

**North Carolina Department of Transportation
Office of Inspector General
Investigations Unit**

I-77 Mobility Partners LLC
Case # OIG 2016-EXT03-14

January 4, 2016

Mary Morton, Inspector General

North Carolina Department of Transportation's mission is "Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina". The Office of Inspector General conducts audits, reviews and investigations to assist the Secretary and agency management in fulfilling this mission.



PAT McCrory
Governor

NICHOLAS J. TENNYSON
Secretary

January 4, 2016

Nicholas Tennyson
Secretary
NC Transportation
1 South Wilmington Street
Raleigh, North Carolina, 27609

Dear Secretary Tennyson,

The Office of Inspector General has completed an investigation related to North Carolina Department of Transportation's contract with I-77 Mobility Partners LLC for the I-77 High Occupancy Toll Lanes Project. The investigation was conducted as a result of a complaint received from a citizen. Enclosed herein are the findings resulting from our investigation. Should you have any questions or concerns, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Mary Morton". The signature is written in a cursive style with a long, sweeping underline.

Mary Morton
Inspector General

Cc: Ned Curran, NC Transportation Board Chairman



Summary

A citizen submitted a letter of complaint to the Office of Inspector General (OIG) expressing concern about the North Carolina Department of Transportation's (NCDOT) contract with I-77 Mobility Partners, LLC for the I-77 High Occupancy Toll Lanes Project. In addition, OIG received a copy of the citizen's letter submitted to the North Carolina Office of Governor which referenced similar allegations. The citizen alleges the contract is invalid due to 1) pending lawsuits and convictions against Ferrovial Agromán and Ferrovial S.A. in Spain and the United States and 2) convictions of fraud and corruption by and the debarment of the Louis Berger Group, Inc. Ferrovial Agromán is the parent company of Cintra Infraestructuras, SA and the Louis Berger Group is the lead design firm on the project.

Several allegations were brought forth in the letters with several references to cases involving litigation or investigations involving the aforementioned entities.

Investigative Approach

To conduct our investigation, we conducted interviews with the citizen and NCDOT staff, the North Carolina Department of Justice's attorney who reviewed the contract, reviewed supporting contract documentation and contacted the entities referenced in the complaint to obtain responses to each allegation stated in the letters.

Findings and Conclusion

During the various contract phases, the entities referenced in the letters of complaint made disclosures related to areas of litigation, investigation, etc. as required. OIG did not find any evidence to substantiate the cases being the basis for rendering the contract with I-77 Mobility Partners, LLC as invalid.

Allegations, Findings and Conclusion

I-77 Mobility Partners (Cintra Infraestructuras):

The complainant stated North Carolina Department of Transportation's (NCDOT) contract with I-77 Mobility Partners, LLC (Cintra Infraestructuras) is invalid due to pending lawsuits and convictions against Ferrovial Agromán (FA) and Ferrovial S.A., in Spain and the United States. FA is Cintra's parent company. FA comprises the following business lines:

1. Services - Provides efficient solutions in urban and environmental services and in the maintenance of infrastructures and facilities.
2. Toll Roads - FA subsidiary Cintra is one of the world's leading private sector developers of transportation infrastructure, in terms of the number of projects and the volume of investment. FA manages 28 concessions extending over more than 2,232 kilometers or 1,386.9 miles.
3. Construction - FA is recognized worldwide for its ability to design and build singular constructions of all kinds, from civil engineering to buildings, and especially large transport infrastructure.
4. Airports - FA manages the traffic of 140 airlines that transport nearly 87 million passengers. FA does this through 4 airports in the United Kingdom: Heathrow, Glasgow, Aberdeen and Southampton.¹

According to FA's website, Cintra was incorporated as a company in 1998 in order to concentrate efforts on private highway development which FA began thirty years earlier.

Background: Contract Procurement

NCDOT in the procurement of the I-77 High Occupancy Toll Lanes (HOT) contract followed the two-step process as outlined in the Public Private Partnerships Policy and Procedures manual. This process consisted of the RFQ (Request for Qualifications) phase and the RFP (Request for Proposals) phase. The purpose of the RFQ phase was to develop a short list of qualified proposers for the RFP phase. The RFQ phase allows for the evaluation of basic criteria such as professional experience, technical competence, resources and staffing, management stability, legal contracting entity, etc. During both phases, respondents/proposers complete a Form C disclosure document which is relevant to the specific phase and as such the nature of the disclosures between phases vary.

During the RFQ phase, and customary to the process, questions arose from Proposers and NCDOT responded to those questions. Those questions and answers became an official part of the RFQ documentation for all Proposers to consider. Proposers openly submitted questions and recommendations regarding the extent of disclosure required. As a result, NCDOT agreed to the definition of an affiliate as defined in the RFQ and Form C as follows:

The term "Affiliates" includes parent companies at any tier, subsidiary companies at any tier, entities under common ownership, joint venture and partnerships involving such entities (but only as to activities of joint ventures and partnerships involving the Proposer, any entity owner or any Major Non-Equity Member as a joint venture or partner and not to the activities of other joint venturers or partners not involving the Proposer, any

¹Ferrovial Agromán's website. Business Lines (December 8, 2015). Retrieved from <http://www.ferrovial.com/en/business-lines/toll-roads/>

equity owner or any Major Non-Equity Member), and other financially liable or responsible parties for the entity, that (a) within the past five years have engaged in business or investment in North America or (b) have been involved, directly or indirectly, in the debt or equity financing, credit assistance, design, construction, management, operation or maintenance for any project listed by an entity pursuant to Part B, Section 1.7.²

As such, only those entities or “affiliates” that met the definition under Form C and met the other related qualifications (such as engaging in business in North America during the last five years) were included within the scope of the disclosable events.

Allegation and Findings

I-77 Mobility Partners (Cintra Infraestructuras)

Allegation 1 - These special lanes will create elite and unequal access to public roads. Only the wealthy will be able to afford to use the HOT lanes while the rest of the citizens will be discriminated against and forced to wait in traffic. The tolls during peak times could be up to \$20 one way:

Findings: The Office of Inspector General (OIG) noted the concern above was addressed in a publicly-available document provided on NCDOT’s project website as referenced below. Following are responses obtained directly from that source document. As such, OIG determined the allegation was not substantiated.

