8 key passages from the 21CT ‘strike force’ report

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A report from a "strike force" assembled by Gov. Greg Abbott in the wake of the 21CT contracting scandal, released today, criticizes purchasing practices at the state’s largest agency and at the state agency responsible for information technology purchasing.

The report drew largely on news reports as source material in its explanation of how 21CT came to land a lucrative contract without competition. The strike force investigation came following an American-Statesman investigation into the commission’s multimillion-dollar, no-bid deals with 21CT, which was hired to help with Medicaid fraud investigations.

Key excerpts from the 92-page report are below.

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1. 21CT deal is a ‘policy fiasco’

The strike force’s report, released Monday, focused on the structure of the Health and Human Services Commission and the policies that allowed the agency’s no-bid deal with 21CT to fly under the radar.

2. Agency officials ‘exercised judgment so poor that it put HHSC’s credibility at risk’
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The strike force
The team, appointed by the governor’s office, was led by Billy Hamilton, a former deputy comptroller, and included three other members who have experience with state contracts:

- Scott McGown, clinical professor and director of the Children’s Rights Clinic at the University of Texas School of Law
- Heather Gilchrist Peterson, chief financial officer of the Texas Department of Agriculture
- Talmadge Heflin, director of the Center for Fiscal Policy at the conservative Texas Public Policy Foundation

Key events

- **NOV. 29**
  Statesman reports ties between HHSC official Stick and 21CT’s lobbyist

- **DEC. 12**
  Stick resigns from his position as chief counsel. HHSC announces it’s canceling a second 21CT deal

- **DEC. 18**
  The Travis County District Attorney’s Public Integrity Unit opens a criminal inquiry into the 21CT agreement

- **DEC. 19**
  The State Auditor’s Office begins looking into the 21CT deals. HHSC Inspector General Doug Wilson resigned. Three additional HHSC employees, including Janek’s chief of staff, are put on administrative leave.

- **JAN. 14**
  Governor-elect Greg Abbott creates the “strike force” to review HHSC performance

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3 ‘HHSC has experienced a program failure’


- Our conclusion is that the OIG’s procurement of fraud detection services from 21CT at the very least skirted the limits of permissibility under state law, and represented a case in which OIG executive personnel exercised judgment so poor that it put HHSC’s credibility at risk. It also produced skepticism concerning state contracting and procurement policies in general that could affect the state for years to come.

4 ‘Without skilled leadership, the risk of future failure is high.’


- HHSC has experienced a program failure. The organization and its reputation are damaged, even though, in the main, its underlying fundamentals remain sound. Programs are administered. People receive services. Things are done. However, the agency is at a point in the recovery process where it is important to re-evaluate the events that led to the failure and make changes to eliminate the possibility of a recurrence in the future. This process should be completed before the HHS agencies move in a new direction—and particularly if that move is toward full consolidation over whatever time period.

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The scope of the HHS enterprise and the inherent responsibilities and risks that accompany that scope require enterprise executive leadership that possesses significant, demonstrated leadership skills. Even with those, achieving the enterprise’s expansive mission and the high level of performance expected by the executive and legislative branches will be challenging. Without skilled leadership, the risk of future failure is high. The 21CT controversy represented a failure of HHSC’s management oversight and controls. The agency’s recovery and future success depends heavily on how well its leadership functions from this point forward.

5 HHSC isn’t ready for Sunset’s proposed consolidation

The report pushed back on a plan to restructure the five Texas health and human services agencies into one, recommended by the Sunset Advisory Commission. The consolidation was recommended in response to a myriad failures and inefficiencies at the agencies, but the strike force urged caution after assessing consolidation efforts in light of the agency’s current state.
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6 Changes recommended for state IT purchasing

The strike force criticized the state's Department of Information Resources, which it said provided "little or no external or internal oversight." The report recommended several changes to the agency's purchasing program that was misused by Stick to setup the 21CT deal.

The Department of Information Resources should change the cooperative contracts program as it affects commodity services. It should, at minimum:

a. treat co-op contracts and procurements by agencies as a three-way contractual arrangement.
b. require agencies contemplating procurements above $1 million to notify and solicit responses from all vendors on the contract.
c. require agencies purchasing commodities other than tangible goods such as computers to prepare a memorandum of understanding between the agency and DIR that includes the size of the procurement, a signoff by the agency chief information officer, evidence of a competitive solicitation and certification from the agency that the procurement is within the scope of the DIR contract.
d. require that MOUs be signed by authorized representatives of the agency and DIR.

7 DIR's funding structure creates 'perverse' incentives

The team criticized the funding model for the Department of Information Resources, which assesses an administrative fee as a percentage of all purchases through its program.

In addition, the cooperative contract's structure, in which DIR benefits financially, from each transaction, which is tied to its funding, creates a perverse incentive in favor of sales over oversight. This is not an agency policy, but it is a practical result of the program's structure.

Some defects exposed by 21CT extend across state government

Some of the issues identified by the strike force, such as DIR's cooperative contracts program, permeate state government and extend well beyond the Health and Human Services Commission. The report characterized the 21CT scandal as a high-profile example of what can go wrong when individual actions combine with some longstanding state purchasing practices that are lacking in oversight.

During our review, we found that steps are being taken to correct some of the defects that created this situation, and further investigation by the Public Integrity Unit and State Auditor may reveal whether the 21CT controversy was something worse than an ill-considered decision that went badly awry. There are, however, further steps that should be taken to prevent similar situations in the future. Some of these are specific to HHSC, while others extend across state government. Some of these reforms have already been outlined in Governor Abbott's letter to state agencies and in S.B. 353 — now S.B. 20 — which is moving through the legislative process.