

**Office of the Inspector General Discussion Points
FY2009 Legislative Budget Questions
Mary Jane Cooper, Inspector General**

Question: Please provide an update on the activities in FY2008 of the Office of the Inspector General and present a cost estimate for each major activity. Which programs and governmental entities is the office currently reviewing or investigating? Which programs and governmental entities is the office planning to review in FY2009? How many complaints has the office received in fiscal years 2007 and 2008? How many of these complaints spurred a formal investigation by the Inspector General?

Response: Since last year's budget hearings, the Office of the Inspector General (OIG) has issued several reports concerning the findings related to various OIG reviews and investigations. OIG issued the following reports in FY2008:

***2007 Summary and Analysis of State Authorities' Employee Benefits Review Update
Issued August 20, 2007***

This is an update to OIG's 2006 report that compared the benefits of State Authority employees and similarly situated non-authority State employees. Chief among the recommendations OIG made in the 2006 report was a recommendation that to the extent possible and appropriate, consideration be given to establishing policies at the authorities that are consistent with those of the State.

OIG's 2007 report concluded that the number of employees at the majority of State authorities has decreased and of the remaining authorities, most experienced no change in staffing levels. Additionally, the report revealed revisions to various State authorities' travel and entertainment policies to be consistent with those of the State, including changes to meal and/or mileage reimbursement policies; changes to various authorities' holiday and early dismissal policies; and the elimination of policies pertaining to compensatory time and salary advances for vacation and/or other emergencies. OIG is currently in the process of gathering information from the authorities included in the review for the 2008 update report.

***Department of Corrections Inmate Dental Services Report
Issued October 15, 2007***

At the request of the Department of Treasury, OIG conducted a review of the Department of Corrections (DOC) monitoring of the dental portion of its \$168 million inmate health services contract with Correction Medical Services (CMS). OIG's review revealed DOC failed to accurately monitor contractual requirements that resulted in the inability to

guarantee that DOC was receiving services for which it paid and whether or not it was paying undue compensation to CMS. OIG's report also concluded that DOC did not calculate or assess liquidated damages against CMS for its failure to comply with two contractual requirements to provide dental services with specified time frames.

In OIG's initial report into DOC's oversight of the contractor providing health services to inmates, OIG reported that DOC did not assess the contractor contractual liquidated damages for failure to perform certain medical and dental services in an amount ranging from \$2.5 million to \$3.5 million. That report also found an overcharge of approximately \$132,000 for the improperly billed services of oral surgeons.

The continuing efforts of OIG have resulted in the identification of an additional \$450,000 to \$700,000, including wages paid for dentists' lunches unallowable under the contract, duplicate fees for managing the dentists, and management fees billed for the management of personnel not furnished by the contractor to DOC.

During the course of OIG's review, observations were made that require further investigation and analysis and those matters are currently under review and will be reported upon completion of such review. Moreover, the Department of Treasury has recently notified CMS that it plans to replace it with the University of Medicine and Dentistry of New Jersey in the provision of inmate medical and dental health services.

***Meadowlands Remediation and Redevelopment Project
Issued February 28, 2008***

OIG recently released its detailed, 277-page report following the year long investigation of the Meadowlands Remediation and Redevelopment Project (Project), conducted by OIG at the request of Governor Corzine. Specifically, OIG was charged with providing a history of the Project's complex financing as there was concern expressed by Governor Corzine that the towns specifically impacted by the Project could be at risk of financial detriment as a result of their agreements with the private entity who had been selected as the developer of the Project. OIG's review revealed significant misrepresentations of qualifications and financial support on behalf of the private entity the State contracted with. The Project began as a landfill closure project with limited development and evolved into the largest remediation/development project ever undertaken in the State. However, a small company with only approximately \$18.9 million in capital and run by financial managers and a geologist who were inexperienced in landfill closures were in control of the Project.

