

Report To The Mississippi Legislature



Department of Finance and Administration's Use of Contractors for the State and Public School Employees' Health Insurance Plans

April 24, 1996

State law requires the PEER Committee to report annually to the Legislature regarding all contractors used by the Department of Finance and Administration (DFA) for the State and Public School Employees' Health Insurance Plans. During fiscal years 1995 and 1996, DFA adhered to accepted public contracting principles in obtaining its administrative (i.e., health consulting, actuary, or claims auditing), utilization review, and database information contracts. Each contractor performed work during fiscal years 1995 and 1996 in compliance with contractual responsibilities.

The PEER Committee

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**Department of Finance and Administration's Use of
Contractors for the State and Public School Employees'
Health Insurance Plans**

April 24, 1996

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature
Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

SENATORS
WILLIAM W. CANON
Chairman
HOB BRYAN
BOB M. DEARING
EZELL LEE
JOHNNIE E. WALLS, JR.

TELEPHONE:
(601) 359-1226

FAX:
(601) 359-1420



P. O. Box 1204
Jackson, Mississippi 39215-1204

Max Arinder
Interim Director

REPRESENTATIVES
WILLIAM E. (BILLY) BOWLES
Vice Chairman
ALYCE G. CLARKE
Secretary
HERB FRIERSON
TOMMY HORNE
MARY ANN STEVENS

OFFICES:
Professional Building
222 North President Street
Jackson, Mississippi 39201

April 24, 1996

Honorable Kirk Fordice, Governor
Honorable Ronnie Musgrove, Lieutenant Governor
Honorable Tim Ford, Speaker of the House
Members of the Mississippi State Legislature

At its meeting of April 24, 1996, the PEER Committee authorized release of the report entitled Department of Finance and Administration's Use of Contractors for the State and Public School Employees' Health Insurance Plans.



Senator Bill Canon, Chairman

**This report does not recommend increased
funding or additional staff.**

Table of Contents

Letter of Transmittal.....	i
List of Exhibits	v
Executive Summary.....	vii
Introduction	1
Authority	1
Scope and Purpose.....	1
Method	1
Overview	2
Background	3
Administration of the State and Public School	
Employees' Health Plans.....	3
Elements of Fair and Efficient Personal	
Services Contracting.....	4
DFA Contracting Requirements Contained in	
State Law	4
Compliance Summary.....	5
Process Used by DFA to Procure Contractors for the Plans	5
Contractor Work Products	7
Contractor Expenditures	7

List of Exhibits

1.	State of Mississippi Health Insurance Plans: Process Used by DFA to Procure Administrative and Utilization Review Contractors, FY 1995 and FY 1996.....	6
2.	Contractual Responsibilities and Types of Work Products of DFA Administrative Contractors	8
3.	State of Mississippi Health Insurance Plans, Administrative and Utilization Review Contracts, FY 1995 Expenditures.....	10
4.	State of Mississippi Health Insurance Plans, Administrative and Utilization Review Contracts, FY 1996 Expenditures (July 1, 1995- December 31, 1995).....	11

Department of Finance and Administration's Use of Contractors for the State and Public School Employees' Health Insurance Plans

April 24, 1996

Executive Summary

Introduction

State law authorizes the Department of Finance and Administration to administer the State Employees' Health Insurance Plan and the Public School Employees Health Insurance Plan and to enter into contracts with "accountants, actuaries and other persons from the private sector whose skills are necessary" to carry out the provisions of state law relative to the plans.

Section 4, Chapter 554, *Laws of 1995*, requires the PEER Committee to report annually to the Legislature regarding all contractors used by the Department of Finance and Administration (DFA) for the State and Public School Employees' Health Insurance Plans. Section 4 specifically requires PEER's report to address:

- the processes by which the department procured its contractors;
- the contractors' work products; and,
- contract expenditures.

Overview

Public contracting generally involves the development of a request for proposals (RFP), advertisement of the RFP, evaluation of proposals received, and award of a contract based on the evaluations. DFA, in contracting for its administrative (i.e., health consulting, actuary, or claims auditing), utilization review, and database information contractors for fiscal years 1995 and 1996, adhered to accepted public contracting principles.

DFA has formal contracts with its administrative, utilization review, and database information contractors which detail the contractors' responsibilities and services to be provided to the department. Each contractor performed work during fiscal years 1995 and 1996 in compliance with contractual responsibilities.

