

## **PERFORMANCE AUDIT REPORT**

**Reviewing State Contracting for  
Consultants and Other Professional  
And Technical Services**

### ***Executive Summary*** ***with Conclusions and Recommendations***

**From a Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
March 1996**

# ***Legislative Post Audit Committee***

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## ***Legislative Division of Post Audit***

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LEGISLATURE OF KANSAS  
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April 4, 1996

To: Members of the Kansas Legislature

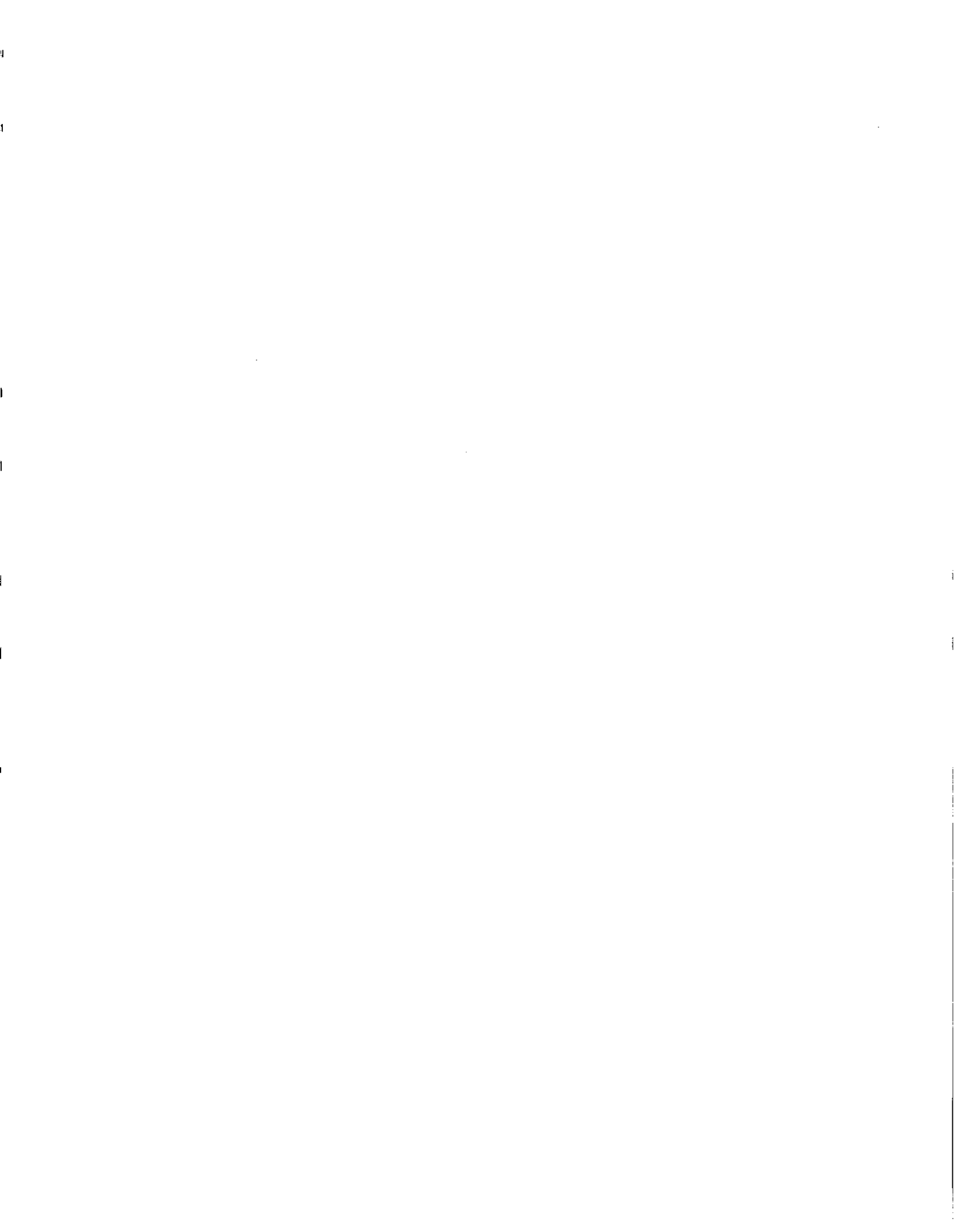
This executive summary contains the findings, conclusions, and recommendations from our completed performance audit, *Reviewing State Contracting for Consultants and Other Professional and Technical Services*.

