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Contracting for Imprisonment in the Federal Prison System:

Cost and Performance of the Privately Operated Taft Correctional Institution

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Office of Justice Programs
U.S. Department of Justice
Washington, D.C. 20531

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Acknowledgments

This report was requested by Congress, which required an evaluation of the Taft Correctional Institution, which had been established as a demonstration to test the desirability of contracting with private firms to operate prisons holding federal prisoners. Abt Associates Inc. won the competition to conduct this evaluation, which has been funded and administered by the National Institute of Justice, the research, development, and evaluation agency of the U.S. Department of Justice. This study examines the performance of the Taft Correctional Institution over a six and one-half year period, from 1998 through March, 2004.

Abt Associates is a non-partisan research organization that has been evaluating public programs for almost forty years. This study aims to provide an objective empirical analysis of the cost and performance of this privately operated facility. We take no position in this study on the question of whether the federal government should or should not contract with private firms to operate prisons that house federal prisoners. This is a question of policy rather than scientific analysis. Our intent is to inform policy decisions with the findings of analyses presented in the following chapters.

The National Institute of Justice has supported and protected this non-partisan approach. Laura Winterfield served as the first Project Officer for the National Institute until October 2000, when Voncile Gowdy took over, a responsibility that was assumed subsequently by Christopher Innes. A scientific advisory committee for this study was appointed by the National Institute, and it met in December 1999 to review the proposed research design for the study. Members of this committee reviewed a draft of an early progress report that presented preliminary findings for fiscal years 1998 and 1999 and made many helpful suggestions. Members of this committee included Professor Alfred Blumstein, Carnegie Mellon University; Richard L. Stalder, Secretary of the Louisiana Department of Public Safety and Corrections; Professor Kenneth Adams, University of Central Florida; Kathy Gookin, Criminal Justice Planning Services; and Professor John Robert Hepburn, Arizona State University; as well as managers at the of The GEO Group and the Bureau of Prisons.

A number of persons at Abt Associates worked on this project during this time, in addition to the authors. These included Darcy Carr, Joanna Heliotis, Lisa Zeytoonjian, and Alex Miller, who assisted in the cost analyses; Carl Patten, Jr., Ryan Kling, Caity Baxter, Patrick Johnston, Michael Shively, Stephen Crawford, Hannah Gardener, and Mary-Ellen Perry. I am grateful to all of them for their contributions to this study.

Several of the staff at the Bureau of Prisons provided assistance in obtaining information for this study. These included Gerald Gaes, then Director of the Office of Research and Evaluation, and William Saylor, who assumed Dr. Gaes' position; Scott Camp, also of the Office of Research and Evaluation; Carol Durkee, Chief, Budget Execution Branch, Administrative Division; Teresa La Forgia, Deputy Chief, Trust Fund Branch; Jennifer Batchelder, Anthony Iwaszko, and Nick Howells in the Office of Research and Evaluation. Information about semi-annual performance awards was provided by Richard Cherwinski, in the Bureau's Western Regional Office. Bureau of Prisons staff located at the Taft Correctional Institution—Charles F. Neff, the Assistant Contract Administrator (now retired), Glenn Harvey, Oversight Specialist, and Connie Gill, secretary, and Theresa Vaughn, the contract administrator—gave us access to the facility and provided us with a great deal of information about the facility, both historical and contemporary.

We are also indebted to the cooperation and assistance provided us by The GEO Group, Inc. (previously the Wackenhut Corrections Corporation), which has operated the Taft Correctional Institution during the period examined here. This firm and its staff have been responsive to all inquiries and have provided all requested information about their operations and costs. We are especially grateful to Ron Maddux, Vice President for Project Development, for serving as GEO's liaison to this study. Financial information was assembled and provided to us by Gerald O'Rourke, Chief Financial Officer. Warden Ray Andrews at Taft Correctional Institution made his staff available to us and provided us with information that we requested. In addition, many of GEO's staff were generous with their time during a visit to the facility.

Finally, two anonymous reviewers read and commented upon the penultimate version of this report, as did readers at the Bureau of Prisons and Julianne Nelson, presently of CNA Corporation. Having the benefit of such expert reviewers is a luxury, and many of their suggestions were taken. This report has been improved as a result of their contributions.

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Summary

In 1997, the Bureau of Prisons (BOP) signed a contract with the Wackenhut Corrections Corporation (now The GEO Group) to manage and operate a new government-owned low-security correctional facility in Taft, California, designed to hold a total of 2,048 adult male inmates. This study compares the cost of contracting for operations at Taft to what the government would have spent if the BOP had operated it directly during its first five years of operation, FY 1998 through FY 2002. It also evaluates how well GEO and the Taft Correctional Institution (TCI) performed during the first six and one-half years.

Does Contracting Cost Less Than Government Operation?

Although the government and GEO agreed to a fixed price for each of the ten years, there were provisions for incremental payments if the inmate population rose beyond a predetermined level and for bonuses (“award fees”) that could be paid by the government to reward performance that went beyond mere contract compliance. In addition, the Bureau incurred some expenses to administer and monitor the contract. Offsetting these costs to the government were federal income tax revenues paid by the contractor. Thus, the *net cost* to the federal government equals total payments by the federal government minus total federal tax revenues. (Taxes paid to local governments are ignored from this examination of costs to the federal government.)

During these five years, the government paid GEO a total of \$139.5 million in fees and an additional \$2.2 million in bonuses (Table 1). This counts only the time when the prison was operational, excluding the first two and a half months of FY 1998 (i.e., before December 30, 1997), when GEO was preparing the facility for prisoners. In addition, the Bureau spent \$2.8 million over the five years to monitor the contract. GEO paid the federal government an estimated \$2.4 million in corporate income taxes during this period. The net cost to government of contracting for the facility’s operation during these five years was therefore about \$142.1 million.

Table 1

Estimated Total Cost to Government of Contracting for Operation of Taft Correctional Facility: FY 1998–2002, by Year and Category of Cost

	1998	1999	2000	2001	2002	Total
Payments to Contractor for Services						
Fee with adjustments	\$20,889,519	\$27,214,375	\$28,210,157	\$31,139,352	\$32,037,139	\$139,490,541
Award fees	182,240	361,730	408,333	545,833	733,333	2,231,470
<i>Subtotal payments to contractor</i>	21,071,759	27,576,105	28,618,490	31,685,186	32,770,472	141,722,011
BOP Monitoring/ Contract Admin.						
Salaries	319,714	402,911	310,296	435,435	320,336	1,788,692
Premium comp.	2,633	2,607	504	4,543	3,258	13,545
Fringe benefits	99,557	128,112	108,007	124,196	92,991	552,864
Other direct expenses	64,395	47,227	22,374	1,840	2,011	137,847
<i>Allocated Bureau overhead</i>	39,490	64,036	50,257	67,701	49,990	271,474
<i>Subtotal monitoring/contract admin.</i>	536,927	644,893	491,438	633,715	468,586	2,775,560
Est. federal corporate income tax offset	-729,426	-695,766	-240,963	-331,213	-422,653	-2,420,023
Total	\$20,879,259	\$27,525,231	\$28,868,965	\$31,987,688	\$32,816,405	\$142,077,549

Note: FY 1998 is a partial year, beginning with operational phase on December 20, 1997. Award fees are pro-rated to correspond to the fiscal years during which performance periods occurred.

Sources: Computed by Abt Associates Inc. using data provided by the Bureau of Prisons and The GEO Group. See text for details.

Estimating What the Government Would Have Spent to Operate the Taft Facility Directly

Following the logic of cost estimation procedures established in OMB’s Circular A-76 (with some modifications), estimates of what the Bureau would have spent to operate the Taft facility are developed, including costs of

- personnel, including salaries, and premium pay;
- fringe benefits, retirement fund contributions, and other associated liabilities;
- materials and supplies;
- casualty and personnel liability costs, and
- “indirect” or “overhead” expenditures for governmental administration that were not directly incurred by specific prisons but which supported all federal prisons. (See Table 2.)

The estimated total cost over the five-year period would have approximately \$154.9 million (Table 3); some estimates are subject to error, so that the probable range of costs would have been between \$151.6 and \$158.6 million (Table 4).

Table 2

Assumptions for Estimating the Government's Operating the Taft Facility During FY 1998–2002

Category of Expense	Assumptions
Salaries and Wages	
Permanent salaries and wages	<u>Abt Associates, Inc. Calculation:</u> Assume staffing model was identical to that at FCI Elkton, that employees were paid a mid-grade levels, and that staff vacancy rates (9 percent) were identical to those observed at all low security federal prisons during FY 1998-2002.
Premium compensation and other than permanent salaries & wages	<u>Abt Associates, Inc. Calculation:</u> Assume rates of premium compensation and other than permanent salaries and wages was identical to average observed at 14 low security federal facilities during each of five fiscal years.
Subtotal adjusted salaries and wages	<u>Abt Associates, Inc. Calculation:</u> Sum of adjusted salaries and wages and premium compensation/other than permanent salaries and wages
Fringe benefits	
Retirement fund contributions	<u>A-76 Prescribed Cost factor:</u> 37.7% of adjusted salaries and wages
Federal employee insurance & health benefits	<u>A-76 Prescribed Cost factor:</u> 5.6% of adjusted salaries and wages
Medicare benefit contributions	<u>A-76 Prescribed Cost factor:</u> 1.45% of adjusted salaries and wages
Misc. fringe benefits	<u>A-76 Prescribed Cost factor:</u> 1.7% of adjusted salaries and wages
Subtotal fringe benefits	<u>Abt Associates, Inc. Calculation:</u> Sum of fringe benefits
Subtotal personnel costs	<u>Abt Associates, Inc. Calculation:</u> Sum of salaries, wages, and fringe benefits
Materials, supplies, and other non-personnel costs	<u>Abt Associates, Inc. Calculation:</u> Estimated based upon statistical analysis of observed expenditures at 14 low security federal prison.
Other specifically attributable costs	
Casualty liability (annualized cost)	<u>A-76 Prescribed Cost factor:</u> 0.5% of net value of capital (excludes costs of materials and supplies)
Personnel liability (annualized cost)	<u>A-76 Prescribed Cost factor:</u> 0.7% of government facilities total personnel costs—salaries, wages, premium compensation, benefits
Subtotal other specifically attributable costs	<u>Abt Associates, Inc. Calculation:</u> Sum of other specifically attributable costs
Subtotal, all categories	<u>Abt Associates, Inc. Calculation:</u> Sum of personnel, materials and supplies, other specifically attributable costs
Overhead	A-76 Prescribed Cost Factor 12% of "subtotal personnel costs" above.
Total estimated cost for government operation of Taft Correctional Institution	<u>Abt Associates, Inc. Calculation:</u> Sum of personnel, materials and supplies, other specifically attributable costs, and overhead

Table 3

Total Estimated Cost of Government Operation of the Taft Correctional Institution During FY 1998-2002

Salaries and Wages	1998	1999	2000	2001	2002	Total
Permanent salaries and wages	\$10,636,157	\$14,149,290	\$14,776,170	\$15,281,143	\$15,935,658	\$70,778,418
Staff vacancy adjustment	-850,893	-1,131,943	-1,182,094	-1,222,491	-1,274,853	-5,662,273
Adjusted est. salaries/wages	9,785,264	13,017,347	13,594,077	14,058,652	14,660,805	65,116,145
Premium compensation and other than permanent salaries and wages	782,821	1,158,544	1,291,437	1,321,513	1,524,724	6,079,039
<i>Subtotal salaries and wages</i>	10,568,085	14,175,891	14,885,514	15,380,165	16,185,529	71,195,184
Fringe benefits						
Retirement fund contributions	3,984,168	5,344,311	5,611,839	5,798,322	6,101,944	26,840,584
Federal employee insurance & health benefits	591,813	793,850	833,589	861,289	906,390	3,986,930
Medicare benefit contributions	153,237	205,550	215,840	223,012	234,690	1,032,330
Misc. fringe benefits	179,657	240,990	253,054	261,463	275,154	1,210,318
<i>Subtotal fringe benefits</i>	4,908,876	6,584,701	6,914,321	7,144,087	7,518,178	33,070,163
<i>Subtotal personnel costs</i>	15,476,961	20,760,592	21,799,835	22,524,252	23,703,707	104,265,347
Materials, supplies, and other non-personnel costs	3,861,735	7,686,902	8,288,809	7,677,233	8,039,963	35,554,642
Other specifically attributable costs						
Casualty (self-insurance)	292,500	375,000	375,000	375,000	375,000	1,792,500
Personnel liability (self-insurance)	108,339	145,324	152,599	157,670	165,926	729,857
<i>Subtotal other specifically attributable costs</i>	400,839	520,324	527,599	532,670	540,926	2,522,357
<i>Subtotal, all categories</i>	19,739,535	28,967,818	30,616,243	30,734,154	32,284,596	142,342,346
Overhead	1,857,235	2,491,271	2,615,980	2,702,910	2,844,445	12,511,842
Total estimated cost	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: Computed by Abt Associates Inc. See text for sources of data and assumptions.

Table 4

Range of Estimated Costs of Government Operation of Operation of the Taft Correctional Institution During FY 1998–2002

	1998	1999	2000	2001	2002	Total
High estimate	\$22,263,257	\$31,928,256	\$33,793,265	\$34,566,504	\$36,065,834	\$158,617,116
Low estimate	20,930,283	30,968,437	32,671,182	32,884,422	34,192,248	151,646,572

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: Computed by Abt Associates Inc. See text for sources of data and assumptions.

Comparing the Estimated Cost of Contracting with the Estimated Cost of Government Operation

The net cost to the government of contracting with GEO during these years was less than what we estimate the federal government would have spent if the Bureau of Prisons had operated the facility directly. The total savings over the five years would have been between \$9.6 and \$16.5 million, or between 6 and 10 percent (Table 5).

During all five years, the net cost of contracting was less than the lowest estimate of direct Bureau operation. The estimated savings associated with contracting were greatest during the second and third year, when the base fee paid to GEO was fixed at \$27.6 million. Savings during the second and third years each were estimated to be \$3.9 and \$4.4 million (or about 13 percent). When the Bureau exercised its first option to renew the contract for a fourth year (FY 2001), the base fee increased to nearly \$29.5 million, and additional fees were paid to house more prisoners than the agreed-upon base population of 1,946 prisoners. The result of this was that the difference between the cost of contracting and our estimates of government operation diminished.

During the five years examined here, the Taft Correctional Institution housed prisoners at a lower daily per prisoner cost than the Bureau experienced at fourteen low-security federal prisons for which costs could be assigned unambiguously.¹ Estimates of what the Bureau would have spent are within the range of costs actually experienced at three low-security federal facilities that are architecturally similar—which reinforces our confidence in the accuracy of the estimates (Table 6).

¹ See the text for the discussion of this selection and for an explanation of how these per prisoner/day costs were calculated. These costs do not match the Bureau’s reported costs for these years because accounting guidelines in OMB Circular A-76 are followed.

Table 5

Total (Net) Cost to the Federal Government of Contracting Versus Estimated Total Cost If the Bureau of Prisons Operated the Taft Prison, Fiscal Years 1998–2002

	FY1998	FY1999	FY2000	FY2001	FY2002	Total
Net Cost of Contracting	\$20,879,259	\$27,525,231	\$28,868,965	\$31,987,688	\$32,816,405	\$142,077,549
Estimated Cost of Bureau Operation (Point Estimate)	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188
High Estimate	22,263,257	31,928,256	33,793,265	34,566,504	36,065,834	158,617,116
Low Estimate	20,930,283	30,968,437	32,671,182	32,884,422	34,192,248	151,646,572
<u>Contracting Compared to:</u>						
<i>Point Estimate of Govt. Costs</i>	-717,511	-3,933,858	-4,363,258	-1,449,377	-2,312,636	-12,776,639
<i>(Percent)</i>	-3.3%	-12.5%	-13.1%	-4.3%	-6.6%	-8.3%
<i>High Estimate of Govt. Costs</i>	-1,383,997	-4,403,025	-4,924,300	-2,578,816	-3,249,429	-16,539,567
<i>(Percent)</i>	-6.2%	-13.8%	-14.6%	-7.5%	-9.0%	-10.4%
<i>Low Estimate of Govt. Costs</i>	-51,023	-3,443,206	-3,802,217	-896,734	-1,375,843	-9,569,023
<i>(Percent)</i>	-0.2%	-11.1%	-11.6%	-2.7%	-4.0%	-6.3%

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: See text for calculations and assumptions.

Table 6

Costs Per Prisoner/Day: Comparing Costs of Contracting at Taft Facility, Estimated Cost of Bureau Operation, and Actual Costs at Fourteen Other Low Security Federal Prisons, FY 1998–2002

	1998	1999	2000	2001	2002
Taft Correctional Institution (Contractor-Operated)	\$52.43	\$33.82	\$33.25	\$36.88	\$38.37
<i>Est. Cost of Bureau Operation of Taft</i>	54.23	38.65	38.27	38.56	41.08
High Estimate	55.91	39.23	38.92	39.86	42.17
Low Estimate	52.56	38.05	37.63	37.92	39.98
FCI Elkton	46.59	39.72	39.77	44.75	46.38
FCI Forrest City	44.20	39.46	39.84	41.65	43.61
FCI Yazoo City	44.15	41.46	40.05	43.65	42.15
FCI Ashland	69.96	62.75	63.47	64.12	63.38
FCI Bastrop	56.75	53.75	52.67	57.15	52.97
FCI Big Spring	58.80	54.71	51.03	67.99	70.88
FCI Butner	51.78	45.76	47.04	50.93	54.27
FCI Latuna	58.47	56.47	57.36	71.39	60.02
FCI Loretto	62.59	61.42	63.22	49.32	50.86
FCI Milan	73.93	66.77	62.97	62.56	63.23
FCI Petersburg	65.79	61.79	61.79	56.97	60.59
FCI Safford	58.65	56.51	58.57	58.51	58.69
FCI Seagoville	61.48	59.41	61.03	77.40	75.83
FCI Texarkana	49.29	47.52	49.68	53.34	55.55

Notes: Per diem costs of federal prisons do not correspond to Bureau of Prisons' reports because costs were calculated following Circular A-76 rules. Per diem cost of GEO-operated Taft facility in FY 1998 is computed using only costs incurred by government during operational phase, and uses adjusted average daily population shown in Table 2.17.

Sources: Cost of Contracting, from Table 1 above; estimated cost of Bureau Operation from Tables 3 and 4, above; cost of all other federal prisons from Bureau of Prisons, "Federal Prison System, Per Capita Costs," for FY 1998 through FY 2002.

One reason that the cost of contracting is less than what the Bureau would have spent is that GEO's fringe benefit rate is less than half the Bureau's rate (20 percent compared to the Bureau's 46.45 percent). However, GEO staffed the facility with a larger number of positions than the Bureau would have, which made the difference in total labor costs (\$7.6 million) narrower than it would have been if both organizations staffed with the same number of employees.

The determination of the contractor's wage levels is not left entirely to market forces but is governed by the Service Contract Act of 1965, which requires that federal contractors pay at least as much as the U.S. Department of Labor determines prevailing wages to be in the region where the contractor operates. The wage determinations for the county in which the Taft facility is located set a high wage

for correctional officers, largely because the California correctional officers' union has won high wage levels for its members. During FY 1998, the wage determinations for correctional officers in this area required annual pay of \$35–36,000, and were increased at a fast rate so that by May of 2002, the required wage was at least \$46,821 per year. If the Taft facility had been located in another part of the nation where prevailing wages were lower, the difference between the contractor's and the Bureau's labor costs would have been much greater. For example, if the facility had been located in Yazoo City, Mississippi (the site of one of the similar federal facilities), GEO's labor costs would have been 24 percent lower than payroll costs at Taft. If the facility had been in Forrest City, Arkansas (where another of the similar federal facilities is), payroll would have been 18 percent less costly than at Taft.

Another reason why contracting is estimated to cost less is that a substantial cost of governmental overhead (12 percent of total labor costs) is assigned to Bureau-operated facilities, whereas Circular A-76 guidelines assume that all governmental overhead costs are captured in the cost of contract administration and monitoring. Over the course of the five years, government overhead would have cost approximately \$12.5 million if the Bureau had operated the Taft facility. This OMB accounting rule of 12 percent probably underestimates the actual cost of government overhead because this is nearly equal to the cost of the Bureau's national and regional headquarters and other indirect accounts in the Bureau's budget. This does not include any costs of other governmental agencies such as the Office of Management and Budget, the Office of Personnel Management, or the U.S. Department of Justice, among others. This is not to say that the taxpayers saved an estimated \$12.5 million in overhead spending, however, because the Bureau did not cut its overhead costs by this amount after the decision to contract was made.

Assessing Performance at the Taft Correctional Institution

In mandating the demonstration of prison contracting at the Taft facility, Congress sought to determine if contracting poses significant security and safety concerns. To date, there have been no strikes or other labor actions at the facility. There were two “disturbances”—mass refusals by inmates to obey orders to disperse in the early days of the Taft Correctional Institution's operation—but these were resolved by the private firm's managers without having to call upon public law enforcement or correctional authorities.

To assess GEO's performance at the facility more broadly, we compared the contractor's performance against the requirements of the contract and, in separate analyses, compared institutional performance, measured variously, at Taft and at low-security federal prisons operated by the Bureau.

Did The GEO Group Do What the Contract Requires?

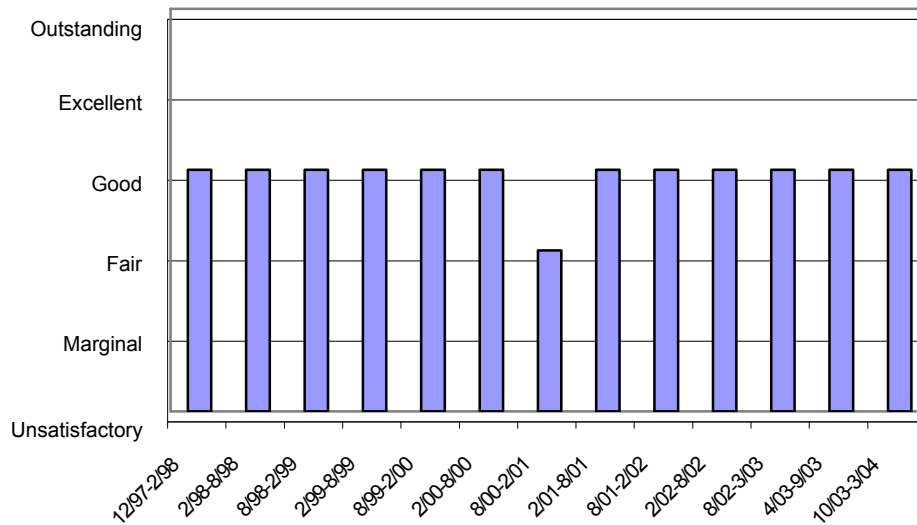
To assess GEO's performance vis-à-vis the Bureau's contractual obligations, we obtained and analyzed information from a variety of sources including periodic monitors' reports, reports of deductions to fee for deficient services, summaries compiled by the Bureau to inform the semi-annual decisions about awarding bonuses, interviews with Bureau monitors and GEO staff, among others

For nearly all of the period between December, 1997 and March, 2004, the Bureau's monitors rated GEO's overall performance as “good” (Figure 1). “Good” is defined as “very efficient performance, fully responsive to contract requirements, more than adequate results, reportable deficiencies but with little identifiable effect on overall performance.” Both the Bureau monitors and GEO managers recognize that the start-up phase was difficult and that performance faltered in some areas. At times

since then and in particular areas of service, performance has sometimes fallen below expectations. Over the life of the contract, however, the institution's managers and staff was judged to deliver what it promised and what the Bureau expected of it. The Bureau exercised its option to renew the contract after the three-year base period and in every subsequent year. Most of the deductions from the contractor's fee for inadequately provided services occurred early in the life of the contract and were reduced by close to two-thirds in FY2001 and further reduced to zero in FY2002. During the first five years, these deductions totaled approximately 0.6 percent of the total amount paid to the contractor; over the seven years of the contract, the percentage has been reduced to half of that amount. Consequently, GEO has been given bonuses for performing above and beyond the requirements for mere contract compliance in all of the semi-annual performance periods.

Figure 1

The Performance Evaluation Board's Assessment of GEO's Overall Performance During the First Six and One-Half Years (August 1997–February 2004)



Note: Ratings are described according to categories used before August, 2002 and new rating categories following that date. After August, 2002, the highest rating was "superior."

Sources: Bureau of Prisons Semi-annual Contract Monitoring Summaries

Measuring Performance of the Taft Facility and Low-Security Federal Prisons

To obtain a more direct comparison of TCI's performance with that found in other low-security prisons operated by the Bureau, we conducted statistical comparisons of data developed by the Bureau to monitor its own operations to determine if specific objectives are being met. One such objective is to provide a safe and secure environment for staff and inmates, measured by a variety of indicators, including assaults on inmates or staff, homicides, suicides, and escapes. Rates of assault are lower at the Taft facility than the average for low-security federal prisons operated by the Bureau, but within the range observed at these federal prisons. There have been no homicides at Taft. There have been two escapes from the secure section of the prison, however. One occurred in 1998,

signaling a clear deficiency in institutional security procedures, which were remedied. A second occurred in December of 2003, when an inmate found an escape route through a trash compactor. In contrast, the Bureau experienced only two escapes from all of its low-security facilities between late 1997 and January 2004.

Another measure of security is the extent of illegal drug use in the prisoner population. All prisons containing federal prisoners, including the Taft facility, test prisoners at random for drug use. The Taft facility reported higher rates of failed drug tests than low-security federal prisons between March 1999 and June 2004. Statistical analyses were conducted to account for differences in prisoner populations that may affect illegal drug use, but the reported rates at the Taft facility were still significantly higher during this period—at least twice as high as high as at federal low-security facilities.

Another of the Bureau's objectives is to provide prisoners with procedures for expressing grievances and seeking redress. Between September 2000 and August 2004, the rate of submitting grievances by Taft prisoners about 13 percent higher than prisoners at other federal low security prisons, after accounting for other factors that may affect these rates. No explanation for this difference was identified.

Still another of the Bureau's strategic objectives is to "provide independent, objective oversight to reduce waste, loss, unauthorized use, misappropriation of funds and assets, and to help improve performance and efficiency." GEO has sought and won accreditation from the American Correctional Association, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for its health services, and from the International Organization for Standardization (ISO) for its quality assurance system. However, during the earlier years of the contract, the Bureau's monitors reported that GEO's quality control systems were not being implemented effectively, although this was largely resolved in subsequent years.

Finally, the Bureau established the objective of providing adequate healthcare to prisoners. Prisoners at the Taft facility are attended to by healthcare professionals at about the same rate as at low security federal prisons, although it staffs its healthcare services differently than Bureau does.

Is Contracting for the Taft Correctional Institution's Operation More Cost-Effective Than Government Operation?

No attempt was made to develop a precise estimate of cost effectiveness because the numerous indicators of performance examined here were not distilled into a single measure or index of effectiveness that could be used to compare the Taft facility with federal facilities. Instead, the costs of contracting and direct government operation are estimated separately from the analyses of performance. These analyses lead to the conclusion that the cost to the government of contracting for the Taft Correctional Institution's operation was lower during FY 1998 through 2002 than what the Bureau would have spent to operate the prison directly. (Even though the cost of operation is estimated to be lower at the privately-managed Taft facility, the Bureau did not shrink its overhead spending proportionately, so the overhead costs that would be associated with direct government operation of the facility were not avoided.) On the most comprehensive and in-depth measure of performance—the extent to which GEO met its performance obligations established in the contract—the firm performed at levels above and beyond mere compliance with these contractual requirements. This measure lacks clear correspondence with other Bureau-operated facilities, however, because

federal facilities do not operate under contractual agreements. Comparison of selected numbers of performance indicators that are collected for Taft and all federal prisons paints a mixed picture. On some measures, institutional performance of the Taft facility is better than the average observed at federal low security prisons, while on others performance looks worse than the average, and on still other measures, performance looks about the same.

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1

Introduction

For most of the latter half of the Twentieth Century, it was a principle of national policy that government should not compete with private sector.² Accordingly, the government sought to provide directly—with government employees—only those services that the private markets failed to provide effectively or those that were “non-delegable” as a matter of principle (e.g., warfare and national defense). During the late 1970s and 1980s, however, notions about what constituted intrinsically governmental functions began to change, spurred in large measure by the policy interests of the Reagan administration in this country and the Thatcher administration in Great Britain. During this period, imprisonment services began to be offered by private firms and federal, state and local governments began to contract with these firms to hold prisoners in their jurisdictions.³ These developments ignited an intense debate, and the propriety of contracting with private firms to imprison remains controversial to this day. Fifty years after the Eisenhower administration announced that governments should not compete with the private sector, in 2003, the Bush administration declared that federal policy now embraces the principle that private firms should be able to compete for services heretofore provided by governments and asserted a vision of “market-based government.”⁴

In 1996, in its FY1997 appropriations act for the Department of Justice, Congress required the Bureau of Prisons to contract out the operation and management of a federal prison. This was conceived of as a “demonstration project” to give the administration and Congress an opportunity to monitor safety and operational concerns that had been voiced earlier by the Department of Justice.⁵ A year before, the Clinton administration’s budget proposal (for FY1996) had called for the privatization of some federal prisons.⁶ The Bureau of Prisons and others in the Department of Justice greeted this proposal with considerable reluctance, and the Department ultimately registered its concerns about the risks of

² This was enunciated in Bureau of the Budget bulletins issued in 1955, 1957, and 1960; see memorandum issued August 4, 1983 (Revised 1999), by Office of Management and Budget, *Re: Performance of Commercial Activities*.

³ For a discussion of these developments, see Douglas C. McDonald (ed.), *Private Prisons and the Public Interest* (Rutgers University Press, 1990) and Douglas McDonald, Elizabeth Fournier, Malcolm Russell-Einhorn, and Stephen Crawford, *Private Prisons in the United States: An Assessment of Current Practice* (Abt Associates Inc., 1998).

⁴ Federal Register, “Revision to Office of Management and Budget Circular No. A-76 *Performance of Commercial Activities*.” Vol. 68, No. 103, May 29, 2003, pp. 32135.

⁵ Conference Report to Accompany H.R. 3610, *Making Omnibus Consolidated Appropriations for Fiscal Year 1997*, P.L. 104-208, September 23, 1996.

⁶ Gerth, Jeff and Stephen Labaton. “The Pitfalls of Private Penitentiaries.” *The New York Times*, November 24, 1995, A1.

strikes or walk-outs by private corrections officers and, to a lesser extent, the risks of other disruptions and inmate disturbances.⁷

On November 27, 1996, the Bureau issued a request for proposals (RFP) for the management and operation of a newly constructed government-owned correctional facility in Taft, California. The facility includes a low-security correctional institution and a separate, adjacent minimum-security institution—called a “camp” in Bureau of Prisons parlance. The facility was constructed to hold a total of 2,048 adult male inmates, including 275 criminal aliens in the Institution Hearing Program who would be under INS orders to be deported when their sentences expire. In addition, the facility has a 128-bed special housing unit used to segregate persons charged with disciplinary infractions or crimes, or who request protection.

On July 21, 1997, the Bureau announced that the Wackenhut Corrections Corporation would be awarded the contract to manage the facility. At the time, this firm was one of the largest private correctional firms in the country and in the world. Founded as a division of The Wackenhut Corporation in 1984, it became a subsidiary in 1988 and a separately traded public company in 1994. Its first imprisonment facility contract, in 1987, was with the U.S. Immigration and Naturalization Service to build and operate a detention center for illegal immigrants in Aurora, Colorado. In 2003, the firm changed its name to The GEO Group, Inc. By the end of that year, it had grown to the point where it operated facilities in this country and abroad. As of December 2003, the company operated 41 facilities in the U.S., Canada, New Zealand, Australia, and South Africa, with an aggregate design capacity of approximately 36,000 beds.⁸ At the time of signing the contract with the Federal Bureau of Prisons, the Taft Correctional Institution was the largest correctional facility that it operated, with its capacity of 2,048 inmates, as well as its first federal prison.

This was also an important development for the federal prison system. The Bureau of Prisons has a long and proud tradition of managing correctional facilities. It was established in 1930 and has grown to the point by mid-2004 where it comprised 104 institutions, six regional offices, a central office (the agency’s headquarters is in Washington, D.C.), three staff training centers, and 28 community corrections offices that oversee large numbers of community corrections centers and some home confinement programs. By November, 2004, the number of federal offenders under the Bureau’s jurisdiction had grown to approximately 181,400. Most of these (or 153,800 offenders) were confined in Bureau-operated correctional institutions or detention centers. Another 17,700 were held in privately operated institutions like the Taft Correctional Institution, and another 9,800 were held in jails, community corrections centers, or in home confinement.⁹ Prior to the contract with Wackenhut, the Bureau had engaged the private sector to operate small and non-secure community treatment centers. It had also contracted for secure facility operation at Eloy, Arizona and had transferred prisoners to privately owned secure facilities in Texas (by means of intergovernment agreements). Issuing a long-term performance-based contract to operate a secure government-owned federal prison was a new venture for the Bureau in 1998.

⁷ Letter from Stephen R. Colgate, Assistant Attorney General for Administration, to Hon. Harold Rogers, Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. House of Representatives, June 5, 1996.

⁸ The GEO Group, Inc. *2003 Annual Report*.

⁹ Federal Bureau of Prisons, “Weekly Population Report,” November 11, 2004, at <http://www.bop.gov>.

The contract with Wackenhut was for a base period of three years with seven one-year options. The Bureau's design of the contract was innovative as it differed from those usually written by state departments of corrections. Rather than being structured as a cost-reimbursement indefinite delivery/indefinite quantity contract, the Bureau designed it as a firm fixed-price performance-based contract. Wackenhut agreed to operate the facility for a fixed price (\$27.6 million a year during the first three-year period), for which it and would cover all costs for operation and maintenance of the facility, including medical services, associated with an average daily population of 1,946 inmates. Incremental fees were established to cover the costs associated with housing larger numbers of inmates. To encourage the contractor to do more than comply with the terms of the contract and to perform well, above and beyond mere compliance, the Bureau designed a procedure for determining if semi-annual awards should be given to the contractor, which could increase the contractor's revenues by as much as five percent above the annual fixed price.

The Bureau gave the contractor notice in August 1997 to proceed with preparing the facility for prisoners. At this stage, the contractor was continuing a process begun earlier by the Bureau. Prior to Congress' mandate, the Bureau had planned to operate the facility directly and had begun to equip it and to relocate senior management and their families to the Taft area. After Congress ordered a change of plan, some of these senior managers were reassigned the task of monitoring the contract. Wackenhut then assigned its managers to the facility and staff were hired. In December 1997, the facility received its first prisoners, as the Bureau began to transfer men from other federal prisons. By October 1998, it was fully occupied, with 2,159 prisoners under custody, exceeding the facility's rated capacity. During FY1999, the facility's average daily population exceeded rated capacity by nine percent, with 2,230 prisoners.

A Government vs. Private Firm Competition

By turning to Wackenhut to manage the Taft facility, Congress created a de facto competition between the private firm and the Bureau of Prisons. Taft was one of four federal prison facilities that were built at about the same time according to nearly identical blueprints. The other three were the Federal Correctional Institution (FCI) at Yazoo City, Mississippi, which began taking prisoners in March 1997; FCI Forrest City in Arkansas, which opened in the following month; and FCI Elkton, in Ohio, which began operations in August 1997. Like the Taft facility, these three prisons were built to hold a total of 1,536 low-security prisoners in three dormitory-style housing units. The Taft facility differs from the other three in having a fourth housing unit built to hold 512 prisoners outside the secure perimeter. This is essentially a separate facility, without perimeter security, for housing minimum-security prisoners. (The Bureau refers to these as "camps," even though the physical structure and the amenities bear no relation to a camp.) FCI Elkton has a smaller satellite camp, designed to hold 256 prisoners. FCI Forrest City opened a satellite camp during FY1999 that had a capacity of 128 prisoners during the latter half of that year, and then expanded capacity to 256 in December 1999. FCI Yazoo City has no minimum-security camp.

Although these three prisons are not completely identical to Taft (because of differences in the minimum-security housing), it was assumed by many that these four facilities were in a horserace of sorts, pitting private against government management. All housed low-security prisoners, so the challenges that prisoners present to prison managers were similar. All buildings were of the same age, which equalized one of the important factors that affects cost of operations. More important was the fact that all shared the same physical design. The layout of a prison largely determines the

number of staff needed to operate it safely, which in turn constitutes the largest cost of operations. During the first several years, Bureau officials and GEO managers have assumed that they were in competition with one another and that these four prisons were the horses in the race.

The Bureau's Changing Relationship to Privatization

Prior to 1998, Bureau officials were ambivalent about turning to the private sector for secure imprisonment. There was strong interest among some members of Congress for a greater reliance upon the private sector—to the extent that the location of the privately operated “demonstration project” in Taft, California was determined by Congress rather than the Bureau. But there was no doubt some resistance in the Bureau to having Congress rather than correctional managers make decisions about where to contract and for what purposes. Since the early 1980s, the Bureau had relied entirely upon private firms to operate non-secure community correctional centers. But the rise of the private corrections industry in the mid-1980s polarized thinking about what the private/public relationship should look like. Private firms offered to take over entire state prison systems, and what was once thought of as “contracting” for services turned into a larger ideological argument about the “privatization” of once-public services and the proper role of government.¹⁰ Public employee unions rallied to confront what they saw as a threat to their jobs; advocates for privatization argued on behalf of a more expansive role for private firms; and all found allies in Congress.

Congress required the Bureau to contract for the operation of the Taft, California prison, and the Bureau carried this out. In the Bureau, there was a sense that this created a competition between the privately operated Taft facility and other government-operated facilities. With the continued growth of the federal prison population, however, the Bureau increased its reliance upon the private sector to house prisoners in secure facilities. By November, 2004, for example, the Bureau was contracting with private firms to hold more than 17,700 federal prisoners in ten different secure facilities.

Within the past year, the Bureau has reoriented its relationship to contracting, to the point where it seeks a partnership with the private sector to manage a growing federal prisoner population. In the summer of 2003, the Bureau convened meetings with contractors and senior Bureau staff to redefine their relationship as one of public/private collaboration and to adopt a “partnership” style of contracting and contract management—an approach to contracting and contract administration that had been customary in the Bureau when contracting for facility construction but not previously for facility management. As discussed in Chapter Three, the Bureau centralized its monitoring of contracts in 2002 to improve consistency from one contract facility to another; it has standardized its contracts; and has promulgated new roles and orientations for on-site monitors. This new attitude of partnering and the associated procedures and practice were not part of the climate within which Wackenhut/The GEO Group and its client, the Bureau of Prisons, operated for most of the period examined here.

¹⁰ The move that galvanized the policy controversy about private prisons was the Correctional Corporation of America's bid in the mid-1980s to assume responsibility for the entire state prison system in Tennessee. See Aric Press, “The Good, the Bad, and the Ugly: Private Prisons in the 1980s,” in McDonald, *Private Prisons in the Public Interest*, pp. 28–30.

Our Approach to Assessing the Taft Correctional Institution

This report examines the government's cost of contracting for the Taft Correctional Institution during five year period, from FY 1998 through 2002. It also examines the performance of this prison for a longer period—from October 1997 through March 2004. Our principal purpose is to determine if the policy objectives established by Congress and the Bureau of Prisons have been accomplished.

Financial Costs and Savings

Neither Congress nor the Bureau stated explicitly that one of the objectives of the demonstration was to save the taxpayer's money, even though this has been a commonly voiced rationale for privatization. The Bureau's standards for evaluating bidders' proposals indicate that it considered financial savings a secondary objective. In the request for proposals, bidders were told that their offers would be ranked most heavily according to each bidder's past performance and experience as well as the quality of the bidder's technical proposal.¹¹ Price was deemed to be of lesser importance, and the government retained the right not to award the contract to the lowest bidder.¹² In contract procurement parlance, these evaluation criteria were designed to enable the government to pick the bid that offers the "best value" for the government. "Best value" is generally understood to mean the combination of performance and cost that is most advantageous to the government.¹³

This suggests that the ideal comparison would be between the overall value of contracting for the Taft Correctional Institution's operation (combining measures of both cost and performance) relative to an identical Bureau-operated facility. However, no such facility exists, although the three sister facilities (FCI's Elkton, Forrest City, and Yazoo City) are similar. Our approach to evaluating the cost of contracting, described fully in Chapter 2, is to estimate the total cost to the government of operating the Taft facility under contract during the first five years and to compare this to an estimate of what the government would have spent if the Bureau of Prisons had operated *that same facility*. A methodology for such cost comparisons was established by the Office of Management and Budget and is specified in OMB Circular A-76.¹⁴ This method is adopted here, with some modifications. Separate estimates are developed for each of the five fiscal years, beginning with the first year of the contract (FY1998), when the facility was being activated and filled with prisoners.

Institutional Performance

As discussed above, Congress mandated contracting for the management of this facility principally to determine if contracting posed significant security and safety concerns, such as greater risks of strikes or walk-outs by private corrections officers and, to a lesser extent, greater risk of disruptions and inmate disturbances. To date, there have been no strikes or other labor actions at the facility. The risk of such events is probably higher than in government-operated facilities because employees of

¹¹ "Quality" was defined as the degree to which the bidder offered to accomplish the required tasks, the soundness and anticipated effectiveness of the proposed approach, and the bidder's understanding of the requirements relative to the mission of the Bureau and the institution.

¹² Bureau of Prisons, *Solicitation*, Section M, pp. 120–121.

¹³ *Ibid.*, p. 19.

¹⁴ Office of Management and Budget, Executive Office of the President, Circular No. A-76, 1983, and revised since then.

private firms have different rights regarding strikes than government employees, but lacking any such occurrences at Taft, we are unable to estimate how much greater these risks actually are.

There were two “disturbances”—mass refusals by inmates to obey orders to disperse in the early days of TCI’s operation—but these were resolved by the private firm’s managers without having to call upon public law enforcement or correctional authorities. Such events are infrequent events in prisons, both publicly and privately operated. At issue is whether they are more common at the Taft facility than in governmental operated facilities. Our approach to answering this question is to compare the frequency of such occurrences at Taft and at other low-security federal prisons operated directly by the Bureau of Prisons.

Although answers to these few questions might resolve questions posed explicitly in the congressional mandate, our study also addresses objectives that were established by the Bureau of Prisons for the Taft demonstration and by the National Institute of Justice for the evaluation of the demonstration. The Bureau of Prisons’ objectives for the privatization demonstration are consistent with Congress’s but also go beyond them. The solicitation for the Taft contract states that:

The contractor shall ensure that the institution is operated in a manner consistent with the mission of the Bureau of Prisons (BOP). The BOP’s mission is the protection of society by confining offenders in a safe, humane and appropriately secure facility that provides work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.¹⁵

To assess the extent to which managers at the Taft Correctional Institution have succeeded in operating the facility “in a manner consistent with the Bureau’s mission,” we examine the institutional performance as measured by two yardsticks—the written contract between the Bureau of Prisons and The GEO Group, and the performance of other Bureau-operated low-security federal prisons.

Compliance with the contract is a relevant measure of performance because the contract establishes numerous performance objectives for all aspects of facility operations, which derive from the Bureau’s mission statement and from the Bureau’s system for managing *all* federal prisons, not just privately-operated ones. Determining the extent to which operations at Taft Correctional Institution conform to the contract thereby indicates the extent to which managers there have succeeded in accomplishing the Bureau’s objectives with respect to federal prisons generally and Taft Correctional Institution specifically. Additionally, the contract allows the Bureau to award GEO bonuses for performance that goes beyond simple compliance and furthers the Bureau’s performance objectives. The record of GEO’s contract compliance at Taft Correctional Institution as well as its success in obtaining bonuses is described in Chapter 3.

If contract compliance were the only measure of institutional performance, one could argue that no independent evaluation is needed because the Bureau has awarded Wackenhut bonuses for performance above and beyond simple compliance, and because the Bureau has exercised its option to renew the contract five times since the end of the first three-year period. We assume, however, that compliance with the contract is not the only available measure of performance of interest to Congress

¹⁵ Federal Bureau of Prisons, *Solicitation No. RFP PCC-0001* (dated Nov. 27, 1996), p. 4.

and the Bureau. We assume that officials in these organizations are interested as well in how the Taft facility's performance compares to that of other low-security federal prisons operated directly by the government. Fortunately, the Bureau and Wackenhut collect information for a number of indicators designed to measure the extent to which institutional performance conforms to the Bureau's strategic objectives. This system of performance measurement—called the Key Indicators/Strategic Support System—was developed long before any thought was given to privatization, and it provides a means of uniform comparison across all federal prisons, whether operated by government or by private firms. The data in this system are therefore used to compare performance as measured by these indicators at the Taft facility with performance at government-operated low-security prisons. These analyses of these data are described and summarized in Chapter 4.

The findings of these two different lines of analysis—measuring Taft's performance against contractual obligations and, separately, against the practices of other low-security facilities—are then considered side-by-side in an effort to develop a consistent, albeit preliminary, description of the prison's performance. This requires interpretation and judgment because the comparison standards embodied in the contract and in institutional practice diverge in significant ways. Moreover, federal prisons are required to adhere to formal standards, but they are not enforced as a matter of contract as they are at the Taft facility. In addition, only the Taft facility is subject to full-time monitoring by several on-site inspectors. These monitors are conducting a task that has no precedent in the Bureau. In other low-security facilities, compliance with formal standards and operating procedures is assessed by teams of Bureau employees who conduct "program reviews" and security audits. These reviews and audits occur infrequently—once every two years—and the opportunities for discovering noncompliant performance are correspondingly fewer. Finally, compliance is assessed differently at Taft. Not only is the contract a unique standard in the Bureau; the contract monitors also have no real peers in the agency. Rather than being trained as reviewers or auditors, they were transferred to the facility for the purpose of managing it, prior to Congress's subsequent mandate to contract for operations.¹⁶

The Structure of This Report

Chapter 2 compares the cost to the government of contracting for operations at the Taft facility during FY 1998 through FY 2002 to the estimated cost of direct governmental operation during these same years. This yields an estimate of the savings that may have been produced by contracting for Taft's operations rather than having the Bureau of Prisons operate it. Chapter 3 examines performance at the Taft facility relative to what the Bureau expects and requires in its contract. Chapter 4 compares the performance of the Taft facility and other low-security federal prisons as measured by a number of performance indicators.

¹⁶ In late 2002, the Bureau centralized and standardized procedures for monitoring all contractor-operated facilities.

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2

Does Contracting Cost Less Than Government Operation?

One of the primary objectives of this private prison demonstration was to determine if contracting was more cost effective than direct operation by the federal Bureau of Prisons. It was not a matter of signing a contract that saved money without regard for the quality of service. Rather, the criteria used to evaluate proposals submitted by private firms emphasized “best value” to the government, or what appears to promise the best combination of performance and cost.¹⁷

There are several commonly asserted reasons why private provision of services is thought to be more cost effective than government provision. One is that incentives felt by managers of private firms encourage them to be more cost-conscious and more aggressive in controlling costs than government managers. Firms have to compete with one another for the government’s business, and the price of their offered services matters. Private firms are also less constrained than governments in how they purchase goods and services and how they manage their workforce (even though there is a great deal of variation in how constrained private firms are in these respects). This mix of profit-maximizing incentives and weak constraints results, it is argued, in the creation of market-sensitive and efficient organizations.

