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Audit Report

**AUDIT OF CITY OF DALLAS
AND COUNTY OF DALLAS CRIMINAL JUSTICE
CENTER MEMORANDUM OF AGREEMENT**

(Report No. A09-008)

April 3, 2009

City Auditor

Craig D. Kinton

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Executive Summary

The City of Dallas and County of Dallas Criminal Justice Center Memorandum of Agreement (Agreement) has not been revised for over 11 years. The fourth and last addendum, made in 1997, requires the City of Dallas (City) and the County of Dallas (County) to review the jail cost calculation methodology every three years; however, there is no indication a review had been conducted before this audit. Updating the Agreement will improve financial accountability and management oversight and benefit both the City and the County.

The current methodology does not reflect either actual jail operating expenditures or actual City prisoner numbers. A more accurate determination of actual jail cost would require changing the current methodology from using a combination of jail operating **preliminary budget** expenditures and **projected** prisoner numbers to using a combination of **actual** expenditures and **actual** prisoner numbers.

Adoption of this new methodology would have **saved** the City **\$2.2 million** from Fiscal Year (FY) 2006 through 2008; however, this projected saving is only based on historical data of jail cost categories outlined in the current Agreement. The City's future payments may increase or decrease as a result of changes in the City prisoner numbers and / or different jail costs to be specified when the current Agreement is revised.

Summary of Recommendation

We recommend the Assistant City Manager over Public Safety consult with the City Attorney's Office and coordinate with the City departments, such as Dallas Police Department, Court and Detention Services, and Dallas County, to review and update the County Jail Agreement. An Agreement revision is needed to outline the new jail cost calculation methodology, address jail operation issues, and clearly define level of service.

Background Summary

The Criminal Justice Center Memorandum of Agreement (Agreement) was entered into by the City of Dallas (City) and the County of Dallas (County) in 1978. The Agreement granted the City a leasehold estate in the County jail for processing and maintaining City prisoners.

The fourth and last addendum to the Agreement was made in 1997 to establish the calculation methodology for jail cost shared by the City.

Court and Detention Services (CTS) administers the Agreement execution. CTS is also responsible for reviewing and verifying the shared jail cost calculated by the County and making the annual payment to the County.

CTS management questioned the accuracy of the County's cost calculation due to substantial increase in the annual payment even though the City prisoner numbers decreased each year.

<u>Fiscal Year</u>	<u>City Payment</u>	<u>City Prisoner Counts</u>
2006	\$ 6,547,988	85,298
2007	\$ 7,076,096	62,116
2008	\$ 6,823,985	60,723
2009	\$ 6,838,945	Not Available

Summary of Management’s Response

Management agrees with the recommendation and will address the issues through short and long-term goals. For the complete management response, see Appendix V.

Summary of Objectives, Scope and Methodology

Our audit objectives were to validate the accuracy of the jail cost calculation and evaluate the adequacy of the jail cost calculation methodology. The audit covered the period October 1, 2005 through September 30, 2008. The audit was requested by Court and Detention Services management because of the substantial increase in the annual jail Agreement payment.

To achieve the audit objectives, we reviewed the Agreement and amendments, interviewed County and City personnel, observed County jail operations, reviewed the County budget information, analyzed jail cost calculation data, researched industry best practices, and evaluated the jail cost calculation methodology.

Audit Results

Overall Conclusion

The City of Dallas and County of Dallas Criminal Justice Center Memorandum of Agreement (Agreement) has not been revised for over 11 years. The fourth and last addendum, made in 1997, requires the City of Dallas (City) and the County of Dallas (County) to review the jail cost calculation methodology every three years; however, there is no indication the review had been conducted before this audit.

Both City and County management agree that the Agreement needs revision. Such action will improve financial accountability in Agreement execution and enhance management oversight over the jail operation.

The current methodology does not reflect actual jail operating expenditures. Adoption of a proposed new jail cost calculation methodology would have **saved** the City **\$2,161,787** from Fiscal Year (FY) 2006 through FY 2008; however, this projected saving is only based on historical data of jail cost categories outlined in the current Agreement. The City's future payments may increase or decrease as a result of changes in the City prisoner numbers and / or different jail costs to be specified when the current Agreement is revised.

The Agreement Has Not Been Reviewed and Updated Since 1997

The City and the County entered into the Agreement in 1978 and had not reviewed or updated the Agreement since 1997 when the fourth and last addendum was made. During the last 11 years, the County jail operation has experienced many changes. As a result, some Agreement provisions no longer support the current jail operations. Further, some current Agreement language is vague and the level of service is not clearly defined.