The report includes a number of recommendations for improving the process for contracting for professional services. We also recommended steps to ensure that agencies conduct systematic and thorough evaluations of both the need for their programs and the cost-effectiveness of privatization alternatives. In addition, we recommended that the Departments of Corrections and Social and Rehabilitation Services keep the Legislature informed of the cost-effectiveness of their current efforts to privatize food and family preservation services.

If you would like a copy of the full audit report, please call our office and we will send you one right away. We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

A handwritten signature in cursive script that reads "Barbara J. Hinton". The signature is fluid and elegant, with a large initial 'B' and 'H'.

Barbara J. Hinton  
Legislative Post Auditor



**Reviewing State Contracting for Consultants And  
Other Professional and Technical Services**

**EXECUTIVE SUMMARY**

**LEGISLATIVE DIVISION OF POST AUDIT**

**Question 1: What Professional, Technical, and  
Consulting Services Do State Agencies Contract For,  
And How Much Has The State Spent On Those Services  
During the Past Five Years?**

**Kansas spent \$221.4 million for contracted professional services in fiscal year 1995.** Agencies spent about \$36 million for architects and engineers (mostly for highway projects), \$21 million for attorneys and lawyers, and \$14 million for physicians and medical associations. But the bulk of these expenditures—nearly \$138 million—were recorded as “other professional services,” an accounting category normally reserved for more insignificant, miscellaneous costs. We found most of these expenditures could be readily grouped into 10 large categories, including computer consulting, inmate health care, investment manager fees, and administration of on-line lottery games. .... page 3

**Spending on professional services increased faster than total State spending, but most of the increase was in federal and fee funds, rather than in the State General Fund.** Expenditures for contracted professional services increased 56% between fiscal years 1991 and 1995, compared to a 42% increase in overall State spending. Areas that increased the most were “physicians and medical associations,” “other professional services,” “accountants and auditors,” and “attorneys and lawyers.” The amount spent for contracted services from the General Fund increased by 19%, while spending from federal and fee funds increased by 69%. .... page 6

**Nine agencies accounted for 75% of the spending on professional services.** They spent about \$166 million in fiscal year 1995. KDOT spent nearly \$38 million, mostly for architects, engineers, and highway right-of-way acquisitions for the highway program. The Department of Social and Rehabilitation Services spent nearly \$35 million for such things as Medicaid claims processing, computer systems development, and education and training for low-income clients. The other seven agencies in descending order: KPERS, the Medical Center, Corrections, Health and Environment, the Lottery, Administration, and Indigents’ Defense Services. .... page 8

**The 48 highest-paid vendors in fiscal year 1995 received about 50% of the State’s payments for contracted professional services, a total of about \$111 million.** Nearly 700 different vendors received more than \$10,000 from agencies for professional services in fiscal year 1995. In all, 31 received more than \$1 million. Some of the largest contracts were to Prison Health Services, Inc. (\$14.5 million for medical care for prison inmates), EDS Federal Corporation (\$13 million for processing Medicaid payments), Comprehensive Cancer Centers (\$9.4 million for cancer treatment at KUMC), GTECH (\$8.2 million for on-line lottery games), and Howard, Needles, Tammen & Bergendoff (\$4.1 million for highway design). .... page 9

**Question 1 Recommendation:** We recommended that the Division of Accounts and Reports review the types of expenditures recorded in the "Other Professional Services" category, and create more significantly-sized categories. The Department of Administration concurred with our recommendation, and reports that staff have already started work on revising the expenditure categories. .... page 10

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**Question 2: Are Kansas' Procedures for Acquiring Such Services Adequate to Ensure That State Agencies Receive Quality Services at a Reasonable Price?**

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**The Division of Purchases essentially has no written procedures to guide agencies or vendors in the purchasing process.** In May 1993, the Division rescinded its policy and procedure manual in an attempt to protect the State from lawsuits. In the absence of Statewide purchasing guidelines, agencies generally haven't developed their own policies and procedures, but continue to rely on the Division's rescinded manual. These factors all increase the risk that agencies won't follow good contracting practices. The Division has begun working on a new policy manual. .... page 14

We reviewed 32 contracts, ranging from a \$2,000 attorney contract to a \$14.4 million contract for inmates' medical services. Agencies didn't follow all good purchasing practices in 9 contracts, including not seeking competitive bids, not tying payments to the agency's acceptance of the completed product or service, writing vague descriptions of services to be provided, and awarding the contract after the services were already provided. Only one of these nine went through the Division of Purchases. The others were exempt from the Division's involvement in one way or another.

