



**OFFICE OF
STATE INSPECTOR GENERAL**

DEPARTMENT OF JUSTICE
COMPUTER CONSULTING CONTRACTS

Report by

Inspector General Bill Lynch

Prepared for

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

June 12, 2001

File No. 1-01-0039



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

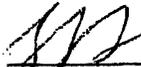
Department of Justice

Computer Consulting Contracts

Report by

 Inspector General Bill Lynch

Prepared for

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

May 31, 2001

File No. 1-01-0039

Department of Justice Computer Consulting Contracts

In 1995 and 1996, the Department of Justice artificially divided service requirements for a computer consulting services project to avoid the statutorily required request for proposals process.

Service requirements for the project were divided into six contracts, each under \$50,000. Two contracts were with Intuitive Systems, Inc.; one contract was with Intuitive owner Tom O'Connor; one contract was with Intuitive employee Richard Van Galder; one contract was with Intuitive employee Stephen Robins; and the sixth contract was with DATEC, Inc., whose contract is not at issue.

The Department of Justice paid \$231,000 under the five contracts with Intuitive and associates of Intuitive. The company was also allowed to perform \$123,000 of additional work without the benefit of a contract.

In an attempt to pay for the work performed by Intuitive without the benefit of a contract, an assistant attorney general misled the Division of Administration Office of Contractual Review while unsuccessfully attempting to gain approval to amend one of the contracts.

In a second attempt to pay for the work performed by Intuitive without the benefit of a contract, the Procurement Support Team was misled by another assistant attorney general while unsuccessfully attempting to gain approval to contract with the consulting company as a "sole source." The company was eventually paid the \$123,000 for work performed without a contract.

There is no indication that Attorney General Richard Ieyoub was aware of the improper activity.

Background

The attorney general serves as the executive head and chief administrative officer of the Department of Justice. The attorney general is the chief legal officer of the state and heads the department to protect the interests of the state and its citizens. The attorney general is elected for a term of four years at the state general election. The first assistant attorney general is the attorney general's top assistant. Assistant attorneys general are appointed by the attorney general and serve at his pleasure.

The department is composed of seven divisions, each under the immediate supervision and direction of a director. The divisions are Administrative Services, Civil, Criminal, Executive, Gaming, Investigation, Public Protection, and Risk Litigation.

Computer Consulting Contracts

In 1992, in an effort to develop a comprehensive, cohesive information systems direction for the Department of Justice, the accounting firm Postlewaite and Netterville was hired to conduct a study of the department's computer systems environment. The firm issued a report outlining the following:

- a description of the department's current systems environment;
- the strategic considerations that were evaluated in the planning process;
- the strategic system alternatives that were considered; and,
- a recommended course of action.

The report's recommendations included:

- the adoption of an information systems strategy to provide a clear direction and starting point for systems selection;
- the formation of an information systems steering committee;

- the information system selection be followed by a system installation and implementation project that will replace or connect all existing systems in a comprehensive network; and,
- the establishment of an information systems section within the department.

In early 1995, then First Assistant Attorney General Jack Yelverton initiated an Information Technology Project designed to upgrade the department's computer system environment. Mr. Yelverton headed up the project. The department began holding meetings with division heads to discuss the computer needs of the various department divisions. Two committees were formed to develop a comprehensive plan concerning computer technology in the department. Jennifer Schaye, assistant attorney general over the Gaming Division at the time, was assigned to coordinate the work of both committees.

At some point in time in 1995, Vaughn R. Ross, husband of Department of Justice employee Dawn Ross, introduced Tom O'Connor to Mr. Yelverton. Mr. O'Connor was performing consulting work in Louisiana as a sub-contractor for Grove Engineering, Inc., a company based in Virginia. Mr. O'Connor was seeking additional consulting work in Louisiana and Mr. Ross had previously arranged meetings for Mr. O'Connor with state and private entities. Mr. O'Connor eventually paid Mr. Ross a finders fee of \$15,000 for arranging the meeting with Mr. Yelverton. The amount paid to Mr. Ross was based on the value of consulting contracts between the Department of Justice and Mr. O'Connor.

Mr. O'Connor submitted a Statement of Work document dated June 5, 1995, to the Department of Justice. This document outlined a Grove Engineering, Inc. proposal for a prototype Mail & Case Tracking System for the department.

According to Mr. O'Connor, during this time period Grove was absorbed by another company. Mr. O'Connor continued dealing with the department but was representing his own company, Intuitive Systems, Inc. Secretary of State records show the domicile address for Intuitive Systems, Inc., as Wilmington, Del.

During 1995 and 1996, the Department of Justice entered into six separate computer consulting contracts, each under \$50,000. The maximum contract amounts were:

- | | |
|--|----------|
| 1. Intuitive Systems, Inc. | \$49,500 |
| 2. Richard Van Galder (Intuitive employee) | \$49,500 |
| 3. Tom O'Connor (Intuitive owner) | \$49,500 |
| 4. Intuitive Systems, Inc. | \$49,000 |
| 5. Stephen Robins (Intuitive employee) | \$35,000 |
| 6. DATEC, Inc. | \$45,000 |

The total amount paid to Intuitive and associates of Intuitive through the first five contracts was \$231,815. Mr. O'Connor required his two employees to pay Intuitive forty per cent of their contract proceeds. Mr. O'Connor also paid Intuitive forty per cent of his contract proceeds. The sixth contract was with DATEC, Inc., a Baton Rouge company not known to have any connection to Intuitive Systems, Inc. DATEC was paid \$38,688 under this contract.