Another claim is that allowing private firms to compete with government agencies to provide publicly funded services produces still broader savings in government spending. That is, if government managers must compete with private firms to provide a particular service (such as operating a prison or jail), incentives are created to stimulate more cost-effective organizations within government. In a description of the federal government’s guidelines for making contracting decisions, published in 1988 as Circular A-76, then Director of the Office of Management and Budget, James C. Miller, stated explicitly that the government intended to improve efficiency both by contracting when it is more cost-efficient and by using public/private competitions to spur greater cost-efficiency in government provision.

The Circular describes how to use competition to foster improved quality, increased efficiency, and savings. Quality service and reduced cost are emphasized in two ways: (1) by providing an incentive to Federal agencies to clearly define their performance standards and to reduce the cost of Government operations in order to compete with private industry; and (2) by offering the commercial sector an opportunity to meet these Government needs when they can do so more economically. In either case, the American public are the true beneficiaries since costs are reduced whether the government or industry “wins” the competition....¹⁸

¹⁷ Bureau of Prisons, *Solicitation*, Section M, pp. 119–21.

¹⁸ Office of Management and Budget, Office of Federal Procurement Policy, *Enhancing Governmental Productivity Through Competition: A New Way of Doing Business Within the Government to Provide Quality Government at Least Cost, A Progress Report on OMB Circular No. A-76 “Performance of Commercial Activities.”* August 1988.

Two different questions can therefore be asked of the test of prison privatization at the Taft Correctional Institution. First: has contracting for private operation of this federally-owned prison resulted in the government spending less than it would have spent if the Bureau had operated the prison directly, as it does in nearly all other federal prisons? Secondly, is there any evidence that the mere fact of creating a “market” for federal prison management, and government agencies having to compete with private firms, has stimulated not only greater cost consciousness in other federally operated prisons but also actual cost-efficiencies?

This chapter explores the first question only. The analysis was structured to estimate the cost differences between what contracting cost the government compared to the alternative. The question of whether competition with private firms, or the threat of further privatization in the Bureau, has resulted in greater cost control in Bureau-operated facilities is not examined here. Neither Congress nor the National Institute of Justice requested that this issue be addressed. To obtain the information required to explore this matter would have required more resources than were available

Roadmap to This Chapter

The first section describes the approach followed here to estimate and compare the costs of contracting and the estimated cost of government operation of the Taft facility. The Department of Justice requested that the methodology prescribed in OMB’s Circular A-76 be used to develop estimates for both government-provided and contractor-provided services. Accordingly, we have adopted this estimation approach, with some modifications, which are discussed in detail below.

The cost to the federal government of contracting for the operation of the Taft facility is then computed. Some of these costs involve reasonably straightforward calculations, where some require estimation.

The next section considers what the federal government would have spent if the Bureau of Prisons had operated the facility directly. Because the government never operated the facility before turning the building over the contractors, and because it never worked up a detailed budget plan, it is necessary to estimate what the government would have spent. The strategy used here involves building up each of the different components of cost—staff payrolls, fringe benefits, materials and supplies, overhead/support costs, etc. Because the calculations so derived are estimates, we also consider the likely range of possible error in each of these calculations (even though the conventional methods prescribed OMB’s Circular A-76 does not require this). This results in a point estimate of what the government would have spent to operate the Taft prison directly during FY 1998 through FY 2002, as well as a low and a high estimate of costs in each of these five fiscal years.

The estimated costs of contracting and of direct government operation are then compared, providing not only point estimates of costs or savings associated with contracting in each of the five fiscal years but also low and high estimates of costs and savings. To place the estimated cost of the Bureau’s operating the Taft facility in context and to assess the reasonableness of the estimate, costs of contracting and government operation of that facility are compared to annual operating costs of low-security federal prisons.

The final section examines how the various component costs differ under the two different arrangements (contracting as opposed to direct government operation) and under what conditions these differences are likely to be larger or smaller. The principal cost driver examined is the cost of labor. These costs vary in different geographical regions of the nation and this affects substantially the extent to which contracting costs more, less, or about the same as government operation.

The Framework for the Cost Comparisons

The Department of Justice requested that the methods used to develop the cost comparisons follow those prescribed in the Office of Management and Budget's Circular No. A-76. This circular was first issued in 1966 to guide government officials in thinking about whether to contract for production of a good or service rather than produce the good/service directly by a public agency with public employees. By the early 1980s, discussions of contracting had evolved into a broader policy debate about privatization and, in 1983, the Reagan Administration revised Circular A-76 to provide further direction in considering "make/buy" decisions. This document was revised again in May 2003.

Both the older and the revised Circular A-76 prescribe a process to be undertaken *prior* to the make/buy decision, and *are designed to inform that decision, rather than to evaluate the results of these decisions retrospectively*. Because the purpose of this evaluation is to estimate costs and savings associated with a contracting decision that was made several years ago, we are unable to conduct a strict A-76 analysis and must make certain modifications. The next section describes both the structure of a traditional A-76 analysis and the necessary adjustments made for conducting this analysis.

The Structure of Circular A-76 Analyses

At the time that this study was undertaken, the A-76 guidelines that were in effect were those established in the version prior to the 2003 revisions. In general, the A-76 process, as prescribed by the Office of Management and Budget, consists of six major components:

- *Developing a Performance Work Statement and Quality Assurance Surveillance Plan.* Typically, these are developed by the governmental agency—the Bureau of Prisons, in this case.
- *A management study to determine the government's most efficient organization ("MEO") for delivering the service directly.* This results in a management plan, typically developed by the government agency, which describes how the government will provide the service directly rather than contracting for it. It must reflect the scope of the Performance Work Statement and identify the organizational structures, staffing, operating procedures, equipment, transition and inspection plans necessary to ensure that the in-house activity is performed in an efficient and cost effective manner. Circular A-76 permits agencies to consider existing management reinvention, consolidation, re-engineering, personnel classification, market and other analyses to develop the MEO.
- *Estimating the cost of the government delivering the service by means of this most efficient organization.* This estimate details all costs associated with the performance of the MEO, calculated in accordance with Part II of the Supplement to Circular A-76.

- *Review and certification.* A-76 procedures call for an independent review by the agency’s A-76 Independent Review Officer (in this case, the Department of Justice’s officer). This officer is charged with certifying that the data contained in the management plan are reasonable and that the in-house cost estimates of government operation are “fully justified and calculated in accordance with the procedures described in [the A-76 guidelines manual].” The certifying official may be any technically competent individual: (a) organizationally independent of the function under study or (b) at least two levels above the most senior official included in the in-house cost estimate. The certifying official must also be able to commit to the provision of necessary resources to perform the activity. Such certification is made before the review of bids or proposals from potential contractors.
- *Issuing a request for proposal or invitation for bid to elicit contractors’ bid prices.*
- *Comparing the estimated cost of direct government provision with bidder’s proposed prices.*
- *An Administrative Appeal Process.* This is designed to assure that all costs estimated for government-provided and contractor-provided services are fair, accurate and are calculated in accordance with the steps specified in Circular A-76.¹⁹

Modifying the A-76 Procedures for the Present Study

Because an A-76 analysis was not performed before the contracting decision, we must do so retrospectively. Our approach follows the general methodology specified by Circular A-76 in effect until 2003, with some modifications. The most basic changes include our assumptions about the work statement, how the Bureau would have managed the facility, certification of the cost estimates of Bureau operation, and the range of prices offered by contractors. Because this analysis was not done prospectively, but for years now passed, information about actual costs incurred are used rather than forecasted costs for some categories of expense.

Performance work statement. Rather than develop a separate performance work statement, we assume that the statement of work issued in the request for proposals reflects the work that the government would have performed.²⁰ In addition, we assume that the Bureau of Prisons would have employed its existing quality assurance procedures if the Bureau had operated this facility directly. Those procedures were not listed as part of the RFP because the government asked contractors to develop and propose their own plan for quality assurance.

The statement of work issued by the Bureau did *not* include responsibility for operating the federal prison industries at the Taft facility, which was operated and managed directly by the Federal Bureau of Prison’s industry program, UNICOR.²¹ Accordingly, any and all costs associated with the

¹⁹ Part I, Chap. 3, section A, at <http://www.whitehouse.gov/omb/circulars/a076/a076s1.html#3a>.

²⁰ Federal Bureau of Prisons, *Solicitation No. RFP PCC-0001*, dated Nov. 27, 1996, Section C (Statement of Work).

²¹ The Bureau closed the UNICOR operation at the Taft facility in March, 2003 and transferred it to other federal prisons.

industrial program are *not* included in either the estimated cost of direct government operation of the Taft facility or the estimated cost of contracting for such operation.

Management plan. The Bureau did not specify its most efficient organization for operating the Taft facility, nor did we request that the Bureau do so retrospectively for purposes of this analysis. Instead, we assumed that this most efficient organizational structure would be similar to the Bureau’s organization at three other government facilities that were built at the same time as the Taft facility and which have operated more or less in competition with Taft: FCI Elkton (Ohio), FCI Forrest City (Arkansas), and FCI Yazoo City (Mississippi). These three facilities and the Taft facility were all built according to nearly identical architectural plans and differ only in the minimum security units (“camps”) that have been constructed outside the secure perimeter.

Analysis of staffing and spending at these and eleven other low-security federal facilities supports this decision.²² At FCIs Elkton, Forrest City and Yazoo City from FY1999 through FY2002, there was an average of 6.7 prisoners per 1 staff member, compared to 4.6 prisoners per 1 staff at the other eleven low security facilities during the same period. This resulted in lower per prisoner costs at these three FCIs. During this five-year period, the average per inmate cost was 28% lower at the same three facilities (\$14,681) compared with \$20,462 at the other low security facilities (Table 2.1), even though average costs *per employee* were approximately equal at all these facilities.

Table 2.1

Comparing Efficiency of Operating FCIs Elkton, Forrest City, and Yazoo City and Eleven Other Low-security Prisons, FY 1999–2002

Facilities	Prisoner: Staff Ratio	Cost Per Employee	Cost Per Inmate
FCIs Elkton, Forrest City, Yazoo City	6.7:1	\$93,083	\$14,681
Average Of Other 11 Low-Security Facilities	4.6:1	\$92,786	\$20,462

Notes: Staffing ratios computed from monthly reports for twelve months, obtained from Bureau of Prisons’ Key Indicators/Strategic Support System. Counts of prisoners includes holdovers. FY 1998 ratios are excluded because these facilities were being activated progressively throughout that year. Costs per inmate and per employee computed using data provided by Bureau of Prisons.

Source: Computed by Abt Associates Inc.

Using information about actual rather than estimated costs. The Office of Management and Budget promulgated Circular A-76 to guide analyses that are conducted to inform a future decision about whether to contract or not. Because of this prospective orientation, the circular requires that the government *estimate* what it would spend to provide the service directly, and the circular prescribes accounting rules to make these estimates. In contrast, our analysis is retrospective and can take advantage of the fact that costs of operating similar federal prisons are now known. Use of information about actual expenditures rather than forecasted costs yields a more accurate estimate of

²² These eleven low-security prisons include FCI Ashland , FCI Bastrop, FCI Big Spring, FCI Butner, FCI La Tuna , FCI Loretto, FCI Milan, FCI Petersburg , FCI Safford, FCI Seagoville, and FCI Texarkana.

what the Bureau would have spent during fiscal years 1998-2002 to operate the Taft facility as a federal prison.

Review and certification. No attempt has been made to enlist an officer of the Bureau of Prisons to certify that the cost estimates developed here are realistic. We believe them to be realistic, as they are built upon analyses of the Bureau's planning documents and information about expenditures at similar federal prisons.

Information about bidders' prices. The A-76 guidelines require obtaining bidders' price proposals to identify the future cost of contracting throughout the full term of the period under assessment (the term of the contract). Again, the A-76 approach involves forecasting future costs, even though those contractually agreed upon costs may vary from what is actually paid for various reasons. That is, after making the decision to contract for the service, the government could impose deductions to reduce payments or could pay award fees in differing amounts than anticipated. Our approach differs from the A-76 accounting model. First, we use data for actual payments by the federal government to the contractor during the five years examined here, rather than using only the winning contractor's proposed price for the five years into the future. Second, we have no knowledge of what the lowest offered price was. We assume that the government selected the proposal that offered the best value.

The Cost of Contracting for Prison Operations at the Taft Facility

In July, 1997, the Bureau of Prisons signed a ten-year contract with the Wackenhut Corrections Corporation to operate the Taft facility. Although the government and the firm agreed to a fixed price for each of the ten years, there were provisions for incremental payments if the inmate population rose beyond a predetermined level, and other provisions existed for bonuses ("award fees") that could be paid by the government to reward performance that went beyond mere contract compliance.

The total cost of contracting for prison operations at the Taft facility includes these and other costs born by the government. Specifically, the total cost is the sum of the following:

- the price charged by the contractor and paid by the government to perform the required work,
- adjustments for deductions against fee, if any,
- payments of incentive or award fees, if any,
- the costs to government of administering the contract, and
- any additional costs by the government that would be avoided if the operation of the facility had not been contracted.

Offsetting these costs to the government are federal income tax revenues, if any, paid by the contractor. Thus, the *net cost* to the federal government equals total payments by the federal government minus total federal tax revenues. Revenues paid to state or local governments (sales taxes, for example) are ignored in A-76 analyses because OMB is focused on costs/revenues to the *federal* government, even though they might reasonably be included in a broader accounting of costs and benefits of contracting.

The OMB Circular A-76 cost comparison methodology provides guidelines for estimating future costs associated with contracting, but we now have the advantage of knowing exactly how much the government has paid. A strict A-76 analysis would ignore this information and would substitute assumptions prescribed by the guidelines. At this point in time, it makes little sense to pretend that we are living in 1997 and are trying to estimate future costs of contracting. Therefore, the costs of contracting from FY 1999 through FY 2002 are developed here using information about actual costs paid by the government and estimated federal income tax payments.

Table 2.2 summarizes the estimated total cost to the government of contracting for TCI's operation during the five-year period from FY 1998-2002. During FY 1998, the Taft facility was not in its operational phase for the entire fiscal year, as the period of preparing the facility and staff for receiving prisoners ended on December 20th. This pre-operational period lasted from August 19—December 19, 1997, the costs of which are treated separately in the analysis below. Therefore, the cost of operations during FY 1998 are computed only for the period from December 20, 1997 through the end of the FY 1998 fiscal year, or September 30, 1998. Each of the component estimated costs of operations are discussed in detail below.

Table 2.2

Estimated Total Cost to Government of Contracting for Operation of Taft Correctional Facility: FY 1998-2002, by Year and Category of Cost

	1998	1999	2000	2001	2002	Total
Payments to Contractor for Services						
Fee with adjustments	\$20,889,519	\$27,214,375	\$28,210,157	\$31,139,352	\$32,037,139	\$139,490,541
Award fees	182,240	361,730	408,333	545,833	733,333	2,231,470
<i>Subtotal payments to contractor</i>	21,071,759	27,576,105	28,618,490	31,685,186	32,770,472	141,722,011
BOP Monitoring/ Contract Admin.						
Salaries	319,714	402,911	310,296	435,435	320,336	1,788,692
Premium comp.	2,633	2,607	504	4,543	3,258	13,545
Fringe benefits	99,557	128,112	108,007	124,196	92,991	552,864
Other direct expenses	64,395	47,227	22,374	1,840	2,011	137,847
<i>Allocated Bureau overhead</i>	39,490	64,036	50,257	67,701	49,990	271,474
<i>Subtotal monitoring/contract admin.</i>	536,927	644,893	491,438	633,715	468,586	2,775,560
Est. federal corporate income tax offset	-729,426	-695,766	-240,963	-331,213	-422,653	-2,420,023
Total	\$20,879,259	\$27,525,231	\$28,868,965	\$31,987,688	\$32,816,405	\$142,077,549

Note: FY 1998 is a partial year, beginning with operational phase on December 20, 1997. Award fees are pro-rated to correspond to the fiscal years during which performance periods occurred.

Sources: Computed by Abt Associates Inc. using data provided by the Bureau of Prisons and The GEO Group. See text for details.

Payments to the GEO Group, Inc. for Contracted Services

The federal government and The GEO Group Inc. agreed to a fixed-price contract that obligated the government to pay GEO \$27,641,997 annually for three years in return for which the firm would manage, operate, and maintain the Taft Correctional Institution (Table 2.3). This fixed price agreement covered *all* costs for operation and maintenance associated with an average daily population of 1,946 inmates. This price was to be paid even if the average daily population was far below the 1,946 level. The Bureau of Prisons therefore took the risk of not utilizing the prison's capacity efficiently (which was a small risk because it controlled the assignment of prisoners to prisons). During any month when the population exceeds 1,946 inmates, the contractor can charge the government an additional fixed-price daily increment. During the first three base years, this increment equaled \$5.58 per inmate/day. When the contract was renewed after the base period, the prices of increments in each of the subsequent option years increased. All payments to GEO are made on a monthly basis.

Table 2.3

Contract Prices for Taft Correctional Institution and Fixed Incremental Unit Price for Additional Prisoners, By Year

Contract Period	Annual Contract Payment	Fixed Incremental Unit Price
Base years:		
1	\$27,641,996.64	\$5.58
2	27,641,996.64	5.58
3	27,641,996.64	5.58
Option years:		
1	29,471,365.00	5.75
2	29,913,435.00	5.84
3	29,521,932.00	5.92
4	29,964,761.00	6.01
5	30,414,232.00	6.10
6	30,870,446.00	6.19
7	31,333,502.00	6.29

Source: Award to Wackenhut Corrections Corporation by Federal Bureau of Prisons, dated July 30, 1997.

The payments to the GEO Group are *prices* paid to the firm for its services, rather than reimbursements for *costs* incurred plus some agreed upon fee. GEO's actual costs—the expenses it incurs to deliver the services—are less relevant to the basic question examined here. That is, we are concerned with comparing the *cost to the government* of either contracting for the Taft facility's operation or for providing that service directly by the Federal Bureau of Prisons.

During this five-year period, there were a number of contract modifications that resulted in increased payments to the contractor for services rendered as well deductions for services not received. During 1998, the facility's average daily prisoner population was 1,091, below the 1,946 level (which did not result in a reduced payment). During that year, the Bureau paid an additional \$3,370 for housing prisoners above that level, and in all subsequent years, the number of prisoners exceeded this level

frequently. During FY1999, GEO received an additional \$578,748 for exceeding the 1,946 threshold, and then \$883,799 during FY 2000, \$902,991 in FY 2001, and \$848,543 during FY 2002, for a total of \$3,217,451 million during the five fiscal years.²³

During these five years, a number of deductions were imposed for not delivering various services at the levels required by contract. These totaled \$906,158 over the five years.²⁴ These were deducted from the base fees payable to the contractor.

The net result of these adjustments to base fees for deductions and additions for holding prisoners above the 1,946 was a total payment of \$139.5 million by the federal government to The GEO Group for services performed during the five fiscal years for its operating the facility (Table 2.2).²⁵ Excluded here are the costs that were incurred during the first two and a half months of FY 1998 for GEO's preparing the facility for full operations.

Award Fees

Consistent with the performance-oriented structure of the contract, the government agreed to award Wackenhut additional money for good performance above and beyond mere compliance with the terms of the contract. These bonuses, awarded on a semi-annual basis, can equal as much as 5 percent of paid invoices during each period. These provisions and how they were administered are discussed in greater detail in Chapter Three.

For each of the five fiscal years 1998–2002, the award fees actually paid (\$2.2 million in total) are included in the tally of total cost to the government for GEO's operating the facility (Table 2.2).²⁶ This is a departure from the A-76 methodology. For the purpose of estimating the *future* cost to the government when incentive or award-fee contracts are employed, Circular A-76 assumes that 65 percent of the maximum potential award fee will be paid to the contractor. As discussed in Chapter Two, the Bureau's officers issued awards throughout these five years that were substantially smaller—31 percent of the maximum eligible amounts, on average. If award fees were at the 65 percent level, the total cost to government would have been \$2.5 million higher.

²³ Computed from data provided by The GEO Group and the Bureau of Prisons. Payments and receipts in each fiscal year are not identical in both sources because GEO posts payments at the time of receipt, while the Bureau uses accrual-based accounting procedures and assigns expenditures to period of performance rather than to date paid.

²⁴ Ibid.

²⁵ By contract, GEO is not permitted to keep any revenue it receives for inmate telephone services (rebates, etc.). GEO adjusts its monthly bills, deducting the amounts of any such revenues from the base fee. During this five-year period, GEO passed a total of \$2.5 million in these rebates to the federal government. These resulted in a deduction to the government's cost of contracting.

²⁶ Excluded here is an award fee of \$58,257 that was given to GEO for its performance during the pre-operational phase when it was preparing the facility to receive and hold prisoners. Moreover, some of these award fees (for the performance periods between August 20 and February 20) straddle two different federal fiscal years. Consequently, we have allocated one-sixth of these payments to the one year and five-sixths to the second. This differs from the Bureau's accounting, which assigns the entire payment to the second fiscal year.

Contract Administration Costs

Costs were incurred by the Bureau of Prisons to administer and monitor the contract, all of which would have been avoided if the Bureau operated the facility directly. Accordingly, Circular A-76 prescribes that the total cost to the government includes “the cost of reviewing compliance with the terms of the contract, processing payments, negotiating change orders, and monitoring the closeout of contract operations.” Not to be included are expenditures associated with “inspection and other administrative requirements that would be common to the contract and government performance to assure acceptable performance.”

During the five years examined here, the cost of contract monitoring ranged between \$469,000 and \$645,000 per year, for a total of about \$2.8 million (Table 2.2).²⁷ (This includes an allocation of 12 percent overhead on these monitoring costs.) This differs somewhat from the costs that would have been forecast if assumptions prescribed by Circular A-76 were adopted. These A-76 guidelines assume that ten persons would be required to administer a contract for a service that the government could provide directly with 350 staff (assuming its most efficient organizational structure).²⁸ Following this guideline, the cost of contract administration would have been calculated as approximately \$800,000–900,000 during FY 1999.²⁹ Over the five fiscal years studied here, monitoring and administration would have cost approximately \$4 to \$4.5 million at this rate, compared with the actual expenditure of \$2.8 million.

Government Overhead Costs

Circular A-76 does not prescribe assignment of government overhead costs to contracted operations. Therefore, no overhead cost factor is included in the estimated cost of contracting for operations at TCI. Most of the Bureau’s support to GEO at TCI was provided by the contract monitors and administrators, and the costs of these activities have already been captured (see above). During the five year period examined here, the Bureau provided minimal support services to GEO other than those provided by these contract monitors and administrators.

Not assigning government overhead costs to contracted activities has been a controversial issue among those involved in estimating costs of public and private competitions under Circular A-76 rules. Some argue that contracting for a service does not avert spending for many government overhead functions because the costs of many of these functions are relatively fixed and should be spread to all government-funded activities, whether performed by government or by contractors. This is the position taken by one consulting economist to the Bureau of Prisons who has developed a cost analysis of the Taft facility for FY 1999.³⁰ She undertook an analysis of the Bureau’s support costs

²⁷ Bureau of Prisons, Budget Execution Branch, reports of obligations during FY 1998–2002. A small portion of these costs were incurred in support of the Bureau’s contract for the facility in Eloy, Arizona. For some periods during these five years, the contract administrator stationed at the Taft facility assumed some of the administration functions for the Eloy contract. Contract monitors, in contrast, were fully dedicated to the Taft facility. No attempt was made to estimate the small amount of time spent during these five years by the contract administrator for the Eloy contract.

²⁸ Circular A-76, Part II, p. 41.

²⁹ This is an imprecise and tentative estimate extrapolating from what the Bureau of Prisons spent during FY 1998 and 1999.

³⁰ Julianne Nelson, “Taft Prison Facility: Cost Scenarios,” unpublished, November, 1999.

and estimated the cost of those activities that might be avoided by contracting (such as the costs of training staff) and those that would not (costs of central and regional offices, for example). She estimated that the overhead cost of contracting during FY 1999 at 8.19 percent, compared to 11.84 percent for government-operated facilities.

Assigning fixed overhead costs in proportion to direct costs, or direct labor hours, or direct materials is a common accounting procedure. This assumes that all activities call upon these fixed overhead resources equally. (This approach is called “cost smoothing” because overhead costs are assigned evenly without regard to how overhead resources are actually called upon.) Following this logic, it may seem reasonable to assume that it makes no difference for overhead assignment if the facility is operated by a contractor rather than by the Bureau of Prisons.

A competing school of thought argues that overhead costs should be assigned as accurately as possible to the activities that actually receive support, in proportion to the support received. Advocates of this “activity-based” cost accounting argue that it provides a more accurate representation of the resources required to produce specific goods or services—and, therefore, a more accurate representation of what specific activities actually cost. Indeed, some services may require a great deal of administrative and management overhead support, while other services provided by the same organization may demand little. If the organization is profit seeking, it will be advantageous to know the full cost of producing the former services so that they can be priced appropriately. In any organization, public or private, knowing the resources required of different types of services will facilitate more informed decisions about how to allocate available resources. Simply spreading fixed overhead costs in proportion to direct costs obscures how overhead resources are actually spent.

Following this logic of activity-based cost accounting, it is reasonable *not* to assign some portion of the costs of Bureau overhead and support activities to the Taft facility and to the cost of contracting. By contracting, the Bureau avoided providing the broad range of support and oversight functions its affords federal prisons. As a matter of policy, the Bureau providing minimal support to the contractor during this period, with the exception of that provided by the on-site contract monitors—and the cost of this support has already been captured in our analysis. There were, no doubt, some overhead costs that were incurred for the Taft facility. Bureau officers have argued, for example, that the Key Indicators/Strategic Support performance indicator system pulled data for the Taft facility as well as for all federal facilities and that some portion of this expense should be assigned to the Taft contract. However, unlike wardens of federal prisons, GEO’s warden at the Taft facility was never given access to these data. Unless such resources are used to support managers at the facility level, it is difficult to argue that these costs should be assigned to the Taft contract.

In FY 2003, the Bureau began to change its relationship to GEO and to all other contractors that operate facilities holding federal prisoners. It sought to transform its relationships with contractors as partnerships rather than the competitive relationships that had existed previously. A new contract monitoring team was developed as well as a new approach to quality assurance at all contractor-operated facilities, all of which is being done at the national headquarters level. (See Chapter Three for a discussion of this.) The costs of these supportive activities could be included as a cost of contracting during FY 2003 and afterwards, although they should be considered monitoring costs rather than general overhead costs.

It is important to recognize that the Bureau did not *avoid* spending \$12 to 17 million for fixed overhead expenses because these costs were not assigned to the Taft facility's operation.³¹ Rather, these fixed costs were still incurred and are assigned to the Bureau-operated facilities as an indirect cost of operating those prisons.

Bureau of Prisons officials and their consulting economist, Julianne Nelson, object strenuously to this treatment of overhead spending.³² Dr. Nelson's approach is to estimate costs that are *avoided* by contracting with GEO to operate the Taft facility. This is a somewhat different question that we are asking in this report ("what are the costs to the government of contracting for TCI, compared to the cost of direct government operation"). Dr. Nelson is correct in assuming that nearly all the overhead costs of the Bureau are quite fixed and that the *marginal savings* to overhead (or "avoided costs") are minimal if only one out of more than 100 federal prisons is contracted out. If, however, the Bureau contracts for fifty prisons, it is reasonable to assume that overhead costs would decline if these contracted prisons call upon overhead resources in the same fashion as does the Taft Correctional Facility. In other words, overhead costs are not fixed but no doubt vary according to the size of the enterprise being managed. Exactly how elastic these overhead costs are is not easily estimated.

Insurance Costs

Payments to plaintiffs who win lawsuits against governments or private correctional firms are real costs of imprisonment, as are the costs of insuring against such losses. The federal government—like other governments—is not able to shield itself legally from liability claims,³³ so it might seem

³¹ \$12 million is the amount that would be assigned according to Nelson's assumptions; \$17 million equals 12 percent of all payments to GEO over the five fiscal years for operations (excluding activation costs during the beginning of FY 1998).

³² Bureau of Prisons officials were given the opportunity to review and comment upon an earlier version of this report. Dr. Julianne Nelson was also contracted, through the CNA Corporation, to review it. Dr. Nelson had earlier been engaged directly by the Bureau as a consultant to develop her own cost comparisons of direct government operation of the Taft facility and contracted operation. See Nelson, "Taft Prison Facility: A Comparison of Evaluation Methods," (Alexandria, VA: The CNA Corporation, July 2005).

³³ The courts have ruled that private prisons are treated as "state actors" for purposes of civil rights suits and that governments remain exposed to liability claims (See *West v. Atkins*, 487 U.S. 42 (1988), also *Street v. Corrections Corp. of America*, 102 F. 2d 810, 814 (6th Cir. 1996); *Payne v. Monroe County*, 779 F. Supp. 1330, 1335 (M.D. Fla. 1991). In practice, however, a government's exposure is substantially lower if a private contractor is running a private facility, compared to when it operates prisons directly. The contractor will be the primary defendant in inmate litigation, and government authorities generally will not have direct responsibility for the actions of contractor employees. In the vast majority of inmate cases—including most prisoner civil rights litigation where individual, rather than systemic, group harms are at issue—governments will not be deemed to have specific knowledge of, and therefore bear responsibility for, the specific acts and injuries alleged. In "Section 1983" civil rights litigation—which represents the overwhelming majority of inmate claims—a firm and its supervisory employees must be shown to have been directly involved in an alleged violation, have known about the violation or its likelihood of occurring, and been "deliberately indifferent" toward the risk, or have generated or validated a policy or custom that led to the violation. (See, e.g., *Street v. Corrections Corp. of America*, *supra* at 818. See also generally *Monell v. Dept of Social Services*, 436 U.S. 658, 694 (1978).) Since public correctional authorities will have entrusted day-to-day management of prisons to private contractors, they will be less likely to have notice or knowledge of specific harms alleged to have caused injury to individual inmates. While reliance on a private contractor will not prevent government authorities from being named in

reasonable to estimate the annualized cost to the Bureau of insurance or self-insurance. However, the Bureau's contract with GEO indemnifies it against any costs arising out of any personnel-related liability claims. This effectively avoids all personnel liability insurance costs.

Similarly, the government owns the facility but its contract with The GEO Group requires that the facility, equipment, and furnishings be insured against damages and destruction up to \$75 million dollars. The cost of such indemnification is included in the insurance premium paid by the company and, correspondingly, in the contractor's fee. Wackenhut spent more than \$500,000 annually during FY1998 and FY1999 to insure itself against all liability claims at the Taft Correctional Institution. (In subsequent years, the cost to the contractor of total insurance and self-insurance combined reached \$1.4 million per year, but this combined total includes some self-insurance for prisoner health care costs, and the annual expenditures for premiums for liability and casualty insurance cannot be isolated.) We therefore estimate that the cost to the government for insuring itself against liabilities at Taft, above and beyond the amount included in the contract price, is zero.

Cost of Preparing the Facility Before Going Fully Operational

The Bureau began to prepare the facility for operation before the decision was made to contract. The Bureau spent approximately \$7,000,000 for miscellaneous materials and supplies, which it turned over the contractor.³⁴ The Bureau then paid GEO its monthly fee for services between August 19, 1997, when the notice to begin preparing the facility for prisoners was issued, and December 20, 1997, when the Bureau declared these preparations completed and ordered the transfer of prisoners to the facility. GEO's charges during this period totaled \$9,213,999, and it was also given an award fee of \$58,257 for good performance during this pre-operations period. GEO offset these costs to the government in part by paying corporate income taxes to the U.S. Treasury, estimated to have been approximately \$208,408 (see the discussion below of how these taxes were estimated). The total net cost to the Bureau of preparing the Taft facility was therefore approximately \$16,063,848.

A full reckoning of the costs would include these expenditures incurred before the first prisoners arrived, but it is difficult to estimate what the Bureau would have spent if it continued its own preparations and then operated the facility. There are also different ways of treating these pre-operational expenditures (e.g., recognizing them fully as expenses in FY 1997 and FY 1998 or amortizing them across the useful life of the equipment and supplies, or across the ten-year life of the contract). Therefore, this report ignores these expenditures by the government for the period before December 20, 1997. We do not aim to develop a complete accounting of what the Bureau spent to have GEO prepare the facility for operations as well as operate it. Instead, our focus is on a comparison of the known costs of contracting and the estimated costs of the government's *operation* of a prison.

lawsuits or being exposed to liability for widespread or obvious problems relating to facility conditions, private contracting will greatly lessen the liability of government supervisory officials for most inmate claims alleging individual harm. These claims represent the most common type of prisoner lawsuit and assume a significant proportion of a correctional agency's litigation budget.

³⁴ Memorandum from Carol Durkee, Bureau of Prisons, Budget Execution Branch to Douglas McDonald, August 9, 2000.

Conversion Costs

Labor-related costs. Circular A-76 requires accounting for labor-related conversion costs, such as “health benefit costs, severance pay, homeowner assistance, relocation and retraining expenses and initial contractor security clearance requirements.”³⁵ These are not relevant because Taft was not staffed by federal employees at the time of the “conversion” to private operation.

Income Tax Payments

Because contractors may earn profits for providing their services, payments of corporate income taxes offset the cost to the federal government of contracting. Circular A-76 guidelines recommend computing estimated federal income tax payments for “other services” as equivalent to 0.5 percent of the total annual contract price. Following this accounting rule, we would estimate that GEO would have paid a total about \$760,400 during these five fiscal years.

This is a conservative assumption that is probably unrealistic. Assuming a federal corporate income tax rate of 35 percent, the true profit rate would have to be about 1.5 percent of total revenue for the A-76 guideline to be accurate. Some federal contracts may earn this little, although there no doubt exists substantial variation from one industry to another. Moreover, the federal government has no reliable way to estimate the average profit realized from fixed price contracts for services.

GEO was asked to provide its federal and state income taxes for purposes of this study. GEO pays taxes on profits earned in calendar rather than federal fiscal years, and has apportioned its total corporate tax payment in proportion to the revenues earned by all its contracts. During this period, revenues from Bureau of Prisons for operation of the Taft facility equaled 7 to 8 percent of its total revenues for correctional services; consequently, GEO assigned 7 to 8 percent of its federal income tax liability to the Taft facility contract, depending upon the year. Following these assumptions, GEO’s federal income tax payments would have ranged between \$240,963 during 2000 to \$729,426 during 1998, and the firm’s total federal tax liability associated with the Taft facility during the five years would have been approximately \$2.4 million.³⁶

It is possible that the real rate of profit at the Taft facility was higher or lower than the average rate produced by all the firm’s correctional services. Nonetheless, the apportioned tax payments reported by GEO are probably closer to the firm’s actual federal tax liabilities than the OMB estimate and are therefore used here.

³⁵ Office of Management and Budget. “Circular A-76 Supplemental Handbook: Part II: Preparing the Cost Comparison Estimates.” A-76 Competitive Sourcing Internet Library and Directory (www.dla.mil/J-8/A-76/A-76SupplementaryHandbookPart%20I.html).

³⁶ GEO provided its computations based upon the firm’s calendar year accounting, and it assigned revenues to the period in which they were received rather than accrued; the calculation of total annual revenue therefore differs somewhat from the Bureau’s accounting. FY 1998 estimates are adjusted to count only taxes on revenues received after December 20, 1997, when the prison became operational.

Although tax payments to state or local governments are not considered relevant to the federal government's calculation of comparative costs of contracting vs. direct provision, Wackenhut/GEO paid the State of California an estimated \$662,100 in corporate income taxes during this period.³⁷

Summary: Total Net Cost of Contracting During FY1998–2002

Following the accounting procedures specified in Circular A-76, the net cost to the government of contracting for the operation of the Taft Correctional Institution during FY 1998 was \$20.9 million (Table 2.2). By FY 2002 the cost had risen to almost \$32.8 million. The total net cost to the federal government for all five years combined was approximately \$142.1 million (excluding the weeks during FY 1998 prior to the facility's going operational on December 20, 1997.)

What Would the Bureau of Prisons Have Spent to Operate the Taft Facility During FY 1998–2002?

What the federal government would have spent to operate the Taft facility during these five years cannot be known with certainty and can only be estimated. As discussed above, the federal Office of Management and Budget has established a method (in its Circular A-76 and various revisions) for making these estimates.

However, the Bureau of Prisons did not conduct an A-76 analysis prior to contracting, and did not develop a fully specified budget for operating the Taft facility as a federal prison. Therefore, it is necessary to do this retrospectively. In this section, what the government would have spent to operate the facility during FY 1998–2002 is estimated. Following the general logic of the A-76 approach (with some modifications, as indicated), expenditures are estimated for:

- personnel, including salaries and premium pay;
- fringe benefits and retirement fund contributions, and other associated liabilities;
- materials and supplies;
- casualty and personnel liability costs; and
- expenditures for governmental administration that are not directly incurred by specific prisons but which support all prisons (and are, consequently, "indirect" or "overhead" expenditures).

Table 2.4 summarizes how each of these various costs were estimated. The estimated costs following these assumptions are then shown in Table 2.5. During FY 1998, the government would have spent a total of \$21.6 million to operate the facility as a federal prison (after December 20, 1997). This would have risen in subsequent years to \$35.1 million during FY 2002. The estimated total cost over the five-year period would have been \$154.9 million.

³⁷ The allocation of California tax liability was made by assigning such liability in proportion to revenues received by all its contract operations in that state.

Table 2.4

Assumptions for Estimating the Government's Operating the Taft Facility During FY 1998–2002

Category of Expense	Assumptions
Salaries and Wages	
Permanent salaries and wages	<u>Abt Associates, Inc. Calculation:</u> Assume staffing model was identical to that at FCI Elkton, that employees were paid a mid-grade levels, and that staff vacancy rates (9 percent) were identical to those observed at all low security federal prisons during FY 1998-2002.
Premium compensation and other than permanent salaries & wages	<u>Abt Associates, Inc. Calculation:</u> Assume rates of premium compensation and other than permanent salaries and wages was identical to average observed at 14 low security federal facilities during each of five fiscal years.
Subtotal adjusted salaries and wages	<u>Abt Associates, Inc. Calculation:</u> Sum of adjusted salaries and wages and premium compensation/other than permanent salaries and wages
Fringe benefits	
Retirement fund contributions	<u>A-76 Prescribed Cost factor:</u> 37.7% of adjusted salaries and wages
Federal employee insurance & health benefits	<u>A-76 Prescribed Cost factor:</u> 5.6% of adjusted salaries and wages
Medicare benefit contributions	<u>A-76 Prescribed Cost factor:</u> 1.45% of adjusted salaries and wages
Misc. fringe benefits	<u>A-76 Prescribed Cost factor:</u> 1.7% of adjusted salaries and wages
Subtotal fringe benefits	<u>Abt Associates, Inc. Calculation:</u> Sum of fringe benefits
Subtotal personnel costs	<u>Abt Associates, Inc. Calculation:</u> Sum of salaries, wages, and fringe benefits
Materials, supplies, and other non-personnel costs	<u>Abt Associates, Inc. Calculation:</u> Estimated based upon statistical analysis of observed expenditures at 14 low security federal prison.
Other specifically attributable costs	
Casualty liability (annualized cost)	<u>A-76 Prescribed Cost factor:</u> 0.5% of net value of capital (excludes costs of materials and supplies)
Personnel liability (annualized cost)	<u>A-76 Prescribed Cost factor:</u> 0.7% of government facilities total personnel costs—salaries, wages, premium compensation, benefits
Subtotal other specifically attributable costs	<u>Abt Associates, Inc. Calculation:</u> Sum of other specifically attributable costs
Subtotal, all categories	<u>Abt Associates, Inc. Calculation:</u> Sum of personnel, materials and supplies, other specifically attributable costs
Overhead	
Total estimated cost for government operation of Taft Correctional Institution	<u>A-76 Prescribed Cost Factor</u> 12% of “subtotal personnel costs” above. <u>Abt Associates, Inc. Calculation:</u> Sum of personnel, materials and supplies, other specifically attributable costs, and overhead

Table 2.5						
Total Estimated Cost of Government Operation of the Taft Correctional Institution During FY 1998-2002						
	1998	1999	2000	2001	2002	Total
Salaries and Wages						
Permanent salaries and wages	\$10,636,157	\$14,149,290	\$14,776,170	\$15,281,143	\$15,935,658	\$70,778,418
Staff vacancy adjustment	-850,893	-1,131,943	-1,182,094	-1,222,491	-1,274,853	-5,662,273
Adjusted est. salaries/wages	9,785,264	13,017,347	13,594,077	14,058,652	14,660,805	65,116,145
Premium compensation and other than permanent salaries and wages	782,821	1,158,544	1,291,437	1,321,513	1,524,724	6,079,039
<i>Subtotal salaries and wages</i>	10,568,085	14,175,891	14,885,514	15,380,165	16,185,529	71,195,184
Fringe benefits						
Retirement fund contributions	3,984,168	5,344,311	5,611,839	5,798,322	6,101,944	26,840,584
Federal employee insurance & health benefits	591,813	793,850	833,589	861,289	906,390	3,986,930
Medicare benefit contributions	153,237	205,550	215,840	223,012	234,690	1,032,330
Misc. fringe benefits	179,657	240,990	253,054	261,463	275,154	1,210,318
<i>Subtotal fringe benefits</i>	4,908,876	6,584,701	6,914,321	7,144,087	7,518,178	33,070,163
<i>Subtotal personnel costs</i>	15,476,961	20,760,592	21,799,835	22,524,252	23,703,707	104,265,347
Materials, supplies, and other non-personnel costs	3,861,735	7,686,902	8,288,809	7,677,233	8,039,963	35,554,642
Other specifically attributable costs						
Casualty (self-insurance)	292,500	375,000	375,000	375,000	375,000	1,792,500
Personnel liability (self-insurance)	108,339	145,324	152,599	157,670	165,926	729,857
<i>Subtotal other specifically attributable costs</i>	400,839	520,324	527,599	532,670	540,926	2,522,357
<i>Subtotal, all categories</i>	19,739,535	28,967,818	30,616,243	30,734,154	32,284,596	142,342,346
Overhead	1,857,235	2,491,271	2,615,980	2,702,910	2,844,445	12,511,842
Total estimated cost	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: Computed by Abt Associates Inc. See text for sources of data and assumptions.

For several components of these estimates, error ranges were calculated, which resulted in developing a low and a high estimate of total costs in each of the five years (Table 2.6). The error range was small: plus or minus about 2 percent, with some small variation among the five years. Consequently, our best estimate is that the total cost of government operations during the five years combined would have been between \$151.6 and \$158.6 million.

Table 2.6

Range of Estimated Costs of Government Operation of Operation of the Taft Correctional Institution During FY 1998–2002

	1998	1999	2000	2001	2002	Total
High estimate	\$22,263,257	\$31,928,256	\$33,793,265	\$34,566,504	\$36,065,834	\$158,617,116
Low estimate	20,930,283	30,968,437	32,671,182	32,884,422	34,192,248	151,646,572

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: Computed by Abt Associates Inc. See text for sources of data and assumptions.

Details of how these costs were estimated are described below. Attention is given first to developing the point estimates; consideration of error ranges and sensitivity of the estimates is then discussed.

Personnel Costs

An indication of what the government would have spent to staff the Taft facility is evident in the Bureau’s early planning documents for this facility. The Bureau built the facility and first assumed that it would operate it. In July 1996, the Bureau’s Resource Management Subcommittee approved a proposal to authorize 350 positions at the facility, not including staff for the prison industry program. This proposal was adopted subsequently by the Bureau’s Budget Execution Branch on September 20, 1996.

As is customary in the Bureau, these positions were authorized only for functional areas (“decision units”)—food services, medical services, and security services, for example. Exactly how these functional areas were to be staffed—the specific positions to be filled and their pay grades—was left to regional headquarters and to the warden. The Bureau has provided staffing guidelines that specify the number and types of positions required for all facilities, with adjustments for facility size, but wardens retain some discretion in these staffing decisions. Further specification of staffing at Taft was suspended within the Bureau once Congress mandated that the Taft facility was to be operated by a contractor.

How the Bureau would have filled these 350 positions can be estimated using information about staffing of the three other low-security FCIs that are architecturally similar and which opened at roughly the same time at Taft—FCIs Elkton, Forrest City, and Yazoo City. Because staffing is driven primarily by a prison’s physical design and its security level, and because the design of these three facilities resembled Taft’s so closely, we can assume that a federal prison warden at Taft would have staffed that facility similarly.

All four of these facilities have identical low-security sections. At each, there are three dormitory-style units, each designed for 512 prisoners, for a total of 1,536 low-security prisoners. The Bureau allocated 315 positions to each of these four low-security facilities.³⁸ At both Taft and Elkton, a fourth 512-bed unit was built for minimum-security inmates. At these prisons, this latter unit is separated from the rest of the facility and is designated a “camp”—a misnomer, as it looks like all other units in the prison, except that it lacks a perimeter fence. The Bureau had authorized an additional 35 employees for these minimum-security camps to both FCI Taft (when it was assumed that the Bureau would operate it) and to FCI Elkton (Table 2.7).

Table 2.7

Numbers of Authorized Staff Positions for Government-Operated Federal Prisons at Taft, Elkton, Forrest City, and Yazoo City, by Security Level (FY 1996)

	Taft	Elkton	Forrest City	Yazoo City
Low-Security Units	315	315	315	315
Minimum-Security camps	35	35	0	0
Total	350	350	315	315

Notes: Excludes federal prison industry positions and inmate trust fund positions. Includes all other staff positions (Public Health Services staff, B&F, S&E, and VCRP).

Sources: Requests for Personnel Action, dated 9/20/96 (FCI Taft), 4/22/96 (FCI Forrest City). Undated (FCI Yazoo City), and 11/18/96 (FCI Elkton).

Table 2.8 shows how the leadership at each of these three bureau-operated facilities translated authorized positions into specific staff positions. In most functional areas, differences in numbers of full-time staff positions were small. The principal differences stemmed from the fact that Elkton was to house a larger number of inmates than the other two facilities. This required more staff assigned to unit management and to inmate systems (record keeping and sentence-computation responsibilities) at Elkton.

³⁸ In addition to these staff, some positions were authorized at each facility to manage and operate the inmate trust fund accounts. These are not included here because their salaries and benefits are paid by revenues generated by inmate commissary profits and not (ultimately) by taxpayers. As mentioned above, staff assigned to the federal prisons industries were authorized but are excluded from this analysis.

Table 2.8

Planned Staffing for Government-Operated Federal Prisons at Taft, Elkton, Forrest City, and Yazoo City, by Functional Department (FY 1996)

	Taft	Elkton	Forrest City	Yazoo City
Food Service	18	18	15	13
Medical Services	23	25	26	22
Inmate Services	3	4	2	2
Correctional Services	130	122	122	132
Unit Management, Inmate Systems	78	72	55	57
Education	15	17	13	12
Recreation	8	9	7	7
Religious Services	4	2	3	3
Psychology Services	4	5	6	3
Executive Office, Human Resources, Financial Mgt., Computer Services	36	44	37	36
Employee Development	2	3	2	2
Facilities, Safety	29	29	27	26
Total	350	350	315	315

Notes: Excludes federal prison industry positions and inmate trust fund positions. Includes all other staff positions (Public Health Services staff, B&F, S&E, and VCRP).

