



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

More Computer Overcharges

June 8, 1998

Report by

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

Inspector General Bill Lynch

Approved by

A handwritten signature in black ink, appearing to be "M.J. Foster", written over a horizontal line.

Governor M.J. "Mike" Foster, Jr.

File No. 1-98-0015

More Computer Overcharges

Government Computer Sales Inc., (GCSI), a vendor of Gateway computers, owes the state an additional \$72,000 in overcharges it failed to deduct for price reductions that should have been passed on to the state during the period August, 1995, through June, 1997.

A previous audit in 1996 by this office found that the company had overcharged the state \$48,000 on computers sold to the Department of Environmental Quality and projected the amount would surpass \$100,000 if all Gateway computer purchases by the state were checked.

The Office of State Purchasing relied on the company to check its own records and the company responded that the DEQ purchases were an isolated incident and there were no other overcharges. The company issued a lengthy denial, citing reviews of its own sales records.

However, a new audit by the OIG revealed that not only did GCSI overcharge on purchases by other agencies during this period, but the company continued to overcharge after the report was released.

The new audit finding covers both the period of the first audit, August, 1995, through April, 1996, and an expanded period through June, 1997.

The new audit was a review of additional purchases by DEQ and other agencies that make major purchases of Gateway equipment. Of the 198 purchases tested, it was discovered that GCSI failed to deduct \$39,500 from the cost based on price reductions. The \$72,000 is estimated on the basis of total purchases.

Background

During the period under investigation, Gateway computers were being purchased from GCSI by state agencies off the state contract administered by the Division of Administration. GCSI is headquartered in Washington State. Agencies buying Gateway computers off of the state contract now use another company rather than GCSI. Agencies purchasing off the state contract do not have to go out on bids to buy computers. GCSI may still be selling to state agencies through the bid process.

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Following receipt of a complaint that the state was being overcharged for the purchase of Gateway computers, the OIG conducted an audit in 1996, focusing on purchases by the Department of Environmental Quality during a high purchase period, August, 1995, through April, 1996.

Under terms of the contract, the state was to receive any reductions of the price of the computer between the time of ordering it and the date of delivery.

The audit revealed numerous instances in which the sales price dropped but the reductions were not passed along to the state. It was determined that during the period, GCSI overcharged DEQ by \$48,000. Based on the findings in the DEQ sample, it was projected that the state may have been overcharged more than \$100,000 in the purchase of Gateway computers. The company paid the \$48,000 back.

The audit recommended that the Office of State Purchasing review all of the Gateway computer purchases.

Company Audit

The director of State Purchasing in a letter dated Aug. 2, 1996, stated that because of the numerous computer contracts it dealt with, a lack of manpower prevented it from auditing each contract.

State Purchasing subsequently requested in a March 20, 1997, letter that GCSI review all transactions between itself and Louisiana state agencies to ensure reductions were submitted timely as required by the contract.

Another letter from State Purchasing on April 14, 1997, further asked the company to focus on agencies other than DEQ.

Todd Blair, business development manager of GCSI, in a letter to Purchasing dated April 25, 1997, stated, "We are passing price reductions through on a timely basis . . . However, to ensure that we have not let any reductions fall through the cracks by mistake, we are conducting a review of the orders processed from May 96 to March 97."

In a second letter dated July 25, 1997, Mr. Blair wrote, "GCSI is pleased to provide a final statement to the State of Louisiana addressing the letter dated March 20, 1997."

He stated:

"1. We are passing price reductions through on a timely basis

"2. We intend to continue to do so in the future.

"To ensure that we have not let any price reductions 'fall through the cracks' by mistake, we conducted a review of the orders processed from May 96 to Mar 97 . . . We have determined that price drops as required by the contract were passed through."

Mr. Blair, in explaining the review process, further stated:

"1. First the sales department identified which orders to review. This involved a review of a huge printout based on our annual nationwide volume of \$55 million.

"2. Once that list was finalized, it went to the purchasing department where they had to pull all the order files, pull copies of the associated Gateway invoices, and then review the price reduction sub-files to determine if a price reduction was due.

"3. Then it moved to accounting who determines when the credit was issued.

"This process was completed and no discrepancies were found."

In a letter dated July 11, 1997, Ralf Fowler, vice president for sales, stated:

"After diligent research, including examination of other large and numerous smaller orders to our customers serviced by the Division of Administration, we have found no other instances in our records where prices have not been passed through. We believe that the problem with DEQ was a singular exception due to the large size of the order and the multiple shipping dates necessitated by the size of the order."

However, a subsequent review by the Office of Inspector General has shown that GCSI has failed to pass on either the \$39,590 which tests show is owed or the projected \$32,641.

Audit of DHH Purchases

After GCSI determined from its own review that the DEQ overcharges were isolated, we reviewed purchases by another large purchaser, the Department of Health and Hospitals, of Gateway computers for the same period. Twenty-eight purchases totaling \$188,833 and ranging between \$1,898 and \$35,583, were tested.

We tested each purchased by comparing what the state paid against the price list closest to GCSI's invoice date. The price lists used were provided by Gateway and GCSI.

The invoice date was used because not all delivery dates were verifiable. It is the practice of GCSI to send the invoice to the state when Gateway ships the computer order. According to Mr. Fowler, Gateway passes price decreases to GCSI up to the shipping date.

