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June 12, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Charles E. Samuels, Jr.  
Director  
Federal Bureau of Prisons  
320 First Street, NW  
Washington, D.C. 20534

Dear Director Samuels:

The Bureau of Prisons (BOP) has contracted with counties and private contractors to manage 14 prisons that house criminal aliens. One of those contracts was awarded to Reeves County, Texas to operate the Reeves County Detention Center (RCDC).<sup>1</sup> This contract has an estimated value of \$493 million and is BOP's second largest contract. Reeves County subcontracted with the GEO Group (GEO), a corporation that is also a primary contractor in four federal correctional facilities. Reeves County also subcontracted to Correct Care Solutions, LLC (CCS), to provide comprehensive health care services.

In April of 2015, the Department of Justice Office of the Inspector General (OIG) audited BOP's contract with Reeves County for compliance with contract terms and conditions relating to billings, staffing requirements, and contract oversight and monitoring. OIG found substantial waste and abuse. Specifically, OIG found that "Reeves County improperly requested and the BOP improperly paid \$1.95 million in fringe benefits it was not entitled to receive, including \$175,436 in payroll taxes and workers' compensation insurance[.]"<sup>2</sup> In addition, CCS improperly requested \$74,765 in fringe benefits that were unsupported by payroll documentation.<sup>3</sup>

OIG further noted that the unallowable reimbursements have "a compounding effect over time" and therefore in addition to the aforementioned unallowable reimbursements, BOP "should reduce the contract's monthly price by \$41,088 to ensure the contractor will not improperly charge BOP an additional \$945,024" through the life of the contract.<sup>4</sup> OIG concluded that the

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<sup>1</sup> Office of the Inspector General, "Audit of the Federal Bureau of Prisons Contract No. DJB1PC007 Awarded to Reeves County, Texas to Operate the Reeves County Detention Center I/II Pecos, Texas," April 2015.

<sup>2</sup> *Id.* at i, ii.

<sup>3</sup> *Id.* at ii.

<sup>4</sup> *Id.* at ii.

unallowable reimbursements were able to occur because both the BOP and the contractors failed to understand the requirements of the Service Contract Act.<sup>5</sup>

In addition, between February 2007 and December 2014, the RCDC was rated “deficient” or “unsatisfactory” in 6 of 12 award fee evaluation periods.<sup>6</sup> According to OIG, RCDC struggled immensely to adequately perform under the contract, including:

“[RCDC] consistently struggled to meet or exceed baseline contractual standards, received an unacceptable number of deficiencies and notices of concern; was unresponsive to BOP inquiries; struggled with staffing issues in health services and correctional services; and frequently submitted inaccurate routine paperwork, including erroneous disciplinary hearing records and monthly invoices. In addition, the BOP reports repeatedly described RCDC I/II’s quality control program as minimally or marginally effective.”<sup>7</sup>

This is concerning. As the oversight authority, BOP ought to have more control over entities that it contracts with so as to ensure adequate performance. According to the OIG, it appears that RCDC was often totally unresponsive to BOP inquiries all while BOP was paying for unallowable reimbursements valued in the millions of dollars.

According to the OIG, \$2,028,847 in BOP expenditures under the contract were “Questioned Costs” which are defined as “expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable.”<sup>8</sup> If BOP does not reduce the contract’s price to recoup the unallowable costs, \$945,024 will be spent unnecessarily bringing the total amount of unnecessary expenditures to just under \$3 million dollars.

BOP’s apparent lack of command, control and oversight over the legal requirements of contracts awarded to private entities to manage prisons is cause for serious concern. One must wonder what degree of mismanagement is occurring, or has already occurred, at other prisons.

To ensure that taxpayer dollars are used efficiently, please answer the following:

1. OIG noted, “[t]hroughout the course of this audit, the OIG has on several occasions requested the GEO Group provide documentation on its interpretation so we could review and consider its position, but GEO Group officials did not provide us with documentation.”<sup>9</sup> What role does BOP play in ensuring that parties to a BOP contract are sufficiently cooperating with an OIG audit? Was that role fulfilled with the current audit? Please explain.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 54.

<sup>9</sup> *Id.* at 66.

2. BOP's Privatization Management Branch (PMB) is responsible for managing and overseeing the operation of secure contract facilities. The PMB maintains at a minimum two full time staff at each private facility including the Senior Secure Institution Manager (SSIM) and Secure Oversight Manager (SOM). Do you believe the SSIM and SOM at RCDC performed up to the standards expected of them by the taxpayer? Please explain.
3. Please describe the oversight and accountability mechanisms in place that BOP uses to ensure that SSIM's and SOM's within the PMB are properly managed to reduce contract waste and abuse at privately contracted prisons.
4. Has BOP remedied the \$1,954,082 in net unallowable costs that Reeves County incorrectly claimed for Health & Welfare benefit-related price adjustments and the \$175,436 in incorrectly claimed price adjustments for payroll taxes and workers' compensation? If so, has BOP provided OIG with that documentation? If it has not been remedied, why not?
5. Has BOP remedied the \$74,765 in unsupported costs for CCS since they were unable to provide records supporting the cost of providing benefits to employees from 2007-2009? If so, has BOP provided OIG with that documentation? If it has not been remedied, why not?
6. GEO is a subcontractor for RCDC and is a contractor for Criminal Alien Requirement Privately-Managed Contract Facilities as of February 19, 2015. The OIG report indicates that GEO, in conjunction with BOP, did not properly comply with the Federal Acquisition Regulation and Service Contract Act. In light of these troublesome claims, has BOP taken steps to ensure that similar improprieties are not occurring at other privately managed facilities, including those managed by GEO? If so, please explain the steps taken. If not, why not?
7. Has BOP removed the \$41,088 in unallowable and unsupported costs from the Monthly Operating Plan to remedy the \$954,024 for Funds Put to Better Use?
8. Has BOP performed a review to identify unallowable questioned costs related to price adjustments that Reeves County was not entitled to receive for RCDC III (Contract No. DJB1PC003)?
9. Has BOP created and implemented policies and procedures that strengthen responsible officials' understanding of Service Contract Act rules and regulations? If so, please explain. If not, why not?
10. Has Reeves County updated its quality control policies and procedures requiring the retention of all records related to the contract? If so, please explain. If not, why not?
11. What, if anything, has BOP done to remedy the problem RCDC had with frequently submitting inaccurate routine paperwork, including erroneous disciplinary hearing records and monthly invoices? If nothing has been done, why not?

Please number your responses according to their corresponding questions. I request a response no later than June 26, 2015. If you have any questions, contact Josh Flynn-Brown or Katherine Nikas of my Committee staff at (202) 224-5225. Thank you for your cooperation in this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley  
Chairman  
Committee on the Judiciary