Ms. Schaye was assigned as contract monitor for at least four of the five contracts with Intuitive and associates of Intuitive.

Contracts for consulting services which have a total maximum amount of compensation of \$50,000 or more are required by law to be awarded through a request for proposals process administered by the Office of Contractual Review.

The requirement prohibits service requirements being artificially divided which would exempt contracts from the request for proposals process.

The request for proposals process is designed to ensure consultants are selected in the best interest of the state. In a request for proposals contract, the contracting agency prepares a formal, written description of the work to be performed, known as a request for proposals, which invites potential consultants to submit a written "proposal" describing how they would do the work and their proposed cost. The agency must advertise a request for proposal in the newspaper at least three times and send copies to interested potential consultants. The proposals must be formally scored. The contract is awarded to the consultant whose proposal is determined to be the most advantageous to the state, taking into account both cost

and other factors. The contract is not required to be awarded to the consultant proposing the lowest price.

We have concluded the service requirements were artificially divided to avoid the request for proposals process as follows:

1. Two of the contracts were with Intuitive Systems. Its owner, Mr. O'Connor, as well as its employees, Mr. Van Galder and Mr. Robins, worked on the Intuitive contracts. (Mr. Robins worked only on the first). Then, each had a contract in his own name. Having begun with an Intuitive contract on which all men worked, no reason for contracting individually with the company's owner and employees has been given or is apparent, other than a desire to avoid the request for proposals process.
2. Of the five contracts issued to Intuitive, its owner, and its employees, three had a maximum dollar amount of \$49,500, another \$49,000, and another \$35,000. Consulting contracts for less than \$50,000 are exempt from the request for proposal process.
3. On the individual contracts, Mr. O'Connor required Mr. Van Galder and Mr. Robins to pay 40% of their contract proceeds to Intuitive. Mr. O'Connor also paid 40% of his contract proceeds to Intuitive.
4. The contract time frames overlapped.
5. Each contract relates to the overall Information Technology Project. Their scopes of service are interrelated.
6. In some instances, work billed under one contract fell within the scope of services of a different contract. For example, the first Intuitive contract included the task of developing a strategic plan, but work on the strategic plan was billed under the Van Galder contract.
7. Intuitive Systems, Inc. timesheets bearing the company name were utilized in many instances when submitting time for Mr. O'Connor, Mr. Van Galder, and Mr. Robins.

8. Upon completion of the contracts, Mr. O'Connor submitted a report which encompassed all work performed under the contracts titled, "Information Technology Project – ISI [Intuitive Systems, Inc.] Exit Debriefing & Turnover Document." The only name appearing on the report was Intuitive Systems, Inc.

Disregarding the request for proposals process allowed Intuitive, through its key personnel, to continue work on the growing project.

Ms. Schaye asserted that handling the project with separate contracts was legal and appropriate. She maintained that the scopes of services of the contracts were sufficiently distinct. She also stated that, when work began, funding was not available for the entire project. As the work progressed and money became available, she said, new contracts were issued to accomplish additional tasks. Thus, she contended, the contracts were separate out of economic necessity.

Contract #1

The first contract was with Intuitive Systems, Inc., signed by Mr. Yelverton for Attorney General Richard Ieyoub. Effective dates of the contract were Sept. 1, 1995 through Aug. 31, 1996. Total amount payable under the contract was not to exceed \$40,000. This amount was based on payment rate of \$125 per hour for services of the project manager and \$90 per hour for services of the software development engineer. In February, 1996, the contract was amended, shortening the ending date to March 1, 1996, and increasing the maximum amount to \$49,500, which is just below the threshold amount requiring a request for proposals. The consultant agreed to furnish the following services:

- Evaluate and prepare a design document of the Department of Justice computer system configuration,
- Develop a strategic plan for new computer configurations,
- Recommend hardware and software purchases,
- Develop a prototype mail and case tracking system, and
- Assist in the development of job descriptions for Department of Justice systems managers and hardware technicians.

Invoices submitted by Intuitive Systems, Inc. show that as of Jan. 31, 1996, five months into the contract, the department had been billed \$49,430 under this contract. Time sheets show the work was performed by Mr. O'Connor and, Intuitive employees Mr. Van Galder and Mr. Robins.

Contract #2

The second contract was with Mr. Van Galder, an Intuitive Systems employee, signed by Mr. Ieyoub. Effective dates of the contract were Jan. 21, 1996 through June 30, 1996. Total amount payable under the contract was not to exceed \$49,500, again just below the threshold amount requiring a request for proposals. This amount was based on payment rate of \$90 per hour. In June, 1996, the contract was amended extending the ending date to Dec. 31, 1996. The consultant agreed to furnish the following services:

- Prepare a technical specification for the upgrade/replacement of computer hardware and software.
- Develop a standard procedure for hardware replacement, workstation upgrade, software installation, and user training.
- Provide expert assistance for the purchase of hardware and software to support the workstations upgrade.
- Provide day to day direction and guidance to hardware and software technicians and network engineers in the implementation of the workstation standardization program.
- Provide advice and assistance with hiring hardware and software technicians for the Department of Justice.

