

STATE OF LOUISIANA

OFFICE OF STATE INSPECTOR GENERAL



LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT CONSULTANT CONTRACTS

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STATE OF LOUISIANA

OFFICE OF STATE INSPECTOR GENERAL



LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT CONSULTANT CONTRACTS

**Sharon B. Robinson, CPA
State Inspector General**

A handwritten signature in blue ink, appearing to read "K. Blanco", is written over a horizontal line.

**Approved by:
Governor Kathleen Babineaux Blanco**

November 1, 2006

File No. 1-06-0027



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DIVISION OF ADMINISTRATION

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November 1, 2006

Honorable Kathleen Babineaux Blanco
Governor of the State of Louisiana
P.O. Box 94004
Baton Rouge, LA 70804-9004

Re: Case No. 1-06-0027

Dear Governor Blanco:

This report addresses concerns raised about alleged unusual patterns of awards of consultant contracts within the Louisiana Department of Transportation and Development (DOTD). The report includes five recommendations to improve controls over the contract selection and award processes.

The report also includes a recommendation relating to an Ethics matter involving a former DOTD employee who became an employee for a DOTD Consultant immediately upon retirement.

We provided a draft of the report to DOTD. DOTD's written response is included as Appendix A.

Respectfully submitted,

A handwritten signature in black ink that reads "Sharon B. Robinson".

Sharon B. Robinson, CPA
State Inspector General

SBR/CS

Enclosure

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Executive Summary

Audit Initiation

On May 18, 2006, the Office of State Inspector General received information regarding possible unusual awards of consultant contracts within the Louisiana Department of Transportation and Development (DOTD). Specifically, questions were raised over contracts awarded to Site-Blauvelt Engineering, Inc., now TRC Companies, Inc. (TRC).

Subsequently, on June 28, 2006, the Office of State Inspector General began an investigation of the selection and award processes for consultant contracts with DOTD. The investigation predominately centered on the selection process for advertised contracts in which TRC responded as primary consultant.

Our audit objective was to determine whether consultant contracts are procured as required by LSA-R.S. 48:285-294, and whether an unusual pattern of awarding consultant contracts exists.

Summary of Findings

- Our investigation of the selection and award processes indicated that DOTD procured consultant contracts as required by LSA-R.S. 48:285–294 and that an unusual pattern of contract awards did not exist.
- The following control weaknesses were identified during our investigation of the consultant selection and award processes:
 - The Consultant Contract Services (CCS) Administrator has the ability to edit ratings entered in a Lotus Notes database by each committee member for firm and key staff experience criteria. Furthermore, committee members do not ensure that the individual ratings that they originally gave are the same ratings used to calculate the total average rating for firm and key staff experience of each consultant.
 - The Consultant Evaluation Committee does not document its meetings showing the date held, the members who attended, the agenda, and any decisions made by the committee.
 - CCS insufficiently documents the receipt of responses on advertised projects, and does not always maintain the documentation, which indicates the timely receipt of responses.

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- DOTD has a possible ethics matter regarding Dr. Babak Naghavi's, the former CCS Administrator and Committee Chair, retirement and subsequent employment with TRC, one of DOTD's consultants.

Background

LSA-R.S. 36:501 creates DOTD. For fiscal year 2006, DOTD has approximately 5,000 employees, and an annual budget of more than \$2.3 billion. LSA-R.S. 48:285-294 provides the basis for consultant procurement policies of DOTD, which includes:

- Advertisement, solicitation list, and response procedures;
- Audit requirements;
- Selection procedures for both competitive and non-competitive selections;
- Creation of the consultant evaluation committee;
- Evaluation criteria used in the competitive selection process; and
- Contract types and other procurement policies.

Further, LSA-R.S. 48:286 authorizes DOTD to procure consultant services under three conditions:

- When the magnitude of the work would require the department to defer other essential work if performed by the department staff;
- When the work is of a specialized nature and would require experts in the appropriate field; and
- When the timeframe of the work, if undertaken, would cause the department to be unable to meet its program on schedule.