- Using publicly available information from the bond rating agencies, tolls at peak hour are projected to vary from 14 cents to 40 cents per mile, on average. Actual toll amounts will be set later and will vary by time of day and traffic conditions, but will only be as high as the market will support. There will be at least six segments in the corridor between Mooresville and Charlotte, and drivers will choose how many segments they will use each day.(NCDOT, 2015)
- The Express Lanes were designed with no pre-set toll rates in order to ensure free-flow conditions 24 hours a day. Market economics successfully balance supply, demand and price in countless other industries, from the price of a loaf of bread to the price of a haircut. Tolls will only be what non-HOV users are willing to pay for a predictable commute at no less than 10 miles below the posted speed limit. If drivers decide it’s not a good value to pay a toll at a given rate, I-77 Mobility Partners will have to lower the toll to encourage drivers to use the lanes.(NCDOT, 2015)
- As regards toll lanes creating “elite and unequal access to public roads”, the response on the publicly available document stated, “Data from other states with similar express lanes projects show that people of all income levels use the lanes to provide a reliable travel time. In addition, transit users and carpoolers can use the express lanes free of charge and receive the benefit of travel time reliability. Everyone values their time, and the express lanes project creates an option for how people travel along the I-77 corridor.”³

Allegation 2 - Complainant stated the contract signed by NCDOT with Cintra Infraestructuras (AKA I-77 Mobility Partners) is completely invalid and should be cancelled immediately.

² NCDOT (March 2, 2012). I-77 High Occupancy Toll Lanes Project (pp. 9-10). Retrieved from <https://connect.ncdot.gov/letting/Design%20Build%20Program/I-77%20High%20Occupancy%20Toll%20Lanes/RFQ%20Questions%20and%20Responses.pdf>

³ NCDOT (August 12, 2015). Correcting Project Misinformation. Retrieve from http://www.ncdot.gov/projects/I-77ExpressLanes/download/I-77_Express_Lanes_Response.pdf

Findings: Cintra Infraestructuras bid on the project and a joint venture Limited Liability Corporation (LLC) was setup as a special or single purpose vehicle that is commonplace in the industry. The special or single purpose joint venture, I-77 Mobility Partners LLC, was established by the Contractor, Designer and Financier which was contemplated during the procurement process. Cintra Infraestructuras is a large equity holder in the I-77 Mobility Partners. The equity holder can sell a portion of its equity holding but must retain a controlling interest in the LLC Company. The I-77 Mobility Partners LLC is a separate entity from Cintra Infraestructuras and Ferrovial Agromán.

OIG found that Cintra Infraestructuras and all other relevant entities made disclosures where required. NCDOT performed its due diligence. Rodger Rochelle, NCDOT's Technical Services Director, stated this project went through a great deal of scrutiny and intense review from five to six advisory teams. NCDOT developed an evaluation manual to guide this process.

Cintra Infraestructuras and all other relevant entities, unless otherwise disclosed, filed Form C Certifications and have not been convicted by a court of competent jurisdiction of any criminal charges of fraud, bribery, collusion, conspiracy or any violation of state, federal or foreign antitrust law in connection with the bidding or proposing upon, award of a performance of any public works contract with any public entity and have not been debarred by any government agency that would prevent them from entering into the contract.

OIG spoke with the North Carolina Department of Justice (NCDOJ) attorney assigned to this project and the attorney is not aware of any issues that would prevent NCDOT from entering into the contract with the I-77 Mobility Partners.

Allegation 3 - Case of bribing CDC Political Party in Barcelona, Spain in order to be awarded over 1 billion euros worth of public contracts:

Company Response:

- Ferrovial-Agromán S.A. ("FA") has sponsored, and made financial contributions to, the Palau de la Música in Barcelona in support of the arts, just as many other multinational companies do on a routine basis. In fact, FA began its sponsorship in 1992 and continued such sponsorship until 2010, representing a nearly two-decade long relationship. (Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015) The disclosure made in the relevant 2013 Form C regarding this matter is correct and the allegation made by Ms. Gilroy in the letter that a conclusion had been made by the relevant judge as of July 12, 2013 is inaccurate. In particular, the documents from the referenced judge and prosecutor mentioned in Ms. Gilroy's letter are irrelevant under Spanish law for establishing any form of criminal liability. These "observations" are not conclusive or binding and will not be considered by the court when it ultimately determines if there should be any criminal liability for the referenced matter. This matter continues to be pending. (Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- FA did not and has not sought or received any preferential treatment as a result of its sponsorship of the venue. In fact, from 1999-2009, FA ranked 8th in the total value of projects it was awarded in the region as compared to 3rd throughout the remainder of Spain. Indeed, one of the reasons that FA began its sponsorship of the venue was to raise its public profile in the region by being listed as a sponsor for events held at the venue. (Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- The projects that FA has been awarded in the Catalonia region of Spain were awarded via competitive bidding processes pursuant to which the winning bidder was selected based on the proposal with the best economic value. (Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

- FA has fully cooperated with investigators in this matter and firmly believes that the judicial process will ultimately render a just result.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- None of the allegations set forth in Ms. Gilroy's letter in respect of this matter are anything more than pure conjecture. No officer, director, or employee of the company has been convicted in connection with this matter.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- Moreover, this matter was explicitly disclosed to NCDOT by FA on November 26, 2013. No disclosure was required prior to or subsequent to such date. In particular, FA noted that (i) the legal requirements in respect of the submission of the RFP in March 2014 did not require any discussion of this matter and (ii) even if such a disclosure had been required, there was no relevant substantive update that could have been provided at such time.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

Findings: OIG did not find where FA or any officers of the company were formally indicted or charged. FA disclosed the above issue on Form C Certification, signed and dated November 26, 2013, on page C-7 in reference to question number one (1).⁴ The referenced disclosure indicated an employee of FA was the subject of a preliminary investigation related to the possible embezzlement of money from the Palau de la Musica of Barcelona by its Chairman with said money being used to influence the award of public contracts to FA. Disclosure indicated the preliminary investigation was complete; however, no formal charges had been brought against the employee. Per FA's and Cintra's responses to OIG dated August 10, 2015 and October 22, 2015 respectively, the matter is still pending and no officer, director or employee of FA has been convicted in connection with the investigation.

