

## VII. GUIDE TO AGENCY PROGRAMS – CONTINUED

### A. Provide the following information at the beginning of each program description.

<b>Name of Program or Function</b>	<b>Adult Protective Services</b> In-Home Investigations and Services Facility Investigations
<b>Location/Division</b>	701 West 51 <sup>st</sup> Street, Austin, Texas/ Adult Protective Services
<b>Contact Name</b>	Beth Engelking, Assistant Commissioner Adult Protective Services
<b>Actual Expenditures, FY 2012</b>	In-Home – \$52,344,306 Facility – \$10,010,572
<b>Number of Actual FTEs as of June 1, 2013</b>	In-Home – 795.5 Facility – 185.5
<b>Statutory Citation for Program</b>	Chapters 40 and 48, Human Resources Code; Subchapter E, Chapter 261, Family Code

### B. What is the objective of this program or function? Describe the major activities performed under this program.

Adult Protective Services (APS) consists of two program areas: In-Home Investigations and Services (In-Home), and Facility Investigations. Statute requires that anyone who believes that a person age 65 or older or adult with a disability is being abused, neglected, or financially exploited to report it.

#### **In-Home**

The APS In-Home program protects adults in the community, as opposed to a facility setting, who are 65 and older or who have disabilities. APS does this by investigating reports of abuse, neglect, and financial exploitation and providing or arranging for services to alleviate or prevent further maltreatment. APS works with vulnerable adults who reside in their own homes or in unregulated “room-and-board” homes. APS also investigates allegations of financial exploitation of vulnerable adults living in nursing homes who may be financially exploited by someone outside the facility.

The APS In-Home program performs the following major activities.

- Investigates reports of abuse, neglect, and financial exploitation.

- Refers reports to other state agencies when DFPS is not the appropriate investigating agency.
- Provides or arranges for services to prevent or alleviate abuse, neglect, and financial exploitation.
- Assesses factors that may indicate an adult's lack of capacity to consent to services and pursue a medical evaluation if indicated.
- Refers adult victims to the Texas Department of Aging and Disability Services (DADS) for guardianship services when they appear to lack the capacity to consent to services and when guardianship is the least restrictive alternative to ensure their safety and well-being.
- Uses the least restrictive alternative when providing protective services.
- Seeks court orders (when necessary) to gain access to individuals, prevent interference with voluntary protective services, provide emergency protective services, and to access records or documents.
- Initiates emergency protective services (e.g., removal) after hours and on holidays without a court order when necessary.
- Notifies law enforcement if APS suspects the client is the victim of a crime, or if an APS client is removed from their home under a court order and the client's home is left unattended.
- Makes referrals to the Employee Misconduct Registry of certain validated perpetrators.
- Enhances and develops community resources in an effort to increase awareness of abuse, neglect, and financial exploitation and to address increasing needs of APS clients.
- Conducts a community satisfaction survey to solicit information regarding the Department's performance in providing protective services for adults.

APS also organizes a public awareness campaign ([www.EveryonesBusiness.org](http://www.EveryonesBusiness.org)) to address important issues in protecting persons age 65 or older and people with disabilities in Texas. The program targets law enforcement, judiciary partners, and service providers to increase their knowledge of APS programs and the needs of vulnerable adults.

### **Facility Investigations**

The APS Facility Investigations program investigates allegations of abuse, neglect, and financial exploitation of persons receiving services in state operated or contracted programs that serve adults and children with mental illness or intellectual disabilities.

APS' role in protecting facility clients from abuse, neglect, and financial exploitation is to:

- notify the provider of the allegations and conduct an unbiased investigation of reported allegations; and

- notify the provider of the objective findings of the investigation so the provider can take appropriate action to protect clients.

APS does not:

- proactively investigate or regulate providers; or
- have operational authority over the providers.

Major activities performed by the Facility Investigations program include:

- Investigating reports of abuse, neglect, and financial exploitation allegations in appropriate facility settings;
- Initiating investigations by notifying the facility or provider agency within one hour of receiving the report; and
- Referring reports to other state agencies when APS is not the appropriate investigating agency (e.g., the allegation does not meet the definition of abuse, neglect or financial exploitation).
- Notifying local law enforcement when an investigation indicates that a crime may have been committed.
- Notifying the HHS Office of Inspector General (OIG) if the investigation indicates a client in a State Hospital or State Supported Living Center has been abused, neglected, or exploited in a manner that may constitute a criminal offense.
- Completes an investigative report with findings for the facility or provider and, if appropriate, law enforcement, the OIG, and DADS.
- Makes referrals to the Employee Misconduct Registry of certain confirmed perpetrators.