The designated Project Manager develops a scope of work for the project and estimates the number of work-hours required to perform the services. The Project Manager then transmits the scope and estimated work-hours to the Consultant Contract Services (CCS) Section of DOTD. CCS then prepares and sends out notices of advertisement for publication in "The Advocate" and the "Daily Journal of Commerce." CCS also posts the advertisement on its website. DOTD requires consultants to respond to advertisements using its Standard Form 24-102, entitled "Professional Engineering and Related Services".

The Consultant Evaluation Committee (Committee) consists of five department engineering personnel, which are section heads, or their designated assistants. The Committee draws its members from the CCS, Road Design, Bridge Design, Traffic and Planning, and Construction sections of DOTD. Committee members serve four-year terms. Three members constitute a quorum. Current members are:

- Edward Wedge, III (Committee Chair)
Consultant Contract Services Administrator
- Hossein Ghara
Bridge Design Engineer Administrator
- Lloyd Porta
Project Development Engineer - Road Design

- Mike Ricca
Construction and Fabrication Structural Engineer
- Dan Magri
Highway Safety Administrator - Traffic and Planning

Mr. Wedge replaced the former CCS Administrator and Committee Chair, Dr. Babak Naghavi, upon Dr. Naghavi's retirement on July 17, 2006.

Selection and Award Processes

Upon the deadline for receipt of responses, a point based rating system is used to evaluate the responses based upon the general criteria and weighting factors below:

<u>Criteria</u>	<u>Weighting Factor</u>
1. Firm Experience	3
2. Key Staff Experience	4
3. Past Performance	6
4. Current Workload	5
5. Firm Size	3
6. Location	4 (6 for Urban Systems)
7. Additional Criteria Specified in Ad	

All criteria are rated on scales of 0 to 4, with 4 being the best rating possible.

Members of the Committee individually rate criteria 1 and 2. To comply with the statutes, a quorum of three members are required to rate the consultant responses. The individual ratings are then averaged together for a total score for each criterion. Interviews and consultant presentations may be used for the evaluation. The advertisement states if interviews and presentations are a requirement.

Ratings for criterion 3 are ratings of responding consultant's performance on the same type projects over the past five years previously entered into the mainframe database by project managers. Consultants not previously rated receive an average rating of all proposing firms, which is generally 2.5.

Ratings for criteria 4, 5 and 6 are computer calculated based on data from consultant responses manually entered into the mainframe database by the CCS Administrator.

