



The Commonwealth of Massachusetts
Office of the Inspector General

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Ronald Corbett, Commissioner
Office of the Commissioner of Probation
1 Ashburton Place, 4th floor
Boston, MA 02108

Dear Mr. Corbett:

Pursuant to 945 CMR 1.09(3)(c), I am writing to notify you of matters that may be appropriate for administrative action by the Office of the Commissioner of Probation (OCP). This letter contains no audit or investigative findings.

As you know, my office has been reviewing the OCP's procurement in 2008 of an electronic monitoring system utilizing global positioning system (GPS) technology to track offenders. My staff reviewed all relevant documents and interviewed nearly every employee at Probation and the Administrative Office of the Trial Court (AOTC) who was involved in this procurement. (Three of the nine members of the procurement team – Deputy Commissioner Francis Wall and regional program managers Kathleen Petrolati and Eugene Irwin – refused interview requests. Commissioner John O'Brien and First Deputy Commissioner Elizabeth Tavares, who were involved in the procurement process, also refused to be interviewed.)

This procurement, which resulted in a three-year contract paying a Nebraska-based vendor more than \$2 million per year, was deeply flawed in several substantive ways. For instance, the scoring sheets were filled out in pencil; many show clear signs of scores having been erased and altered. I will describe these and other flaws in greater detail below, but in short, it is impossible to have any confidence that this contract was awarded on the merits. In fact, the OCP's deviation from customary bidding practices makes it impossible to be sure there was no favoritism, fraud or improper influence in the awarding of this contract.

I hope that you will find the information in this letter helpful in your efforts to revamp OCP.

Background

In 2005, OCP first procured GPS-based electronic monitoring services from Sentinel, a small, California-based company. By January 2008, OCP's relationship with Sentinel was fraying. Although Deputy Commissioner Paul Lucci, who ran the electronic monitoring (ELMO) program, still had faith in the incumbent vendor, others in the department did not. OCP began an informal process of evaluating the competition. At least one GPS vendor was invited to OCP to demonstrate its product. Another got a call suggesting that OCP was about to cancel Sentinel's contract and hand out an emergency one-year contract without any procurement process at all.

Ultimately, on June 6, 2008, the OCP issued a Request for Responses (RFR) to lease GPS-based electronic monitoring equipment to track offenders under the department's supervision. The RFR sets out a systematic process for the evaluation team to judge the bidders' proposals: first, a review of the technical proposals, followed by field tests of each qualifying bidder's equipment, and ending with a review of the vendors' proposed prices. The RFR states that the evaluation team will file a written report for each of these three phases of the procurement process, with scoring done by each member of the evaluation team for both the technical and pricing phases.

The process outlined in the RFR has the basic hallmarks of a competitive procurement; however, the Probation department's execution was deficient in several respects. First, the RFR's "scope of services" lists 27 product features, but many are vague or completely undefined. For example, specification #22 is "Most up-to-date hardware" with no further description. Furthermore, five of the six people interviewed from the nine-member evaluation team said they had no input on the RFR specifications. All six said they never saw or read the RFR.

It is apparent that little effort was expended crafting this RFR. The review by my staff found that the probation department had simply pulled a 2004 RFR for electronic tracking devices off the shelf, changed the dates to 2008, and reprinted it nearly verbatim. It was not meaningfully updated to reflect changes in the department's needs or in tracking technology over the intervening four years.

OCP received proposals from seven vendors on July 7, 2008, marking the beginning of the evaluation period. In late August, the department began conducting three to four weeks of field tests on six vendors' equipment. The tests involved probation department employees carrying devices around-the-clock while the monitoring center tracked them, simulating how the GPS units would be used on offenders. (One firm could not participate due to technical issues.) On Sept. 30, 2008 the department named its selected vendor, iSECUREtrac.

During that 11-week period, the probation department ignored its own systematic evaluation procedure called for in the RFR and instead operated more informally. The evaluation team did not write reports for the technical review, field tests, or pricing phases of its work, as called for in the RFR. Furthermore, all six people interviewed

from the evaluation team said they were not given access to the pricing proposals. Instead only the commissioner and his top deputies were privy to the price information, again contrary to the RFR.

The evaluation team also ignored the specifications in the RFR in some cases. The RFR and a subsequent clarification to bidders mandated that the winning bidder's equipment provide "instant communications" with offenders and the capability to "speak w/ client at violation." iSECUREtrac's equipment permits probation department staff only to send a text message to an offender, who then is required to push a button acknowledging receipt of the text. The firm's equipment does not have two-way communication or spoken communication capability.

There is no documentary record describing how the department resolved this discrepancy between the specification in the RFR and the selection of a firm whose product did not comply with that standard. My staff questioned members of the evaluation team about this matter. Most said they were unfamiliar with the RFR and therefore would not have known that there was a discrepancy between a stated RFR requirement and iSECUREtrac's equipment. One evaluation team member said the group had to convince then-Commissioner John O'Brien to overlook this requirement in the interests of getting what they regarded as the best overall product. In short, this issue, which could have had a bearing on a multi-million-dollar contract, apparently was resolved in an informal and undocumented way.

