governing cash assistance, Medicaid and Food Stamps. So we believe that the Governor's goals are achievable within the authority and flexibility permitted by law and look forward to hearing back from the State on how it intends to proceed with its project.

Q As some Republicans in Congress have suggested, doesn't your guidance contradict the welfare reform bill which grants states the flexibility to run their own programs?

A No. Based on the welfare law that the President signed in August, Texas already has the authority to proceed now with the welfare portion of their proposal. However, Congress and the President retained the laws on Medicaid and Food Stamps because they have different missions and serve different people. Our guidance to Texas is consistent with current law.

Remember, Texas is proposing a big, complex undertaking that involves three large programs: cash assistance, Medicaid and Food Stamps, which are overseen by two separate federal departments and which have different rules and regulations. We want to move forward to help the State make its programs efficient, but we must be consistent with current law and protect beneficiaries. And we have told the State that they can proceed with their RFO based on the conditions we discussed, i.e. consistent with all of the relevant statutes and regulations governing cash assistance, Medicaid and Food Stamps.

This Administration has a long record of supporting state flexibility. We granted 80 waivers to 43 states to test innovative strategies to move people from welfare to work. We have granted 13 Medicaid waivers to help states make their programs more efficient and effective. And President Clinton signed the welfare law last year that gives states additional flexibility to design their cash assistance programs. However, we must be consistent with current law and the President's first priority is to protect beneficiaries of these programs.

Q Some members of the House of Representatives (Shaw, Johnson?) are talking about a bill to approve the Texas project. Would you oppose legislation?

A It is unwise for Congress to legislate on administrative actions that should be worked out between program agencies and our state partner. Based on the welfare law that the President signed in August, Texas already has the authority to proceed now with the welfare portion of their proposal. However, Congress and the President retained the laws on Medicaid and Food Stamps because they have different missions and serve different people.

We want to help Texas move forward to make its programs efficient, but we must be consistent with current law and protect the beneficiaries of the three federal programs – cash assistance, Medicaid and Food Stamps – which have different rules and regulations. Today we provided a letter to the State recounting the options we presented at a meeting with Commissioner McKinney last week and we have told Texas that the State could proceed with its Request for Offers (RFO), under the conditions we discussed.

Q Could Texas ask for a waiver of the current law?

A We understand that Texas is seeking a state-wide, integrated project. At our meeting with Commissioner McKinney last week, we said that the State could submit a limited scope waiver for a specific subgeographic area. However, the State officials told us they were not interested in such a waiver.

THE WHITE HOUSE
WASHINGTON

May 13, 1997

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED, CYNTHIA RICE

SUBJECT: ADMINISTRATION DECISION ON TEXAS WELFARE PLAN

Today, HHS provided the state of Texas with written guidance under which the state could release a "request for offers" (RFO) for private contractors to operate state-wide system of offices where residents would apply for Medicaid, food stamps, welfare, and other public assistance. The letter recounts the options HHS and USDA officials discussed with Texas Health and Human Services Commissioner Michael McKinney at their meeting on May 2nd. The Texas proposal is known as TIES, the Texas Integrated Enrollment Services project.

The guidance notes that under current Medicaid and food stamp law:

- The state has broad authority to administer the Temporary Assistance for Needy Families (TANF) program, the block grant created by last year's welfare law, and can use private contractors without limitation there.
- The state can also use private contractors to design and operate information systems, develop and recommend revised eligibility processes, and provide training and assistance in the management of TIES.

However, the guidance says:

- A non-public employee may not take actions involving discretion or value judgments, including all elements of the benefit eligibility determination process that relate to the evaluation of information provided by an applicant or which bears on the eligibility decision.
- In an integrated enrollment system, most if not all activities involving personal contact with an applicant or recipient, including data entry during an interactive discussion with the applicant, have the potential to involve the use of discretion or judgment and must be performed by state merit system employees.