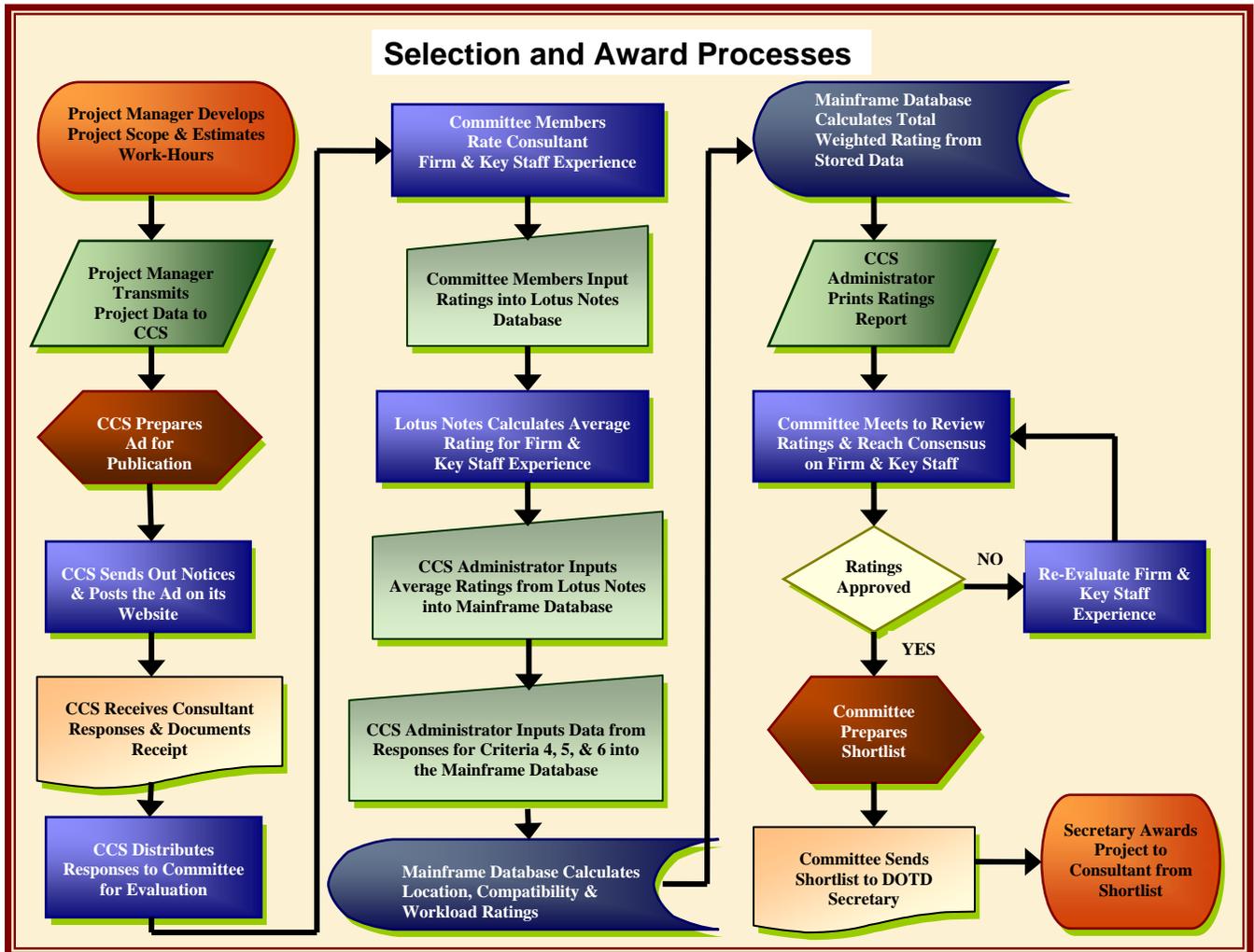
After the total ratings for each responding consultant have been calculated, the Committee meets to approve a computer generated ratings report, which ranks the consultants in order from the highest to the lowest rating. To comply with statutes, a quorum of three members is required. However, the members meeting to approve the report do not have to be the same members who rated

the responses. Although not required, the Committee tries to reach a consensus on firm and key staff experience ratings, and therefore may revise their individual ratings prior to approval of the report.

Once approved, the Committee presents a shortlist of the three highest rated consultants to the DOTD secretary. The secretary makes the final evaluation and selection from the shortlist. Act 100 of the 2003 Regular Legislative Session, amended and reenacted LSA-R.S. 48:293 by reducing the shortlist from the five highest rated consultants to three.

Once DOTD awards the contract, DOTD posts a notice on the CCS website.

The selection and award processes are flowcharted as follows:



Source: Prepared by OIG staff using information obtained from LSA-R.S. 48:285–294, the Consultant Contract Services Manual, Louisiana State University’s July 2005 Report on Review of LA DOTD Selection Process, and Interviews with Pertinent Staff.

Scope and Methodology

We conducted our audit in accordance with *Principles and Standards for Offices of Inspector General* as promulgated by the Association of Inspectors General.

The scope of the investigation included reviewing the selection and award processes followed by the Consultant Evaluation Committee, and DOTD. In addition, the investigation included a review of the selection process for all projects in which DOTD received a response from TRC. The investigation covered the period of October 2004 through June 2006.

Our investigation consisted of:

1. Reviewing consultant procurement policies required by LSA-.R.S. 48:285-294, and the DOTD Consultant Contract Services Manual;
2. Reviewing project advertisements, consultant responses, evaluations of the responses, and committee approved shortlists;
3. Interviewing Consultant Evaluation Committee members, CCS personnel and other pertinent individuals with DOTD;
4. Reviewing advertisement files and other documents, as we considered necessary.

