



Chandler Merritt
Tarrant County Administrator

TO: Tarrant County Commissioners Court
FROM: Chandler Merritt, County Administrator
DATE: February 15, 2024
SUBJECT: Options Related to the MTC Contract

On February 6, 2024, Commissioners Court considered the Management & Training Corporation (MTC) contract. Through CO #142537, the Commissioners Court ordered the County Administrator to send a letter to MTC expressing their severe displeasure regarding MTC failing Texas Commission on Jail Standards (TCJS) compliance and lack of the contractually required immediate notification. The County Administrator sent a letter to MTC on February 14, 2024, relaying the Commissioners Court's displeasure and stating that the County is considering options regarding the contract housing of inmates in the Giles W. Dalby Correctional Center in Garza County, Texas. This memo outlines options related to the MTC contract for Commissioners Court consideration.

Background

The Tarrant County Jail has been near capacity throughout the pandemic. The Commissioners Court approved, through Court Order #138902, the agreement with MTC to house up to 432 inmates. On October 3, 2023, Commissioners Court, through Court Order #141835, extended the contract from September 30, 2023, to December 31, 2024, and increased the number of inmates to 500.

The use of the Heating, Ventilation, and Air Conditioning (HVAC) and Building Automation System (BAS) systems during the pandemic according to CDC guidelines accelerated their deterioration and are now end-of-life. The Commissioners Court approved a contract to replace the HVAC and BAS units in the county jail. The Corrections Center has four quadrants (A, B, C, D) which respectively house approximately 480-552 inmates. The quadrants must be sequentially closed to replace the HVAC and BAS systems while maintaining Texas Commission on Jail Standards (TCJS).

HVAC renovations began on November 1, 2023, and the first quadrant is currently anticipated to be completed in March 2024. The HVAC and BAS renovations for each subsequent quadrant under the current contract are expected to take three (3) to four (4) months with full project completion expected in December 2024.

The Tarrant County Commissioners Court approved an agreement with Komatsu, through Court Order #141958, on October 17, 2023, to renovate Cold Springs detention facility from a low risk facility to a medium security facility. The architect is currently working on the design, which must

be approved by TCJS before the project can be bid, awarded, and completed. The decision to approve the facility renovation project lies with TCJS, and that request is currently under review.

State and Local Fiscal Recovery Funds (FRF), authorized by the American Rescue Plan Act (ARP), must be obligated by December 31, 2024. The U.S. Treasury's Interim Final Rule for Obligation requires that all FRF be obligated through a contract or agreement by December 31, 2024. Funds not obligated must be remitted back to the U.S. Treasury. The MTC contract and county jail HVAC and BAS projects are funded using FRF and are both subject to the obligation deadline. Once the obligation deadline has passed, change orders or contract amendments cannot be funded using FRF. Additionally, vendors can be replaced under only very specific situations.

Options

Commissioners Court requested that Tarrant County staff identify options related to the MTC contract and evaluate and present alternatives and associated risks regarding the housing of Tarrant County inmates currently being provided at the Giles W. Dalby Correctional Center. After evaluating multiple options, the following three options are viable for Commissioners Court consideration:

- Accelerate the HVAC and BAS renovation to be complete by September 30, 2024, and terminate the MTC contract at that time.
- Continue the MTC contract and consider renegotiation to include penalties and liquidated damages.
- Terminate the MTC contract and delay the jail HVAC project until Cold Springs renovation is complete.

Staff has developed estimated operational savings and costs to the county for each of the three options. Since negotiations are ongoing, these estimates are fluid and will likely change in the coming weeks. If Commissioners Court makes a decision to move forward with one of the options presented, staff will negotiate amendments and bring them back to Court.

Option 1: Accelerate the HVAC and BAS renovation to be completed by September 30, 2024, and terminate the MTC contract at that time.

Estimated Operational Savings to the County: \$1,607,177

Staff has worked with the HVAC and BAS contractors, and they have given the county an option to accelerate the project's completion date by three (3) months (from December 31, 2024, to September 30, 2024). This will allow the MTC contract to be terminated an anticipated three (3) months early. This option allows the jail capacity to be independent of the Cold Springs project, reducing the potential for capacity loss.

Operational Considerations

- Request change orders to accelerate the project schedule from HVAC and BAS contractors.
- Ensure availability of TCJS to reinspect on the accelerated timeline.
- Reprogram FRF savings from the MTC contract termination (approximately \$1.5 million per month) to other eligible programs and projects that can meet the obligation requirements in the U.S. Treasury's Interim Final Rule for Obligation.
- Ensure availability of facility and jail staff to accommodate contractors' accelerated schedule.

- Timing the termination of the MTC contract to maximize operational efficiency and contract savings.
- Work with TDCJ to accelerate the change in the state prisoner pick up pattern from the MTC facility to Tarrant County.

Concerns

First, accelerating contract timelines can be difficult, and there is a risk that the contractor will not be able to meet the new timeline. There could be unforeseen construction delays, contractor staffing issues, and supply chain problems.

Second, TCJS must inspect the HVAC and BAS renovation project. Their inspectors may not be available to meet the accelerated timeline and could potentially delay the project.

Finally, timing the termination of the MTC contract with the completion of the HVAC and BAS system renovation project is a cause for concern. If the Commissioners Court terminates the contract but an unforeseen delay happens on the project (inspection issue, supply chain delay), then the county may have lost jail space with no corresponding increase from opening another tower in the Corrections Center. The Commissioners Court must give a minimum of sixty (60) day notice of termination.