Invoices submitted by Mr. Van Galder show that as of June 30, 1996, the department had been billed for the full contract amount of \$49,500. Time sheets show the work was performed by Mr. Van Galder.

As an employee of Intuitive, Mr. Van Galder was required by Mr. O'Connor to pay Intuitive forty per cent of the contract proceeds.

Contract #3

The third contract was with Mr. O'Connor, Intuitive Systems owner, signed by Mr. Ieyoub. Effective dates of the contract were Feb. 1, 1996, through June 30, 1996. Total amount payable under the contract was not to exceed \$49,500, again just below the threshold amount requiring a request for proposals. This amount was based on payment rate of \$125 per hour. In June, 1996, the contract was amended extending the ending date to Dec. 31, 1996. The consultant agreed to furnish the following services:

- Prepare a technical specification for a standard client server network architecture and operating system. Prepare an implementation plan for each Division's client server network. This work will include the design, development and installation of document libraries on each Division's network servers that will allow storage, search and retrieval of case documents.
- Assist training coordinator in development of a training manual for client server system administration and maintenance.
- Based on the Department of Justice documentation requirements, prepare a detailed specification for a Department Graphics Standard with document templates that can be implemented on each Division's client server network.
- Prepare a technical specification for Department of Justice network connectivity with a wide area network (WAN). The technical specification will provide requirements for conception, operation, data security, and performance.
- Provide technical support to the Department of Justice with development of a Request for Proposal, identification of potential bidders, proposal review, and contract award for the WAN.

Invoices submitted by Mr. O'Connor show that as of Aug. 30, 1996, seven months into the contract, the department had been billed the full contract amount of \$49,500. Time sheets show the work was performed by Mr. O'Connor.

Mr. O'Connor paid Intuitive forty per cent of his contract proceeds.

Contract #4

The fourth contract was with Intuitive Systems, Inc., signed by Mr. Yelverton for Mr. Ieyoub. This was the second contract in the company name. Effective dates of the contract were June 1, 1996, through Dec. 31, 1996. Total amount payable under the contract was not to exceed \$49,000, again just below the threshold amount requiring a request for proposals. This amount was based on payment rate of \$90 per hour. The consultant agreed to furnish the following services:

- Coordinate scanning of Louisiana Gaming Control Board files into a document library.
- Coordinate loading Gaming Division files into a document library.
- Implement Electronic Document Management System (EDMS) for Gaming Division.
- Test and Document EDMS for Gaming Division.

Invoices submitted by Intuitive Systems Inc., show that as of Oct. 31, 1996, five months into the contract, the department had been billed \$48,960 under this contract. Time sheets show the work was performed by Mr. O'Connor and Mr. Van Galder.

Contract #5

The fifth contract was with Mr. Robins, an Intuitive Systems employee, signed by Mr. Yelverton for Mr. Ieyoub. Effective dates of the contract were July 1, 1996, through Dec. 31, 1996. Total amount payable under the contract was not to exceed \$35,000. This amount was based on payment rate of \$90 per hour. The consultant agreed to furnish the following services:

- Provide programming services to design and develop a Case Tracking System for implementation on the Department of Justice Wide Area Network (WAN).
- Provide programming services to design and develop an interim Windows based application that provides process tracking and information retrieval for the following processes:

- Attorney General Opinion Tracking

- Mail Tracking for the Civil Division
 - Case Tracking for the Civil Division
 - Process server Tracking for the Civil Division
- Provide programming services to modify the Department of Justice Computer Equipment Inventory to:
 - provide accessibility over WAN
 - provide multiple user accessibility
 - add data fields to allow inventory data for all department property
 - add features to provide additional reporting capabilities

Invoices submitted by Mr. Robins show that as of Dec. 31, 1996, the department had been billed \$34,965 under this contract. Time sheets show work was performed by Mr. Robins.

As an employee of Intuitive, Mr. Robins was required by Mr. O'Connor to pay Intuitive forty per cent of the contract proceeds.

Contract #6

The sixth contract was with DATEC, Inc., signed by Mr. Yelverton for Mr. Ieyoub. Effective dates of the contract were June 15, 1996, through Dec. 31, 1996. Total amount payable under the contract was not to exceed \$45,000.

We do not take issue with this contract since the services provided by this consultant could not be performed by Intuitive or associates of Intuitive and there is no apparent affiliation between Intuitive Systems, Inc., and DATEC or DATEC employees.

Upon completion of all work, Intuitive submitted an ISI Exit Debriefing & Turnover document. The document encompasses all work performed under the contracts as well as additional work needed to complete the Information Technology Project.

There is disagreement among participants in a meeting held by top officials in the department over whether the request for proposals process requirements were discussed.

Those attending the meeting were Mr. Yelverton, Ms. Schaye, Tom Warner III, assistant attorney general working under Ms. Schaye at the time, Jack Hightower, director of administrative services, Dianne Shelmire, deputy director of administrative services, and Trey Boudreaux, a budget analyst for the department at the time.