Unsubstantiated Pattern of Unusual Contract Awards

Our office received information regarding unusual awards of consultant contracts within DOTD. Specifically, questions were raised over contracts awarded to TRC. However, our investigation of the selection and award processes indicated that DOTD procured consultant contracts as required by LSA-R.S. 48:285–294 and that an unusual pattern of contract awards did not exist.

On June 28, 2006, our office began an investigation of the selection and award processes for consultant contracts, which predominately centered on the selection process for advertised projects in which TRC responded as primary consultant.

Our office reviewed advertisements, consultant responses, and evaluations for twelve advertised projects in which TRC responded as primary consultant. The advertisements clearly defined the project scope, the criteria to be evaluated, and deadlines for response. The Committee evaluated and weighted the criteria, and prepared and presented a shortlist of the three highest rated consultants to the DOTD secretary to make the final evaluation and selection as required by LSA-R.S. 48:293.

The table below is a list of 15 consultants from the twelve projects reviewed who were either awarded a contract or responded more than twice, and the average ratings for firm and staff experience of all twelve projects for each consultant.

Primary Consultants	Total Average Rating Firm Exp. Twelve Projects	Total Average Rating Staff Exp. Twelve Projects
TRC	3.4	3.4
Buchart Horn	3.4	3.4
Modjeski & Masters	3.7	3.8
Demopolos & Ferguson Assoc.	2.9	2.9
GEC	3.3	3.5
URS	3.6	3.6
CH Fenstermaker & Assoc.	3.1	3.0
DMJM Harris	3.6	3.5
Hardesty & Hanover	3.6	3.6
HNTB	3.6	3.6
Huval & Assoc.	3.7	3.7
Volkert & Assoc.	3.8	3.8
Barowka and Bonura Engineers	3.3	3.3
Meyer Engineers LTD	3.5	3.5
Balar Associates Inc.	3.3	3.3
Average Rating	3.5	3.5

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The table below is a list of the number of contracts awarded to the 15 consultants and the number of responses received for the twelve projects.

Primary Consultants	No. Of Contracts Awarded	No. Of Responses Submitted	Percentage Of Awards Per Responses
TRC	5	12	42%
Buchart Horn	0	7	0%
Modjeski & Masters	0	5	0%
Demopolos & Ferguson Assoc.	0	4	0%
GEC	0	4	0%
URS	1	4	25%
CH Fenstermaker & Assoc.	1	3	33%
DMJM Harris	0	3	0%
Hardesty & Hanover	0	3	0%
HNTB	0	3	0%
Huval & Assoc.	2	3	67%
Volkert & Assoc.	0	3	0%
Barowka and Bonura Engineers	1	2	50%
Meyer Engineers LTD	1	2	50%
Balar Associates Inc.	1	1	100%
Total Contracts Awarded	12		

Our review of the twelve projects revealed that committee members gave TRC average ratings for firm and staff experience, and that TRC was the only consultant who responded to all twelve advertised projects.

Consultants who responded frequently and received average to high ratings for firm and staff experience, but were still awarded few, if any, contracts received low ratings for the location, workload, prior performance, and/or compatibility criteria, resulting in low overall ratings. On the other hand, TRC and other consultants who were awarded projects received average to high ratings in all criteria, resulting in higher overall ratings. Therefore, we did not detect any unusual contract awards to TRC.

Control Weaknesses in the Selection and Award Processes

In addition to addressing the questions of unusual contract awards, our office also reviewed controls over the selection and award processes and found areas that need improvement as discussed below.

Insufficient Controls Over Evaluation Ratings

The CCS Administrator has the ability to edit ratings entered in a Lotus Notes database by each committee member for firm and key staff experience criteria. Furthermore, committee members do not ensure that the individual ratings that they originally gave are the same ratings used to calculate the total average rating for firm and key staff experience of each consultant.

Although, consultant procurement policies and procedures have been provided by LSA-R.S. 48:285-294, and by the CCS Manual, neither address proper controls to ensure that the ratings are safeguarded and verified.

DOTD's Information Technology Section created a Lotus Notes database for use by the Committee to rate firm and key staff experience from consultant responses received on advertised projects. Committee members enter ratings for the two criteria in the database for each consultant who responded to the advertisement. The database then calculates the total average rating for the two criteria for each consultant.