During fiscal years 1995 and 1996 (through December 31, 1995), DFA expended \$3,274,437.03 and \$1,203,246.53, respectively, on its administrative, utilization review, and database information contractors. Because DFA's contracts with its administrative, utilization review, and database information contractors contain hourly rates or dollar ranges of charges for services provided, the department has few limits on the total amounts that may be expended on such contractors.

For More Information or Clarification, Contact:

PEER Committee
P. O. Box 1204
Jackson, MS 39215-1204
(601) 359-1226

Senator William Canon, Chairman
Columbus, MS (601) 328-3018

Representative Billy Bowles, Vice-Chairman
Houston, MS (601) 456-2573

Representative Alyce Clarke, Secretary
Jackson, MS (601) 354-5453

Department of Finance and Administration's Use of Contractors for the State and Public School Employees' Health Insurance Plans

Introduction

Authority

In accordance with Section 4, Chapter 554, *Laws of 1995*, and MISS. CODE ANN. § 5-3-57 (1972), the PEER Committee addressed the Department of Finance and Administration's use of contractors for the State and Public School Employees' Health Insurance Plans.

Scope and Purpose

Section 4, Chapter 554, *Laws of 1995*, requires the PEER Committee to report annually to the Legislature regarding all contractors used by the Department of Finance and Administration (DFA) for the State and Public School Employees' Health Insurance Plans (hereinafter referred to as the "plan" or the "plans"). Section 4 specifically requires PEER's report to address:

- the processes by which the department procured its contractors;
- the contractors' work products; and,
- contract expenditures.

Section 4 excludes from PEER's report the third-party administrator contract used by DFA to process health claims. (In addition, PEER excluded the department's provider network contracts, which involve provider billing discounts rather than tangible deliverables.) Section 4 also states that PEER's annual report shall include contracts for the most recently completed fiscal year and those for the current fiscal year--i.e., fiscal years 1995 and 1996 for this report.

Method

In compiling information for this report, PEER:

- reviewed records of the DFA Office of Insurance, including requests for proposals (RFP), advertisements of RFPs, contracts, summaries of contractors' work products, and invoices representing contract expenditures; and,
- interviewed staff of the DFA Office of Insurance.

Overview

Public contracting generally involves the development of a request for proposals, advertisement of the RFP, evaluation of proposals received, and award of a contract based on the evaluations. DFA, in contracting for its administrative (i.e., health consulting, actuary, or claims auditing), utilization review, and database information contractors for fiscal years 1995 and 1996, adhered to accepted public contracting principles.

DFA has formal contracts with its administrative, utilization review, and database information contractors which detail the contractors' responsibilities and services to be provided to the department. Each contractor performed work during fiscal years 1995 and 1996 in compliance with contractual responsibilities.

During fiscal years 1995 and 1996 (through December 31, 1995), DFA expended \$3,274,437.03 and \$1,203,246.53, respectively, on its administrative, utilization review, and database information contractors. Because DFA's contracts with its administrative, utilization review, and database information contractors contain hourly rates or dollar ranges of charges for services provided, the department has few limits on the total amounts that may be expended on such contractors.

Background

Administration of the State and Public School Employees' Health Plans

MISS. CODE ANN. § 25-15-5 and § 25-15-253 (1972) authorize the Department of Finance and Administration to administer the State Employees' Health Insurance Plan and the Public School Employees' Health Insurance Plan and to promulgate necessary rules and regulations for their administration. Currently, DFA, through its Office of Insurance, manages the plans in a similar manner, while technically maintaining each as a separate plan with separate fund reserves.

MISS. CODE ANN. § 25-15-5 (1972) authorizes DFA to enter into contracts with "accountants, actuaries and other persons from the private sector whose skills are necessary" to carry out the provisions of state law relative to the plans. DFA's service contracts for fiscal years 1995 and 1996 may be categorized as either administrative, utilization review, or database information.

DFA's administrative contracts provide the department with technical expertise to formulate plan benefits, maintain the plans' financial stability, and audit the accuracy and appropriateness of claims paid. During fiscal years 1995 and 1996, the department's administrative contracts included those for health/insurance consulting services provided by Coopers & Lybrand LLP; actuarial services provided by William Lynn Townsend; and claims auditing services provided by A. Foster Higgins.