Dallas Police Department (DPD) and Court and Detention Services (CTS) management also have some concerns regarding the Agreement. Examples include the definition of "City Prisoner" which is subject to wide interpretations, the City does not have access to the County jail's prisoner data information system, and there is no clear determination of responsibility for prisoners sent to the hospital, and for handling prisoner's personal property.

In 2008, the Dallas County Criminal Justice Advisory Board (CJAB) was formed with a principle mission to identify opportunities for improvement in the criminal justice system of Dallas County. CJAB general membership includes representatives from agencies in the Dallas County community, such as the City of Dallas and the County of Dallas. CJAB will meet regularly to review, evaluate, and make policy recommendations on vital criminal justice system issues throughout Dallas County. The CJAB may serve as a

communication vehicle to address future jail Agreement issues to ensure the effectiveness of the public safety programs and services.

Current Jail Cost Calculation Methodology Is Not Based on Actual Jail Operating Expenditures or Accurate Prisoner Count Projections

The Agreement Addendum Number 4 requires the City and County to review the jail cost calculation methodology every three years; however, there is no indication the review had been conducted before this audit.

According to the Agreement, the City's payment to the County is the pro-rata share of the jail operating costs attributable to City prisoners. The jail operating cost is comprised of the following:

- Apportioned Costs: 10 percent of certain Sheriff's Office operations
- Direct Costs: Expenditures directly incurred by the operations of Central Intake (Intake), Intake / Release (Release), and Housing
- Indirect Costs: County-wide central service departments' expenditures (excluding the Sheriff's Office operations)

The following is a simplified formula for the cost calculation:

$$\text{City's Share of Jail Cost} = \text{Number of City Prisoners} \times (\text{Total Jail Operating Costs} \div \text{Total Prisoner Counts}) + \text{Apportioned Costs}$$

There are two key elements in the cost calculation methodology: **(a) jail operating cost** and **(b) number of City prisoners**¹. However, under the current methodology outlined in Amendment Number 4, both elements are based on estimates instead of actual costs: jail operating cost is based on a preliminary budget and the prisoner number is based on projection derived from historical data. The City's shared cost is determined based on these estimates before the fiscal year begins. Amendment Number 4 does not allow the City to adjust its payment for modifications to the County's adopted budget or if the actual expenditures and actual prisoner counts are different from the estimates.

¹ Throughout the audit, our calculations were based on the historical monthly prisoner numbers provided by the County. We did not have access to the County's prisoner information system to validate the prisoner data.

(a) Jail Operating Cost

The County currently uses a “preliminary budget” as the basis for calculating the jail operating cost for the upcoming fiscal year. During FY 2006 to FY 2008, the County’s preliminary budgets have underestimated the actual fiscal year expenditures. The City’s payments were not adjusted for the difference between the preliminary budgets and actual expenditures. Assuming prisoner counts remain the same as the numbers used in County’s original calculations, the City would have **paid an additional \$1,138,960²** if the jail costs were **based on actual expenditures instead of preliminary budget.**

(b) Number of City Prisoners

The County currently uses a historical 24-month average to project the City’s upcoming fiscal year prisoner counts; however, this methodology does not provide an accurate projection. For example, the **projected** City Intake numbers for FY 2007 and FY 2008 using the historical 24-month average were **19,669 more** than the City prisoners **actually** processed by the County jail. The City’s payments were not adjusted for the difference between the projected numbers and actual prisoner counts. As a result, the City’s cost share would have been overstated.

Further analysis shows that for projection purposes, a historical 12-month average would provide a smaller difference when compared to the prisoner numbers actually processed in the upcoming fiscal year. Therefore, the shared cost based on a historical 12-month average is closer to the actual cost. Assuming total jail operating costs remain the same as the preliminary budget figures used in the County’s original calculations, in FY 2007 and FY 2008, the City savings would have been **\$681,813** by using a **historical 12-month average**, or **\$1,851,761** by using **actual prisoner** counts (see Table I on next page).

² This analysis is only based on historical data of jail cost categories outlined in the current Agreement. The City’s future payments may increase or decrease as a result of changes in the City prisoner numbers and / or different jail costs to be specified when the current Agreement is revised.

