



LUCY LANG
Inspector General

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November 21, 2023

Moses Kamya
Interim Chief Procurement Officer
New York State Procurement Council
Corning Tower, 38th Floor
Empire State Plaza
Albany, New York 12242

Re: NYS IG 2156-002-2016

Dear Interim Chief Procurement Officer Kamya:

During the course of an investigation into the New York State Industries for the Disabled's (NYSID)¹ compliance with the New York State Preferred Source Program², it was alleged to my office that employees of a private document scanning company, Seery Systems, had been directed by the company's management to falsely claim disabilities in order to retain their jobs on a preferred source contract for the Nassau County Department of Social Services (DSS) as a NYSID partner company. On July 1, 2022, Nassau County extended the contract with Seery Systems for nearly \$1.2 million. I write to inform you of the findings of my office's investigation of these allegations with respect to this ongoing contract.

By way of background, from 2014 through 2017, Nassau County DSS contracted with a private vendor, Smooth Solutions, to provide document preparation services. This contract, which was secured outside of the Preferred Source Program, utilized 21 Smooth Solutions employees to perform the required services. In 2017, Nassau County DSS informed Smooth Solutions that in order to comply with State Finance Law, it would not renew its scanning contract but would instead rebid it as a preferred source contract utilizing NYSID as the facilitating entity. NYSID then entered into a five-year contract with Nassau County on behalf of preferred source member agency Abilities Inc., and corporate partner Seery Systems. That contract, which was set to expire on June 30, 2022, was extended and is ongoing.

The investigation found that in summer 2017, a meeting was held at Nassau County DSS to discuss the upcoming contract. According to 18 then employees of Smooth Solutions, at this meeting, Seery Systems management informed the 21 then Smooth Solutions employees working on the contract that if they were to keep their jobs and continue to perform on the newly-executed preferred source contract as employees of Seery Systems, half of them "needed to be disabled." This manager then allegedly distributed a list of qualifying disabilities and

¹ NYSID is a not-for-profit membership organization with a mission of advancing employment and other opportunities for individuals with disabilities. It is not a New York State agency.

² All other issues have since been resolved.

informed the employees that any medical documentation of their respective disabilities should be sent to Adult Career and Continuing Education Services – Vocational Rehabilitation (ACCES-VR), a unit of the New York State Education Department.

Subsequently, 11 employees were examined by their personal doctors and, after complaining of symptoms including back and knee pain and other historical injuries and ailments, received doctor’s notes reflecting their newfound disabilities. Following instructions from their management, each of the 11 employees then submitted their doctor’s note to ACCES-VR, which classified them as “severely disabled” and determined they required services provided by Abilities, Inc. Then, through NYSID, the 11 employees were placed on the Nassau County DSS contract as preferred source employees of Seery Systems.

The Inspector General’s investigation found that none of these 11 employees were actually “severely disabled” and were therefore ineligible to serve as preferred source employees on Seery Solution’s Nassau County DSS contract.

Defining “Severely Disabled”

As relevant to this investigation, State Finance Law accords preferred status to “commodities and services produced by any qualified charitable non-profit-making agency for other **severely disabled** persons approved for such purposes by the commissioner of education, or incorporated under the laws of this state and approved for such purposes by the commissioner of education.” (Emphasis added.)

ACCES-VR, which assists individuals with disabilities to gain employment and support independent living, is responsible for determining if individuals are eligible for services by assessing their disability levels. ACCES-VR is also responsible for overseeing NYSID and approving its corporate partnerships. According to ACCES-VR policy 205.00:

1. An individual with a *most significant disability* means an individual:
 - A. who has one or more physical or mental disabilities, determined by an assessment of eligibility and vocational rehabilitation needs, which cause substantial functional limitations; and
 - B. who has a severe physical or mental impairment which seriously limits three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) impacting an employment outcome; and
 - C. whose vocational rehabilitation will require multiple vocational rehabilitation services over an extended period of time.
2. An individual with a *significant disability* means an individual:
 - A. who has one or more physical or mental disabilities, determined by an assessment of eligibility and vocational rehabilitation needs, which cause substantial functional limitations; and
 - B. who has a severe physical or mental impairment which seriously limits one or two functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) impacting an employment outcome; and
 - C. whose vocational rehabilitation will require multiple vocational rehabilitation services over an extended period of time.