OIG noted, in accordance with the procurement process and related required disclosures, there was no subsequent disclosure required in reference to this case beyond what was disclosed during the RFQ phase of the procurement process. The purpose of the RFP phase was to determine qualifications for the purpose of developing a short list of proposers for the I-77 HOT Lanes Project.

Allegation 4 - Pending: new investigations of bribery of Adif executives (state owned company that manages the AVE, high speed railway line) by FA:

Company Response:

- Neither FA nor any relevant subsidiary has received any judicial request or notification in relation to this matter and the supposed overstatements of project costs as alleged in Ms. Gilroy's letter.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- By way of background, a former employee of the relevant subsidiary, Vicente S., was properly terminated. Upon such termination, Vincente S. made false allegations against and statements concerning the subsidiary in the media. While FA has seen legal papers related to this matter as published in the media and as provided to FA by such ex-employee, FA have never been contacted by the court in respect of such matter nor has the court instructed us to take any action in respect of the same.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- No disclosure of this matter was required in respect of any part of the competitive bidding process for the I-77 HOT Lanes Project. In particular, it is noted that the courts have not had any contact with FA in

⁴Form C Certification (Signed November 26, 2013). Name of Firm: Ferrovia Agroman, S.A. (p. C-7).

respect of this matter nor has any action been taken against FA in respect of the same and, therefore, the same does not pertain to any disclosable event.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

Findings: OIG did not find where FA or any officers of the company were formally indicted or charged concerning Adif. Ms. Gilroy referenced a newspaper article she sourced from El Periódico de Catalunya noting that a court in Alcalá de Henares (Madrid) opened up a case to investigate Ferrovial bribing executives at Adif during the construction of the high speed Ave train from Madrid to the French border.⁵

Allegation 5 - FA was sentenced and made to pay 7 million euros to 200 homeowners in Madrid for poorly constructed homes:

Company Response:

- The relevant subsidiary was initially required to pay 7 million euros in relation to homes built twelve years ago; however, the award was ultimately reduced to 400,000 euros.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- The relevant subsidiary disagrees with and has appealed such reduced judgment. This matter is still pending.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- No disclosure of this matter was required in respect to any part of the competitive bidding process for the I-77 HOT Lanes Project. In particular, it is noted that this matter relates solely to questions of construction law and does not pertain to any disclosable event. (Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

Findings: Had the company made disclosure, even though it was not required, the impact is unrelated to the company's operations in North America, including highway construction. The disclosure would not have had any material impact on moving forward with the project. The subsidiary that constructed the homes does not meet the definition as an affiliate pursuant to Form C.

Allegation 6 - FA was sentenced to repair 37 of the 48 homes in a building in Mérida, Spain:

Company Response:

- The homes in question were constructed 13 years ago.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- FA was required to complete minimal repairs of 37 homes and successfully completed such repairs in accordance with the court's order.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- FA has constructed over 200,000 homes, clearly indicating the minimal repairs on such 37 houses are outliers and exceptions.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- Similar to allegation 5, no disclosure of this matter was required in respect of any part of the competitive bidding process for the I-77 HOT Lanes Project. In particular, it is noted that this matter relates solely to questions of construction law and does not pertain to any disclosable event.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

⁵ Diane Elizabeth Gilroy (July 2, 2015). Letter to NCDOT Inspector General (p. 3).

Findings: OIG noted the above does not relate to a public construction project but to construction of homes. No disclosure of this event was required pursuant to Form C as there was no evidence supporting any indictment or conviction pertaining to the event. The matter relates solely to questions of construction law.

Allegation 7 - Class Action Lawsuit was filed in Texas against FA for damage from I-635 LBJ Express's deep excavation and construction (Source: Pendley, Baudin, Coffin, LLP Attorneys at Law website, April 2, 2015):

Company Response:

- A group of homeowners filed suit against FA's subsidiary, Trinity Infrastructure, LLC ("Trinity"), and several of Trinity's subcontractors in late March 2015. The plaintiffs have agreed to drop the class action allegations. The lawsuit is currently pending in Dallas, Texas.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- Trinity vigorously denies the allegations. There is no evidence that the excavation work caused any of the damages alleged by the homeowners. Rather, all available evidence suggests that the homes are suffering from damage caused by pre-existing or unrelated causes.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- For example, the homes were constructed over 40 years ago on expansive clay soils. Texas recently suffered the worst drought in decades followed by the wettest spring in over two hundred years. The extreme contraction/expansion of the clay soil caused by the weather, combined with the fact the overwhelming majority of the homes have been poorly maintained, is the likely cause of the damages alleged by the homeowners.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- No disclosure of this matter was required in respect of any part of the competitive bidding process for the 1-77 HOT Lanes Project. In particular, it is noted that this matter relates solely to questions of construction law, does not pertain to any disclosable event and, separately, arose subsequent to the submission of the relevant RFP documents in March 2014.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

Findings: The Class Action Lawsuit referenced by Ms. Gilroy occurred subsequent to FA submitting the RFP documentation and is still pending. The suit was filed April 2, 2015 and no disclosure was required.

Allegation 8 - Rafael del Pino, owner of FA, S.A. was forced to pay 200 million euros to the Treasury in Spain to avoid going to jail for tax evasion charges:

Company Response:

- Mr. del Pino is and has been an exceptional and well-respected businessman. He is a member of a number of prestigious organizations in Spain and abroad, including the MIT Corporation, the International Advisory Board of IESE, the MIT Energy Initiative's External Advisory Board, the MIT Sloan European Advisory Board, the Harvard Business School European Advisory Board, and the Royal Academy of Engineering in Spain.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- Mr. del Pino is not, as Ms. Gilroy has asserted, the owner of FA. He is the Chairman and one of the Chief Executive Officers of FA and a significant shareholder therein.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

- The allegations advanced by Ms. Gilroy regarding Mr. del Pino are baseless claims originating in an online publication with very little readership or stature and subsequently regurgitated in similar forums throughout Spain. The original publisher ultimately published a response from Mr. del Pino refuting the allegations.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)
- Clearly no disclosure was required to have been made (or could have been made) in respect of this alleged matter as no actual legal or other claim existed or exists in respect of the same.(Ferrovial, S.A. - Mr. Iñigo Meirás Amusco, CEO, 2015)

Findings: No disclosure was required as there was no evidence Mr. del Pino was indicted or charged criminally or civilly concerning the above allegations. Ms. Gilroy referenced an online publication and did not provide source documentation to show Mr. del Pino was forced to pay 200 million euros to the Treasury in Spain to avoid going to jail for tax evasion charges.