Evidence gathered by OIG indicates that EnCap, the private entity selected as the developer of the Project proceeded with the project in a stutter-start, disorganized, and mismanaged operation and brings attention to a series of failed, broken, and mismanaged or unmanaged contracts. Further, EnCap convinced the towns surrounding the immediate area of the Project to enter into financial agreements that would divert a substantial portion of revenue that would otherwise go to the towns and direct these funds to EnCap

by representing that the agreements were necessary in order for the remediation and development to occur. EnCap did not reveal to the towns that it had requested and received adequate financial assistance from State entities to pay the entire cost of the remediation. Similarly, as EnCap negotiated the terms of the loans from the State, including the collateral that EnCap would pledge to the State, it did not notify the State of its negotiations with the towns, thus the State did not know of this source of substantial additional collateral.

Importantly, OIG's investigation revealed that State representatives put in place mechanisms designed to protect State loans and the evidence indicates that to date, those mechanisms, along with executive branch intervention, have worked to prevent loss of State funds. Speculative allegations of criminal wrongdoing or improper influence peddling by public officials have not thus far been supported by reliable evidence.

OIG observed that the private entity's bad acts were exacerbated by a lack of coordinated effort on behalf of the State with no individual or entity having responsibility for the entire project. OIG recommended a State "Point Entity" be assigned this project, if feasible, and from the beginning stages of any public/private joint projects, particularly when control of the project is handed over to the private partner. OIG additionally recommended that the Attorney General's Office review the findings to determine whether any of the information warrants further investigation for possible prosecution; and also recommended that the lenders of the public funds undertake a line item audit to determine how public funds were used and assure the appropriateness of such use. OIG further recommended consideration be given to use of the expertise of the Comptroller's Office for this audit.

Additional OIG information

OIG's annual appropriation is not allocated by investigation but rather budgeted for costs related to staff salaries and wages, materials, equipments and general office administration. OIG will see a significant reduction of approximately \$460,000 in its FY2009 appropriation. Money has been budgeted in OIG's annual appropriation for OIG to hire outside consultants and auditors to assist with investigations. Although OIG has had these monies included in previous annual appropriations, in an effort to save the State money, to date OIG has not engaged any of the previously qualified accounting firms to assist in OIG investigations and relied solely on the talented and experienced full-time OIG employees, resulting in an OIG budget surplus every year.

In addition to several large and small scale investigations and reviews, going forward in FY09, OIG will continue its detailed review of the internal controls in place at the State authorities pursuant to Executive Order No. 41 (Codey). Additionally, OIG will complete its review of ongoing matters that resulted from the review of the Department of Corrections Inmate Dental Services Contract. OIG will also undertake investigations as requested by the Governor and consider those matters requested by leadership at State departments and agencies and appropriate for OIG's review or investigation.

With the creation of the State Comptroller, the audit function was removed from the Office of the Inspector General's statutory authority and placed with the Comptroller. Notwithstanding the absence of the audit function, OIG continues to report directly to the Governor and maintains its independent investigative responsibilities to look at state entities for waste and mismanagement in government spending and program compliance with state laws.

Prior to the change in OIG's statute, OIG had not conducted traditional audits. Therefore the removal of a traditional audit function from OIG's statutory responsibilities has not had an affect on OIG's workload. OIG maintains a significant case and workload. Moreover, OIG has the statutory responsibility to investigate anomalies or findings an audit performed by the Comptroller's office might reveal and determine why it happened – was it the result of mismanagement, failure or lack of internal controls or something else? OIG looks forward to working with the Office of the State Comptroller to complement the work of each office resulting in increased benefits to the State.

Constituent Correspondences/Complaints

OIG maintains records of the constituent correspondences it receives based on calendar year, not fiscal year. Below is a summary of the constituent correspondences received in calendar years 2006 and 2007.

All correspondence, whether received from an individual or forwarded from a State agency, State Legislator or the Governor's Office of Constituent Relations, are received by the Inspector General, properly acknowledged and reviewed to determine appropriate course of action. Correspondences are reviewed by the Inspector General and investigative staff to determine if the issue at hand is within OIG's jurisdiction and should be investigated by OIG. If not, OIG determines the most appropriate agency to handle the issue.

Approximately a dozen matters forwarded to OIG by constituents have spurred reviews by OIG. These reviews may require only initial information inquiries that do not result in further review or investigation or result in OIG referring the matter to a more appropriate agency to handle. However, when appropriate, OIG advises the complainant of OIG's work. Further, not all of these matters come to final resolution requiring issuance of a formal report or may be on-going.