Sources: Requests for Personnel Action, dated 9/20/96 (FCI Taft), 4/22/96 (FCI Forrest City). Undated (FCI Yazoo City), and 11/18/96 (FCI Elkton).

Because the numbers of authorizations for Taft and Elkton facilities were identical, as were the plans for numbers of prisoners to be housed at each, FCI Elkton’s staffing offers the best indicator of how the Bureau would have staffed Taft and at what cost. Table 2.9 shows how these 350 authorizations had been translated into specific staff position titles at FCI Elkton, as of March, 1999.³⁹ Also shown are the pay grades associated with each of the positions during FY 1998, the associated pay schedule (mostly General Schedule but some staff were paid according to the Federal Wage System schedule), and the estimated annual compensation paid to staff in each of these positions. Within each grade, employees can earn somewhat different annual salaries or wages, depending upon the number of years they have occupied that grade. For developing estimated average salaries or wages within each grade, OMB specifies that one assume that employees are paid at the midpoint for GS grades (step 5) and at step 4 for employees on the Federal Wage System schedules (even though step 4 is higher than the mid-point).⁴⁰ For simplicity’s sake, these steps are termed “mid-grade” pay levels here.

³⁹ FCI Elkton data from Federal Bureau of Prisons, FMIS Report \$PRDPOS, “Report of Authorized Positions for Institutions, for Elkton,” produced on 03/30/99. By March, 1999, the Bureau had scaled back its plans for FCI Elkton’s camp and staffed it to hold 384 rather than 512 prisoners. Eight positions at the camp were thereby “de-authorized,” leaving the total number of authorized positions (exclusive of prison industries) at 342 for FY 1999. All eight of these de-authorized positions were for institutional security. Given the ratio of correctional officers to supervisors at the facility, we assume that seven were line officers, and one position was for a correctional supervisor. To estimate the costs of the original staff of 350 positions in FY 1998, these eight positions were added back onto the roster.

⁴⁰ OMB, *Circular No. A-76, Revised Supplemental Handbook* (revised March 1996), p. 20. Revisions to the Federal Wage System pay schedules took effect in April or May of each year and pay raises were instituted

Following these assumptions, total expenditures during FY 1998 for staff salaries and wages for 350 positions are estimated to have been \$13,636,098 for the fully fiscal year at a *fully staffed* FCI Elkton, or \$10,636,157 for the period following activation on December 20, 1997. We assume that the Bureau would have spent approximately the same during that year to staff fully the Taft facility if it had operated it directly. Wage and salary scales are the same in both locations; no adjustments are required for differences in cost of living in Taft, California or in Elkton, Ohio. Nor are any adjustments made to this estimate for possible changes in staffing levels in response to a varying number of prisoners in custody.

Estimates for staff salaries and wages for the subsequent fiscal years (FY 1999-2002) were based upon the assumptions that the number of authorized positions would not have changed. OMB-prescribed mid-grade salary or wage amounts, which incorporated annual increases in federal employee compensation, were used to estimate salaries and wages for each fiscal year.

Accounting for Vacant Positions

Although Circular A-76 does not require estimating vacant staff positions and the consequent cost savings, this fully staffed, 350-position configuration overestimates what the Bureau would have spent to operate the Taft facility. In most federal prisons, some proportion of authorized positions remain vacant at any one time. Staff turnover results in some vacancies; wardens keep some positions empty to reduce costs; and the Bureau's national headquarters sets vacancy targets to contain costs throughout the agency. Because costs are incurred only for staff actually employed rather than for authorized positions, an accounting has to be made of probable vacancy rates. We assume that if the Bureau had operated the Taft facility, it would have experienced a 9 percent vacancy rate during each of the five fiscal years—which was the average rate observed at all low security federal prisons during this time.⁴¹ Because these vacancies were most likely to occur in lower pay grades, a 9 percent vacancy rate would have resulted in staff costs that would have been approximately 8 percent lower than the estimated cost of the fully staffed facility.⁴² Over the course

within 45 days of this. Therefore, the wage rate in effect throughout the twelve months of the federal fiscal year spanned two editions of the schedule. The effective step 4 rate for these schedules was computed as 5/12 of the annual rate after April/May and 7/12 of the annual rate prior to that date. It was assumed, furthermore, that an FTE for Federal Wage System employees equaled 2,087 hours annually, as per Circular A-76 Guidelines.

⁴¹ Computed by Abt Associates from Key Indicators datasets; staff vacancy rates were reported for June in each fiscal year.

⁴² If one assumes that vacancies were distributed evenly throughout the pay grades, one could estimate that the cost of staff salaries and wages at a government-operated Taft facility having an 9 percent vacancy rate would have been 91 percent of the estimated cost of full staffing. However, it is unlikely that vacancies typically occur so evenly. Turnover is likely to be most prevalent among the lower grades, and wardens are more likely to keep vacancies in the lower ranks than in middle and upper management. An analysis of estimated expenditures and vacancies at FCIs Elkton and Forrest City supports this assumption. At the end of FY 2000, Elkton had 5.6 percent of its authorized positions empty. Based on the grades of those staff that were on board at this time, and assuming that they would have been paid at mid-grade rates, salary and wage costs would have been approximately 4.4 percent lower than if all authorized positions were filled. A similar pattern was evident in the differences in estimated costs at FCI Forrest City. A 10.4 percent vacancy rate there resulted in an estimated reduction of salary and wage costs of 9.3 percent. It is therefore

of the five fiscal years, the savings resulting from these vacant positions would have been about \$5.7 million (Table 2.5).

Even though FCI Elkton is used as the most comparable federal facility for purposes of labor cost estimation, vacancies at this facility were not used to estimate what the Bureau would have experienced at the Taft facility. Being in competition with the privately managed Taft facility may have affected the speed with which Elkton's managers filled empty positions. (Holding positions vacant is the surest way to contain spending at a prison, since labor costs represent the lion's share of spending for operations.) Therefore, the average vacancy rates observed at all low security facilities, including those not identified as Taft's direct competitors, offer a more easily justified basis for estimation.

reasonable to estimate the difference in spending for labor is about 1 percent less than the estimated vacancy rates.

Table 2.9

Estimated Staff Compensation at FCI Elkton (and a Federally-Operated Taft Prison), with 350 Authorized Positions Filled, FY 1998, by Functional Area

Functional Area	Position/Title	Salary/Wage Grade	No. Positions	Mid-Grade Annual Pay	Est. Total Annual Pay
Food & Farm Services					
	Accounting Tech	7	1	33,024	33,024
	Asst Food Svc Admin	11	2	43,739	87,478
	Cook Frm*	8	11	42,123	463,349
	Food Service Admin	12	1	52,423	52,423
	Material Handler Frm*	4	1	34,721	34,721
Medical Services					
	Dental Officer	12	1	52,423	52,423
	Gen Dental Officer	12	1	52,423	52,423
	Health Info Tech	6	2	30,504	61,008
	Health Sys Admin	12	1	52,423	52,423
	Med Radiology Tech	9	1	37,215	37,215
	Med Records Library	9	1	37,215	37,215
	Medical Officer	15	2	86,652	173,304
	Nurse	9	3	37,215	111,645
	Nurse Practitioner	11	2	43,738	87,476
	Nurse Other	10	1	40,982	40,982
	Pharmacist	11	2	43,738	87,476
	Physicians Assistant	11	5	43,738	218,690
	Secretary	6	1	30,504	30,504
	Supv Phys Asst	11	2	43,738	87,476
Other Inmate Services					
	Laundry Plant Mgr	10	1	40,982	40,982
	Ldry Mach Opr Frm*	5	3	36,649	109,948
Institution Security					
	Admin Assistant	8	2	34,653	69,306
	Chief Corr Supvr	12	1	52,423	52,423
	Corr Officer	7	77	33,024	2,542,848
	Corr Supervisor	9	5	37,215	186,075
	Corr Supervisor	11	8	43,738	349,904
	Secretary	6	1	30,504	30,504
	Security Officer	8	1	34,653	34,653
	Security Officer	9	1	37,215	37,215
	Security Officer	10	1	40,982	40,982
	Senior Off Spec	8	36	34,653	1,247,508
Unit Management					
	Asst Case Mgmt Coor	11	1	43,738	43,738
	Asst Inm Sys Mgr	11	1	43,738	43,738
	Case Mgmt Coor	12	1	52,423	52,423
	Corr Counselor	9	15	37,215	558,225
	Corr Trmt Spec	11	14	43,738	612,332

Table 2.9

Estimated Staff Compensation at FCI Elkton (and a Federally-Operated Taft Prison), with 350 Authorized Positions Filled, FY 1998, by Functional Area

Functional Area	Position/Title	Salary/Wage Grade	No. Positions	Mid-Grade Annual Pay	Est. Total Annual Pay
	Inmate Sys Offcr	8	6	34,653	207,918
	Inmate Sys Supv	9	2	37,215	74,430
	Inmate Systems Mgr	12	1	52,423	52,423
	Legal Instr Examiner	8	7	34,653	242,571
	Secretary	6	10	30,504	305,040
	Unit Manager	12	6	52,423	314,538
Gen. and Occupat. Education					
	Education Tech	7	2	33,024	66,048
	Supvr of Education	12	1	52,423	52,423
	Teacher	11	12	43,738	524,856
	Teacher Supervisor	11	1	43,738	43,738
	Training Insr	11	1	43,738	43,738
Leisure Programs					
	Recreation Spec	9	8	37,215	297,720
	Recreation Supvr	11	1	43,738	43,738
Religious Services					
	Administrative Asst	7	1	33,024	33,024
	Chaplain	12	1	52,423	52,423
	Supv Chaplain	12	1	52,423	52,423
Psychological Services					
	Chief Psyc Prgs	13	1	62,337	62,337
	Clinical Psyc	12	1	52,423	52,423
	Drug Abuse Prog Coord	13	1	62,337	62,337
	Drug Treatment Spec	11	1	43,738	43,738
	Secretary	6	1	30,504	30,504
Inst. Administration					
	Accountant	9	1	37,215	37,215
	Accounting Tech	7	4	33,024	132,096
	Associate Warden	14	2	73,664	147,329
	Asst Pers Off	11	1	43,738	43,738
	Budg&Acctg Officer	11	1	43,738	43,738
	Budget Analyst	9	1	37,215	37,215
	Camp Administrator	13	1	62,337	62,337
	Computer Spec	11	1	43,738	43,738
	Computer Spec	12	1	52,423	52,423
	Contract Spec	9	1	37,215	37,215
	Dis Hearing Officer	12	1	52,423	52,423
	Executive Asst	13	1	62,337	62,337
	Financial Manager	13	1	62,337	62,337
	Human Resource Mgr	12	1	52,423	52,423
	Invent Mgmt Spec	9	1	37,215	37,215
	Material Handlr Frm*	4	3	34,721	104,162
	Material Handlr Frm*	6	1	38,509	38,509
	Paralegal Spec	11	1	43,738	43,738

Table 2.9

Estimated Staff Compensation at FCI Elkton (and a Federally-Operated Taft Prison), with 350 Authorized Positions Filled, FY 1998, by Functional Area

Functional Area	Position/Title	Salary/Wage Grade	No. Positions	Mid-Grade Annual Pay	Est. Total Annual Pay
	Per Mgmt Spec	9	5	37,215	186,075
	Personnel Asst	7	2	33,024	66,048
	Procurement Asst	7	1	33,024	33,024
	Secretary	6	2	30,504	61,008
	Secretary	7	2	33,024	66,048
	Secretary	8	1	34,653	34,653
	Suprvy Contract Spec	11	1	43,738	43,738
	Supv Oper Acct	9	1	37,215	37,215
	Warden	15	1	86,652	86,652
Staff Training					
	Emp Dev Mgr	12	1	52,423	52,423
	Empl Dev Spec	9	2	37,215	74,430
	Volunteer Coord	11	1	43,738	43,738
Inst. Maintenance					
	Air Cond Eq Mech Frm*	9	2	43,860	87,720
	Auto Mech Frm*	8	1	42,123	42,123
	Carpenter Frm*	8	1	42,123	42,123
	Electrical Wrk Frm*	9	2	43,860	87,720
	Electronic Techn	11	2	43,738	87,476
	Engineering Techn	11	1	43,738	43,738
	Facilities Mgr	12	1	52,423	52,423
	Facility Asst	7	1	33,024	33,024
	Gardener Frm*	7	1	40,389	40,386
	Maint Mech Frm*	8	4	42,123	168,490
	Maint Mech Gen Frm*	14	2	53,149	106,298
	Pipefitter Frm*	9	1	43,860	43,860
	Plumber Frm*	8	1	42,123	42,123
	Safety Officer	11	1	43,738	43,738
	Safety Specialist	9	2	37,215	74,430
	Utly Sys Rep/Opr Frm*	8	7	42,123	294,858
Totals			350		\$13,636,098

Notes: *Denotes Federal Wage System position.

“Mid-grade compensation” is assumed to be Step 5 for all General Schedule (GS) positions and Step 4 for Federal Wage System (FWS) positions, as per OMB’s Circular A-76 (1996 revised version). Eight security positions that were abolished were added back in. FWS pay rates change in April/May of each year; rates for FY 1998 are computed by blending two years’ rates.

Sources: Numbers of Staff Data: Federal Bureau of Prisons, FMIS Report \$PRDPOS, “Report of Authorized Positions for Institutions, for Elkton,” produced on 03/30/99. Eight positions were added to recreate FY 1998 levels. Estimated cost of GS staff from Office of Personnel Management, “Salary Table 1998-RUS (LEO), Rates of Pay for Law Enforcement Officers, Including Special Salary Rates at GS-3 Through GS-10 and Incorporating the 2.30% General Schedule Increase and a Locality Payment of 5.42% for the Locality Pay Area of Rest of U.S., Effective January 1998.” Cost of FWS staff from DOD Civilian Personnel Management Service, “Federal Wage System Regular and Special Production Facilitating Wage Rate Schedules for the Fresno, California Wage Area,” issued 20 April 1999.

Estimating Premium Pay and Other Than Permanent Salaries/Wages

If the Taft facility had been operated by Bureau employees, staff would have been paid premium compensation in addition to their regular salaries and wages. Premium pay includes, for example, incentive awards, overtime compensation, supervisory differentials, retention allotments, and recruitment and relocation bonuses. To estimate how much this would have cost the government, patterns of expenditures were examined at 14 federal low security facilities during fiscal years 1998 through 2002.⁴³ Not all low-security federal facilities could be included in this analysis because spending at some cannot not be segregated from expenditures for larger constellations of facilities located within large compounds (“campuses”). At some of these campuses, facilities share services, and each cannot be easily treated as a separate cost center. Therefore, we restrict our analysis here to those low-security facilities to which expenditures can be assigned unambiguously, and which do not share the cost of services with other units. The 14 included facilities include:

- FCI Elkton (plus camp),
- FCI Yazoo City,
- FCI Forrest City (plus camp),
- FCI Ashland (plus camp),
- FCI Bastrop (plus camp),
- FCI Big Spring (plus camp),
- FCI Butner,
- FCI La Tuna (plus camp),
- FCI Loretto,
- FCI Milan,
- FCI Petersburg (plus camp),
- FCI Safford,
- FCI Seagoville, and
- FCI Texarkana (plus camp).

During the five-year period from FY 1998 through 2002, average expenditures for premium compensation and “other than permanent salary and wages” at these 14 facilities increased progressively, from 8.0 percent in FY 1998 of permanent salaries to 10.39 percent in FY 2002 (Table 2.10). To estimate what premium compensation would have been at a Bureau-operated Taft facility during this period, we assume that the ratio of premium pay to regular/permanent pay would have been identical to the 14-prison average during each fiscal year. This additional compensation would have added another \$783,000 to \$1.5 million a year to the cost of staffing the Taft facility with federal employees, for a total of \$6.1 million over the five years (Table 2.5).

⁴³ The rationale for using expenditures at 14 low security federal prisons rather than just FCI Elkton’s is the same as for estimation of staff vacancy rates. The demand for premium compensation varies from one institution to another for a variety of different reasons, not all of which are predictable. Moreover, it is possible that Elkton’s managers were more vigilant about labor costs than they would have been in the absence of the competition with the privately managed Taft facility. Therefore, we assumed that the average tendency for all low security prisons afforded a better estimate of premium compensation.

Table 2.10

Premium Pay As a Percentage of Permanent Salaries and Wages: 14 Low-Security Federal Prisons, FY 1998–2002

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Elkton	7.75%	7.85%	8.81%	13.49%	14.83%
Forrest City	7.05%	7.70%	7.70%	7.53%	7.32%
Yazoo City	7.91%	10.64%	13.03%	9.96%	13.28%
Ashland	8.66%	9.24%	8.17%	7.41%	7.64%
Bastrop	8.11%	7.55%	9.17%	9.04%	9.34%
Big Spring	8.32%	9.19%	8.97%	8.10%	9.15%
Butner	7.95%	11.00%	8.18%	8.20%	9.82%
Latuna	7.15%	12.25%	14.56%	9.52%	10.43%
Loretto	7.62%	7.33%	7.47%	7.40%	6.83%
Milan	8.04%	8.38%	8.42%	8.48%	10.20%
Petersburg	10.74%	10.38%	12.72%	15.30%	16.90%
Safford	6.82%	6.62%	7.59%	6.37%	5.89%
Seagoville	7.34%	6.58%	8.81%	11.16%	12.67%
Texarkana	8.58%	9.62%	9.14%	9.19%	11.13%
Average	8.00%	8.88%	9.48%	9.37%	10.39%

Source: Calculated by Abt Associates using data provided by Bureau of Prisons.

Fringe Benefits

The estimated cost of fringe benefits that would have been paid to federal employees if they worked at the Taft facility can be estimated directly using formulae prescribed in Circular A-76. This includes spending for retirement fund contributions, insurance and health benefits, and miscellaneous other fringe benefits. All combined, these various benefits would have equaled 46.45 percent of base payroll (which includes regular compensation and premium pay).⁴⁴ During the five fiscal years examined here, fringe benefits would have equaled about \$4.9 million in FY 1998, rising annually to \$7.5 million in FY 2002, totaling \$33.1 million over the course of all five years (Table 2.5).

Retirement Costs

The biggest share of the fringe benefits—equaling \$26.8 of the \$33.1 million total—would have been paid into the federal employees’ retirement fund (Table 2.5). As required by A-76 methodology, the standard retirement cost factor for law enforcement (which includes correctional employees) during

⁴⁴ Estimating liabilities associated with future expenditures for pensions and retired persons’ federal health benefits is inherently uncertain. Moreover, it is not uncommon for governments to understate these liabilities, or to under-fund retirement accounts to improve their balance sheets. Even if some federal agencies may not pay the full contribution to retirement fund or health accounts (which may therefore require drawing down the Treasury’s general fund to cover the future expense), the OMB requires that the full cost of the government’s liabilities be captured in the A-76 estimates. The cost factors prescribed in the A-76 circular appear to have been calculated according to the principles established by the Federal Accounting Standards Advisory Board. The 46.45 percent cost factor for all fringe benefits combined appears to be a reasonable estimate of current and future liabilities associated with compensating staff.

FY 1998–2002 was 37.7 percent of base payroll. This represents the federal government’s complete share of the weighted CSRS/FERS retirement cost to the government, based upon the full dynamic normal cost of retirement systems, the normal cost of accruing retiree health benefits based on average participation rates, Social Security, and Thrift Savings Plan contributions.

Federal Employee Insurance and Health Benefits

The prescribed rate for these benefits from FY 1998–2002 was 5.6 percent of payroll costs, which would have added \$4.0 million to the cost of fringe benefits over the five years (Table 2.5). Another 1.45 percent of payroll costs (or \$1.0 million over five years) would have been contributed to Medicare accounts.

Miscellaneous Other Fringe Benefits

The cost factor for workmen’s compensation, bonuses and awards, and unemployment programs is specified by A-76 as 1.7 percent of payroll for FY 1998–2002, or \$1.2 million total (Table 2.5)

Total Estimated Personnel Costs of Government Operation at Taft

Summing these estimates for payroll and fringe benefits earned by federal employees, the estimated personnel cost of the federal government’s direct operation of prison at Taft would have ranged between \$15.5 million in FY 1998 (for that part of the year after the facility preparation phase ended) to \$23.7 million in FY 2002 (Table 2.5).

Materials, Supplies, and Miscellaneous Other Costs

The A-76 procedure requires examining the performance work statement developed by the government for the facility and developing a list of all required materials, supplies, and services by the quantities needed, their unit prices, with escalation of costs for out-years. The Bureau did not develop such a list, so these costs are estimated based upon analyses of observed expenditures at 14 other low-security federal prisons for which costs could be identified unambiguously. This is the same set of facilities used to estimate premium compensation, discussed above. Reported expenditures at each facility for each fiscal year (1998 through 2002) were obtained from the Bureau of Prisons. These were reported for the categories of expense listed in Table 2.11, which shows the average annual spending for these purposes at each of these 14 facilities.

The largest of these costs was for supplies, which accounts for about half the cost in each year. Travel, “other services,” and utilities make up most of the remaining cost.

Table 2.11

Average Annual Costs Per Facility For Materials, Supplies, and Miscellaneous Services in 14 Federal Prisons, FY 1998–2002

	1998	1999	2000	2001	2002
Supplies	\$2,385,687	\$2,615,494	\$2,975,432	\$3,311,462	\$3,063,407
Other Services	1,300,603	1,169,364	1,347,078	1,424,356	1,712,686
Communications, Utilities, & Misc.	967,038	936,543	1,002,148	1,198,238	1,123,395
Travel	173,690	162,198	182,498	192,515	174,326
Equipment	139,350	110,191	145,098	44,084	41,574
Transportation	64,337	70,652	66,817	52,568	62,630
Grants Subsidies	13,624	12,150	12,518	10,050	11,749
Other	2,961	6,269	17,315	6,541	17,373
Total	\$5,047,290	\$5,082,861	\$5,748,904	\$6,239,813	\$6,207,139

Notes: “Other” includes insurance claims, other rent, printing & reproduction, land & structures, and STD level user fees. Government–furnished facilities, equipment, and materials, which are provided by the Bureau, are considered common costs under A-76 and are not included here in this analysis or in the cost comparison.

Source: Expenditure reports from Budget Execution Branch, Bureau of Prisons.

Spending for these various items at the 14 federal prisons depends mainly on the size of the facility, measured as the average daily prisoner population. Other determinants, such as the facility’s age and geographical location, may affect some minor cost components, such as travel and cost of utilities. To estimate what the Bureau would have spent for these items if it had operated the Taft facility, statistical analyses were conducted to examine the extent to which these costs varied according to the number of prisoners held by these prisons during each of the five years. Because the levels of expenditure might be affected by differing proportions of low and minimum-security prisoners at the prisons, the numbers of prisoners in low security units and minimum security camps were included as separate variables in a multivariate estimation model. The statistical model also takes into account costs that vary according to the numbers of prisoners in the facility and costs that are more fixed, such as expenditures for utilities. (See Statistical Appendix at end of this chapter for a description of the estimation assumptions and methods used.)

The resulting estimates of what the Bureau of Prisons would have spent for materials, supplies and miscellaneous other expenses at a federal prison in Taft during each of these five fiscal years are

shown in Table 2.12. Also shown are the margins of error in these estimates. In FY 2002, for example, the estimate is \$8.0 million, plus or minus about \$525,435.⁴⁵

The estimate for the first (partial) year, FY 1998—\$3.9 million—may be low. The statistical model uses data for 14 prisons, all of which were fully operational during the years examined, whereas the Taft facility was still in its start-up phase in FY 1998, with an average of only 1,091 prisoners. The model may not provide robust estimates of expenditures during these atypical periods. Consequently, the estimates for subsequent years are probably more accurate representations of what the Bureau would have spent for materials, supplies and these miscellaneous other costs.

The estimates for all years may also be low because California experienced high energy costs during this period, relative to other parts of the United States, partly because of price manipulation by energy suppliers. The Taft facility is located in the desert and high daytime temperatures require significant expenditures for electrical air conditioning. Although other low-security federal prisons are located in parts of the country requiring air conditioning or, conversely, heating during the winter, no attempt was made to include regional differences in energy costs in the statistical model used to estimate costs. Doing so may have resulted in a different estimate of what the Bureau would have spent if it had operated Taft directly.

Table 2.12

Estimated Costs of Materials and Supplies, Assuming Federal Operation of the Taft Facilities, Fiscal Years 1998-2002

	Average Daily Population	Estimated Cost	95% confidence interval	
1998	1,091	\$3,861,735	\$3,276,000	\$4,447,469
1999	2,230	7,686,902	7,411,100	7,962,704
2000	2,379	8,288,809	7,997,011	8,580,608
2001	2,376	7,977,233	7,449,442	8,505,024
2002	2,343	8,039,963	7,514,528	8,565,398

Note: Estimated costs in FY98 assume partial year after end of pre-operational phase.

Source: Computed by Abt Associates Inc. using data described in Table 2.11; see Appendix for detailed calculations.

Other Specifically Attributable Costs

Circular A-76 requires estimation of several other costs that are often (but not always) attributable to operation of federal facilities.

Depreciation, Cost of Capital, and Rent

Because the government owns the facility and provides it to the contractor, depreciation costs are borne by the government regardless of which organization operates it. Costs associated with

⁴⁵ This confidence interval (computed at the 95 percent level) is based upon the standard error of the prediction; that is, it includes an estimate of the error in estimating the regression equation, but does not include error due to random variation among institutions or from year to year at a single prison.

depreciation can therefore be ignored for our purposes. Similarly, the cost to the government of capital invested in the asset is unchanged if the contractor or by the Bureau of Prisons operates the facility. Nor are rents incurred.

Maintenance and Repair

If the Bureau operated the Taft facility directly, maintenance and repair activities would be performed by regular Bureau of Prisons employees and by other vendors. The staffing assumptions described above include maintenance employees on the Bureau's payroll and the costs of these persons are included in the estimated total cost of labor. Payments to vendors who provide maintenance and repair services are included as a component of the combined estimate for materials, supplies, and other miscellaneous services (Table 2.12). Similarly, all non-labor direct costs that would be incurred for maintenance and repair are also included in the estimated combined cost.

Utilities

All utilities costs that would be incurred by the government are included in the combined estimate of material and supply costs above (Table 2.12).

Insurance

The federal government bears the full cost associated with lawsuits and losses resulting from damage or destruction of the physical plant at all federally operated prisons. In contrast to private firms, the federal government does not buy insurance policies from third parties. Rather, it assumes losses and liability costs as they occur. To compare the costs of contracting and direct operation, the estimated annualized cost of self-insurance must be added to the other costs of Bureau-operated facilities.

The Office of Management and Budget Circular A-76 stipulates that annual personnel-related liability costs equal approximately 0.7 percent of a government facility's total personnel costs, including salaries, wages, premium compensation, and benefits. The annualized costs of self-insurance against liability claims would therefore have ranged between \$108,300 and \$165,900 during these five fiscal years if the government had operated the Taft facility (Table 2.5).

Annualized costs of self-insurance against damage, destruction, and loss of facilities, equipment, or furnishings must also be estimated. OMB's Circular A-76 stipulates that the annual "casualty premium equivalent cost" to the government is approximately equal to 0.5 percent of the net value of capital plus materials and supplies.⁴⁶ The contract with Wackenhut obligates the firm to insure the facility, equipment, and furnishings for no less than \$75 million dollars. Using this as an estimate of the value of the physical assets at Taft, and following Circular A-76's estimation rule, the annual casualty insurance premium equivalent would be approximately \$375,000 per year if the government were to operate this facility directly (Table 2.5).

⁴⁶ This estimate was not developed specifically for correctional facilities, and may be too high. Correctional facilities are built as "hard" facilities and are less susceptible to fire and damage than other government offices and installations. Commercial insurers charge private prison firms somewhat annual lower rates, on average: between 0.1 and 0.3 percent of the value of capital assets. (Michael Davis, U.S. Risk Insurance Group, Inc.; telephone communication with Douglas McDonald, December 1, 2000).

Overhead Costs

Circular A-76 specifies that overhead costs associated with direct governmental provision being analyzed should be estimated at 12 percent of total personnel costs, including compensation and all fringe benefits. According to OMB, this includes general and administrative overhead, and represents costs for “salaries, equipment, space and other activities related to headquarters management, accounting, personnel, legal support, data processing management and similar common services performed outside the activity, but in support of the activity.”⁴⁷ In the case of federal prisons, this would include costs associated with regional and national headquarters and other overhead costs allocated to the Bureau’s overhead account. It is meant to represent also the cost of various governmental activities that support prison operations, but which are not fully attributable to specific federal prison operations. These costs would include, for example, some share of the expenditures for various agencies in the executive branch, such as the Office of Personnel Management, the Office of Management and Budget, and the General Services Administration, among others.

This overhead rate may not reflect the actual cost of federal government overhead activity. Given the structure of the federal accounting system, computing actual costs of federal government overhead is exceedingly difficult. Rather than attempting to compute the actual cost of overhead, the OMB prescribed the 12 percent overhead rate because it was thought to be close to the midpoint of overhead rates proposed by private companies and government agencies (although there was not strong empirical support for this assumption).⁴⁸ If a federal agency seeks to create a different overhead rate for A-76 purposes, agency officials are required to publish their assumptions and methods in the *Federal Register* and to subject their analyses to public review and comment.⁴⁹ Historically, no federal agencies have done this and have instead used the prescribed 12 percent to estimate overhead.

For an analysis of federal prisons, this 12 percent accounting rule *must underestimate the actual cost* of governmental overhead associated with federal operation of prisons. This percentage amount equals almost exactly the cost of the Bureau’s regional and national headquarters as well as the costs of various programs that support prison operations, all of which are included in the Bureau of Prisons’ annual budgets. These Bureau overhead/support costs ranged between 10.61 and 11.98 percent of all direct costs incurred by specific prisons during the five fiscal years examined here. This does *not* include the costs of any other governmental overhead activities outside the Bureau, such as the Office of Personnel Management, the Office of Management and Budget, and the General Services Administration, among others. These costs outside the Bureau’s budget are certainly greater than zero, but OMB provides no guidance for estimating these component costs.

Lacking any better estimate of the total overhead and support cost of the federal government, the OMB-prescribed overhead rate is used: 12 percent of estimated total personnel costs. This would

⁴⁷ OMB, Circular A-76 Revised Supplemental Handbook (March 1996), p. 23.

⁴⁸ United States General Accounting Office. “Defense Outsourcing: Better Data Needed to Support Overhead Rates for A-76 Studies,” GAO/NSIAD-98-62, February 1998.

⁴⁹ United States General Accounting Office. “Defense Outsourcing: Better Data Needed to Support Overhead Rates for A-76 Studies,” GAO/NSIAD-98-62, February 1998.

have added another \$1.9 to 2.8 million in each of the fiscal years, totaling \$12.5 million for the five-year period.

Costs of Preparing for Operations

As discussed above, our focus is on comparing the costs of contracting and direct government provision for an *operational* prison. The net cost to the government of preparing the facility prior to December 20, 1997 was approximately \$16 million, including purchases of equipment and supplies that it left for the contractor and payments to the contractor for services up to that date. No attempt was made to estimate what the government would have spent before transferring prisoners if the Bureau had operated it. If this were to be done, the sensible way to integrate these costs with subsequent costs of operations would be to amortize at least some portion of these start-up costs over a multi-year period. At FCI Elkton, for example, the Bureau spent \$7 million for equipment, \$10 million for supplies, and another \$2 million for other services during an eighteen-month period that encompassed both the pre-operational phase and the period of operations up to the point when the prison was filled to 95 percent of its capacity. This represented about half of all expenditures during this period.⁵⁰ Some of these should be treated as capital investments rather than as operating costs and should be amortized across the useful life of the investment.⁵¹ Rather than attempting to estimate what the Bureau would have spend during the pre-operational phase alone, which corresponded to GEO's activities before December 20, 1997, we focused instead on the estimated costs of the operational phase.

What is the Margin of Error in These Estimated Costs of Federal Operation?

This estimated cost of the Bureau operating the Taft facility rests on several assumptions that may not be correct. These include assumptions about:

- the types of staff who would have been used to fill personnel positions;
- the compensation levels for employees, as well as the additional pay they would have earned for overtime and other work paid at premium rates;
- staff vacancy levels during each of the five years; and
- predicted spending for materials and supplies.

Even though OMB's Circular A-76 does not require estimating the range of error associated with the projected cost of direct government operation, it seems prudent to do so.

Is FCI Elkton's the Wrong Model for Estimating Personnel Costs?

Estimated personnel costs are based on plans that the government developed for staffing the facility as a federal facility, and we assumed that the precise mix of staffing titles and grades would have been nearly identical to that implemented at FCI Elkton. Would selecting one of the other two architecturally similar facilities have affected our estimates of personnel costs? A comparison of average costs per staff at FCIs Elkton, Forrest City and Yazoo City indicates that the staffing models at each of these facilities were quite consistent and that the average cost of staff was nearly identical (Table 2.13).

⁵⁰ Bureau of Prisons data reported in Nelson, "Taft Prison Facility: A Comparison of Evaluation Methods."

⁵¹ Nelson (Ibid.) recommends amortizing these costs across a ten-year period because this is the length of the GEO contract, but equipment may have a longer useful life than this.

In this comparison, it is assumed that the three facilities were staffed at 100 percent. The staffing model assumes that 350 staff were employed, with occupational titles and grades observed in Elkton's actual staffing during FY 1999, and at pay rates prescribed by OMB's A-76 estimation rules (the assumptions here are the same as those discussed above). The distribution of positions and salary/wage grades at FCIs Forrest City and Yazoo City is as observed in FY 1999, and staff are assumed also to have been paid at A-76 prescribed rates. For purposes here, all staff were assumed to earn fringe benefits at the same rate at all three facilities (46.45 percent of total salary/wages), and that no premium pay was awarded.

Table 2.13

Estimated Staff Compensation and Average Estimated Cost Per Authorized Position, FY1999: FCIs Elkton, Forrest City, and Yazoo City (Assumes All Staff Were Paid at Mid-Grade Levels)

	FCI Elkton	FCI Forrest City	FCI Yazoo City
Total estimated personnel compensation	\$14,149,290	\$13,186,265	\$11,927,833
Fringe benefits	6,584,701	6,125,020	5,540,478
Total personnel costs	20,726,592	19,311,285	17,468,311
Number of authorized positions	350	328	294
Cost per authorized position	\$59,316	\$58,876	\$59,416
Cost relative to FCI Elkton		(440)	100
Percent difference, relative to FCI Elkton		-0.75%	0.17%

Note: Number of authorized positions at FCI Elkton increased to 350 to match the Bureau's plan for Taft under Bureau management. See Table 2.9.

Source: Computed by Abt Associates, based upon staffing data supplied by Bureau of Prisons.

The average cost per authorized position at a fully staffed, 350 employee FCI Elkton during 1999 would have been \$59,316. The cost per position that year at FCI Yazoo City was only \$100 higher—a difference of 0.17 percent. The cost per position at FCI Forrest City was slightly lower (-\$440), or 0.75 percent less. If the staffing model at FCI Yazoo City had been used instead, and adjusted to 350 to match the larger number of beds to be filled at the Taft prison, the estimated cost of staff would have been only \$35,000 higher during FY 1999. If the staffing at FCI Forrest City had been used instead as a model and adjusted to the 350 positions level, staff costs would have been about \$154,000 less during FY 1999. This indicates that using FCI Elkton's staffing as a basis for extrapolating how the Bureau would have manned the Taft facility is not biased and that the choice of either of the other two facilities would have produced nearly identical estimates of labor costs.

Margin of Error in Assumptions about Vacancy Rates

There was very little variation among low security prisons in the staff vacancy rate during each of the five years, so that using the average rate of vacancy for the entire group of facilities is not subject to any significant error.

Ranges Associated with Different Assumptions about Premium Pay

There were some significant differences in the rates at which premium pay was earned at 14 low security federal prisons during the five fiscal years examined here. During FY 2002, for example premium pay as a percentage of total compensation ranged between 5.6 percent (at FCI Safford) to 14.8 percent (at FCI Elkton). To establish a margin of possible error around the estimates based upon the annual average rates of premium compensations, the standard error was computed for each of the five annual averages, which was then used to compute the range within which we are 95 percent confident that the annual average fell in each of the years. The end-points of these ranges provide low and high estimates of premium pay at a federally-operated Taft facility during each of the five years (Table 2.14).

This estimate may be subject to greater error than calculated here because it is based simply upon observed averages at other federal prisons. Premium compensation may be associated with various conditions at each of the prisons that were not measured or analyzed here. A multivariate statistical model that included information about correlates of high and low use of premium-compensated worktime may have provided a different estimate of what the Bureau would have incurred had it operated the Taft facility.

Error Margin in the Estimates of Material and Supply Costs

As discussed above, the estimates of what the government would have spent for materials and supplied if operated the Taft facility directly were derived from statistical models, which provide error margins for the estimates for each of the five years (Table 2.12).

Table 2.14

Annual Average Rates of Premium Pay at Low Security Federal Prisons, Standard Errors, and Low/High Estimates of Premium Pay at Federally-Operated Taft Facility, by Fiscal Year

	FY1998	FY1999	FY2000	FY2001	FY2002
Annual Average	8.0%	8.9%	9.5%	9.4%	10.4%
Standard Error	0.27%	0.48%	0.62%	0.69%	0.87%
Low Estimate (%)	7.5%	7.9%	8.3%	8.0%	8.7%
High Estimate (%)	8.5%	9.8%	10.7%	10.7%	12.1%
Low Estimate (\$)	\$733,895	\$1,028,370	\$1,128,308	\$1,124,692	\$1,275,490
High Estimate (\$)	\$831,747	\$1,275,700	\$1,454,566	\$1,504,276	\$1,773,957

Notes: Averages and standard errors computed using expenditure information for 14 low security federal prisons. Low and high estimates computed based upon 95% confidence level. FY 1998 estimate based on partial year of operations, following December 20, 1997.

Source: Calculated by Abt Associates Inc. using expenditure data provided by Bureau of Prisons.

Summary: Estimated Total Cost of Government Operation During FY 1998–2002

Had the Bureau of Prisons operated the prison facility in Taft, California during FY 1998–2002, the total estimated cost to the federal government would have been approximately \$154.9 million, plus or

minus about 2 percent, or between approximately \$151.6 million and \$158.6 million (Table 2.15). The estimated cost would have been lowest during FY 1998 (between \$20.9 and \$22.3 million) and would have increased each year. By FY 2002, the cost would have been between \$34.2 and \$36.1 million.

Table 2.15

Estimated Total Cost to the Federal Government if the Bureau of Prisons Operated the Taft Prison: Summary Estimates and High/Low Estimates, by Fiscal Year

	FY1998	FY1999	FY2000	FY2001	FY2002	Total
Point estimate	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188
High estimate	22,263,257	31,928,256	33,793,265	34,566,504	36,065,834	158,617,116
Low estimate	20,930,283	30,968,437	32,671,182	32,884,422	34,192,248	151,646,572

Notes: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Source: Calculated by Abt Associates Inc. using data provided by Bureau of Prisons.

The Total Cost of Contracting Compared to the Estimated Cost of Bureau of Prisons Operation

The net cost to the government of contracting with The GEO Group during fiscal years 1998-2002 was less than what we estimate the federal government would have spent if the Bureau of Prisons had operated the facility directly, with federal employees. The total savings over the five years would have been between \$9.6 and \$16.5 million, or between 6 and 10 percent, depending upon whether one uses the low or high estimate of what the Bureau would have spent (Table 2.16).

During each of the five fiscal years, the net cost of contracting was less than the lowest estimate of direct Bureau operation. The estimated savings associated with contracting were greatest during the second and third year, when the base fee paid to The GEO Group was fixed at \$27.6 million. Savings during the second and third years each were estimated to be \$3.9 and \$4.4 million (or about 13 percent). When the Bureau exercised its first option to renew the contract for a fourth year (FY 2001), the base fee increased to nearly \$29.5 million, and additional fees were paid to house more prisoners than the agreed-upon base population of 1,946 prisoners. The result of this was that the difference between the cost of contracting and our estimates of government operation diminished.

Table 2.16

Total (Net) Cost to the Federal Government of Contracting Versus Estimated Total Cost If the Bureau of Prisons Operated the Taft Prison, Fiscal Years 1998–2002

	FY1998	FY1999	FY2000	FY2001	FY2002	Total
Net Cost of Contracting	\$20,879,259	\$27,525,231	\$28,868,965	\$31,987,688	\$32,816,405	\$142,077,549
Estimated Cost of Bureau Operation (Point Estimate)	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188
High Estimate	22,263,257	31,928,256	33,793,265	34,566,504	36,065,834	158,617,116
Low Estimate	20,930,283	30,968,437	32,671,182	32,884,422	34,192,248	151,646,572
<u>Contracting Compared to:</u>						
<i>Point Estimate of Govt. Costs</i>	-717,511	-3,933,858	-4,363,258	-1,449,377	-2,312,636	-12,776,639
<i>(Percent)</i>	-3.3%	-12.5%	-13.1%	-4.3%	-6.6%	-8.3%
<i>High Estimate of Govt. Costs</i>	-1,383,997	-4,403,025	-4,924,300	-2,578,816	-3,249,429	-16,539,567
<i>(Percent)</i>	-6.2%	-13.8%	-14.6%	-7.5%	-9.0%	-10.4%
<i>Low Estimate of Govt. Costs</i>	-51,023	-3,443,206	-3,802,217	-896,734	-1,375,843	-9,569,023
<i>(Percent)</i>	-0.2%	-11.1%	-11.6%	-2.7%	-4.0%	-6.3%

Note: FY 1998 costs include only those estimated for operational phase, beginning December 20, 1997.

Sources: See text for calculations and assumptions.

How Do These Costs Compare to Spending at Other Bureau-Operated Federal Prisons?

The analyses presented so far have been limited to comparing the costs of contracting at the Taft facility with the estimated cost of a hypothetical condition: that the Bureau of Prisons had instead operated the facility during these five years. One way to assess the accuracy of our estimates of this hypothetical is to compare what the Bureau actually spent in the three other nearly identical facilities that were built at about the same time: FCI Elkton (Ohio), FCI Yazoo City (Mississippi), and FCI Forrest City (Arkansas). As discussed in Chapter 1, all four were built with identical housing facilities for low-security prisoners, but differed in their minimum-security wings. Taft was the only one that opened with a 512-bed minimum security camp. FCI Elkton opened with a 256 bed camp, FCI Forrest City with a 128 bed camp that was doubled in December 1999, and FCI Yazoo City had no camp.

Taft was consequently the largest of the four and, indeed, the largest of the fourteen other low-security federal prisons for which cost data were examined to develop estimates of what the Bureau would have spent to operate Taft. Table 2.17 shows the average daily population of prisoners at the Taft Correctional Institution during FY 1998 through 2002, as well as the average daily population at its three sister facilities.⁵² For sake of context and comparison, the average daily populations of fourteen other low security federal prisons are shown

Costs per prisoner/day were computed for the Taft facility and the fourteen federal prisons during FY 1998-2002 using these average daily population counts (Table 2.18). Also shown is the estimated per prisoner/day cost of the Bureau's operating the Taft facility during these five fiscal years. (The table includes both the point estimate of what the Bureau would have spent as well as high and low estimates.) These costs do not correspond exactly to the Bureau's accounting of costs at these fourteen federal prisons because we have applied several of the A-76 guidelines for the sake of consistency in comparison.⁵³

Our estimates of what the Bureau would have spent to operate the Taft facility during FY 1999 through 2002 are consistent with the average daily per prisoner costs at the three facilities most like Taft (FCIs Elkton, Yazoo City and Forrest City). The estimated costs of Bureau operation at Taft during FY 1998 are higher than those calculated for the three sister facilities, however. This is because the Bureau initiated operations at these three federal prisons in the spring and summer of 1997, before the contract with GEO was signed for the Taft facility, and these prisons were operating close to capacity by the time FY 1998 began. The Taft facility did not begin to take prisoners until mid-December of 1997, and it took several months of prisoner transfers to reach fully operational population levels. Therefore, the average daily populations at the three federal facilities were substantially higher than at Taft during FY 1998, which makes the per prisoner costs lower than Taft's during this year. For the sake of comparison here, we assume that the pace of transferring prisoners into the facility would have been the same if the Bureau had begun operations in December 1997. Estimates for operating Taft in FY 1998 should therefore not be compared with the cost of fully operational federal prisons.

⁵² The average daily population during FY 1998 at Taft was reported as 1,091. Because the facility was not activated until December 20, 1997, the daily population should be averaged over 285 days it was operational rather than the full 365. The average daily population at Taft during this operational period alone is estimated to have been 1,397.

⁵³ Fringe benefits were recalculated at 46.45 percent of all salaries and wages. Overhead costs were calculated at 12 percent of total personnel costs. All insurance claims that were reported as paid during these fiscal years were not counted and instead we estimated that annualized personnel liability self-insurance would equal 0.7 percent of total personnel costs. Annualized costs of casualty self-insurance could not be calculated accurately for all federal prisons for lack of information about the value of the capital, but we assumed that the physical plants at FCIs Elkton, Forrest City and Yazoo City were of the same value as at the Taft facility, and we assumed that the annualized cost of self-insurance at these facilities equaled \$375,000 per year, or 0.5 percent of the value of the capital asset. Calculations of per prisoner/day costs at eleven other federal prisons do not include any estimate of casualty self-insurance and therefore underestimate the daily costs slightly—by less than a half-dollar.

By FY 1999, the Taft facility was fully operational. The estimated per prisoner costs of Bureau operation that year and in each of the subsequent years are in the same range as those of the three sister federal prisons.

During the four years when GEO was operating the Taft facility at full capacity (FY 1999-2002), daily costs per prisoner were lower at Taft than at any of the fourteen low-security federal prisons (Table 2.18). The average cost per prisoner/day at Taft during those four years under GEO's management was \$35.58—17 percent less than the average cost at FCI Elkton (\$42.65) during this same period and 14 percent less than the average cost at FCI Forrest City (\$41.14). All of the other federal prisons held inmates at still higher costs, which is expected as most are older and less efficient to staff than the Taft, Forrest City, Elkton and Yazoo City facilities.

Table 2.17

Average Daily Prisoner Population, FY 1998-2002, at Taft Correctional Institution and Fourteen Low-Security Federal Prisons

	1998	1999	2000	2001	2002
Taft Correctional Institution	1397	2230	2379	2376	2343
FCI Elkton	1697	2013	2238	2268	2335
FCI Forrest City	1566	1780	2085	2045	2016
FCI Yazoo City	1538	1649	1880	1870	2034
FCI Ashland	1145	1309	1353	1341	1394
FCI Bastrop	1173	1244	1320	1318	1445
FCI Big Spring	1049	1119	1259	985	927
FCI Butner	1091	1241	1330	1256	1259
FCI Latuna	1216	1322	1346	1297	1728
FCI Loretto	820	837	875	1173	1214
FCI Milan	1277	1369	1474	1570	1594
FCI Petersburg	1303	1389	1504	1547	1447
FCI Safford	740	777	802	807	810
FCI Seagoville	1170	1196	1274	1126	1189
FCI Texarkana	1564	1655	1674	1632	1571

Note: Average daily population of Taft facility during FY 1998 was adjusted by Abt Associates to refer only to period when facility was operational, following December 20, 1997.