**Kansas has no centralized policies or procedures to guide State agencies after a contract has been awarded.** Areas where guidance is especially needed—monitoring vendors' performance, and identifying ways to resolve problems with vendors. In three contracts we reviewed, monitoring of vendors' performance seemed inadequate. In addition, most contracts didn't specify steps to be taken if the vendor's performance was inadequate but not bad enough to terminate the contract. Both these issues have come up in earlier audits. The Division of Purchases is the logical entity to provide written and "hands-on" guidance addressing these areas. .... page 19

**There are no Statewide guidelines for awarding or monitoring grants.** When an agency purchases services through a grant rather than a contract, there's a greater risk of not getting the services desired. Grants aren't required to go through the Division of Purchases for review, or to be competitively awarded. Also, grants often don't require the vendor to provide a certain level of services before payment is made. .... page 23

**In spite of the contract weaknesses we found, agency officials generally said they received quality services at reasonable prices for the contracts we reviewed.** They reported getting good results from all but two of the 32 contracts we reviewed. The .... page 23

Department of Corrections had numerous problems with a vendor it had contracted with to provide a halfway house in Topeka. That vendor went out of business before the end of the contract. Department of Administration officials gave mixed reviews about the quality of work received from a contract with an attorney to do work for the Self Insurance Fund.

**Question 2 Conclusion:** State agency contracts for professional services in Kansas are becoming more numerous, costly, and complex. As this trend continues, and as agencies are given more and more autonomy over their own areas of responsibility, it's essential that those agencies have the guidance and direction they need to ensure they are following purchasing laws and regulations, and are making informed and appropriate purchasing and contracting decisions. That way, they can be held accountable for the decisions they make, and will be better able to hold vendors accountable for the services they provide.

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As this audit has shown, State agencies generally don't have that centralized guidance or direction. While we didn't find any major problems with the contracts we reviewed during this audit, it's clear that the "system" for helping ensure that purchasing or contractual problems are minimized is inadequate. That means the risk of problems occurring in the future is much greater. The larger the contract and the less well-defined the services being contracted for, the greater the risk.

The Division of Purchases is working on a new policy and procedures manual, and has begun to provide training for State agencies. Its employees also will provide technical assistance regarding purchasing and contract-management issues, when asked. However, more needs to be done. The recommendations presented in this report aren't intended to increase the Division's "regulatory" role over the contracting process for professional services. Rather, they are intended to increase the Division's visibility and usefulness as a service or "consulting" agency, and to help ensure that the knowledge and expertise its staff have developed over time are brought to bear on the higher-risk or more complex contracting projects State agencies undertake. This increased involvement in the higher-risk contracts can be offset by giving agencies increased flexibility in making lower-risk purchases on their own.

**Question 2 Recommendations:** A brief summary of the report's recommendations, together with a summary of applicable comments from the agencies, is presented below.

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We recommended the Division of Purchases develop a written policy manual to provide agencies with guidance about purchasing requirements and practices, including areas that haven't been addressed before, such as monitoring and contract management. The manual should include information about "best practices" for all phases of the purchasing process. The Division should also work with the Department's legal staff to develop guidance for agencies on when grants should be treated as contracts.

For the larger, more complex contracts, we recommended the Division begin offering more technical advice and consulting services after contracts are signed. We also recommended that the Division continue to offer training to agencies on the contracting process, and that it consider

*offering additional training sessions in specialized areas that traditionally cause problems, such as contract negotiation.*

*In addition, we recommended the Division review the wording of all larger, more complex contracts, to ensure they contain the language required to maximize the chances of receiving quality services.*

*Finally, we recommended that the Department of Transportation award contracts for highway right-of-way acquisition services using a competitive bidding process, and that the Department of Administration continue to use a competitive process for hiring attorneys to defend the State's Self-Insurance Fund.*

*The Department of Administration concurred with the recommendations. It said a new policy manual should be completed by September 1996. It agreed to provide greater guidance to agencies on monitoring and contract management, and plans to offer training seminars on contract administration and negotiations. In addition, the Department said it would continue to use the new competitive process to contract with attorneys for the Self Insurance Fund.*

*The Department of Corrections concurred with the recommendations. It noted that it already used several of the types of enforcement clauses we described in the report, and would explore using others in the future. It also suggested the Department of Administration review all grants to see if the State would be better served by continuing the grant process or switching to an alternative process.*

*The Department of Transportation generally concurred with the recommendation to use a competitive process to acquire right-of-way services. However it noted that it had acted within the authority of the Secretary, and argued that the process it used provided for effective competition.*