Investigations are conducted in the following settings:

- State Supported Living Centers;
- State Hospitals;
- Rio Grande State Center that provides mental health and intellectual and developmental disability services;
- privately operated intermediate care facilities for individuals with intellectual disabilities (ICF/IID);
- community centers that contract with DADS and DSHS to provide mental health and intellectual and developmental disability services; and
- facility and community center contractors, including Home and Community-based Services (HCS) and Texas Home Living waiver programs.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.**

In FY 2012, the APS In-Home average daily caseload was 29.6, with 540 caseworkers completing 87,487 investigations, validating abuse, neglect, or financial exploitation in 59,595 cases, and providing services in 46,083 cases. In Facility Investigations, 121 caseworkers completed 10,803 investigations and confirmed 1,259 cases of abuse, neglect, or financial exploitation.

Monthly Reports

In addition to the required LBB performance measures, executive management receives and reviews a monthly high-level report that provides information for both In-Home and Facility Investigations, including the following measures.

<b>Additional APS Performance Measures</b>	
<b>Program Area</b>	<b>Measure</b>
In-Home	Average number of In-Home intakes assigned for investigation per month
In-Home	Average daily caseload of APS caseworkers
In-Home	Monthly average number of completed In-Home investigations
In-Home	Percentage of In-Home initial face-to-face contacts completed on time
In-Home	Percentage of investigation standards met during Quality Assurance Case Analysis
In-Home	Percentage of client outcome standards met during Quality Assurance Case Analysis
In-Home	Average number of days that investigation stages remain open
In-Home	Percentage of investigation stages progressed to service delivery
In-Home	Average number of days that service stages remain open
In-Home	Percentage of investigation and service delivery contacts that are documented timely (case initiation, initial face-to-face, and monthly status contacts)
In-Home	Monthly average number of filled APS In-Home caseworker FTEs
Facility	Average number of facility intakes assigned per month
Facility	Average daily caseloads
Facility	Percentage of initial face-to-face contacts completed timely
Facility	Monthly average number of completed investigations
Facility	Percentage of facility investigations completed timely (excludes investigations having extensions)
Facility	Percentage of state supported living center investigations completed within 10 Days (not including extension requests)
Facility	Percentage of contacts documented timely

Additional APS Performance Measures	
Program Area	Measure
Facility	Monthly average number of filled APS facility caseworker FTEs
In-Home and Facility	APS caseworker vacancies (In-Home and Facility)
In-Home and Facility	APS worker annualized turnover rate

#### Case Reading and Quality Analysis

APS assesses casework quality through case reading and ad hoc quality analysis. Through this process, APS quality assurance analysts select a sampling of cases to review whether caseworkers followed DFPS policy and verify appropriate case outcomes. A comprehensive reporting system and database provides management with timely performance updates on casework quality and enables the central office to review quality of work statewide.

#### Regional Reviews

In addition, APS conducts two regional reviews each year in coordination with the DFPS Center for Policy, Innovation, and Program Coordination, focusing on program effectiveness and efficiency.

#### Community Satisfaction Survey

DFPS conducts a community satisfaction survey every two years for feedback on APS's performance. In 2011, DFPS sent the survey to 2,477 APS stakeholders, including 400 judiciary members, 552 law enforcement agents, 1,282 community organizations, and 243 APS community board members. The Community Satisfaction Survey Results Reports are available for review on-line at:

[http://www.dfps.state.tx.us/Adult\\_Protection/About\\_Adult\\_Protective\\_Services/survey.asp](http://www.dfps.state.tx.us/Adult_Protection/About_Adult_Protective_Services/survey.asp)

Source: 2011 Community Satisfaction Survey Results Report

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The APS program began in Texas in the mid-1970s when amendments to the Title XX (Social Services Block Grants) portion of the Social Security Act required that states using these funds assure protection of children, persons age 65 or older, and adults with disabilities from abuse and neglect, and financial exploitation. In 1981, the Legislature passed Human Resources Code, Chapter 48 (HRC 48), establishing the state's authority and responsibility for protecting vulnerable adults age 65 and older from maltreatment. Lawmakers amended Chapter 48 in 1983 to extend protection to younger adults (age 18 to 64) who have disabilities.

The APS program has experienced many changes to its mandate since 1983. Below is a description of some of the recent changes that affect the way the program operates.

### Business Plan

APS started a formal annual business plan process with the goal of continuing to improve services to the APS client population. Recent business plan projects include:

- quality assurance and performance management changes;
- evaluation of and adjustments to supervisor consults;
- evaluation of and changes to the APS training model; and
- development of new assessment tools for the In-Home program.

