

**Stephen Nathan** presents the latest news and views on prison privatisation

## **MARKET TESTING ANNOUNCED**

The Ministry of Justice has launched a competition for the contracts to run five prisons. The public and private sectors as well as what the Ministry refers to as the 'third' sector will be able to bid to manage publicly run prisons Birmingham, Buckley Hall and Wellingborough, as well as a new prison under construction next to Featherstone prison and Serco - run Doncaster, where the company's current contract is due to expire

The Featherstone extension, known as Featherstone 2, comprises three 480-place house blocks. When Buckley Hall first opened in 1994 it was managed by Group 4. The contract was re-tendered in 1999 and, since 2000, Buckley Hall been run by the prison service on a service level agreement. Doncaster has been privately run since it opened in 1994. Birmingham, Wellingborough and Doncaster were all at level 2 in the latest NOMS performance league table while Buckley Hall was at level 3.

The Ministry's statement of 16 November noted that NOMS has set up "a Public Sector Bids Unit under a senior prison service manager to lead the development of bids on behalf of public sector prisons and to ensure that the public sector is able to submit a strong competitive bid."

## **CONTRACT BIDDERS**

Seven consortia have been invited by NOMS to compete for inclusion on a framework that will allow firms to bid for the five PFI 1,500 bed prisons announced by Justice Secretary Jack Straw in April 2009. The seven are: G4S with Carillion; Kalyx with Interserve; Serco with Skanska, Catch 22 and Turning Point; GEO Group with Balfour Beatty; Reliance Security with Bouygues and the Bank of Scotland; Management & Training Corporation with Wates Construction and GEPSA; and Mitie with Laing O'Rourke. Responses from the applicants to the framework are due by January 2010 and membership will be awarded in April.

G4S, Serco and Kalyx already run prisons in the

UK. Florida-based GEO Group was previously known as Wackenhut Corrections Corporation (WCC). WCC was a former joint owner with Serco of Premier Prisons. Now GEO's UK subsidiary GEO Group UK Ltd runs Campsfield House and Harmondsworth immigration removal centres.

The GEO Group and its previous incarnation Wackenhut Corrections Corporation have not been without some operational problems in the US. So too, Utah-based Management & Training Corporation (MTC). In 2003 MTC was one of the US prison companies that former prison service director general Martin Narey met with and discussed bidding for future work. (The list of US companies Mr Narey met with was only released by the Home Office after the Liberal Democrats made a request under the Freedom of Information Act). MTC's UK subsidiary, Management & Training Corporation (UK) Ltd was set up in 2004 but is currently a dormant company according to documents filed at Companies House. In 2007 the company stated

that it had not traded since 31 December 2005 and that “there is uncertainty about its ability to continue as a going concern.”

MTC’s parent company has prison contracts in the US and Australia. In Ontario, Canada, the company lost a contract to manage the Central North Correctional Centre after the provincial government decided that there was “no appreciable benefit” of having the prison privately managed compared to a similar public facility. The company disputed the government’s finding. The government of Costa Rica signed a \$73 million deal with MTC for a PFI prison but subsequently pulled out after finding that it could build 2,600 bed public prison for just \$10m. The government and MTC have since been battling over compensation. In 2008 Wales produced a design for a 2,500 bed ‘titan’ prison that would deliver savings in “build costs, maintenance, running costs and staffing.” In France GEPSA, a subsidiary of the water and waste services multinational Suez, has maintenance contracts providing technical and social services at 15 semi-private prisons. GEPSA claims that prisoners who receive its Tuteur de Projet Professionnel (TPP) employment programme are re-imprisoned at the rate of 10% compared to

16% for prisoners who do not have the help of TPP.

So far Reliance has no prison contracts but is deeply involved in the UK criminal justice system (also see Money Go Round below). Reliance Secure Task Management Ltd’s contracts include: prisoner escort in England, Wales and Scotland; juvenile prisoner escort for the Youth Justice Board in England and Wales; transportation of confidential documents for the Prison Service; delivery and collection of forensic items for the Forensic Science Service; and 30 custody centres for various police forces. Bouygues is a French multinational construction company that, since 2004 has won contracts to design and build six prisons in France. In 2008 the company also won a 27-year contract to finance, design, build, maintain and operate non-custodial services in three new prisons.