Ms. Shelmire stated she discussed in a meeting attended by Mr. Yelverton and Ms. Schaye the necessity for placing the computer project on a request for proposals basis and advised that Mr. O'Connor might not be the contract winner. She said Mr. Warner, who was formerly an attorney with the Office of State Purchasing, agreed with her. Mr. Warner stated that Ms. Shelmire might be correct but he did not remember it. Mr. Hightower said he also advised Mr. Yelverton and Ms. Schaye at the meeting that a request for proposals was required.

Mr. Yelverton stated that although he was very much involved in the process, he did not recall any discussions about multiple contracts.

Ms. Schaye stated she did not recall being advised that dividing the contracts was prohibited under the law.

Mr. Boudreaux stated he did not recall being present at a meeting where the necessity for a request for proposals was discussed.

Ms. Schaye stated that in other meetings with senior officials in the department, the issue was discussed and other lawyers present agreed the process being followed was correct. However, these other participants in the executive staff meetings stated there was no discussion of multiple contracts.

Work Performed Without Contract

Mr. Warner misled the Office of Contractual Review while attempting to gain approval to a contract amendment and for a sole source contract. Ms. Schaye

misled the Procurement Support Team, which reviews computer consulting services; while attempting to gain approval for a sole source contract.

In addition to the work performed under the five contracts with Intuitive and associates of Intuitive, the company was allowed to perform additional project work without the benefit of a contract. The additional work began in August, 1996 and continued through February, 1997. The majority of this work was performed while four of the five contracts with Intuitive and associates of Intuitive were in effect. Intuitive billed the department and was eventually paid \$123,735 for this project work.

In an attempt to gain Division of Administration approval to pay for this additional work, in December, 1996, the Department of Justice submitted a contract amendment, with an explanatory letter signed by Assistant Attorney General Tom Warner, to the Office of Contractual Review for approval. The amendment would have changed the second Intuitive contract from computer consulting services to engineering services and raised the maximum amount from \$49,000 to \$224,000. A request for proposals would not have been required for engineering services. The Division did not agree that the contract was for engineering services and refused to approve the amendment.

Mr. Warner then submitted a ten page letter, dated Jan. 31, 1997, to Susan Smith, Director of the Office of Contractual Review, requesting approval to utilize the services of Intuitive as a sole source procurement. The letter indicates this request was for a "proposed contract." Approval of a sole source procurement process request would have allowed the Department of Justice to procure the services of Intuitive without the benefit of a request for proposals. Mr. Warner's letter states the maximum amount of compensation would be \$175,000. The letter does not indicate that the majority of work for which approval was being sought had already been performed by Intuitive.

In addition to the letter, Mr. Warner met with Ms. Smith regarding this request. Again, Mr. Warner did not inform Ms. Smith that the majority of work had already been performed by Intuitive. Ms. Smith verbally informed Mr. Warner that she did not agree that the services to be provided would qualify for a sole source procurement. Ms. Smith referred the matter to the Procurement Support Team for final determination.

The Procurement Support Team is a committee organized by the director of the Office of Contractual Review to oversee the letting of computer consulting services contracts exceeding \$100,000. By law, its members include representatives of the Office of Contractual Review, the Attorney General's Office, the Legislative Fiscal Office, and the contracting agency. At least two members must have formal training in computer contract negotiations. The Procurement Support Team is required to be involved before the contractor is selected and work begins.

Mr. Warner stated he did not inform Ms. Smith of the fact the work had already been performed because he did not feel it was relevant.

On Feb. 12, 1997, the Procurement Support Team met to review the sole source request. Ms. Schaye presented the department's justification to the team members. She did not inform the members that the work for which approval was being sought under a sole source procurement had already been performed by Intuitive. The Procurement Support Team disapproved the request.

Ms. Schaye stated there may have been miscommunication, but there was no intent to deceive the team members.

Having failed to gain approval to amend the Intuitive contract or to procure services as a sole source to cover the cost of services provided by Intuitive without the benefit of a contract, Mr. Yelverton sent a letter dated Feb. 25, 1997, to Pam Perkins, General Counsel for the Division of Administration. The letter advised that Intuitive, on the authority of the Department of Justice, had expended time beyond that for which compensation was provided in the two contracts with Intuitive. The letter requested approval to pay the invoices submitted by Intuitive amounting to \$123,735 for work performed without a contract.

The commissioner of administration is authorized, with the concurrence of the attorney general, to settle the claim by a contractor for work performed without benefit of a contract.

The Division of Administration did not approve Mr. Yelverton's request.

On March 3, 1997, Connie Koury replaced Mr. Yelverton as the first assistant attorney general. Ms. Koury asked Assistant Attorney General Glenn Ducote to

review the department's handling of the computer consulting contracts. Mr. Ducote sent a memo to Ms. Koury dated Dec. 31, 1997, summarizing his findings. Mr. Ducote concluded the following:

“From the sequence of events, there are two primary areas of concern where the spirit if not the letter of the law was violated. First was the series of six contracts, each just under the \$50,000 threshold for the RFP process, where the contracts were with a corporate entity and also with employees and principals of the same corporate entity. Second, was the frantic effort in early 1997 to obtain DOA sanction for further computer consulting services which had apparently already been performed without a contract.”