### **In-Home**

#### “As You Go” Documentation

In recent years APS has made other efforts to enhance its effectiveness and efficiency, such as the “As You Go” Initiative. The “As You Go” Initiative grew out of recommendations from APS’ Case Management Efficiency Workgroup in FY 2008. The goal was to improve the management of APS documentation, including more efficient and effective use of mobile technology, and to provide tools for supervisors to support and encourage more efficient methods. DFPS developed and launched a training program to teach workers how to maximize the potential of tablet PCs and more efficiently manage workloads. DFPS trained caseworkers to document their cases on their tablet PCs in “real time”, which improves the timeliness of documentation and the quality of the information gathered. It also allows workers to spend more time working directly with clients. The standard for timely documentation, formerly 14 days, was changed to one day. In FY 2012, 88.6 percent of In-Home case documentation was being completed within one day, and 91.1 percent of facility investigations documentation was completed within one day.

#### Defining Abuse, Neglect, and Financial Exploitation

In 2011, the 82<sup>nd</sup> Legislature passed S.B. 221. It gave the HHSC Executive Commissioner authority to define abuse, neglect, and financial exploitation for the In-Home program in rule rather than law. APS asked for this authority for two reasons. First, APS wanted to target In-Home services to the people who needed them the most and reduce duplication with other community service providers (such as first responders). Second, APS wanted to hold paid caretakers to a higher standard of duty than unpaid caretakers. APS developed the rule changes with stakeholder input and HHSC adopted them on September 1, 2012. APS worked with community partners to carefully put the changes into effect and has carefully assessed and monitored the affect.

### **Facility**

The 81<sup>st</sup> and 83<sup>rd</sup> Legislatures passed several bills that directly affected the APS Facility Investigations program.

SSLC Investigations – S.B. 643 (81<sup>st</sup> Legislature) – This bill focused primarily on the programs overseen by the Department of Aging and Disability Services (DADS) for persons with intellectual disabilities. A significant portion of the bill dealt with abuse, neglect, and financial

exploitation investigations in state-supported living centers (SSLCs) and the Rio Grande State Center. The bill established an independent ombudsman for SSLCs. It formalized the role of the HHS Office of Inspector General (OIG) in abuse, neglect, and financial exploitation investigations that rise to the criminal level and it transferred the responsibility for investigations in privately operated ICF/IID to DFPS beginning in June 2010. It required an interagency memorandum of understanding among the Health and Human Services Commissioner, DFPS, DADS, HHS OIG, Office of Independent Ombudsman, and the Department of State Health Services (DSHS) regarding abuse, neglect, and financial exploitation investigations. It also required a combined database of DADS regulatory data and APS investigation data for SSLCs, privately operated ICF/IID, ICF/IID operated through community MH/MR centers, and HCS settings (that are not adult foster care programs), which would be maintained by DADS.

DOJ Settlement – S.C.R. 77 (81<sup>st</sup> Legislature) – This resolution formalized the settlement between the State of Texas and the U.S. Department of Justice regarding the protection of residents of SSLCs from abuse, neglect, and financial exploitation. The agreement specified three major changes to APS facility investigations:

- 10-Day SSLC investigations – All SSLC investigations were required to be completed within 10 days, rather than the previous 14- and 21-day timeframes. APS successfully began 10-day investigations in June 2010.
- Supervisor review of all facility investigations – Supervisors were required to review and approve all facility investigations in SSLCs and Rio Grande State Center before closing cases. APS implemented this in **all** facility investigations in June 2010.
- Prior History Review – APS was required to review the past case history of the alleged victim and alleged perpetrator in an APS investigation. APS began reviewing and recording past case history in the case files in June 2010.

Employee Misconduct Registry Changes – S.B. 806 (81<sup>st</sup> Legislature) – This bill made State employees working in SSLCs, state centers, state hospitals, and community centers who are confirmed as perpetrators of serious abuse, neglect, or financial exploitation subject to listing in the Employee Misconduct Registry (EMR). This would bar them from direct care employment for life. APS investigators, effective September 2010, began referring designated perpetrators to the registry as they were already doing in home and community-based services cases. DFPS Legal Services works together with HHSC to process the EMR appeal cases in conjunction with the current state employee grievance hearing process.

APS continues to work with DADS and DSHS to improve the quality of investigations. APS is committed to continuing and expanding its efforts to improve the quality of facility investigations.

While APS received resources to implement the legislatively mandated changes, APS continues to examine and monitor workload to determine whether the resources are sufficient to

successfully implement the changes. APS is concerned that the cumulative effect of the changes fundamentally altered program dynamics in a way that has only become clear over time. Discussions with APS field staff, key stakeholders, and internal reviews and appeals provide anecdotal information that the program is struggling to find a balance between timeliness and quality. The DOJ requirements, particularly 10-day investigations, combined with the addition of processes (like review of video evidence) and increased numbers of cases involving EMR referrals (which are usually more involved investigations) and increased investigations in community settings, have created workload stress for APS Facility employees. The program continues to be concerned that investigators may shortcut some investigations. APS is working with DFPS Office of Finance to conduct a time management study of activities in the program to see if better indicators of workload can be developed.