Source: Bureau of Prisons, "Federal Prison System, Per Capita Costs," for FY 1998 through FY 2002.

Table 2.18

Costs Per Prisoner/Day: Comparing Costs of Contracting at Taft Facility, Estimated Cost of Bureau Operation, and Actual Costs at Fourteen Other Low Security Federal Prisons, FY 1998-2002

	1998	1999	2000	2001	2002
Taft Correctional Institution (Contractor-Operated)	\$52.43	\$33.82	\$33.25	\$36.88	\$38.37
<i>Est. Cost of Bureau Operation of Taft</i>					
High Estimate	54.23	38.65	38.27	38.56	41.08
Low Estimate	55.91	39.23	38.92	39.86	42.17
FCI Elkton	52.56	38.05	37.63	37.92	39.98
FCI Forrest City	46.59	39.72	39.77	44.75	46.38
FCI Yazoo City	44.20	39.46	39.84	41.65	43.61
FCI Ashland	44.15	41.46	40.05	43.65	42.15
FCI Bastrop	69.96	62.75	63.47	64.12	63.38
FCI Big Spring	56.75	53.75	52.67	57.15	52.97
FCI Butner	58.80	54.71	51.03	67.99	70.88
FCI Latuna	51.78	45.76	47.04	50.93	54.27
FCI Loretto	58.47	56.47	57.36	71.39	60.02
FCI Milan	62.59	61.42	63.22	49.32	50.86
FCI Petersburg	73.93	66.77	62.97	62.56	63.23
FCI Safford	65.79	61.79	61.79	56.97	60.59
FCI Seagoville	58.65	56.51	58.57	58.51	58.69
FCI Texarkana	61.48	59.41	61.03	77.40	75.83
FCI Texarkana	49.29	47.52	49.68	53.34	55.55

Notes: Per diem costs of federal prisons do not correspond to Bureau of Prisons' reports because costs were calculated following Circular A-76 rules. Per diem cost of GEO-operated Taft facility in FY 1998 is computed using only costs incurred by government during operational phase, and uses adjusted average daily population shown in Table 2.17.

Sources: Cost of Contracting, from Table 2.2 above; estimated cost of Bureau Operation from Tables 2.5 and 2.6, above; cost of all other federal prisons from Bureau of Prisons, "Federal Prison System, Per Capita Costs," for FY 1998 through FY 2002.

Cost Drivers of Contracted Services and Federal Government Operation

There are significant differences in how costs are structured for contracted operations and for direct federal operation. This section explores the component costs of government operation of federal prisons—including estimates of what the Bureau would have spent to run the Taft facility—and the costs incurred by the government for contracting with GEO.

The various cost components that make up what the Bureau would have spent at the Taft facility are detailed in Table 2.19. These estimates are identical to those developed in the previous sections of this chapter.

For the contractor's costs, GEO voluntarily provided upon request tables detailing costs by object and purpose, using the categories employed by the Bureau's accounting system to permit comparison. These do not, however, represent costs to The GEO Group but include assigned overhead and other indirect costs as well as whatever profit GEO earned in each of the fiscal years. These overhead/indirect and profits were allocated by GEO in proportion to its direct costs. As such, they represent the cost of each component *to the government*. Put another way: GEO has decomposed its revenues received from the Bureau of Prisons so that they are proportionate to GEO's direct costs at the facility, fully loaded with all indirect cost and profits.⁵⁴

For clarity of presentation, Table 2.19 shows the *point estimates* of what the Bureau would have spent to operate the facility without the ranges of possible error (i.e., the high and low estimates).

⁵⁴ The data provided by GEO was organized according to federal fiscal years but did not correspond exactly to the adjusted annual revenues computed by Abt Associates (shown in Table 2.2). As discussed above, these adjustments were made to assign receipts and award fees to periods of performance, sometimes splitting them across fiscal years. Data for federal fiscal year 1998 was segregated for period of operations, beginning on December 20, 1997. The component costs were then recomputed following the percentage distribution reported for each federal fiscal year in GEO's statements of fully loaded costs.

Table 2.19

Component Costs at Taft Correctional Institution: Estimated Costs of Direct Operation by Bureau of Prisons and Fully Burdened Costs of Contracting

	FY1998	FY1999	FY2000	FY2001	FY2002	Total
Permanent Salaries & Wages						
Bureau	\$9,785,264	\$13,017,347	\$13,594,077	\$14,058,652	\$14,660,805	\$65,116,145
GEO	10,887,947	12,890,239	12,714,144	13,087,753	13,731,806	63,311,888
Premium Comp. & Other Than Permanent Salaries/Wages						
Bureau	782,821	1,158,544	1,291,437	1,321,513	1,524,724	6,079,039
GEO	523,488	2,780,628	2,710,506	3,910,197	3,214,403	13,139,222
Subtotal Salaries & Wages						
Bureau	10,568,085	14,175,891	14,885,514	15,380,165	16,185,529	71,195,184
GEO	11,411,435	15,670,867	15,424,649	16,997,950	16,946,209	76,451,110
Benefits						
Retirement fund contributions						
Bureau	3,984,168	5,344,311	5,611,839	5,798,322	6,101,944	26,840,584
GEO						
Employee insurance & health benefits						
Bureau	591,813	793,850	833,589	861,289	906,390	3,986,930
GEO						
Medicare benefit contributions						
Bureau	153,237	205,550	215,840	223,012	234,690	1,032,330
GEO						
Misc. fringe benefits						
Bureau	179,657	240,990	253,054	261,463	275,154	1,210,318
GEO						
Subtotal fringe benefits						
Bureau	4,908,876	6,584,701	6,914,321	7,144,087	7,518,178	33,070,163
GEO	2,242,164	3,042,209	2,941,640	3,553,739	3,866,382	15,646,134
Subtotal Personnel Costs						
Bureau	15,476,961	20,760,592	21,799,835	22,524,252	23,703,707	104,265,347
GEO	13,653,599	18,713,075	18,366,289	20,551,690	20,812,590	92,097,244

Materials, Supplies, and Other Non-Labor Costs							
Travel							
Bureau							
GEO	211,061	87,495	95,031	71,342	67,455	532,385	
Transportation							
Bureau							
GEO	5,112	17,754	37,254	33,510	35,679	129,308	
Communications, Utilities, Misc.							
Bureau							
GEO	1,590,778	1,943,382	2,093,598	2,436,131	2,706,673	10,770,563	
Printing & Reproduction							
Bureau							
GEO	20,268	8,106	6,568	7,967	7,029	49,938	
Other Services							
Bureau							
GEO	1,032,725	1,583,398	2,252,135	2,553,246	2,664,303	10,085,806	
Supplies							
Bureau							
GEO	2,572,507	3,787,757	4,122,004	3,888,148	4,130,719	18,501,135	
Equipment							
Bureau							
GEO	1,362,666	595,871	431,488	281,072	190,759	2,861,856	
Subtotal Materials, Supplies, and Other Non-Labor Costs							
Bureau	3,861,735	7,686,902	8,288,809	7,677,233	8,039,963	35,554,642	
GEO	6,795,117	8,023,763	9,038,079	9,271,417	9,802,617	42,930,992	
Other specifically attributable costs:							
insurance							
Casualty insurance							
Bureau	292,500	375,000	375,000	375,000	375,000	1,792,500	
GEO							
Personnel liability							
Bureau	108,339	145,324	152,599	157,670	165,926	729,857	
GEO							
Subtotal insurance costs							
Bureau	400,839	520,324	527,599	532,670	540,926	2,522,357	
GEO	440,802	477,536	805,789	1,316,246	1,421,932	4,462,304	
Monitoring Costs							
Bureau	0	0	0	0	0	0	
GEO	536,927	644,893	491,438	633,715	468,586	2,775,560	
Federal Govt. Overhead							
Bureau	1,857,235	2,491,271	2,615,980	2,702,910	2,844,445	12,511,842	
GEO	0	0	0	0	0	0	

**Corporate
Income Tax
Offset**

Bureau	0	0	0	0	0	0
GEO	-729,426	-695,766	-240,963	-331,213	-422,653	-2,420,023
Award Fees						
Bureau	0	0	0	0	0	0
GEO	182,240	361,730	408,333	545,833	733,333	2,231,470
Total Est. Cost of Bureau Operation						
	\$21,596,770	\$31,459,089	\$33,232,223	\$33,437,065	\$35,129,041	\$154,854,188
Total Cost of Contracting *						
	\$20,879,259	\$27,525,231	\$28,868,965	\$31,987,688	\$32,816,405	\$142,077,548

Notes: The GEO Group's reports of federal fiscal year cost components have been adjusted to represent FY 1998's operational period only, after December 20, 1997, and to reflect the adjustments made by Abt Associates to assign revenues to periods of performance, not dates of booking receipts.

Sources: Data on fully burdened costs of Taft facility operation from The GEO Group, memoranda to Douglas Ald; costs of monitoring and award fees from Bureau of Prisons; estimated cost of Bureau operation computed by Abt Associates Inc.; see text for discussion of assumptions and data.

Salaries and Wages

Prison operations are labor intensive services. Compensation to labor—including salaries, premium pay, and fringe benefits—represent about two-thirds to three-quarters of the total cost of operating federal prisons. How organizations structure their labor and compensate it therefore has the biggest impact on costs.

GEO's labor costs were lower than what the Bureau's would have been at the Taft facility. This was not a result of GEO paying lower salaries to staff across the board. During FY 1998, for example, the mid-grade annual salary of grade 7 correctional officers in federal prisons was \$33,024.⁵⁵ At the Taft facility, GEO paid its correctional officers approximately \$35,173 during that same year, or about 7 percent more than the Bureau officers'.⁵⁶ However, GEO's fringe benefit costs were significantly lower than the federal government's. As discussed above, Circular A-76 prescribes that the full cost of benefits be calculated at 46.45 percent of permanent salaries and wages and premium compensation—a calculation followed here. In contrast, GEO paid fringe benefits for its employees over the five years at the rate of 20 percent. No doubt the biggest source of difference was the cost of contributions to retirement accounts. Federal government contributions to employee retirement accounts equaled 37.7 percent of base payroll—almost twice the rate of all GEO fringe benefits combined. GEO employees may be awarded stock options, at the discretion of the Board of Directors but the ultimate value of these depends upon the future health of the company and the market.

In addition to compensation levels, labor costs are also determined by how organizations staff prisons. GEO's bid to operate the facility promised a staff of 383.55 FTEs and agreed contractually to maintain that level of staffing. In contrast, the Bureau would have created 350 staff positions and

⁵⁵ See Table 2.9 above.

⁵⁶ Rates from proposal to Bureau of Prisons for Taft facility, provided by The GEO Group.

at any one time approximately 9 percent would have been vacant, leaving as staff of about 319. The Bureau's per employee labor costs (salary and fringe benefits) were higher than GEO's, however, so that the payroll cost of these 319 employees would have been higher than GEO's, with even with GEO's larger staff. Largely because of these differences in fringe benefit costs, the total cost of GEO's labor was an estimated \$12.5 million less than would have been the case if the Bureau operated the facility. GEO fully burdened cost of labor—including, that is, some apportioned share of the firm's overhead and profit—was \$92.1 million over the five years, compared to an estimated \$104.6 million if the Bureau had operated the facility.

Ultimately, staffing levels (and, by extension, labor costs) are determined not only by the contractor but by the purchaser—in this case, the Bureau of Prisons. The rules governing federal procurement allow the government to request that bidders revise their proposals to reflect different assumptions or requirements. If the Bureau thought that a different staffing arrangement was more appropriate for this facility (based upon its knowledge of how federal prisons are customarily staffed), it could have asked for bidders to propose fewer staff.

What Determines Labor Compensation

Differences in how labor is compensated goes to the heart of the comparison of federal and privately operated prisons. Federal prisons pay employees according to federal government-wide pay scales, with precisely determined adjustments for cost of living differences in certain regions of the country. In contrast, contractors can pay labor at whatever the local labor market permits. In federal contracting, however, contractors are not free to set compensation at any level above the federal minimum wage. Instead, they must also abide by the provisions of the Service Contract Act of 1965, a federal law that establishes minimum salary, wage, and fringe benefit rates to be paid to employees working for any private firm providing services under contract with the federal government.⁵⁷

As required by the Act, the U.S. Department of Labor issues periodic “wage determinations” for a variety of occupational categories, which are based upon labor market surveys in different geographical regions. These purport to reflect prevailing wages for these types of workers. The Bureau's contract with GEO stipulates that GEO must pay employees in specified occupational categories at least the hourly wages established by wage determinations for Kern County, California (where the Taft facility is located). These wage rates are quite high compared to other parts of the nation for several categories of staff, such as correctional officers, which no doubt results from the wages levels that the correctional officers' union in the California State prison system has won. Local jails in the area pay staff at lower rates, indicating that the effective market rate for correctional staff may be lower than the Department of Labor's wage determined rates, but this has no consequence for what GEO must pay under its federal contract.

Wage determinations are revised periodically (see Table 2.20 for changes in the Kern County wage determinations for correctional officers). When these wage levels rise, GEO is required to raise salaries of persons in these covered occupations to those levels. In these instances, GEO is permitted to increase its fee to the government to capture these increased labor costs, *but only for staff in occupational categories for which wage determinations are issued*. Some occupational categories are

⁵⁷ 41 U.S.C. 351, et seq.

not subject to wage determinations or to these mandatory wage increases. But when staff in one category get substantial raises as a result of new wage determinations, pressure is created to raise others as well for the sake of equity and for differentiating higher and lower status positions. Without making such adjustments, the differences in wages among different levels of employees becomes compressed and distorted. GEO has been forced to increase its salaries for staff not subject to wage determinations but has not been able to modify its fees to the federal government to compensate for these higher wages. The result has been that labor costs have risen faster than expected, which must put pressure on GEO's profit margin.

In some instances, the DOL-determined wages rates are below the effective market rate and GEO has been unable to find certain types of staff. GEO's healthcare staff has been below full strength for periods of time because the firm was unable to attract nurses willing to work for DOL-determined wages. The U.S. has experienced a shortage of trained nurses, which is probably most acute in rural areas like Taft, California. GEO could have offered to pay what the market required to get the needed staff, but the Bureau will not adjust its payments to GEO to accommodate these higher labor costs without a formal modification. Ultimately, such a modification was agreed to so that GEO could offer more competitive wages to nurses and pass the cost on to the government.

Table 2.20

Wage Determinations for Correctional Officers' Compensation in Kern County, California, As Revised Periodically (1997–2002)

Effective Date	Annual Salary	Health and Welfare Benefits	Total	Percent Increase
5/20/1997	\$35,173	\$5,325	\$40,498	
11/3/1998	35,984	5,325	41,309	2.00%
6/9/2000	39,125	5,325	44,450	7.60%
5/7/2002	46,821	5,325	52,146	17.31%

Source: Department of Labor, Wage Determinations, revisions 6, 9, 11, 15.

Therefore, the competitive advantage of contracting over direct federal government provision depends in large measure upon the difference between a wage rate established by the U.S. Department of Labor for a specific area of the country and the salary and wage scales for federal government employees. This suggests that savings associated with contracting will be greater or lesser in areas where the gap between the two wage rates is larger or smaller.

Contracting Would Have Been More Advantageous to the Government in Areas With Lower Prevailing Wages

To illustrate the impact of location for the cost difference between contractor and government operations of a prison, consider what labor costs would have been if the Taft facility had been located instead in less costly parts of the country, such as Yazoo City, Mississippi or Forrest City, Arkansas, where two of similar federal prisons are located. For this analysis, The GEO Group created staffing and payroll for the Taft facility as if it were located in these two cities, assuming that the staff

configuration and the numbers of staff (383.5 FTEs) were identical to that existing at the California facility. Not included here is any compensation that may be paid at premium rates (or overtime, working on holidays, etc.). The contractor’s salary and wage rates conform to the wage determinations established by the Department of Labor in these two regions in 1998.

The effect of different prevailing wages (or wage determinations) in these regions is significant (Table 2.21). If the Taft facility had been located in Yazoo City and had been operated by The GEO Group, labor costs would have been 24 percent lower than what the firm paid in Taft, California. If the facility had been located in Forrest City, Arkansas, the payroll would have been 18 percent lower than in California.

Table 2.21

Estimated Difference in The GEO Group’s Payroll in Taft, California, Yazoo City, Mississippi, and Forrest City, Arkansas (FY1998)

	Contractor-Operated Facilities		
	Taft	Yazoo City	Forrest City
Payroll Costs	\$12,774,513	\$9,710,039	\$10,411,555
Fringe benefits	2,554,903	1,942,008	2,082,311
Total labor cost	15,329,416	11,652,047	12,493,866

Notes: Includes only regular salary and wages; excludes premium compensation and other-than-regular salaries/wages. For purposes of comparison, it is assumed that all positions are occupied for the entire year. Fringe benefits are assumed to be paid at the rate of 20 percent for contract employees. Wages for labor categories covered by Service Contract Act are set at wage determined rates for Kern County, California, for Forrest City (Wage Determination WD 94-2297, Revision 12, 8/11/1998), and for Yazoo City, Mississippi (Wage Determination 94-2495, Revision 12, 7/28/1998). Wages for staff in positions not covered by the Service Contract Act were estimated following same distribution of salary and wage rate as in GEO’s proposal to operate the Taft facility.

Sources: Cost of payroll for identical staff in Taft California, Yazoo City and Forrest City was computed by The GEO Group.

Non-Labor Costs

The comparison here provides little evidence of a competitive advantage to either the contractor or to the government in purchasing materials, supplies, and other non-labor items, including insurance. GEO spent more for materials, supplies, and other non-labor items than what we estimate that the Bureau would have spent. GEO reported spending a total of \$43 million, whereas the Bureau may have spent less—about \$36 million over the five years, or perhaps as much as \$38.5 million. As discussed above, the estimate of what the Bureau would have spent during fiscal year 1998 seems excessively low because the statistical model may not have produced reliable estimates for that year, during which time the Taft facility was being activated. GEO spent \$6.8 million in this year, mostly for supplies, equipment, communications, utilities and “other services,” while the cost of these items if the Bureau had operated the facility would have been an estimated \$3.3 million.

Nor did the statistical estimates of supplies account for regional differences in energy prices during this five year period. GEO spent a larger percentage of its materials and supplies costs on “communications, utilities and miscellaneous other” items than did 14 other low-security federal prisons, on average, which may reflect higher costs of electricity in California. If the Bureau operated the facility, it would have had to pay the same energy costs.

Comparisons of GEO’s spending for insurance and self-insurance costs and the estimates of what the Bureau would have spent are not counting similar things. According to OMB’s A-76 rules, the federal cost includes only the cost of casualty and personnel liability self-insurance, whereas the GEO costs include self-insurance for healthcare as well. Therefore, the costs of insurance/self-insurance were significantly higher than the estimate of what the Bureau would have had to spend—\$4.5 million versus \$2.5 million. This does not indicate any inherent difference in how private contractors and the federal government insure themselves. Rather, it reflects the high cost to this specific contractor of insuring against a disease that it did not know about when it designed its bid to operate the facility. GEO’s spending for insurance and self-insurance nearly tripled between FY 1998 and 2002, largely due to the unanticipated costs of treating patients and staff infected with Valley Fever, or *Coccidioidomycosis*, a sometimes deadly disease caused by an infectious fungus that is endemic in the San Joaquin Valley, where Taft is located.⁵⁸ GEO’s contract assumes all costs for healthcare and it has experienced high costs of hospitalization and care. Because of the facility’s location, GEO has been unable to obtain third-party insurance that costs less than the cost of self-insurance, and GEO has consequently chosen to bear these costs on its own. If the Bureau of Prisons were operating this facility, its costs of self-insurance for medical care would be substantial, although would be counted not in the category of “insurance” but as another type of expense (perhaps “other services” in “materials, supplies, and other”).

Monitoring, Award Fees, Tax Payments, and Federal Government Overhead

The differences associated with contracting and direct government provision are sharpest for four categories of cost: contract monitoring and administration, award fees, corporate income tax payments to the federal government that offset costs, and federal government overhead. The costs of contract monitoring and administration are incurred when contractors provide the service for the Bureau and are avoided altogether if the Bureau operates the prison directly. When the Bureau operates its prisons, monitoring is done by regional and national headquarters staff but is paid out of overhead accounts. Similarly, award fees are available to the contractor but not to Bureau employees. Because the contractor is a private for-profit firm, it is required to pay corporate income taxes to federal and state governments—a cost that is avoided by governmental departments of correction—but which also offset the costs of contracting to the federal government.

⁵⁸ *Coccidioides immitis* grows in the arid soil of the Central Valley of California, southern Arizona, and parts of Nevada, New Mexico, Utah, and Texas, as well as northern Mexico and parts of Central and South America (State of California, Health and Human Services Agency, “Valley Fever (*Coccidioidomycosis*,” undated at Internet <http://www.dhs.ca.gov/ps/dcdc/disb/disb-qa.htm>). A large proportion of all reported infections in the U.S. are reported in California, and the San Joaquin Valley is the epicenter of the disease (Amber E. Barnato, Gillian D. Sanders, and Douglas K. Owens, “Cost-Effectiveness of a Potential Vaccine for *Coccidioides immitis*,” *Emerging Infectious Diseases*, Vol. 5, no. 7 (Sept./October 2001).

Whether or not there are intrinsic differences between contractor-operated and Bureau-operated prisons in how federal government overhead is assigned is less straightforward. If the Bureau were to have operated the Taft facility directly, the apportioned cost of the Bureau's overhead activities would have to be assigned to the facility's cost. These are real costs of operation, as regional and national headquarters' activities support all federally-operated prisons. (As discussed above, the actual cost of *all* overhead activities of the federal government is probably greater than the 12 percent overhead rate prescribed by the OMB's Circular A-76 because nearly all of that prescribed rate represents the cost of overhead within the Bureau of Prisons alone and not any of the other supporting federal agencies.) If a facility is operated by a contractor, OMB's A-76 does not prescribe assigning general government overhead (as it is probably assumed that overhead costs are captured adequately in the cost of contract monitoring and administration). Because so few of the Bureau's national and regional headquarters' resources were provided to GEO during the five years examined here, assigning no government overhead to the cost of contracting seems justified. This is not to say, however, that the government *avoided* spending an equivalent amount (12 percent of the cost of contracting) by the regional and national headquarters as a result of contracting out this single prison. The Bureau manages over a hundred separate facilities (or nearly two hundred, depending upon how one counts facilities that are often adjacent to one another). For isolated privatization experiments, the Bureau's overhead costs appear relatively inelastic. If, however, the Bureau can contract out prison operations without applying significant overhead resources, it is likely that these overhead resources would not remain so fixed if a large number of facilities were operated under contract.

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3

Comparing the Facility's Performance to Contractual Obligations

Assessing the performance of a contractor-operated prison is in many ways more straightforward than assessing performance of government operated institutions. Unlike publicly run agencies and institutions, they operate within the framework of a legally established and explicit statement of what the contracting agency expects of its contractor. Good contracts establish rights and responsibilities with precision, and often specify these requirements in ways that support measurement of how well they are met. Therefore, one direct measure of how well The GEO Group performed in its management of the Taft Correctional Institution is the extent to which it did what the Bureau required in its contract.

This chapter examines the extent to which GEO's performance at the Taft facility conformed to what the Bureau expected as a matter of contract. This includes descriptions of how the contract is structured to emphasize performance that is consistent with the Bureau's general strategic objectives and mission; descriptions of how contractual performance is assessed; and findings of the Bureau's assessments of GEO's performance during the first five years of the operation. Toward the end of the fifth year, the Bureau reorganized its system for monitoring contractor performance, which is discussed briefly, along with summary findings of GEO's performance during year six and part way through year seven (through March, 2004, that is). Our understanding of how well or poorly GEO is performing in relation to the contract is based in large part upon information developed by Bureau officials—especially the contract monitors. The extent to which this lens provides a clear view of the contractor's performance and the conclusions that can be drawn from these findings are addressed in the conclusion of the chapter.

To assess TCI's performance vis-à-vis the Bureau's contractual obligations, we have obtained and analyzed information from a variety of sources:

- the statement of work in the contract, which establishes the performance objectives and quality control requirements;
- periodic monitors' reports evaluating each aspect of the contractor's performance (these reports were first written on a bimonthly basis and then on a quarterly basis);
- contract modifications, indicating deductions for services deemed deficient or absent;
- the Bureau of Prison's quality assessment program documents, used to structure the monitors' ongoing assessment of the contractor's performance;
- GEO's semi-annual memorandum to the Award Fee Determination Board listing what it sees as its accomplishments during the period;
- interviews with Bureau monitors and GEO staff; and
- findings from the Bureau of Prisons' internal assessment of the contract monitoring activities at the Taft facility.

Linking Contractual Obligations to the Bureau's Strategic Objectives

The Bureau structured its contractual relationship with The GEO Group to ensure that the performance of the Taft Correctional Institution complied with the Bureau's mission and advanced the agency's strategic objectives. In addition, the contract places great emphasis on achieving performance objectives rather than simply adhering to required procedures. It establishes objectives, allows the contractor considerable latitude in deciding how it accomplishes these objectives, and provides financial incentives for good performance.

These objectives derive from the Bureau's system for managing all federal prisons, and not just privately-operated ones. This performance management system, first developed in the mid-1980s, involves:

- defining performance goals for the agency and for facilities in terms of outcomes to be achieved;
- developing sub-goals for all major aspects of facilities' operation, the attainment of which would contribute to the overall facility's and agency's goals;
- defining these sub-goals in operational terms that are susceptible to being measured; and
- specifying the functions, or activities, that have to be carried out to accomplish the goals (the Bureau calls these "vital functions").

The Bureau's mission is to protect public security, to protect inmates and staff, to provide inmates with appropriate and humane levels of care, and to give inmates opportunities to become better citizens. How these are to be accomplished is set forth in the Bureau's "vision statement":

The Bureau provides for public safety by assuring that no escapes and no disturbances occur in its facilities. The Bureau ensures the physical safety of all inmates through a controlled environment, which meets each inmate's need for security through the elimination of violence, predatory behavior, gang activity, drug use, and inmate weapons. Through the provision of health care, mental, spiritual, educational, vocational and work programs, inmates are well prepared for a productive and crime free return to society.⁵⁹

The contract for TCI sets the same performance goals as the Bureau sets for all other facilities. Moreover, it adopts the same "vital functions" identified as necessary to accomplish the Bureau's strategic objectives at all federal prisons. These vital functions are stated as specific objectives rather than instructions in how to accomplish the objectives. For example, the following describe requirements pertaining to institutional security, control, and inmate accountability.

Vital Function #1: Provide a safe and secure environment for staff and inmates through effective communication of operational concerns. This includes verbal and written instructions, post orders, institution supplements, information dissemination, training, and crisis prevention.

⁵⁹ Bureau of Prisons, *Vision Statement*, undated.

Vital Function #2: Gather intelligence information related to security concerns for dissemination to appropriate contractor and Federal Bureau of Prisons staff.

Vital Function #3: Provide an adequate security inspection system to meet the needs of the institution.

Vital Function #4: Maintain an adequate level of emergency readiness to respond to institution emergencies.

Vital Function #5: Maintain a level of occurrence for the following listed incidents at, or below, the average rate of occurrence at other BOP facilities of the same security level.

- Assaults without weapons on other inmates
- Assaults with weapons on staff
- Assaults with weapons on other inmates
- Homicides
- Suicides
- Escapes

Emphasizing Performance Rather Than Process

Whereas the Bureau relies on self-monitoring to keep performance aligned with the agency's mission, it devised a different set of instruments to manage the performance of a contractor. First, it designed an innovative performance-based contract. Second, it created financial incentives to encourage the contractor to perform well. Third, it gave GEO responsibility for managing its own quality control system at the Taft Correctional Institution.

Performance-Based Contracting

Rather than specifying in detail precisely how the contractor will deliver all its services, the Bureau established objectives (vital functions) that TCI's managers are contractually obliged to accomplish.⁶⁰ This accords with Federal Acquisition Regulations and the Office of Federal Procurement Policy (OFPP), which encourage the use of performance-based contracts. As described by OFPP, "performance-based service contracting (PBSC) emphasizes that all aspects of an acquisition be structured around the purpose of the work to be performed as opposed to the manner in which the work is to be performed or through broad, imprecise statements of work which preclude an objective assessment of contractor performance."⁶¹

⁶⁰ At the time of writing this contract, this was an uncommon feature of correctional contracting, as performance-based contracts are rarely used by state and local governments contracting for privately-operated imprisonment. Since then, other Bureau of Prisons contracts have adopted the same approach. Whether state and local contracting practices have begun to use such procedures was not determined.

⁶¹ Office of Federal Procurement Policy, *A Guide to Best Practices for Performance-Based Service Contracting* (Washington, D.C.: Executive Office of the President's Publications Office, 1996), p. 3 (Italics added).

This emphasis on performance rather than process is reinforced by the statement of work in the contract. Whereas some contracts for imprisonment services, written by state or local governments, go to great lengths to detail exactly how the private operator is to structure its operations, the TCI contract leaves such decisions largely to the contractor. What is specified in the statement of work is quite short, essentially listing activities that are deemed absolutely essential to the Bureau of Prisons, and which clarify where the contractor's responsibilities begin and end relative to the Bureau's. (The statement of work also incorporates by reference, however, a more extensive list of standards for facility operations established by the American Correctional Association.⁶²) For example, the section in the statement of work that specifies required institutional security procedures is quite short—slightly longer than three pages. Insofar as maintaining security and control are the most important objectives for a prison, the brevity of the prescribed procedures is quite striking. For example, the specification of procedures required of the contractor include the following:⁶³

- At least one inmate count every 24 hours shall be a stand-up count. All counts shall be documented in separate logs maintained in the inmate housing unit, control center and shift supervisor's office and shall be maintained for a minimum of 30 days.
- Policy and procedures for the maintenance and security of keys and locking mechanisms shall be developed. The procedures shall include, but are not limited to: (1) method of inspection to expose compromised locks or locking mechanisms and method of replacement for all damaged keys and/or locks; (2) a preventive maintenance schedule for servicing locks and locking mechanisms and method of logging all work performed on locks and locking mechanisms;....
- Staff responsible for lock maintenance shall receive training and be certified from a [contracting officer]-approved training program specializing in the operation of locks and locking mechanisms.
- The contractor is responsible for the movement of all inmates within a one hundred and fifty mile radius of the institution.... The contractor shall utilize restraint equipment identical to the BOP's when one-for-one equipment exchange is required (e.g., airlifts).
- Contractor-developed procedures regarding clothing for inmates transferred from the institution to other Government facilities must incorporate the following conditions: [conditions listed here]....
- Policy and procedures for collecting, analyzing and disseminating intelligence information regarding issues affecting safety, security and the orderly running of the institution shall be developed.... This information should include, but not be limited to gang affiliations (white supremacy groups, domestic terrorist groups, street gangs, prison gangs, organized crime, etc.), tracking of inmates having advanced skills in areas of concern (locksmiths, gunsmiths, explosives, computers, etc.). The contractor shall also monitor narcotics trafficking, mail and correspondence, inmate financial information,

⁶² Taft Correctional Institution Contract, Statement of Work, p. 7.

⁶³ Taft Correctional Institution Contract, Statement of Work, pp. 24–27.

visiting room activity and high profile inmates. The contractor shall share all intelligence information with the Government.

- All intervention equipment (e.g., weapons, munitions, chemical agents, electronics/stun technology, etc.) shall be approved by the contract officer before being used for the contract. P.S. 5500.07, *Correctional Services Manual* contains guidance regarding current BOP standards for intervention equipment.
- By award of this contract, the Government delegates to the contractor its own limited authority to use force to maintain security of the institution consistent with Government policy as outlined below. All use of lethal force by the contractor pursuant to this delegation or any other authority shall be in compliance with P.S. 5558.12, *Firearms and Badges* and P.S. 5568.04, *After Action Reporting and Review*.
- The contractor shall report all criminal activity related to the performance of this contract to the appropriate authorities....
- The contractor shall immediately report all serious incidents to the CO. Serious incidents include, but are not limited to the following: [a list of specified activities follows]....
- The contractor shall maintain a urine surveillance program which complies with P.S. 6060.05, *Urine Surveillance to Detect and Deter Illegal Drug Use* to detect and deter illegal drug use....
- The BOP may investigate any incident pertaining to performance of this contract. The contractor shall cooperate with the Government on all such investigations.

Internalizing Quality Control Responsibilities

The contract requires GEO to develop and implement its own quality control program to ensure that TCI's management meets the various requirements and accomplishes its performance objectives.⁶⁴ This was done so that the contractor would provide continuous self-assessment that would lead to self-directed improvements. The Bureau could have chosen to extend its own quality control management system employed at all other federal prisons—"program reviews," or on-site inspections by Bureau-staffed program review teams dispatched from central and regional headquarters. It chose otherwise because it sought to provide a better test of private management.

Financial Incentives to Perform Well

The contract establishes financial incentives to encourage the TCI's managers to achieve performance goals that go beyond simple compliance in such areas as quality, timeliness, technical ingenuity and cost effective management. Twice a year, Bureau officials rate TCI's performance to determine if and how much additional money could be awarded to the contractor. These bonuses can be substantial—equaling as much as five percent of the amounts paid to the contractor for its services.

⁶⁴ Taft Contract, Statement of Work, p. 7.

The size of the award is determined by the government’s judgmental evaluation of the contractor’s performance according to criteria stated in the contract.

Procedures for Assessing TCI’s Performance During the First Five Years of the Contract

There are two distinct but interrelated performance assessment procedures used by the Bureau—one to monitor GEO’s compliance with the contract, and a second one to determine how much money to award GEO for its performance.

To assess the contractor’s performance once the facility was activated, the Bureau employed between six and eight employees who were all located at the facility. These included the contracts administrator, who directs the administration of contracts with GEO for TCI’s operation (and who also spends part of her time on the contract with the Corrections Corporation of America to operate the Eloy Detention Center in Eloy, Arizona), and contract monitors. At Taft, all technical monitors were at the facility full-time, year-round. The intensity of such monitoring is unusual in the industry.⁶⁵

Most—if not all—of these monitors were initially transferred to the area before Congress mandated that facility operations were to be contracted out. They were slated to be managers at the facility, but were then reassigned to monitoring tasks once it became clear that the Bureau was not going to operate the prison directly. Consequently, these monitors came with a great understanding of Bureau-operated federal prisons, as they had worked in such prisons for many years. At the same time, however, they were not trained to be contract monitors. Rather, their careers had been in operations. Being transferred to managerial positions at the Taft facility was to be a step up on the career ladder. They lost these opportunities for advancement when Congress changed the mission of the institution. (There was no equivalent career ladder for contract monitors.) This contributed to some tension between monitors and GEO staff. Indeed, there was a pronounced sense of “us” and “them” during the first five years of the contract.⁶⁶

Lacking formal training and an established contract review program, monitors developed a quality assurance program in early 1998 to guide them in their job of assessing contract compliance.⁶⁷ The resulting document summarizes the various obligations required of the contract, incorporating the contract’s statement of work, professional standards that are referenced by the contract (e.g., ACA and JCAHO standards), applicable Bureau policy, and any other requirements in the contract. The authors of this document categorized obligations according to nineteen different types of services

⁶⁵ In about half of all contracts with privately-operated facilities, state government monitors spend an average of less than one-quarter of a single FTE, with infrequent visits to the facility. In the other half of the contracts, the most common practice is to assign one person full-time to monitor, on-site. This was the finding of a survey of state and federal correctional agencies’ contracting practices at the end of 1997. See Douglas McDonald, Elizabeth Fournier, Malcolm Russell-Einhorn, and Stephen Crawford, *Private Prisons in the United State: An Assessment of Current Practice* (Cambridge, MA: Abt Associates Inc., 1998).

⁶⁶ This was evident in Douglas McDonald’s meetings with GEO staff and BOP monitors.

⁶⁷ Bureau of Prisons, *Quality Assurance Plan: Taft Correctional Institution, Evaluation Techniques for Quality Assurance of Contractor Performance*, February 2, 1998.

provided.⁶⁸ Because of their experience at other federal prisons, each monitor had developed expertise in different aspects of prison operation, and they divided their monitoring responsibilities accordingly. (There were not enough monitors to have technical expertise in each of the nineteen different areas, however.)

In addition to this quality assurance program, the contract monitors also relied on information from the contractor's own quality control program, to the extent that such a program existed. That is, the contractor was required to identify deficiencies in its own operations and to document them, and then to track the extent to which those deficiencies were remedied. The Bureau's monitors had available to them all the documentation developed by the contractor for these purposes. As discussed below, GEO did not develop an effective quality control program quickly. This resulted in the Bureau monitors playing a more active role in ensuring quality control directly—a role that the Bureau did not anticipate.⁶⁹

Deductions to Fee for Non-Compliance

Compliance with the contract is, in principle, an all-or-nothing matter. However, the contractor can be in and out of compliance from one day to the next. Monitors were therefore obliged to use their discretion to determine when written notices were to be given to the contractor for non-compliance.⁷⁰ These notices could result in the contract officer modifying the contract to deduct money from the monthly fee to GEO for service not rendered. Bureau officials did not intend to impose deductions as punishments but rather to withhold pay for services not delivered.

Identifying the monetary value of discrete services not performed is often difficult because the contract did not price all services separately. The Bureau therefore created provisions in the contract that established broad guidelines to assist the contract officer in determining how much money to deduct from the monthly fee. It defined performance in eight different areas as well as the relative value the Bureau placed on performance in these areas (see Table 3.1). Not surprisingly, institutional security and control were seen as being the most important, and were assigned 20 percent of the total value of what the contractor was required to do. For example, if GEO failed utterly to comply with the various contractual requirements pertaining to institutional security, control, and inmate accountability, it would be liable to lose up to twenty percent of its monthly fee for services not rendered. Complete failure to perform rarely occurs, however. More often, service is deficient by degrees. This requires Bureau officers to make a subjective judgment to determine the amount of the deduction, guided by the upper limits shown in Table 3.1.

⁶⁸ These areas of services were called “departments” by the Bureau, although some departments provided more than one area of service. Performance in each of the nineteen different service areas was rated separately by monitors, and each area was rated separately.

⁶⁹ Federal Bureau of Prisons, “Review of ‘Contracting for Imprisonment in the Federal Prison System,’” memorandum dated July 11, 2005.

⁷⁰ In the early months of the contract, monitors issued “Inspection Reports” to the contractor to advise them of procedures that needed to be improved. The GEO staff complained that they were not given enough room to develop their own procedures, and the monitors stepped back. Some months later, however, they began relying on formal Non-Compliance Reports whenever repeated non-compliance was observed.

Table 3.1

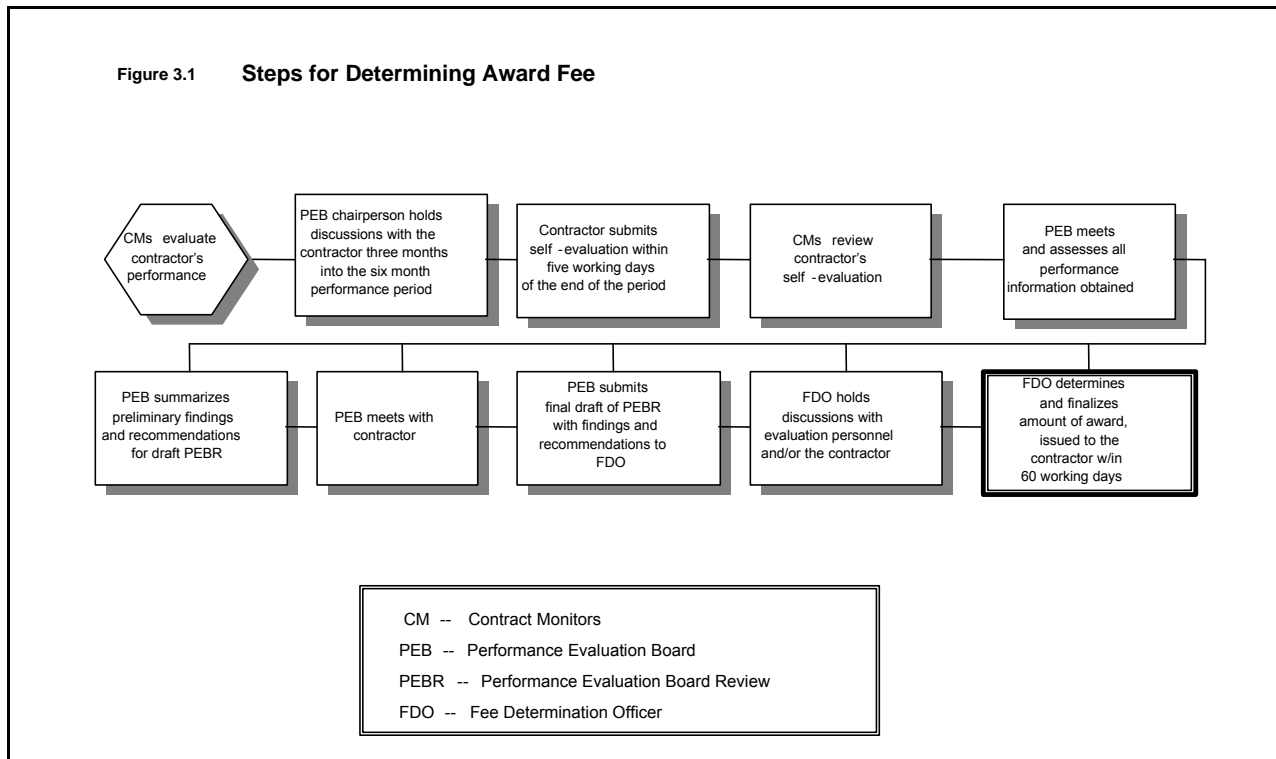
How the Contract Defines the Relative Value of the Contractor's Functional Responsibilities

Contract Requirements	Total Contract Value Attributed
Security/control/inmate accountability	20%
Inmate admission, classification, programs and transfer	20%
Facility maintenance and repair	15%
Personnel	10%
Health services	10%
Food services	10%
Quality control	10%
Inmate services	5%

Source: Taft Correctional Institution Contract, Section J, Attachment C, pp. 2-6.

Awarding Good Performance

The Taft contract permitted financial awards (“award fees”) to be paid if the contractor met established performance goals. The process for making these decisions throughout the first five years of the contract is described schematically in Figure 3.1.



The job of measuring how well the contractor meets the performance goals was given to the contract monitoring staff located at TCI. The monitors' six-month reports rated performance in each of nineteen different functional areas, such as institutional security, safety, mail, educational services, laundry, among others. For each, monitors evaluated three dimensions of performance: the *quality of the work* (not just whether it complied with the terms of the contract), the *contractor's "responsiveness,"* and the sufficiency of the contractor's own *quality control management*, all of which were defined as follows:

Quality of Work

- Results of quality assurance inspections and observations of government personnel

Contractor Responsiveness

- Timeliness, effectiveness and appropriateness of response to both routine and unusual institution events
- Timely response to BOP concerns
- Reaction to changing service requirements

Management of Quality Control Program

- Effectiveness of quality control program
- Self-initiated service improvements

When asked how evaluating performance differed from assessing compliance, the former contract administrator answered, "Judging compliance is like deciding whether somebody passes or fails a course. Judging performance is like giving them grades."⁷¹ These grades range from "unsatisfactory" to "outstanding." Because the Bureau intended to award bonuses only for performance that goes beyond simple compliance with the contract, only performance rated "good" or better warranted an award. How the Bureau defined and interpreted these ratings, and how much weight it assigned to each, is shown in Table 3.2. If, for example, the contractor's performance was rated "outstanding" in all aspects, it would have been eligible for 80 to 100 percent of the maximum possible award fee. In contrast, if it received ratings of "good" in all functional areas, the bonus could range between 1 and 39 percent of the maximum award.

The monitors' evaluations were then passed to the Performance Evaluation Board, consisting of government officials, and the Fee Determination Officer. The contractor was given the opportunity to submit a letter that summarizes its accomplishments during the period, highlighting "implementation of any innovative approaches or performance above and beyond contract requirements," which was reviewed by the contract monitors and forwarded to the Performance Evaluation Board. The Board considered all the information and made a recommendation. Following further discussions among the various parties, the Fee Determination Officer made a unilateral decision about the amount of the award and ordered the award to be issued. This decision was not subject to dispute.⁷² Although the contractor learned the amount of the award, neither the monitors nor other Bureau officials shared with the contractor precisely how the monitors had ranked performance in all the various functional areas.

⁷¹ Ray Marshall, the Bureau's first contract administrator at Taft, in a telephone conversation with Douglas McDonald in 1999.

⁷² FAR 16.412-2.

Table 3.2

Performance Evaluation Rating Used to Determine Award Fees During First Five Years of Contract

Rating	Performance Description	Range of Points
Outstanding	Superlative level of performance; achievement of distinguished results and effectiveness. No deficiencies	80-100%
Excellent	Of exceptional merit; exemplary performance in a timely, effective and professional manner. Very minor deficiencies. No effect on overall performance.	40-79%
Good	Very efficient performance; fully responsive to contract requirements; more than adequate results; reportable deficiencies but with little identifiable effect on overall performance.	1-39 %
Fair	Effective performance; responsive to contract requirements; adequate results. Reportable deficiencies with identifiable, but not substantial effects on overall performance.	0%
Marginal	Meets minimum acceptable standards; useful levels of performance but suggested remedial action; reportable deficiencies which adversely affect overall performance.	0%
Unsatisfactory	Below minimum acceptable standards; poor performance; inadequate results; requires prompt remedial action; significant deficiencies.	0%

Source: Taft Correctional Institution Contract, Section J, Attachment F, pp. 6-7.

In some areas of performance, there appears to have been general agreement between what GEO managers and contract monitors reported. There were other areas of performance that were much disputed, however. Interviews with monitors and GEO managers surfaced a great deal of disagreement about how well the monitoring function worked during most of the first five years, about the standards that were being applied, the deductions from fee that were imposed, and the amounts awarded by the Bureau for good performance. GEO managers were not given the opportunity to see the detailed rankings of quality, responsiveness, and quality control management that the Bureau officials assigned to institutional performance twice a year as part of its award determination process. If they had been given such opportunities, there is no doubt that they would have disputed many of the assessments.

Subjectivity in the Monitoring Process

Where compliance or non-compliance is obvious, one might imagine that objectivity is relatively easy to come by, and that monitoring assessments are straightforward. Most issues regarding contract compliance are not so black and white, however, especially when a statement of work sets forth relatively few procedural regulations and focuses instead on objectives to be accomplished.

Determining how well, and to what extent, such objectives have been accomplished often requires subjective judgments. If guidelines are available for measuring the extent to which objectives are accomplished, subjectivity is reduced or, at least, bounded.

Other than the quality assurance plan the monitors created, the Bureau had not developed guidelines for monitors to follow. Monitors therefore lacked standards to ensure consistency in their judgments, from one monitor to another and from one time period to another. Lacking formally established standards and guidelines, there was no body of operating procedures that could be relied upon for training purposes. Monitors had no peers in the Bureau who could be consulted. It was not until April 2000 that the Bureau undertook its first program review of the contract oversight function—essentially its own internal quality control program. It was unable to do so before that time because a set of written standards for such reviews was not available until December 1999.

