

**Testimony to House Select Committee on Transparency in
State Agency Operations**

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Co-Chairs Alvarado and Flynn, members of the committee, thank you for the opportunity to discuss the Cancer Prevention and Research Institute of Texas with you.

This is this the first opportunity I've had to publicly detail several important aspects of CPRIT's operations. As a result, this presentation will be longer than what I've made in previous settings.

Before I address the specific topics you asked me to cover, I need to summarize some of the issues concerning CPRIT that are still under review by the Legislature and the media.

I believe these topics are relevant to this committee's jurisdiction.

In January the State Auditor released his report on our grant management process. Generally, he did not question CPRIT's processes but criticized our failure to follow them in all cases.

A second theme concerned conflicts of interest with our Oversight Committee, 3 of 24 staff members, and to a smaller degree with the peer review panels.

CPRIT is implementing all 41 of the recommendations.

Included in today's package, the pink one, on page 1 is a matrix we are using to implement these recommendations as well as other issues identified by us or in proposed legislation.

This matrix is posted on our website so progress can be easily tracked by all interested parties.

Many of the recommendations can be addressed by administrative code rule changes. Proposed rule changes and new rules were favorably discussed at our February 25 Oversight Committee meeting.

The proposed amendments are currently posted in the *Texas Register* for public comment and consideration prior to final adoption by the Oversight Committee at the end of this month.

Other immediate actions include:

- Assessing the review process for the 160 August and December awards that were frozen on December 18 by the Governor, Lt. Governor, and Speaker, as well as the remaining 338 awards issued prior to that time.
- Comparing prior award recipients to the Foundation donor list.
- Rebuilding the research program under the auspices of a nationally renowned science officer.
- Initiating a compliance and ethics program under our new compliance officer.
- Improving post award grant monitoring.
- Procuring an enterprise risk assessment analysis of the agency to prioritize, mitigate, and monitor risk.
- Adopting Oversight Committee bylaws prohibiting interlocking directorate with the Foundation.

Other steps are being taken to improve transparency, restore integrity, and assure accountability.

I wish to point out that although serious; the missteps appear to have affected only a few of our awards.

In the four short years that CPRIT has been operational, we have developed a sophisticated grant award program that has received more than 3,000 applications.

We have announced 498 awards totaling nearly \$836 million to 72 academic institutions, non-profit organizations, and private companies in Texas.

Recruitment grants have helped bring 44 outstanding researchers to Texas.

CPRIT prevention grants are reaching Texans in all 254 counties and saving lives today through education and clinical services.

Members, I believe that the preponderance of what has occurred through CPRIT meets your intent when you enacted our enabling legislation.

Although the mistakes made are regrettable, positive steps have begun to guarantee strict controls and procedures to prevent reoccurrence of the problems.

I'd like to take a moment to address a characterization of CPRIT's funds in and around the Capitol and media where I have heard the term "slush fund" used.

In the little more than three months since we arrived, Billy Hamilton and I have seen no evidence, real or imagined, that indicates any elected official has ever attempted to improperly influence how CPRIT funds are awarded.

We have seen no evidence, real or imagined, that indicates that staff of any elected official has ever attempted to improperly influence how CPRIT funds are awarded.

I understand why the relationship between the Foundation and the agency has created an appearance of conflicts of interest.

However, Mr. Hamilton and I have seen no indication that anyone who donated to the Foundation ever influenced the peer review process.

And I believe such evidence would have appeared by now.

Yes, our rules and processes were circumvented in three instances. Yes, checks and balances need to be established or strengthened to minimize the risk of similar problems reoccurring.

Continuing to characterize it as a slush fund is a disservice to the dedicated objective professionals of the agency and the volunteer members of our Oversight Committee.

Such characterizations make it more difficult for us to recruit the types of nationally acclaimed peer reviewers that you want to evaluate proposals.

More importantly, such characterizations make it more difficult for us to continue working, if such is the Legislature's determination, to mitigate the scourge of cancer that you and the vast majority of voting Texans authorized in 2007.

To those who continue to refer to CPRIT in such negative terms, I ask:

“Is this really what you want to do?”

Conflicts of Interest

Now, let's spend a minute on conflicts of interest.

I will take up each issue emphasized in the State Auditor's Report.

First, the former executive director discussed recommendations with certain Oversight Committee members prior to presenting to the full committee. Singling CPRIT out in this respect, in my opinion, holds us to a higher standard than all other state agencies.

Discussing impending recommendations with the Chair and the Vice Chair of a board in advance of a presentation to the full board is commonplace, if not the norm.

Nevertheless, we will fully comply with this recommendation. One of the proposed administrative rule changes would prohibit the Executive Director from communicating individually with Oversight Committee members regarding the recommendations.

Second, CPRIT staff had offices on the campuses of institutions of higher education that could and did apply for CPRIT grants. This shouldn't have been the case but it occurred without cynical motivations.

Doing so was a convenience with considerable savings to CPRIT. However, we are fully complying with the recommendation.

Third, two members of the Commercialization Review Council, or CRC, had business relationships with certain grant applicants and grant recipients.

In one instance, a former CRC member sat on the CTNeT board of directors. Please note that the Commercialization Review Council did not review the CTNeT application nor did it have any part in recommending the application for CPRIT approval.

I believe this member was asked to join the CTNeT Board of Directors because of his national prominence in the oncology community and expertise in clinical trials.

In the second instance, a CRC member provided advice regarding business incubators to two potential applicants preparing applications for the Houston incubator project. This expert advice was provided as a service to all interested applicants.