Table I

Comparison of Prisoner Count Methodologies* FY 2007 – FY 2008

Fiscal Year	Payment Calculated Using Historical 24-Month Average	Using Historical 12-Month Average		Using Actual Prisoner Counts	
		Payment	City Savings	Payment	City Savings
2007	\$ 6,838,985	\$ 6,576,490	\$ 262,495	\$ 5,536,019	\$ 1,302,966
2008	6,416,139	5,996,821	419,318	5,867,344	548,795
Totals	\$ 13,255,124	\$ 12,573,311	\$ 681,813	\$ 11,403,363	\$ 1,851,761

Note: *Assumes total jail operating costs remain the same as the preliminary budget figures used in the County's original calculations

Source: City Auditor's Office analysis of jail cost calculation data

In addition, under the current methodology, it is difficult for both the City and the County to review and validate the accuracy of the jail cost calculation. At the beginning of each fiscal year, the County uses the historical 24-month average to project the number of prisoners. However, the historical prisoner data used in the projection was not always timely updated.

- For FY 2007 and FY 2008, the City overpaid **\$645,063³** to the County because the County miscalculated the projection of number of City prisoners. The overpayment includes **\$441,247** for Intake, **\$74,802** for Release and **\$129,014** for Housing. For more details, see *Appendix II – Impact of Miscalculated Prisoner Counts on City's Payment in FY 2007 – FY 2008*.

The Agreement provides that the City shall review and verify the County's proposed jail costs by no later than 45 days of receipt. Further, the final amounts of FY 2007 and FY 2008 payments were determined in August of 2006 and 2007. The Agreement does not provide for any refund of the overpayments.

- In May 2008, the County presented to the City a draft cost calculation worksheet for the FY 2009 preliminary payment amount. The CTS management identified that prisoner counts were not being timely updated to reflect the most recent historical 24-month data. As a result, the draft worksheet overstated the City's prisoner Intake counts by 11,301. In August 2008, the County revised the final calculation accordingly and **saved the City \$948,144** in FY 2009 payment compared to the preliminary amount.

³ The impact on the City's payment was determined assuming total jail operating costs remain the same as the preliminary budget figures used in the County's original calculations

(c) Proposed New Methodology

Based on our review and analysis, a new methodology is needed to more accurately reflect the actual jail operating costs shared by the City. This new methodology is based on both actual jail operating costs and actual prisoner counts. If the new proposed methodology had been used, the City would have **saved \$2,161,787** for FY 2006 through FY 2008 (see Table II).

Table II

**City Payments under Current Methodology and Proposed Methodology
 FY 2006 – FY 2008**

Fiscal Year	Current Methodology*	Proposed Methodology**	City's Projected Savings
2006	\$ 6,547,988	\$ 5,951,007	\$ 596,981
2007	7,076,096	5,864,933	1,211,163
2008	6,823,985	6,470,342	353,643
Totals	\$ 20,448,069	\$ 18,286,282	\$ 2,161,787

* **Current Methodology** uses a combination of preliminary budget and a projection of prisoner counts based on historical 24-month average.

** **Proposed Methodology** uses a combination of actual jail operating expenditures and actual prisoner counts.

Source: City Auditor's Office analysis of jail cost calculation data.

However, the City's projected saving shown in the analysis is only based on historical data of FY 2006 through FY 2008 and the jail cost categories outlined in the current Agreement. The proposed methodology may have different results in future years' payments. For example, the current trend of City prisoner numbers is decreasing, but any changes in the trend of City prisoner numbers in the future may increase or decrease the City's payment. Further, if the new Agreement revision outlines different jail cost categories compared to the current Agreement, this will also affect the calculation of the City's future payment. Nonetheless, the intent of the proposed new methodology is to promote fairness and bring benefit to both the County and the City. The proposed new methodology's purpose is to more accurately reflect the actual jail operating expenditure.

Further, adopting a new jail cost calculation methodology will not cause problems to the City's annual budget preparation. Currently, the County provides the City by May 15 of each year an estimate of the shared jail cost for the upcoming fiscal year. Under the proposed methodology, for the most recently closed fiscal year, an adjustment would be made between actual cost and estimate for both jail costs and prisoner numbers and this adjustment would be reflected in the City's annual payment for the subsequent fiscal year. For an illustration of comparison of the City's current budget process and the proposed budget process, see *Appendix III – Flowchart for Determination of Future Annual Payment and Forward*.