With the exception of Mr. Wedge, the current CCS Administrator and Committee Chair, committee members do not have the ability to edit or view other member's ratings in the database.

The Lotus Notes database is not capable of uploading ratings into the mainframe database program. Therefore, Mr. Wedge must have access to ratings reports in Lotus Notes to manually input the average total ratings it calculates into a mainframe database program.

However, Mr. Wedge stated that not only does he have the ability to view ratings by other committee members; he also has the ability to edit the ratings given by other committee members. Mr. Wedge, who became the CCS Administrator shortly before Dr. Babak Naghavi's retirement in July 2006, stated that he discovered this ability during his first evaluation of responses. Dr. Naghavi was responsible for updating the mainframe database prior to his retirement.

Although the CCS Administrator (past and present) has the ability to change the ratings, we found no evidence to indicate that any changes have been made. In addition to the manual entry of ratings from Lotus Notes into the mainframe,

Mr. Wedge must also manually enter the following data from the consultant responses into the mainframe:

- Firm size, including the number of key staff
- Firm location
- Updates for remaining workload, if any

Mr. Wedge stated that he has discussed the editing rights issue, as well as the manual entry of data into the mainframe with a DOTD Improvement Team responsible for evaluating and improving the consultant selection and award processes. He has asked that these control weaknesses be added to an improvement task list.

Once all information is entered into the mainframe, the mainframe program combines the following ratings for each criteria to figure the total weighted rating for each consultant:

- Average total ratings for firm and staff experience
- Past performance ratings entered in the mainframe program by project managers
- Computer-calculated ratings for workload, compatibility, and location

After the mainframe program has calculated total weighted ratings, the committee meets to approve a ratings report generated from the mainframe program, which ranks the consultants in order of the highest to the lowest rating. The ratings report includes total weighted ratings for each criterion.

A ratings report from the Lotus Notes database is also printed. The report includes the individual ratings given to each consultant by committee members and the total average ratings calculated by Lotus Notes. However, committee members (Mr. Porta and Mr. Wedge) stated that committee members do not review the report, and verify that the individual ratings originally given to each consultant are the same ratings on the report and used to calculate the total average ratings that the CCS Administrator enters into the mainframe.

Adequate controls over the ratings given by committee members will result in the Committee's ability to ensure that the ratings have not been manipulated to allow a specific consultant to receive a higher average rating for firm and key staff experience, and ultimately a higher total weighted rating.

Recommendations:

1. DOTD should ensure that editing rights in the Lotus Notes database allow only the committee members who entered the rating to edit the rating for firm and key staff experience of consultants.
2. DOTD should develop and implement procedures to ensure that committee members approve Lotus Notes ratings report.
3. Committee members should ensure that the individual ratings originally given are the same ratings used to calculate the total average ratings that the CCS Administrator enters into the mainframe.

Committee Meetings Not Documented

The Consultant Evaluation Committee does not document its meetings showing the date held, the members who attended, the agenda, and any decisions made by the committee. The only documentation maintained are approved ratings reports generated from the mainframe program, which are initialed and dated by at least three committee members.

Documentation of committee and board meetings should be maintained to provide an audit trail of the discussions and decisions made during the meetings.

According to Dr. Naghavi and Mr. Wedge, the Committee meets to discuss individual ratings given to consultants by each member for firm and staff experience, and to try to reach a consensus of those ratings. The meetings may result in revisions of the initial ratings. In addition, the Committee meets to review and approve final ratings reports generated from the mainframe program.

A review of the ratings reports revealed that although initialed and dated by at least three committee members as required by LSA-R.S. 48:291, there is nothing to indicate that the committee actually met as a group to review and discuss the ratings.

Maintaining minutes of committee meetings result in the Committee's ability to provide an audit trail of the revisions to evaluation ratings and the reasons behind those revisions.

Recommendation:

4. The Committee should maintain records of all meetings to document, at a minimum, the meeting date, the purpose, members present at the meeting, and any significant discussions and decisions made during the meetings.