Option 2: Continue the MTC Contract but Renegotiate the Contract

Estimated Operational Savings to the County: \$0.00

According to the terms of the contract, MTC can only terminate the contract for breach of contract or a change in facility capacity. One option is for the Commissioners Court to continue the current contract through its expiration on December 31, 2024. Commissioners Court can direct staff to attempt to renegotiate the contract to include penalties for non-compliance, falling out of compliance with jail standards, and add liquidated damages for such non-compliance issues.

Operational Considerations

- Evaluate options for renegotiating the contract.
- Evaluate options and costs to accelerate the Cold Springs renovation and seek approval from TCJS on architecture plans to go to bid and allow the contractor to begin the project as soon as possible.
- Ensure contractors complete the HVAC and BAS renovation project by December 31, 2024.
- Evaluate options and procure jail management services and inmate housing alternatives.

Concerns

First, MTC has little incentive to renegotiate the contract. Counties continue to have high jail populations and jail staffing issues. Likely, MTC will be able to replace the Tarrant County contract with another contract.

Second, MTC violated the trust of Tarrant County and breached the contract by failing to provide notice as required when the facility was found in non-compliance with TCJS. According to

counsel, there is no mechanism in the contract to hold MTC accountable other than termination.

Finally, MTC, as of the date of this memo, is in compliance with TCJS. However, since the facility has been found in non-compliance, there is greater likelihood of reinspection and the opportunity to identify additional non-compliance issues.

Option 3: Terminate the MTC Contract and Delay the Jail HVAC and BAS project until Cold Springs Renovation is Completed

Estimated Operational Savings to the County: \$1,879,087

The MTC contract allows Tarrant County to terminate the contract for convenience with at least a sixty (60) day notice. The Commissioners Court can vote to terminate the contract on February 21, 2024, and initiate the minimum sixty (60) day termination period ending April 21, 2024. If the Commissioners Court chooses to terminate the MTC contract, facilities will pause the HVAC and BAS replacement project (which includes all four quadrants) in the Corrections Center. The current quadrant HVAC and BAS replacement project will be completed in March 2024.

Operational Considerations

- The HVAC and BAS renovation contractor must agree to extend the contract into 2025 – delaying the current project timeline by a year or more. The county and contractor will have to agree on a contract amendment for storage fees and costs associated with storing the purchased equipment, additional mobilization, extended warranties, and possible increases in labor rates. The increased costs are estimated at \$2.2 million. These additional expenses are eligible for FRF.
- Reach an agreement with Texas Department of Criminal Justice (TDCJ) to reorganize the state prisoner pick up pattern to include pick up in Tarrant County rather than at the Garza County facility. Due to the change in the pick up pattern, there is a concern that it will take longer for TDCJ to pick up state inmates from Tarrant County.
- Sheriff's Office will need to staff all four quadrants with the current staffing levels which will lead to substantial increases in overtime costs for Tarrant County. Jailers already work a mandatory 52-hour week.
- Accelerate Cold Springs renovation and seek approval from the TCJS on the project and plans to bid and allow the contractor to begin the project as soon as possible.
- Reprogram FRF savings from the MTC contract termination (estimated \$12 million with a 60-day termination period) to other eligible programs and projects that can meet the obligation requirements in the U.S. Treasury's Interim Final Rule for Obligation.
- Use the termination period to complete HVAC and BAS renovations on another quadrant of the Corrections Center; thereby, potentially completing half of the HVAC and BAS renovations to the Corrections Center.
- Procure jail management company and alternative inmate housing options.

Concerns

The first and primary concern is the housing of inmates currently in the MTC facility. The county jail's HVAC and BAS system, due to the pandemic, are at end-of-life and repair and replacement parts are difficult to find. If a unit fails, TCJS can require Tarrant County to find alternative housing for those inmates within twenty-four (24) hours. There are few redundancy options available to ensure that the facility will meet jail standards.

Second, Sheriff's Office jail staffing is another concern. The jail has nearly 200 open positions and existing staff will be mandated to increase work hours to accommodate the increase in jail inmates. Overtime costs will increase by approximately \$350,000 a month.

Third, the Sheriff's Office will either staff Cold Springs through a mix of existing staff and new positions or through use of a jail management contract. More internal staff for Cold Springs will be a challenge given the existing open positions and the difficulty in recruiting and filling the positions. The timeline for hiring, training, and certifying those jailers would need to start in second or third quarter 2024. A procurement for contract jail management will be conducted, and a vendor will be sought. Contract jail management also poses an increased liability with TCJS for the county because another entity will be able to impact the county's regulatory and compliance standards.

Fourth, the Cold Springs facility is expected to house 384 inmates. The MTC contract provides housing for up to 500 inmates. The reduction of 116 beds in capacity could cause significant housing concerns, especially during the 300-400 inmate increase during the summer months while a Corrections Center quadrant is down for HVAC/BAS renovation.

Fifth, the operational considerations outlined above require a careful choreography to be fully executed within the necessary time frame. One potential complication could be if the HVAC/BAS renovation contractor agrees to extend the project into 2025 but then is unable to fulfill the contract and cancels the contract after the end of the FRF obligation period (after December 31, 2024). Switching vendors is a complicated process in the Interim Final Rule for Obligation and may be a cause for loss of funding eligibility.