Texas Welfare Plan
5/13/97

Talking Points

- The welfare reform bill passed by the Congress and signed by the President allowed states to privatize their cash assistance programs, but did not change the law for Medicaid or food stamps.
- The President believes states need flexibility to make welfare what it was meant to be: a second chance, not a way of life, a system that helps people draw a paycheck instead of a welfare check. That's why he signed the welfare reform law last year in the face of much opposition from many in his party.
- We're concerned that allowing a state to privatize Medicaid and food stamp operations will not be in the best interests of program beneficiaries.
- Current Medicaid and food stamp law makes clear that eligibility determination must be performed by impartial, merit-based public employees.
- We offered the state of Texas the chance to conduct a sub-state demonstration of privatization, but the state declined.
- The letter we sent Texas yesterday allows the state to proceed with contracting out for a statewide computer system to do integrated enrollment. The state is also free to privatize its welfare operations.

Q &As

Question: Haven't you blocked the state from developing an integrated enrollment system?

Answer: No. The state could develop an integrated enrollment system so long as public employees perform the essential eligibility determination functions. The state could issue a "request for offers" seeking private contractors for those functions which the law allows to be privatized -- designing and operating information systems, developing and recommending revised eligibility processes, and providing management training and assistance. The state could also privatize all aspects of the Temporary Assistance for Needy Families program.

Question: How can you claim that data entry is eligibility determination?

Answer: Any activity which involves discretion and value judgments can affect the eligibility decision. In an integrated process, the person who asks the applicant questions about eligibility may be the same one that types it into a computer.

Question: Doesn't your guidance contradict the welfare reform law signed by the President which grants states the flexibility to run their own programs?

Answer: No. Based on the welfare law that the President signed in August, Texas already has the authority to proceed now with the welfare portion of their proposal. However, Congress and the President retained the laws on Medicaid and food stamps. Our guidance to Texas is consistent with current law.

Question: How can you say the President supports state flexibility when he denies Texas' proposal?

Answer: The President has a strong record of supporting state flexibility. First, after granting 80 waivers to 43 states to test innovative strategies to move people from welfare to work, he signed the welfare law which allows states to reform welfare without seeking permission from Washington. The President has also granted 13 Medicaid waivers to help states make their programs more efficient and effective. The President clearly supports state flexibility; however his first priority is protecting beneficiaries.

Question: Texas says it would expand health care to an additional 150,000 needy children with the savings generated from TIES. How could the President oppose that?

Answer: Obviously, the President supports expanding health care coverage to uninsured children -- his budget, and the budget agreement he negotiated with Congress, would expand coverage to 5 million more children. [But he does not support jeopardizing health and nutritional benefits to seniors, the disabled, and families already on Medicaid in order to expand coverage to additional children.]

Question: Would the Administration approve a sub-state waiver?

Answer: HHS and USDA officials told Texas representatives that they would consider a sub-state project which was time limited and had an evaluation, so we could find out the effects. However, Commissioner McKinney apparently indicated that the state was not interested in such an option.

Question: Didn't the President's senior advisers propose another solution -- one that would have allowed more privatization -- but the President rejected it?

Answer: The President did ask us to take another look at this issue. His principal interest is what's best for families who rely on Medicaid and Food Stamps, and he wanted to make sure that the decision would be consistent with that interest.

Question: Why did it take the Administration so long to give Texas an answer?

Answer: The Texas proposal is a very complicated project involving multiple federal programs and agencies. There were a great many legal questions to consider. And we wanted to make sure that the decision we reach^{ed} was right and would protect families who rely on Medicaid and food stamps.

Question: Isn't this just a payback to the unions?

Answer: Obviously, the unions feel strongly about this; so does the state of Texas. We met with both during the decision-making process. However, we made our decision based on what we think is best for the program beneficiaries.

Question: Why do you assume that public employees are better than private ones in protecting the rights of beneficiaries?

Answer: We are simply following the laws passed by Congress which are designed to let states seek innovative approaches to improve the efficiency of benefit programs while protecting the rights of beneficiaries. Making decisions about the eligibility of needy people for benefits is one of the most fundamental functions of government.

Question: Doesn't the Medicaid program now allow private contractors to enroll individuals?

Answer: No. Private employees, such as hospital workers, can only gather information and forward it to state workers. They cannot evaluate it or make eligibility determinations.

Question: Would the President support an legislative amendment to allow Texas -- and other states -- proceed?