Mitie is a multinational facilities management company whose services included security. The company is described in its 2009 annual report as “the largest PFI FM [Facilities Management] education services provider in the UK.” Three years ago it bought the manned guarding business of Rentokil. Its contracts include providing front of house, access control, cctv

monitoring, jury supervision and car park management at 425 crown, county, magistrates and tribunal courts in England and Wales as well as security at Eurostar terminals, airports and the Tate Britain gallery. According to Mitie’s website, “In all sorts of sectors and across 10,000 sites in the UK, our industry accredited officers are bursting with energy and a can-do attitude. Combine that with our electronic security and we make sure nothing is left to chance. So whether it’s a warehouse that needs patrolling, a car park that needs monitoring or visitors that need to be greeted with a professional welcome, we’re the ones to call.” A current advertisement for a court security officer employed by Mitie in Redditch, Worcestershire, offers a salary of £6.10 per hour.

New prison sites identified so far are at the former Runwell secure psychiatric hospital in Essex, and at a former Ford factory site at Dagenham where the Ministry of Justice has launched local consultation. Dagenham MP Jon Cruddas is involved in a campaign against the prison being located in the area and, as at 21 October, some 9,000 people had signed a

petition opposing the government's plan. The local council also has alternative plans for the site.

Justice Minister Maria Eagle announced that a search for locations for three other prisons will be focused on London, North-west England and West Yorkshire. "Finding the most appropriate place for a new prison is of paramount importance. They should be located in those areas where there is the greatest need, and where the greater number of prisoners come from," she said in a media release, 27 October 2009.

## **CONSTRUCTION NEWS**

Construction firms Interserve, Carillion and Balfour Beatty - all invited by NOMS to compete to be included in the framework agreement to bid for the next round of PFI prison contracts - have been fined by the Office of Fair Trading (OFT) for infringing competition law by rigging bids or cover pricing. Interserve was fined £11.6 million, Carillion £5.4 million and Balfour Beatty £5.2 million respectively.

Bid rigging is when firms submit artificially high prices to give the semblance of competition. According to the OFT's press release 22 September 2009, cover pricing is "when one or more bidders in a tender process obtains an

artificially high price from a competitor. Such bids are priced so as not to win the contract but are submitted as genuine bids, which gives a misleading impression to clients as to the real extent of competition. This distorts the tender process." The OFT also found six instances where successful bidders had paid an agreed sum of between £2,500 and £60,000 to the unsuccessful bidder through the raising of false invoices.

Altogether the OFT levied fines of £129.5 million on 103 construction companies in England after looking at 199 tenders from 2000 to 2006. The OFT recommended, however, that the companies involved "should not be excluded automatically from future tenders on the grounds that they were parties to the decision, or be the subject of similar adverse measures making it more difficult for them to qualify for such tenders."

PFI contracts were not included in the OFT's investigation. It remains to be seen whether these will be subject to a similar investigation. *More details:* [www.offt.gov.uk/oft\\_at\\_work/enforcement\\_regulation/Cartels/construction/](http://www.offt.gov.uk/oft_at_work/enforcement_regulation/Cartels/construction/)

**MONEY GO ROUND**  
**Reliance Secure Task Management Ltd** is a subsidiary of **Reliance Corporation Ltd**. In Reliance Secure Task

Management Ltd's latest accounts the principal activity is described as "the provision of business process outsourcing services to the criminal justice sector, including prisoner escorting, court and police custody management, secure logistics, offender supervision, resource solutions and infrastructure management delivered through Private Finance Initiatives." For the financial year ended 24 April 2009 the company a pre-tax profit £7.23 million (2008: £5.76 million) on turnover of £95.9 million (2008: £88.18 million). The accounts note that "a key measurement of the effectiveness of the company's operations" is the operating profit margin which increased to 7.5% of turnover from 6.0% as a result of the increase in turnover, changes in the mix of contracts and continued focus on operational and cost efficiencies." No dividends were paid in respect of the financial year (2008: £3 million).

