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INVESTIGATING THE INVESTED EMPLOYEE:

THE OTHER SIDE OF FRAUD EQUATION WITHIN THE STATE OF ILLINOIS

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Investigating the Invested Employee: The Other Side of Fraud Equation within the State of Illinois

By: Earl Hopewell

In Illinois, unfortunately, fraud by politicians and businesses is widely known, practiced and accepted. This includes pay-to-play business schemes, minority-front companies and phony-minority business enterprises (MBE). However, the media and general public are generally unaware of and rarely shown the details behind fraud committed by invested governmental employees within state agencies and authorities. Certain invested state employees operate much like "wizards of fraud" because they have the ability to exact the same benefits of the pay-to-play fraudster using the statutory powers of their agency or authority while appearing to operate their agency or authority in a business as normal capacity.

This writer presents a brief examination of a recently published fraud case perpetuated by invested employees and I then provide an in-depth examination of a case of fraud committed by invested employees hidden behind curtains, all discovered during my forensic accounting work. This fraud was initiated against the only minority vendor in the State of Illinois holding a $100 million dollar contract.

INVESTED EMPLOYEES AND PRIVATE VENDOR HEALTH ALLIANCE

All readers can briefly examine the recent case involving Illinois Department of Healthcare and Family Services, Mercer, Blue Cross Blue Shield, HealthLink and Health Alliance and “$7 billion in health-care contracts for state employees and retirees the state awarded despite several flaws that included lax oversight and possible conflicts of interest” (*Chicago Sun Times*, March 8, 2012). Published articles point out how invested employees of the state agency violated its own rules by not making evaluation teams meet with each other during the bidding process while the agency head, Julie Hamos, signed two opposing contracts, one contract supposedly supported by the invested chief procurement officer but later abandoned. In the end, the private vendor who had done business with the state agency for some three decades was awarded a supplemental contract supposedly because the agency head sought to change the practices of invested employees.

It is interesting to note that neither names of the invested employees nor contract evaluation teams were mentioned; the conclusion put forth by the agency employees was not reached by any court, judge or jury. In the end, the invested employees won by keeping the long-term private vendor involved and making money despite the actions of an elected official and an agency head.

Let us briefly examine the mechanism that allows the invested employee to operate in a fraudulent manner without detection. Here, I introduce the "Invested Employee Model," where it is shown that an appointed agency head is truly beholden to career employees who seek to preserve *business as usual.*

From all appearances, the appointed head of the agency or authority appears to be the gear that runs the agency. He or she may be the face in the news but the big gear is kept in place by the invested employee who mines or undermines the agency/authority by setting up a competitive bidding process that serves to keep a preferential private business in place at the agency/authority to the chagrin of the general citizenry and taxpayer.

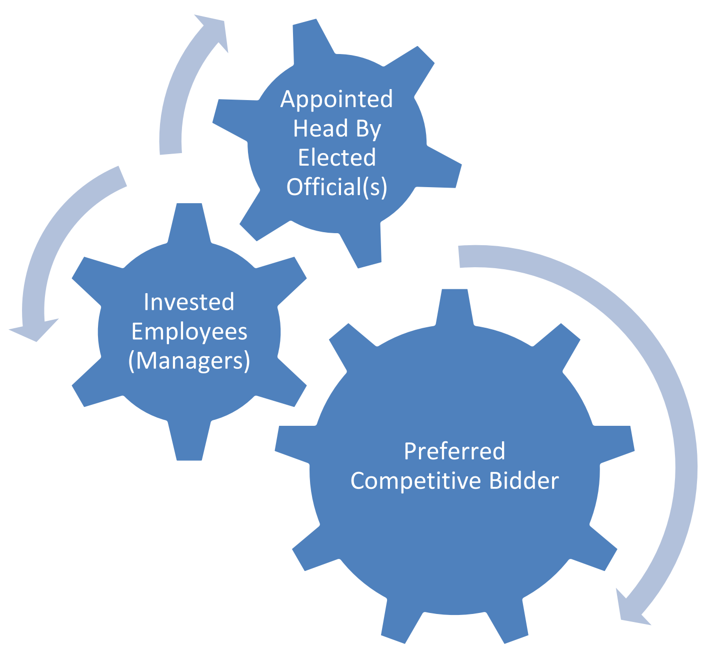
An invested state employee is an employee of a state agency or authority who acts in a senior managerial role capacity with contractual signatory abilities and/or managerial directees of the same senior manager who make initial decisions on behalf of the senior manager. These employees have generally been employed five or more years within the agency or authority and have employment based upon climbing the governmental career ladder. They have experienced the politics within the agency or authority and know that their careers are immune from interference by elected officials due to either civil service protections and or special legislation (i.e., the Shakman decree).