State Hospitals Investigations – S.B. 152 (83<sup>rd</sup> Legislature) – This bill was filed as a result of the findings in an HHSC Interagency Facility Workgroup. It expands protections for patients at state hospitals by increasing oversight, improving employee training (including specialized training), and strengthening abuse, neglect, and financial exploitation reporting requirements. It authorizes the Office of Inspector General (OIG) to investigate criminal offenses. It also permits federal background checks based on risk assessments, and requires professional boards to report suspected allegations of abuse, neglect, and financial exploitation.

Facility Investigations are managed through the regional DFPS structure. This structure creates accountability at the local level, but creates challenges for ensuring consistency in investigations. To address these challenges, APS:

- created a Program Improvement Committee consisting of staff from all levels of the Facility program and from all regions;
- instituted quarterly Facility supervisor meetings;
- worked on additional ways to enhance communication about casework decisions and to provide consultation on complex cases; and
- initiated revision of quality assurance standards to focus more on quality of investigations.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

### **In-Home**

APS In-Home program clients are adults age 65 and older or who have a disability and reside in the community. The population base served by APS is growing significantly. Based on the Texas State Data Center's estimates for 2012, Texans who are aged 65 or older or who are adults with a disability made up about 17.2 percent of the state's population. In 2012, there were more than 2.8 million Texans 65 years of age or older and nearly 1.7 million Texans with a



disability between 18 and 64 years old. Many of these individuals live alone and depend on others for care.

Chapter 48 of the Texas Human Resources Code authorizes APS to investigate reports of abuse, neglect, and financial exploitation of persons age 65 and older, and adults with disabilities. Validated victims of abuse, neglect, or financial exploitation are eligible for services to alleviate the maltreatment.

In 2012, APS completed 87,487 In-Home investigations. Of those, APS validated 59,595 cases of abuse, neglect, or financial exploitation. 49.8 percent of these validated victims were adults with disabilities and 50.2 percent were adults age 65 or older. For all cases, 60.5 percent were women and 39.4 percent were men and ethnic groups were represented as follows:

- 51.0 percent Anglo,
- 22.9 percent African American,
- 22.7 percent Hispanic,
- 0.2 percent Native American,
- 0.6 percent Asian, and
- 2.6 percent were listed as Other

### **Facility**

Chapter 48 of the Texas Human Resources Code and Chapter 261 of the Texas Family Code authorizes APS to investigate reports of abuse, neglect, and financial exploitation of persons age 65 and older, adults with disabilities, and persons receiving mental health or intellectual disabilities services from a State Supported Living Center, State Hospital, community center, state center, or Home and Community-based Services and Texas Home Living waiver programs.

In FY 2012, APS completed 10,803 Facility Investigations: 2,693 were in state hospitals, 3,724 in state supported living centers, 179 in Rio Grande state center, 1,048 in privately operated ICF/IID, 2,623 in Home and Community-based Services and Texas Home Living waiver programs, and 536 in community centers.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

APS is administered through two major functional areas: Field Operations and Performance and Policy Development, a central office support program for both APS In-home and Facility Investigation cases.