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**Question 3: Do State Agencies Make Reasonable Efforts to Assess Whether the Functions They Perform Are Necessary, Or Whether Those Functions Could Be Provided More Cost-Effectively Through Contracts With Private Entities?**

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**Although many State agencies say they assess the need for the programs and services they offer, those assessments often don't focus on whether these activities should be continued. Over 75% of the agencies that responded to our survey said they had assessed the need for their programs or services, some as a part of the annual budget process, and others on an ongoing basis. However, only three of 10 agencies we reviewed appeared to do focused and systematic assessments of the continued need for their programs.**

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**Many State agencies also told us they assess the cost-effectiveness of contracting out their activities, but those assessments often don't really assess cost-effectiveness and, when they do, they generally aren't done well. Nearly 85% of the**

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agencies responding to our survey said they had analyzed the cost-effectiveness of contracting out some of their programs or services. We reviewed six assessments in detail and found only two had a complete and accurate determination of the agency's own costs. Such information is needed to help decide the cost-effectiveness of contracting out a service.

Several major privatization efforts being considered aren't necessarily designed to decrease costs, and could actually cost the State more money. Lastly, the Department of Social and Rehabilitation Services' decision to privatize foster care services has raised some concerns about the speed and scope of that project. Given the significant number of unknowns in this privatization effort, the Department will have to carefully plan for such a major transfer of services to the private sector to ensure that the safety and needs of the children placed in its custody are adequately addressed.

**Question 3 Conclusion:** Agencies will come under increasing pressure in the coming years to make their operations more efficient and economical. This audit looked at two mechanisms they can use to help them accomplish those goals--analyzing whether all programs and services are still needed, and analyzing whether contracting out some programs and services might be more economical. However, unless agencies use systematic methods for such analyses and appropriately consider all applicable costs in their comparisons, they run the risk of making decisions that result in government that is actually less efficient.

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The Kansas Council on Privatization has assembled information that State agencies can use to help them evaluate cost-effectiveness decisions. While agencies know about the Council's report, they often don't use its guidance. If State agencies are to conduct successful self-assessments, they need more formal guidance, direction, and training.

Because of the sensitive nature of some programs that are currently being considered for privatization, the applicable State agencies need to take their time with the analysis and decision-making processes. Privatization can present a seemingly easy answer to solving difficult problems, but experience has shown that privatization is not a cure-all and, in fact, creates a number of sometimes unanticipated problems of its own.

**Question 3 Recommendations:** A brief summary of the report's recommendations, together with a summary of applicable comments from the agencies, is presented below.

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We recommended the Department of Administration develop general methodologies for State agencies to use when conducting needs analyses and assessing privatization alternatives, and provide appropriate training and technical assistance.

We also recommended the Departments of Corrections and Social and Rehabilitation Services complete their cost analyses to better analyze the financial implications of privatization. If contracts to privatize these services are awarded, we recommended these Departments provide the Legislative Post Audit Committee with a report comparing their costs for providing those services to the final contracted costs.

The Governor's Office responded to the recommendations for the Department of Administration in this question. It concurred with the recommendations, and stated it would distribute this report to Cabinet agencies with instructions to conduct and document the kinds of needs analyses and cost effectiveness reviews recommended. It agreed the Department of Administration was the logical agency to provide technical assistance, and cautioned against a system where the Department would micro manage the activities of other agencies. In addition, it noted that the Governor supported SB 102 and the formation of an independent Performance Review Board.

The Department of Corrections said it would submit a report on the cost-effectiveness of the food service contract as soon as negotiations were completed. It also provided additional comments and clarifications about other parts of the audit.

The Department of Social and Rehabilitation Services said it would continue to scrutinize costs estimates so that it could accurately compare those costs to contracting costs. It noted that an analysis of cost-effectiveness must include the impact that improved services will have on the overall budget. It also agreed to keep the Legislature informed of the cost-effectiveness of contracting children's services. However, the Department said it thought there were several misunderstandings about its privatization efforts in the report. The Department thought it would take a more active role after privatization than was suggested in the report, and that its planning for privatization was sufficient.

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This audit was conducted by Allan Foster, Joe Lawhon, and Barbara Reed. If you need any additional information about the audit's findings, please contact Mr. Foster at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (913) 296-3792, or contact us via the Internet at: [LPA@PostAudit.ksleg.state.ks.us](mailto:LPA@PostAudit.ksleg.state.ks.us).