Allegation 9 - According to page 879, Exhibit B of the Financial Close Certificate From, the Comprehensive Agreement signed by NCDOT and I-77 Mobility Partners (Cintra/FA Agroman) on June 26, 2014, the following statements must prevail in order for the contract to be valid. (Also, the recent financial closings (May 2015) needed to take this information into account and any new pending litigation needed to come forward and be disclosed):

Note: The section referenced by Ms. Gilroy concerning the Financial Close Certificate, reads as follows: “There is no action, suit, proceeding, investigation or litigation pending and served on Developer which challenges Developer’s authority to execute, deliver or perform, or the validity or enforceability of, the CA Documents, the Initial Funding Agreements, the Project Trust Agreement, the Security Agreement or the Lender’s Direct Agreement, or which challenges the authority of the Developer official executing the CA Documents, Initial Funding Agreements, the Project Trust Agreement, the Security Agreement or the Lender’s Direct Agreement; and Developer has disclosed to NCDOT any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Developer is aware. *[Note: If any such action, suit, investigation or litigation is pending or served, disclose the nature and circumstances of such action, suit, investigation or litigation].*”⁶

Company Response:

- By way of background, the Financial Close Certificate is a certificate that was required to be provided by the Developer to NCDOT on the date of financial close for the I-77 Project pursuant to the comprehensive agreement for the I-77 Project. The purpose of such certificate was solely to bring down, as of the date of financial close, certain of the representations and warranties that the Developer initially made to NCDOT on the date of the execution of the comprehensive agreement. Such certificate is only related to and was only provided I-77 Mobility Partners, LLC. The particular representation in the Financial Close Certificate that is noted in the letter pertained to litigation regarding the Developer’s (and not for the avoidance of any doubt, any other entity’s including FA’s or Cintras Infraestructuras, S.A.’s) authority to execute, deliver to perform, or the validity or enforceability of, the CA Documents, the Initial Funding Agreement, the Project Trust Agreement, the Security Agreement or the Lender’s Direct Agreement (the “Documents”), or which challenged that authority of the Developer official that executed the Documents.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

⁶ NCDOT, I-77 HOT Lanes Project (June 26, 2014). 19-B – Form of Financial Close Certificate (p. 879).

- The alleged matters discussed in the letter do not pertain to litigation involving the Developer. As such, there was no required disclosure in the Financial Close Certificate in respect of any such matters; as such matters are unrelated to the relevant authority of the Developer in respect of the Documents, the validity or enforceability of the Documents or the authority of the Developer official that executed the Documents.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Findings: The Financial Close Certificate was specifically referencing disclosures as it related to the Developer only and the related enforcement of the specified agreements. There were no issues noted that prevented the company from meeting contractual obligations or moving forward with the project. Of note however, at the end of the financial close, NCDOT continues to monitor companies that were awarded projects. NCDOT continues to check project performance standards and if a company is not performing in accordance with the standards, the bonding company is brought in to investigate why the company is not meeting the project performance standards. The bonding company would then issue a report to NCDOT detailing any deficiency it encountered in reviewing the company. In addition to the Bonding Company, Lenders constantly monitor how companies are performing and would replace underperforming companies it believes are unable to complete projects.

Allegation 10 - Cespa GR, S.A. (FA's subsidiary) was fined for collusion and antitrust activities by Spain's National Commission for Markets and Competition (CNMC) in a resolution dated January 8, 2015. Cespa offices were raided on July 24-25, 2012 and again on July 4, 2013. Therefore, when Ignacio Vivancos signed the NCDOTs FORM C Certification on November 26, 2013, he should have disclosed these investigations. The NCDOT FORM C Certification documents were completed in 2012, 2013, and 2014. These disclosure documents required that Cintra complete information on its parent and all subsidiaries. They did not complete or disclose any information on Cespa. Naturally, the box in question 8 should have been checked as "yes". Once again, the entire company knew about the investigations when their offices were raided in 2012 and 2013:

Company Response:

- By way of background, on July 24, 2012, the Spanish regulatory authority for anti-trust matters, the Comisión Nacional de los Mercados y Competencia (the "CNMC") initiated a review of certain practices of a large number of Spanish companies in the waste management industry, including Cespa, S.A. ("Cespa") and Cespa GR, S.A. ("Cespa GR" and, together with Cespa, the "Companies"), by auditing their respective company documents on their respective premises. Subsequently, on July 4, 2013, based on the results of such preliminary documentary review, the CNMC commenced a formal investigation of the Companies. As a result of such investigation, on January 15, 2015, the CNMC assessed a fine on each of the investigated companies, including the Companies. The Companies have appealed the assessment of their fine to the Spanish courts and such appeal is currently pending.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- No disclosure was required in the 2012 Forms Cs as, on the date thereof, no action had been taken in respect of this matter. (Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- No disclosure was required in the 2013 Form Cs as the Companies did not meet the definition of "affiliate" under such forms. In addition, even if the Companies had met the definition of "affiliate", the procedural posture in November 2013 of the "Cespa Matter" (which at such time consisted solely of the opening of an administrative procedure) did not rise to the level for which any disclosure was required in

such 2013 Form Cs.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

- For the avoidance of any doubt, the Letter alleges that disclosure would have been required pursuant to question number 8 of the 2012 and 2013 RFQs. This allegation is false as such question pertains only to the "firm" that actually completed the respective Form Cs and not to any other entity.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- Finally, disclosure was not required in the 2014 Form Cs as the Companies did not meet the definition of "affiliate" as set forth therein. In addition even if the Companies had met the definition of "affiliate", no disclosure was required in the 2014 Form Cs as the details of the "Cespa Matter" did not fall within the scope of any of the questions contained in such 2014 Form Cs.⁷

Findings: Cespa does not meet the definition as an affiliate pursuant to Form C, therefore no disclosure was required. Cespa is based in Spain and has not engaged in business in North America.

