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**"... if the contract between the PSD and the City of Eloy is such where the City of Eloy is not contributing to the performance of the contract, and is a pass-through mechanism to contract with CCA, this would be considered a circumvention of the statutes and an inappropriate use of the inter-governmental exemption...."**

**— chief procurement officer**

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# Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services

*Department's misleading cost data and improper contracting make prison solutions more elusive*

## **"Quick and dirty" numbers**

In December 1995, in an effort to address persistent prison overcrowding, the Department of Public Safety (PSD) began transferring inmates to out-of-state facilities. The transfer was viewed as a stop-gap measure that would give prison officials time to increase in-state capacity. Today, about 2,000 male inmates, approximately one-third of Hawai'i's inmate population, are held at facilities in Arizona.

Department officials have testified that sending inmates off-island is a temporary measure. However, we found that management does not understand the necessity of providing detailed and accurate financial information to policymakers and the public, a key component in solving this crisis. For instance, PSD reports that it spends about twice as much to maintain an inmate in-state. However, we found that these cost estimates are based on a flawed methodology designed around what is easiest for the department to report, or, as one PSD official characterized, "quick and dirty" numbers. The department ignores a major component for calculating these costs—capacity versus use. In addition, PSD underutilizes the capabilities of its inmate tracking management system, which can collect and compute inmate days and other information that would assist managers. Moreover, this inmate tracking system is often used incorrectly. In one analysis, we found errors in 28.4 percent of the tracking system's reports. The interim director contends that PSD provided a simple cost estimate because it could not articulate the complexity of calculating the myriad expenses incurred by individual inmates at differing facilities on a specific day. The department misses the point. The Offendertrak management system, if used accurately and to its capabilities, would enable prison managers and policymakers to make decisions with reliable information.

## **Circumventing the law**

In 2006, the past department director signed an inter-governmental agreement (IGA) with the City of Eloy, Arizona, to consolidate housing for Hawai'i inmates to three prisons owned and operated by Corrections Corporation of America (CCA), a for-profit provider of correctional facilities. At the time, the corporation was building a \$95 million prison in Saguaro, Arizona, specifically for Hawai'i inmates.

As the name indicates, IGAs are agreements that involve government-to-government transactions. These agreements are exempt from competitive procurement methods that state agencies must generally employ when soliciting proposals, a requirement of the Hawai'i Public Procurement Code. However, in the department's IGA with Eloy, the department actually conducts all transactions directly with CCA. We found no evidence that Eloy sub-contracted inmate services to CCA, nor is the city compensated for its role in the agreement. In the State chief procurement officer's opinion, such a contract inappropriately used the IGA exemption and is circumventing the law. Through this misuse of the exemption, the department was able to secure CCA as its preferred provider. In addition, we found that the IGA does not contain safeguards that protect the State's interests in the event of a dispute or if funds are not appropriated or available to pay CCA, so the State is exposed to a liability risk.

We found that the department has no written policies or procedures for contract administration, and the administrator and staff readily accepted CCA's representations and conclusions of its performance without verifying statements against documented evidence. At the time of our fieldwork, the department had no plans for contracting for private prison beds beyond June 30, 2011, when its contract with Eloy and CCA will expire. The interim director reports that the department is working with the City of Eloy and CCA to establish a separate agreement that will specify and document the working relationship between the two parties. However, the fundamentally flawed agreement should not be revisited. Instead, the department would be better served by guidance and training from the State Procurement Office. Doing so would better address the need for private prison beds beyond 2011 by helping to ensure that procurement occurs properly in the first place.