The company employed an average of 2,584 people in operations and administration with a further 186 office and management staff (2008: 2,441 and 197). The directors' total remuneration was £565,344 (2008 £369,792). The highest paid director earned £178,793 (2008: £217,248).

**Premier Custodial Finance Ltd's** principal activity is to provide finance to its fellow group companies, namely **Kilmarnock Prison Services Ltd** (Kilmarnock prison); **Lowdham Grange Prison Services Ltd** (Lowdham Grange prison); **Medomsley Training Services Ltd** (Hassockfield secure training centre); **Moreton Prison Services Ltd** (Dovegate prison); and **Pucklechurch Custodial Services Ltd** (Ashfield YOI). The company is owned and controlled by **Barclays Integrated Infrastructure Fund LP** which, according to Premier Custodial's accounts for the year ended 31 December 2008, is in turn "owned by a number of investors, with no one investor having individual control." Premier Custodial Finance Ltd made a pre-tax profit of £3.6 million (2007: £5.2 million). Equity dividends paid during the year were £1.67 million (2007: £1.54 million). Barclays Integrated Infrastructure Fund LP does not file accounts at Companies House as it is a limited partnership.

The special purpose vehicle (SPV) companies formed to finance, design, build and operate Kilmarnock, Lowdham Grange, Dovegate and Ashfield prisons and Hassockfield secure

training centre are all subsidiaries of **I2 Holdco 2 Ltd**. However, at the time of writing, the latest accounts for I2 Holdco 2 Ltd were listed as overdue at Companies House.

**Serco**, the company that operates Kilmarnock, Lowdham Grange, Dovegate and Ashfield prisons and Hassockfield secure training centre, expects its share of the contract to finance, design, build and operate the new prisons at Maghull and Belmarsh West will have a combined value to the company of around £600 million over 26.5 years, according to a Stock Exchange announcement on 26 August 2009. Construction by its partner Skanska is expected to start in the second half of 2010 with completion expected in the second half of 2011. Serco also extended its electronic monitoring contract in England and Wales by a further two years to March 2012 and secured additional revenue of around £70 million from this.

Revenues and profits of **G4S** will be boosted by recent contracts. The operation of Brook House and Tinsley House immigration detention centres will earn £10 million and £5 million per year respectively. Meanwhile, the extension of the company's electronic monitoring contract for a further two

years, is worth £40 million a year.

**Peterborough Prison Management Ltd** is the SPV company that was set up to finance, design, build and run Peterborough prison. The 25 year contract with the Home Office was signed in February 2003. The company is jointly owned by **Sodexo Investment Services Ltd, Interserve PFI Holdings Ltd** and **Royal Bank Projects Investments Ltd**. In the financial year ended 31 March 2009 the company's turnover was £24.09 million. **Kalyx Ltd**, the operator of Peterborough prison, was paid £21.83 million in operator and SPV fees; **Interserve Investments Ltd** was paid £50,955 in SPV management fees; **Peterborough Prison Management Holdings Ltd** was paid £815,772 in parent undertaking loan interest; and **Royal Bank of Scotland plc** was paid £4.65 million in bank loan interest and charges. **Royal Bank Project Services Ltd** and **Sodexo Investment Services Ltd** were each paid £12,121 in SPV charges. At the end of the year balances due to related companies included: **Peterborough Prison Management Holdings Ltd** £6.72 million for a parent undertaking loan and a further £402,081 for loan

interest; **Royal Bank of Scotland** £78.97 million bank loan and a further £23,204 loan interest; **Kalyx Ltd** £2.42 million in operator and SPV fees; and **Royal Bank Project Services Ltd** and **Sodexo Investment Services Ltd** were each owed a further £6,969 for SPV charges.