DFA had a contract with Cost Care, Inc., during fiscal years 1995 and 1996 to perform utilization review services to ensure that the plans provide the best possible care to participants with the least costly combination of services. Cost Care pre-certifies inpatient hospital stays, reviews continued inpatient stays, provides for second surgical opinions, performs large case management, and operates a patient assistance line. DFA (through the Department of Information Technology Services) also had a contract with MEDSTAT Systems, Inc., during fiscal years 1995 and 1996 to perform database information services for reporting and analytical purposes.

During fiscal years 1995 and 1996, DFA also had a contract with CENTRA Benefit Services to function as the plans' third-party administrator to process health claims. (Section 4, Chapter 554, *Laws of 1995*, excludes the department's claims processing contract from PEER's report.) In addition, DFA contracted with various health care provider networks during fiscal years 1995 and 1996 to provide billing discounts to the plans. (PEER excluded these contracts from this report, because they involve billing discounts rather than tangible deliverables.)

Elements of Fair and Efficient Personal Services Contracting

Personal services contracting by state agencies and institutions in Mississippi is not a highly regulated activity. Unlike position recruitment, selection, classification, and compensation, which must comply with State Personnel Board pre-audit controls to determine whether persons are hired, compensated, and classified in a manner reflective of their job skills and job worth, few pre-audit requirements exist in the area of personal services contracts. MISS. CODE ANN. § 25-9-107 (c) (x) requires that agencies under the purview of the State Personnel Board obtain approval of the State Personnel Director prior to entering into contracts for personal services. The statutory basis for the State Personnel Director's disapproval of such contracts is limited to those cases in which the tasks to be performed by the contractor could be performed by a state service employee in an authorized position.

Since Mississippi law provides no procedural controls on personal services contracting except for review by the State Personnel Director, PEER reviewed other states' laws and the recommendations of other entities such as federal law and publications of the American Bar Association to determine the procedural steps that should be found in a personal services contracting process. Generally, an effective contracting process provides for:

- formal development of a request for proposals;
- dissemination of the RFP to interested parties after advertising;
- evaluation of responses to the RFP; and,
- formal selection of the contractor based on evaluations.

PEER based its review of DFA's use of contractors for the state and public school employees' health insurance plans on the elements listed above.

DFA Contracting Requirements Contained in State Law

As previously stated, Section 4, Chapter 554, *Laws of 1995*, allows DFA to contract with private sector contractors to design and administer the state and public school employees' health plans. Section 4 states that DFA shall use a competitive process, incorporating standards such as those listed above for public contracting, to procure contractors whose services shall be provided for periods in excess of six months.

Compliance Summary

Process Used by DFA to Procure Contractors for the Plans

PEER compiled information on the process used by DFA to procure FY 1995 and FY 1996 administrative, utilization review, and database information contractors for the state and public school employees' health insurance plans. DFA entered into contracts for such services prior to the enactment of Section 4, Chapter 554, *Laws of 1995*. DFA procured its utilization review contractor in FY 1992, its database information contractor in FY 1993, its health consultant and actuary contractors in FY 1994, and its claims auditor in FY 1995.

In procuring its administrative, utilization review, and database information contractors, DFA adhered to the four primary components of fair and efficient public contracting listed on page 4 of this report. The department's one exception was procurement of the claims auditing contractor, which the department procured on an emergency basis due to claims processing problems experienced by the department's third-party administrator. DFA telephoned five companies capable of performing the audit and asked them to provide responses for evaluation. Exhibit 1, page 6, compares the process used by DFA to procure its administrative (i.e., health consulting, actuary, and claims auditing), utilization review, and database information contractors to the four primary components of public contracting.

DFA's Renewal of Three Contracts Without Competitive Bidding May Have Violated Provisions of Section 4

As previously stated, Section 4, Chapter 554, *Laws of 1995*, requires that DFA use a competitive process to procure contractors whose services would be provided for longer than six months. Because this law became effective on April 10, 1995, DFA was subject to its provisions after that date.

Shortly after enactment of Section 4, DFA renewed three of its administrative contracts by extending their expiration dates, as illustrated below.

