

49553

Date: November 17, 2015

To: Board of Acquisition and Contract

From: Kevin Cheverko
Commissioner of Correction

Re: Authority to exempt from the Westchester County Procurement Policy an agreement with David M. Bogard to Act as the Monitor to implement a separate voluntary agreement between the United States of America and the County of Westchester, acting by and through its Department of Correction ("DOC") for the purpose of clearly articulating and further complying with DOC's duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons Act, and to approve Michael Gatling and Judith Regina-Whitely as subcontractors for an amount not to exceed Six Hundred Sixty Five Thousand (\$665,000.00) Dollars, which shall commence upon the Effective Date of the separate agreement with the United States of America and terminate three years after said Effective Date, unless earlier terminated in accordance with the terms of said agreement with the United States pursuant to Section 3(a)xxi of the Westchester County Procurement Policy and Procedures.

Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy an agreement with David M. Bogard to Act as the Monitor to implement a separate voluntary agreement between the United States of America and the County of Westchester, acting by and through its Department of Correction ("DOC") for the purpose of clearly articulating and further complying with DOC's duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons Act, and to approve Michael Gatling and Judith Regina-Whitely as subcontractors for an amount not to exceed Six Hundred Sixty Five Thousand (\$665,000.00) Dollars, which shall commence upon the Effective Date of the separate agreement with the United States of America and terminate three years after said Effective Date, unless earlier terminated in accordance with the terms of said agreement with the United States.

Ordinarily, under Section 6 of the County Procurement Policy, the County is required to conduct an RFP to procure professional services with an estimated contract cost of \$75,000 or more. However, in accordance with the aforementioned separate agreement with the United States of America, the parties agreed on the

selection of Mr. Bogard as an expert to act as the Monitor required under section IV of said agreement. Mr. Bogard holds a JD degree and an MPA, and has more than 30 years in the corrections field, including:

- Six years as director of corrections in Arlington, Virginia;
- Six years as special assistant to the commissioner in the Philadelphia Prisons (jails) system;
- 20 years as a consultant, working with jail and prison systems throughout the country;
- Previous experience with compliance monitoring in Houston, TX (two city jails), United States Virgin Islands, and in Puerto Rico (five juvenile correctional facilities);
- Prepared several jail litigation compliance status assessments for defendants' counsel;
- Expert witness in numerous cases involving jail and prison operations; and
- Two terms as a Commissioner on the American Correctional Association's Commission on Accreditation for Corrections.

In addition, section IV of the agreement with the United States of America contemplates a "Monitoring Team" which allows the Monitor to hire or consult with qualified staff to fulfill the Monitor's duties required by the agreement. Mr. Bogard has proposed Michael Gatling and Judith Regina-Whitely as subcontractors who will act to assist him with his duties.

Michael Gatling is a security expert with more than three decades of hands-on correctional experience and consulting experience. He possesses a MS in Management and Development of Human Resources, and his experience and qualifications include:

- Former assistant director of the Arlington County Detention Facility, VA;
- Previous experience with compliance monitoring with the Puerto Rico juvenile corrections system and the jails in the United States Virgin Islands;
- 18 years as a corrections operations and security consultant, working with jail and prison systems throughout the country including Los Angeles County, California Department of Corrections and Rehabilitation, District of Columbia Department of Corrections, Richland County (SC), Alachua County (FL), New York City Department of Juvenile Justice, Camden County (NJ), Bernallio County (NM); and
- Compliance Monitor for privately operated jails and prisons contracted for by the DC Department of Corrections.

Judith Regina-Whitely has over 30 years of corrections and forensic health care experience. She holds a MS in primary health care nursing, a BA in psychology and is a nurse practitioner. Her experience includes:

- 18 years as a corrections health care consultant, working with jail and prison systems throughout the country including Richland County (SC), Alachua County (FL), Iowa Department of Corrections, and California Department of Corrections and Rehabilitation;
- Lead Healthcare Contract Monitor, Camden County Correctional Facility, NJ;
- Held positions as Mental Health Therapist, Forensic Program Director, Nursing Supervisor, Nursing Director, and Nurse Practitioner;
- Extensive consultative experience working with standards of ACA, NCCHC, JCAHO, and Medicaid requirements;
- Forensic Program Director, Fairfax-Falls Church Community Services Board (1983-1994); deployed to the Fairfax County Adult Detention Center to manage the mental health and substance abuse services provided to inmates; and
- Director of Nursing, Dominion Hospital, VA (1977-1980); managed and directed nursing services for both adolescent and adult mental health treatment units.

Pursuant to Section 3(a)xxi, the Westchester County Procurement Policy and Procedures are not applicable to any procurement for which this Honorable Board determines, by resolution passed prior to commencing such procurement, that compliance with the policy would not be in the best interests of the County. For the reasons set forth above and in order to implement the agreement between the United States of America and the County of Westchester, acting by and through DOC for the purpose of clearly articulating and further complying with DOC's duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons, it is proposed that the best interests of the County would be served by exempting this agreement from the County Procurement Policy.

Accordingly, an appropriate resolution is herewith attached for your Board's consideration.

KC/JPI/me

RESOLUTION

Upon a communication from the Commissioner of Correction, be it hereby

RESOLVED, that pursuant to Section 3(a)xxi of the Westchester County Procurement Policy, it is hereby determined that application of the procedural requirements contained therein, including the necessity of soliciting quotations, is neither cost effective nor expedient, and accordingly, not in the best interests of the County in connection with the procurement of an agreement with David M. Bogard to Act as the Monitor to implement a separate voluntary agreement between the United States of America and the County of Westchester, acting by and through its Department of Correction (“DOC”) for the purpose of clearly articulating and further complying with DOC’s duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons Act, and to approve Michael Gatling and Judith Regina-Whitely as subcontractors for an amount not to exceed Six Hundred Sixty Five Thousand (\$665,000.00) Dollars, which shall commence upon the Effective Date of the separate agreement with the United States of America and terminate three years after said Effective Date, unless earlier terminated in accordance with the terms of said agreement with the United States.