**Ashford Prison Services Ltd** is the special purpose vehicle company set up to finance, design, build and operate Bronzefield prison. The company is also jointly owned by **odexo Investment Services Ltd**, **Interserve PFI Holdings Ltd** and **Royal Bank Projects Investments Ltd**. The company's 25 year contract with the Home Office was signed in December 2002. In October 2008 the company entered into a supplemental agreement to construct and operate a 77 cell extension to the prison which will increase capacity to 527. The extra capacity is due to be in use in December 2009. For the year ended 31 March 2009 the company's turnover was £18.4 million (2008: £17.22 million). Transactions with related companies for the year included the following payments: £17.04 million to **Kalyx Ltd** for operator fees and SPV charges; £3.58 million to **Royal Bank of Scotland plc** for bank loan and interest charges and a further £12,170 for SPV charges; £2.57 million to **Interserve Project Services Ltd** for construction charges; £50,994 to **Interserve Investments Ltd** for SPV

charges; and £667,257 to **Ashford Prison Service Holdings Ltd** for parent undertaking loan interest. At the end of the year £56.97 million was owed to **Royal Bank of Scotland plc** for a bank loan; £5.5 million owed to **Ashford Prison Service Holdings Ltd** for the parent undertaking loan and a further £329,000 for loan interest; £2.05 million to **Kalyx Ltd** for operator fees and SPV charges; £821,000 to **Interserve Project Services Ltd** for construction charges; £9,320 to **Interserve Investments Ltd** for SPV charges; and £6,998 each to **Sodexo Investment Services Ltd** and **Royal Bank Investments Ltd** for SPV charges.

#### PFI INQUIRY

The House of Lords Economic Affairs Committee has launched an inquiry into private finance projects and off-balance sheet debt. The inquiry's questions include: how does performance of schools, hospitals, prisons, roads and other projects operated under private finance compare to those which were traditionally procured; how effective and costly has it been to monitor the private sector providers' performance and quality of service in private finance projects in comparison with traditional procurements; and how much impact has the financial crisis had on launching new private finance projects. For submissions and evidence to date see: [www.parliament.uk/parliamentary\\_committees/lords\\_economic\\_affairs.cfm](http://www.parliament.uk/parliamentary_committees/lords_economic_affairs.cfm)

#### PRIVATE NUMBERS

There were 9,070 prisoners in privately run prisons in England and Wales as at the 31 July 2009. This represented 10.8% of the prisoner population. **Source: Prison Service Monthly Bulletin, 31 July 2009.**

#### PERFORMANCE RATINGS

On 25 September 2009 NOMS published the performance ratings for Quarter 1, 2009/10. The private prisons ratings and change since Quarter 4, 2008/09 were:

Prison	Level
Altcourse	4
Ashfield	3
Bronzefield	3
Doncaster	2
Dovegate	3
Forest Bank	3
Lowdham Gr.	4
Parc	3
Peterborough	2
Rye Hill	3
Wolds	3

Source: [www.justice.gov.uk/publications/docs/prison-quarterly-ratings-q1-2009-10.pdf](http://www.justice.gov.uk/publications/docs/prison-quarterly-ratings-q1-2009-10.pdf)

#### CORONERS' HEARINGS

**I.** In September 2009 a jury at Stafford Coroners Court delivered a verdict of death by hanging on prisoner Simon Coutts who died in his cell at Dovegate prison in June 2008. The court heard that he had used a sheet and a towel wrapped with electric cable

fixed to a ligature point consisting of a hook attached to a small wooden block glued to the wall.

An investigating officer for the prison operator Serco told the hearing that there had been “failings’ by prison staff whom he believed had not carried out cell checks on the night of Mr Coutts’ death. He said that both the ligature point and the toilet roll used to block the cell door’s glass window should have been spotted and removed if correct checks had been made.

Tracy Mulholland of the Prisons and Probation Ombudsman’s office told the hearing that she had visited the prison after Mr Coutt’s death and made several recommendations to the company including that “the officers should be more vigilant in fabric checks in cells. Also the policies on roll calls and night procedures did not tally up. I also recommended that the officers on the TC [therapeutic community] should have a history of prisoners transferred so they can be aware of any significant risks.” The inquest had also heard that Dovegate staff were unaware that Mr Coutts had tried to kill himself at another prison. The coroner was reassured that the recommendations arising from the case had been implemented. Dovegate opened in 2001.

**2.** The treatment of Rye Hill prisoner Aleksey Baranovsky was “appalling and at times unacceptable in any modern society,” according to the assistant deputy coroner for Northamptonshire, Tom Osbourne. Mr Baranovsky was found dead in his cell in the healthcare unit on 10 June 2006. On 23 September 2009 the jury returned a narrative verdict, finding that the cause of death was anaemia due to chronic blood loss and under-nutrition.