Allegation 11 - Cespa fined by the CNC (Comisión Nacional de Competencia, now the CNMC) in 2010 for illegal market sharing in the health care waste management sector. A history of fines and many years of antitrust violations and collusion and on September 11, 2015, the Spanish Supreme Court (Tribunal Supremo) confirmed the sanction that was imposed by the CNC (National Commission for Competition-Spain's antitrust enforcer) on January 18, 2010. The antitrust enforcer originally fined Cespa 2 million euros for establishing UTEs (temporary joint ventures) with Consenur (fined 4.4 million euros) and Interlun (fined 445,000 euros) with the object and effect of nullifying the competition in the Castilla-La Mancha Community, reducing it (competition) in Valencia, and continuing to share clients in Catalonia. An additional fine of 600,000 euros was imposed upon Cespa for excluding the company Athisa from the market. Although the National Court reduced Cespa's fine to 569,925 euros in the healthcare waste management sector, the damage had already been done to the taxpayers, government municipalities, and the competition. The Supreme Court did not accept Cespa's appeal which further served to confirm the sanction:

Company Response:

- In respect of this matter, Cespa was ordered to pay a fine of approximately 600,000 Euros in respect of certain violations in Spain. Cespa fully complied with such order and paid such amount in October 2012. The payment of such sum in October 2012 represented the completion of this matter for Cespa. The subsequent actions noted in the Letter pertain solely to Consenur, one of Cespa's competitors.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- For the same reasons noted above in respect of **Allegation 10**, which allegation included Cespa as one of the Companies, no disclosure was required in the 2012, 2013 or 2014 Form Cs in respect of this matter as Cespa did not meet the definition of an "affiliate" under any of such forms.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Findings: Cespa does not meet the definition as an affiliate pursuant to Form C, therefore no disclosure was required. Cespa is based in Spain and has not engaged in business in North America.

⁷(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Allegation 12 - Major case of corruption in Galicia: Two Cespa executives arrested: Contract invalid due to non-disclosure of pending investigation. Cespa, FA's waste management subsidiary is currently involved in one of the worst cases of corruption in Galicia, Spain:

Company Response:

- As part of a large, multijurisdictional investigation in Spain that involves several different governmental municipalities and several companies, two Cespa employees (Cespa has more than 15,000 employees in total) were temporarily detained in February 2014. Such employees were subsequently released two days later. One of such employees is no longer employed by Cespa. Currently, a preliminary investigation is pending in respect of this matter.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- For the same reasons noted above in respect of **Allegations 10 and 11**, no disclosure was required in the 2014 Form Cs in respect of this matter as Cespa did not meet the definition of an "affiliate" under such Form C. As such, disclosure in respect of its officers, directors, managing officers and managing employees also would not have been required. No disclosure was required in the 2012 and 2013 Form Cs as this legal matter did not exist at such time and, even if it had, Cespa also did not meet the definition of an "affiliate" as set forth in such forms.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Findings: Cespa does not meet the definition as an affiliate pursuant to Form C, therefore no disclosure was required. Cespa is based in Spain and has not engaged in business in North America.

Allegation 13 - Bankruptcy of previous Cintra toll roads not disclosed. In addition, NCDOT completely changed the forms and the bankruptcy question was omitted, which is suspicious. Disclosure should have been on March 13, 2014 since it was considered a "matter".

Company Response:

- The Letter alleges that disclosure was required in respect of (i) the September 2014 Chapter 11 filing made by ITR Concession Co. LLC, the concessionaire for the Indiana Toll Road Project in Indiana and (ii) the October 2012 voluntary insolvency proceeding initiated by Autopista Madrid Levante, C.E.S.A. and Inversorade Autopistas del Levante, S.L., the management companies for the AP-36 toll road in Spain.
- No disclosure was required in respect of either of the above described matters. In respect of the Chapter 11 filing made by ITR Concession Co. LLC, the same did not occur until September 2014, subsequent to the date of the final Form Cs submitted in March 2014. Moreover and even if (from a temporal perspective) disclosure had been required in such Form Cs, the "question 8" referred to in the Letter that is allegedly contained in the 2014 Form Cs does not exist in such 2014 Form Cs. Rather such question 8 appears only in the 2012 and 2013 Form Cs and only pertains to the firm actually completing the relevant Form C (and not to any other entity). Finally, both the 2012 and 2013 Form Cs do contain a bankruptcy question, however, such forms solicit information regarding if the firm or any affiliate has ever sought protection under any provision of any bankruptcy act within the past 10 years. At the time of completion of each of the 2012 and 2013 Form Cs containing such question, ITR Concession Co. LLC had not yet

sought Chapter 11 protection. No disclosure was required in respect of the voluntary insolvency proceedings for the management companies for the AP-36 toll road in Spain as such entities did not meet the definition of "affiliate" as set forth in the 2012, 2013 or 2014 Form Cs.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

- In order to provide context and background regarding these matters, the Chapter 11 filing made in respect of the Indiana Toll Road Project by ITR Concession Co. LLC was necessary as usage of the Indiana Toll Road was lower than projected (and thus toll revenues were lower than projected) due to the 2008 economic crisis. However, the debt for such project was successfully restructured without requiring any funds from the State of Indiana and with the State of Indiana retaining the \$3.85 billion upfront fee as well as the \$458 million in project improvements made pursuant to the original concession agreement. In fact, the bankruptcy of ITR Concession Co. LLC has proved the resounding success of the public-private partnership model in the United States as such project successfully emerged from bankruptcy without any negative impact on the users of the toll road and without requiring any funding from the State of Indiana. The management companies for the AP-36 toll road in Spain filed for voluntary insolvency proceedings due to a failure by the relevant grantor for such toll roads to honor its legal requirement to pay certain large compensation amounts that were due to such management companies. Such payments were required pursuant to the relevant law in Spain; nonetheless the grantor refused to make these payments due to budgetary constraints leaving the management companies no financial option but to initiate voluntary insolvency proceedings.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Findings: Based on the timing of the Chapter 11 proceedings related to the Indiana project, no disclosure was required. With respect to the project in Spain, no disclosure was required as the entity did not meet the definition of an affiliate pursuant to Form C.