In May, 1997, the Department of Justice contracted with Compliance Solutions, Inc., a computer consulting company out of Houston, to evaluate the work already done on the department's computer systems and verify that the work had been performed. According to Ms. Koury, Compliance Solutions determined that Intuitive and others had performed the work for which the department was billed.

In a letter to the Division of Administration dated June, 1997, Ms. Koury stated the department regretted that appropriate procedures were not complied with at the time this work was authorized, but felt the Department was morally and legally obligated to compensate the contractor for the work performed. Ms. Koury requested approval to pay Intuitive the \$123,735 for work performed.

In a letter dated Oct. 7, 1997, Commissioner of Administration Mark Drennen notified the Department of Justice that he was approving the payment. Mr. Drennen wrote:

“Consideration of this request has been particularly troublesome for me, as it has been hard to understand how the Department of Justice could have permitted this contractor to do so much work without benefit of a contract. I am relying on your own internal investigation of this matter and your personal assurances that this work was performed satisfactorily and that a clear legal obligation exists. Since there is clear obligation, I see no purpose to be served by requiring the contractor to file suit against the state to collect.”

Conclusions:

1. Department of Justice computer consulting service requirements for an Information Technology project were artificially divided to avoid the statutorily required request for proposal process. Jack Yelverton headed up the project and Jennifer Schaye was assigned as contract monitor and coordinated project activities.
2. Tom Warner misled the Office of Contractual Review while attempting to gain approval for a contract amendment and for a sole source contract.
3. Jennifer Schaye misled the Procurement Support Team while attempting to gain approval for a sole source contract.

Recommendation:

1. The Department of Justice has taken steps to reduce the risk of contracts being mishandled in the future.

BL/dm/rp

**JENIFER SCHAYE
ATTORNEY AT LAW**

**7640 LaSalle #309
Baton Rouge, LA 70806**

**Phone: (225) 926-2341
Email: JENIF16@AOL.COM**

May 1, 2001

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

Dear Mr. Lynch:

I have reviewed the draft report presented to me, by your office, in regard to the 1995-1996 computer contracts let by the Department of Justice (DOJ). I appreciate your courtesy in allowing me to respond to this report.

Although the report reflects parts of my conversation with David Morales of your staff, I feel certain significant points have not been addressed. They are:

1. Nothing was done by me or to my knowledge anyone else in the DOJ outside of the course and scope of our employment. I believed then and I believe now that all our actions were under the direction of the Attorney General. Everything was done "in the light of day," all subject to the chain of command in the DOJ. As is noted in your report, the Attorney General signed two of the computer contracts, which are being reviewed.
2. The Administrative Division of the DOJ was charged with the monitoring of contracts, which would be presented to the Office of Contractual Review. Jack Hightower headed this division. I do not recall receiving any communication from Mr. Hightower, or any of his assistants, that the computer contracts were improper. It was, to my recollection, the Administrative Division that presented these contracts to the Office of Contractual Review. It was also the Administrative Division who paid the invoices submitted under the various contracts. I do not recall receiving any communication from Mr. Hightower, or any of his assistants, suggesting these contracts should not be paid.
3. In 1995-96, the DOJ, like most state agencies, was grappling with technology. We were going from WANG (an outdated system) computers to personal computers and a local area network. In addition, our caseload was increasing by geometric proportions, even though our state budget dollars were not. At that time, despite the fact that the DOJ, the people's law firm, was the largest law firm in the state, we had virtually no interface as regards mail or electronic docketing of court events.

4. In 1995-96, as we embarked on our computer study, the DOJ had no information system professional on staff who could lead in the technological development of the office.
5. In 1995-96, the Director of the Administrative Division of the DOJ, Jack Hightower, was advising other directors in the DOJ, as well as the Attorney General and the First Assistant, that there were no funds available for broad-based technology development.
6. The upgrading of the computer system within the DOJ was a major topic of conversation at executive staff meetings for more than a year. Some directors were strongly in favor of the technology changes; others were less sure of the benefits the DOJ would gain from better document management. Everyone, however, was aware of the cost for changing the technology. As a matter of fact, some complained that too much time was being spent on the discussion of these contracts and the work to be performed under these contracts.

In this context of need and necessity, led by Jack Yelverton, First Assistant Attorney General, under the authority of the Attorney General, Richard Iyoub, the directors of the various divisions of the DOJ began to listen to presentations from computer professionals and others as to how they could assist us in developing a local area network through which the DOJ could track mail, pleadings, and required court appearances. In addition, these professionals discussed with us ways we could better communicate with each other through E-mail and the sharing of legal research. The professionals who made presentations were:

- PC Warehouse;
- A New Orleans firm experienced in business solutions (cannot recall the name);
- Leon Gary, law partner at Gary, Hicks, Field;
- Tom O'Connor of Intuitive Systems.

The initial purpose of these presentations was to inform us about what could be done and to listen to suggested procedures, which these experts felt must be followed, if we were to be successful in upgrading the DOJ's computer system.

After all the presentations, faced with the budget constraints continually presented to us by the Director of Administrative Services, we determined in a meeting of all directors with the First Assistant that it would be better to begin the process slowly in order to carefully assess our needs and not waste state dollars. It is important to note, however, that even if we had wanted to do a full scale RFP at the beginning, because the dollars were not available to pay the contractor, we would not have been able to legally begin this bid process.