Answer: We opposed granting individual state waivers legislatively -- that authority rests in the executive branch. We would also oppose legislation which would completely privatize or block grant Medicaid or food stamps. We would of course want to see the language before commenting on any particular amendment.

Question: Why couldn't you just let the state release the Request for Offers and see what particular proposals come back?

Answer: We are letting the state release the RFO. But we thought it was only fair to let the state know what type of contracts we would approve and what type we would not since the exact nature of the TIES system would depend upon the terms of the agreement between Texas and the contractor.

Question: We understand you're planning to let Wisconsin privatize but not Texas. How is that fair?

Answer: We have not responded to Wisconsin's request. However, their proposal is very different from Texas' -- it would allow private contractors for food stamps in only a limited number counties, in a time limited demonstration which would be independently evaluated.

cc: Ek/CR
+ return for
Thurs am. mtg.

BR



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State officials revise welfare proposal

White House rejected privatization bid

AUSTIN - In response to White House rejection of their welfare privatization plans, Texas officials hope to reorganize government workers and save perhaps \$100 million annually - mostly by laying off 5,000 state employees.

That and a plan to spend up to \$200 million on new computer systems are the key points of a proposal by state officials to revamp Texas' welfare system without fully privatizing it, according to a two-page Health and Human Services Commission memorandum provided to *The Dallas Morning News*.

The memo notes that the state-private partnerships involved in Texas' original privatization plan posed constitutional, legal and practical problems, apart from the need for a White House waiver.

President Clinton's rejection of the original plan, delivered in a private meeting between federal and state officials May 2, rested upon a legal technicality: Food stamp eligibility decisions can be handled only by government employees.

As of Monday evening, Texas officials were still waiting for a promised official written decision on the original plan.

White House aides said Mr. Clinton chose not to waive the food stamp requirement because he did not want poor families to face profit-minded corporations when they applied for government aid.

Republicans charged that Mr. Clinton stalled Texas' plans because he wanted to repay labor unions for their campaign support.

A Texas congressional aide said Monday that the state's fallback plan avoids the question of waivers because it would treat private firms merely as suppliers, with the government continuing to manage the newly consolidated welfare programs.

"Clearly, that [contracting out data processing tasks] is allowed under current law. So they wouldn't even need a



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waiver," said Ed Lorenzen, an aide to Rep. Charles Stenholm, D-Stamford.

For several weeks, state officials, including Gov. George W. Bush have been alluding to possible "alternative" approaches to begin the privatization process in Texas.

According to the recent Health and Human Services Commission memo, crafted by Commissioner Mike McKinney in late April and titled "Alternative Approach," that plan would result "in a reduction of the number of [welfare] eligibility workers from approximately 15,000 down to 10,000."

Texas union officials expressed concerns about a reduction in the numbers of state employees.

Texas would be losing "about a third of all people doing the work," said Mike Gross, spokesman for the Texas State Employees Union. "It seems like we are trying to strip it down to the barest minimum."

He said that union leaders agreed that Texas needed to address some inadequacies in the welfare program. "The automation does need to be improved," said Mr. Gross.

The new plan would place the Health and Human Services Commission solely at the forefront of any privatization efforts, a move that might comfort federal officials concerned about the different privatization partnerships emerging in Texas.

For months, the Texas Department of Human Services and the Texas Workforce Commission have been linking up with different prospective bidders in anticipation of competing for \$2 billion in contracts to run the welfare system.

EDS, Lockheed Martin and Andersen Consulting have emerged as the primary possible bidders for those contracts. The proposal to privatize welfare services in Texas has sparked national interest - and raised the possibility of other states following Texas' lead.

"Though the vendor community estimates savings ranging from 20-40 percent of the state's current \$500 million annual administrative cost ... actual savings may be less and take longer to achieve," according to the alternative plan.

The alternative plan says that it would cost \$150 million to \$200 million, funded through a mixture of state and federal sources, to buy the new technology to begin automating Texas' welfare system.

The memo also indicates that the initial moves toward privatization would be concentrated on "automation, software development, system testing" and other computer

updates.