Insufficient Documentation for the Receipt of Responses

CCS insufficiently documents the receipt of responses on advertised projects, and does not always maintain the documentation, which indicates the timely receipt of responses.

Project advertisements currently require consultants to submit one original and four copies of its response to CCS by a specified date and time. Responses, which do not meet the submittal requirements of the advertisement, are not considered. CCS partially documents the receipt of responses by stamping the response with date and time received. In addition, CCS does not always maintain the original stamped response documenting the timely receipt of the response.

Documentation should be maintained for the receipt of responses. At a minimum, the documentation should indicate that the response is received, who received the response, and the date and time received.

According to Ms. Karen Woodard, Contract Grants Supervisor, CCS documents the receipt of responses by stamping the original response with the date and time received. The four copies are not stamped. CCS maintains the original response of the consultant awarded the contract in the advertisement files, and the original responses for the remaining consultants in archived files. Ms. Woodard stated that due to the lack of a secretary, CCS has not assigned the responsibilities of stamping and filing the responses to any specific person.

A review of responses in the advertisement files confirmed that CCS maintains the original responses in the advertisement files for the consultant awarded the contract. The original responses reviewed were stamped with the date and time received. However, the stamp does not include the word "Received," and the name of the department and/or person receiving the response.

In addition, a review of the archived responses revealed that original responses were not necessarily the responses archived. In some instances, an unstamped copy of the response was archived instead of the original.

Sufficient documentation of the receipt of responses will result in CCS's ability to assure applicants that only those responses submitted prior to the deadline of the advertisement as required by LSA-R.S. 48:287 were considered for the project advertised.

Recommendation:

5. CCS should develop procedures to ensure that the date and time of the receipt of responses is documented on the original response, and all copies required to be submitted. The documentation should include the word "Received," and who received it.

Ethics Matter

Babak Naghavi, Ph.D., P.E., P.H., former CCS Administrator and Committee Chair for the Consultant Evaluation Committee, retired from DOTD on July 17, 2006. Immediately following retirement, Dr. Naghavi became an employee for one of the DOTD consultants (TRC) that he had been responsible for evaluating.

The Code of Governmental Ethics [LSA-R.S. 42:1121 (A) (B)] prohibits a former agency head or public employee from assisting another person, for compensation in a transaction involving his former agency or from rendering any service on a contractual basis to his former agency for a period of two years following the termination of his public service.

As the CCS Administrator, Dr. Naghavi was responsible for the procurement and administration of consultant contracts. As a member of the Committee, Dr. Naghavi was responsible for evaluating responses submitted by consultants, including TRC.

Dr. Naghavi stated that since at least February 2006, he recused himself from evaluating consultant responses. A review of consultant evaluations confirmed his statement. During this time Mr. Steve Cumbaa, Special Projects Assistant acted as Committee Chair. However, during the entire period, Dr. Naghavi still had access to the database and had the ability to edit consultant ratings.

In addition, our review revealed that TRC submitted responses to CCS for advertised projects through April 2006, and has been awarded projects on responses submitted through June 2006. However, the last response reviewed by Dr. Naghavi and awarded to TRC as primary contractor was in May 2005. The last response reviewed by Dr. Naghavi and awarded to another primary contractor where TRC was a subcontractor was in November 2005.

Dr. Naghavi informed us that he requested an advisory opinion from the Louisiana Board of Ethics to clarify whether or not his actions may have violated the Code of Governmental Ethics.

Recommendation:

6. DOTD should consult with the Louisiana Board of Ethics administrative staff as to how the Code of Governmental Ethics may affect similar employees who leave DOTD for employment with a consultant. The outcome of this discussion should then become the basis for a departmental ethics policy.

APPENDIX A

DOTD Response



STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

P.O. Box 94245
Baton Rouge, Louisiana 70804-9245



KATHLEEN BABINEAUX BLANCO
GOVERNOR

October 30, 2006

JOHNNY B. BRADBERRY
SECRETARY

Sharon B. Robinson, CPA
State Inspector General
Attention: Cynthia Summers
Office of State Inspector General
P.O. Box 94095
Baton Rouge, LA 70804-9095

Re: Investigation of Awarding Consultant Contracts within DOTD

Dear Ms. Summers:

Below is the Summary of Findings of the Office of the State Inspector General and the DOTD response:

- The Consultant Contract Services (CCS) Administrator has the ability to edit ratings entered in a Lotus Notes database by each committee member for firm and key staff experience criteria. Furthermore, committee members do not ensure that the individual ratings that they originally gave are the same ratings used to calculate the total average rating for firm and key staff experience of each consultant.