Following a three-day on-site review by a 23-member review team in April 2000, the team concluded:

[One team member] stated that he believes that oversight of the Taft contract by BOP on site staff is pretty good. [Another member] expressed concern with the number of deductions taking place with regard to sentence computations. He feels that these deductions are over relatively minor issues and that they have caused an adversarial relationship to develop between BOP and Wackenhut staff. [He] also pointed out that with the start up of Taft, the staff assigned to provide oversight did not have contract oversight experience and that much of how to monitor this contract has been learned along the way.

[One of the contract monitors/administrators] pointed out that the staff have had what he felt is little or no guidance from the start of this project in terms of how to monitor the contract. He also pointed out that Taft was to be a pilot project. He also pointed out that they had not done an operational review. Program Review Guidelines were just published December 10, 1999.

[Two other members of the review team] expressed concerns similar to the [Western Regional Office] staff. Deductions appear to be frequent and for relatively minor infractions; over and above what we hold BOP staff accountable. Basically, they would like to know if our approach to taking deductions and granting award fees is sound and effective? Both expressed that communication between the contractor and the oversight staff is a concern; it has been adversarial in the past. They also wanted us to look at whether adequate oversight training has been provided to BOP on-site staff.⁷³

The Bureau Standardizes Monitoring Procedures in 2002

To bring more consistency to the monitoring process, the Bureau standardized its contract monitoring procedures in August of 2002. This changed somewhat the procedures for assessing and rating performance, so this change is described in some detail here before turning to the question of how GEO's performance was evaluated by the Bureau.

⁷³ Program Review Division, Federal Bureau of Prisons, "Summary of Indicators," undated.

The lack of consistency and uniformity in monitoring became especially apparent in 2002 as the Bureau had expanded its contracting with private firms to hold increasing numbers of federal prisoners in other facilities. The Bureau had employed the statement of work in the Taft facility contract in its subsequent contracts, so it was able to create a single auditing instrument and Quality Assurance Plan for all these contract facilities. As with the quality assurance program developed by the Taft monitors, this standardized plan incorporated the contracts' common statements of work; professional standards that are referenced in the contracts, including standards established by the American Correctional Association (ACA), the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), and the Code of Federal Regulations, among others; applicable Bureau policy; and any other requirements specified in the contracts.⁷⁴ The relative value assigned to the contractor's functional responsibilities for the purposes of determining deductions to award fees and the process for assessing those deductions (see Table 3.1) also remained the same.

In addition to standardizing the auditing standards, the Bureau created a Contract Facility Monitoring (CFM) team, which now operates out of the Bureau's central office and is responsible for reviewing "technical" performance (contract compliance) at all contract facilities. This is modeled after the Bureau's program review teams that provide quality assurance for all federal prisons. Program reviews of government-operated facilities are conducted every two years and are designed to assess a facility's compliance with the Bureau's rules, regulations, policies, and procedures. In contrast, the CFM team reviews have been more frequent and are somewhat less comprehensive than the program reviews. Like the program review function, the CFM aims to identify any operational deficiencies and indicate required remedies. Unlike program review, however, it seeks to assess compliance with the contracts and incorporated standards (the CFM's work is therefore structured by the Quality Assurance Plan for these contract facilities). The organization of the CFM also adopted the staffing model used for program review teams. That is, the team includes one "discipline expert" for each functional areas of service to be examined. This may have strengthened contract monitoring at Taft, because the smaller monitoring staff that had worked at Taft until then lacked the same degree of specialization in all areas that the CFM brings. The establishment of the CFM team did not change the importance of the contractor's own Quality Control Program, which is required by contract to identify deficiencies in operations and to monitor remediation efforts.

The creation of the CFM did not displace the role of the on-site monitors. CFM reviews are structured tightly, and do not go beyond established audit steps. On-site monitors are not bound by such restrictions and have a more general range of performance to review. Moreover, the CFM reviews take place during short periods of time, while the monitors report on activities throughout the year. Monitors still develop the semi-annual summary reports of the contractor's performance, which incorporate findings of the CFM review teams with their own observations.

The first CFM team review took place at the Taft facility in December 2002, which covered the evaluation period between August 2002 and March 2003. The second took place in May 2003, and the third review was conducted in November 2003, examining performance during the evaluation period that ran from October 1, 2003 through the end of March, 2004.

⁷⁴ Bureau of Prisons, "Contract Facility Quality Assurance Plan," February 5, 2004.

Changes in the Performance Assessment Process in 2002

When the Bureau overhauled its contract monitoring procedures, it also simplified procedures for measuring performance, which took effect for the review period ending August, 2002. These were redesigned to minimize the necessity of making subjective rankings on too fine a scale. The on-site contract monitors had been measuring performance in each of the nineteen service areas along three different dimensions (the quality of the work, the contractor's "responsiveness," and the sufficiency of the contractor's own quality control management). The new assessment procedure still addresses these three dimensions but now requires the on-site monitors to provide one combined score for performance in each service area. The number of service areas to be assessed was also reduced from nineteen to twelve (some areas were collapsed into a single one). Moreover, the Bureau changed the guidelines for how these individual assessments are to be translated into points, which results in determining the award fee. Under the old system (Table 3.1), there were three rating levels indicating performance above and beyond contractual requirements, and the adjectives that were used to distinguish these three levels were somewhat ambiguous. In the revised system (Table 3.3), there are only two such levels and the definitions of these levels are clearer. One result of this was to raise the ceiling on the maximum possible award fees for performance rated as "good." Under the older rules, "good" performance warranted an award up to 39 percent of the maximum possible award; the revised rules raised this to 49 percent.

The Shift from "We Versus They" to "Partnership"

During the period studied here, a change occurred in the relationship between the Bureau's on-site monitors and GEO staff. As discussed above, these monitors were first sent to Taft to manage the facility for the Bureau and were then directed to stay on as contract monitors after Congress determined that the prison was to be operated by a private firm. This was not the job for which they had been trained, nor the job that they sought as they worked their way up the career ladder in the Bureau. GEO's difficulties in organizing its operations at the facility, especially during the early years, were difficult for the monitors to watch, especially when they had hoped to be managing rather than monitoring.⁷⁵ GEO staff bonuses depended upon the firm's winning award bonuses for performance, and this added to tension between staff and monitors.

By 2003, the relationship began to shift, in part because the Bureau had chosen a path that involved a substantial amount of contracting for imprisonment services. Indeed, it had grown into the largest purchaser of beds in privately owned or operated facilities. The Bureau organized a two-day meeting held in August, 2003 with Bureau officers—including contract administrators and monitors, among others—and GEO managers to forge a new relationship. The aim was to change the model of the relationship into a "partnership." Partnership models of contracting have long been common in construction contracting, even in the Bureau, but this was a new vision for the Taft contract. A good description of this model comes from the U.S. Army Corps of Engineers:

Partnering is the creation of an owner-contractor relationship that promotes achievement of mutually beneficial goals. It involves an agreement in principle to share the risks involved in completing the project, and to establish and promote a nurturing partnership environment.... Partnering seeks to create a new cooperative attitude in completing government contracts. To

⁷⁵ This was communicated to Douglas McDonald in interviews with monitors.

create this attitude, each party must seek to understand the goals, objectives, and needs of the other—their win situation—and seek ways that these objectives can overlap.⁷⁶

Teambuilding workshops were held, participants gave voice to their concerns, and activities were designed to instill a sense of working together to accomplish mutually held goals rather than against each other.⁷⁷ At the end of the meeting, parties signed an agreement to pursue a number of common goals, which included obvious ones such as “maintaining a safe, secure and well-run institution” and “ensuring contract compliance.” More significant were other goals that were designed to change the we/they relationship: to maximize award fees, minimize deductions, and resolve issues at the lowest level. Issues are to be communicated openly, procedures for resolving difficulties will be discussed and agreed upon, rather than relying first upon formalized written notifications and responses. According to those interviewed in the Bureau and at GEO, this meeting and the other changes in monitoring procedures have been successful in shifting the tone and practice of how both organizations work together.

Has GEO Complied with the Contract?

During the first five years of the contract examined here it appears from several indicators that GEO generally performed at the Taft facility as expected and as contractually obliged. The Bureau exercised its option to renew the contract beyond the base period, and it has continued to exercise the option in each of the subsequent years as well (although some Bureau officials disagree with this interpretation that renewal indicated satisfaction with contractor’s performance).⁷⁸ On-site monitors have rated GEO’s overall performance during most of this period as “good.” During each of the semi-annual review periods since the beginning of the contract, through March, 2004, GEO has been awarded bonus payments for its performance above and beyond strict compliance with the contract.

⁷⁶ Lester Edelman (Chief Counsel, U.S. Army Corps of Engineers) et al., *Partnering: Alternative Dispute Resolution Series*, Pamphlet 4 (December 1991), IWR Pamphlet 91-ADR-P-4, pp 1–2.

⁷⁷ Partnering Consultants International, “Teambuilding Workshops for BOP & Wackenhut Privatization Contracts,” 6–7 August, 2003 (Phoenix, AZ).

⁷⁸ A panel of Bureau officials who reviewed an earlier draft of this report argued that we “assign greater significance about GEP performance at TCI than is warranted to the fact that the BOP renewed the contract in the option years. They do not acknowledge the simple fact that the BOP based this decision in large part upon the need for the beds to house inmates.” Memorandum entitled, “Review of ‘Contracting for Imprisonment in the Federal Prison System.’” (Bureau of Prisons, dated July 11, 2005).

Table 3.3

Revised Performance Evaluation Rating Used to Determine Award Fees (As Of August 2002)

Rating	Performance Description	Range of Points
Superior	The program is performing all of its function in an exceptional manner and has excellent internal quality controls. Deficiencies are infrequent in number and not serious in nature. Program performance exceeds expectations and demonstrates initiative and exceptional effort.	50 – 100%
Good	The program is performing all of its vital functions and there are few deficient procedures within any function. Internal quality controls are such that there are limited procedural deficiencies. Overall performance is above acceptable level	1 – 49%
Acceptable	This is the “baseline” for the rating system. The vital functions of the discipline are being adequately performed. Although numerous deficiencies may exist, they do not detract from the acceptable accomplishment of the vital functions. Internal quality controls are such that there are no performance breakdowns that would keep the program from continuing to accomplish its mission.	0 %
Deficient	One or more vital functions of the program is not being performed at an acceptable level. Internal quality controls are weak, thus allowing for serious deficiencies in one or more program areas.	0%
At Risk	The program is impaired to the point that it is not presently accomplishing its overall mission. Internal quality controls are not sufficient to reasonably assure that acceptable performance can be expected in the future.	0%

Source: Taft Correctional Institution Contract, Section J, Attachment F.

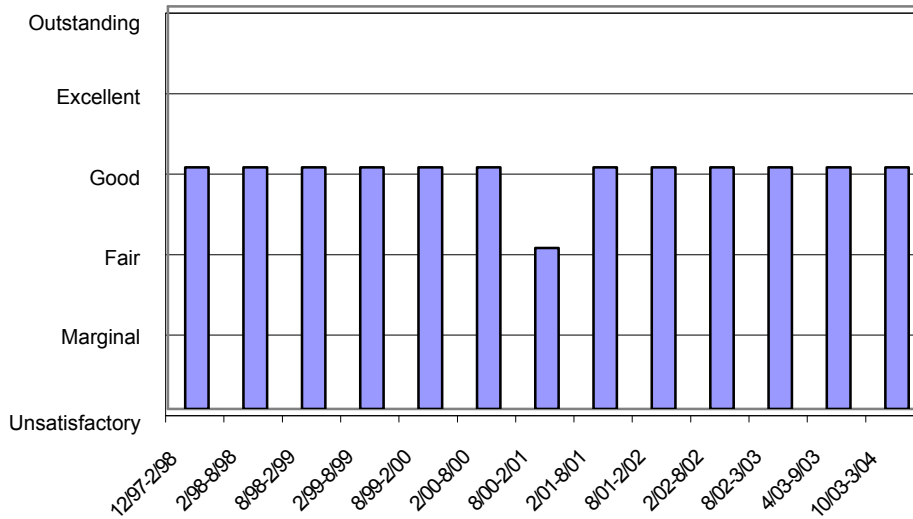
Summary Assessments of GEO’s Performance

For each six month period, the Bureau’s Fee Determination Official and the Performance Evaluation Board considered all aspects of the contractor’s performance, including the monitors’ and CFM’s reports, and arrived at an overall rating of performance. To be eligible for an award, this overall performance had to be rated “good” or better. For twelve of the first thirteen review periods, from 1997 through the first half of FY2004, the government considered GEO’s performance to be “good,” meaning above and beyond simple compliance with contractual requirements (Figure 3.2). During one period ending in February 2001, GEO was rated as complying with contractual requirements, but no better. (In Figure 3.2 and all similar ones that follow, the labeled ratings categories use the original terminology used during the first nine periods, even though the words used to describe these categories changed in August, 2002. The principal difference is that after August, 2002, there was only one category higher than “good” (“superior”), whereas there were two categories before. The

criteria used to rank performance in the “good” category and the three below that remained essentially the same throughout the thirteen rating periods examined here.)

Figure 3.2

The Performance Evaluation Board’s Assessment of GEO’s Overall Performance During the First Six and One-Half Years (August 1997–February 2004)



Note: Ratings are described according to categories used before August, 2002 and new rating categories following that date. After August, 2002, the highest rating was “superior.”

Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Awards for Good Performance

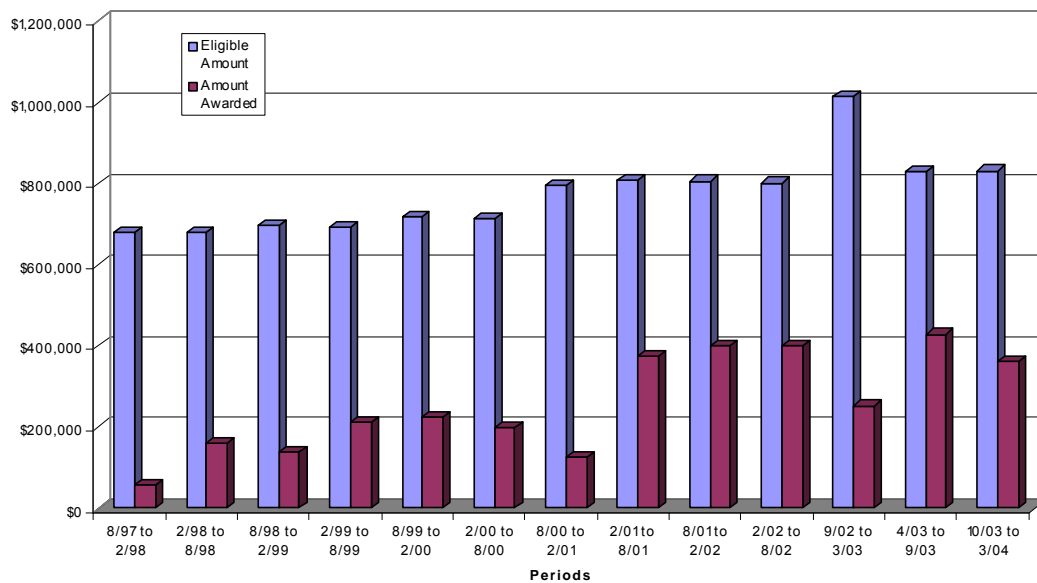
Because of these performance ratings, GEO received award bonuses for each of the thirteen review periods, through March, 2004 (Figure 3.3). This includes the review period ending February 2001 in which GEO’s *overall* performance was considered only “fair” and therefore not deserving of an award. Even though the Performance Evaluation Board found that performance in most areas was only “fair,” the board noted that performance in three areas was “good” and thereby awarded GEO \$125,000.

For the first period (August 1997–February 1998), the BOP awarded \$58,257 to GEO. This entire bonus award was for GEO’s efforts in preparing the facility to receive inmates, which took four of the six months in that period. The award fee almost tripled in the subsequent period, to \$159,440. The largest award was for \$428,128 in the twelfth review period. During these six and a half years, the Bureau has awarded GEO a total of \$3.3 million. Throughout, the award amounts have fallen far short of the maximum eligible awards for all review periods (Figure 3.3). Because performance

ratings have fallen in the “good” category in all but one period, the maximum award fee possible has been 39 percent of the total award pool.

Figure 3.3

Award Fees: Comparison of Amounts Possible and Amounts Awarded (August 1997 – March 2004)



Source: Computed from data provided by Bureau of Prisons.

In principle, one might argue that awards represent a good single, distilled indicator of overall performance. However, the award process yields a somewhat more ambiguous result. A review of the material used by the Performance Evaluation Board shows that the procedures for assessing performance and translating these into award amounts had been evolving throughout these first years. Bureau officials involved in making these determinations also showed an absence of complete agreement about what constituted performance above and beyond required compliance. Some stated that the job of the contractor was to do good work and that it shouldn't get rewarded for doing good work, just as managers of government-operated prisons cannot get extra compensation for excellent work. Because the standards that guided the Bureau's process of assigning dollar values to performance was not uniformly anchored throughout the first several years, a more direct indicator of how the monitors judged the contractor's performance can be seen in their written assessments.

Deductions

By the close of the three-year base period of the contract (ending in FY2000), the Bureau had imposed a total of \$648,658 in deductions of payments to the GEO for failures to provide required services. Most of these deductions occurred early in the contract. For example, nearly one-third of these deductions (\$191,120) as of FY99 were imposed because GEO did not fill staff positions as quickly as required to in the earliest months of operation. Other deductions, for a total of \$165,000 as of FY1999, were imposed for failure to compute prisoners' release dates accurately. This is a technically complicated task because the prisoners' files do not always contain all the information

that is needed to determine credits for pretrial detention, time spent in jail while held on warrants, and the like. GEO staff responsible for this work had no prior experience in the Bureau and had to develop these skills on the job. The contractor was also docked \$92,000 for failing to provide adequate security, which was signaled by an inmate escaping from the facility by walking out of the visiting room. (When the facility opened, GEO permitted inmates considerable latitude in choice of clothing. This made it difficult to distinguish visitors from inmates, thereby creating the possibility for an inmate to walk out the visiting area through the prison's front door.) There have been other walk-aways from the minimum-security camp, which lacks a fence, and several of these persons were apprehended. In December, 2003, an inmate managed to get outside the prison's fence by crawling into a trash compactor; he was apprehended in the nearby community that afternoon.

Translating deficiencies into dollar amounts has been problematic. Bureau officials stated that it was often very difficult to assign a dollar value to services not delivered. What, for example, is the appropriate deduction for the contractor failing to notify a victim/witness when a prisoner (that the witness testified against) is released? Is this worth a \$5,000 or a \$50,000 deduction? The Bureau did not undertake an economic impact analysis of such failings and relied upon reasoned judgments—but reasonable people did not necessarily agree upon what constituted an appropriate deduction.

No doubt, close to \$650,000 deducted from the fee during the three base contract years is a substantial penalty to the contractor, whether or not it is intended to be such by the Bureau. However, the total fee for services exceeded \$28 million a year, so over half a million dollars out of \$86 million is a relatively small share—less than one percent.

Deductions in subsequent fiscal years (FY2001 and FY2002) were significantly less. In FY2001, BOP imposed a total of \$257,500 of deductions and imposed none in FY2002. In sum, over a five-year period, the BOP deducted \$900,000 out of approximately \$147 million.⁷⁹

Performance Ratings of Different Services

The contract monitors found that GEO performed some of the required services better than others. During the five year period ending August 2002 (when the Bureau's monitoring procedures were reorganized), contract monitors rated performance in nineteen functional areas of service. As described above, each of these different operational activities were rated according to:

- the quality of the work in each category,
- the contractor's responsiveness to concerns raised by the monitors and the contract administrators, and
- GEO's quality control management.

To facilitate comparison of monitors' ratings of different areas of service, we assigned a number from 0 to 5 for each rating (0 = unsatisfactory, 1 = marginal, 2 = fair, 3 = good, 4 = excellent, and 5 = outstanding).⁸⁰ These ratings for each type of service were then averaged across nine of the ten semi-annual periods for each of nineteen areas of service (Table 3.4).

⁷⁹ Information about any deductions imposed subsequent to FY 2002 was not obtained, as the analysis of expenditures for the Taft Correctional Institution was limited to FY 98 through 2002.

⁸⁰ All review periods were included except February 2000–August 2000, for which data were missing.

Comparing these average ratings with the overall ratings by the Performance Evaluation Board and the award fees during these five years suggests a contradiction, because the average ratings were nearly all below 3.0 (indicating “good” performance). Ratings must be “good” or better to earn award fees. While it is true that the *average* score for all nineteen areas of service may have fallen below the threshold for deserving an award fee, there were a number of areas during most semi-annual periods that were given “good” or “excellent” ratings. The Performance Evaluation Board did not calculate the amounts of the award fees based upon its average ratings or upon averages of the monitors’ ratings. Rather, it computed the amounts based upon the *number* of specific areas of service for which performance was rated as “good” or better. Consequently, GEO was given a pro-rated portion of the award fee in each of the review periods, and not the full 39 percent of the maximum award fee that have been awarded if all areas of service had been scored “good.”

For the five-year period as a whole, three areas of facility operation were rated between “good” and “excellent.” Facilities administration earned the highest average ratings throughout this period, followed by employee development, health care services, computer services commissary/inmate funds operation, safety, and laundry.

In contrast, TCI’s overall performance for this five-year period in correctional programs was rated between “marginal” and “fair.” Performance was found to be inadequate during the first year and a half of operations but was seen to improve after that. Performance in the records office was considered “fair.” The low rating given to the records office largely reflects the Bureau’s dissatisfaction with GEO’s work on prisoners’ sentence calculation and computation of the prisoners’ expected release dates. (This is discussed in greater detail below.)

In all remaining areas of service, TCI’s performance was rated between “fair” and “good.” In general, GEO’s responsiveness to the Bureau’s concerns was rated more highly than the quality of its work and its internal quality control (Table 3.4). For the entire period between August 1997 and August 2002, the average rating for “responsiveness” was 2.8, or almost “good.” Quality of work throughout this period was ranked slightly lower, on average (2.4), while GEO’s quality control was rated the weakest (2.3).

Table 3.4

Monitors' Ratings of Services Performed at Taft Correctional Institution, August 1997–August 2002 (Average of Ratings in All Semi-Annual Periods)

Type Service	Combined Average	Quality of Work	Responsiveness	Management of QCP
Facilities administration	3.4	3.6	3.4	3.2
Health care services	3.1	3.1	3.4	2.7
Employee development	3.0	2.8	3.3	3.1
Computer services	2.9	2.9	3.1	2.7
Commissary/inmate funds	2.9	2.6	3.6	2.4
Safety	2.9	2.9	3.0	2.7
Laundry	2.9	2.9	3.4	2.5
Inmate tel. service	2.7	2.5	3.4	2.1
Correctional services (security functions)	2.7	2.4	3.0	2.7
Educational services	2.4	2.4	2.6	2.3
Food service	2.4	2.2	2.7	2.4
Administration	2.3	2.4	2.6	2.0
Psychology services	2.2	2.3	2.4	1.9
H.R. management	2.1	2.1	2.0	2.1
Receiving & discharge	2.3	2.3	2.3	2.4
Mail room	2.1	2.1	2.3	2.0
Religious services	2.1	2.2	2.3	1.8
Record office	2.0	1.9	2.2	1.8
Correctional programs	1.5	1.3	2.0	1.2
Average ratings for all periods, all services	2.5	2.4	2.8	2.3

Notes: Five performance levels, from “unsatisfactory” to “outstanding,” in each category of service in each of ten semi-annual rating periods were scored from 0.0 to 5.0. Unsatisfactory=0, marginal=1, fair=2, good=3, excellent=4, outstanding=5.

Source: Computed from six-month summary reports, written by Bureau of Prisons’ monitors at Taft Correctional Institution.

Average ratings for the tenth through thirteenth semi-annual review periods, which fell between August 19, 2002 and March, 2004, are shown separately in Table 3.5. The process for rating performance had changed, as described above. The contractor’s performance in each of these fewer areas of service were rated by a single measure rather than according to three different dimensions of quality, unlike earlier practice.

Table 3.5

Monitors' Ratings of Services Performed at Taft Correctional Institution, August 2002—March 2004 (Average of Ratings for All Semi-Annual Periods)

Type Service	All-Services Average
Inmate systems	3.7
Inmate service	3.7
Education and recreation	3.7
Human resources	3.0
Religious services	3.0
Computer security and information systems	2.7
Correctional services (security functions)	2.7
Administration	2.5
Safety & environmental health/facilities	2.3
Correctional programs	2.3
Food service	2.0
Health services	1.7
Average ratings for all periods, all services	2.8

Notes: Five performance levels, from “unsatisfactory” to “superior” in each category of service in each of three semi-annual rating periods were scored from 0.0 to 5.0. At risk=0, deficient=1, acceptable=2, good=3, superior=4.

Source: Computed from Oversight Facility Summary Reports, written by Bureau of Prisons' monitors at Taft Correctional Institution.

Trends in Performance During the First Six and One-Half Years

These two snapshots, summarizing the five-year period and, separately, the subsequent eighteen month period, obscure the variation from one review period to another during this six and one half years. To represent these trends, averages in rated quality of work were computed for all service areas during each period. Averages were similarly computed for the ratings of contractor's responsiveness and, separately, for the contractor's management of its quality control processes. Trends in the monitors' ratings of these three dimensions of GEO's performance during the first five years is shown in Figure 3.4. The detailed ratings of specific services during the February-August, 2000 period were not available and could not be included. (The Performance Evaluation Board's memo summarized overall performance as “good” during this period, however.) After August 2002, monitors stopped distinguishing three different dimensions of performance and provided an overall rating, which is shown in the figure for the last three review periods.

In general, GEO's responsiveness had been rated most highly of the three dimensions of performance throughout the first five years. (As defined above, this includes the timeliness, effectiveness and appropriateness of responses to routine and unusual events, to changing service requirements, and to the Bureau's concerns.) Quality control had generally been rated as the weakest of the three. Trends

in several specific areas of service are discussed in more detail below, as well as ratings of GEO's quality control procedures, which cut across all areas of the contractor's services.

Figure 3.4

Monitors' Ratings of Performance Quality, Responsiveness, and Quality Control, Averaged for All Types of Services (August 1997 – 2002)



Sources: Bureau of Prisons, Performance Monitoring Reports, Six-Month Summaries.

Start-Up Difficulties

All parties to the contract—GEO's managers, the Bureau's monitors, contract officers, and award fee officers—agree that the first several months of operating the prison were difficult and that performance in a number of areas suffered. (The four months before the inmates began to be transferred to the prison went well.) This was GEO's largest prison contract to date, and its first prison in the federal system. Had the Bureau opened this facility, it would have first transferred all required senior staff and about half of all others from other federal prisons; the remaining staff would have been hired locally. This cohort of experienced Bureau staff would have facilitated a relatively seamless integration of this new prison into the federal system, with its distinctive rules, regulations, and procedures. GEO lacked this critical resource. Its experienced prison hands were recruited mostly from state correctional agencies, which operated quite differently than the federal Bureau of Prisons. GEO also committed itself to hiring a large number of people locally—about ninety percent of its staff—with the result that it began with a sizable proportion of "green" correctional staff. This decision was consistent in large measure with Congress's intent of locating this new prison in this particular region to create jobs. Although the contract required that GEO conform to federal prison procedures, rules and regulations, management and its new staff experienced a long learning curve.

Because Congress had established this as a test of privatization within the federal prison system, the Bureau elected not to provide assistance to GEO's managers and staff. This amounted to creating a

“sink or swim” situation for GEO. The monitors were the only federal prison staff who knew federal procedures well, but they sought to maintain their stance as monitors rather than active supervisors or trainers. Monitors expressed unhappiness in watching GEO’s staff create new systems that did not always work well and not being able to jump in and direct staff to set things up the “Bureau way.” This was probably especially difficult because these persons had been sent initially to Taft with the assignment of managing a new federal facility, and then had their jobs downgraded to be contract monitors. Even when performance may not have been considered technically out of compliance with the contract (because the contract gave GEO latitude in determining how it constituted its operations), procedures were not always consistent with the Bureau’s procedures and with what the monitors expected. Into the second year of the contract, GEO began hiring a number of retired Bureau staff to manage the facility, including a former Bureau warden, which speeded the process of creating systems that were more consistent with the Bureau’s requirements. Those in the Bureau who designed the contract for the Taft facility sought to give private firms discretion in how services would be organized, but to fit into the federal prison system, GEO had to “bureau-ize” its operations at this facility, as one GEO officer put it.

GEO’s overall performance during the first five years was rated lowest between August 2000 and February 2001 (Figure 3.2), when the Performance Evaluation Board rated it as only “fair.” The Board determined that GEO was responsive to contract requirements but that performance was deficient in a number of areas. Monitors and the Board reported that the GEO was not complying with proper procedures for clearing new employees, and that staffing levels in education and health services were low, “which may impact their performance.”⁸¹ Monitors also cited “repeat discrepancies” in victim witness notification procedures, inmates’ Financial Responsibility Program documentation, central inmate monitoring procedures, inmate work and performance pay, sex offender notification, among others. GEO would not have received any award fee for this period had the Bureau not singled out three areas of performance that were above and beyond contractual requirements and thereby deserving of some award fee (\$125,000). GEO’s response to these findings was to upgrade its performance so that monitors gave it higher ratings in the subsequent period, ending August, 2001 (Figure 3.4).

Contract Facility Monitor (CFM) Team Reviews

The first CFM team review at the Taft facility in December, 2002 identified one significant “finding” and 51 specific deficiencies. The significant deficiency was in the “lack of adequate monitoring and controls in the storage, issuance, proper identification, usage, and purchase of flammable, toxic, and caustic chemicals.” The monitors pointed out that this deficiency contributed to a serious inmate injury that occurred during the week of the review.⁸² Discovery of a deficiency in a particular functional area did not result in a more general finding of unacceptable performance, however. Indeed, of the twelve functional areas that were reviewed by the CFM team, four received a “good” rating (all had either none or only one deficiency noted); seven received “acceptable” ratings, despite being cited for various specific deficiencies; and one area (Safety and Environmental Health/Facilities) was declared to be deficient (with over a dozen deficiencies cited, in addition to the significant finding). Many of the deficiencies cited in Safety and Environmental Health/Facilities were evidence for the significant finding and were related to not performing weekly fire safety and

⁸¹ Conrad Lopez, *Memorandum for Dyan Griffin, Fee Determination Official* (April 2, 2001), p. 2.

⁸² Contract Facility Monitoring Final Report: December 2–5, 2002.

sanitation inspections, not training all inmates on use of protective gear, and problems with the Fire Safety Emergency Response plan and documentation of fire safety procedures.⁸³ The CFM returned in April 2002 to review the “significant finding” and determined that it had been remedied satisfactorily.

The CFM team conducted its second review in May 2003 and identified one significant finding and 33 deficiencies. The significant finding involved the “lack of clinical oversight in the management of patients with serious acute and/or chronic medical conditions [that has] led to a level of clinical care not commensurate with recognized medical standards,” placing patients at risk for “increased morbidity and mortality.”⁸⁴ Of the 33 deficiencies, five were repeats from the previous monitoring visit. Two of the recurring deficiencies were related to Food Service, i.e., potentially hazardous food not being cooled according to code and equipment used to prepare food not being cleaned or sanitized every 24 hours to prevent contamination. The other three recurring deficiencies were in Health Services and concerned inmates in chronic care clinics not always receiving follow-up monitoring, PPD positive inmates being improperly classified, and registered and licensed vocational nurses working outside their scope of practice.⁸⁵ Of the twelve functional areas that were reviewed by the CFM team, five received a “superior” rating (all had either none or only one deficiency noted); two received a “good” rating, which included the previously deficient Safety and Environmental Health/Facilities; four received an “acceptable” rating (despite having multiple deficiencies); and one area (Health Services) was declared to be deficient (with over a dozen deficiencies cited). In addition to the significant finding and the recurring deficiencies cited above, other deficiencies included medical records of prisoners in transit not being prepared in layman’s terms, problems with infirmary care services, and mental health treatment plans not being developed for patients on psychotropic medication, among others.⁸⁶

The CFM team conducted its third review in November 2003 and identified 17 deficiencies, and no serious findings. Of the 17 deficiencies, one was a repeat from the previous monitoring visit involving medical records of prisoners in transit not being prepared in layman’s terms.⁸⁷ Of the twelve functional areas that were reviewed by the CFM team, five received a “superior” rating (all had no deficiency noted); and the remaining six received a rating of “good,” including the previously deficient Health Services.⁸⁸

Despite the positive review, the on-site monitors downgraded three of the CFM team’s ratings in their six-month summary report. The monitors downgraded the Correctional Services performance from “good” to “acceptable,” because of an inmate escape after the CFM’s review that was attributed to weak inmate accountability and to security deficiencies, and for not following corrective action related to the escape, among other cited deficiencies.⁸⁹ The monitors also disputed the Food Service

⁸³ Ibid.

⁸⁴ Contract Facility Monitoring Final Report: May 12–16, 2003.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Contract Facility Monitoring Final Report: November 3–6, 2003.

⁸⁸ Reviewers only evaluated 11 areas, leaving out Administration.

⁸⁹ Oversight Facility Summary, Period: October 1, 2003–March 31, 2004.

rating, also downgrading it to “acceptable,” because of deficiencies in the area of sanitation and inmate complaints that Food Service ran out of scheduled menu items and had to substitute with other foods.⁹⁰ Lastly, the on-site monitors disputed the CFM team’s rating of Health Services as “good,” feeling that Health Services did not deserve a rating higher than “acceptable.” The monitors stated that the CFM review did not “encompass a clinical assessment of the department” and that a clinical follow-up “indicated that issues regarding delivery of quality health care continues to exist.”⁹¹ The monitors agreed with all other performance assessments.

Table 3.6

Monitors’ Ratings of Services Performed at Taft Correctional Institution, August 2002 – March 2004

Type Service	Combined Average	Period 11	Period 12	Period 13
Inmate Systems	3.7	3	4	4
Education and Recreation Programs	3.7	3	4	4
Inmate Services	3.7	3	4	4
Human Resources	3.0	2	4	3
Religious Services	3.0	3	2	4
Correctional Services	2.7	2	4	2
Computer Security and Information Systems	2.7	2	2	4
Administration	2.5	2	3	
Correctional Programs	2.3	2	2	3
Safety and Environmental Health/Facilities	2.3	1	3	3
Food Service	2.0	2	2	2
Health Services	1.7	2	1	2
Average ratings for all services	2.8	2.3	2.9	3.2

Notes: 0=at risk; 1=deficient; 2=acceptable; 3= good; 4=superior.

Source: Computed from six-month summary reports, written by Bureau of Prisons’ Contract Facility Monitoring (CFM) Team.

Performance Trends in Selected Areas of Service

A more detailed view of GEO’s performance (as reported by Bureau officials) is afforded by examining the ratings of each type of service delivered at the Taft facility. The nineteen service areas that were reviewed by contract monitors during the first five years were demarcated by the monitors in the quality assurance plan they created, which was derived from the contract’s statement of work and from a summary of the performance requirements that was attached to the statement of work.⁹²

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Contract between Bureau of Prisons and Wackenhut Corrections Corporation, effective July 30, 1997; “Statement of Work,” and Section J, Attachment C, “Performance Requirements Summary Table.”

Most of these service areas corresponded with performance objectives (“vital functions”) in the Bureau’s strategic management and quality control system for its own facilities.

Administration

During the first five years, monitors rated GEO for its performance in administering the prison. The 1998 quality assurance plan defined this performance objective broadly: “The contractor shall ensure that the institution is operating in a manner consistent with the mission of the BOP, as required by contract.”⁹³ A variety of more specific objectives were established, including compliance with the Services Contract Act, public posting of employment notices, availability of payroll records, compliance with subcontracting requirements of the FAR, and even extremely specific objectives such as “is the contractor submitting paper documents that are printed/copied double sided in recycled paper, as encouraged by FAR?”

When the Bureau standardized its contract facilities monitoring system in 2002, administration was more narrowly identified as the operation of the contractor’s quality control program. Prior to that, as discussed above, quality control had been assessed as an aspect of performance in *all* nineteen different service areas.

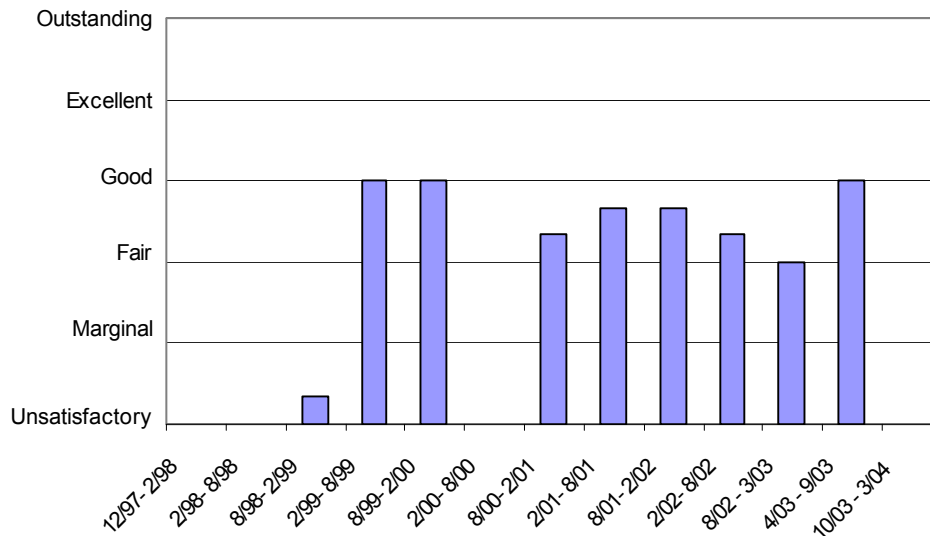
GEO’s administration of the prison was not rated in some review periods, and ratings data were not available during one. During the nine periods for which ratings of performance were available, GEO’s administration was rated as being in compliance with contractual requirements in all semi-annual periods except for one—the period between August 1998 and February, 1999, when it was rated as “unsatisfactory.” During this period, GEO was cited for not having an adequate quality control program and for repeated violations of the Privacy Act of 1974 and the Freedom of Information Act. The company argued that its files were not subject to disclosure under the FOIA and that it was willfully not in compliance, whereas the Bureau asserted that BOP records maintained by GEO (inmate central files and medical records) were legally subject to FOIA requests. Moreover, monitors reported that GEO was responding to requests for information about inmates without having always received the inmates’ consent beforehand.⁹⁴ These issues were worked out and GEO’s performance in the administration domain during the following period was rated as “good.”

⁹³ Bureau of Prisons, *Quality Assurance Plan*, section 1.0.

⁹⁴ Bureau of Prisons, Performance Monitor Report (August 20,1998-October 19, 1999).

Figure 3.5

Prison Administration: Contract Monitors' Assessment of GEO's Performance (August 1997–March 2004)



Note: This service area was not rated in all review periods.

Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Through the first five years, when monitors distinguished between three dimensions of performance in each functional area of service, GEO was rated most highly for the “responsiveness” of the administration, slightly less highly for the quality of its administrative work, and lowest for quality control (Table 3.3).

Quality Control

Management of quality control was not defined as a specific area of service in the Bureau’s 1998 quality assurance plan (QCP) and in the monitoring system. Rather, as described above, quality control was a dimension of performance used to evaluate all services. In all service areas, Bureau monitors assessed the effectiveness of the QCP in identifying problems and the extent to which GEO initiated service improvements rather than doing so after the Bureau’s monitors identified the problems. In the reorganization of monitoring in 2002, quality control was defined as a sub-area within administration, rather than a dimension of performance to be scored for all areas. For purposes of analysis, quality control can be considered a discrete service. Monitors’ rating of quality control in all areas of rated services were averaged in each of the review period to provide a single measure of GEO’s quality control during these periods. For the three semi-annual review periods following the 2002 reorganization of contract monitoring, the Performance Evaluation Board’s assessments of overall quality control performance were identified. The results are shown in Figure 3.6.

During the first review period, GEO's quality control was rated as "fair," although quality control was considered relevant only during the last two months of the period, when the facility had begun to receive prisoners. (During the first four months, GEO was preparing the facility for prisoners, and the Bureau did not require that it have an operational quality control program.) During the second review period, GEO's QCP received "unsatisfactory" or "marginal" ratings in eleven of the nineteen departments. This is because GEO had not yet implemented quality controls throughout all aspects of its operations. A BOP monitor assessing education services during the second evaluation period wrote, "The contractor's QCP is non-existent. The contractor has submitted no reports demonstrating an effective use of their QCP."⁹⁵ Assessing the QCP in the Records Office, a BOP monitor wrote, "The contractor's Quality Control Program (QCP) appears to be no more than responding to inspection and non-conformance reports submitted by the BOP."⁹⁶ Commenting upon GEO's performance in the area of correctional programs, one BOP monitor wrote:

The numerous and repetitive deficiencies identified during this evaluation period clearly indicate the absence of a Quality Control Program (QCP) and lack of oversight. Technical and management oversight of unit and case management staff (to ensure contract compliance with SOW requirements) [has] been non-existent. Deficiencies identified during this evaluation period, in addition to the contractor's unresponsiveness to reports issued by the Bureau of Prisons, is directly attributable to the lack of oversight. The contractor's Quality Control Program (QCP) is non-existent, and the contractor has submitted no reports demonstrating an effective use of their QCP.⁹⁷

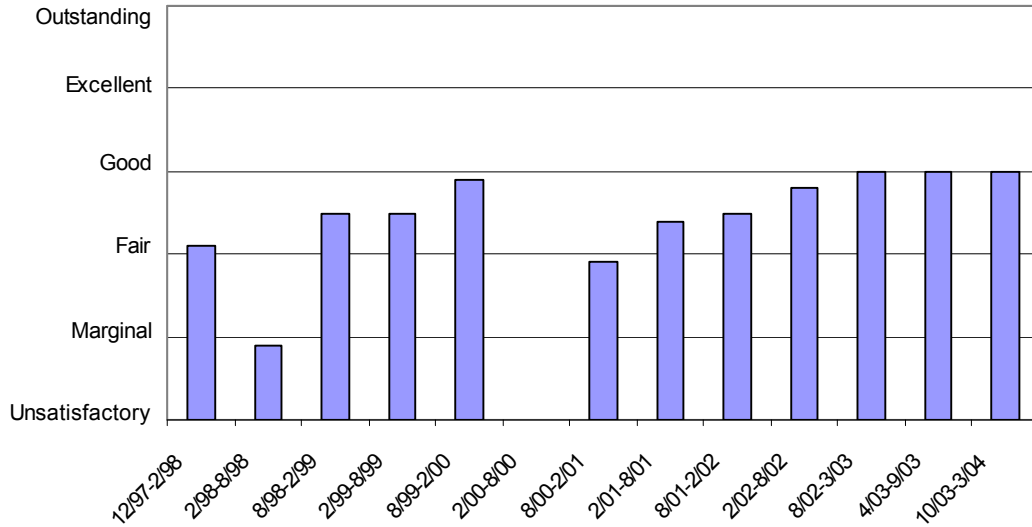
⁹⁵ Performance Monitor Report Six Month Summary, Period: February 20, 1998 to August 19, 1998.

⁹⁶ Ibid.

⁹⁷ Ibid.

Figure 3.6

**The Bureau’s Assessment of GEO’s Quality Control Systems
(August 1997–March 2004)**



Notes: Computed by averaging the ratings of quality control for all rates areas of service in each review period, prior to August, 2002. In three subsequent periods, Performance Evaluation Board’s assessment of overall quality control are used here.

Sources: Bureau of Prisons’ Six-Month Monitoring Summaries and memoranda for Performance Evaluation Board.

When departments received favorable ratings for quality control during the second evaluation period, BOP monitors commented that it was the efforts of those departments alone that earned the rating. Rating the correctional services department QCP as “good,” a monitor wrote that, “Correctional Services continues to monitor their department with the perpetual audit system established by the Chief of Security. This method of quality control continues to be effective.”⁹⁸ Giving the computer services department the same rating, a monitor wrote, “The computer services department is utilizing the self-assessment as their Quality Control Program (QCP). The department has submitted no report demonstrating the use of their QCP during this period.”⁹⁹ Then, when a department’s QCP was effective, it was reportedly due to the efforts of individual department heads, not a facility-wide quality control program.

During the first half of the second year of the contract, Bureau monitors rated the QCP much higher. Service areas that improved most noticeably were education services, health care services, receiving and discharge, mailroom, commissary/inmate funds, laundry, and inmate telephone services. Health care services improved the most—jumping from an “unsatisfactory” rating for the second review

⁹⁸ Ibid.

⁹⁹ Ibid.

period to an “excellent” rating for the third period. The Bureau monitor stated that during the second period, the QCP was non-existent in the health care services department.¹⁰⁰ However, during the third evaluation period, the monitor praised the QCP in this department and wrote, “The contractor’s effective administration of their QCP directly attributes to their achieving contract compliance and JCAHO accreditation.”¹⁰¹

However, quality control reportedly remained deficient in the administration, records office, correctional services, and corrections programs departments. The BOP monitor who assessed the correctional services department during this period noted that although the contractor had exercised its QCP, the administration of the plan in this department was ineffective. “It appears that supervisors are reluctant to identify and report deficiencies to their department head.”¹⁰² However, the monitor added that, “Once the deficiency is identified by the BOP or [GEO] staff, management is quick to respond with the action necessary to comply.”¹⁰³ A Bureau monitor also noted that the correctional programs department’s administration of the QCP also continued to be ineffective. The monitor stated that, “The contractor’s failure to effectively administer their QCP directly attributes to deductions taken in correctional programs and to the contractor’s inability to achieve contract compliance in correctional programs.”¹⁰⁴

GEO continued to develop its quality control procedures and in 1999 received its ISO 9002 registration.¹⁰⁵ This credential, issued by the International Organization for Standardization, certifies that the Taft Correctional Institution meets “international standards in the structure and implementation of its QCP.” Registration audits are performed every two years to maintain the credential.¹⁰⁶ In this year, GEO also created the position of Assistant Warden for Quality Control and Contract Compliance.¹⁰⁷ During the second the third year of the contract, monitors continued to rate quality control as generally on par with other dimensions of performance (Figure 3.4).

Monitors assessed quality control as slipping during the August 2000–February 2001 period. In four departments (correctional programs, human resources, food service, and safety), performance was rated “marginal.” Laundry, receiving and discharge, and employee development were rated “good” while the rest of the departments received the rating of only “fair.” In the correctional programs department, it was noted that the contractor continued to focus on the same remedies that had already proven to be unsuccessful. In the comments for the human resources department and the safety departments, the auditor noted that the departments did not provide a QCP report for the entire first half of the reviewing period. In the food service department the QCP process was not completed during the rating period. In subsequent periods (February 2001–August 2002), GEO’s quality control

¹⁰⁰ Performance Monitor Report Six-Month Summary, Period: February 20, 1998 to August 19, 1998.

¹⁰¹ Performance Monitor Report Six-Month Summary, Period: August 20, 1998 to February 19, 1999.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Taft Correctional Institution Self Assessment Report, p. 5, August 25, 1999.

¹⁰⁶ Taft Correctional Institution Self Assessment Report, p. 13, February 26, 1999.