"We still need to procure a new automation system and we still need to re-engineer the current work processes," said Charles Stuart, spokesman for the Health and Human Services Commission.

He said that the "alternative" proposal is strictly a preliminary look at what Texas welfare officials have in mind. Details of any future plan will probably be revealed in the near future, he said.

A Texas Senate committee is scheduled Wednesday to hear details on proposed legislation that would set boundaries for any privatization of welfare in the state.

Texas may not need federal permission to reorganize its welfare offices, but it will need Washington's approval to win matching funds for start-up costs estimated at up to \$200 million, according to Michael Kharfen, a spokesman for the U.S. Health and Human Services Department.

Mr. Kharfen said federal funds could cover just over half of the modernization costs, if Texas first gets federal approval of its proposed contractor, and of its modernization blueprint.

But, he added, federal officials have long been prepared to help Texas re-engineer its welfare programs. "This would be a routine request [for funding]," he said.

By Bill Minutaglio and George Rodrigue / The Dallas Morning News

05/13/97

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9:44 PM 5/13/1997

Welfare privatization not dead yet in Austin

By POLLY ROSS HUGHES and BENNETT ROTH

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AUSTIN -- The future of Texas' welfare programs looms today as state legislators consider alternatives to a sweeping privatization plan backed by Gov. George W. Bush but blocked by the Clinton administration.

State Sen. Bill Ratliff, R-Mount Pleasant, planned to work late into the night Tuesday putting the final touches on legislation drafted along with Bush's office, the Texas Health and Human Services Commission and the Texas Workforce Commission.

The original Texas plan called for a private company to screen applicants for welfare, Medicaid, food stamps and an assortment of social service programs.

While Texas officials say screening is not the same thing as deciding who is eligible for benefits, federal officials disagreed, and said current law requires government workers, not private companies, to decide who gets Medicaid and food stamps.

Ratliff, chairman of the Senate Finance Committee, was expected to ask the state Senate's Health and Human Services Committee to consider his alternative plan today.

The plan is expected to spell out exactly how far privatization of Texas' welfare programs can go, both now and in the future.

Advocates for taxpayers, the needy and state workers also were preparing to testify before the committee.

"I think the main thing we've been trying to highlight is urging that we not convert our system of public welfare for the poor into a system of private welfare for corporations," said Bill Beardahl of Texas Appleseed Advocacy Fund, a group of lawyers who volunteer to advocate for people who are under-represented.

Ratliff's substitution would replace a House bill that limits the role of a private company to providing the automation for a one-stop shopping approach for welfare benefits.

It remains to be seen whether Ratliff's proposal will include amendments sought by Lockheed Martin IMS, one of several large corporations hoping to bid on the state project.

The Lockheed amendments effectively would hold the door

open for the state to return to a more sweeping privatization program if federal officials can be persuaded to change their minds, according to Gerald Miller, managing director for Lockheed's welfare reform services division.

Bush, angry over federal rejection of his original plan, has accused Clinton of bowing to labor unions rather than keeping his promise to let states have more flexibility over welfare programs. The unions fear the Texas project would set a precedent that could eventually threaten the jobs of government workers nationwide.

Federal officials Tuesday sent a letter to Texas Health and Human Services Commissioner Michael McKinney, spelling out the formal terms under which they could privatize an assortment of social welfare programs.

The letter essentially repeats what McKinney was told in a meeting with federal officials more than a week ago. Texas can do whatever it wants to with the traditional welfare cash program, which last year Congress converted from a federal entitlement to highly flexible grants to the states.

But the Clinton administration set limits on how much the state could privatize Medicaid and food stamps, two programs that remain entitlements and are therefore subject to stricter federal control.

The letter from Kevin Thurm, deputy secretary of the U.S. Department of Health and Human Services, said the state could contract with a private company to design computer systems involved in the operation of Medicaid and food stamps. The state also could use private employees to train and assist public employees responsible for administering these programs.

But Thurm said the actual process of determining benefits, including personal contact with applicants, must be done by government employees.

The letter stated that Texas is eligible for federal compensation for costs in planning the new program. Those costs have been estimated at up to \$200 million, according to a memo prepared by the Texas Health and Human Services Commission.