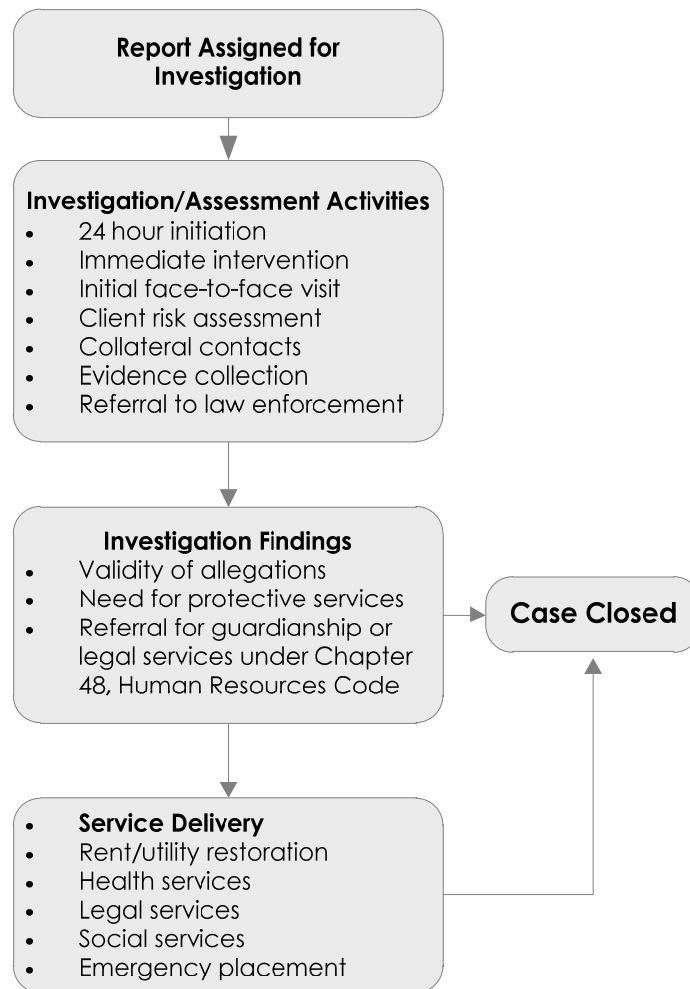
## **APS Field Operations**

APS is administered in eleven regions through nine regional offices. Nine regional directors and 18 program administrators supervise field staff. The regional program administrators manage supervisors.

### *In-Home*

The APS In-Home program protects the unprotected through a statewide investigation and service delivery system. The division employed more than 540 caseworkers and 85 supervisors in FY 2012. Caseworkers investigate reports of abuse, neglect, or financial exploitation and coordinate support services within the community to alleviate or prevent further maltreatment. APS may provide or arrange for emergency services to alleviate abuse, neglect, and financial exploitation. This includes short-term assistance with shelter, food, medication, health services, heavy cleaning, financial assistance for rent and to restore utilities, transportation, and minor home repair. APS also refers clients to other social or community services, and APS refers cases that may require guardianship services to the Texas Department of Aging and Disability Services or local guardianship programs (Houston/Galveston). Individuals with the capacity to do so may refuse APS services but they may not refuse an investigation.

The flowchart shown on the next page is a high-level In-Home case diagram, which is a useful reference but does not show all details of the flow of an In-Home case.



APS In-Home program supervisors consult with caseworkers at specific points during the investigation and delivery of services. Supervisors review and approve all cases before closure.

APS has specialized staff in each region that have expertise in financial exploitation and self-neglect cases. These experts provide a critical resource for staff in gathering key evidence that may lead to legal action and in addressing complex medical and social factors to ensure the safety of clients. Staff specializing in community engagement increase community partnerships and collaborations with service providers, law enforcement agencies, the judicial community, civic organizations, and volunteers. These staff members interact with the community on a daily basis and foster an environment of positive relationships between the community and all APS staff.

**Facility**

The APS Facility Investigations program included more than 121 caseworkers and 22 supervisors in FY 2012. Facility Investigations staff in the regions investigate abuse, neglect, and financial exploitation of clients receiving services in state operated or contracted settings and programs that serve adults and children with mental illness or intellectual disabilities.

The following flowchart is a high-level Facility investigation diagram, which is a useful reference but does not show all details of the flow of a Facility investigation.



APS Facility Investigations supervisors direct investigative teams, mentor investigators, and approve all investigations before they are closed. Each region has subject matter experts in evidence-driven investigation, and in the investigation of risk and exploitation. While these staff primarily focus on In-Home investigations, they are available to assist with complex Facility investigations.

## **APS State Office**

Headquarters provides professional expertise, program support, policy and performance management, strategic planning, and management of field operations. The State Office supports field services through these main divisions: Performance and Policy Development Division, the Field Operations Division, and the Program Support unit.

The Performance and Policy Development Division is responsible for:

- developing, interpreting, and maintaining policy handbooks for In-Home and Facility investigations;
- conducting policy training and staff development activities;
- providing case reading and quality assurance analysis;
- conducting reviews and appeals of Facility cases; and
- providing case consultation to field staff on policy issues.

Field Operations:

- provides overall statewide management of regional activities;
- coordinates regional strategic planning efforts;
- facilitates communication with nine regional offices;
- assists with the purchase of direct services for APS clients;
- manages and coordinates grants to the Department; and
- coordinates community-engagement activities.

The Program Support unit:

- provides support in legislative efforts and response to external requests;
- manages projects and conducts research activities;
- coordinates professional development and training opportunities for the program;
- provides support in reports and data analysis based on the client case-management system; and
- leads development of APS content in agency publications.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Please see Appendix A. Alternate Exhibit Provided For Section VII. Item G.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

The APS program conducts investigations of abuse, neglect, and exploitation for defined target populations, described below, in the In-Home and Facility Investigations programs. APS may also provide or arrange services in In-home cases.

**Facility Investigations**

The APS Facility Investigations program investigates reports of abuse, neglect, and financial exploitation of clients receiving services in state operated and/or contracted programs that serve adults and children with mental illness or intellectual disabilities. Although other programs provide investigations, there are no other programs at the state or local level that provide the same function as APS.

The APS Facility Investigations program reports allegations of abuse, neglect, and financial exploitation that may constitute a criminal offense to local law enforcement. APS also notifies and coordinates investigations in State Supported Living Centers (operated by DADS) with the Health and Human Services Office of Inspector General (OIG) when abuse, neglect, and financial exploitation allegations are possibly criminal in nature. APS works in tandem with local law enforcement and the OIG.