We found 19 purchases by the Department of Health and Hospitals with price reductions of \$10,164 that were not passed to the state.

New Audit Period

In order to determine if the price reductions not extended to the state were only for the period prior to the IG's 1996 report, we tested purchase records from May, 1996, through June, 1997, of the Department of Health and Human Services, the Department of Culture, Recreation and Tourism, and DEQ. These agencies purchased more than half of the purchases of Gateway equipment from GCSI under the state contract as reported in the Advanced Government Purchasing System (AGPS).

State agencies have the option of not using the advanced government purchasing system. Some of the agencies not using AGPS are DOTD, the Louisiana State University system, the Southern University system, and the Department of Agriculture. For these agencies, no review of its purchases was included.

A total of 170 purchases totaling \$1,830,983 for that time was tested. The individual purchases ranged from \$1,588 to \$414,230. On the largest amount, the overcharge was \$6,000 in a purchase by DEQ.

Using the same methodology as in the first audit, we found 125 purchases with price reductions of \$29,426 that had not been passed on to the state.

Overcharges to the State

The new audit determined that the state was overcharged an additional \$72,231 by GCSI on the purchase of Gateway computers. This includes the following:

1. \$10,164 in actual overcharges to the Department of Health and Hospitals for the period August, 1995, through April, 1996.
2. \$29,426 in actual overcharges to the Department of Culture, Recreation and Tourism, DHH and DEQ for the period May, 1996, through June, 1997.
3. \$32,641 in projected overcharges on purchases made by the rest of the state agencies off the state contract during the audit periods. The projection is based on the error rate of those purchases tested and found to be overcharged.

The total amount of purchases covered under both audits is \$4,750,905.

Conclusions:

1. GCSI overcharged the state an additional \$72,000 on sales of Gateway computers to the state, above a previous reimbursement of \$48,000 in overcharges to the Department of Environmental Quality cited in a 1996 audit report.

2. GCSI previously claimed that the overcharges to DEQ were an isolated incident and no additional money was due the state. This assertion was incorrect.

Recommendations:

1. State Purchasing should determine the loss to those agencies on which overcharges of \$32,641 were projected by our audit and refer the findings to the appropriate agencies for recovery from GCSI.
2. The respective agencies, DHH, DEQ and CRT, should recover the overcharges of \$39,590 identified by this audit.

Responses:

See attached

IG Comment:

Government Computer, in its response, is attempting to shift the burden of establishing the overcharges to the state, when it clearly was the company's responsibility at the outset to price its products in accordance with the contract. This is the second report on this matter. After the first report, the company agreed to examine its charges to the state to determine if there were any other overcharges. The company reported there was none. However, our follow up review showed an additional \$10,000 in overcharges found in one department related to the first audit period.

Not only did the company fail to do this before the investigation, but continued to disregard the contract pricing requirements even after this office brought the shortcomings to its attention. These failures by the company to come in and correct

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its own errors should be grounds for the Division of Administration to consider debarment of the company from further sales to the state and appropriate steps to recover both the amount of the overcharges and the cost of determining them. In thumbing its nose at the state, the company is, in effect, saying it will pay back the overcharges if the state can find them.

BL/SO/fs

File No. 1-98-0015



State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF STATE PURCHASING

I. "MIKE" FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

May 13, 1998

Mr. Bill Lynch
Inspector General
Office of State Inspector General
Post Office Box 94095
Baton Rouge, LA 70804-9095

Dear Mr. Lynch:

RE: File No. 1-98-0015

I have reviewed the above referenced file and do not have any issues to raise regarding the contents. I would like to thank your staff for their assistance on two occasions. They have worked very diligently in determining the amount of overcharges due the State of Louisiana.

If you require additional information, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Denise Lea".

Denise Lea
Director of State Purchasing

DL/blw



KEAN, MILLER, HAWTHORNE, D'ARMOND, McCOWAN & JARMAN, L.L.P.

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Writer's Direct Number: 382-3430

May 20, 1998

Mr. Bill Lynch, Inspector General
Office of Inspector General
State of Louisiana
P. O. Box 94095
Baton Rouge, LA 70804-9095

Re: GCSI/Inspector General
In Response to File No. 1-98-0015
Our File No. 12665-NEW

Dear Mr. Lynch:

I have been retained to represent Government Computer Sales, Inc. My client is in receipt of your letter dated May 7, 1998, with enclosures. My client is prepared, subject to its review and verification, to remit all of the alleged overcharges in connection with its administration of the Gateway Brand Name Microcomputer contract. In this regard, please forward at your earliest convenience to my client at its offices in Issaquah, Washington, all of the supporting documentation which you assert supports the overcharges. Upon receipt of the same, my client will promptly review and cross-check your data and remit such amounts as are deemed due to the state and/or the appropriate agencies.

My client is not prepared to remit any amounts in response to those amounts projected as due to the state and/or state agencies where no proof of claim is presented. These claims of amounts due are purely speculative in nature. These claims, until and unless substantiating proof is put forward, are uncollectible and unenforceable.

Mr. Bill Lynch
May 20, 1998
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My client awaits the delivery of your documents.

Should you have questions, please direct them to my attention.

Very truly yours,



Charles L. Patin, Jr.

CLPJr\rb

cc: Mr. Robert Fowler, President
Government Computer Sales, Inc.