As I mentioned earlier, the RFR called for the evaluation team to conduct two rounds of scoring on the vendors – the first on each firm's technical proposal and the second on each vendor's price.

In fact, only one round of scoring seems to have been conducted – one of several peculiarities with the evaluation process which cast doubt and suspicion on the entire procurement.

Nine sets of scoring sheets exist, one set for each member of the evaluation team and bearing that person's initials. The sheets permitted each evaluator to award points in nine categories, up to a maximum total of 500 points.

In interviews, the six cooperating members of the evaluation team said the scoring was done together around a large conference table at the Clinton electronic monitoring center. Most said the field testing was the most important factor in their scoring and that the scoring was done either during or shortly after the field tests, which would place the scoring session in September.

My staff examined the originals of the scoring sheets and immediately noticed several grave problems. First, all nine evaluators filled out the forms in pencil. Many of the entries have obviously been erased at least once and had the scores changed. Every set shows some signs of scores having been altered, apparently by the evaluator,

judging from the handwriting. None of the people interviewed said they had a clear memory or coherent explanation of what prompted the erasures and alterations.

Second, eight of the nine sets of scoring sheets are undated. One set, identified as Mr. Lucci's, is dated July 15, 2008 – a week after the department received bidders' proposals and a week before bidders began making in-person presentations to the evaluation team. This contradicts the accounts of most evaluation team members, who stated the scoring was done after the field testing. (Mr. Lucci told my staff he believes he dated the scoring sheet accurately; however, he thinks there might have also been a post-field test ranking. No records of any later scoring session have been found to date.)

Furthermore, even if the scoring sheets were filled out after the field tests were conducted, there are no categories where performance during field tests could be reflected. The format of the scoring sheet exactly corresponds to the system described in the RFR for the Technical Review, the initial phase of the evaluation conducted before the companies even made their in-person presentations in late July. When asked, interviewees were unable to identify where on the scoring sheets their ranking of field test performance would show up.

Lending weight to the likelihood that the scoring sheets were filled out in July is the fact that evaluators completed scoring sheets for ProTech Monitoring, the firm that was eliminated from consideration prior to the field tests.

These scoring sheets have been cited repeatedly as evidence that OCP conducted a fair and thorough competitive procurement for its GPS-based electronic monitoring system. For example, in April 2009, the probation department was having significant problems with iSECUREtrac's equipment. In response to pointed queries from the AOTC, Ms. Petrolati wrote a memo on the iSECUREtrac selection process, describing the field tests in some detail and stating, "When the testing of each vendor was completed, we analyzed and scored the vendors."

Rather than demonstrating the department conducted a sound procurement, the scoring sheets are vivid evidence of the antithesis of that. All that exists to examine are undated scoring sheets, with numbers written in pencil and then erased and overwritten – in short, exactly how they would look if someone were to have tampered with the results. The authors of the scoring sheets themselves cannot convincingly account for the alterations – or even what the scores reflect.

The department's failure to document phases of the procurement left my staff to rely on interviews with members of the evaluation team. These individuals often could not remember much about the process; however, even when they did recount specifics from the process, their memories were often inconsistent and even contradictory.

For example, Regional Program Manager Edward Ryan said he did not participate in the field testing and based his scoring of bidders on reports of field tests to the team

from Edward McDermott, an attorney who runs the department's Interstate Compact Office. However, Mr. McDermott told my staff that he was not involved directly in the field testing. To cite another example, several evaluation team members mentioned that Mr. McDermott put one company's device into an unheated oven to see if it could receive satellite signals from inside. Mr. McDermott said he performed the oven experiment months after the procurement was completed, in spring 2009 when the department began having significant problems with iSECUREtrac's equipment.

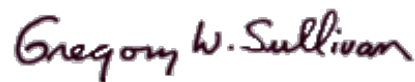
Like the scoring procedures, the field testing phase of the procurement was seriously flawed. The department's field test protocol was not formalized in advance. Similarly, the tests were conducted unsystematically and the results were extremely poorly documented. If the department had developed and conducted a well-designed field testing regimen during the procurement, it is quite possible it could have avoided some of the problems that cropped up during the contract.

As you can imagine, with such scarce documentation of the evaluation process and the unreliable memories of people on the evaluation team more than two years after it last met, it has been difficult to reconstruct even some of the most basic facts regarding this procurement.

Interestingly, in the wake of the award to iSECUREtrac, several of the losing vendors requested meetings with Mr. O'Brien and Ms. Tavares to discuss where their bids had fallen short. Such meetings are standard industry practice. Mr. O'Brien and Ms. Tavares refused to meet. The losers also requested access to their competitors' bid submissions, again a standard industry practice. Again, OCP refused to grant access, noting that as a Judiciary Branch agency OCP is not required to follow Massachusetts' public records law. OCP is also not required to follow Massachusetts' competitive procurement laws.

As I have described above, the procurement of leased GPS-based electronic monitoring equipment by OCP was deeply flawed. A number of troubling questions remain unanswered at this point, making it impossible to have confidence the contract was awarded without favoritism or fraud.

Sincerely,

A handwritten signature in dark ink that reads "Gregory W. Sullivan". The signature is written in a cursive, slightly slanted style.

Gregory W. Sullivan
Inspector General