The Office of the Attorney General (OAG) protects senior Texans and other health-care service consumers from abuse, neglect, and financial exploitation by pursuing civil actions against long-term care facilities and investigating incidents for criminal prosecution. The Attorney General’s Consumer Protection and Public Health Division takes civil legal action to ensure quality treatment in nursing homes, assisted living facilities, and home health agencies.

The federal ICF/IID program requires investigation of all “serious incidents.” Serious incidents can include abuse, neglect, and financial exploitation. The provider investigates incidents not investigated by APS. ICF/IID providers (both state and privately operated) use the results of the APS investigation to meet federal requirements as well as any additional internal investigation or review of the incident investigated by APS. DADS regulatory staff oversees compliance with the federal requirements.

**In-Home Investigations**

The APS In-Home program performs two major functions: investigating allegations of abuse and providing or arranging for services. Other state agencies or programs also investigate allegations, although not for the same population.

DADS has the responsibility to investigate activities in assisted living, adult foster care facilities with four or more residents, and nursing homes. When APS discovers boarding homes

providing services that appear to meet the definition of an assisted living facility, APS makes a referral to DADS regulatory for investigation of the licensure status. APS In-Home investigates allegations of financial exploitation involving vulnerable adults living in nursing homes who may be financially exploited by someone outside the facility who has an ongoing relationship with the client.

### **In-Home Service Delivery**

The service delivery function performed by APS In-Home caseworkers often involves clients of area agencies on aging, local MHMR authorities, domestic violence programs, and other community organizations. These programs, however, are not providing protective services. As described in the following section, APS refers clients to or coordinates with these organizations to connect or reconnect them to address the root cause of abuse, neglect, or exploitation, while providing service necessary for their immediate health, safety, and protection. APS communicates and coordinates with these organizations to avoid duplication or conflict whenever possible.

Senate Bill 6 (79<sup>th</sup> Legislature) transferred the Guardianship program from DFPS to DADS. APS refers victims of abuse, neglect, or exploitation to DADS for guardianship services when the client appears to lack the capacity to consent to services, there is no other potential guardian available, and guardianship is the least restrictive alternative that will ensure the client's safety and well-being. Guardianship is a legal decision that establishes a relationship between a person who can no longer make effective decisions for themselves (ward) and a person or entity named by the court (guardian) to assist the ward by making decisions for the ward.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

DFPS has established several memorandum of understanding to avoid duplication and conflict with programs conducting similar investigations or providing similar service, and coordinates services in the best interests of clients.

### **Facility Investigations**

To reduce duplication, APS maintains MOUs with HHSC OIG, DADS, DSHS, and the Office of Independent Ombudsman to define roles and responsibilities in facilities operated by DADS and DSHS. To reduce duplication, APS has MOUs with DADS and the OAG, clarifying roles and responsibilities in investigations involving Medicaid fraud, waste and abuse investigations.

For potentially overlapping abuse, neglect, or exploitation and serious incident investigations in State Supported Living Centers and privately operated ICF/IIDs, in general, incident management staff let APS staff take the lead on serious incidents involving ANE and then usually rely on the APS investigation to comply with federal requirements. If the facility

disagrees with the APS abuse, neglect, or exploitation finding, it may investigate the abuse, neglect, or exploitation aspect of the incident further. It will also investigate the non-abuse, neglect, or exploitation aspects of the incident.

APS coordinates a meeting every quarter with staff from DADS, DSHS, and Disability Rights Texas to discuss policy and operational issues in the Facility Investigations program. Disability Rights Texas is the federally designated legal protection and advocacy agency for people with disabilities in Texas. APS communicates on an as needed basis with staff from both agencies to address issues. APS works closely with DADS and DSHS on communication and training issues for contracted providers.

### **In-home Service Delivery**

To avoid duplication and conflicts, APS community engagement staff work closely with a variety of other service organizations and agencies such as local MHMR authorities, domestic violence shelters, hospital social work and discharge planning departments, and area agencies on aging to build sound working relationships, clarify mutual roles and responsibilities, and address conflicts. At the state level APS participates with CPS, HHSC, and the Texas Council on Family Violence on an interagency steering committee to address concerns related to domestic violence against CPS and APS clients. DFPS maintains and periodically renews MOUs with domestic violence shelters. APS staff members participate at the state and local level in numerous regional or local groups when current or potential APS clients have needs that require coordination across multiple organizations. Examples include APS Special Task Units, HHSC Community Resource Coordinating Groups for Adults, the HHSC *Colonias* Initiative, and Money Follows the Persons meetings, among others.

The organization that most closely mirrors the APS service delivery function is area agencies on aging. APS and area agencies make referrals to each other based on ability to meet client needs in a specific case and, on occasion, will work together to develop and deliver a service plan for a client.