Declining to Investigate a Complaint

In accordance with NJSA 52:15B-10, the Inspector General may decline to investigate a complaint received when it is determined that: the complaint is trivial, frivolous, vexatious or not made in good faith; the complaint has been too long delayed to justify a present investigation; the resources available, considering established priorities, are

insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

Anonymous Letters

The OIG welcomes anonymous complaints or tips. A constituent who contacts the office requesting anonymity is directed to put his or her concerns in writing. When a constituent offers contact information but requests anonymity, in the event an investigation is opened, the constituent may be advised of such decision. These correspondences undergo the same review process as all others.

Correspondence Information for Calendar Year 2006

Correspondences Received – 117

Correspondences Acknowledged – 95

The difference between the number of correspondences received and the number acknowledged is typically due to the fact that OIG often receives anonymous correspondences so there is no contact information provided, or OIG is only copied on the correspondence and not the primary recipient.

Correspondences Course of Action Determined – 101¹

- Not OIG's Jurisdiction – 20
- Referral – 66
- Thank You For Information or Potential OIG Investigation – 15

Correspondence Information for Calendar Year 2007

Correspondences Received – 121

Correspondences Acknowledged – 96

Correspondence Course of Action Determined – 91²

Not OIG's Jurisdiction – 28

Referral – 51

Thank You for Information or Potential OIG Investigation – 12

¹ Total Correspondences Received and Response Letter Approved in 2006 includes correspondences that were acknowledged in 2005 but the determination of course of action was made in 2006.

² Total Number for Course of Action Determined in 2007 does not include correspondences that were received in 2006 and determined in 2007.

Question: Please comment on the work performed by the two Assistant Inspector Generals dedicated to the New Jersey Schools Development Authority. Are the two positions considered to be permanent assignments? If not, what is the assignments projected duration? Which agency's budget funds the two Assistant Inspectors General? Is the office playing other roles in the restructuring of the New Jersey Schools Development Authority? If so, please describe the office's ongoing involvement.

Response: The two Assistant Inspectors General (AIG's) hired specifically to fill positions as part of the Memorandum of Understanding (MOU) with the New Jersey Schools Development Authority (SDA) are permanent positions and included in the OIG FTE of 20. Funding for the two positions, including salaries, office equipment and supplies is reimbursed quarterly to OIG (Treasury) by SDA. The two AIG's work at the direction of, and report directly to, the Inspector General and the MOU provides the opportunity for the SDA Board of Directors or Chief Executive Officer to request an investigation or review of a specific matter. The Inspector General and two AIG's meet regularly with SDA leadership to report on on-going matters and new concerns.

The reviews that SDA OIG performs fall into several categories of "fraud, waste, abuse or mismanagement." Since the positions were filled last year, the AIG's, both of whom are experienced attorneys, have been conducting various reviews and investigations.

The first category of SDA OIG investigative work would be those investigations involving third persons. Recently, OIG investigated an allegation that a tenant had defrauded the SDA of relocation benefits by intentionally overstating the rent he paid in his replacement residence after he was displaced by the SDA's acquisition of the house he had rented. The SDA OIG investigation confirmed that the tenant had in fact defrauded the SDA of approximately \$10,000. The SDA ceased all further payments to the tenant and the Attorney General's Office pursued criminal charges, to which the tenant entered a guilty plea.

SDA OIG also conducts investigations and reviews that involve conduct of SDA employees. An example would be the investigation of an SDA employee who transferred an SDA-owned E-Z pass from an SDA car and used it in the car the SDA had issued to him. The employee used the SDA E-Z pass for the tolls the employee incurred while commuting between the employee's home and the SDA regional office. The conclusions of SDA OIG's investigation enabled the SDA to take personnel action against the employee.

SDA OIG also conducts investigations concerning the performance of Project Management Firms, Architects and Contractors and investigations of SDA performance, especially in procurement and change order processing. By way of example, SDA OIG uncovered an incorrect charge to the SDA of approximately \$200,000 by an engineering firm and brought such charge to the attention of SDA management who will likely bring an "errors and omissions" charge against the engineer and possibly the architect as well.