Tom O'Connor and his company were chosen to begin this process with us because, according to my recollection, of Mr. O'Connor's experience in wide area networking, E-mail issues, and controlling and accessing large databases. Prior to his presentation to the directors, I had never met Tom O'Connor.

As the technology work began, Mr. Yelverton asked me to be the professional/lawyer contact with Tom O'Connor. Our goal was to make sure that whatever was developed on the technology side would be useful to the legal staff of DOJ. We were very concerned that we not fall into the trap of allowing the technology to dictate what was needed. We wanted the technicians to be directed by the needs of a large law office serving 4 million clients. My role was to listen to the technicians and to listen to the legal community of the DOJ. My role was never to provide work for Tom O'Connor or Intuitive Systems.

We proceeded with the initial survey and assessments using as a basis the Postlethwaite & Netterville Report referred to in your report. As we continued, we began to see other needs in the office; therefore, we developed other consulting contracts. There was at no time in this initial work, and I consider everything I was involved in as initial work, a master plan. We were grappling on a day to day basis because of continued budget crises and our hesitancy to buy or build something, which would not well serve the DOJ.

There was never any discussion or intent to "breakup" all the work that needed to be done in order to avoid the RFP process. As stated earlier, we did not know at the beginning the dimensions of the work, the perimeters of responsibilities, nor the time required for execution. Again, I repeat we were being told throughout that there were minimal funds available for technology. In the Fall of 1996, as this initial work was coming to completion and we were beginning to focus the work, it became apparent to us that the computer consulting contracts were developing into engineering efforts because there was a plan to connect the various offices of the Attorney General through cabling. Consequently, it was decided through discussion with the First Assistant and directors that we should request an amendment to one of the contracts so that we could complete the wide area network. We believed this amendment to be appropriate given the engineering services, which needed to be performed. When the Division of Administration did not agree with us on this amendment, we sought another alternative, the Sole Source Provision.

During this time when we were unable to secure approval for the engineering amendment and prior to any presentation made to the Procurement Support Team, I advised Mr. O'Connor of our funding problems and suggested that he may want to stop working since I was unsure if we could obtain authority to pay for further services. Mr. O'Connor is a professional with high integrity. He did not want to leave us with an incomplete job and told me that he would risk doing at least some additional work, even if he was not paid in the future.

At the time I made the presentation to the Procurement Support Team and as of this writing, its membership, as you noted in your report, consisted of a representative of the Attorney General's Office, a representative of the Office of Contractual Review, a representative of the Legislative Fiscal Office, and the contracting agency. Therefore, the presentation I made was made to the Attorney General's Office, who had signed the original contracts, and to the Office of Contractual Review, who had approved the original contracts. It is difficult for me to understand the perception that I misled three of the four people on the committee since all concerned had previous knowledge of the DOJ computer contracts and prior to the meeting expressed no additional concerns to me.

In 1997, and as of this writing, I believe it would have been a benefit to the DOJ and to the State of Louisiana for Intuitive Systems to have been considered under the provisions of the Sole Source Procurement. We fully explained to the Procurement Support Team, as I have in this response, how the computer contracts developed within the DOJ. We stated to them that to seek responses to an RFP would mean, in our opinion, that we would have to retrace work that had already been done by Intuitive Systems in order for the new computer consultants/engineers to complete the wide area network and other technological changes needed by the DOJ. I never held back any information from the Procurement Support Team. At the time of the presentation, I do not recall being asked what specific work had already been done. Had that question been asked, I would not have been able to answer it with any detail; because, although I knew the general scope of the contracts, I did not know with specificity all of the technical work that had been done. You will recall that I stated my job was to be the professional/lawyer contact, but I did not have the technical expertise to supervise the actual work performed. We were, of course, evaluating the goals achieved as a result of the work performed.

When the Procurement Team turned us down on the Sole Source Proposal, they suggested that we do an RFP. However, in order to do this RFP we realized we would have to consult with Tom O'Connor and, if he then bid on the contract, we were concerned that this would be improper. It was at that point that I had a discussion with Mr. Yelverton concerning R.S. 39:1524, the arbitration provisions, which allow payment for work done without a contract. It was decided that it would be better to request permission from the Commissioner of Administration to pay Tom O'Connor and Intuitive Systems for any work beyond the contractual amounts. We determined we would then consider how to proceed to complete the entire wide area network including all the communication and legal research needs.

When I asked Mr. O'Connor to prepare these invoices is when I realized, for the first time, the exact work that had been done beyond the contract limits. Even as the invoices were presented to me, Mr. O'Connor told me he understood he might not be paid, because he had gone beyond the contract amounts. Accompanied by Tom Warner, I presented the entire matter to Pam Perkins, General Counsel for the Division of Administration (DOA). We offered to have anyone from the DOA review the work that had been done in order to verify the quality and amount of work. Ms. Perkins told me that she would review these matters with Susan Smith, Director of the Office of Contractual Review, and Commissioner Drennen. I told her that we would answer any

Mr. Bill Lynch
May 1, 2001
Page 5

questions that anyone had on the matter. (Earlier in the year, as we discussed the DOJ's budget with the Commissioner, we had talked about these computer issues.)