DFPS and DADS have a MOU outlining the coordination of policies and procedures, clarifying operational issues, and the formation of a joint workgroup to continue discussing policy and procedural concerns affecting the referral of clients, assessment processes, and the delivery of guardianship services. Representatives from both agencies served on a joint committee set up to ensure services were coordinated to effectively serve and protect clients. The MOU establishes a joint staffing and appeal process for cases in which DFPS makes a referral for guardianship but DADS does not agree a guardianship is needed.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The APS program does not have a federal partner. As part of healthcare reform, Congress passed the Elder Justice Act but has yet to appropriate funds for implementation. Until the



Elder Justice Act is implemented, there is no direct federal involvement in the APS program. APS staff members have proactively worked with the federal Government Accountability Office on the planning for implementation of the Elder Justice Act.

The APS program works with regional quasi units of government to coordinate services for clients with multiple needs as described in Question I. Regional governments include local MHMR authorities and the Councils of Governments that are home to area agencies on aging.

The APS program coordinates services with many parts of local governments for services for clients, ranging from housing authorities to health and human services departments. APS may make referrals to various regulatory functions of local governments if it discovers code violations during the course of an investigation. APS works closely with many local law enforcement jurisdictions, coordinating investigations as appropriate. Finally, APS works with local probate and other courts when seeking an emergency order for protective services or other necessary legal action to protect clients.

Chapter 48 of the Texas Human Resources Code instructs APS to conduct a community satisfaction survey of members of the judiciary, law enforcement agencies, community resource groups, and APS community boards to solicit feedback on APS performance in their communities.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in FY 2012;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

**In-Home**

In coordination with the DFPS Contract Oversight and Support (COS) and the Procurement Divisions, APS identified 22 core services. Some of the services procured to date include: money management/representative payee, mental and medical health assessments, heavy cleaning, mental health services (counseling), claims processing, and ongoing services support. Another service procured is nursing facility care in which APS utilizes provider enrollment to contract with licensed nursing homes that take Medicaid patients.

APS services are client-specific and varied. Due to the very targeted nature of the APS purchased services, it is often difficult to procure and contract for services, and this problem results in a need to use procurement cards or claims processing for multiple small purchases within a region. APS continues to make efforts to procure and contract for services where feasible.

In FY 2012, APS had 350 client-services contracts that expended \$2,684,578.03. The table below contains information about the top five contracts by dollar amount, including contractor and purpose.

<b>Highest Value APS Client Services Contracts – Fiscal Year 2012</b>				
<b>Legal Contractor Name</b>	<b>Purpose</b>	<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>Total Contract Value* (as of 6/17/2013)</b>
Texas Visiting Nurse Service Inc.	Personal Assistance Care (APS) – Regular, non-skilled, non-technical service provided in a client’s home by a licensed home and community support services agency. Tasks performed for the client may involve basic tasks, which include personal care, housekeeping, meal preparation, and other activities of daily living; high-risk clients may also need assistance with transferring into or out of bed, chair, or toilet, eating, getting to or using the toilet, taking self-administered medication, preparing a meal, etc. Additionally, if the caseworker determines that there is a high likelihood that the client’s health, safety, or well-being would be jeopardized if the services were not provided on a single given shift, and if no one else can be identified by the caseworker as being capable or willing to provide the needed assistance, services for high-risk clients may be required outside normal work hours.	9/1/2010	8/31/2014	\$244,503.46
U.T. Health	Medical and Mental Health	9/1/2009	8/31/2014	\$198,000.00

<b>Highest Value APS Client Services Contracts – Fiscal Year 2012</b>				
<b>Legal Contractor Name</b>	<b>Purpose</b>	<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>Total Contract Value* (as of 6/17/2013)</b>
Science Center at S.A.	Assessments – Contracted home or office visits by a physician, psychiatrist, registered nurse, or other health professional to evaluate a client’s capacity to consent, mental health condition, and need for treatment. May also include home and/or office visits by a psychologist to evaluate the client’s mental status and competency. The service must include provision of a written assessment, consultation to the caseworker, and court testimony.			
Bio-Klenz LLC	Heavy Cleaning (APS) – Restoration of a safe living environment by clearing trash, debris, accumulated grime, insects, rodents, animal feces, and dead animals from inside or outside a client’s home. Does not include normal housekeeping or home maintenance services.	5/5/2012	8/31/2013	\$190,000.00
Ignacio Valdez	Medical and Mental Health Assessments – Contracted home or office visits by a physician, psychiatrist, registered nurse, or other health professional to evaluate a client’s capacity to consent, mental health condition, and need for treatment. May also include home and/or office visits by a psychologist to evaluate the	11/1/2008	5/31/2013	\$185,000.00

