

Office of the
INSPECTOR GENERAL



REPORT OF INVESTIGATION

File Number: 11-066

Agency: Subsequent Injury Trust Fund

Basis for Investigation: Review requested by agency

Allegations: Contract process review

Date Opened: April 11, 2011

Investigated By: OIG Staff

Date of Report: September 5, 2012

OFFICE OF THE INSPECTOR GENERAL



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EXECUTIVE SUMMARY

The Office of the State Inspector General (“OIG”) was asked by Mike Coan, Administrator of the Georgia Subsequent Injury Trust Fund (“SITF”), to review the process by which SITF had previously selected Georgia Catastrophic Housing Solutions, LLC as a housing consultant and assigned work to that entity. As set forth below, OIG investigators did not find any evidence that any former or current employee of SITF received any financial consideration in exchange for selecting Georgia Catastrophic Housing Solutions, LLC as a consultant or assigning any work to that entity. It is, however, the opinion of the Office of the State Inspector General that SITF failed to comply with the requirements of the Georgia Procurement Manual and otherwise failed to provide proper oversight and supervision of Georgia Catastrophic Housing Solutions, LLC in its capacity as a consultant for SITF.



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I. BASIS FOR INVESTIGATION

The Office of the State Inspector General (“OIG”) was asked by Mike Coan, Administrator of the Georgia Subsequent Injury Trust Fund (“SITF”), to review the process by which SITF had previously selected Georgia Catastrophic Housing Solutions, LLC as a housing consultant and assigned work to that entity.

II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION

OIG investigators interviewed current and former SITF staff members, contractors, attorneys and home manufacturers, as well as reviewed official files, email communications, and existing policies and procedures.

III. NARRATIVE

A. BACKGROUND

The SITF was created by the Georgia General Assembly on July 1, 1977 and is operated by state employees. The SITF provides reimbursements to employers, insurers, and their agents, in connection with workers' compensation claims involving individuals with a pre-existing, permanent impairment. The SITF is funded through assessments against all self-insured employers and workers' compensation insurance carriers in Georgia.

David Taylor served as Deputy Administrator of the SITF from 1993 to January 2010, excluding periods during which he served as Acting Administrator (November 2003 through 2005) and de facto Administrator (2008-2010).¹ Bruce Henry served as a Claims Analyst 1 at SITF from January 2005 until January 2008. Mike Coan currently serves as the Administrator of the SITF.

¹ In 2003, Administrator Ann Burnette left the SITF, and Taylor served as the acting administrator through 2005. Between 2008 and 2010, Taylor served as the de facto Administrator of the SITF because Administrator Richard McGhee was out on medical leave. According to Taylor, McGhee was still actively involved in critical operation decisions between 2008 and 2010.

B. INVESTIGATION

According to Taylor, Henry worked in SITF's Pending Claims Unit. Due to Henry's background of working with catastrophic housing claims, Taylor allowed Henry to handle all such claims accepted by the SITF. In this role, Henry was required to review each claimant's needs and find the most fiscally responsible solution for the SITF that adequately met the needs of the claimant.² Henry would make recommendations to the SITF on whether to move forward with reimbursement for the purchase of existing housing, modification of existing housing, construction of new housing or to settle the case with a cash payment. During this process, Henry served as a liaison between all vested parties and would recommend specific housing solutions. For these types of claims, Henry reported directly to Taylor.

At some point during 2007, Henry sustained an injury which limited his ability to commute to the SITF on a daily basis. Accordingly, Taylor and Administrator Richard McGhee allowed Henry to telework from home three (3) days each week. Upon recovering from his injury, Henry requested the opportunity to telework fulltime. Taylor and McGhee denied this request, and Henry subsequently resigned from SITF. According to Taylor, he and McGhee agreed to allow Henry to continue working on his existing cases as a consultant at a rate of \$65 per hour, *but did not require Henry to sign a consultant agreement*. Taylor explained to Henry that in his capacity as a catastrophic claims consultant to SITF, he would be expected to follow the same protocols he followed as an employee of SITF, which included finding the most fiscally sound solution that still met the claimant's needs. Henry was instructed to bill the SITF for all time and expenses incurred while working on each case.