In addition to beneficial office politics, invested employees have gathered seniority and have become the institutional face of the agency or authority known to those who conduct frequent business, specifically current and potential vendors. Invested employees benefit from the ability to hide directly behind elected officials and their appointees

In short, invested employees are the managers who run the agency day-to-day. Not only do they know what things should be done to keep the agency/authority operative but how to get it done within the prescribed statutory limits of state laws. It is here that only a selected few invested employees may go astray from time to time; to keep the agency or authority model operative daily, invested employees develop a preference to keep the agency's/authority's business contracts with certain private businesses.

Such employees, who are beholden to no elected official, are able to steer their agency's or authority's contracts to certain businesses that in return provide untraceable benefits to invested employees at a future date. It is here that the potential for abuse is greatest. It is here where reform efforts will be most beneficial.

INVESTED EMPLOYEE BUSINESS MODEL



A more detailed case study of this type of potentially unethical behavior can be seen with the firm owned and operated by R.J. Dale. In 2005, a $100 million dollar contract was awarded by the Illinois State Lottery; this local advertising/ marketing firm vendor competitively beat out many nationally recognized marketing firms for the five-year contract.

After being publicly accused of theft, fraud, misspending, misappropriation, and malfeasance, the chief executive officer and the corporation bearing his name became intertwined in the nightmarish media glare for months as lead float in "Illinois parade of corruption." They had received millions from state coffers but they had no documentary evidence supporting millions of dollars of expenditures which supposedly benefitted the state agency it was hired to represent, the Illinois State Lottery.

Overnight, R.J. Dale Advertising and Marketing Agency and its African-American owner(s) morphed from successful competitive bidder on a lucrative Illinois contract, to an accused prime-time headlined fraudster who had been tried and convicted solely by six continuous months of media generated headlines, to one of the Illinois' latest vindicated victims of an overzealous state persecution (albeit not prosecution), without ever experiencing the safe harbor of the American jurisprudence system, a courtroom with a judge and a jury.

Overbilling fraud allegations were made against the firm as it took over the general advertising contractor role from a widely known and nationally recognized firm that previously held the contract for over a decade for the Illinois State Lottery which had been awarded by invested employees. In fact, the previous firm utilized the same exact billing practices as did R.J. Dale which were both widely-practiced and generally accepted in the advertising and marketing industry. Yet, no overbilling allegations were ever leveled against the previous firm.

At one point prosecution appeared certain pending grand jury action by the Illinois States Attorney Office. Facing an onslaught of negative publicity over the fraud allegations, the firm's legal counsel appealed to both the Governor of Illinois and the Attorney General to allow an independent forensic auditor to conduct his own examinations of the financial documentation before proceeding to trial. This is where I came into the case.

My forensic methodology resulted in the firm's vindication; however, a brief summary review of published negative articles allows the reader to grasp the seriousness of continuous fraud accusations against the firm even though no judicial process was ever initiated.

REFORMING THE PROCESS

So what is the solution to these rogue governmental employees who are looking out for and protecting their own vested interests?

Citizen panels, representing business, civic, and social interest should be considered by state governmental agencies and authorities that offer significant contractual opportunities to vendors. Such panels can operate much like jury panels to evaluate competitive bids where invested employees may seek to compromise the contractual process based upon an inflated self- importance where self-indulgence grows along with self-justification. This is much like the recent documented activities by invested employees in the Illinois Department of Health and Family Services or the other undocumented activities by anonymous invested employees in the Illinois State Lottery agency.

Additionally, no vendor should have a prolonged contract. Major contracts should change hands every three to four years thus eliminating vendor monopolies. This change should go far in reforming current practices, and in the event of contract disputes, court appointed mediators should be brought in to settle the matter.

Reforms such as these could be the beginning to changing our current political and ethical landscape.