<b>Highest Value APS Client Services Contracts – Fiscal Year 2012</b>				
<b>Legal Contractor Name</b>	<b>Purpose</b>	<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>Total Contract Value* (as of 6/17/2013)</b>
	client’s mental status and competency. The service must include provision of a written assessment, consultation to the caseworker, and court testimony.			
U.T. Health Science Center at Houston	Medical and Mental Health Assessments – Contracted home or office visits by a physician, psychiatrist, registered nurse, or other health professional to evaluate a client’s capacity to consent, mental health condition, and need for treatment. May also include home and/or office visits by a psychologist to evaluate the client’s mental status and competency. The service must include provision of a written assessment, consultation to the caseworker, and court testimony.	9/1/2007	8/31/2012	\$175,697.00

\* The “Total Contract Value” is based on either the Maximum Contract Budget Amount for the full contract term or, for contracts without a specified budget, the Total Expenditures across the life of the contract (FY 2006 forward).

DFPS contract staff monitors contractor performance based on risk and document monitoring activity in the Statewide Monitoring Plan. Contract monitoring may include on-site visits, desk reviews, and billing reviews. Fiscal monitoring includes a review of the contractor’s financial operations, which may include a review of internal controls for program funds in accordance with state and federal requirements, an examination of principles, laws and regulations, and a determination of whether costs are reasonable and necessary to achieve program objectives. Programmatic monitoring includes a review of a contractor’s service delivery system to determine if it is consistent with contract requirements, including the quality and effectiveness of programs.

## Facility

Unlike APS In-Home, the APS Facility Investigations program area only conducts investigations, and does not provide services to clients. As a result, the Facility Investigation program does not contract out functions or services.

### **L. Provide information on any grants awarded by the program.**

APS does not award grants.

### **M. What statutory changes could be made to assist this program in performing its functions? Explain.**

*Provision of APS Services Based on Client Risk of Future Harm.* APS is in the process of designing new assessment tools for In-home cases. Section 48.002(5), Human Resources Code, allows APS to provide protective services to victims of abuse, neglect and exploitation and their caretakers only after a valid finding is made in an investigation. APS would like the statutory authority to provide services to these individuals based on the alleged victim's safety needs and risk of recidivism regardless of whether a finding is made in a particular investigation. For additional discussion, see Section IX – Major Issue #5.

*Functions and Purpose of APS Special Task Units.* Section 48.1521, Human Resources Code, requires the establishment of Special Task Units (STUs) in counties with a population of 250,000 or more to monitor the investigation of complex APS cases. The statute specifies the membership for these groups and tasks the counties with appointing STU members; however, many counties have been unable to enlist the participation of the statutorily mandated members. Moreover, since the enactment of Section 48.1521 in 2005, APS has significantly increased its use of ad hoc multidisciplinary teams to address complex cases, the membership of which are tailored to the location and issues presented in the particular case. The legislature may wish to examine the continued viability and effectiveness of the STU's and make statutory changes, as needed, to repeal these provisions, limit them to more populous counties, or allow alternative mechanisms of accomplishing the same goals.

*Clarify Jurisdiction in APS Investigations.* The APS Facility program was initially established to provide independent investigations of abuse, neglect, or exploitation in state facilities operated by the legacy TDMHMR. As TDMHMR's services expanded beyond the state-run facilities, the Facility program's investigative scope expanded to include providers of services in the community. However, as the community-based system of services for persons with intellectual and developmental disabilities (IDD) has evolved, the authorizing language for the APS Facility program has not. As a result, there are now providers of services to individuals with IDD – such as through the Consumer Directed Services model operated by the Department of Aging and Disability Services, among others – that are investigated by the APS In-Home program instead of the Facility program. Amendments to Chapter 48, Human Resources Code, are needed to

ensure a uniform system for investigation of abuse, neglect, and exploitation across similar settings and programs. For additional discussion, see Section II, Subsection G, Obstacles.

Up-Front Due Process for APS investigations. To better ensure the safety of vulnerable adults and to better protect the due process rights of persons found to have committed abuse, neglect, or exploitation of an adult, amendments could be made to Chapter 48, Human Resource Code, to require that perpetrators be offered a due process hearing at the time the finding is made. For additional discussion, see Section II, Subsection G, Obstacles.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

For additional program information, please visit the APS website:

[http://www.dfps.state.tx.us/Adult\\_Protection/About\\_Adult\\_Protective\\_Services/](http://www.dfps.state.tx.us/Adult_Protection/About_Adult_Protective_Services/)

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

APS In-Home and Facility Investigations programs are not regulatory programs.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

APS In-Home and Facility Investigations programs are not regulatory programs. While APS Facility investigations are not a regulatory program, they contribute to state compliance with federal regulatory requirements for ICF/IID providers. The Department of Aging and Disability Services regulates these providers.