

GOVERNMENT OF THE DISTRICT OF COLUMBIA



July 20, 2010

Mr. Charles J. Willoughby
Inspector General
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Re: Award of Lottery Contract (Contract No. CFOPD-09-C-013)

Dear Mr. Willoughby:

We request that you conduct an investigation into the award of Contract No. CFOPD-09-C-013 ("lottery contract" or "contract") for an online gaming system and related services for the DC Lottery and Charitable Games Control Board ("DCLB"), the Council's later approval of the contract, and the capability of the contract operator.

By way of brief background, the history of a District lottery contract goes back to 1982 and, before the current award to Intralot, Inc., in 2009, was last subjected to bid in 1999. The DCLB realized in 2007 that the longtime operator of the contract, Lottery Technology Enterprises ("LTE"), was costing the District millions of dollars in potential revenue because of its outdated service delivery system and that, for other reasons, including lottery-related fines and penalties, the lottery contract needed to be competed again.

In May 2007, the Office of the Chief Financial Officer ("OCFO"), which has administrative control over the DCLB, issued a Request for Proposals ("RFP"), seeking a contractor to provide a new gaming system platform. Proposals were received from two offerors, W2I and longtime vendor LTE, and, in January 2008, the OCFO contracting officer determined that W2I's proposal offered the most advantageous method for the District to fulfill the RFP requirements. Of particular note, the contracting officer found that W2I's proposal would save the District approximately \$5 million per year compared with the LTE contract that, through extension, was set to expire in November 2009. LTE later filed a protest with the Contract Appeals Board ("CAB").

The Mayor submitted the first of four W2I proposed lottery contract packages to the Council for approval in March 2008. With one exception not relevant here, however, the packages had to be withdrawn because they would have been deemed disapproved due to the Council's failure to adopt a resolution of approval within the 45 days. The Council failed to hold a hearing on any of the proposal packages.

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In November 2008, after the CAB dismissed in part and denied in part LTE's protest, the Mayor resubmitted the W2I proposed contract. However, a month later and again without a hearing, the Council disapproved the contract. We understand that this contract-related Council action – or, rather, inaction – is unprecedented since Council review of multiyear contracts began.

The contracting officer issued a new RFP in February 2009. Three proposals were received in response, and Intralot garnered the highest overall rating score, even though it submitted its proposal without an LSDBE partner or subcontractor.

In October 2009, the Mayor submitted the proposed Intralot contract to the Council, which, after a hearing, voted to approve.

Most recently, it has come to our attention that, subsequent to the award of the lottery contract and literally on the eve of the Council hearing, Intralot entered into a business relationship formation agreement with Veterans Services Corporation (“VSC”) to form a limited liability company, DC09, LLC, to perform the contract. Indeed, after the Council approved the contract, the formation agreement was advanced when Intralot and DC09 entered into an agreement, pursuant to which DC09, as the subcontractor, provides all the equipment, labor, and supervision to perform the lottery contract.

What is troubling about these agreements is that VSC owns 51% of the common equity of DC09, and it serves as the Operations Manager for the contract. More troubling is that VSC was unknown to the contracting officer when the lottery contract proposals were being evaluated, unknown to the Mayor when he submitted the contract package to the Council, and the details of its formation agreement with Intralot were unknown to the Council when it considered and then approved the contract. Most troubling is that, since May of this year, articles have appeared in the *Washington Times* about the lottery contract, and one of the latest of them raises questions about the background and capability of VSC to operate the contract.

The attached memorandum and supporting materials more fully document our concerns. The supporting materials are presented in chronological order, so as to parallel the history of the lottery contract set out in the memorandum, and specific reference is made in the memorandum to certain items contained in the materials.

All this said, these three questions warrant your investigation:

1. Whether the lottery contract should have been returned to the contracting officer for further action when the Council became aware that Intralot was adding major players to the team, especially since the contracting officer had not been informed of the change in team composition and had not had an opportunity to review the impact of the change on the evaluation and ranking of the offerors;
2. Whether the contracting officer conducted a sufficient responsibility assessment of Intralot, VSC, and DC09 after becoming aware of the subcontracting agreement; and

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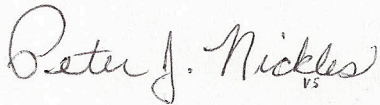
3. Whether the circumstances mentioned in recent *Washington Times* articles concerning VSC and its alleged misrepresentations of its business status and its references are supported in fact and, if so, require further inquiry by the contracting officer into VSC's capability to serve as the Operations Manager for the contract.

Of course, we will leave to your judgment whether the attachments, or any other information known or that should become known to you raise additional questions that merit investigation.

We expect that you will give this request a high priority. At stake here is the legitimacy of a multi-million contract and millions of dollars in revenue. Also at stake is the community's confidence in its government and the continued attractiveness of the District itself as a place that encourages competitive businesses to bid on government contracts through a fair and transparent procurement process.

As always, we are available to answer any questions that you may have.

Sincerely,

A handwritten signature in cursive script that reads "Peter J. Nickles". There is a small "vs" written below the name.

Peter J. Nickles
Attorney General for the District of Columbia

David P. Gragan
Chief Procurement Officer

Attachments (as stated)