¹⁰⁷ Taft Correctional Institution Self-Assessment Report, p. 5, August 25, 1999.

was rated as having improved, on average, and was considered at the same level as other dimensions of service (Figure 3.4).

During the six months following the reorganization of the Bureau's monitoring procedures in August, 2002, monitors wrote that GEO's quality control program "continues to evolve into a positive management tool." "The Quality Control Program has finally reached the point where the contractor staff is comfortable with identifying areas within their own department which do not meet contractual requirements." But, they reported, the program is not yet "evolved enough to ensure [that] contractor staff self-identify all areas of concern." During this period, GEO staff had identified 113 deficiencies, but missed some that monitors and the CFM spotted.¹⁰⁸ Overall, however, monitors rated quality control during this period as being "good."

During the last review period examined here (October 2003 through March 2004), monitors continued to view GEO's quality control program as being "good," but with some persisting shortcomings. GEO revised its quality control plan in the fall of 2003, so that a team of GEO staff conduct performance audits in eighteen different functional areas of service, resulting in 118 different reports during one quality control cycle. The team is trained to identify deficiencies, to implement corrective action, and to create and implement internal controls to ensure continuing compliance. The monitors identified recurrences of identified and corrected deficiencies in some areas, which indicated slippage in the quality control program. Monitors attributed this to lack of training, high staff turnover, and the inability of the corrective actions to resolve the deficiencies.¹⁰⁹

Human Resource Management and Employee Development

In its 1998 quality assurance plan that was used during the first five years to evaluate GEO's performance, the performance objective for human resource management is to "review the contractor's staffing guidelines and procedures to determine if adequate staffing levels are being maintained. Also, verify that approvals are obtained."

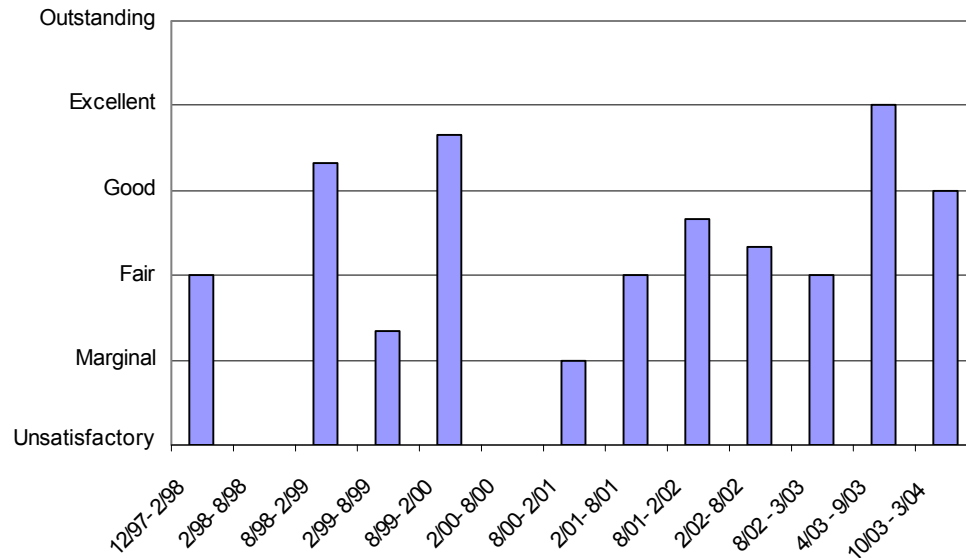
GEO had specified in its proposal the staffing that it planned to use, and this staffing plan and staff levels became established as a contractual requirement. Monitors tracked staffing levels to be sure that they were within acceptable ranges. The Bureau's 1998 quality assurance plan also directed monitors' attention to other specific performance objectives. These included determining if the contractor met all personnel hiring requirements, that all requirements for investigating candidates were met, and that all other essential personnel requirements are met. The contractor's performance regarding employee training and career development was also evaluated separately as a distinct functional area of service. These human resources management tasks were considered by the Bureau to constitute 10 percent of the total value of the contract.

¹⁰⁸ Oversight Facility Summary Report, April 11, 2003.

¹⁰⁹ Oversight Facility Summary Report, April 6, 2004.

Figure 3.7

Human Resources Management: Contract Monitors' Assessments of GEO's Performance (August 1997–March 2004)



Notes: Data were missing for February–August 2000 period; ratings were not provided for the February–August 1998 period.

Sources: Bureau of Prisons Semi-annual Contract Monitoring Summaries and Oversight Facility Summary Reports.

GEO's performance in human resources management has been rated quite differently through the six a half years examined here. In period three, for example, monitors rated the work quality of this department as "excellent," a significant improvement from the first evaluation period where the department received a "fair" rating.¹¹⁰ However, monitors gave human resources management a "marginal" rating for the fourth evaluation period. The Bureau issued a Non-Conformance Report to GEO for discrepancies found in the employee background checks. These included:

- lack of proof of employment for the previous five years;
- lack of verification of education;
- residences not checked by sources other than credit check;
- lack of source documents such as employment applications;
- lack of proof of citizenship;
- lack of personal interviews;

¹¹⁰ The rating for the Human Resources Management department for the second evaluation period was not provided.

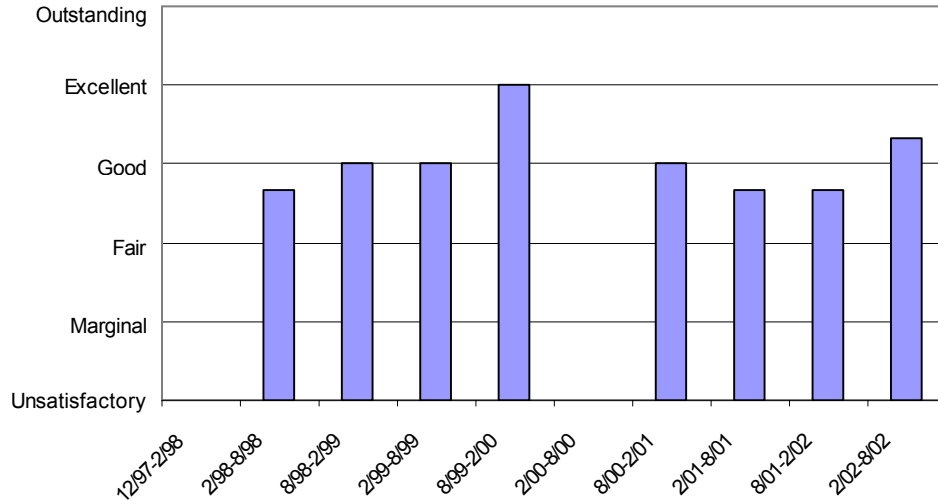
- lack of proof of law enforcement checks over last five years; and not asking law enforcement questions.¹¹¹

Bureau monitors also reported that the contractor was not meeting time requirements for processing background certifications. As of June 11, 1999, 114 background checks had exceeded the 180-day investigation time limit.¹¹² A rating was not provided for the fifth evaluation period. In the seventh period, the human resources department was rated “marginal.” It was noted that employees were not following steps in the hiring process, and there were some problems addressing outstanding financial debts for new hires. GEO, in its self-assessment report, recognized its shortcomings, made changes in its staffing of this function, and added extra auditing steps to certify its employees.¹¹³ In period eight, staffing levels were cited as a significant problem, though the department improved slightly to earn a “fair” rating. GEO was rated as performing better in subsequent periods, although monitors reported some episodic difficulties with staffing levels and in new hire screening processes.

Monitors rated GEO’s performance in employee training and career development as consistently good and even excellent during some periods (Figure 3.8).

Figure 3.8

Employee Development Ratings: Contract Monitors’ Assessments of GEO’s Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

¹¹¹ Non-Conformance Report Number 037, June 11, 1999.

¹¹² Ibid.

¹¹³ Wackenhut Corrections Corporation, “Self-Assessment Performance Evaluation, August 20, 2000 through February 19, 2001,” p. 7.

Security, Control, and Inmate Accountability

This is considered to be the single most important service to be delivered to the Bureau, and is defined by contract being worth 20 percent of total contract value.¹¹⁴ The specific performance requirements include:

- Provide a safe and secure environment for staff and inmates through effective communication of operational concerns. This includes verbal and written instructions, post orders, institution supplements, information dissemination, training and crisis prevention.
- Gather intelligence information related to security concerns for dissemination to appropriate contractor and Federal Bureau of Prisons staff.
- Provide an adequate security inspection system to meet the needs of the institution.
- Maintain an adequate level of emergency readiness to respond to institution emergencies.
- Maintain a level of occurrence for the following listed incidents at, or below, the average rate of occurrence at other BOP facilities of the same security level. The minimum security and low security institutions will be measured separately.¹¹⁵
 - Assaults without weapons on staff
 - Assaults without weapons on other inmates Assaults with weapons on staff
 - Assaults with weapons on other inmates Homicides
 - Suicides
 - Escapes.¹¹⁶

The Bureau's 1998 quality assurance plan translates these requirements into 20 pages of more specific requirements and items to be inspected. These cover all aspects of security, including perimeter security, drug surveillance, inmate discipline, use of force against inmates, inmate visiting, entry/exit procedures, contraband, management of the institution's armory, inmate counts, special housing, prisoner transportation, airlift procedures, inmate searches, responses to emergencies, intelligence gathering, key and tool control, among others.

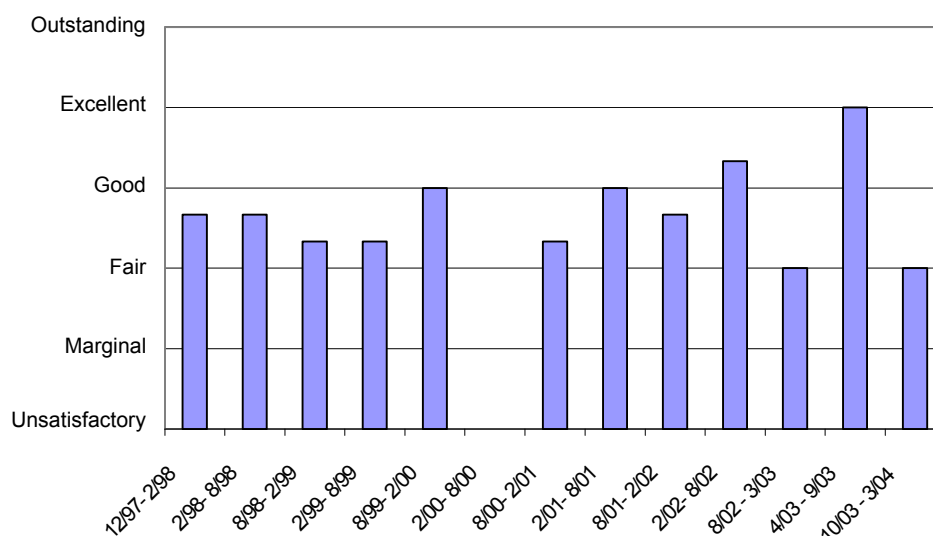
¹¹⁴ Contract, Section J, Attachment C.

¹¹⁵ GEO was not given access to the Bureau's performance indicator system, which tracks incidents at all federal prisons, and could not, therefore, monitor its performance against this baseline.

¹¹⁶ Ibid.

Figure 3.9

Security, Control and Inmate Accountability: Contract Monitors' Assessments of GEO's Performance (August 1997–March 2004)



Notes: Data were missing for February-August 2000 period.

Sources: Bureau of Prisons Semi-Annual Contract Monitoring Summaries and Oversight Facility Summary Reports.

Throughout the six and a half years, GEO's performance has been rated as being in compliance with the contract, generally ranging between "fair" and "good." The exception occurred in the period ending September 2003, when GEO's overall performance in this area was rated as being "superior."

There have been two serious breaches of security and control, however. During the August 1998–February 1999 period, an inmate escaped by walking out of the facility from the institution's visiting room. The monitors noted that

visiting room policy established by [the contractor] was adequate and provided the necessary guidance to prevent the escape. It was determined that [the contractor] failed to ensure that supervision was provided to the visiting room staff. This observation was corrected by roster adjustments and training.¹¹⁷

Another escape occurred in December, 2003, when an inmate evaded perimeter controls by hiding inside a trash compactor. (He was captured in the nearby community later that day.) Monitors reported that the contractor had, in the prior review period, eliminated the afternoon census count "which decreased inmate accountability." Moreover, "the contractor failed to implement appropriate security controls and inmate accountability, which contributed to the escape." Escapes from federal

¹¹⁷ Bureau of Prisons, "Performance Monitor Report, August 20, 1998–February 19, 1999."

prisons are rare events. Despite this, the Bureau rated its correctional services functions for the period as a whole as “good.”¹¹⁸

Inmate Admission, Classification, and Transfer

Of equal importance, from the Bureau’s point of view, is the cluster of services associated with processing inmates in and out of the Taft Correctional Institution. (These services combined were considered 20 percent of the total value of the contract to the Bureau.) The contract identifies performance requirements for these services (“vital functions”), as well as the specific objectives to be accomplished.¹¹⁹ The Bureau’s 1998 quality assurance plan sorted these various requirements according to three broad functional areas, or departments—*receiving and discharge, records, and mail management*. Each of these areas were monitored, scored, and reported separately. When monitoring procedures were changed in 2002, these three functions were no longer rated separately. Instead, a rating was given for performance of all functions combined.

The activities and requirements associated with each of the three component functions included the following:

Receiving and Discharge

- Identify inmates and review paperwork for proper commitment or release. Determine that property and inmates are thoroughly searched for contraband. All inmate property is properly inventoried and stored in a secure area not accessible to inmates and unauthorized staff.
- The appropriate review authority is clearing the movement activities of those identified under one or more assignments in the CIM System.
- The intake screening process includes thorough interviews, documentation is complete and decisions by staff performing intake procedures are appropriate.
- The procedures used to determine policy and guidelines are being applied appropriately in the areas of inmate program reviews and Security Designations and Custody Classification.
- Evaluate the needs of the inmate population and provide a wide range of programs which encourage purposeful participation and promote opportunities for self-improvement. Programs are accessible to the inmate population, program availability is effectively communicated and perpetual evaluation of program formulation, attendance, and productivity occur.
- Ensure that inmates are screened for mental health problems and appropriate intervention is implemented.
- Ensure that potentially suicidal inmates are properly identified and treated.
- Provide necessary management of community resources to determine qualifications, adequacy, appropriateness and equitableness in meeting needs of inmate population.

Records

- *Sentence Computations*. Determine the accurate computation of all sentences. All inmates are released on the correct release date.

¹¹⁸ Bureau of Prisons, “Oversight Facility Summary Report,” (October 1, 2003–March 31, 2004), p. 2.

¹¹⁹ Contract, Section J, Attachment C.

- *Detainers/IAD/Writs.* The appropriate execution, processing and verification of IAD documents and detainers are performed. Special care will be given to identifying the inmate to be released and the authorized receiving law enforcement agents.
- The identity and location of those inmates whose security requires confidentiality is not released to those not authorized to receive that information.
- Maintains appropriate operational and security requirements applicable to all computer equipment and services.

Mail Management

- Mail service is provided to inmates and staff alike. This includes the timely processing, accountability, and proper handling of special mail including inmate funds. Special care is given to the detection of contraband and prohibited acts.

During the first five years, monitors rated GEO's performance in these three functional areas as meeting the requirements of the contract. The most common rating for all three functional areas, and for the three dimensions of rated performance (quality of work, responsiveness, and quality control) was "fair." In some review periods, performance in some areas and dimensions were rated as "good" or, less often, as "excellent," along with a few "marginal" performance ratings in the early years. After the monitoring procedures were changed and the CFM team began auditing GEO's performance, the combined ratings for all of these related functions improved:

<u>Review Period</u>	<u>Performance Rating</u>
August 20, 2002–March 30, 2003	Good
April–September, 2003	Superior
October, 2003–March, 2004	Superior

Rated Performance of the Records Office

In the monitors' eyes, the weakest area of GEO's performance in this area was the records office during the first three and a half years. Perhaps the most critical activity in this office is the computation of the inmates' sentences. This is often a complicated matter, as inmates receive credits for time served in detention prior to being committed (or recommitted) to federal prison, for "good time" awards, among other arcane and not always well documented issues. (Records from local jails may not always be readily understood if prisoners come in an out of detention while awaiting trial or afterwards.) Indeed, this function is often not delegated to private imprisonment firms by state and local correctional authorities because the risks of errors in release dates are substantial. The Bureau's choice was to delegate this function and to monitor performance closely. (One of the contract monitors assigned to the Taft facility was an inmates records specialist, who had initially been sent to Taft to manage its records office.)

When federal inmates are transferred from one prison to another, the receiving institution is required to review, verify, and update records, including computations of sentences. During the first years of the contract, monitors identified errors and delays in processing these sentence computations, including tardy calculation of release dates, missing or incomplete documentation, incorrect processing of fingerprint cards and incorrect dates on ensuing release lists. Of the first 49 Non-

Conformance reports issued by BOP monitors, eight were for incorrect dates on ensuing release lists and one was for tardy processing of an ensuing release list. As of March 2, 2000, incorrect information on ensuing release lists had cost GEO \$97,500 in BOP payment deductions.¹²⁰

GEO's early difficulties stemmed from not having records managers who were experienced in working with federal prisoner records. None had ever worked in the federal system. The on-site monitor, who had long experience managing inmate records systems in the Bureau, was charged with monitoring but not training GEO's staff. This resulted in a great deal of tension between monitors and GEO's staff. In its self-assessment report submitted for the semi-annual period ending August, 2001, GEO addressed its difficulties:

The contractor is within the requirements of the contract. The contractor is unable to secure the services of a qualified ISM [inmate systems manager] and has requested a waiver for a records office manager. The contractor in four years of this contract has had an ISM who met the minimum requirements for approximately eight months. The contractor continues to assure the Bureau that they are actively recruiting for an ISM.¹²¹

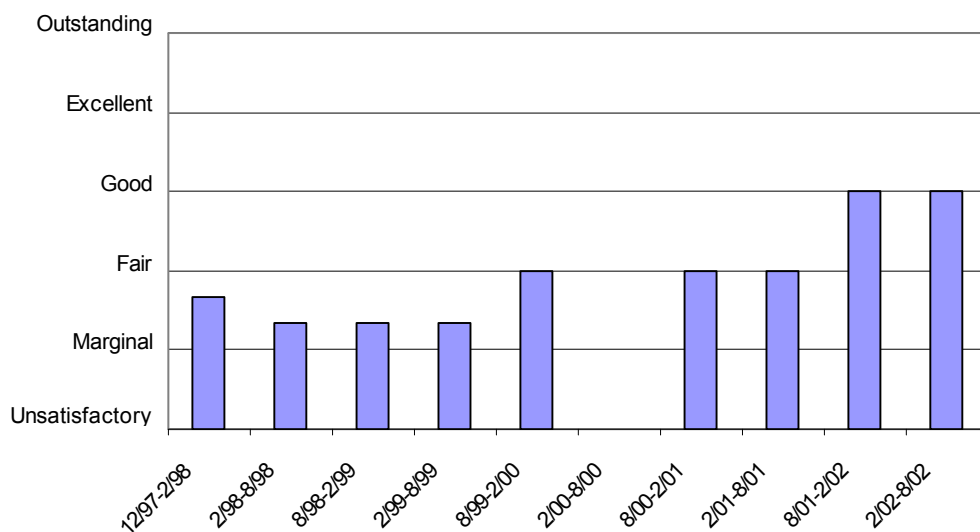
GEO also contested the deductions against its fee for identified errors in records management (to no avail.) It argued that the Bureau was holding it to a 100 percent error-free standard while no other federal prisons were expected to perform at this level. Indeed, GEO conducted a study of a sample of records for prisoners who had been transferred to Taft and found a significant proportion of them had errors in their sentence computations. The Bureau's contract with GEO did not establish an acceptable error rate for these activities, however, but instead a requirement that these services be provided.

¹²⁰ Wackenhut Corrections Corporation, Fifth Self Assessment Report, Attachment F, August 20, 1999 to February 19, 2000.

¹²¹ Wackenhut Corrections Corporation, "Self-Assessment Performance Report, February 20, 2001 through August 19, 2001," p. 29.

Figure 3.10

Records Office Ratings: Contract Monitors' Assessments of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

In April 2000, a team of Bureau officials reviewed the performance of the contract monitors at Taft and they recognized—at least implicitly—the validity of some of GEO’s objections. One member of the review team “expressed concern over the number of deductions taking place with regard to sentence computations. He feels that these deductions are over relatively minor issues....”¹²² Another team member stated that [d]eductions appear to be frequent and for relatively minor infractions; over and above what we hold Bureau of Prisons staff accountable.”¹²³

Monitors’ ratings of records office performance finally rose to “good” during the twelve months ending August, 2002, with which the CFM concurred in its December, 2002 audit. The subsequent CFM audits found GEO’s records office to be performing well (thereby contributing to the “superior” performance rating that inmates systems functions received during the year between April, 2003 and March, 2004).

Rating GEO’s Receiving and Discharge Activities

During the first eight months of operation at the Taft facility, GEO received prisoners transferred from other federal facilities, and the monitors rated their performance in managing these functions as

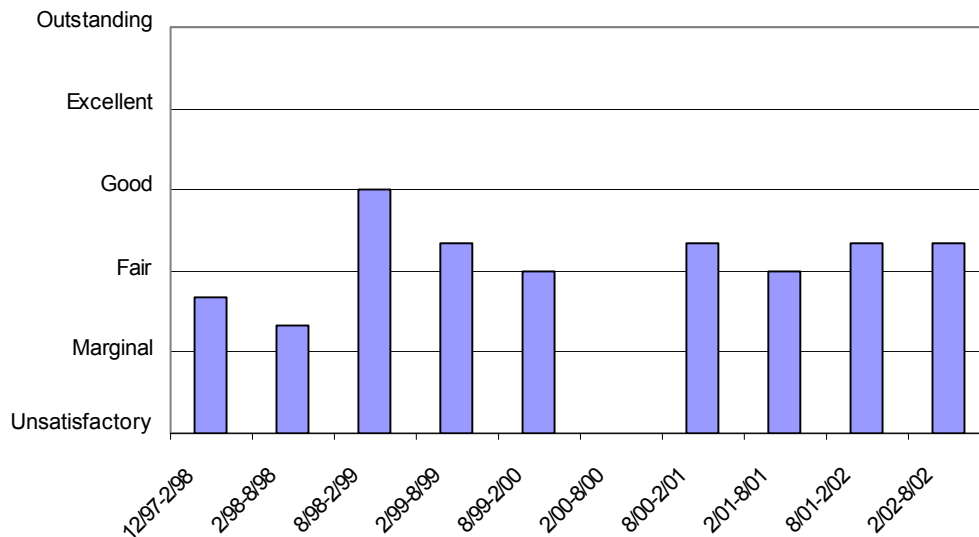
¹²² Program Review Division, “Summary Indicators,” undated.

¹²³ Ibid.

“marginal” or “fair” during the first two months of operation, depending upon the particular dimension of performance being rated. In subsequent periods, GEO’s performance was rated “fair” or “good,” complying with contract requirements.

Figure 3.11

Receiving/Discharge Ratings: Contract Monitors’ Assessments of GEO’s Performance (August 1997–August 2002)



Sources: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Mail

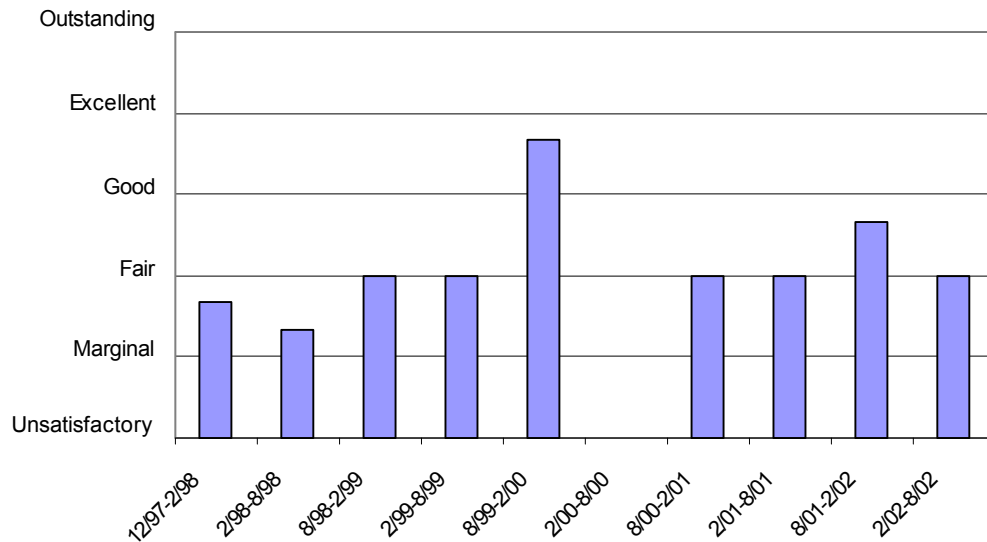
Managing prisoners’ mail is a critical function with respect both to security and prisoners’ rights. Mail coming to prisoners can be a source of contraband and all incoming items must be checked. Federal courts have also established that prisoners cannot be isolated from authorized correspondents, and that they have constitutionally protected rights to communicate with their attorneys.

GEO’s performance in managing inmates’ mail got off to a rough start in the early months (earning a “marginal” for quality of work during the first few months of operation). Early on, the Bureau expressed concerns about the contractor’s tardiness and delivery method of inmates’ special/legal mail.¹²⁴ GEO’s performance improved and in nearly all subsequent periods, GEO’s mail management was rated as “fair.” Monitors continued to identify shortcomings in various aspects, but GEO improved its operations by making changes in procedures.

¹²⁴ Special and legal mail must be delivered within 24 hours. Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

Figure 3.12

Mail Room Ratings: Contract Monitors' Assessments of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

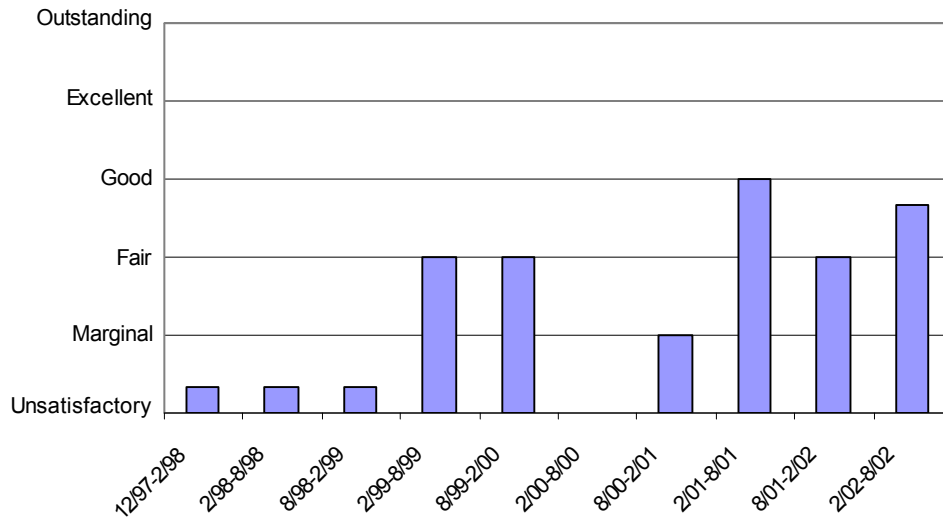
Correctional Programs/Inmate Case Management

In addition to responsibilities for processing prisoners in and out of the facilities, the Bureau's 1998 quality assurance plan identified a number of other inmate processing activities, which were monitored as a distinct cluster (which was termed "correctional programs," or "case management"). These included:

- Pre-arrival screening ("Objective: ensure staff are assessing the appropriateness of designations prior to the inmate's arrival"),
- Intake screening ("ensure thorough interviews are conducted, documentation is complete, and decisions are appropriate"),
- Admissions and orientation program ("review the institution and unit admissions and orientation programs to ensure that inmates are properly oriented to the institution and their assigned unit"),
- Inmate classification ("ensure inmates are being appropriately classified in accordance with policy, to include proper processing of inmates eligible for Treaty Transfer"), and
- Judicial inquiries, program recommendations, and Congressional responses ("determine if adequate controls exist to respond to judicial inquiries, program recommendations, and congressional correspondence to ensure a positive relationship is maintained with all levels of the Federal Judiciary, and that all inquiries are responded to in a timely manner").

Figure 3.13

Correctional Programs: Contract Monitors' Assessments of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

GEO's performance of these tasks in during the first fifteen months was poor, according to the monitors. The quality of work performed and the contractor's quality control procedures were rated "unsatisfactory," and the contractor's responsiveness to the monitors' and the Bureau's requests was only slightly better ("marginal"). Indeed, during the second valuation period, BOP monitors termed the contractor's quality of work in this area as "at risk."

Even though the contractor's responses to reports issued by the BOP are timely, the effectiveness and appropriateness of the responses are not. The contractor's responses to non-conformance and inspection reports have consistently been returned due to the contractor's failure to demonstrate corrective action taken and failure to identify what internal controls have been implemented to ensure compliance.¹²⁵

During the first evaluation period, BOP monitors identified discrepancies in several areas within the correctional programs department: inmate central files, classification and program review of inmates, Inmate Financial Responsibility Program (IFRP)/Cost of Incarceration Fee (COIF), Freedom of Information Act, Privacy Act, and SENTRY Data.¹²⁶ GEO reportedly continued to have problems in

¹²⁵ Performance Monitor Report Six Month Summary, Period: February 20, 1998 to August 19, 1998.

¹²⁶ Performance Monitor Report Six Month Summary, Period: August 20, 1997 to February 19, 1998.

many of these areas during the third evaluation period. Additionally, during this period, BOP monitors pointed out problems in security designation and custody classification, pre-arrival screening, intake screening, the admission and orientation program, judicial recommendations and congressional inquiries. During the third evaluation period, BOP monitors recommended deductions for five major deficiencies with respect to work quality in the correctional programs department. These included:

- Admission and Orientation Program – \$35,000.¹²⁷

The contractor failed to develop lectures and lesson plans that covered all required subject areas.¹²⁸

- Inmate Financial Responsibility Program – \$23,000.¹²⁹

In a non-conformance report issued in August of 1998, a BOP monitor identified several deficiencies in the Inmate Financial Responsibility Program (IFRP). IFRP mandates that inmates establish a payment plan to meet legitimate financial obligations in accordance with 28 CFR 505 and 545.10. Prison administrators did not identify all prisoners who were liable for these obligations.¹³⁰ Other problems included failure to take mandatory deductions out of inmates' UNICOR pay as well as insufficient documentation of inmate consent and compliance with the IFRP.¹³¹

- Community Protection and Release Paperwork – \$110,000¹³²

The contract requires the contractor to comply with the Violent Crime Control and Law Enforcement Act of 1994.¹³³ This law requires correctional facilities to inform violent and/or drug abuse offenders of local treatment programs upon release. It also requires correctional facilities to notify proper authorities of these inmates' release. According to BOP monitors, GEO did not properly notify inmates of local treatment facilities, and local authorities were not properly notified of the release of violent and/or drug abuse offenders in their communities.¹³⁴ A review of central files of released inmates revealed improperly processed Supervised Release Plans and transfer paperwork and failures to document release gratuities ("gate money") adequately.¹³⁵

- Congressional Inquiries/Privacy Act of 1974 – \$50,000.¹³⁶

¹²⁷ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹²⁸ Non-Conformance Report Number: 98-025-PGM, October 14, 1998.

¹²⁹ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹³⁰ Non-Conformance Report Number: 98-021-PGM, August 10, 1998.

¹³¹ Ibid.

¹³² Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹³³ Taft Contract Statement of Work, p. 30.

¹³⁴ Non-Conformance Report Number: 99-030-PGM, January 20, 1999.

¹³⁵ Ibid.

¹³⁶ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

Correctional facilities receive congressional inquiries from time to time. Responses to these inquiries may include information about inmates protected by the Privacy Act of 1974. To disclose this information legally, correctional facilities must obtain the consent of inmates. Correctional facilities may keep congressional correspondence in inmates' files which, if maintained properly, will also include documentation of the inmates' implied consent to release protected information. Otherwise, an inmate must provide consent by signing a Release of Information Consent Form. Upon reviewing the central inmate files, BOP monitors discovered these that packets were not in the files of inmates and that there were no Release of Information Consent forms on file. BOP monitors reported these observations in October of 1998¹³⁷ and March of 1999.¹³⁸

- Congressional Inquiries – \$20,000.¹³⁹

GEO failed to respond in a timely manner to several congressional inquiries regarding individual inmates. The contract requires that the contractor respond within 30 days. In a Non-Conformance Report dated October 16, 1998, a BOP monitor noted that GEO did not respond to 45 percent of congressional inquiries reviewed.¹⁴⁰ Furthermore, several inmate files were missing the required documentation of congressional inquiries and responses to those inquiries.

GEO's work quality in the corrections programs department improved over the fourth and fifth evaluation periods where it received a "fair" rating each period. During these evaluation periods, BOP monitors noted concerns in many of the same areas mentioned above, but those concerns were not as serious as those expressed in previous reports.¹⁴¹ In the seventh review period, the quality of work in the corrections programs department was rated as "marginal." The monitors reported that although the contractor recognized many areas of nonconformance, no remedial action was being taken. However, in period eight, the contractor improved. The monitors reported that most discrepancies and nonconformance issues were discovered by GEO's Quality Control Program and the overall number of discrepancies decreased. This earned GEO as a rating of "good" in this area of responsibility. In period nine it was noted that improvement was continuing, in terms of contractor accountability, though at a slower rate than it had during period eight. In period ten the department was rated as "fair" and a number of problems were noted.

Facilities Maintenance and Repair

Because the federal government owns the facility, the contract imposes upon GEO the obligation of maintaining the government's capital investment. The value to the Bureau of meeting these requirements is defined as 15 percent of the total value of services delivered by GEO. The contractual performance requirements associated with this obligation include the following:

¹³⁷ Non-Conformance Report Number: 98-026-PGM, October 16, 1998.

¹³⁸ Non-Conformance Report Number: 98-032-PGM, March 3, 1999.

¹³⁹ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹⁴⁰ Non-Conformance Report Number: 98-026-PGM, October 16, 1998.

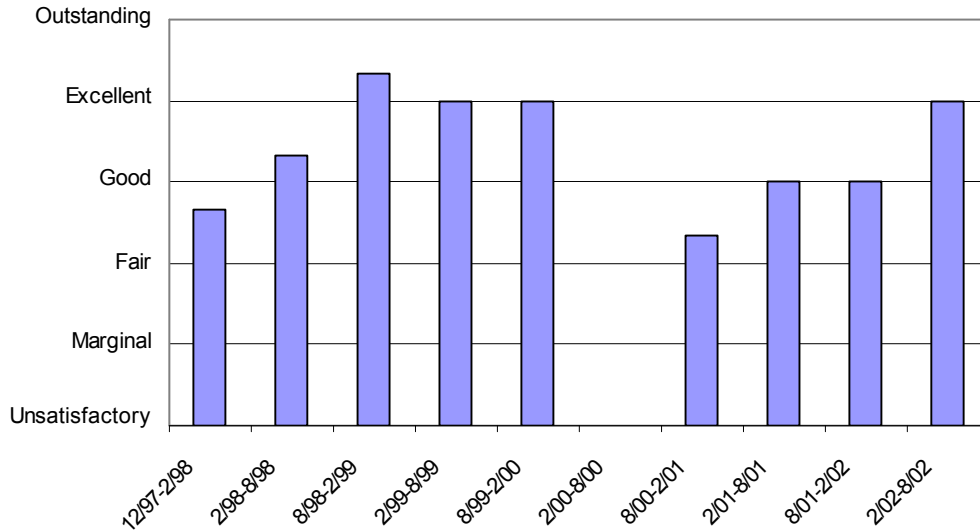
¹⁴¹ Ibid.

- The process used to gather, file and retrieve information required for efficient operation and management of the facility is in compliance with contract requirements.
- The preventative maintenance program ensures that appropriate equipment has been identified, is incorporated into the maintenance program and work has been completed as scheduled and required in compliance with contract requirements.
- The periodic inspections requirements of the facility and all equipment have been identified, documented, and acted upon and adequate controls are in place which ensure that all inspections are conducted.

This requirement was considered a discrete area of service to be monitored and reported upon during the first five years, and throughout this period, GEO's performance in its stewardship of federal property was highly rated (Figure 3.14).

Figure 3.14

Facilities Maintenance and Repair: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

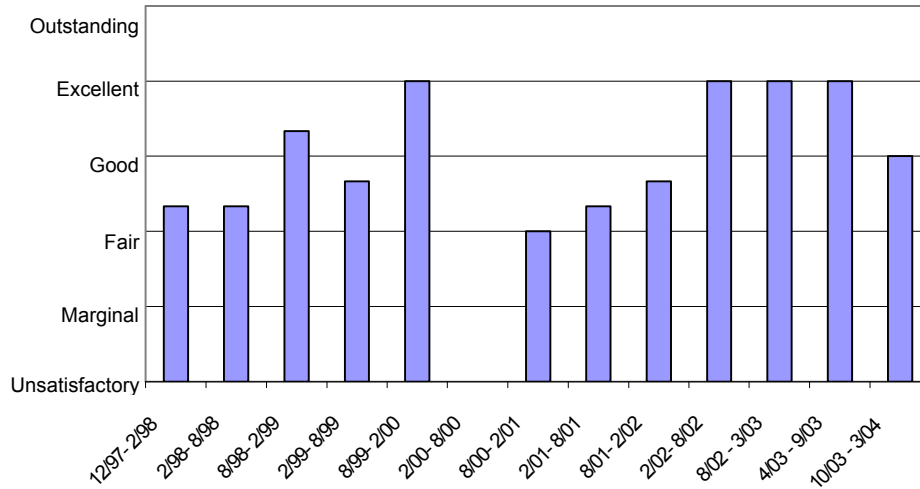
Safety

Prisons are subject to a variety of workplace safety and environmental protection regulations and laws, and Bureau's contract with GEO established these obligations. The 1998 quality assurance plan developed by the monitors identifies specific performance objectives for inspections, training in OSHA and other contract requirements, management of workmans compensation and OSHA claims, occupational safety regulations, management of hazardous materials, compliance with all federal, state, and local environmental laws and regulations, compliance with the 1990 Clean Air Act, the Resource and Recovery Act (pertaining to underground storage tanks), water standards, as well as various life safety and fire protection requirements. The contract also required GEO to implement an plan to mitigate environmental damage or hazards to endangered species resulting from the prison's operation (which even included notifying federal and state authorities upon finding dead San Joaquin Kit Foxes or Blunt Nosed Lizards).

Through the six and a half year period, GEO has performed at levels above contract compliance and often well above that (Figure 3.15).

Figure 3.15

Safety Ratings: Contract Monitors' Assessments of GEO's Performance (August 1997–March 2004)



Notes: During the last three review periods, monitors did not always provide a summary rating that used the precise adjective descriptions established in the ratings schemes. In the period ending March, 2003, for example, on-site monitors referred to performance as “exemplary,” which we have coded as “excellent.” During the subsequent two periods, on-site monitors did not offer summary ratings but instead reported the findings of the Contract Facility Monitoring Team’s audits.

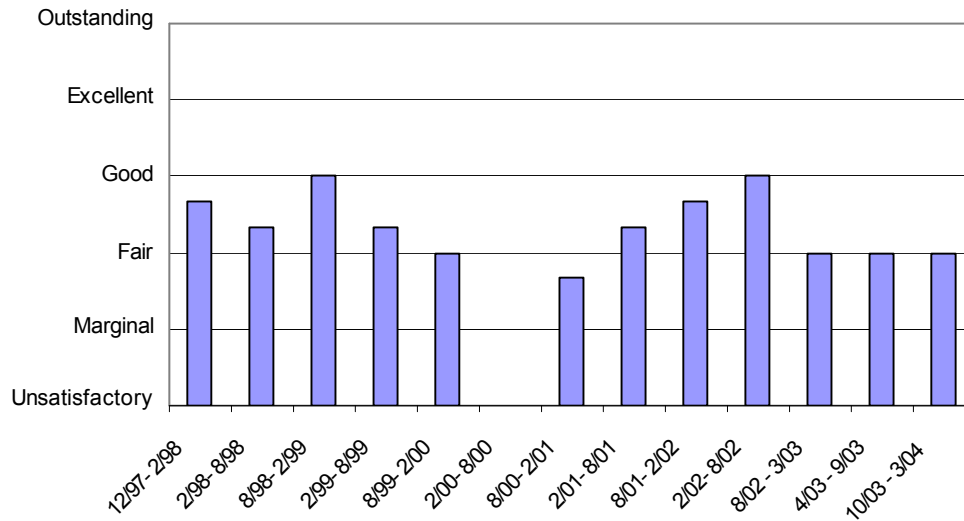
Sources: Bureau of Prisons Semi-annual Contract Monitoring Summaries and Oversight Facility Summary Reports.

Food Services

Throughout the six and a half years, monitors’ ratings of food services at the Taft facility have ranged between “fair” and “good” (Figure 3.16).

Figure 3.16

Food Service Ratings: Contract Monitors' Assessments of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Healthcare Services

Standards for care in American prisons have changed dramatically during the past thirty years, a consequence of both the federal courts' expansion of inmates' constitutional rights and of the corrections profession's progress in establishing national standards for prisons and jails. The contract requires GEO to have the Taft Correctional Institution certified as complying with standards promulgated by the American Correctional Association and to have the facility's health care unit certified by the Joint Commission on Accreditation of Health Care Organizations (JCAHO). In addition, GEO is required to adhere to all applicable federal, state and local laws and regulations governing the delivery of health services.

Medical care is especially important, and complaints about inadequate health care have been the source of much litigation.¹⁴² In 1976, the U.S. Supreme Court took the opportunity in *Estelle v. Gamble* to refine constitutional principles governing the states' obligation to provide medical care to prisoners.¹⁴³ Later rulings have established that because prisoners cannot obtain their own medical services, the Constitution obligates correctional authorities to provide prisoners with "reasonably

¹⁴² For a review of health care in prisons, see Douglas C. McDonald, "Medical Care in Prisons," in Michael Tonry and Joan Petersilia (eds.), *Prisons* (a volume in the series *Crime and Justice: A Review of Research*, University of Chicago Press, Vol. 2. 26 (1999), pp. 427–428.

¹⁴³ 429 U.S.98, 97 Sup. Ct. 285 (1976).

adequate” medical care.¹⁴⁴ “Adequate” medical services have been interpreted to mean “services at a level reasonably commensurate with modern medical science and of a quality acceptable within prudent professional standards.”¹⁴⁵ In *Tillery v. Owens*, “adequate” services were defined as those affording “a level of health services reasonably designed to meet routine and emergency medical, dental and psychological or psychiatric care.”¹⁴⁶

The result of this history is that the Bureau’s performance requirements for healthcare are among the most detailed.¹⁴⁷ These include the following:

- Only qualified health care providers are employed and all mandatory training and Continuing and Professional Education requirements have been met.
- Inmates admitted to the inpatient facility are receiving a level of care commensurate with the requirements of the contract.
- Outpatient care is provided in a manner consistent with the contract and in accordance with principles of professional practice that reflect concern for the acceptability, accessibility, availability, and cost of services.
- Pathology and medical laboratory services are available to meet the needs of the inmate population.
- Health records are documented accurately, legibly, and in a timely manner, are readily accessible, are promptly retrievable, are stored securely, the contents are filed and are maintained as required.
- The pharmacy is operating in accordance with Drug Enforcement Administration regulations and contract requirements.
- Radiology services are adequate to support the clinical capabilities of the institution. Radiation safety practices and protective equipment are utilized and adequate controls are in place to protect patients and staff from unnecessary radiation exposure.
- The Dental Program: (1) provides dental care in a manner consistent with principles of professional practice that reflects concern for the accessibility and cost of services; (2) maintains dental records which are documented accurately and are readily accessible; and (3) protects staff and patients from unnecessary exposure to potential health hazards.
- A system to identify, monitor, and treat communicable diseases is in place to prevent the spread of disease.
- Appropriate health care is provided to all inmates.

¹⁴⁴ *Newman v. Alabama*, 559 F.2d 283, 291 (5th Cir.) cert. denied, 438 U.S. 915 (1978); accord, *Hoptowitz v. Ray*, 682 F.2d 1237, 1246 (9th Cir. 1982); *Wolfish v. Levi*, 573 F.2d 118, 125 (2d Cir. 1978), rev’d on other grounds sub nom. *Bell v. Wolfish*, 441 U.S. 520 (1979), *Langley v. Coughlin*, 888 F.2d 252, 254, (2d Cir. 1989).

¹⁴⁵ *Fernandez v. United States*; *United States v. DeCologero*, 821 F.2d 39, 43 (1st Cir. 1987); *Tillery v. Owens*, 719 F. Supp. 1256, 1305 (W.D.Pa. 1989), aff’d, 907 F.2d 418 (3d Cir. 1990). In *Tillery v. Owens* (719, F.Supp. at 1301; accord, *Ramos v. Lamm*, 639 F.2d 559, 574 (10th Cir. 1980), cert. denied, 450 U.S. 1041 (1981).

¹⁴⁶ *Tillery v. Owens*, at 1301.

¹⁴⁷ Contract, Section J, Attachment C.

- The safety controls in the Health Services Unit are adequate and provide an environment that ensures safe conditions for both inmates and staff in both routine and emergency situations.

The 1998 quality assurance plan that the monitors developed extends these requirements into a nineteen-page list of specific performance objectives that are monitored regularly by the Bureau.

How GEO Organizes Healthcare Services at the Taft Facility

Primary health care in the Taft Correctional Institution and in other federal prisons is provided by staff health care workers—medical doctors, nurses, psychologists, and others. Inmates are given the opportunity to see these staff frequently by means of “sick call,” whereby they have the opportunity to be taken to health care providers at a scheduled time each day or have health care workers come to their living areas. Specialist care is typically provided in periodic “clinics,” usually by consulting specialist physicians who come into the prison on a scheduled basis to see prisoners who have been referred by primary care providers. Prisoners needing acute emergency care can be taken to hospitals in the neighboring communities. Those needing non-urgent surgical, medical, or mental health services that cannot be delivered adequately at the institution can be transferred to one of five Federal Medical Centers operating within the Bureau of Prisons.¹⁴⁸

Primary health care visits occur at about the same rate at Taft as in other low security facilities.¹⁴⁹ (See Chapter 4.) It staffs its medical care services differently than the Bureau does, however. The Bureau relies upon physicians, physicians’ assistants, nurse practitioners and nurses to deliver services. Mental health care is delivered by psychiatrists and psychologists. At Taft, primary care is delivered principally by doctors, registered nurses, and licensed practical nurses. Consequently, Taft inmates are more likely to see a doctor than in other low security federal facilities (see Figure 4.7 in next chapter).

