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Governor Charlie Crist

Secretary Linda H. South

June 26, 2009

Linda H. South., Secretary
Department of Management Services
4050 Esplanade Way, Suite 285
Tallahassee, Florida 32399-0950

Dear Secretary South:

In accordance with Section 20.055(5)(h), Florida Statutes, the Inspector General is required to monitor and report on the implementation of the department's response to reports issued by the Office of Program Policy Analysis and Government Accountability (OPPAGA). The attached six-month follow-up audit presents the results of our review of the status of implementation of recommendations in OPPAGA Report Number 08-71, ***While DMS Has Improved Monitoring, It Needs to Strengthen Private Prison Oversight and Contracts.***

We appreciate the assistance provided by department personnel during our review.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'SR', written over a horizontal line.

Steve Rumph
Inspector General

Attachment

SR/sll

Ms. Linda H. South, Secretary

June 26, 2009

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cc: Kathy DuBose, Staff Director
Joint Legislative Auditing Committee

Gary VanLandingham, Director
Office of Program Policy Analysis and Government Accountability

Ken Granger, Chief of Staff
Department of Management Services

J.D. Solie, Director, Division of Specialized Services
Department of Management Services

Mike Weber, Chief, Bureau of Private Prison Monitoring
Department of Management Services

**SIX-MONTH FOLLOW-UP AUDIT
OPPAGA REPORT NO. 08-71:
WHILE DMS HAS IMPROVED MONITORING, IT NEEDS TO
STRENGTHEN PRIVATE PRISON OVERSIGHT AND CONTRACTS**

PURPOSE, SCOPE, OBJECTIVE AND METHODOLOGY OF REVIEW

This review was conducted pursuant to Section 20.055(5)(h), Florida Statutes, which requires the Inspector General to monitor and report on the implementation of the department's response to reports issued by the Auditor General and Office of Program Policy Analysis and Government Accountability (OPPAGA). Accordingly, this report complies with the requirement to provide a six-month response to the agency head on the status of corrective actions taken to implement the recommendations contained in OPPAGA Report No. 08-71, ***While DMS Has Improved Monitoring, It Needs to Strengthen Private Prison Oversight and Contracts.***

The scope of our review was limited to the findings and recommendations made in OPPAGA's Report No. 08-71. Further, we considered only those recommendations to which the department concurred in the original response to the report. Our objective was to evaluate whether the corrective actions taken by the Bureau of Private Prison Monitoring as of June 12, 2009 adequately implemented the OPPAGA recommendations. We did not evaluate the effectiveness or efficiency of the corrective actions.

This review was conducted in accordance with the ***International Standards for the Professional Practice of Internal Auditing*** published by the Institute of Internal Auditors.

OPPAGA'S AUDIT RESULTS AND CONCLUSIONS

The OPPAGA report presented the following overall findings:

"The department's oversight is hindered by its lack of corrections expertise, and it has not addressed problems identified in a variety of Department of Corrections' audits, including the critical areas of security, infirmary operations, and contraband control. The current contracts do not ensure that private prisons house inmates requiring equivalent levels of medical and mental health care to those housed by the state's public prisons, which can result in increased state costs. The contracts also have not adequately held vendors accountable for the effectiveness of their inmate educational, vocational, and substance abuse programs. The inmate family visitation and telephone cost policies of the private prisons are not equivalent to those of the state's public prisons and do not conform to legislative intent. Finally, the department has not developed written criteria for distributing Inmate Welfare Trust Fund monies to help ensure that these funds are used for their intended purpose."

Current Status of Recommendations and OIG Position:

OPPAGA made the following recommendations *"to improve vendor oversight and contract management."* The department's original response to, and the status of implementation of each recommendation are discussed below.

Recommendation [1]

Ensure that private prisons resolve violations cited by Department of Corrections security, infirmary, and contraband operations audits.

Department's Original Response:

The department will establish written policies and procedures to ensure that vendors resolve deficiencies cited in Department of Corrections (DC) audits. Upon receipt of a DC security audit, the Bureau of Private Prison Monitoring (Bureau) will provide the vendor with written notice of any noncompliance issues and direct the vendor to submit a plan to correct the issue(s). Vendors will have 20 days to develop and submit a corrective action plan and a total of 45 days from the date of notification to correct the noncompliance issue(s). We will exercise our contractual prerogative to assess liquidated damages against the vendor if audit findings remain unresolved beyond the 45-day timeframe or take other action provided for in the contract. We will develop similar procedures to resolve noncompliance issues cited in infirmary and contraband operations audits. In cases where the vendor takes immediate action to correct a deficiency and a corrective action plan is not required, the Bureau will provide DC with written notification of the action taken. We anticipate that written policies and procedures will be established by March 31, 2009.

Current Status of Recommendation:

In our original response, we anticipated that written policies and procedures would be established by March 31, 2009. We are in the process of developing the policies and procedures and expect they will be finalized by September 30, 2009.

In the interim, the bureau has implemented procedures to ensure that facilities submit plans of action to correct deficiencies cited in DC security audits. As part of this process, the bureau notifies the vendor that, in accordance with contract provisions, failure to correct deficiencies within the established timeframe could result in the assessment of liquidated damages.

On June 2, 2009, the Joint Task Force on State Agency Law Enforcement Communications approved the department's vendors, The GEO Group, Inc. and Corrections Corporation of America as third-party subscribers to the State Law Enforcement Radio System (SLERS). The Department of Management Services

subsequently approved the task force's action. Private prison facility access to SLERS will resolve a number of outstanding audit findings and security concerns expressed by the Department of Corrections.

OIG Position:

We will continue to monitor implementation of this recommendation until such time as the bureau finalizes and implements its written policies and procedures.