Controversy over the Texas plan has sparked the interest of state legislators and the state's congressional delegation. A group of conservatives, including House Majority Leader Dick Armey, R-Irving, and House Ways and Means Chairman Bill Archer, R-Houston, have requested a meeting with White House Chief of Staff Erskine Bowles to discuss the matter.

"I am appalled by the White House action on this," Armey said.

Armey said Tuesday that Bowles has promised to meet with the group, but a date has not yet been set.

Meanwhile, a number of congressional Democrats who represent urban districts in Texas with large welfare

populations have sided with Clinton on the issue.

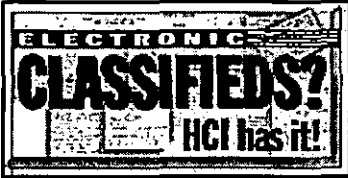
Rep. Sheila Jackson Lee, D-Houston, said she wants to be included in any meeting with the Texas delegation to express her view that government should retain some role in these social welfare programs.

"Some private entities may not hold the same interest as the federal government in providing assistance to those who are less fortunate in our communities," Jackson Lee stated in a draft letter to Bowles, which was circulated to the delegation's Democrats.



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6:28 PM 5/9/1997

GET OUT OF WAY

Clinton administration should approve state's welfare plan

Texas wants to "end welfare as we know it," but the Clinton administration is standing in the way.

Need we remind that the key impetus behind welfare reform was granting states the ability to design assistance programs that meet the particular needs of their needy? Texas, as well as others states, did that, understanding that the federal government would promptly review their proposals and respond within 60 days.

However, pressured by labor unions as well as harboring its own objections to Texas' proposal to privatize the screening of welfare applicants, the Clinton administration has left the state twisting in the wind.

Nine months have passed, and Texas is still waiting with no good explanation as to why.

Mike McKinney, Texas' commissioner of health and human services, recently went looking for an answer in meeting with representatives of the Department of Health and Human Services and the Department Agriculture. He found none.

This past week, a delegation of Texas lawmakers, including Sens. Phil Gramm and Kay Bailey Hutchison and Reps. Bill Archer and Tom Delay, sent a letter to White House chief of staff Erskine Bowles expressing support of the state's plan and requesting a meeting to discuss the matter. To date, a meeting has not been scheduled.

To get the administration's attention, however, Gramm is holding up Senate confirmation of Clinton's nominee for assistant secretary of HHS, and Hutchison is looking for a legislative back door.

It's unfortunate that the senators had to resort to political machinations to get Clinton's approval. But it's more unfair that Texas cannot move forward with letting bids for the five-year, \$2 billion contract to privatize its welfare program.

The Texas plan is unique. Privatizing welfare has never been attempted and, thus, the caution flags wick are being raised. However, as the delegation's letter stated: "the proposal put forward ... is an integral component of Congress' and the president's continuing goal to 'end welfare as we know it,' by allowing states to reduce administrative costs and focus on serving those in need."

Texas should be allowed to go forward with its welfare plan.



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9:11 PM 5/7/1997

Texas conservatives pushing Clinton to OK welfare plan

By **BENNETT ROTH**
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WASHINGTON -- Despite a lack of consensus within the state's delegation, conservative Texas lawmakers have intensified their efforts to press the Clinton administration for approval of a controversial state welfare plan.

On Wednesday, eight lawmakers requested that President Clinton's chief of staff, Erskine Bowles, meet with them later this month to discuss Gov. George W. Bush's plan to let a private company run the state welfare system.

Last week the Clinton administration said that a private company could take control of some parts of the welfare system but could not determine eligibility for benefits. A number of congressional Democrats from Texas have concurred.

However, Bush has not accepted the administration's response and the lawmakers, in their letter, said they would lobby for endorsement of the state plan.

"We believe that the proposal put forward by Texas is an integral component of Congress' and the president's continuing goal to 'end welfare as we know it,' by allowing states to reduce administrative costs and focus on serving those in need," the letter stated.

