



GEORGIA DEPARTMENT OF CORRECTIONS

Office of Legal Services

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November 3, 2011

Via Email and U.S. Mail

Inspector General Deron R. Hicks
Office of the State Inspector General
2 Martin Luther King, Jr., Drive, S.W.
1102 West Tower
Atlanta, Georgia 30334

Re: OIG Report File No. 11-075
 Response to Recommendations

Dear Inspector General Hicks:

The purpose of this correspondence is to respond to the Office of the State Inspector General (OIG) regarding implementation of recommendations outlined in OIG Report No. 11-075. The Georgia Department of Corrections (GDC) is eager to improve its procurement processes and has taken the following steps to implement the OIG's recommendations.

1. **OIG's Recommendation:** OIG recommends that the contracts utilized by GDC for consultant services and professional services be revised to include language consistent with Section 3.2 of the Georgia Procurement Manual and O.C.G.A. § 16-10-22.

GDC's Response: GDC will add the following conflict of interest provision or other similar provision to all future consultant services and professional services contracts:

The supplier certifies that the services in the contract are provided without entering into any consultation, communication, understanding, agreement, or conspiracy in restraint of trade or in restraint of free and open competition. The supplier understands and agrees that conspiracy in restraint of free and open competition is a violation of state and federal law and can result in fines, prison sentences, civil damages, and ineligibility to participate in future government contracts. The supplier further certifies that the provisions of the Official Code of Georgia Annotated, Sections 16-10-22 have not been violated and will not be violated in any respect.

2. **OIG's Recommendation:** OIG recommends that the bid documents utilized by DOAS, GSFIC and/or GDC for construction and related services should be revised to specifically prohibit collusion between the bidding party and any employee, representative, agent, or

consultant of the agency for whom the work is to be performed. The documents should include reference to the provisions of O.C.G.A. § 16-10-22.

GDC's Response: GDC's bid documents currently include the following non-collusion certificate:

I certify that this bid is made without the prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences and civil damage awards. I agree to abide by all conditions of this bid and certify that provisions of Georgia O.C.G.A. Section 45-10-20, et. seq., have not and shall not be violated in any respect.

GDC will amend this provision by adding a reference to O.C.G.A. § 16-10-22 and by adding "services" to the list of "materials, supplies, or equipment" that are subject to the certification.

- OIG's Recommendation:** OIG recommends that all contracts utilized by GDC Engineering Staff should be reviewed by GDC Legal staff prior to execution, with the exception of such form agreements and contracts previously prepared or approved for use by GDC Legal.

GDC's Response: The Department's Office of Legal Services is now actively involved in assuring appropriate oversight of the formation, review and approval of contracts utilized by Engineering and Construction Services. The Department is currently reorganizing the entire procurement process utilized by the Engineering and Construction Services organization.

Additionally, the Department has made significant changes to the organizational structure of the Engineering and Construction Services unit. Operational oversight of Engineering and Construction Services has been transferred to the Department's Administration Division, which carries the responsibility for assuring appropriate fiscal oversight and management of the Department's financial affairs. The financial and accounting expertise of the Administration Division will assist in assuring appropriate management and accounting of the significant funds the Department expends in construction related projects.

Finally, the Department has made significant changes in the management personnel within the Engineering and Construction Services unit. The former Director of Engineering and Construction Services is no longer employed by the Department and the Department has retained a new Director to fulfill this function. The Department's new Director has significant experience in management and oversight of major construction projects on behalf of the federal government.

- OIG's Recommendation:** OIG recommends that any vendor, third-party consultant or

professional contracts utilized by GDC should include a provision permitting GDC to terminate said contract upon the discovery of an undisclosed conflict of interest on the part of the vendor, third-party consultant or professional services provider.

GDC's Response: The Department will be adding the following language, or a similar provision, to those contractual agreements with suppliers that the Department has the authority to amend:

If the Department discovers that the Supplier was or is involved in any conflict of interest or conspiracy in restraint of free and open competition, the Department may immediately terminate this agreement and find the Supplier in breach of this agreement.

5. **OIG's Recommendation:** OIG recommends that written protocols be established for the selection of third-party consultants in those situations in which competitive bids are not required.

GDC's Response: As noted above in response to item 3, the Department is presently reviewing and reorganizing its procurement process in the Engineering and Construction Services unit. The Department is working to develop written protocols which assure that third party consultants will be selected based upon the qualification criteria provided by O.C.G.A. § 50-22-1, *et. seq.* in those situations when competitive bidding is not required.

6. **OIG's Recommendation:** In light of the extensive use of consultant services by GDC in recent years, strict guidelines should be established for employees involved in the selection, award, and/or administration of a contract. This policy should stress the need for employees to be cognizant of the potential for conflicts of interests and outline specific actions employees must follow in the event they become aware of a potential conflict of interest.

GDC's Response: The Directors of the Department's Administration Division and Office of Legal Services, together with the Department's Procurement Officer, have formed a team which is working to develop formal guidance for employees about conflict of interest issues. The objective is to develop written policies for employees involved in the selection, award, or administration of contracts.

7. **OIG's Recommendation:** OIG recommends that GDC commission an independent assessment of the technology currently utilized for GDC Division 17 projects and GDC locking control systems to determine whether the relay-based, hard-wired systems currently used by GDC represent a cost-effective and efficient use of current technologies.

GDC's Response: The Department has issued a formal request for qualifications from registered engineers and architects who have the expertise necessary to provide an independent evaluation of the Department's Division 17 systems, including locking control systems, perimeter detection systems, and surveillance systems. The Department

Response to OIG Report No. 11-075

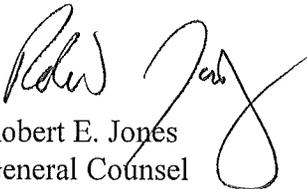
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is also communicating with other correctional organizations in an effort to identify the most cost-effective and efficient technologies available to meet the needs of the Department.

The Department appreciates the OIG's efforts in bringing these issues to our attention. Please let us know if you have any questions or concerns as we move forward in implementing the OIG's recommendations and continue to improve our procurement processes.

Sincerely,
GEORGIA DEPARTMENT OF CORRECTIONS


Robert E. Jones
General Counsel