¹⁴⁸ Transferring sick prisoners to Federal Medical Centers has the effect of off-loading costly prisoners to another institution or, in the case of TCI, to the federal government. This has the result of lessening the risk of incurring higher costs at the facility, although this effect is enjoyed by any and all facilities in the federal prison system, whether managed by public or private organizations. It appears that GEO enjoys no special benefits in this respect, as it is not able to control decisions to transfer prisoners to Federal Medical Centers. All such decisions follow the prescribed procedures for all other federal prisons, and are made by Bureau of Prisons officials in regional headquarters. It remains possible that the Bureau’s decisions regarding transfer or denial of transfer requests may differ from those requested by other federal prisons, and that these decisions may have differential effects on expenditures for health care at Taft as compared to other federal prisons. Identifying any systematic differences in decision-making would be difficult, given that these are relatively rare events and slight differences in the health status of inmates at facilities no doubt account for most of these differences. At any rate, the effect of a “discriminatory” decision practice on overall expenditures at one or another prison are likely to be small, at best.

¹⁴⁹ Computed from data in Key Indicators: A Strategic Support System for the Bureau of Prisons.

Inmates' Health Conditions

As in federal prisons, the prevalence rates of tuberculosis, hepatitis, and mental health problems vary somewhat from one facility to the next. These differences result from the types of prisoners assigned to these facilities rather than being a consequence of the conditions at any of the prisons. However, one particular illness is attributable to living at the Taft Correctional Institution: Valley Fever, which is caused by *Coccidioides immitis*, a fungus found in the Southwestern US and Central and South America and in the San Joaquin Valley, where Taft is located. Spread by airborne spores, infected persons can develop flu-like symptoms that can last for several weeks and, in a small number of cases, to severe pneumonia, meningitis, and even death if not properly treated. Persons with compromised immune systems are at special risk and GEO requests that they be transferred to federal prisons in other regions of the country, although these requests are not always granted. According to the warden at Taft, there are more cases of diagnosed Valley Fever at his facility than in all other federal prisons combined. (As mentioned in Chapter 2, Kern County—where the facility is located—has one of the highest prevalence rates of Valley Fever in the U.S.) Although evidence of this claim was not obtained from the Bureau of Prisons, this risk was not known by the Bureau or by GEO until cases began to appear, and this has placed an unexpected burden on the facility's healthcare system. GEO's expenditures for hospital care is much higher than its anticipated; the firm is spending more for Valley Fever patients than it spends to treat HIV-positive inmates at its facility in Winton, North Carolina. To date, one prisoner has died from the disease.

Rated Performance of GEO's Healthcare

During the first three years, GEO was rated by monitors as delivering "good" and even "excellent" healthcare. This was one of the strongest areas of performance for the company. Monitors cited good performance in written plans and procedures, resources, inmate health records and outpatient care.¹⁵⁰ The facility received its accreditation from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) six months ahead of schedule.¹⁵¹ Furthermore, JCAHO gave the department a 99 percent score for its behavioral health care and a 98 percent score for ambulatory care.¹⁵²

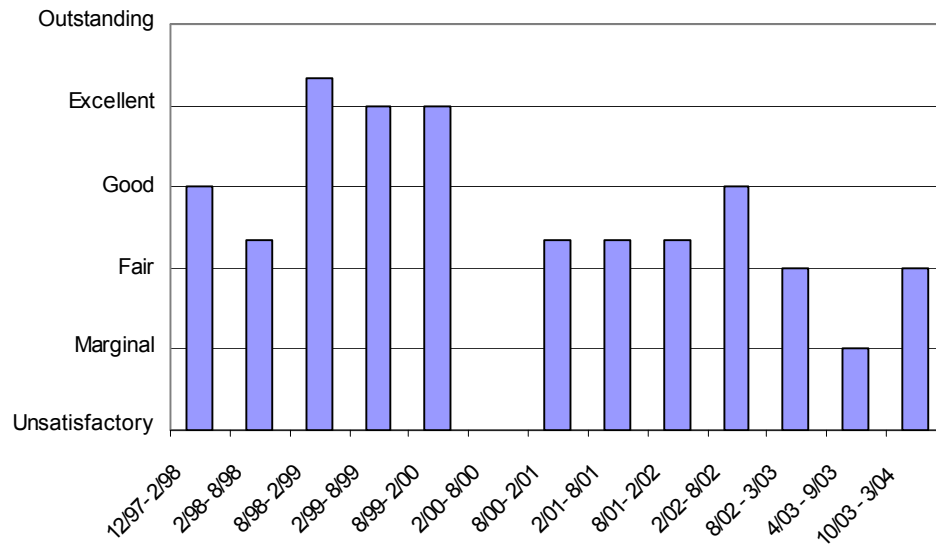
¹⁵⁰ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹⁵¹ Ibid.

¹⁵² Taft Correctional Institution Self Assessment Report, p. 8, February 26, 1999.

Figure 3.17

Healthcare Services: Contract Monitors' Assessments of GEO's Performance (August 1997–March 2004)



Note: Data were missing for February–August 2000 period.

Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

In addition to high quality of work, Bureau monitors reported that GEO was generally very responsive during this period. They commented that deficiencies rarely occurred in this service area and the contractor was quick to take corrective action to implement new or revised internal controls.¹⁵³ Bureau monitors also noted that, “Health Services personnel have become proactive in attempting to identify possible Bureau of Prisons concerns.”¹⁵⁴ One example of this was GEO’s identification of discrepancies of its inmate health records—a reflection on its formal Quality Control Program. GEO corrected the discrepancies and provided remedial training to teach staff proper formatting and documentation of BOP inmate health records. In the fifth evaluation period, a BOP monitor noted that “Technical direction is rarely required, and when it is provided it is well received.”¹⁵⁵ Monitors reported that the health services department had received a high level of inmate complaints, but that the health services staff always responded in a timely manner to the requests, concerns and suggestions of the reviewer.

¹⁵³ Performance Monitor Report Six Month Summary, Period: February 20, 1999 to August 19, 1999.

¹⁵⁴ Performance Monitor Report Six Month Summary, Period: August 20, 1998 to February 19, 1999.

¹⁵⁵ Performance Monitor Report Six Month Summary, Period: August 20, 1999 to February 19, 2000.

During the August 2000–February 2001 review period, the quality of healthcare services was seen as slipping, primarily for lack of adequate staffing, and monitors rated service delivery as “fair.” Difficulties in recruiting and keeping healthcare staff are nearly endemic in correctional facilities throughout the country, especially in rural areas such as Taft, California. The Taft facility is in the middle of the desert, which imposes a handicap in attracting qualified healthcare professionals who have plentiful opportunities elsewhere. The salary levels that the Bureau accepts for GEO’s staff (which are tied to U.S. Department of Labor regional wage determinations) are below market and GEO is having to offer higher wages to attract and keep staff. Turnover of healthcare administrators has been frequent and GEO has lacked strong healthcare managers at the facility throughout much of the contract period.

During May, 2001, the facility’s healthcare services were found not be in compliance and deductions to fee were imposed. GEO responded by developing a more aggressive approach to recruiting qualified staff (including signing bonuses and higher salaries) and for retaining them. GEO also detailed its national and regional-level managers to become more active in managing Taft’s healthcare. Subsequently, GEO succeeded in hiring a health services administrator at the facility. Staffing issues have continued to be problematic, and performance has generally been rated to be in compliance, “good” in some periods, but not at the same level that existed in the earlier years.

Psychological Services

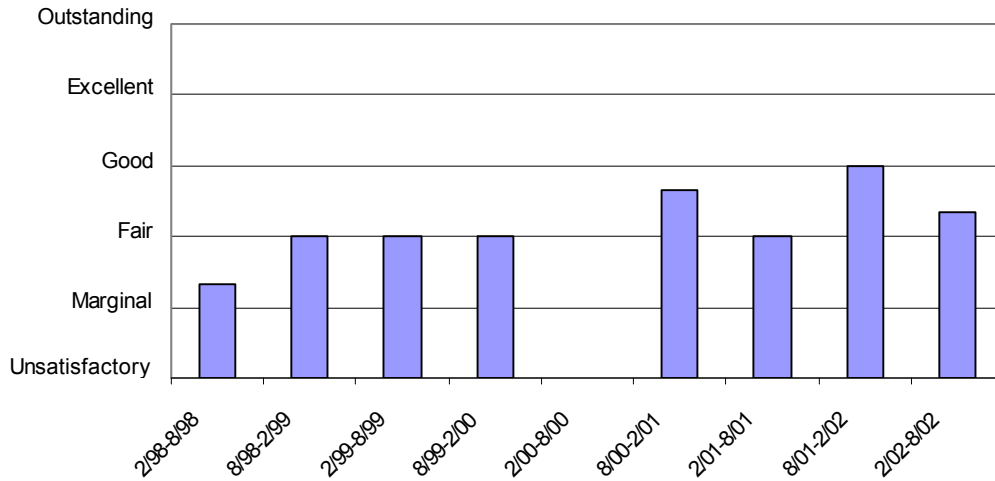
Provision of psychological services to inmates and staff was monitored separately from healthcare, prior to the 2002 reorganization of monitoring procedures. There were several “vital functions” specified in the contract under health services requirements, but the Bureau’s 1998 quality assurance plan distinguished these services as one of the nineteen to be reported regularly. Required psychological services included screening inmates for mental health problems, appropriate management of mentally ill inmates, crisis intervention services, suicide prevention programming, and drug abuse education and treatment.

The Bureau of Prisons operates in its facilities a comprehensive drug abuse program that includes drug education, non-residential drug abuse treatment, and residential drug abuse treatment. The system is designed to provide coordinated services in the various prisons so that inmates who are transferred from one prison to another can participate in the program. Bureau-wide procedures were therefore developed to define eligibility and processing through the various components of the program.

Throughout most of the five-year period when these services were rated separately from healthcare services, monitors found that Taft was in compliance with the contract, but that the performance of these services did not generally rise above the level of “fair.” Recruiting and retaining psychologists and other mental health professionals has been challenging, and the Taft facility was understaffed for long periods of time.

Figure 3.18

Psychological Services Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



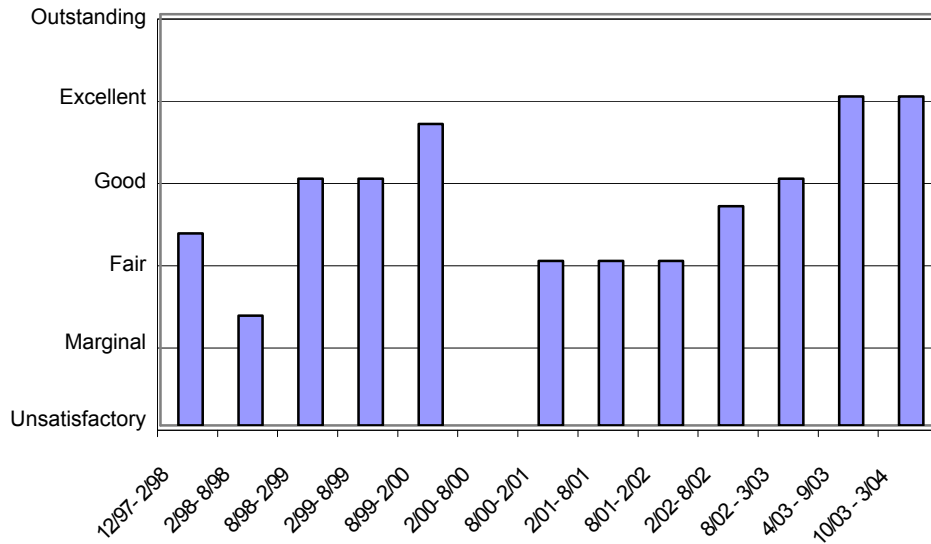
Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Education, Recreation, and Religion Services

The contract requires GEO to provide mandatory literacy and English as a second language programs, to maintain a law library in compliance with federal regulations and professional standards, to maintain a “leisure” library, and to provide an appropriate recreation program. GEO has gone beyond this, developing relationships with the Taft Community College, which offers many courses to inmates, as well as distance learning courses. Mexican nationals are given the opportunity to earn their Mexican GED equivalency. Throughout the six and a half years examined here, GEO’s education and recreation programming have been rated well, and sometimes as “excellent” or “superior” (Figure 3.19). This no doubt reflects, at least in part, GEO’s financial investment in educational services at the facility. It spends a significant proportion of its budget to prisoners’ vocational training and education.

Figure 3.19

Education Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–March 2004)

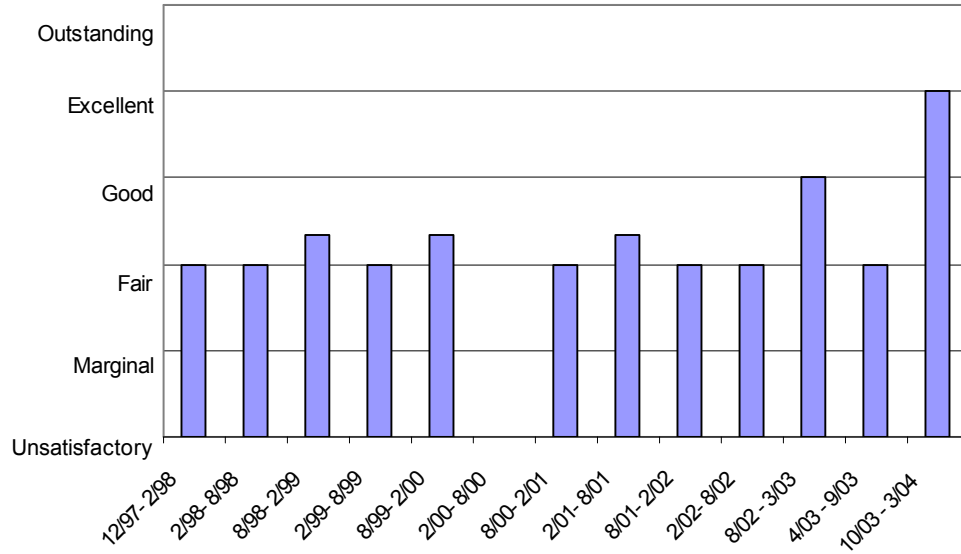


Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

The contract also requires that GEO provide religious services and leadership for prisoners of diverse faiths. GEO has been successful in satisfying the religious needs of prisoners in the most popular denominations, but monitors report less success in providing services for Jewish, Muslim, Native American and Buddhist prisoners (which is challenging in a geographically isolated location). Monitors have rated GEO's performance in this area as always meeting the requirements of the contract, and sometimes as performing extremely well (Figure 3.20).

Figure 3.20

Religious Services Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



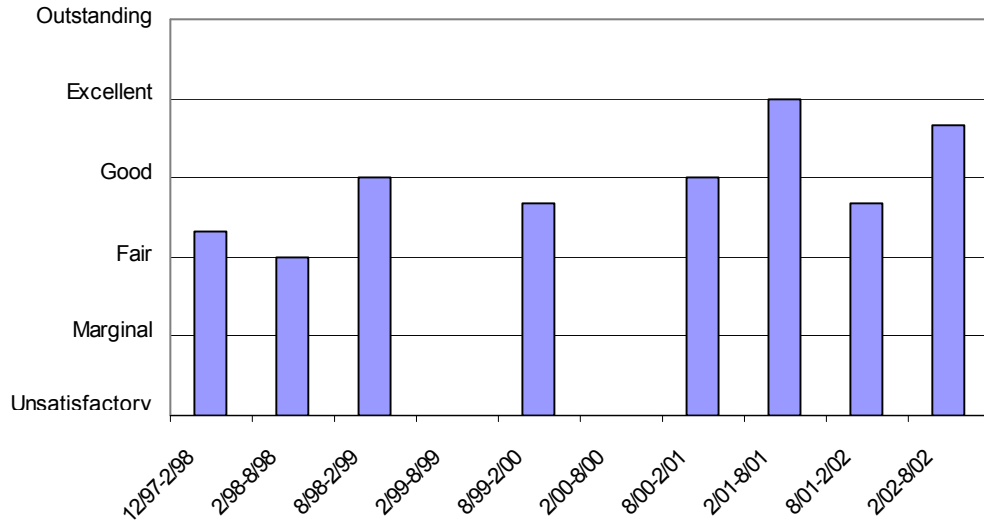
Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Inmate Services: Inmate Funds/Commissary, Telephone, and Laundry

The contract specified a number of requirements for providing various services to inmates. Contract monitors develop separate ratings for each of three component services, but with the reorganization of the monitoring procedures in August, 2002, a single rating was given for all inmate services combined. During the first five years, monitors always found GEO's service provision in compliance with requirements and often "good" or "excellent" (Figures 3.21–3.23). During the three review periods after August, 2002, inmate services received overall ratings of "good" or "superior."

Figure 3.21

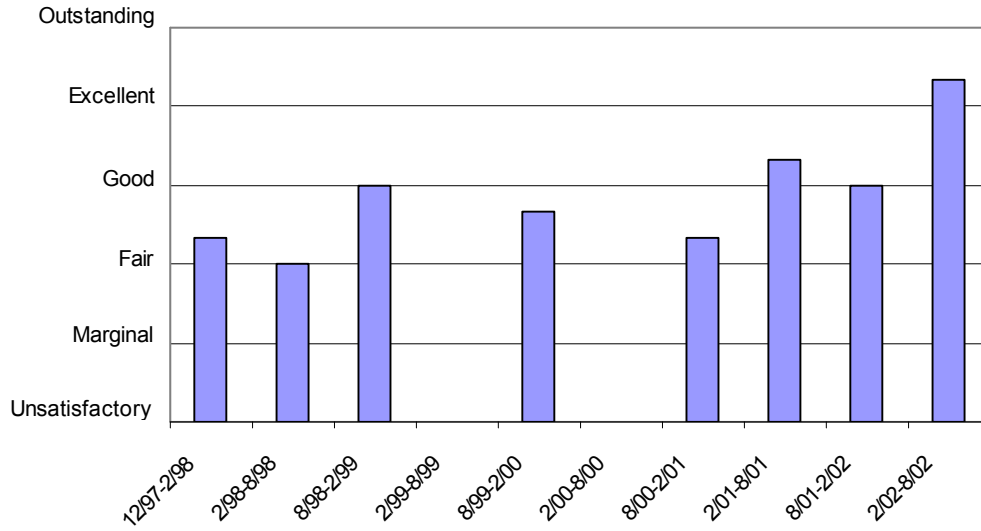
Laundry Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Figure 3.22

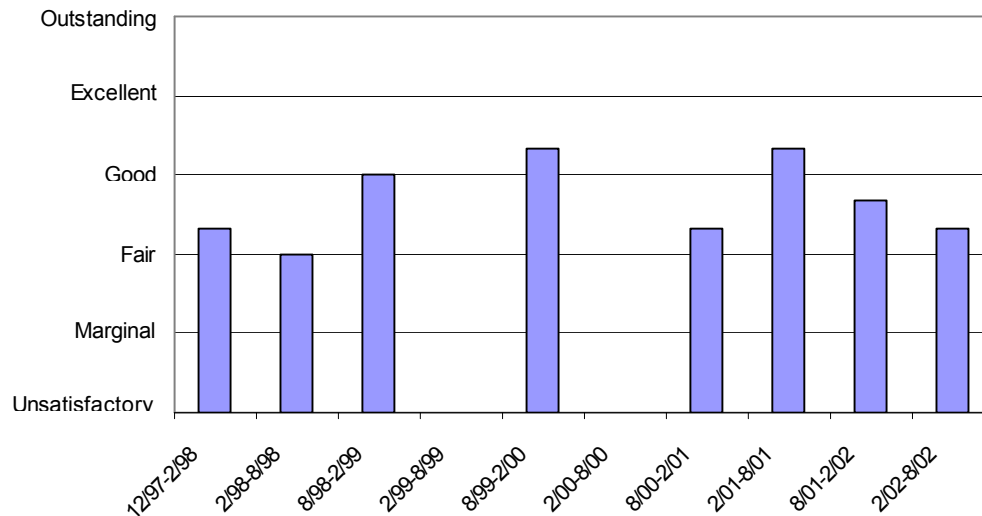
Commissary/Inmate Funds Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Figure 3.23

Inmate Telephone Services Ratings: Contract Monitors' Assessment of GEO's Performance (August 1997–August 2002)



Source: Bureau of Prisons Semi-annual Contract Monitoring Summaries.

Summary

During the six and one-half years examined here, monitors rated GEO's overall performance as being "good", according to contractually established standards. Both the Bureau monitors and GEO managers recognize that the start-up phase was difficult and that performance faltered in some areas. Moreover, at times since then and in particular areas of service, performance has sometimes fallen below expectations. Over the life of the contract, however, the institution's managers and staff delivered what it promised to do and what the Bureau obligated it to do. The Bureau exercised its option to renew the contract after the three-year base period and in every subsequent year. Most of the deductions from the contractor's fee for inadequately provided services occurred early in the life of the contract and were reduced by close to two-thirds in FY2001 and further reduced to zero in FY2002. During the first five years, these deductions totaled approximately 0.6 percent of the total amount paid to the contractor; over the seven years of the contract, the percentage has been reduced to half of that amount. Although there has been some variation in how contract monitors have rated some services from one period to another, and how some aspects of each services ("work quality," "responsiveness," and "quality control") have been rated, these monitors and the Bureau's Performance Evaluation Board have rated GEO's performance as "good" (Table 3.2)—meaning "very efficient performance, fully responsive to contract requirements, more than adequate results, reportable deficiencies but with little identifiable effect on overall performance." Consequently, GEO has been given bonuses—"award fees"—for performing above and beyond the requirements for mere contract compliance in all of the semi-annual performance periods. Based upon the assessments of

the Bureau's own monitors and the Performance Evaluation Board, one would have to conclude that GEO has been successful in providing the Bureau with the services and the performance that it requires. Because the contract and the monitoring procedures were informed by the specification of the Bureau strategic objectives, one must conclude that GEO's performance at the Taft facility has been consistent with those objectives.

Even though the contract for Taft was designed to advance the various strategic objectives of the Bureau—objectives that apply to all federal prisons, whether government or privately-operated—the standard of contract compliance lacks any direct parallel with standards of performance for other federal prisons. To be sure, they are roughly similar, but we cannot assume that being ranked low by the contract monitors indicates performance inferior to that found in other federal prisons. GEO officials have complained on occasion that they are being held to a higher standard than exists in other government-operated facilities. In response to one such complaint, the Bureau's contract administrator reported in his minutes of a meeting that there probably are other BOP institutions having problems with these same matters. "However," he wrote, "the issues discussed are based on the contract requirements and not how other institutions perform."¹⁵⁶ To obtain a more direct comparison of TCI's performance with the performance of other low-security prisons operated by the Bureau of Prisons, we conducted statistical comparisons of data developed by the Bureau to monitor its own operations, which are presented in the following chapter.

¹⁵⁶ Ray Marshall, "Meeting concerning issues in records area," memorandum dated 7/17/98, p. 2.

4

Comparing Performance of the Taft Correctional Institution With Government-Operated Federal Prisons

The performance of Bureau-operated federal prisons provides a second yardstick for assessing GEO's performance at the Taft facility. For the past decade and a half, the Bureau has been measuring the performance of all federal prisons to monitor how well they have been accomplishing the agency's objectives. The information collected for this monitoring system affords us a means of comparing Taft Correctional Institution's performance with that of other federal prisons operated directly by the Bureau. This section first describes the framework that the Bureau has developed for monitoring institutional performance. It then compares GEO's performance at the Taft facility on several dimensions to that of other Bureau-operated facilities.

The Bureau's Performance Monitoring System

The Bureau began in the mid-1980s to develop a performance management system that includes a definition of the agency's goals and sub-goals for all major aspects of facility operations in terms that could be measured, and a specification of "vital functions" that have to be carried out to accomplish these goals. (See below. "VF" refers to vital functions; following some of these are performance indicators associated with these functions.)

To monitor institutional performance with respect to these various vital functions or activities, the Bureau developed the Key Indicators/Strategic Support System. On a monthly basis, the Bureau's Office of Research and Evaluation provides all facility managers with both current and historical measures of performance with respect to these key indicators of vital functions, not only for the facility they manage but also for all other federal prisons. This gives managers knowledge of how their facility's operation stands vis-à-vis their own past performance, the performance of other comparable facilities, and their own performance relative to the Bureau's goals.

All federal prisons feed information into this performance monitoring system and have done so since 1989. In contrast, facilities operating under contract provide only limited data to this system. Moreover, they have no access to the Key Indicators/Strategic Support System to monitor their own performance or that of federal facilities. Consequently, only a limited set of performance dimensions are monitored with uniform data for both TCI and Bureau-operated facilities. GEO operates its own performance monitoring system and collects its own information.

The Bureau of Prisons' Strategic Goals, Vital Functions ("VF"), and Performance Indicators

GOAL #1: POPULATION MANAGEMENT

- VF: Management administration and planning.
- VF: Ensure that inmates are placed in an institution commensurate with their security and custody requirements.
- VF: Maintain adequate staffing levels.
 - Inmate to staff ratio
 - Staff-inmate demographic comparisons
- VF: Evaluate the needs of inmates and offer a wide range of programs. This is accomplished through accessibility, effective communication, program formulation and review.
 - Residential drug abuse program

GOAL #2: HUMAN RESOURCES MANAGEMENT

- VF: Maintain adequate staffing levels.
 - Staffing
 - BOP experience level of staff
- VF: Manage training resources based on mandatory requirement and needs.

GOAL #3: SECURITY AND FACILITY MANAGEMENT

- VF: Provide a safe and secure environment for staff and inmates through effective communication of operational concerns.
 - Total assaults without weapons
 - Total assaults with weapons
 - Guilty findings for prohibited acts
 - assaults on staff
 - assaults on inmates
 - Total inmate homicides
 - Total inmate suicides
 - Escapes
- VF: Provide effective monitoring and discipline programs for inmates.
 - Positive urinalysis
 - Random tests
 - Suspected tests
 - Alcohol refuse
- VF: Provide a safe and secure environment for staff and inmates through effective communication of operational concerns.
 - Use of force
- VF: Administrative remedies
 - Classification
 - Staff
 - Institutional operations
 - Medical

- Food
- UDC (disciplinary actions) appeals
- Other

VF: Advise management of environmental health and occupational safety concerns by conducting inspections, overseeing regulatory compliance, and providing responsive technical assistance to institutional staff.

- Staff injuries
- Preventive maintenance program
- Inmate work related injuries

GOAL#4: CORRECTIONAL LEADERSHIP AND EFFECTIVE PUBLIC ADMINISTRATION

VF: Provide independent, objective oversight to reduce waste, loss, unauthorized use, misappropriation of funds and assets, and to help improve the performance and efficiency of BOP programs.

- JCAHO accreditation type

GOAL #5: INMATE PROGRAMS AND SERVICES

VF: *Patient Care:* To identify and provide a timely and effective response by qualified health care staff to legitimate health care needs for inmates.

VF: *Resource Management:* To identify, develop, and manage essential resources that best meet the operation needs of the health care program

- Infectious diseases
- HIV prevalence
- Tuberculosis incidence

VF: *Evaluate the needs of inmates and offer a wide range of programs.* This is accomplished through accessibility, effective communication, program formulation and review.

VF: *Inmate Management and Control:* Provide meaningful work skills for inmates in a correctional environment.

- UNICOR Employment Data

GOAL #6: BUILDING PARTNERSHIPS

- Volunteers
- Community Relations Board

This chapter compares GEO's performance to low-security federal prisons on a several (but not all) dimensions measured by the Bureau's Key Indicators/Strategic Support System.¹⁵⁷ Some of federal prisons also had minimum security satellite camps. For some indicators, information was collected separately for the low security populations, while other information was available only for the combined low- and minimum-security populations where there were such populations in satellite camps. For some measures, this mixing of inmates from both the low and minimum security facilities introduces problems with respect to comparability.

¹⁵⁷ The low security federal correctional institutions (FCIs) operated directly by the Bureau are FCI Allenwood (Pennsylvania), FCI Ashland (Kentucky), FCI Bastrop (Texas), FCI Big Spring (Texas), FCI Beaumont (Texas), FCI Butner (North Carolina), FCI Coleman (Florida), FCI Elkton (Ohio), FCI Forrest City (Arkansas), FCI La Tuna (New Mexico-Texas), FCI Lompoc (California), FCI Petersburg (Virginia), FCI Loretto (Pennsylvania), FCI Milan (Tennessee), FCI Texarkana (Texas), FCI Waseca (Minnesota), FCI Yazoo City (Mississippi), FCI Safford (Arizona), FCI Seagoville (Texas), and FCI Sandstone (Minnesota).

It is possible that the information collected for various reporting systems from which Key Indicators are drawn is not reported uniformly at all prisons. To the extent that managers are evaluated for institutional performance as measured by Key Indicators, an obvious incentive exists to underreport occurrences of unwanted events. No attempt was made to assess the reliability of data reporting at the facilities examined here.

Goal Number 1: Population Management

Associated with this strategic goal are several different functional objectives and indicators thereof. Only some performance dimensions can be attributed to GEO's activities.

Vital Function: Ensure that Inmates are Placed in an Institution Commensurate with Their Security and Custody Requirements

GEO has little effective control over the prisoners placed in its custody at the Taft facility because institutional assignment decisions are made by the Bureau of Prisons, following the Bureau's assessment of its prisoners. GEO has a contractual right to request that certain prisoners be transferred back to the Bureau's custody, although the Bureau is not required to honor these requests.

Vital Function: Maintain Adequate Staffing Levels

GEO's staffing level was determined by its proposal and the subsequent contract. As discussed in Chapter 2, GEO offered to staff the facility with a significantly larger number of persons than the Bureau would have employed and a larger number than the Bureau employs at the three sister facilities (FCIs Elkton, Yazoo City, and Forrest City). GEO has been required by contract to maintain its staffing levels, and these certainly have to be considered "adequate," given how the Bureau staffs its low security prisons. GEO has not been assessed a deduction for inadequate staffing or excessive vacancy rates. Moreover, the indicator in the Key Indicators/Strategic Support System of adequate staffing—the inmate to staff ratio—is in part a function of the number of prisoners assigned to the facility, and GEO has no real control over this.

One of the other performance indicators related to adequate staffing (the comparison of staff demographic characteristics and inmate demographics) is of questionable relevance as a measure of GEO's performance because (a) the Bureau selects the prisoners to be transferred to Taft and thereby determines its demographic composition and (b) because GEO was constrained to hire from the local labor pool. Nonetheless, a comparison of the racial/ethnic composition of the prison population and the staff at both the Taft facility and at all low-security federal prisons combined shows that the GEO's staff is generally similar to the Bureau's and that it is appropriately matched to its prisoner population (Table 4.1).

Table 4.1

Comparing Ethnic Composition of Prisoners and Staff at Taft Correctional Institution and All Other Bureau of Prisons Low Security Facilities

	Prisoners		Staff	
	Taft Correctional Institution	Federal Low-Security Prisons	Taft Correctional Institution	Federal Low-Security Prisons
White Non-Hispanic	29%	21%	83%	63%
African-American	15%	36%	9%	22%
Asian	1%	2%	5%	2%
American Indian	5%	1%	2%	1%
Hispanic	50%	40%	22%	12%
Total	100%	100%	100%	100%

Note: Taft data from end of 2004; Bureau of Prisons staffing and inmate data from October, 2002. These percentages have varied only slightly.

Sources: Taft Correctional Institution Fact Card, 2nd Quarter 2004 and Bureau of Prisons, Key Indicators/Strategic Support System

Vital Function: Evaluate the Needs of Inmates and Offer a Wide Range of Programs

Prisoners transferred from the Bureau of Prisons to the Taft facility are given the same assessments as all other federal prisoners, and they come to the Taft facility with these needs already documented. GEO provides a wide range of programs for educational and vocational development and large numbers of prisoners are enrolled in these programs. (Precise comparisons among federal facilities and the Taft facility were not developed to account for differences in prisoners' needs, average daily population and prisoner turnover.)

Goal Number 3: Security and Facility Management

Vital Function: Provide a Safe and Secure Environment for Staff and Inmates through Effective Communication of Operational Concerns

A federal prison's success in maintaining a safe environment for staff and inmates is measured by several different indicators, including:

- assaults without weapons
- assaults with weapons
- guilty findings for prohibited acts
 - assaults on staff
 - assaults on inmates
- inmate homicides
- inmate suicides, and
- escapes.

Assaults

Inmates of the Taft facility and low-security federal prisons rarely commit serious assaults. During the 66 months of our observation period (March 1999–August 2004), a total of 39 serious assaults on staff members and 184 serious assaults on other inmates were recorded in all 21 prisons combined (i.e., in the Taft Correctional Institution and 20 federal low security prisons). Less serious assaults are still rare, but more common than serious ones. In an average prison, one staff member is non-seriously assaulted approximately every two months,¹⁵⁸ and an inmate is non-seriously assaulted once per month.¹⁵⁹ (Figure 4.1 shows numbers of assaults on staff and on inmates per 5,000 inmate/months at each of 20 federal low security prisons and the Taft Correctional Institution. The details are difficult to discern in these graphs, but the basic patterns in rates are evident from cursory visual inspection. The pattern at the Taft facility does not stand out as exceptional.) Because serious assaults and assaults on staff are infrequent, in this analysis we combine all categories and compare Taft’s total assault rate with the totals from low-security federal prisons.

Differences among prisons in the rates of assaults on either inmates or staff cannot be attributed entirely to the actions or inaction of each prison’s managers. Prisoners do not all pose the same risk of assault, and some prisons may have larger proportions of higher risk prisoners, even in facilities having the same security level. Other group dynamics also affect the likelihood of attacks. Prisons with large number of gang members and the numbers of different gangs represented in a prison generally experience larger numbers of assaults and killings. In these settings, the composition of the entire prison population, rather than the several risk levels of individual inmates, may contribute to violence.¹⁶⁰ The likelihood of conflicts among inmates is also higher where prison systems have not adequately separated known enemies or inmates who have testified against each other, or who have histories of assaulting other specific prisoners. Therefore, a comparison of assault rates among prisons calls for taking account of other characteristics of the prisons and their inmates that may affect these rates, apart from whatever the managers at a single prison can do.

Statistical analyses were conducted to identify correlates of variation in assault rates at Taft and at 20 federal facilities. One such correlate is time: the frequency of each type of assault has decreased significantly over the observation period. The total number of assaults fell about 1½ percent per month.¹⁶¹

Separatees And Offense Severity

Although we do not know why the frequency of total assaults has decreased in recent years, we observe that two factors possibly associated with assaults have shown strongly related trends. The number of inmates whose offenses were classified as severity level 1 (about one-sixth of the prisoners) fell from 20% in 1999 to 13% in 2004, and the number of separatees increased from 32%

¹⁵⁸ Mean = 0.40 assaults per month, standard deviation = 0.85

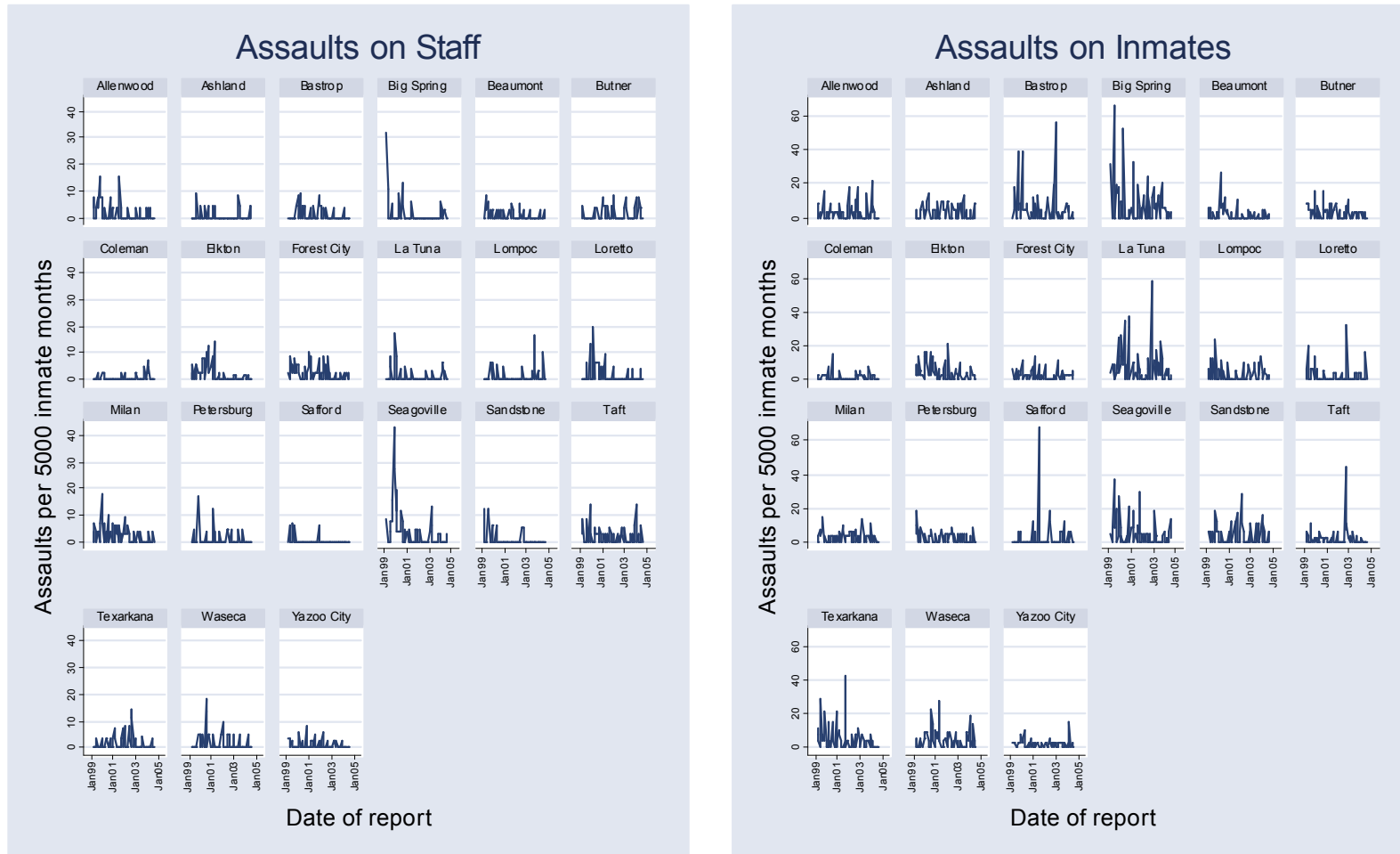
¹⁵⁹ Mean = 0.84, standard deviation = 1.40

¹⁶⁰ All our analyses were conducted at the prison level, using the composition of the prison population, rather than the characteristics of individual inmates, to predict the prison’s total rate of violence. BOP conducted a similar analysis with inmate-level data and reached similar conclusions. In our analysis, we make no inference about individual prisoners’ propensities to violence, but limit our discussion to the overall prison climate.

¹⁶¹ The rate per 1,000 inmates fell about 1.5% per month, with a standard deviation of 0.1% per month.

Figure 4.1

Numbers of Assaults on Staff and Inmates per 5,000 Inmate/Months at Each of 20 Federal Low Security Prisons and the Taft Correctional Institution (March 1999–August 2004)



to 36% over the same period. Both are significantly associated with assault rate, even when time is accounted for in statistical estimation models as a covariate.

Demographic Factors

The race, and ethnic distribution of inmate populations is not related to the frequency of assaults. The proportion of young inmates (30 or younger) has fallen from 34% in 1999 to 29% in 2004. This variable remains a significant predictor of assaults when time (and the other variables) are included in statistical models.

Age And Crowding Of Prison Facilities

Neither the date of prison construction nor the ratio of average daily population to design capacity appears significantly related to the frequency of assaults.

Multivariate Statistical Analyses

A statistical (regression) model was developed to estimate the differences in assault rates (per 1,000 inmates per month) at the Taft facility compared with 20 other low-security federal prisons, accounting for several other variables. These other variables included the month during which the rate was measured, the proportion of inmates who are housed in segregation units, proportions of prisoners convicted of grave offenses, proportions aged 18–30 years old, and percent overcrowded (calculated as the average daily population/rated capacity).¹⁶²

Table 4.2 shows the coefficients of this regression equation. Taft Correctional Institution has an assault rate significantly lower than the average of its peers. Since the coefficients model the natural log of the assault rate, we estimate that Taft's rate is 58% of the level that would be expected if the pattern observed at all low-security prisons prevailed at Taft (given the interaction of the measured characteristics listed in the table). The 95 percent confidence interval for this estimate lies entirely below 100 percent, so we conclude that the difference between Taft and the average for all low-security facilities examined here is statistically significant.

Figure 4.2 shows that several prisons have assault rates even lower than Taft's. Thus, while Taft's performance is better than the average Federal prison, it is well within the range of performance observed throughout the system. In summary: statistical analyses of assault rates indicate that GEO has maintained a safe environment for staff and inmates as effectively as the Bureau of Prisons has done in its low security federal facilities.

¹⁶² The number of assaults in a month is a counted incidence rate, and therefore cannot be less than zero. Thirty-eight percent of the observations have a value of exactly zero, and another 29% show exactly one assault in a month. If assault incidents were unrelated to each other, we could model this variable with a Poisson distribution, but it appears that assaults sometimes occur in clusters. That is, we see more multiple assaults than we would expect if the process were truly Poisson. To correct for this, we fit a negative binomial model, which adds a parameter (assumed to vary randomly among prisons) to adjust the distribution to fit the dispersion of a Poisson process (Stata procedure `xtnbreg`). We use the prison's average daily population as the exposure rate in the model, so that estimates reflect the rate per inmate month.

Table 4.2

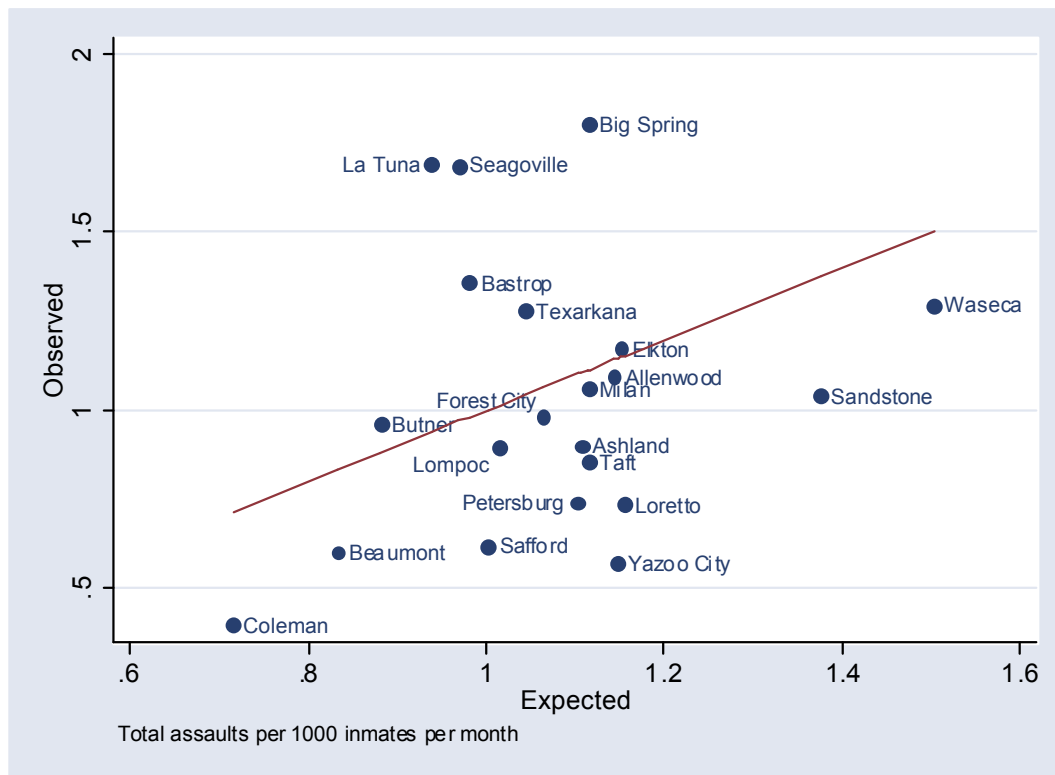
Negative Binomial Regression Of Total Assaults

	Coefficient	Standard Error	z	P> z
Month	-0.008	0.003	-3.050	0.002
Proportion Inmates who are separatees	3.887	1.244	3.130	0.002
Proportion Inmates severity of offense=1	3.688	1.106	3.340	0.001
Proportion Inmates age 18 to 30	3.286	1.572	2.090	0.037
Average Daily Population / Rated Capacity	-0.100	0.140	-0.720	0.472
Indicator for Taft FCI	-0.546	0.277	-1.970	0.048
Constant	-5.362	1.905	-2.810	0.005

Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

Figure 4.2

The Observed Assault Rates per 1,000 Prisoner/Months Compared to Rates Predicted by a Multivariate Statistical Model: Taft Correctional Institution and Twenty Low Security Federal Facilities, (March 1999–August 2004)



Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

Homicides

There have been no killings of inmates or staff at the Taft Correctional Institution. Few such events happen in low-security federal prisons; only four inmates have been killed by other prisoners in all low-security federal prisons between 1991 and 2002. During this same period, no staff have been killed.

Escapes

Escapes are also rare phenomena in federal prisons, especially from the secure section of a prison (these are termed “inside escapes”). TCI experienced one such escape in September 1998, when a prisoner was apparently mistaken for a visitor and walked out of the visiting area and through the prison doors. This was a serious failure of security. In response to this, TCI changed its clothing regulations and strengthened security regarding visits. In December, 2003, another prisoner escaped by crawling into a trash compactor and then getting outside the wall. This prisoner was arrested shortly afterwards.

Inside escapes are even more rare in federal low security prisons. Between late 1997 and January 2004, only two prisoners had escaped from secure sections of any low-security facility in the federal system.

Between late 1997 and January 2004, seven prisoners escaped while being transferred to community treatment centers—non-secure treatment facilities that are operated under contract by private providers. About the same number of prisoners escaped in similar circumstances while being transferred from other federal low security facilities.

Vital Function: Provide Effective Monitoring and Discipline Programs for Inmates

In low security prisons, seven to ten percent of inmates are selected each month for tests of unauthorized drugs. Some of these tests are administered to inmates who were found to be using drugs on a previous test, or are otherwise suspected of having a high risk of drug use, but the largest number—about 65 tests per prison per month—are administered to a randomly selected five percent sample of inmates.¹⁶³ More than three percent of inmates suspected of drug use test positive in low-security facilities. This is about five times the rate for randomly selected prisoners. The rate of positive outcomes for tests of suspected prisoners depends both on prisoners’ behavior and on the institution’s threshold of suspicion. Assuming that tests are now allocated to the most questionable prisoners, increasing the number of these tests would tend to decrease the rate of positive test results. The outcomes of all non-random tests are jointly affected by inmate behavior and institutional choice. Therefore we decided to examine only the randomly administered drug tests as indicators of institutional performance.