Recommendation [2]

Provide training to staff responsible for overseeing the private prisons, including training in prison safety and security procedures, inmate manipulation resistance, defensive tactics, and contraband detection and control

Department's Original Response:

The Bureau's training initiatives focus on providing staff with the tools needed to monitor and enforce contract terms and conditions. Monitors are thus required to develop an in-depth knowledge and understanding of the vendor's approved operating plan, which details the facility's safety and security procedures; American Correctional Association (ACA) standards; and applicable state laws and rules. Contract monitors are expected to complete the Florida Certified Contract Manager training program and qualify for certification. To further equip staff, the Bureau will develop an orientation module for newly-hired staff and provide annual update training for all staff in prison safety and security procedures, inmate manipulation resistance, defensive tactics, and principles of contraband detection and control. We expect to begin providing this additional training by June 30, 2009.

Current Status of Recommendation:

Subsequent to our original response, we determined that the curriculum available through a Department of Corrections in-service training program addresses the training needs cited in the OPPAGA report. The Department of Corrections has agreed to permit bureau staff to participate in its 40-hour *Mandatory In-service for Institutional Non-Certified Staff* training classes. The bureau's six contract managers attended 16 hours of training at the Wakulla Correctional Institution training facility on May 20-21, 2009. The bureau will require contract managers to complete the training curriculum in the upcoming fiscal year and annually, thereafter.

On May 19, 2009, the six contract managers and two administrative staff attended a four-hour training class on use of the Department of Corrections'

Offender-Based Information System (OBIS). Access to the OBIS database allows staff to evaluate vendor performance and verify the accuracy of certain vendor-reported data and information. The Bureau is also working with the Department of Corrections regarding participation in the National Institute of Corrections' Security Audit training program.

OIG Position:

Based on interviews with bureau staff and our review of documentation concerning the Department of Corrections' mandatory in-service training program, we concluded that the in-service curriculum for institutional non-certified staff adequately addresses the training needs cited in the OPPAGA report. The bureau also provided verification of staff attendance at the in-service and OBIS training sessions.

We concluded the bureau has taken adequate corrective action and that further monitoring of this issue is not required.

Recommendation [3]

Modify future private prison contracts to require vendors to report the same performance measures for inmate programs in private prisons as reported by the Department of Corrections for its public institutions

Department's Original Response:

The bureau currently compiles completion and graduation information from each facility. However, to help in holding vendors more accountable for results, we will establish performance measures and standards for academic, vocational, behavioral, and substance abuse programs in future contracts. Vendors will be required to measure and report results such as GED and vocational program completion rates and rates of graduation from treatment programs. Because vendors do not have access to recommitment data, future contracts will not require vendors to measure recidivism rates of inmates who successfully complete support programs.

Current Status of Recommendation:

We are currently in the process of establishing new operations and management contracts for two of the facilities. With the exception of the measures of recidivism, the draft contracts require the vendors to report the same performance outcomes for inmate programs as are reported by the Department of Corrections. The draft contracts also require vendors to report results for additional performance indicators not measured by DC. The Department of

Corrections assisted our efforts by reviewing and providing comments on the proposed performance measures and standards.

OIG Position:

We reviewed the Department of Corrections' Long-Range Program Plan for Fiscal Years 2009-10 Through 2013-2014 and the bureau's draft contracts and determined the contracts establish performance measures for inmate programs that mirror those reported by the Department of Corrections.

We will continue to monitor implementation of this recommendation until such time as the bureau incorporates performance measures and standards into executed contracts.

Recommendation [4]

Develop inmate visitation policies and telephone rates for the private prisons that are consistent with those followed by the state's public prisons and encourage inmate family contact, as directed by statute

Department's Original Response:

Non-concur (Visitation).

Concur (Telephone rates): The department recognizes that telephone calls are more expensive at private facilities than at public institutions and is discussing this matter with vendors. In future contracts, we will require vendors to provide telephone services at rates that are more in line with those of the public facilities. To gain better economies of scale, the Bureau will also explore alternatives such as providing telephone services at the public prisons through state term contracts.

Current Status of Recommendation:

The telephone rates at three of the six private prisons are now the same as the Department of Corrections' contracted rates. Based on discussions with, and documentation provided by our vendors, we anticipate that the telephone rates at the remaining three facilities will be identical to the Department of Corrections' rates as of July 1, 2009.

OIG Position:

We reviewed documentation provided by the bureau on vendor telephone rates and verified that the rates offered at three of the six facilities are the same as the

Department of Corrections' contracted rates.

We will continue to monitor implementation of this recommendation until such time as the rates at all facilities are consistent with those available at the public prisons.

Recommendation [5]

Develop written criteria for awarding Privately Operated Institutions Inmate Welfare Trust Fund monies so that its staff can verify that the funds are being used appropriately.

Department's Original Response:

The Bureau has completed and submitted for the Secretary's approval Administrative Policy 09-103: Management of the Privately Operated Institutions Inmate Welfare Trust Fund. The policy establishes procedures and guidelines for operation and management of the trust fund. The policy provides detailed evaluation criteria for the trust fund committee to use in making recommendations to the Secretary for the award of trust fund monies. The Bureau anticipates the policy will be effective by January 1, 2009.

Current Status of Recommendation:

Administrative Policy 09-103 became effective March 3, 2009.

OIG Position:

We reviewed the approved policy and determined that the policy establishes detailed criteria for awarding inmate welfare trust fund moneys.

We concluded the bureau has taken adequate corrective action and that further monitoring of this issue is not required.

We submitted a draft of this report to the Bureau of Private Prison Monitoring for its review and comment. As the report contains no findings and recommendations, a written response from the bureau was not required.