The letter was signed by the state's Republican senators, Phil Gramm and Kay Bailey Hutchison, and by prominent House Republicans, including Ways and Means Chairman Bill Archer of Houston, Majority Leader Richard Armey of Irving and Majority Whip Tom DeLay of Sugar Land. Rep. Sam Johnson, R-Plano, also signed the letter.

Two conservative Democrats who represent largely rural areas, Charles Stenholm of Avoca and Ralph Hall of Rockwall, also signed the letter.

Bowles spokeswoman Beverly Barnes said the letter was received and the request for a meeting would be considered.

While the lawmakers are hoping that a meeting with Bowles may resolve their differences, they are threatening other more confrontational measures.

To place pressure on the administration, Gramm is blocking Senate confirmation of Kevin Thurm, a Clinton nominee for assistant secretary of Health and Humans Services.

The senator's spokesman, Larry Neal, said that Thurm is the HHS official responsible for dealing with the Texas welfare program.

"His nomination will remain pending until this issue is disposed of," Neal said.

Hutchison said she had hoped to add an amendment regarding the Texas plan to a bill authorizing emergency flood aid in the Senate. However, she acknowledged that she likely would have to find other bills.

"We are looking for a legislative vehicle," Hutchison said.]

A number of Democrats, particularly those who represent urban districts with large numbers of welfare recipients, have sided with the president and have criticized the plan.

Rep. Gene Green, D-Houston, said that a private company should not be determining who gets welfare benefits. The congressman also said he would have gone further than the president and would have approved only pilot privatization programs in non-urban areas where fewer welfare recipients would be affected.]

"I have too many people in my district who depend on those services," said Green, who represents a largely Hispanic district spanning the north and east sides of Houston.

Green said he was not contacted by the lawmakers seeking to meet with Bowles, but said he hoped the administration would include Democrats such as himself in any meeting.

Reps. Nick Lampson, D-Beaumont, and Martin Frost, D-Dallas, also support the president's decision on the welfare proposal.

Lampson spokesman Jonathan Brown said the president has "interpreted where the Texas proposal is not in fact legal. We support that interpretation."

Vince Willmore, a spokesman for Houston Democrat Rep. Ken Bentsen, said that while the congressman has not taken a formal position on the Texas welfare plan, "he does have real questions about nongovernment employees determining eligibility for government benefits."

A spokesman for Rep. Jim Turner, D-Crockett, said he was asked to join the conservatives and sign the letter, but declined because he is undecided on the issue.

A spokesman for Democratic Rep. Sheila Jackson Lee, whose district encompasses much of inner-city Houston, said she had not been invited to participate in the request for a meeting with Bowles. Spokesman John Brennan could not say where Jackson Lee stood on the issue.

Congress of the United States

Washington, DC 20515

May 15, 1997

President William J. Clinton
The White House
Washington, DC 20500

Dear Mr. President:

Eight of our colleagues in Congress have asked Mr. Erskine Bowles for a meeting to discuss federal permission to privatize the system for determining welfare eligibility in Texas.

Contrary to what some of our colleagues have said, a waiver that would allow Texas to privatize the eligibility determination for social services is not supported by everyone in Texas. We understand the recent determination by the Department of Health and Human Services regarding the Texas Integrated Enrollment System. Under federal law, the decision to grant or deny eligibility must remain with the state and state workers. Improvements in automation are one thing, but the discretion to decide the fate of welfare applicants should not to be taken from public servants. Publicly funded programs deserve public accountability.

Whatever grey area lies in this situation is now being addressed by the Texas Legislature. A bill laying down rules for achieving "one-stop shopping" for welfare has passed the Texas House and is set for hearing this week in the Texas Senate. The legislative session ends June 2 and we believe lawmakers are ready to take action.

We ask that you let stand your cabinet's decision to honor the integrity of programs that serve recipients of Medicaid, food stamps and other services. The welfare clients in Texas deserve a solution devised by our lawmakers. Please allow the Texas Legislature to work its will on this delicate matter without any further federal action.

Sincerely,

Max Fink

Eddie Bernice Johnson

Cin. D. Rulenz

N. J. J. J.

R. B. B. B.

D. J. J. J.

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J. G. G. G.

Gene Gene

Robin Robinson