As part of the SDA restructuring, the SDA is revising its "Operating Authority." This establishes the level of authority held by the different levels of SDA management and allocates authority between the SDA board and SDA management. The SDA requested SDA OIG review and comment on the proposed changes so that the SDA Board would have the benefit of OIG insight on these issues.

Moreover, in an effort to increase awareness of the role of the SDA OIG among the contractors doing work with SDA, it was decided that posters and signage publicizing the SDA OIG Hotline number would be placed on all school construction job sites. Sample posters are currently being reviewed and approved and PMF Bulletin #70 (4/3/08) requires that the hotline flyer is required to be posted at all SDA project worksites. It is anticipated that larger signs will be placed on the sites by May 1, 2008.

Question: Please report on the status of the two Assistant Inspectors General positions in the department. When did or will their assignment to Treasury expire? If it has already expired, will the department permanently fill the positions? If not, why? In general, what have been the department's experiences with the Assistant Inspectors General? What functions have they fulfilled?

Response: Several candidates have continued to be interviewed to fill the Treasury Office of the Inspector General (OIG) Assistant Inspectors General (AIG) positions. Certain qualified candidates declined the offer while others were not the right fit for the Treasury AIG role and it is OIG's hope that the two positions will be filled in the coming months.

However, in the absence of having the positions filled, and in an effort to move this important initiative forward, the Inspector General has assigned current AIG's in the Inspector General's office to work on Treasury assignments when concerns are brought forward by Treasury. At no time since the Memorandum of Understanding between OIG and Treasury was signed has OIG not performed a review at Treasury's request. One such example was the recent report regarding OIG's review of the Department of Corrections (DOC) monitoring of the dental portion of its \$168 million inmate health services contract with Correction Medical Services (CMS).

The Department of Treasury's Contract Compliance and Administration Unit (CCAU) had audited the dental services program soon after the inception of the contract in March 2005 and found that DOC did not have sufficient controls in place to monitor contract performance requirements. DOC contested CCAU's conclusions, and CCAU requested that OIG determine whether its conclusions were valid.

OIG's review revealed DOC failed to accurately monitor contractual requirements that resulted in the inability to guarantee that DOC was receiving services for which it paid and whether or not it was paying undue compensation to CMS. OIG's report also concluded that DOC did not calculate or assess liquidated damages against CMS for its failure to comply with two contractual requirements to provide dental services with specified time frames. Based on information from CMS for a specific period of time of the contract, OIG calculated that DOC did not assess the contractor contractual liquidated damages for failure to perform certain medical and dental services in an amount ranging from \$2.5 million to \$3.5 million. OIG's investigation also revealed an overcharge of approximately \$132,000 for the improperly billed services of oral surgeons.

The continuing efforts of OIG have resulted in the identification of an additional \$450,000 to \$700,000, including wages paid for dentists' lunches unallowable under the contract, duplicate fees for managing the dentists, and management fees billed for the management of personnel not furnished by the contractor to DOC.

OIG further recommended that DOC develop an electronic system capable of storing, utilizing and analyzing current and historical data in order to monitor contractual compliance by the medical/dental services provider. Additionally, OIG recommended

that DOC undertake a review of the entire inmate health services contract to assure contract compliance and proper billing. Since that recommendation, CCAU has notified CMS that it will replace CMS with the University of Medicine and Dentistry of New Jersey as the supplier of inmate health service.

During the course of OIG's review, observations were made that require further investigation and analysis and those matters are currently under review and will be reported upon completion.

Question 36: Please explain the delay in the creation of the Office of the Medicaid Inspector General. By which date does the Department of the Treasury expect the appointment of the State's first Medicaid Inspector General? What is the expected timeframe for starting office operations and for fully staffing the office? In light of the budget language overriding the statutory mandate to deposit monies recovered by the Medicaid Inspector General in the "Medicaid Fraud Control Fund", does the department intend to permanently break the direct statutory link between recoveries by the Medicaid Inspector General and the Medicaid Inspector General's expenses?

Response: OIG understands that advertisements have been placed and that responses from candidates with appropriate resumes have been received. OIG will provide whatever assistance and expertise requested in finding the right candidate for the Medicaid Inspector General position.