<u>Contractor</u>	<u>Date Renewed</u>	<u>Expiration Date</u>	<u>Revised Expiration Date</u>
A. Foster Higgins (Claims Auditor)	05/22/95	06/30/95	12/31/95
Coopers & Lybrand (Health Consultant)	05/22/95	06/30/95	06/30/96
William Lynn Townsend (Actuary)	06/09/95	06/30/95	06/30/96

Although DFA's original contracts with Coopers & Lybrand and William Lynn Townsend contained clauses that allowed DFA, at its option, to extend the contracts, the department clearly exercised such renewal options after

Exhibit 1

State of Mississippi Health Insurance Plans: Process Used by DFA to Procure Administrative and Utilization Review Contractors FY 1995 and FY 1996

	Developed Formal Request for Proposals (RFP)?	Advertised RFP?	Formal Evaluation of Responses to RFP?	Based Contractor Selection on Formal Evaluations?
Health consulting (Coopers & Lybrand)#	✓	✓	✓	✓
Actuary (Lynn Townsend)#	✓	✓	✓	✓
Claims auditing (A. Foster Higgins)	*	*	✓	✓
Utilization review (Cost Care, Inc.)	✓	✓	✓	✓
Data information (MedStat)	✓	✓	✓	✓

During FYs 1995 and 1996, DFA renewed these contracts, which the department procured competitively in previous fiscal years.

* DFA handled procurement of the claims auditing contract as an emergency item without a formal RFP or advertising.

NOTE: Company names listed in parenthesis represent contractors selected by DFA.

SOURCE: PEER analysis of DFA records.

enactment of Section 4, which specifically required a competitive selection process for private sector contracts for periods longer than six months. (The department's contract with A. Foster Higgins did not contain a renewal option. However, DFA extended the contract because the department expanded the scope of work to be performed by the contractor.) DFA had approximately two and one-half months in which to obtain proposals for such services on a competitive basis, in accordance with Section 4, but chose to exercise its renewal options automatically.

On June 28, 1995, after DFA had renewed the three contracts, the department requested an opinion from the Attorney General as to whether DFA should *“ . . . follow the bid procedures when initially entering into contracts and when renewing or continuing existing contracts during the term of the contract.”* The Attorney General issued an official opinion to DFA on July 28, 1995, stating that *“ . . . the Department of Finance and Administration, from and after April 10, 1995 the effective date of Senate Bill No. 3303-is required to obtain bids for services initially and on contract renewal.”* In response to the Attorney General's office regarding the July 28 opinion, DFA staff stated that it planned to obtain bids for all contracts that were to be in existence in excess of six months.

Contractor Work Products

DFA has formal contracts with its administrative, utilization review, and database information contractors which detail the contractors' responsibilities and services to be provided to the department. DFA monitors the contractors' performance of required services by reviewing deliverables produced, primarily written reports, and reconciling invoices submitted by contractors to financial terms of the contracts. Exhibit 2, page 8, lists contractual responsibilities of DFA's administrative contractors and types of work products for each contractor. (Because DFA's utilization review and database information contractors' responsibilities primarily relate to one type of service--pre-certification consultation and database information, respectively--PEER did not detail contractual responsibilities and types of work products for those contractors.)

Because DFA's contracts with its administrative, utilization review, and database information contractors are functional in nature and primarily describe types of services to be performed, it is difficult for DFA (or PEER) to evaluate the quality of specific work products produced by the contractors. Despite the contracts' lack of specificity regarding quality of work produced, each contractor performed work during fiscal years 1995 and 1996 in compliance with contractual responsibilities.

Contractor Expenditures

During fiscal years 1995 and 1996 (through December 31, 1995), DFA expended \$3,274,437.03 and \$1,203,246.53, respectively, on its administrative, utilization review, and database information contractors.

Exhibit 2

Contractual Responsibilities and Types of Work Products of DFA Administrative Contractors

Coopers and Lybrand

<u>Primary Contractual Responsibilities</u>	<u>Types of Work Products</u>
assist in the preparation and evaluation of requests for proposals (RFPs)	assisted in the preparation of RFPs for DFA's medical and chiropractic networks
assist in the establishment of provider networks	prepared a model for DFA's provider networks; compiled reports on network contracts; performed general consulting
discuss health care topics with DFA staff	provided reports on well baby program; provided reports on proposed benefit changes; performed general consulting

Lynn Townsend

<u>Primary Contractual Responsibilities</u>	<u>Types of Work Products</u>
provide actuarial reports addressing the plans' financial status	compiled calendar and fiscal year actuarial reports

A. Foster Higgins

<u>Primary Contractual Responsibilities</u>	<u>Types of Work Products</u>
perform a comprehensive, objective claims audit for the plans	completed three claims audits on behalf of the plans
review the plans' former and current third-party administrators' claims payment systems and procedures	completed a report regarding the plans' former and current third-party administrators' claims payment systems and procedures
review the repricing process between the plans' former and current third-party administrators	completed a report relative to repricing of claims

NOTE: This exhibit does not represent an exhaustive listing of contractors' work responsibilities and work products.