As regards Form C, the form was not changed during the different contract phases. The Form C requires different disclosures during the RFQ and RFP phases. During the RFQ process, the Form C disclosure includes a reference to the Firm/Affiliate having sought bankruptcy protection within the past 10 years. The Proposer responded to those questions during that phase. As this was disclosed during the RFQ phase (purpose of which was to develop a short list of Proposers), disclosure was not necessary during the RFP phase and was not included on the Form C specific to the RFP phase.

Allegation 14 - Please cancel the contract for the 1-77 HOT lanes and investigate the NCDOT's proposal process for corruption as well. Specific areas to investigate include the following:

- 2012 and 2013 Forms C were different from 2014 Form C as to the questions.
- In the 2012 Form C, LBG checked the “yes” box in question 8 with regard to more “proceedings, claims, matters, suits, indictments, etc. and they noted “see attachment”. There was no attachment.
- 2014 Form C completed by LBG was checked in boxes c and d for fraud, bribery, collusion, civil complaints, etc. The disclosure statement at the end of 2014 disclosure documents has no date.

- In the 2013 Form C for FA dated November 26, 2013, the company tries to define the word “imputado” under Spanish law in an attempt to defend itself after reading Ms. Gilroy’s documents that were dated June 1, 2015 and July 12, 2015. It appears changes to the documents occurred after receiving her letters and the phone call from Carolina Journal in July.

Company Response:

- By way of context, the baseless allegations set forth in the Letter largely pertain to three separate sets of Form Cs that were submitted by various entities within the Developer's consortium in March 2012, November 2013 and March 2014. The Form Cs submitted in March 2012 (the "2012 Form Cs") were completed using the form provided in NCDOT's Request for Qualifications by the relevant required entities. The Form Cs submitted in November 2013 (the "2013 Form Cs") were submitted by select entities within the FA, S.A. corporate family due to an internal corporate restructuring. Due to such restructuring, certain entities in the Ferrovial family were required to submit Form Cs in 2013. Such entities complied with this disclosure requirement by using the form of the 2012 Form Cs. Finally, the Form Cs submitted in March 2014 (the "2014 Form Cs") were completed using the form provided in NCDOT's Request for Proposals by the relevant required entities. As is noted in the Letter, the form of the 2014 Form Cs differed from the form of the 2012 Form Cs. These differences reflect the customary and standard market practice of requiring different disclosure at the beginning of the procurement process (i.e. the submission of a Statement of Qualifications in March 2012) versus at the end of the procurement process (i.e. the submission of the proposal in March 2014).(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- The content of the 2014 Form Cs differs from the 2012 and 2013 Form Cs: as noted above, the same is customary market practice. The form of the Form Cs required to be completed by all bidders and that were submitted in 2014 was clearly included as part of the Request for Proposal documents distributed by NCDOT throughout the procurement process, thus easily demonstrating that the form was not maliciously changed at a later date by NCDOT.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- The attachment was missing from the 2012 Form C completed by the Louis Berger Group: based on the Developer's records, the attachment containing the above referenced disclosure was attached to the 2012 Form C completed by the Louis Berger Group. If Ms. Gilroy failed to receive a copy of the same as is alleged in the Letter, we can only assume that the same was an inadvertent clerical error in the release of the various Form Cs to Ms. Gilroy that can be easily remedied.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- Missing 2013 Form C for the Louis Berger Group: for the reasons described above, no Form C disclosure was required from the Louis Berger Group in 2013.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)
- The disclosure statement attached to the 2014 Form C for the Louis Berger Group is undated: Such disclosure statement is clearly attached as an exhibit to a dated and executed certificate; as such, absent any other indication to the contrary (of which there is none) the date of such disclosure statement (and the information contained therein) speaks as of the date of the certificate to which it is attached.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

- Definition of "imputado" in FA-Agroman, S.A.'s 2013 Form C: the completed 2013 Form Cs was provided as of their dates. Any allegation to the contrary (including that such forms were manipulated subsequent to the dates thereof) is baseless and can be proven to be false through the records maintained by NCDOT.(Cintra Holding US Corp. - Patrick Rhodes, US Vice President Corporate Affairs, 2015)

Findings: As regards Form C, the form was not changed during the different contract phases. The 2012 and 2013 forms were specific to the RFQ phase and the 2014 form was specific to the RFP phase. The Form C requires different disclosures during the RFQ and RFP phases. The RFQ phase allows for the evaluation of basic criteria such as professional experience, technical competence, resources and staffing, management stability, legal contracting entity, etc. The purpose of that phase is to develop a short list of Proposers. During both phases, respondents/proposers completed a Form C disclosure document which is relevant to the specific phase and as such the nature of the disclosures vary.

As regards the LBG Form C disclosures, the documents were completed and maintained on file and provided to OIG without incident.

As regards the 2013 Form for FA and the related definition of "imputado", FA disclosed the related event and definition on the 2013 Forms. The letters from Ms. Gilroy were dated in 2015 and as such there was no basis for the allegation indicating the forms were changed based on information that was released subsequent to the date the forms were completed.

Louis Berger Group

Allegation 1 - On October 20, 2011 the FBI placed the following press release from the US Attorney's Office on its website: "The former president and CEO of New Jersey-based international engineering consulting company Louis Berger Group Inc. surrendered to the FBI this morning to face a six-count indictment alleging he led a scheme to intentionally overbill the United States in connection with hundreds of millions of dollars in overseas reconstruction contracts over a nearly 20-year period, U.S. Attorney for the District of New Jersey Paul J. Fishman announced."