Recommendation

We recommend the Assistant City Manager over Public Safety consult with the City Attorney's Office and coordinate the City departments, such as Dallas Police Department, Court and Detention Services, and Dallas County, to review and update the County jail Agreement. An Agreement revision is needed to outline the new jail cost calculation methodology, address jail operation issues, and clearly define level of service.

Management's Response

Agree. Staff from both the Dallas Police Department (DPD) and Court and Detention Services (CTS) have reviewed the audit report and concur with the recommendation. Both DPD and CTS will address the issues through short and long-term goals.

Issues that will be addressed in the short-term will include clarification of the definitions, jail operation issues, and clearly defined level of service. Long-term, both DPD and CTS will have discussions with the County to review the jail cost components of the cost methodology and, together, will determine and ultimately recommend if any policy and/or contractual changes are necessary.

Implementation Date: September 2009 (short-term); April 2010 (long-term)

Responsible Managers: Gloria Lopez-Carter, Director of Court and Detention Services; Chief David M. Kunkle, Dallas Police Department

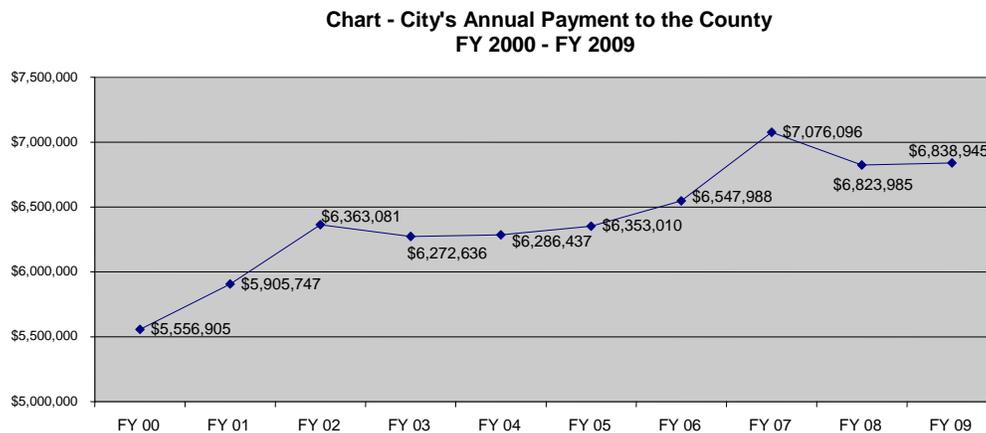
Background, Objectives, Scope, and Methodology

Background

In 1978, the City of Dallas (City) and the County of Dallas (County) entered into a Criminal Justice Center Memorandum of Agreement (Agreement) for City / County jail consolidation. The Agreement granted the City a leasehold estate in the Lew Sterrett Criminal Justice Center (County jail) for processing and maintaining City jail prisoners.

Since its inception, the Agreement has received four addendums. In 1997, the City Council authorized Amendment Number 4 to establish a methodology to calculate the City's equitable share of the annual cost of processing and maintaining City prisoners on a per-prisoner basis. The Addendum also requires the City and the County to review the jail cost calculation methodology every three years and modify the methodology if necessary.

The following chart shows a ten-year history of the City's annual payment to the County from FY 2000 to FY 2009.



Source: City Council Resolutions

The City's Court and Detention Services Department (CTS) administers the Agreement execution and the annual payment made to the County. CTS management questioned the accuracy of the cost calculation due to substantial increase in the annual payment even though the City prisoner numbers decreased each year.

The Dallas Police Department Detention Services Unit is responsible for the prisoner processing operations at the County jail and functions as liaison between DPD and the Dallas County Sheriff’s Office, which oversees the County jail.

City’s usage of the County jail can be grouped into three categories according to the jail operation: Central Intake, Intake / Release, and Housing. In FY 2008, the percentages of County’s total prisoner population counted as City’s usage are 36 percent, 11 percent, and 0.6 percent respectively. Table III shows the number of City prisoners actually processed by the County jail from FY 2006 through FY 2008.

Table III

Number of Actual City Prisoners FY 2006 – FY 2008				
Fiscal Year	Central Intake	Intake / Release	Housing*	Total
2006	45,359	13,172	26,767	85,298
2007	35,398	14,475	12,243	62,116
2008	34,854	13,459	12,410	60,723

*Housing counts are calculated as “Average Daily Prisoner Numbers” times 365 days.

Source: City Auditor’s Office analysis of jail cost calculation data.