In March of 1997, when Ms. Connie Koury became First Assistant Attorney General, I gave her a full explanation of all that had occurred with the computer contracts. In addition, I presented to her, twice, full documentation of all that had been done under the various computer-consulting contracts. I told her I was available to answer any questions she, the Attorney General, or DOA might have.

In this entire process, my personal and professional goal was to assist in bringing the DOJ into the 21st Century. During my tenure in the DOJ, I was the Director of Risk Litigation and the Director of Gaming; therefore, I had an acute sense of the urgency of the DOJ becoming technologically sound. I realized that unless we could control information, communicate more effectively, and research legal issues quickly and more thoroughly, we could not defend well the State's interest.

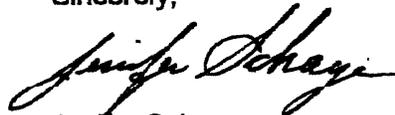
I have never intentionally misled anyone, in regard to the computer issues in the DOJ. I never participated in any plan to sidestep the bid laws of the State of Louisiana. To my knowledge, there was no plan to not abide by the State Bid Laws. I believed then and now that everyone involved, beginning with the Attorney General, as head of our agency, was attempting to affect change, which would greatly benefit the practice of law within the DOJ.

I have attempted, in this response, to lay out for you my entire participation in the computer updating of the DOJ. In hindsight, perhaps it would have been better for us to have sought alternative sources of funding, such as from Capital Outlay. (We did continuously seek additional funds within our ordinary state budget.) Despite the confusion and some misunderstanding, as Ms. Koury's expert stated, Compliance Solutions, Inc. determined Intuitive and others performed the work for which the DOJ was billed. This work did, in fact, change the manner in which attorneys within the DOJ were able to communicate with each other and others, control pleadings, and do legal research. I am happy to have been a part of this progressive move, but I am sincerely sorry that certain procedures have been misunderstood.

Mr. Lynch, if you wish to discuss this matter further in a face to face meeting, I will be immediately available to you and/or your staff.

Thank you for your courtesies.

Sincerely,



Jennifer Schaye
Attorney At Law

/JS
Lynch

May 2, 2001

Bill Lynch
Inspector General
P.O. Box 94095
State Capitol Annex
Baton Rouge, LA 70804-9095

Dear Mr. Lynch:

I have been practicing law in the State of Louisiana for 19 years, predominantly as a state employee and public servant. I have never had my integrity challenged until now.

I fervently object to your office's draft report conclusion that I "misled the Office of Contractual Review". It is inaccurate, unsupported and misleading.

I met with your investigators at length and was completely open and honest about my recollection of these events. I find it incredible that my involvement is now portrayed so as to damage my reputation.

Your draft report contains a reference on page 13, to wit:

"Mr. Warner stated he did not inform Ms. Smith of the fact that the work had already been performed because he did not feel it was relevant."

This constitutes a cursory summarization, and in my opinion, a negative characterization of the statements I made to your investigators.

To request approval of an amendment to the contract as constituting "engineering" services and classification of the contractor as a "sole source" provider was a legal means available under La. R.S. 39:1481 et seq. for the Department to pay for work done and complete the project.

The Department was attempting to have the Office of Contractual Review make a determination of whether the scope of services should be considered "engineering" as provided in Section 1484 or whether the contractor should be approved as a sole source provider under LAC 34:V.154. Whether the contractor had done additional work did not seem necessary to make such a determination. If the contract were not approved, there

was a distinct possibility the contractor would not be paid for that work absent another legal remedy.

Informing Mrs. Smith that work had been done in excess of the contract amount would have changed the purpose of the letters, which were to allow her to make an objective decision as to whether the contract could be classified as engineering or the contractor as a sole source provider. Informing her of the work would have essentially amounted to a request for approval of the work, which first would probably have placed more pressure on her decision and secondly would have been more appropriately addressed in the context of a "1524 letter" whereby contractual disputes are resolved by the Commissioner of Administration. La. R.S. 39:1524.

The Department was interested in resolving the matter legally. Each of the methods used, request for approval of engineering services, request for approval as a sole source provider and ultimately a request for approval of payment for the work pursuant to R.S. 39:1524 is a legal means available to contract and pay for work done for the State.

The draft report makes note that the January 31, 1997, request for approval of the contractor as a sole source provider referred to a "proposed" contract. Somehow this seems to be construed in the report as a misrepresentation; however, it was precisely that, a proposed contract, proposed to be approved by the Office of Contractual Review.

The fact that some work may have been done toward the "proposed" scope of services did not change the nature of the request for approval of Intuitive Systems as a sole source provider. Either ISI would be approved as "sole source" based on the justification or it would not.

The draft report contains a section containing 3 pages under the heading Work Performed Without Contract. Significant emphasis is placed on the fact that services were rendered by the contractor in excess of the maximum amount of any contract(s) or "without the benefit of a contract". For a state agency to allow a contractor to perform services without having a contract in place approved by the Office of Contractual Review is a common occurrence. The administrative rules of the Office of Contractual Review LAC 34:V.121 merely require a justification letter from the agency if more than 60 days has elapsed from the effective date of the contract through time of submission. Therefore, services may be provided to agencies, in some situations for over 60 days, without an approved contract. The significance of this point is that "work performed without contract" is allowable under the law. The issue is simply whether a contract is ultimately approved by the Office of Contractual Review.