3. An individual with a *less significant disability* means an individual:
 - A. who has one or more physical or mental disabilities, determined by an assessment of eligibility and vocational rehabilitation needs, which cause substantial functional limitations; and
 - B. whose vocational rehabilitation is not expected to require multiple vocational rehabilitation services; and
 - C. whose vocational rehabilitation services will not require an extended period of time.

Only those covered by the first two categories are considered to have “severe” mental or physical disabilities, rendering them eligible to be served by the preferred source program.

A review by the Inspector General of the medical documentation provided by the 11 employees described above revealed that none of them had a disability meeting the criteria of the first two categories. Moreover, not only were they not actually severely disabled, but not a single one of the 11 employees submitted documentation to ACCES-VR making even a facially sufficient claim of a severe physical or mental disability. Some did in fact complain of injuries or ongoing ailments, but none that rose to the level of preventing them from obtaining employment or that required job placement services. For instance:

- An employee who worked as a document prep clerk for Smooth Solutions for 12 years received a medical note from their doctor of ongoing back pain, which limited their ability to lift heavy objects. Although this ongoing pain had not prevented the employee from performing her job for over a decade, ACCES-VR’s assessment was that she had physical limitations, and she was approved for job placement services with Abilities Inc.
- An employee who worked as a document processor for Smooth Solutions for six years received a medical note from their doctor regarding herniated discs and diabetes. According to ACCES-VR’s assessment, this person’s limitations included “no heavy lifting” and “regular breaks for eating food” and was approved for job placement services with Abilities Inc.
- A third employee who worked as a document prep clerk for Smooth Solutions for four years complained to her doctor about headaches, anxiety, and some back pain. ACCES-VR’s assessment was that this person “must avoid stressful conditions, such as production work with deadlines [and] irate customers,” and the employee was approved for job placement services with Abilities Inc.

Ultimately, ACCES-VR certified 11 employees of Seery Systems as “severely disabled” although their claimed disabilities did not meet this definition under its own policy. No legitimate explanation for the categorizing of these conditions was articulated in the documentation.

NYSID advised that it conducted compliance reviews of Seery Systems in 2018 and 2020. Troublingly, as part of these reviews, NYSID took no steps to verify that the individuals performing on the contract actually met the definition of “severely disabled” as outlined above, but instead sought only to confirm that ACCES-VR had certified them as such. Not surprisingly, NYSID’s compliance reviews found no issues.

Conclusions and Recommendations

The actions of all involved parties described above reflect a serious breakdown in program control mechanisms. Seery Systems's direction to employees that half of them "needed to be disabled" to continue working on the contract and the certifications provided by ACCES-VR to individuals not "severely disabled" undermine the intent of the program. Most importantly, these findings reveal the abuse of the "severely disabled" status. Rather than assisting those who are truly severely disabled, the program was utilized to provide contracts to undeserving corporate partners who benefit from securing these contracts outside of competitive bidding requirements, enriching NYSID in the process.

Accordingly, I recommend that the State Procurement Council consider requiring that NYSID, as the state's facilitating entity for preferred source contracts for the severely disabled and contractor of record, ensure that all employees claiming "severely disabled" status on preferred source contracts it facilitates actually meet the definition as set forth in ACCES-VR policy.

Please advise me of any actions taken regarding these recommendations within 45 days of the date of this letter. If you have any questions, please contact Chief Deputy Inspector General Lynn Tabbott at [REDACTED].

Sincerely,



Lucy Lang
Inspector General

cc: Jeanette M. Moy
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