Objectives, Scope and Methodology

This audit was conducted under authority of the City Charter, Chapter IX, Section 3 and in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were to validate the accuracy of the jail cost calculation and evaluate the adequacy of the jail cost calculation methodology. The audit period covered October 1, 2005 through September 30, 2008. We also reviewed certain related transactions and records before and after that period. The audit was requested by CTS management due to the substantial increase in the annual jail Agreement payment.

To achieve the audit objectives, we performed the following procedures:

- Reviewed the Agreement, Amendments, City Council Resolutions, and other relevant documents and information
- Interviewed County and City department personnel to develop an understanding of relevant operations and procedures
- Physically toured the County jail to gain an understanding of the general jail process related to “Central Intake”, “Intake / Release”, and “Housing”

**An Audit Report on –
City of Dallas and County of Dallas Criminal Justice Center Memorandum of Agreement**

- Reviewed County budget information on jail expenditures
- Reviewed and analyzed County jail cost calculation and methodology
- Researched industry best practices in government cost-reimbursement contracting

**Impact of Miscalculated Prisoner Counts on City Payments⁴
 In FY 2007 – FY 2008**

Prisoner Intake

Fiscal Year	Number of Prisoners City Paid For	Number of Prisoners City Should Have Paid For	Number of Prisoners City Overpaid For	Amount City Overpaid
2007	48,893	47,683	1,210	\$ 117,293
2008	46,131	42,238	3,893	323,954
Totals	95,024	89,921	5,103	\$ 441,247

Prisoner Release

Fiscal Year	Number of Prisoners City Paid For	Number of Prisoners City Should Have Paid For	Number of Prisoners City Overpaid For	Amount City Overpaid
2007	14,640	12,491	2,149	\$ 59,796
2008	13,901	13,649	252	15,006
Totals	28,541	26,140	2,401	\$ 74,802

Prisoner Housing⁵

Fiscal Year	Number of Prisoners City Paid For	Number of Prisoners City Should Have Paid For	Number of Prisoners City Overpaid For	Amount City Overpaid
2007	24,532	22,113	2,419	\$ 59,990
2008	22,037	20,288	1,749	69,024
Totals	46,569	42,401	4,168	\$ 129,014

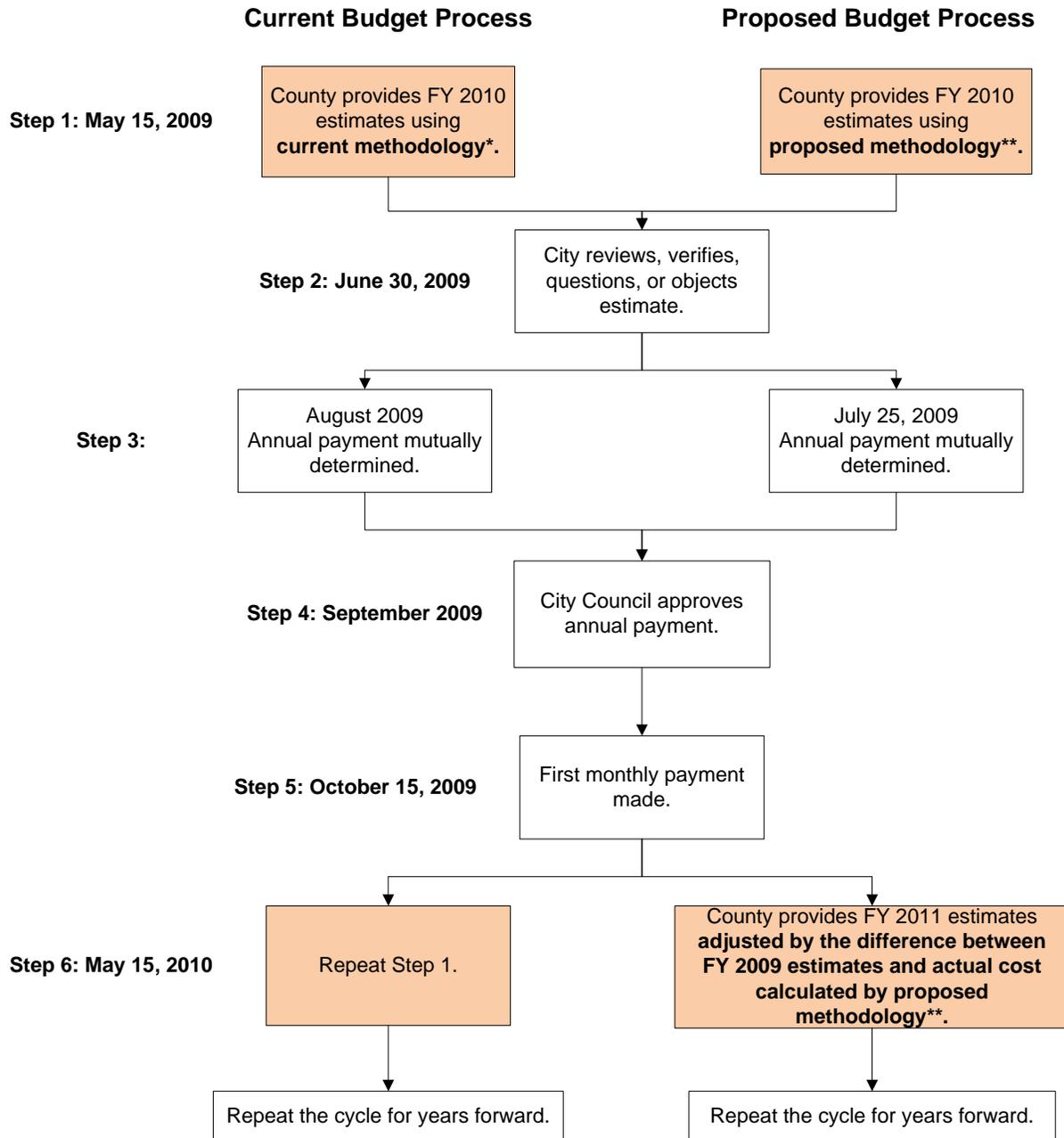
Source: City Auditor's Office analysis of jail cost calculation data.