She was not paid by the applicants. She followed CPRIT conflict of interest procedures and recused herself entirely from all incubator application reviews. In the end, the two applicants did not submit CPRIT applications.

Proposed rule changes will prohibit CPRIT reviewers from having business relationships with grant applicants or grant recipients, including serving on governing boards or committees of grant recipients.

Fourth, the Foundation donor list was not cross-checked. This is a no brainer in my book, but nonetheless, as I previously stated, there is no evidence that anyone who donated to the Foundation ever influenced the peer review process. I guarantee that list, and any successor list, if there is one, will be cross-checked.

Fifth, the audit cited concerns about a reviewer with an identified conflict of interest in an application participating in the reviews of other applications where that reviewer had no conflict.

I'll note that our practice is standard procedure for the National Cancer Institute and other national grant making organizations. Nonetheless, CPRIT will take a stricter stance than others.

We have proposed administrative rule changes so that going forward, if there is forward, certain types of conflicts with one application will keep the reviewer from participating in the reviews of any application in the review cycle.

Related to that point, CPRIT maintains a considerable amount of information about reviewer-disclosed conflicts of interest and steps taken to recuse the reviewers from participating in the review or funding recommendation.

Most of this information is recorded as electronic data and stored in our grant management database, which we now understand makes it difficult for an entity like the State Auditor to independently access and verify.

We have already taken steps to change the way we physically document the steps in our conflict of interest process to make it easier for independent entities to review for compliance.

Compliance Program

Now, let me highlight our compliance program.

Its purpose is to ensure the integrity and transparency of our processes. A culture of compliance is set by the Oversight Committee along with the Board Governance and Ethics subcommittee.

This culture requires the highest degree of ethical behavior and conduct to promote and preserve public trust, proper stewardship, and confidence in the integrity of the Institute.

Key elements include:

- Robust conflict of interest rules that apply to Oversight Committee members, employees, and scientific review members,
- Independent out-of-state highly qualified peer reviewers identifying the best projects for taxpayer funding,
- Third party observers during the peer review process ensuring independence and freedom from unintentional influence in the evaluation of each grant application,

- Certification of compliance with the grant review process by the compliance officer prior to the award of grants,
- Request for Applications that require a description of all funding sources which include all parties who have investments, stock, or rights in the project permitting identification of potential conflicts of interest, and
- Proposed administrative rules relating to a compliance and ethics program and reporting and investigation of compliance violations.

CPRIT Peer Review Process

Now, turning to the actual peer review process, you will find, on page 4 of the material forwarded to the committee last week, a summary of our intricate peer review process.

Changes being made as a result of the auditor's report are indicated in red. Pages 5 and 6 indicate this process graphically for research, prevention, and product development proposals.

Although appearing complex, the review process as well as criteria used to evaluate the projects is clearly explained in the Request for Applications (RFAs) and applicants should be able to understand what occurs at each step.

Page 7 indicates accountability and post award monitoring processes following the contracting of an award. Because of some of the issues encountered, the Oversight Committee and I want to strengthen our post award monitoring efforts.

To that end, we are requesting additional fiscal staff, grant compliance specialists, and a permanent, full time internal auditor.

Code of Ethics

Page 8 is a high level overview of our code of ethics and conduct for Oversight Committee members, staff, and those associated with the peer review process.

We believe this code is strict. However, we welcome your suggestions to make it even more rigorous and I promise any ideas will be reviewed seriously by the Oversight Committee and agency staff for inclusion.

Supplemental Materials

The package of material presented today contains a couple of items of interest.

- First is the audit matrix posted on our website so that you and members of the public can track the implementation of the State Auditor's and other identified changes to our enabling legislation, agency rules, and agency policies,
- Second, on page 8 is a description of the Information Systems supporting our awards processes that you requested.
 - Briefly, CPRIT's information technology system enhances our compliance program and allows us to document all steps in the application receipt, peer review, and post award processes.
 - In the pre award grant phase, the online application system allows us to receive and manage the peer review of applications, document any conflict of interest for each grant application as well as document all steps in the review and scoring process
 - After an award is made, the online post grants management system captures detailed program and financial reporting.

In addition, we are working on standardizing payments to reviewers and drafting honoraria policies.

We can also make available to you examples of our Request for Applications, Instructions to Applicants, progress reports, grant award contract and other related documents that I hesitated to include in the packages because I don't want to bury you paper any more than I have.

CPRIT Foundation

Now a brief comment on the Foundation.

Last week I met with the CPRIT Foundation's executive director and was informed that the CPRIT Foundation has changed its name and purpose. We – CPRIT and

the former CPRIT Foundation - are working together with the Attorney General's Office to wind down the operations of the CPRIT Foundation, including funds raised on behalf of CPRIT. Late yesterday we agreed that funds raised prior to the name change minus legitimate expenses that have been incurred but not paid will be set aside in an account for the benefit of CPRIT as determined by the legislature.

I apologize for the length of this presentation but I felt it important to finally explain these issues in a public setting.

In closing, let me say that I believe in the topics this Committee is addressing so I hope we can all agree on this takeaway: good government depends on transparency and accountability.

The work the CPRIT team has completed over the past several months shows that any state agency should and can improve the way it conducts the people's business.

It is difficult, and there are skeptics who question every decision, but if our experience serves as a guide, I believe we can all be encouraged by the results — because we all share in the benefits.

Thank you and I will try to answer any questions you may have.