A search of the Georgia Secretary of State's corporate records database revealed that Henry formed Georgia Catastrophic Housing Solutions, LLC on December 22, 2007. Screen notes recovered from SITF's case system show that Henry assigned several cases to his company on January 8, 2008. Beginning in January 2008, Henry began working as a catastrophic housing claims consultant for SITF on the existing cases he had assigned to himself prior to leaving the agency. Henry followed SITF's direction and invoiced the agency for his time and expenses

² When asked if the SITF expected Henry to solicit quotes from multiple contractors in an effort to find the most fiscally responsible housing solution for the SITF and the claimant, Taylor confirmed that Henry was expected to do so.

incurred while working on the cases. According to Taylor, shortly after Georgia Catastrophic Housing Solutions, LLC began invoicing as a consultant, Taylor and SITF's in-house accountant realized that SITF did not have sufficient funds available in its budget to continue paying Georgia Catastrophic Housing Solutions, LLC as a consultant.³ Therefore, Taylor instructed Henry to begin billing employers' insurance companies so the consulting fees could be submitted to the SITF as a medical/rehabilitation reimbursement request by those companies and ultimately paid by the SITF as part of catastrophic housing claims. Taylor indicated that after this change was implemented, he no longer reviewed invoices submitted on behalf of Georgia Catastrophic Housing Solutions, LLC.

Taylor informed OIG investigators that as new catastrophic housing claims were accepted by the SITF, he would refer the cases to Georgia Catastrophic Housing Solutions, LLC and continued to use Henry as a consultant. When asked why he continued to use Henry on cases other than the ones that existed at the time Henry left the SITF, Taylor stated that Henry's consulting efforts were resulting in quality homes being provided to claimants at prices well below those previously paid by the SITF.⁴ Taylor attributed part of the cost savings to Henry's use of modular housing as an option for claimants

In an interview with OIG investigators, Henry stated that because the paperwork and recordkeeping involved with the billing process became too voluminous for him to handle, he made the decision to stop invoicing claimants' insurance companies for his consulting fees. As compensation for his consulting work, he then began requesting a flat fee from the contractor he had selected to assemble the modular houses. According to Henry, his fee started at \$5,000, but increased to \$10,000 because he was not making enough money. Case files provided by Henry to the SITF revealed that Henry primarily used Dimitroff and Sons Construction Company to build the modular homes. When asked why he primarily used one company, Henry stated that he

³ Taylor indicated that the SITF's operating budget was comprised of money from the Fund, which was used to pay subsequent injury claims.

⁴ Taylor indicated that the SITF has previously been paying between \$200,000 and \$300,000 for modifications to existing homes or the construction of new homes. With Henry as a consultant, the housing costs typically ranged from \$155,000 to \$180,000. It should be noted, however, that OIG investigators have subsequently learned of two homes constructed under Henry's supervision as a consultant for SITF that have required or will require major repairs and restoration work.

had difficulty finding reliable contractors who could assemble modular housing. According to Henry, Dimitroff provided a quality product in a timely manner while requiring minimal oversight on his part.

In an interview with OIG investigators, Tom Dimitroff, the owner of Dimitroff and Sons, stated that Henry approached him through his wife and inquired about his interest in building wheelchair-accessible modular homes. Upon expressing an interest, Henry told Dimitroff that he worked on catastrophic housing claims for the SITF, and he could use him on multiple jobs if his work product was good. ***Henry also informed him that he would require \$5,000 from Dimitroff for each job on which he used him.*** Dimitroff agreed to the terms. Dimitroff indicated that they operated under this agreement on two jobs. After the two jobs were complete, Henry told Dimitroff that his fee was increasing to \$10,000 on future jobs. Dimitroff stated that he had a heated debate with Henry over the price increase; however, Dimitroff ultimately agreed to the increase because Henry was providing him with work during a troubled economy. When asked about Henry's role in the process, Dimitroff stated that Henry served as the liaison between the attorneys, the SITF, the rehabilitation coordinators, and the claimants in an effort to get everyone to agree on an affordable housing solution. Although Dimitroff primarily worked on the construction of the home, Henry was actively involved with negotiations with the modular home manufacturers. Dimitroff stated that he and Henry worked together on a total of four (4) jobs.