DOTD has instituted a process improvement team to evaluate and add value to the consultant selection process. One of the items being reviewed by the team is the IT needs of the process. The recently selected CCS Administrator (Edward R. Wedge III) has pointed out the issues stated to the IT personnel and this will be addressed during the process improvement. In the interim, the CCS Administrator has requested that the Consultant Evaluation Committee review their individual rating prior to signing off on the short-list.

- The Consultant Evaluation Committee does not document its meetings showing the date held, the members who attended, the agenda and any decisions made by the committee.

The Consultant Evaluation Committee (Ed Wedge, Dan Magri, Guy Leonard, Hossein Ghara and Mike Ricca) met on October 10, 2006, to discuss the findings of the IG's office. It was agreed upon by the members to begin keeping minutes of the meeting, an attendance record, decisions of the committee and the names of other DOTD personnel called upon for informational purposes (as outlined in RS:48.291A).

- CCS insufficiently documents the receipt of responses on advertised projects, and does not always maintain the documentation, which indicates the timely receipt of responses.

October 30, 2006

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DOTD requires that responses to advertisements for engineering services be on Standard Form 24-102. The advertisement states the number and the location where the response should be submitted and the time and date the response should be submitted. The CCS section did not have a formal logging in procedure for the responses. After the findings of the IG's report were presented, the CCS Administrator instituted the following procedure. All five SF 24-102's will be date stamped and time stamped by the Contract Grants/Reviewer 3 employee (Ms. Lisa Carter) responsible for preparing the advertisements. All five SF 24-102's will be initialed by Ms. Carter. In the absence of Ms. Carter, other CCS staff have been directed to adhere to this policy. The Consultant Contract Services Section is in the process of hiring an Administrative Assistant 4. This responsibility will be assigned to the Administrative Assistant upon hiring

- DOTD had a possible ethics matter regarding Dr. Babak Naghavi, the former CCS Administrator and Committee Chair, retirement and subsequent employment with TRC, one of DOTD's consultants.

Secretary Bradberry directed that all employees attend ethics training. This training was given July 2006. DOTD also has a Policy and Procedure concerning conflicts of interest (DOTD PPM #8). DOTD has contacted the Louisiana Board of Ethics and requested and received a copy of the opinion requested by Dr. Babak Naghavi. DOTD is reviewing the opinion and will follow up with the LA Board of Ethics if there appears to be a misinterpretation of the facts.

Sincerely,



Michael Bridges
Undersecretary

This public document was published at a total cost of \$72.23. 18 copies of this public document were published in this first printing at a cost of \$72.23. The total cost of all printings of this document, including reprints is \$72.23. This document was published by the Office of State Inspector General, State of Louisiana, Post Office Box 94095, 224 Florida Street, Suite 303, Baton Rouge, LA 70804-9095 to report its findings under authority of LSA-R.S. 39:7-8. This material was printed in accordance with the standards for printing by state agencies established pursuant to LSA - R.S. 43:31.

A copy of this report has been made available for public inspection at the Office of State Inspector General and is posted on the Office of State Inspector General's website at www.doa.louisiana.gov/oig/inspector.htm. Reference should be made to Case No. 1-06-0027 If you need any assistance relative to this report, please contact Bruce J. Janet, CPA, State Audit Director at (225) 342-4262.

REPORT FRAUD, WASTE, AND ABUSE

To report alleged fraud, waste, abuse, or mismanagement relative to state programs or operations, use one of the following methods:

- Complete complaint form on web site at www.doa.Louisiana.gov/oig/inspector
- Write to Office of State Inspector General, P. O. Box 94095, Baton Rouge, LA 70804-9095
- Call the Office of State Inspector General at (225) 342-4262