Healthcare services were sub-contracted to Primecare and the jury found that the company had failed to carry out an adequate mental health assessment or draw up a detailed care plan for Mr Baranovsky. The jury also found that there were inadequate systems and processes regarding verbal and written communication between healthcare staff, prison security and prison management. Primecare’s independent report into the incident found no failings on the part of healthcare staff.

Primecare no longer provides healthcare services to Rye Hill and a spokesperson for prison operator G4S said: “It is over three years ago that this incident happened and it has been acknowledged today that there have been significant gains made in the provision of healthcare

at Rye Hill. It is almost unrecognisable to the establishment of some time ago.”

After the verdict, Deborah Coles of Inquest said: “The three deaths that have occurred in this prison raise serious questions about the appropriateness of the privatisation of prisons and prison health care.” Rye Hill opened in 2001 and has been the subject of critical reports by the chief inspector of prisons.

\* MPs Harry Cohen and Peter Bottomley have proposed an early day motion in respect of Aleksey Baranovsky’s death, Rye Hill prison and private prisons in general: *“That this House notes the critical reports by HM Inspector of Prisons and the Prison Ombudsman on Rye Hill private prison; further notes the outcome of the inquest on Ukrainian Aleksey Baranovsky who slowly bled to death in his cell despite being on suicide watch; further notes the coroner’s description of his treatment as shameful and appalling; also notes the jury’s recording of a catalogue of failures, including the prison not following policy on suicide prevention, not arranging an urgent psychiatric assessment, and not providing a treatment plan; further notes the criticism of Angela Pereira, the healthcare manager at Rye Hill, and other staff including the responsible doctor, Colin West; further*

notes that the Ombudsman recommended that these staff be investigated and, if necessary, referred to professional bodies, but their employer, private healthcare contractor Primecare, decided autonomously to take no action; considers that the Minister or Offender Management Service should arrange such referrals; further considers that all prisoners should have the right to receive NHS treatment in an NHS setting; further notes that the family of Mr Baranovsky had the indignity of it taking six months to notify them of his death and that they had to collect his remains from their local post office; and considers that the experiment of operating private prisons for profit and private healthcare for profit within prisons has failed.”

### **House of Commons EDM 2095**

### **PGA WARNS - ONLY PUBLIC CUTS**

When Prison Governors' Association (PGA) president Paul Tidball asked the director general of the prison service whether private prisons would face similar budget cuts as the public sector he was told that “possible mechanisms for taking money from them were being explored”.

But Mr Tidball told the PGA annual conference in October: “And the answer now? The answer is that existing contracts cannot be varied down. Which means that the

performance of HMPS prisons will inevitably decline due to reduced funding, while the performance of the private prisons, some of them already a lot more expensive than our own, can sail on merrily with 100% of their funding maintained and assured. Some level playing field.”

### **TUC AGAINST PRIVATISATION**

The following motion was endorsed by the TUC Congress in September: “Congress welcomes and fully endorses the POA initiative and campaign Prisons Not For Profit and condemns the UK government for its continued privatisation of prisons, the probation service and justice system, including the forensic science service. Further, Congress recognizes that the market testing of prisons, with an overriding threat of prisons being handed over to private companies, will neither develop the prison system nor assist in rehabilitating offenders on release. Privatisation will not cause a reduction in offending behaviour and these policies will lead to a further breakdown of civil society in which street crime, burglary, robbery, murder and terrorism will be allowed to flourish.

Congress calls on the government to work with the unions concerned to develop a national policy statement on forensic science setting out a clear and positive future direction.”

### **CORNWALL'S CHRISTIAN PRISON?**

As the issue of whether charities' involvement in running private prisons continues to be debated, the Kainos Community is proposing to build and run a prison in Cornwall. The Christian organisation claims that it has “slashed” re-offending rates to 13% through its Challenge to Change programme operating in public prisons over the last 12 years. Kainos is raising funds and plan to submit a feasibility study to the government in 2010.