Company Response:

- Please see The Louis Berger Group's responses under the caption **Company Responses to Allegations**.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: On December 19, 2012, LBG issued a Media News Release where it stated, "We have taken significant steps to successfully complete the Deferred Prosecution Agreement (DPA) and to establish a sustainable, global compliance program," said Larry D. Walker, The Louis Berger Group President. "As part of the company's original commitment under the DPA, we will continue to work with the U.S. Department of Justice and other government agencies to ensure that any compliance issues identified during the investigation and thereafter are addressed through our continuous improvement efforts. During the past 24 months, our company has invested approximately \$20 million in management, systems, processes and training improvements."Systems investments include new accounting systems, electronic expense report and invoicing systems, centralized information management systems, a new FAR-compliant procurement system and a new budgeting and forecasting system."⁸

⁸ The Louis Berger Group, (December 19, 2012). Press Release – The Louis Berger Group, Inc. announces completion of Deferred Prosecution Agreement.

Allegation 2 - This dishonesty was not just the work of one man. The press release also notes: “From at least 1990 to July 2009, LBG, through Wolff and other former executives, intentionally overbilled USAID. The scheme to defraud the government was carried out by numerous LBG employees at the direction of Wolff.”

Company Response:

- Please see The Louis Berger Group’s responses under the caption **Company Responses to Allegations**.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: LBG adequately disclosed this issue in the Form C Certification Attachment. In addition to separating the former managers associated with the pre-2010 era activities from the company, the firm has added new managers to key positions including chief financial officer and controller, and regional management teams throughout Asia and the Middle East. The company also implemented a new corporate operational model to ensure greater centralized oversight and control of overseas business activities. Moreover, the company has reformed its ownership structure by implementing an Employee Stock Ownership Program.ⁱⁱ

Allegation 3 - On November 5, 2010 Louis Berger agreed to pay one of the largest fines of any war-zone contractor (\$69.3 million in civil and criminal penalties). In an article dated November 21, 2010, McClatchydc describes how a Haitian whistleblower named Harold Salomon was manipulated:

Company Response:

- Please see The Louis Berger Group’s responses under the caption **Company Responses to Allegations**.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: This allegation was part of the DPA LBG entered with the U.S. Justice Department. An article in the Bloomberg Business, dated November 5, 2010, reported that LBG’s former chief financial officer and the former controller, pleaded guilty to conspiring to defraud USAID by inflating overhead rates. They admitted that they classified non-federal work overhead as federal overhead.ⁱⁱⁱ The employees responsible for this fraud were indicted and LBG has since added new managers to key positions.

Allegation 4 - Additionally, on January 16, 2015 the United States Senate Committee on Foreign Relations wrote about the major fraud and bribery charges against the Louis Berger Group and International Relief and Development on their website. They discussed US Senator Bob Corker’s letter (also written on January 16, 2015) to the USAID and they printed it in full. Here are some of the highlights of his letter: “In 2006, the Asian Development Bank debarred the company (Louis Berger Group) after discovering significant integrity deficiencies in consulting services LBG was hired to fulfill. These included forging signatures on documentation, falsifying documentation, and replacing proposed consultants with less qualified candidates without prior notification.”

Company Response:

- As a result of these major improvements to the company, The Louis Berger Group, Inc. is acknowledged to be a presently responsible contractor to the U.S. Government and remains fully eligible to compete for federal contracts. The company has continued to win important federal and local government contracts, such as:

- World Trade Center Redevelopment Program
- USAID Rebuild, supporting typhoon relief in the Philippines
- FEMA disaster recovery and housing inspection services U.S. Department of Justice overseas prosecutorial development assistance and training during the company's post-2010 reforms, Louis Berger self-identified and self-reported potential improper business activities overseas to the U.S. Government and World Bank, separated the culpable individuals from the company, and began working towards a resolution with both organizations.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: LBG was not debarred by the U.S. Government and has been awarded major federal and local government contracts.

Allegation 5 - It is also implausible to believe North Carolina state procurement laws would accept the Louis Berger Group since it was also debarred from the World Bank as well as the Asian Development Bank for corruption in Vietnam. In a press release dated February 4, 2015, the World Bank announced: "The Louis Berger Group (LBG) has been debarred for one year for engaging in corrupt practices under two Bank-financed projects in Vietnam. The company made corrupt payments to government officials under the Third Rural Transport and Da Nang Priority Infrastructure Investment Projects."

Company Response:

- In January 2015, The Louis Berger Group, Inc. accepted 12-month sanction terms by the World Bank. The World Bank recognized the extensive global reforms undertaken since 2010, as reflected in the 12-month sanction period for The Louis Berger Group Inc., which falls below the cross-debarment threshold. This means that other agencies that have existing cross-debarment agreements with the World Bank are still permitted to work with the company. The company has been eligible for reinstatement with the Asian Development Bank since 2011, but has elected not to seek reinstatement. Louis Berger International, Louis Berger's international subsidiary, recently has agreed to a three-year deferred prosecution agreement with the U.S. Department of Justice to settle these same self-reported improper business activities conducted overseas by former managers between 1998 and 2010.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: LBG's acceptance of the 12-month sanction terms by the World Bank occurred subsequent to execution of the contract agreement. As stated above in the company's response, LBG was not debarred by the U.S. Government and has been awarded major federal and local government contracts.

Allegation 6 - The letter also cites a specific example of a highway constructed by LBG between Kabul and Kandahar in Afghanistan. Senator Corker discusses terrible problems with quality and LBG's failure to comply with the contract: "Projects like these by LBG were so mismanaged and produced such dismal results that, at one point, the U.S. Ambassador to Afghanistan wrote a letter to USAID stating that "these problems are now beginning to interfere with the credibility of the U.S. Mission in Afghanistan, and require immediate corrective action."

Company Response:

- Please see The Louis Berger Group's responses under the caption **Company Responses to Allegations**.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Findings: LBG was not debarred by the U.S. Government and has been awarded major federal and local government contracts.