⁴ The impact on the City's payment was determined assuming total jail operating costs remain the same as the preliminary budget figures used in the County's original calculations.

⁵ Housing counts are calculated as "Average Daily Prisoner Numbers" times 365 days.

Appendix III

Flowchart for Determination of Future Annual Payment and Forward



* **Current methodology** uses a combination of preliminary budget and a projection of prisoner counts based on historical 24-month average.

** **Proposed methodology**

- **Step 1** uses a combination of preliminary budget and a projection of prisoner counts based on historical 12-month average.
- **Step 6** uses a combination of actual jail operating expenditures and actual prisoner counts.

Appendix IV

Major Contributors to This Report

Gary E. Lewis, CPA, CIA, CFE, CFF, Assistant City Auditor
Rowena X. Zhang, CPA, CIA, CFE, CFF, Project Manager
Theresa Hampden, CPA, Quality Control Manager

Management's Response

Memorandum

RECEIVED

MAR 27 2009



CITY AUDITOR'S OFFICE

DATE: March 25, 2009
TO: Craig D. Kinton, City Auditor
SUBJECT: Response to Audit Report: Audit of City of Dallas and County of Dallas Criminal Justice Center Memorandum of Agreement

Our responses to the audit report recommendations are as follows:

Recommendation:

We recommend the Assistant City Manager over Public Safety consult with the City Attorney's Office and coordinate the City departments, such as Dallas Police Department, Court and Detention Services, and Dallas County, to review and update the County jail Agreement. An Agreement revision is needed to outline the new jail cost calculation methodology, address jail operation issues, and clearly define level of service.

Management Response / Corrective Action Plan

Agree Disagree Partially Agree

Staff from both the Dallas Police Department and Court and Detention Services have reviewed the audit report and concur with the recommendation. Both DPD and Court & Detention Services will address the issues through short and long term goals.

Issues that will be addressed in the short term will include clarification of the definitions, jail operation issues and clearly defined level of service. Long term, both DPD and Court and Detention Services will have discussions with the County to review the jail cost components of the cost methodology and together determine and ultimately recommend if any policy and/or contractual changes are necessary.

Implementation Date

September 2009 – short term
April 2010 – long term

Responsible Manager

Gloria Lopez Carter, Director of Court and Detention Services
Chief David Kunkle, Dallas Police Department

**An Audit Report on –
City of Dallas and County of Dallas Criminal Justice Center Memorandum of Agreement**

Response to Audit Report: Audit of City of Dallas and County of Dallas Criminal Justice
Center – Memorandum of Agreement
March 25, 2009
Page Two

Sincerely,



Gloria López Carter, Director
Court and Detention Services

c: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Chief David Kunkle, Dallas Police Department

"Dallas: The City That Works: Diverse, Vibrant, and Progressive."