SOURCE: PEER analysis of DFA records.

Exhibits 3 and 4, pages 10 and 11, present total expenditures by contractor for each fiscal year.

Because DFA's contracts with its administrative, utilization review, and database information contractors contain hourly rates or dollar ranges of charges for services provided, the department has few limits as to the total amounts that may be expended on such contractors. The primary limit is the availability of funds appropriated by the Legislature from the insurance premium account for the administration of the state and public school employees' health insurance plans. Another limit is the maximum expenditure anticipated amount reported to the State Personnel Board on the "Request for Contract Personnel Services Approval." The Department of Finance and Administration will not process payment vouchers in excess of the total contract amount approved by the State Personnel Board.

Section 4, Chapter 554, *Laws of 1995*, requires DFA to provide the Joint Legislative Budget Committee with budgetary information regarding the state and public school employees' health plans. Such information shall include a detailed breakdown of all expenditures of the plans, administrative and otherwise, for the most recently completed fiscal year and projected expenditures for the current fiscal year. The required budgetary information will provide the Joint Legislative Budget Committee and the Legislature with information on which to make policy decisions regarding DFA's expenditure of funds on contractors (and other items associated with administration of the plans).

Exhibit 3**State of Mississippi Health Insurance Plans
Administrative and Utilization Review Contracts
FY 1995 Expenditures**

	State Plan	School Plan	Total Both Plans
Administrative Contracts:			
Coopers & Lybrand - (Health Consultant)	\$212,013.77	\$166,842.11	\$378,855.88
Lynn Townsend - (Actuary)	\$51,025.35	\$27,235.35	\$78,260.70
A. Foster Higgins - (Claims Auditor)	\$154,509.19	\$6,951.52	\$161,460.71
	<u>\$417,548.31</u>	<u>\$201,028.98</u>	<u>\$618,577.29</u>
Utilization Review Contracts:			
Cost Care - (Utilization Review)	\$1,064,386.31	\$1,248,181.79	\$2,312,568.10
MedStat - (Database Information)	\$168,819.16	\$174,472.48	\$343,291.64
	<u>\$1,233,205.47</u>	<u>\$1,422,654.27</u>	<u>\$2,655,859.74</u>
Totals	\$1,650,753.78	\$1,623,683.25	\$3,274,437.03

SOURCE: Prepared by PEER from information provided by DFA.

Exhibit 4

**State of Mississippi Health Insurance Plans
Administrative and Utilization Review Contracts
FY 1996 Expenditures**
(July 1, 1995 - December 31, 1995)

	State Plan	School Plan	Total Both Plans
Administrative Contracts:			
Coopers & Lybrand - (Health Consultant)	\$15,008.42	\$15,008.42	\$30,016.84
Lynn Townsend - (Actuary)	\$31,395.00	\$15,665.00	\$47,060.00
A. Foster Higgins - (Claims Auditor)	\$18,712.72	\$18,712.74	\$37,425.46
	<u>\$65,116.14</u>	<u>\$49,386.16</u>	<u>\$114,502.30</u>
Utilization Review Contracts:			
Cost Care - (Utilization Review)	\$427,255.62	\$538,880.26	\$966,135.88
MedStat - (Database Information)	\$57,625.90	\$64,982.45	\$122,608.35
	<u>\$484,881.52</u>	<u>\$603,862.71</u>	<u>\$1,088,744.23</u>
Totals	\$549,997.66	\$653,248.87	\$1,203,246.53

SOURCE: Prepared by PEER from information provided by DFA.

PEER Staff

Director

Max Arinder, Interim Director
Ava Welborn

Administration and Support Division

**Steve Miller, General Counsel and
Controller**

Shirley Anderson
Louwill Davis
Sam Dawkins
Ann Hutcherson
Larry Landrum
Mary McNeill
Bonita Sutton

Evaluation Division

James Barber, Division Manager
Kathleen Sullivan, Division Manager

Mitchell Adcock
Michael Boyd
Ted Booth
Katherine Stark Frith
Barbara Hamilton
Kevin Humphreys
Kelly Lockhart
Joyce McCants
David Pray
Pam Sutton
Linda Triplett
Larry Whiting

Pam Confer, Intern