### **BID INFORMATION REFUSED**

NOMS has refused to release information regarding Serco, Turning Point and Catch 22's bid for the contract to finance, design, build and run Maghull and Belmarsh West prisons. Kevin Curley, chief Executive of the National Association for Voluntary and Community Action (NAVCA) asked for the details of the bid to be released under the Freedom of Information Act. But NOMS told Mr Curley that: “although Serco had been announced as the winning bidder we have not reached contract signature which is planned for early next year. In addition the bids would be considered commercial and therefore not disclosed under the FOI Act.” In July Mr Curley launched a Facebook campaign against charities running prisons.

Meanwhile, the chief executive of the National Council for Voluntary Organisations (NCVO), Stuart Etherington, has expressed concerns about charities taking up more coercive roles such as running prisons. Writing in *The Times*, 30 October 2009, he said:

“It has been suggested that it is appropriate for us to take on these new roles because we have the public’s trust and confidence. I would like to turn that argument around: we have people’s trust and confidence because we do not act coercively. And we risk that trust if we take on roles that change the very nature of our relationship to our clients and beneficiaries.”

### **UNISON SCOTLAND’S FOI WIN**

The Scottish Prison Service (SPS) has been ordered to release financial information relating to the Kilmarnock prison PFI contract. Both the SPS and the prison operator Serco had opposed the information being made public under the Freedom of Information Act Scotland (FOIAS).

In 2006 Unison Scotland (Unison) requested information relating to the PFI contract for Kilmarnock Prison from the SPS. The SPS subsequently published much of the information

on its website, but withheld the financial model which it considered exempt from disclosure on the basis that, if published, the information would, or would be likely to, prejudice substantially the contractor’s commercial interests.

In their submissions to the Commissioner, the Ministers argued that the release of the financial model would substantially prejudice the commercial interests of the contractor (Kilmarnock Prison Services Ltd) given that such disclosure would reveal detailed information about how the price was calculated in this contract and how the company constructed its business and financial model which is unique to it. The Ministers further argued that disclosure would provide the contractor’s competitors with information about the structure of the price and of the business and financial model. The Ministers suggested that this would be to the advantage of the contractor’s competitors and to the contractor’s disadvantage in bidding for future contracts. The Ministers considered this to be particularly pertinent as the contractor was active in the market and currently bidding for contracts in a related field within correctional services.

Serco’s view was that disclosure of its financial model in relation to this contract would be of use to its business competitors and would give those competitors an unfair advantage over it as well as impacting on the value of the company. Serco also stated that it is particularly sensitive about long term forecasts of its business as a) it could be used to forecast its business performance and, as a FTSE listed company, it is very careful not to give detailed future information as this is subject to change and it would be exposed to misrepresentation claims, and b) its competitors would benefit from understanding its metrics and cost bases, therefore putting at risk its competitiveness in its markets and consequently damaging Serco’s shareholders’ interests.

Serco added that, although the model was some ten years old, it remains a working model and can be used to ascertain sensitive commercial matters such as Serco’s operating costs and margins. Serco submitted that this would have an implicit adverse impact on the company’s value as a result of the weakening of its competitive position through others undercutting its cost base and profit level based on information that could be obtained from within the model.

The information commissioner disagreed, considering that the passage of time between the creation of the financial model and the date of Unison's request to be extremely relevant. The financial model was created approximately nine years prior to Unison's request. While accepting that the basic structure of the model may still be in use, the Commissioner was satisfied that the significance of the information contained within this particular financial model would have diminished substantially over time, as prices, costs, service delivery methods/requirements and market, financial and other conditions (and therefore the assumptions underlying these and other relevant considerations in 1997) changed.

*Decision 104/2009, August, 2009, see Unison Scotland [www.unison-scotland.org.uk/news/2009/septoct/0909.htm](http://www.unison-scotland.org.uk/news/2009/septoct/0909.htm)*

Consequently, he did not accept that the disclosure of the model would have prejudiced substantially, or would have been likely to prejudice, substantially the commercial interests of Serco. He also concluded that the Ministers were not justified in applying the exemption in section 33(1)(b) of FOISA to the information.

It was also revealed that neither the SPS nor any other government department had made a full business case for the original PFI scheme for the prison.