Had either of the requests for approval been granted, the matter would have been resolved legally, which was the sole objective in making the requests.

The letters to Mrs. Smith were efforts to obtain necessary approvals allowed under the law. From a legal standpoint, the fact that work was done in excess of the contract amount should not have been an issue in her determination. The draft report

suggests that there was some obligation to disclose this fact; however, no basis for such a conclusion is stated.

In retrospect, perhaps Mrs. Smith should have been informed that additional work had been done. Perhaps it would have been better judgment on my part to have informed her. However, there was never any intent on my part to "mislead" Ms. Smith or the Office of Contractual Review and such a "conclusion" without a factual basis is inexplicable and unwarranted.

It should be noted that the report covers a number of events which occurred over a number of years. To a large part, the persons who were aware of certain facts at certain times are not identified. This coupled with the erroneous conclusion that I "misled the Office of Contractual Review in attempting to gain approval of an amendment..." could cause a reader to assume that I had knowledge of many, if not all, other facts and incidents referred to in the report.

In an effort to dissuade such misconception, I will attempt to the best of my recollection to underscore things I was not aware of or made aware of and the nature and extent of my involvement with the computer project.

Your report refers to a 1992 study by Postewaite and Netterville of the Department of Justice's computer system and their recommendations. I was not aware of this study until either late in 1996 or early in 1997.

I had no knowledge how Mr. Yelverton met or came to meet Tom O'Connor or any associates of Intuitive Systems. I had no knowledge of a finder's fee being paid to Mr. Ross or anyone else. When the first contract was entered into, I had no idea, nor do I believe anyone else had any idea, of how much work would be required of the contractor or other persons to complete the project. Initially, I had little knowledge of the project itself or the end result sought.

At some point in time I knew Mr. Van Galder was somehow associated with Tom O'Connor/Intuitive Systems. However, I did not know with certainty that Steven Robbins was associated with Tom O'Connor/Intuitive Systems even after having viewed Mr. Robbins invoices.

I was unaware of any payments made by Van Galder, O'Connor or Robbins to Intuitive Systems.

After Contract #2 was completed, or at least after the maximum amount payable under the contract was invoiced in October 1996, I was unaware for a considerable period of time that the contractor was continuing to perform work. The contractor discontinued sending invoices. I assumed work had stopped, only to learn sometime in December 1996, that it had not.

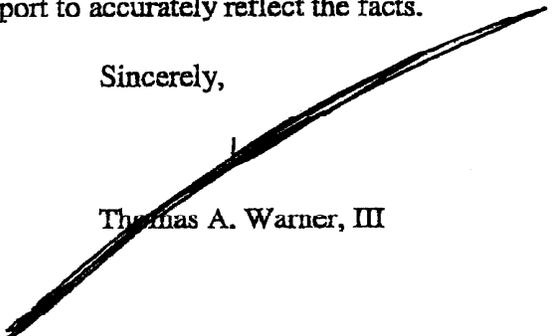
I did not know that Intuitive Systems was paid \$123,000, the amount claimed for work done in excess of the contract amount, pursuant to R.S. 39:1524, until I read about it in the newspaper on or about November 2, 2000.

During 1995 and 1996 I was the Deputy Director of the Attorney General's Gaming Division serving as legal counsel to the Riverboat Gaming Commission and after May 1, 1996, to the Louisiana State Police and Gaming Control Board. This was a period of time which required extensive work by the Attorney General's Office on a number of matters, including the bankruptcy of Harrah's Casino, awarding of the 15th riverboat license, enactment of the new Gaming Control Law, transition of a new Gaming Control Board, assuming new legal responsibilities for video poker and riverboat gaming regulation, and the election issues of September 21 and November 5, 1996.

The computer project was therefore additional work beyond these daily responsibilities. With respect to the computer project, I was primarily responsible for drafting the contracts, placing them in the proper format, including the scope of services, amounts of compensation, dates and other necessary information. I was not involved in selecting any of the contractors and had no authority to direct their work. I received invoices and time sheets submitted and certified by the contractors. In 1995 and 1996 I had and still have a limited knowledge of computers and even less of computer systems. The two (2) letters written to the Office of Contractual Review were not initiated on my own volition and would have been reviewed by my superior(s). To the extent I was involved in the computer project I functioned in an advisory capacity and not as a decision maker.¹

In summation, I feel the draft report as it relates to my involvement is patently unfair. The conclusion that I "misled the Office of Contractual Review" is not accurate nor is it supported by factual evidence. This erroneous conclusion will serve no other purpose than to wrongfully damage my reputation in the community. In my years of service to the State of Louisiana, I have always strived to conduct myself honorably and with integrity. I trust your office will revise your report to accurately reflect the facts.

Sincerely,



Thomas A. Warner, III

¹ Admittedly, though your report notes I was formerly an attorney with the Office of State Purchasing, I was attorney for the Division of Administration which included the Office of Contractual Review from August 1982 to January 1988.