Company Responses to Allegations:

The Louis Berger Group (LBG) responded that the allegations raised by Ms. Gilroy are historic legal issues that have been successfully resolved. LBG stated all of the activities in question took place in 2010 and earlier and involved managers who have long been separated from the company. LBG reported, "Since then, The Louis Berger Group, Inc. has successfully resolved all historic issues with the U.S. Government and has been deemed a responsible partner.LBG is a responsible and ethical business partner that has made full disclosures required under the terms of the procurement process. This letter provides background on Louis Berger's historic issues, our respective resolution and a series of supporting documentation." The LBG reported the following:

Successful Completion of 2010 U.S. Government Settlement

In November 2012, LBG, Inc. successfully completed its Deferred Prosecution Agreement (DPA) related to improper billing on U.S. Government overhead accounts between 1999 and 2007, where a provisional overhead rate was improperly used and resulted in the company being reimbursed more by the U.S. Government than what was due. It is important to note that the former managers involved (Derish Wolff, Salvatore Pepe and Precy Pelletier) were separated from the company in 2010, prior to entering into the settlement with the U.S. Government.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

The U.S. Government dismissed the complaint based on the company's successful completion of a comprehensive \$25 million global reform program, which included:

- Separation of former managers from the company.
- Addition of new managers in key executive positions at the corporate and regional management team levels.
- A new corporate operational model to ensure greater centralized oversight and control of overseas business activities.
- Reform of the company's ownership structure by implementing an Employee Stock Ownership Program.
- Systems investments including new accounting, centralized information management, new procurement, and budgeting and forecasting systems.
- Development of corporate governance, fiscal compliance and process improvements.
- Establishment of an independent compliance and ethics department under the oversight of an independent audit committee, a new global employee ethics helpline, global Code of Business Conduct and annual worldwide compliance, ethics and anti-corruption training for all employees.
- Investments in annual worldwide compliance training and onboarding compliance training, and annual anti-corruption training for all employees.
- Completion of internal investigations into the activities of managers outside of the United States.(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Model for Corporate Reform

I would like to stress that Louis Berger did what companies are expected to do to reform. We started our reform program in 2010 and have addressed the problems of our past honestly and transparently. We separated all former managers engaged in inappropriate conduct and have invested over \$25 million into new systems, policies and people, while establishing a global training program designed to further a culture where ethics and compliance are the highest priority.

The Louis Berger Group reported in a press release on December 19, 2012, “The Louis Berger Group is an internationally recognized consulting firm that provides engineering, architecture, program and construction management, environmental planning and science and economic development services. We are a trusted partner to federal, state, and local government agencies; multilateral institutions and commercial industry. To this diverse client base, we bring strategic vision and an entrepreneurial spirit, developing innovative solutions to some of the world’s most challenging problems. With a resource base of more than 6,000 professionals and affiliate employees in more than 50 countries, we are able to respond to local conditions while providing clients with the technical resources and rapid response capabilities of a leading global organization.”(The Louis Berger Group - D. James Stamatis, President and CEO, 2015)

Summary Findings: The LBG made the necessary disclosures concerning those issues and have demonstrated from their response to answer questions concerning Ms. Gilroy’s allegation that the company has made strides in righting the company’s historical issues. The company through reform and monitoring is positioned to perform and has met its contractual obligation with respects to the deliverable as part of the I-77 Mobility Partners partnership. During the RFQ process, LBG made disclosure on Form C, dated March 9, 2012, that the company was the subject of an investigation by the U.S. Attorney’s Office in Newark, New Jersey for over-allocation of overhead charges in connection with contracts performed for the U.S. Government overseas, primarily for The United States Agency for International Development (“USAID”). LBG identified corporate officers who were indicted and noted that the company entered a DPA with the Department of Justice and an Administrative Agreement with USAID resolving all matters. LBG also noted that an Independent Monitor was appointed and was granted broad powers.^{iv}

Conclusion

OIG spoke with the North Carolina Department of Justice (NCDOT) Attorney who reviewed the I-77 Mobility Partners contracts and was advised both I-77 Mobility Partners (Cintra Infraestructuras) and The Louis Berger Group made appropriate disclosures concerning whether the respective companies or any affiliate or any current officer thereof, has been indicted or convicted of bid (i.e., fraud, bribery, collusion, conspiracy, antitrust, etc.) or other contract related crimes or violations or any other felony or serious misdemeanor within the past ten years. Both companies submitted Form C Certification forms which contained disclosures concerning the allegations brought by the complainant. The NCDOT Attorney stated he did not see anything in the allegations that would have excluded either company from entering into the contract with NCDOT, nor was there any allegation that would have met the definitions or criteria in the Form Cs that would have required disclosures not already made. Additionally, OIG met with Ms. Gilroy on November 18, 2015, to discuss the allegations and to request documentation to support the allegations. Ms. Gilroy was unable to provide concrete evidence to support the allegations she purported. Other than newspaper and internet articles, Ms. Gilroy did not provide evidence to show criminal charges and official notification about pending charges was delivered to the companies named in the allegations. OIG asked Ms. Gilroy on November 18, 2015, to provide certified copies of notification from regulatory and law enforcement entities to show the named companies in the allegations were notified of criminal and civil charges that should have been disclosed. To date, OIG has not received any documentation from Ms. Gilroy since the

November 18, 2015 meeting. At the end of the financial close, NCDOT continues to monitor companies that were awarded projects. NCDOT continues to check project performance standards and if a company is not performing in accordance with the standards, the bonding company is brought in to investigate why the company is not meeting the project performance standards. The bonding company would then issue a report to NCDOT detailing any deficiency it encountered in reviewing the company. In addition to the Bonding Company, Lenders constantly monitor how companies are performing and would replace underperforming companies they believe are unable to complete projects.

ⁱ The Louis Berger Group, (March 9, 2012). Form C Certification – The Louis Berger Group, Inc. Attachment to Form C Certification, dated March 9, 2011 (p. 13).

ⁱⁱ The Louis Berger Group, (February 4, 2015). Press Release – The Louis Berger Group, Inc. resolves pre-2010 improper business activities by former managers.

ⁱⁱⁱ Bloomberg Business (November 5, 2010) – Berger Group Pays \$69.3 Million for Iraq Overbilling. Retrieved from: <http://www.bloomberg.com/news/articles/2010-11-05/louis-berger-group-charged-with-fraud-over-contracts-in-iraq-afghanistan>

^{iv} The Louis Berger Group, (March 9, 2012). Form C Certification – The Louis Berger Group, Inc. Attachment to Form C Certification, dated March 9, 2011 (pp. 10-13).