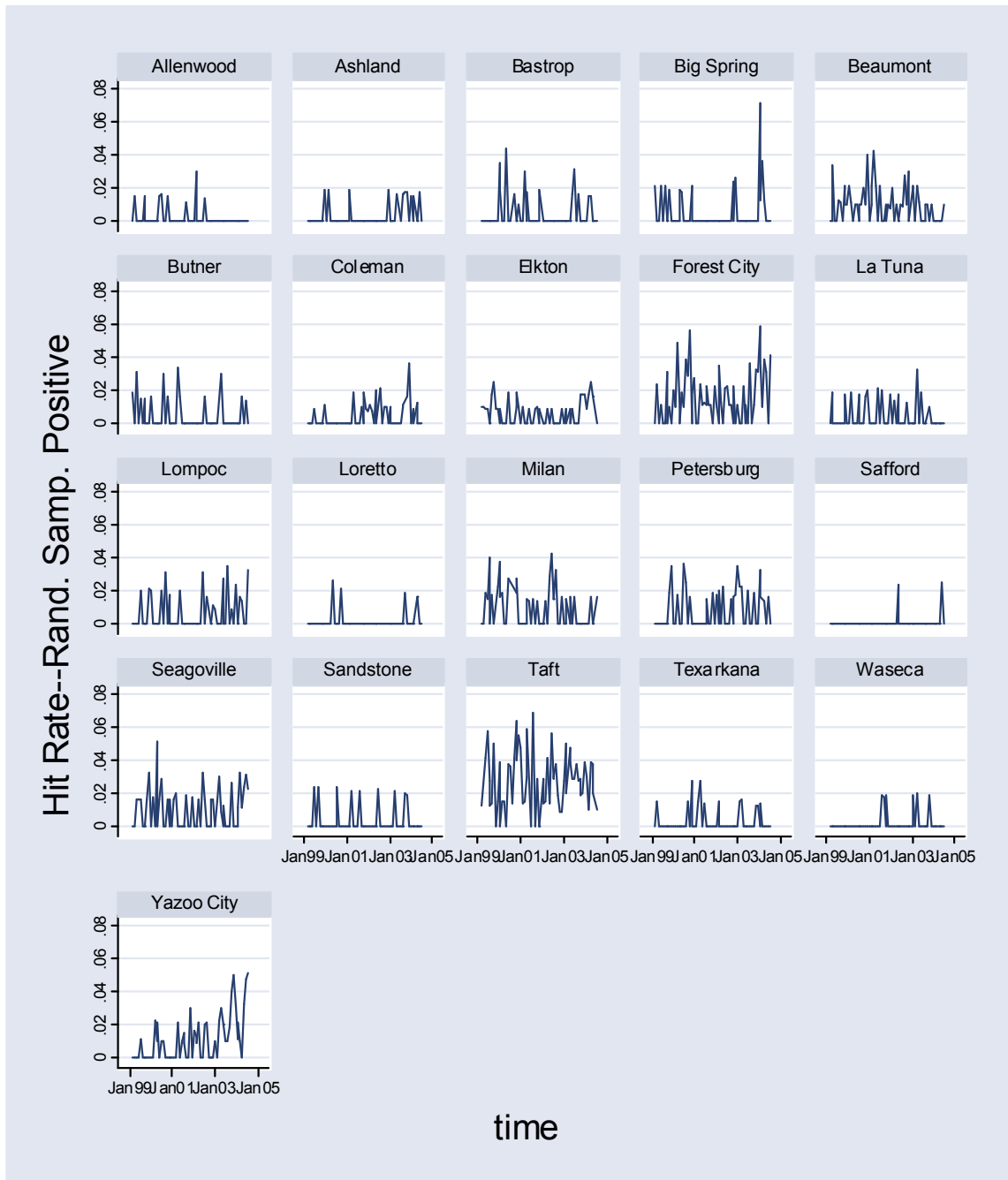
GEO began administering random drug tests in February 1999. It tested two prisoners that month, and 83 in March. The number of tests administered to randomly selected Taft inmates fluctuated during 1999, ranging from 24 in April to 155 in June. In 2000 and 2001, approximately 4 percent of Taft’s inmates were randomly tested each month, slightly below the practice of other Bureau facilities, where about 5 percent of inmates are randomly tested each month. Beginning in September 2002, Taft raised its testing rate to more than 100 tests per month. This analysis is based on tests

¹⁶³ We are not sure that inmates suspected of drug use are also eligible for random tests. If not, the results of random tests are slightly biased estimates of total drug prevalence.

administered between March 1999 and July 2004. As with the comparisons among prisons in rates of assaults, the rate of testing positive for drug use varies systematically according to various characteristics of the prisoner populations in the examined facilities. To estimate differences in drug use rates at Taft compared with federal prisons, statistical models were developed to hold constant the effects of these other differences in prisoner populations that affect positive test rates. These other characteristics include whether prisoners were convicted of drug offenses; the proportion of the prisoner population nearing completion of sentence; prisoners' ages, race, and ethnicity; and the proportion of inmates within a prison who were held in separate units from other specified inmates ("separates").

Figure 4.3

Positive Drug Tests, by Prison and Month (March 1999–July 2004)



Note: Excludes months with fewer than 25 tests. Excludes non-random tests.

Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

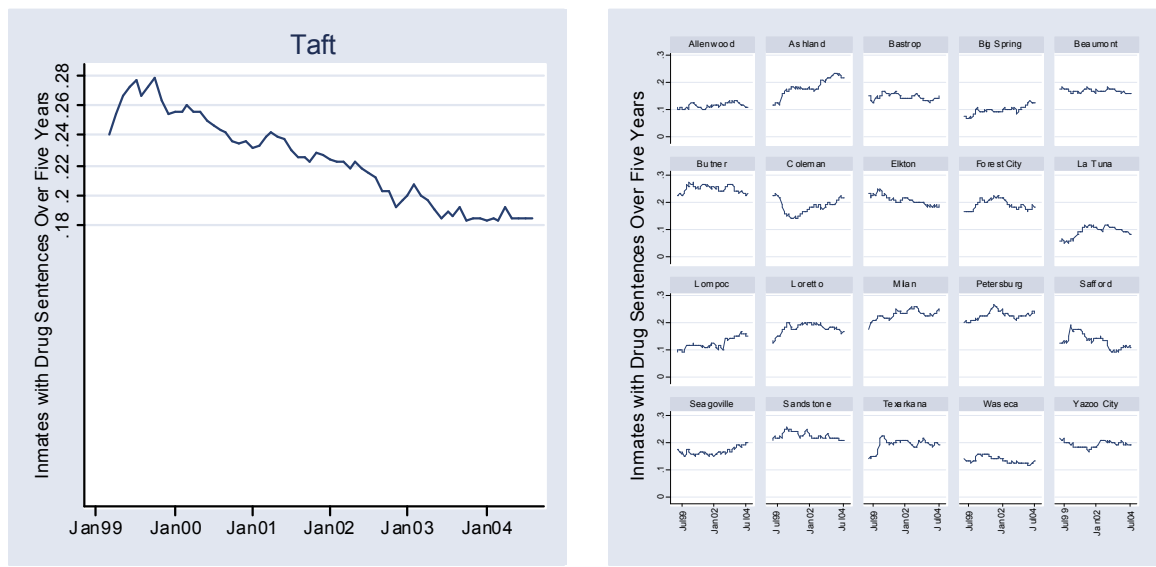
Convicted of Drug Offenses

The number of prisoners with histories of drug offenses is recorded by three variables in the Bureau’s Key Indicators/Strategic Support System. One counts offenders whose most serious sentence is for a drug offense. The other two count offenders with sentences exceeding five years for a drug offense, and offenders with drug sentences only of five years or less. About 50 percent of all low-security federal prisoners had a drug sentence of five years or less. Another 18 percent of all inmates of these institutions were serving a sentence of more than five years for a drug offense. Under current¹⁶⁴ Federal sentencing guidelines, a five-year sentence would require importing or distributing at least 20 grams of heroin or 20 kilograms of marijuana by an offender with a very substantial record of prior convictions. A first offender would be unlikely to receive such a sentence for less than 80 grams of heroin or 80 kilograms of marijuana. We can assume, therefore, that the category of offenders with drug sentences exceeding 5 years comprises mostly mid-to upper-level drug wholesalers and importers.

From 1999 to 2000, the number of drug offenders with longer sentences increased slightly among the federal low security prisons, remaining at about 17½ percent from 2001 to 2004. The Taft facility had a greater than average proportion of this kind of offenders on the day it opened, and rapidly accumulated more (Figure 4.4). During its first nine months of operation, Taft had between 50 percent and 75 percent more of these offenders than the average for other prisons at the same security level. After March 2000, the number of such offenders at Taft decreased toward the average of other federal low-security prisons.

Figure 4.4

Drug Offenders with Sentences Exceeding Five Years, by Month (March 1999–August 2004)



Source: Computed by Abt Associates using data obtained from Bureau of Prisons’ Key Indicators/Strategic Support System.

¹⁶⁴ http://www.ussc.gov/2002guid/2d1_1.htm

The presence of these higher-level drug traffickers is directly related to the availability of drugs within prisons. Prisons with the highest concentrations of such offenders had three to five times as many positive drug tests as prisons with the lowest concentrations. The concentration of lower-level drug offenders, in contrast, seems completely unrelated to in-prison drug use.¹⁶⁵

Inmates Nearing The End Of Their Sentence

Median sentences in these institutions ranged from five years (at FCI Allenwood and FCI Big Spring) to eight years (at FCI Butner and FCI Petersburg). On average, about a quarter of the inmates were within a year of their projected release date, and about a sixth were within eight months of projected release. Misconduct at this point could significantly delay an inmate's release, so it is reasonable to hypothesize that inmates approaching their release dates are more likely to avoid the risk of getting caught using drugs, and hence that the concentration of such inmates in a prison population would be related to its overall drug use. Indeed, the incidence of drug use is negatively related to the concentration of inmates nearing their release dates. The rate of positive tests is about twice as high in the prisons with the lowest numbers of such inmates as it is in those with the highest numbers.

During the five years covered by our data, median sentences increased significantly (from about six years in the spring of 1999 to eight years in 2004). Consequently, the proportion of inmates nearing their release dates fell, both at the Taft facility and at the federally operated institutions. With the exception of a few months in the winter of 1999-2000, however, about as many inmates at Taft were within eight months of their release as inmates at other prisons.

Separatees

In 2004, 36 percent of inmates in these prisons were administratively separated from some or all of the rest of the prison population, generally as a safety precaution. The number of such separatees has increased gradually since 2001, both at Taft FCI and at other federal institutions. By itself, the number of separatees shows little relation to the incidence of drug use. However, when both time left to serve and the proportion of separatees are considered together, each is significantly correlated with drug use.

Age

The average age of inmates in these prisons is about 37 years. Twelve percent are 25 years old or younger, and five percent are over the age of 50. Among the general population, young people use considerably more drugs than their elders. We cannot observe this pattern directly in the prison data, because we analyzed only prison-level information, but we do observe that prisons with higher concentrations of older inmates also have lower levels of drug use, while those with higher concentrations of inmates in their early thirties have higher levels of drug use. Until 2001, Taft had slightly fewer older inmates than the average of other low-security prisons; thereafter, it had slightly more.

Race and Ethnicity

The racial composition of federal prisons is quite varied. In 2004, 37 percent of inmates of government-operated low security prisons were African-American, and 36 percent were Hispanic.¹⁶⁶

¹⁶⁵ As with assaults, these analyses are conducted entirely with prison-level data, and do not support inference about individual prisoners. For example, we would not infer that the drug dealers are the individuals using the drugs; the contrary is more probably true.

¹⁶⁶ Hispanics may be of any race.

In five of low security federal prisons (FCI Ashland, FCI Butner, FCI Milan, FCI Petersburg, and FCI Yazoo City) more than half the inmates were African-American. In six others, including Taft, fewer than 20 percent of the inmates were African-American. In six prisons more than half the inmates were Hispanic (FCI Bastrop–59 percent, FCI Big Spring–64 percent, FCI La Tuna–74 percent, FCI Safford–59 percent, and Taft Correctional Institution–57 percent). In the prisons with a majority of African-American inmates, 9 to 17 percent of inmates were Hispanic.

Drug use is slightly more prevalent in prisons where a majority of the inmates are African-American than in those with lower concentrations. We do not find a direct correlation between the concentration of Hispanic inmates and drug use, but only because the concentration of Hispanic inmates is negatively correlated with the concentration of African-American inmates.¹⁶⁷ When the concentrations of both African-American and Hispanic inmates are considered simultaneously, a one percent increase in either one corresponds to a 2 percent increase in drug use.¹⁶⁸ During this period, Taft had significantly more Hispanic inmates (more than 50 percent) than other prisons (under 40 percent), and significantly fewer African-American inmates (18 percent) than other prisons (34 percent). The net result is that Taft had fewer minority inmates than most other prisons throughout the period, with the gap widening over time.

Estimating Differences in Drug Test Outcomes at Taft and Federal Prisons

During the period when Taft examined here, Taft and the 20 low security facilities operated by the Bureau of Prisons administered a total of 93,752 random drug tests, averaging more than 4500 tests per institution. Some prisons went through several months without a single inmate testing positive for any unauthorized substance. Five prisons reported fewer than ten positive test results since March 1999.¹⁶⁹ Others registered one or more positive results in most months (Figure 4.3). Within each month, the rate of positive test outcomes can be viewed as a sample estimate of the rate for all

prisoners. The estimate of the rate is $r = \frac{p}{n}$, where n is the total number of tests administered in the

month and p is the number of positive test results. The variance of the estimate is

$Var(r) = \frac{p(n-p)}{n}$. Thus the variance of the estimate depends on both the number of tests

performed and the hit rate. This violates the ordinary least squares regression assumption that the errors are identically and independently distributed.

Instead we use the generalized linear model¹⁷⁰ $\ln\left(\frac{E(r)}{1-E(r)}\right) = x\mathbf{b}$ $r \sim \text{Binomial}(n, p)$. This is

the standard logistic model commonly used for proportions. We also tested the simpler model $E(r) = x\mathbf{b}$ with the same binomial distribution. With a single categorical independent variable, this model has the interpretation of a weighted average of the rates for each category. When additional variables are introduced, the interpretation becomes less intuitive. The two formulations give very similar results. We present only the logistic form, which fits the data slightly better.

¹⁶⁷ $r = -.82$

¹⁶⁸ The coefficient is greater than one because we are analyzing the composition of the entire prison population, rather than the behavior of specific individuals.

¹⁶⁹ FCI Safford (2), FCI Loretto (5), FCI Waseca (6), FCI Allenwood (9), and FCI Sandstone (9).

¹⁷⁰ STATA procedure GLM

To highlight the effects of prisons on drug use, the model is rewritten as follows:

$$\ln\left(\frac{E(r)}{1-E(r)}\right) = x\mathbf{b} + \mathbf{m}_{prison} + \mathbf{e} \quad r \sim \text{Binomial}(n, p)$$

where μ_{prison} is the effect for a specific prison. We estimate μ_{prison} by random effects generalized estimating equation. The rates observed in each prison are nearly uncorrelated from one month to the next ($r = 0.07$)

Although prison demographics and sentencing information explain much of the variation in drug test outcomes, Taft Correctional Institution still has significantly more failures than would be expected based on the composition of its population. Table 4.3 shows the results of a binomial regression where the dependent variable is the log of the odds that a random drug test will return an unauthorized positive result. When other variables are taken into account, race and ethnicity are no longer significant predictors of drug use. The coefficients associated with most individual age groups are also not statistically significantly different from zero, but when these variables are tested jointly, we find some evidence of a relationship. We simplified the distribution of time left to serve by computing a linear combination of the proportions in each category that is approximately equal to the prison's average remaining time. Prisons with higher averages are associated with higher drug use. Taft's coefficient is +1.3 with a standard error of 0.3. Because the outcome is measured in the log-odds metric, this means that the odds of a positive drug test at Taft are $e^{1.3} = 3.5$ times as high as in other institutions, even after accounting for differences in inmate population composition.

Table 4.3

Binomial Regression of Random Drug Test Results

	Coefficient	Standard Error	z	Probability
Ethnicity: Proportion of				0.415
African-American inmates	1.089	1.194	0.910	0.362
Hispanic inmates	-0.083	1.123	-0.070	0.941
Age: proportion of inmates				0.037
26-30	-4.615	4.973	-0.930	0.353
31-35	8.175	4.513	1.810	0.070
36-40	1.744	4.636	0.380	0.707
41-45	-1.817	5.223	-0.350	0.728
46-50	6.752	5.516	1.220	0.221
51 and over	4.130	6.418	0.640	0.520
Drug Sentences: Proportion of inmates with drug sentences				0.001
5 years or less	2.933	0.836	3.510	0.000
Greater than 5 yrs	2.858	1.906	1.500	0.134
Proportion of inmates who are separates	-6.643	2.233	-2.970	0.003
Average years left to serve	0.377	0.145	2.610	0.009
Indicator for Taft FCI	1.267	0.314	4.030	0.000
Constant	-8.224	2.709	-3.040	0.002

Notes: Two-tailed z-test. For groups of variables, probability is Wald test that all coefficients are jointly equal to zero.

Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

This difference is unlikely to be the result of chance variation in test outcomes. The probability of observing such a value is less than 1 in 1,000 under the hypothesis that Taft actually has the same rate of drug use as the other prisons.

In summary: We have approximately 95 percent confidence that drug use at Taft was at least twice as high as at other low security federal institutions during this period. We have no explanation of this finding. Drugs can be brought into prisons by visitors, by staff, and by smuggling them into the prisons in the mails or other goods brought by visitors. GEO's managers hypothesize that there may be larger numbers of inmates at Taft using drugs as a result of the large numbers of visitors the prison receives each week. Although inmates are searched following visits, processing visitors in and out of the facility and prisoners in and out of the visiting rooms creates some holes in the membrane of security surrounding prisons. GEO's managers believe that the Taft facility manages a larger number of visitors than do most other low security federal facilities, which may affect the availability of illegal drugs in the prison population. No attempt was made to test this hypothesis.

Vital Function: Provide Administrative Remedies and Procedures to Hear Prisoners' Grievances

The numbers of grievances filed by inmates may be an indicator of inmates' perceptions of how fair and adequate is their treatment. To be sure, perceptions of unfairness and dissatisfaction are

pervasive in prison and are endemic to imprisonment. Nonetheless, differences from one federal prison to another in the numbers of grievances filed may be useful indicators of the *relative* fairness of Taft as compared to other facilities, as perceived by inmates, at least.

Prisoners make a formal request for administrative redress of a grievance by submitting a form (BP-10 in the federal prisons). At the twenty government-operated prisons, about one-third of all submitted such forms are rejected and not filed. Administrators at the Taft facility reject nearly half of the forms their inmates submit. Because action on complaints represents the combined effect of the inmate's filing and the administrator's decision, only the number of forms submitted are analyzed here, and not the number filed.¹⁷¹

In certain months, the data about these BP-10 forms in the Key Indicators/Strategic Support System seem suspiciously anomalous. In December of 2003, for example, thirteen of the 21 prisons reported exactly zero forms submitted.¹⁷² In several months, Safford reported numbers of BP-10 submissions that exactly equaled their average daily populations. We there excluded both zero and 100 percent values of numbers of submissions from the analysis. Figure 4.5 shows both the raw data (left panel) and the cleaned data (right panel).

Prisoners at the Taft facility submitted these at a higher rate than at all other prisons (about .66 submissions per inmate per month, compared to an average of about .57 per inmate/month in all low security federal facilities combined), although rates at three federal correctional institutions were nearly the same (FCIs Waseca, Safford, and Lompoc). A comparison of the reasons for filing these grievances shows that Taft's inmates were substantially more likely to be complaining about housing-related matters and disciplinary matters than at other low security federal prisons (Table 4.4).

¹⁷¹ Even this may be subject to some administrative influence. Prisoners must file a form BP-9 to request form BP-10. An administrator might use this procedure or others to influence prisoners' willingness to resort to formal procedures.

¹⁷² In other months, the average prison reports about 800 forms submitted.

Figure 4.5

Administrative Remedies Sought, By Prison (September 2000 To August 2004)

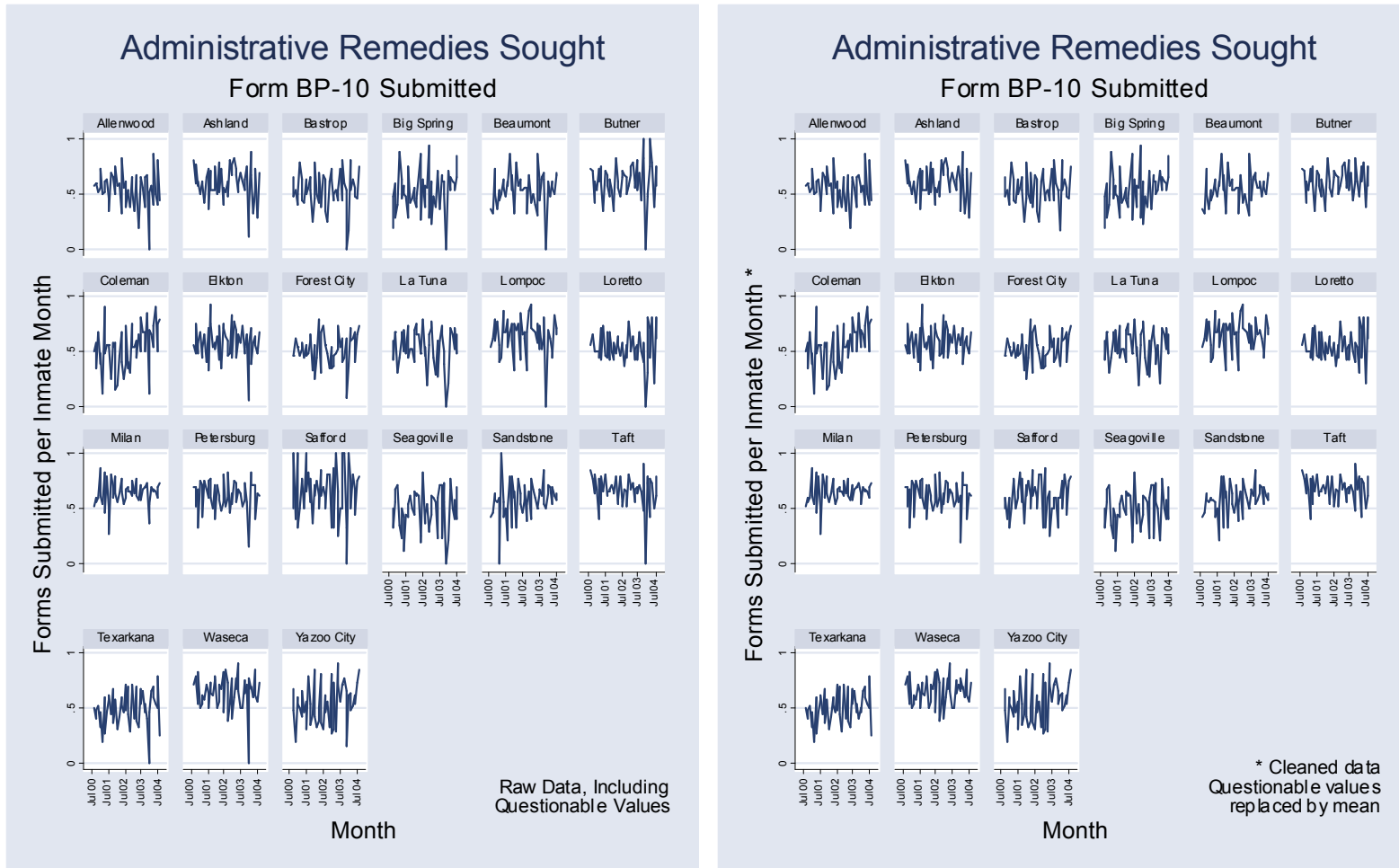


Table 4.4

Requests to Submit Grievances at Taft Correctional Institution and Bureau-Operated Low Security Federal Correctional Institutions, by Reason (September 2000–August 2004)

Subject of Grievance	Federal FCIs	Taft Correctional Institution
Housing	26.8%	36.3%
Staff	10.5%	5.7%
Medical	8.4%	5.5%
Disciplinary Actions	7.0%	16.5%
Classification	7.3%	6.4%
Transfer	7.1%	8.2%
Sentence Computation	4.9%	3.0%
Jail Time Credit	4.5%	2.6%
Institutional Programming	4.5%	2.2%
Institutional Operations	3.3%	3.9%
Pre-release	2.4%	3.2%
Legal	2.6%	0.7%
Work Assignments	2.4%	2.0%
Special Housing	2.3%	0.9%
Mail	1.3%	0.6%
Records Management	1.0%	0.2%
Visiting	0.8%	0.4%
Education, Recreation, Leisure	0.8%	0.1%
Food	0.7%	0.3%
Communication	0.6%	0.2%
Dental	0.3%	1.0%
Disability	0.2%	0.1%
Searches & Restraints	0.2%	0.0%
Mental Health Care	0.1%	0.1%
Control	0.1%	0.0%
Total	100%	100%
<i>(Number)</i>	<i>(23,031)</i>	<i>(1,684)</i>

Source: Computed by Abt Associate Inc. using data from Bureau of Prisons Key Indicators/Strategic Support system.

To estimate the differences among Taft and other low security federal facilities in rates of submitting grievances, accounting for other observed factors that may affect these rates, we constructed a regression model of the number of grievances submitted (Table 4.5). The model is

$$S_j = \sum x_i b_i + m_j + e, \text{ where}$$

- S_j = Number of form BP-10s submitted per inmate in prison j
- x_i = Characteristics of the inmate population, and other independent variables
- m_j = The effect of prison j
- e = Error term

The number of submissions per inmate increased modestly over the period examined here (September 2000–August 2004). Prisons with high concentrations of African-American or Hispanic inmates reported a relatively lower rate of submission than those with smaller proportions of minority prisoners. Other characteristics did not show a significant relationship to submission rates. (In our model, we retained information about the distribution of inmates' time left to serve. Conclusions about Taft are unaffected by whether this information is considered or ignored.) When these characteristics are taken into account, the differences are similar to the simple differences in rates without accounting for any other differences among prisons and prisoners. That is, prisoners at Taft submit more requests (about 13 percent more) for administrative relief than do prisoners at other low-security Federal prisons, on average (Table 4.5 and Figure 4.4).

Table 4.5

Regression Analysis of Grievances Submitted

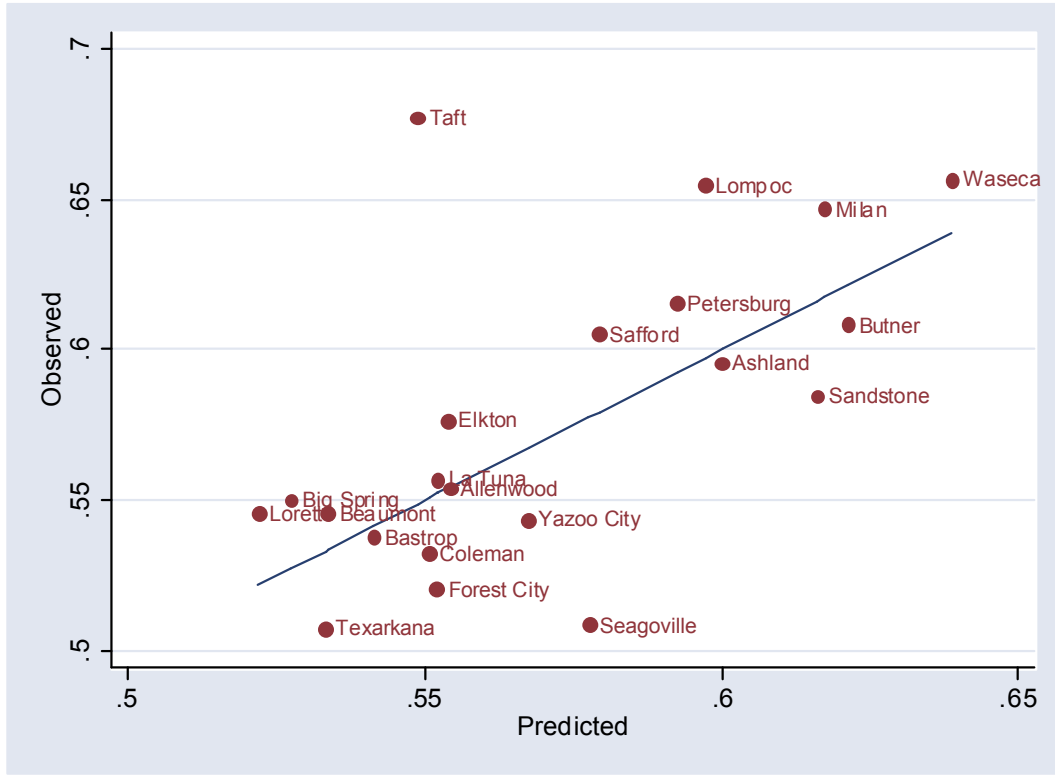
Month	0.001**
Proportion of African-American Prisoners	-0.028
Interaction: African-American x Hispanic	-0.499
Proportion of Hispanic inmates	-0.198
Proportions left to serve < 4 mos.	-0.201
Proportions left to serve 5-8 mos.	0.94
Proportions left to serve 9-12 mos.	-0.532
Proportions left to serve 13-24 mos.	0.204
Proportions left to serve 25-60 mos.	0.152
Proportions left to serve 61-120 mos.	0.02
Indicator for Taft FCI	0.128***
Indicator for December, 2003	-0.168***
Constant	-0.017

Notes: * p<.05; ** p<.01, *** p<.001

Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

Figure 4.6

Number of Grievances Per Inmate Month (September 2000–August 2004)



Note: Based on number of Form BP 10s submitted. In months when a prison reported exactly zero submissions, or exactly one submission per inmate, we substituted the average rate for other months in that prison.

Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

Goal Number 4: Correctional Leadership and Effective Public Administration

Vital Function: Provide Independent, Objective Oversight to Reduce Waste, Loss, Unauthorized Use, Misappropriation of Funds and Assets, and to Help Improve the Performance and Efficiency of BOP Programs.

GEO has sought and won accreditation from the American Correctional Association, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for its health services, and from the International Organization for Standardization (ISO) for its quality assurance system.

Goal Number 5: Inmate Programs and Services

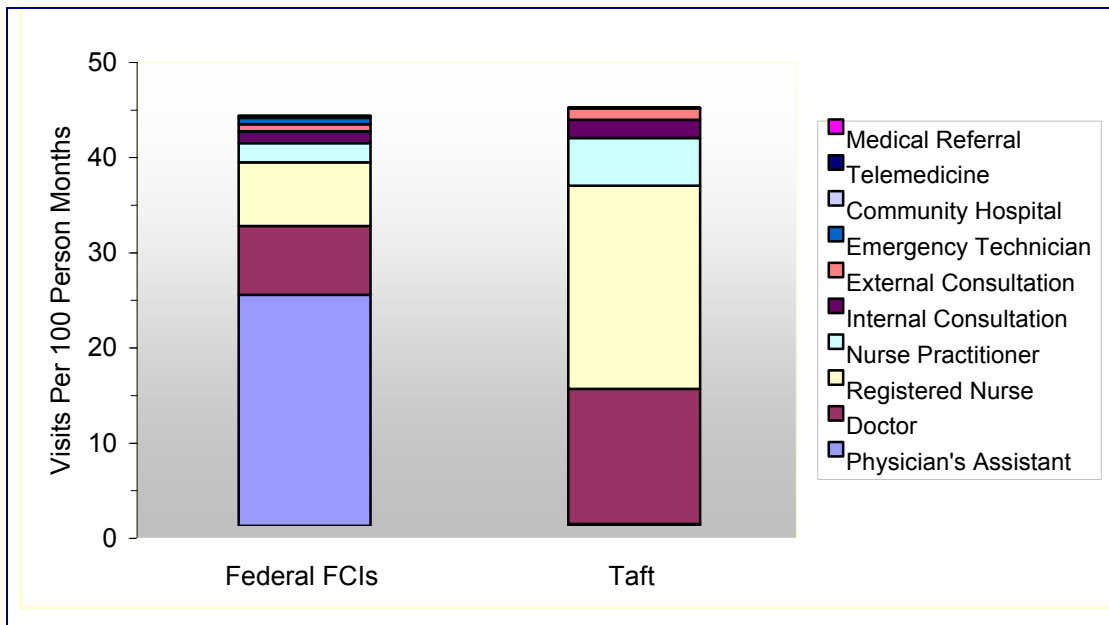
Vital Function Regarding Patient Care: To Identify and Provide a Timely and Effective Response by Qualified Health Care Staff to Legitimate Health Care Needs for Inmates.

Vital Function Regarding *Resource Management*: To Identify, Develop, and Manage Essential Resources that Best Meet the Operation Needs of the Health Care Program

Prisoners at the Taft facility are attended to by healthcare professionals at about the same rate as at low security federal prisons (Figure 4.7). GEO's staffing of its healthcare services differs from the Bureau's, however. Most federal prisons rely on a combination of physicians' assistants, doctors, and registered nurses to provide routine care. GEO does not employ physicians' assistants, so that many more patients at this facility see a registered nurse or nurse practitioner. In addition, Taft prisoners are substantially more likely to see physicians than are inmates at other federal institutions (Figure 4.7). Thus, while the total number of patient visits is about the same, the type of care may be substantially different.

Figure 4.7

Medical Care Visits, by Type Of Provider — September 2000 to August 2004



Source: Computed by Abt Associates using data obtained from Bureau of Prisons' Key Indicators/Strategic Support System.

Summary

On a variety of measures, GEO's performance in operating the Taft facility is similar to the Bureau's performance in low-security federal prisons. GEO has obtained for the Taft facility accreditation from national and international organizations. The firm has generally maintained adequate staffing levels (and has experienced low staff turnover). It has provided a variety of programs to prisoners (although it lost a significant source of inmate employment when the Bureau pulled the prison industry program out of Taft in 2003 so that it could be relocated in a federal prison to provide employment opportunities there). Prisoners are able to access health care at the same rates as in federal prisons, and are more likely to see a physician than in federal facilities. GEO has succeeded in providing inmates and staff with a safe living and working environment. No prisoners or staff have been killed at the facility. Rates of assault on staff and other prisoners have been lower than the average rates in all low security federal prisons combined, although within the range observed in the safest federal facilities.

On some other dimensions, however, GEO's performance has differed from other federal institutions. It has experienced two escapes, one during the early period (1998), and it has changed procedures to prevent repeats, and another more recently that does not signal lax security because it was thought impossible to escape through a trash compactor.

There is also evidence that illegal drugs are significantly more pervasive than in low-security federal prisons. In these federal facilities, fewer than 1 percent of all prisoners tested at random for drug use are tested positive. This is not a constant pattern at federal facilities, because some of these low security prisons report higher rates of positive drug tests than others, and rates can vary significantly from one time period to the next at a single facility. At the Taft facility, the odds of a prisoner testing positive if picked at random was about 3 times as high, on average, throughout the period examined here.

Finally, prisoners at the Taft facility are somewhat (approximately 12 percent) more likely to submit grievances, largely because of higher rates of complaints about their housing situation and about disciplinary practices.

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Appendix

Statistical Procedures for Estimating What Materials, Supplies, and Miscellaneous Other Items Would Have Cost Under Direct Bureau Management

The A-76 procedure requires examining the performance work statement developed by the government for the facility and developing a list of all required material, supplies, and services by the quantities needed, unit prices, and escalation for out-years. The Bureau did not develop such a list, so these costs are estimated based on observed expenditures at 14 other low-security federal prisons for which costs could be identified unambiguously. This is the same set of facilities used to estimate premium compensation, discussed in Chapter 2. Reported expenditures at each facility for each fiscal year (1998 through 2002) were obtained from the Bureau of Prisons. These were reported for the categories of expense shown in Table 2.11 in Chapter 2.

Spending for these various items at these 14 federal prisons depends mainly on the size of the facility, measured as the average daily prisoner population. Other determinants, such as the facility's age and geographical location, may affect some minor cost components such as travel and cost of utilities. To estimate what the Bureau would have spent for these items if it had operated the Taft facility, statistical analyses were conducted to examine the extent to which these costs varied according to the number of prisoners held by these prisons during each of the five years. Because the levels of expenditure might be affected by differing proportions of low and minimum-security prisoners at the prisons, the numbers of prisoners in low security units and minimum security camps were included as separate variables in a multivariate estimation model.

Each fiscal year for each prison contributes one observation, so the analysis is based on a total of 70 observations. The observations are not independent, however, because the three observations within each prison are correlated. Our estimates take this lack of independence into account.

Ten budget categories contribute to non-staff costs (Table A.1). The largest of these categories is supplies, which accounts for about half the cost in each year. Travel, "other services," and utilities make up most of the remaining cost.

Table A.1

Average Annual Costs Per Facility for Materials, Supplies, and Miscellaneous Services in 14 Federal Prisons, FY 1998–2002

	1998	1999	2000	2001	2002
Supplies	\$2,385,687	\$2,615,494	\$2,975,432	\$3,311,462	\$3,063,407
Other Services	\$1,300,603	\$1,169,364	\$1,347,078	\$1,424,356	\$1,712,686
Communications, Utilities, Misc	967,038	936,543	1,002,148	1,198,238	1,123,395
Travel	\$173,690	\$162,198	\$182,498	\$192,515	\$174,326
Equipment	\$139,350	\$110,191	\$145,098	\$44,084	\$41,574
Transportation	\$64,337	\$70,652	\$66,817	\$52,568	\$62,630
Grants Subsidies	\$13,624	\$12,150	\$12,518	\$10,050	\$11,749
Other ^a	\$2,961	\$6,269	\$17,315	\$6,541	\$17,373
Total	\$5,047,290	\$5,082,861	\$5,748,904	\$6,239,813	\$6,207,139

^a Includes Insurance Claims, Other Rent, Printing & Reproduction, Land & Structures, STD Level User.

Source: Expenditure reports from Budget Executive Branch, Bureau of Prisons.

The period 1998-2002 was one of relatively low inflation. The GDP deflator was rising at 1.8% annually. OMB specifies a series of inflation assumptions for FY1998 to FY2002.¹⁷³ These assumptions lead to the price indices shown in table A.2. To convert actual spending to constant 2002 dollars, we divided each figure by the index for its year.

¹⁷³ OMB Circular A-76, Transmittal Memorandum No. 21 and 25.

Table A.2

Average Materials and Supply Costs for 14 Prisons, FY 1998–2002

	1998	1999	2000	2001	2002
Materials and supplies cost (actual)	\$5,047,290	\$5,082,861	\$5,748,904	\$6,239,813	\$6,207,139
Price Index	93.02%	94.23%	95.65%	97.85%	100.00%
Cost in 2002 dollars	\$5,425,756	\$5,393,874	\$6,010,514	\$6,377,089	\$6,207,139
ADP (average of 14 prisons)	\$1,239	\$1,350	\$1,458	\$1,445	\$1,497
Cost per ADP	\$4,378	\$3,995	\$4,122	\$4,412	\$4,145
Taft ADP	\$1,091	\$2,230	\$2,379	\$2,376	\$2,343
Taft at average cost	\$4,776,817	\$8,909,880	\$9,806,318	\$10,483,197	\$9,712,664

Expressed in constant 2002 dollars, spending for materials, supplies, and other non-personnel items prisons rose from an average of \$5.4 million in FY1998 to \$6.2 million in FY2002 (an annual rate of 3.3%). During this period, the average daily population of these prisons rose from 1,239 to 1,497 (an annual rate of 4.8%). This yields an average annual constant dollar cost per inmate during this period that varies between \$4,000 (in FY 1999) and \$4,400 (in FY1998 and FY2001). In FY2002, the Taft Correctional Institution housed an average of 2,343 inmates. At the average annual cost of the 14 other prisons that year, this would have cost \$9.7 million.¹⁷⁴

However, the Taft Correctional Institution is both the newest (1997) and the largest (2,343) of the facilities making up this estimate, and consequently might not experience “average” costs, since prisons might experience economies (or diseconomies) of scale. To account better for differences in population size, a different estimate was developed.

This estimate assumes that costs can be divided into two categories: variable and fixed. The former vary quite directly according to the average daily population (ADP) of prisoners in a facility (for example, the cost of meals); whereby the latter are associated with operating the facility regardless of whether the facility is fully occupied, or half occupied (such as heating or cooling). This leads to the equation

$$\frac{\text{cost}}{\text{price index}} = \text{fixed cost} + (\text{variable cost}) \times (\text{average daily population}) + e$$

$$= \$552,019 + \$3,411 \times (adp) + e$$

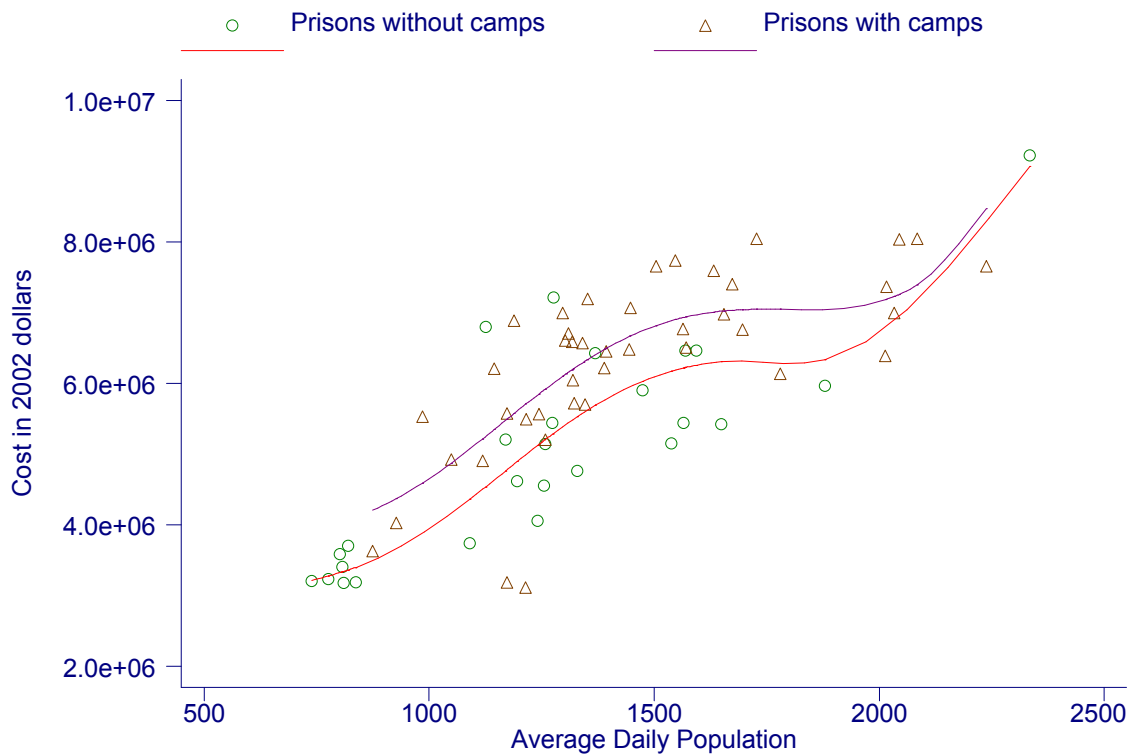
This equation estimates the cost for each of the three years. The cost is adjusted for each of the years by the price index—the OMB-prescribed escalation rates for FY 1999 and FY 2000.

¹⁷⁴ That is, \$3,886 X 2231 inmates=\$8.7M. This estimate has a 95% confidence interval of ±\$750,000.

Figure A.1 shows that costs increase with the size of the institution, but it also shows considerable variation among costs for institutions of similar size. Some of this variation is systematic. In the figure, circles show prisons without camps, and prisons with camps are shown by triangles. Prisons with camps appear to have slightly higher costs than non-camp prisons of similar size.

Figure A.1

Costs of Materials and Supplies at Low Security Prisons (2002 dollars) 1998–2002, by Average Daily Population and Presence of Camps



In addition, the newest prisons (especially those opened in 1997) appear to have lower average costs than older institutions (Figure A.2). This suggests that we expand the equation to reflect the security mix of the population and the age of the facility. Table A.3 shows the regression estimate based on these variables. This equation uses two variables (an indicator variable and the number of camp inmates) to express the existence and size of the camp. The estimated coefficients for both of these variables have very large standard errors (about as large as the estimates themselves). This is because the two variables are correlated.¹⁷⁵ Moreover, the variable cost per camp inmate (\$3,253) is indistinguishable from the variable cost per walled inmate (\$3,422). This suggests a simplified version of the equation that treats the variable costs for both security levels as equal. This simplified equation is shown in table A.3, and is the one used in our calculations.

¹⁷⁵ $r=0.82$

Figure A.2

Costs Per Inmate of Materials and Supplies at Low Security Prisons (2002 dollars) 1998–2002, by Age of Facility



Table A.5 shows the result of applying the equation in table A.3 to Taft’s population during five years, FY 1998 through FY 2002. This table shows the results in constant 2002 dollars and current dollars; the confidence intervals are expressed in current dollars only. For example, in FY 2002 the estimate is \$8.0 million, with a 95% confidence interval of \$525,435—which means that the estimate probably ranges between \$7.515 and \$8.565 million. This confidence interval is based on the standard error of the prediction; that is, it includes an estimate of the error in estimating the regression equation, but does not include error due to random variation among institutions or from year to year at a single prison.

Estimates for FY1998 were then adjusted to account for the fact that the operational phase would have not lasted a full year, but instead from December 20, 1997 through September 30, 1998. (See Chapter 2 for adjusted estimates.) The fixed portion of the FY 1998 estimate was therefore reduced by 22 percent to reflect the partial year of operation. The variable cost estimate was not adjusted because it is based upon the average daily population of the facility during the entire year, and this measure was averaged at the Taft facility using the entire year’s data, including months when there were no prisoners.

Table A.3

Regression Equation for Materials and Supply Costs (Including Two Variables for Camp Costs)

Cost in 2002 dollars	Coefficient	Standard Error	t	P>t	[95% Confidence Interval]	
Non-camp inmates	3,422	244	14.02	<.001	2,895	3,949
Camp inmates	3,253	2,026	1.61	0.132	-1,125	7,630
Camp fixed cost	535,406	532,559	1.01	0.333	-615,117	1,685,928
Age	23,040	3,318	6.94	<.001	15,872	30,209
Non-camp fixed cost	29,668	351,373	0.08	0.934	-729,427	788,764

Note: Age is measured in years older than Taft (1997=0, 1996=1, etc.).

Source: Computed by Abt Associates Inc.

Table A.4

Regression Equation for Materials and Supply Costs (Including One Variable for Camp Costs)

Cost in 2002 dollars	Coefficient	Standard Error	t	P>t	[95% Confidence Interval]	
Total inmates	3,411	255	13.36	<.001	2,859	3,962
Camp fixed cost	503,027	242,810	2.07	0.059	(21,532)	1,027,586
Age	22,885	3,780	6.05	<.001	14,718	31,052
Non-camp fixed cost	48,992	400,248	0.12	0.904	(815,692)	913,676

Note: Age is measured in years older than Taft (1997=0, 1996=1, etc.).

Source: Computed by Abt Associates Inc.

Table A.5

Regression Estimate for Materials and Supply Costs at Taft FCI, 1998–2002 (in Current and Constant FY 2002 Dollars)

	Average Daily Population	Estimated Cost		95% confidence interval	
		Constant Dollars	Current Dollars		
1998	1091	\$4,151,510	\$3,861,735	\$3,276,000	\$4,447,469
1999	2230	8,157,595	7,686,902	7,411,100	7,962,704
2000	2379	8,665,770	8,288,809	7,997,011	8,580,608
2001	2376	8,152,512	7,977,233	7,449,442	8,505,024
2002	2343	8,039,963	8,039,963	7,514,528	8,565,398

Note: Estimates for FY98 adjusted for partial year of operations. Confidence intervals refer to current dollar costs.

Source: Computed by Abt Associates Inc.

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