Taylor stated that he never received any remuneration from Henry for using him as a catastrophic housing claims consultant. Taylor indicated that he and Henry were friends prior to Henry coming to work for the SITF and remained so after he became a consultant. Taylor and Henry often went fishing together, but Taylor indicated that he would pay for the bait and fuel in an effort to avoid any conflict of interest. In addition to fishing together, Taylor stated that he purchased a boat and a car from Henry while Henry was employed by the SITF. Taylor also stated that Henry paid between \$200 and \$250 to Taylor's church for a mission trip to Kentucky. According to Taylor, Henry changed his mind just prior to going on the trip but paid his money anyway since he had already committed. Henry emphatically denied ever paying any money or providing anything of value to Taylor in exchange for consulting work. Henry confirmed all of the monetary exchanges admitted by Taylor to the OIG investigators.

IV. FINDINGS

1. OIG investigators did not find any evidence that former SITF administrator David Taylor or any other current or former SITF employee received any improper financial or personal benefit from his selection or use of Georgia Catastrophic Housing Solutions, LLC as a housing consultant on behalf of SITF;
2. It is, however, the opinion of the OIG that the selection of Georgia Catastrophic Housing Solutions, LLC as a consultant on behalf of SITF violated provisions of the Georgia Procurement Manual;
3. The Georgia Procurement Manual “govern[s] the purchasing activities of all state government entities subject to DOAS’ authority pursuant to the State Purchasing Act (Official Code of Georgia Annotated (O.C.G.A.) Section 50-5-50 et seq.), including state offices, agencies, departments, boards, commissions, institutions, and other entities of the state unless specifically exempted by statute or regulation.”
4. The payments from SITF to Georgia Catastrophic Housing Solutions, LLC were subject to the authority of the Georgia Department of Administrative Services pursuant to the State Purchasing Act;
5. The services provided by Georgia Catastrophic Housing Solutions, LLC to SITF did not fall within any recognized exception to the requirements of the Georgia Procurement Manual;
6. Because the selection of Georgia Catastrophic Housing Solutions, LLC as a consultant was subject to the requirements of the Georgia Procurement Manual and because SITF should have reasonably expected to pay Georgia Catastrophic Housing Solutions, LLC more than

\$5,000 for those services, the selection of a consultant by SITF should have been the subject of a competitive bid process as required by the Georgia Procurement Manual;

7. Neither Bruce Henry nor Georgia Catastrophic Housing Solutions, LLC should have been allowed to provide any services to SITF in the absence of a written contract or agreement. Such an agreement should have defined the scope of work, the obligations to SITF, the limits of authority, and the manner of payment. An agreement was particularly important in light of the friendship that existed between Taylor and Henry.

8. There appears to have been a complete lack of leadership and oversight with respect to Henry's actions as a consultant for SITF. Henry was allowed to operate with almost complete autonomy and independence. By way of example, when Henry decided that he was not getting paid enough for his consulting activities, he simply changed the manner in which he was getting paid without notifying SITF or otherwise seeking any form of approval for this change.

V. CONCLUSIONS

As Georgia Catastrophic Housing Solutions, LLC is no longer serving as a consultant to the SITF, OIG is not in a position to offer any recommendations to address the specific situation giving rise to this investigation. The lessons learned from this situation, however, are not and should not be confined to the SITF. Rather, the situation described above should serve as a reminder to all state agencies and state procurement professionals of the need to comply with both the letter and spirit of the Georgia Procurement Manual and to otherwise use reasonable and ordinary best practices in the management and oversight of consultants and other vendors.

The Office of the State Inspector General appreciates the cooperation provided by SITF Administrator Mike Coan and his staff, the Georgia Bureau of Investigation, the Office of the State Attorney General and the Georgia Department of Administrative Services.