CoreCivic and GEO Group's push for public-private partnerships in building prisons

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While counties, states, and the federal government have traditionally used public debt to finance correctional facility construction, there is evidence that the two biggest private prison corporations, CoreCivic and GEO Group, are actively pushing governments to consider the use of private financing, known as "public-private partnerships," to build new facilities. This guide summarizes concerns about public-private partnerships in correctional facility construction.

What's happening

As demand for additional jail and prison capacity increases due to changing federal immigration and criminal policies, and state and local governments look to expand capacity or replace aging facilities, CoreCivic (formerly Corrections Corporation of America) and GEO Group both view public-private partnerships as an increasingly important aspect of their business. CoreCivic boasts of its "full-service real estate group," CoreCivic Properties, in the corporation's 2016 rebranding effort.[1] GEO Group describes itself as a "national leader in the finance, design, construction and management of correctional, detention and community reentry facilities."[2]

Through a public-private partnership, CoreCivic and GEO Group designs, builds, and finances the construction of a new facility to the government's specifications. Upon completion of the construction, the corporation provides maintenance and either operates the facility or allows public sector staff to handle operation. The corporation owns the facility for the life of the long-term contract and possibly beyond, depending on contract terms.

It should be noted that the emphasis on real estate is in large part related to CoreCivic's and GEO Group's conversions to Real Estate Investment Trusts (REITs) in 2013 and 2012, respectively.[3] This status incentivizes facility ownership over operation. As REITs, the corporations pay a fraction of the income tax they would otherwise pay. In 2016, GEO Group paid $2.3 million in federal income taxes and $972,000 in state income taxes while receiving a $41.5 million REIT tax benefit.[4]

Why it's concerning

Private prison construction deals embed private interests in the criminal justice system, perpetuating mass incarceration.

- Construction deals perpetuate the control and influence of private prison corporations in permanent ways. Collectively, CoreCivic and GEO Group have spent more than $10 million in campaign contributions and nearly $25 million on lobbying since 1989.[5] And what they lobby for ensures that facilities are filled. They've donated to politicians that support laws such as California's three-strikes law[6] and Arizona's highly controversial anti-immigrant law, SB 1070.[7] They've also lobbied for funding for Immigration and Customs Enforcement (ICE), to in effect increase the number of detainees.[8]

- Private prison contracts can contain perverse incentives to fill as many beds are possible, regardless of whether they include operation. Especially when the corporation finances the construction of a new facility, it is important that beds are filled to ensure a steady and long-term stream of lease payments. These contracts contain either explicit "bed guarantees" or minimum monthly payments that ensure the corporation gets paid regardless of how the government uses the facility.

Public-private partnerships result in higher financing costs for the public.

- In the past few years, interest rates for tax-exempt municipal bonds have hovered around 3 to 4 percent, representing a period of historically low borrowing rates.[9] When a private entity finances construction, interest rates are usually higher than they would be for municipal bonds because the private entity may not have the same creditworthiness as the government, and their debt is not tax-exempt. While this debt does not show up on the government's balance sheet as municipal bonds do, the higher cost of financing is passed on to the government through high, contractually obligated lease payments.

Public-private partnerships limit the government's flexibility to respond to changing correctional needs.

- Given that public-private partnerships can last for decades, it is inevitable that a government's correctional facility needs will change during the life of the contract. However, these deals severely limit how a government can respond to shifting needs.
- Unlike a facility built using public financing, privately financed facilities belong to the corporation at least until the end of the contract term (as is the case in a lease-purchase agreement). The government cannot change how the facility and/or the land on which the facility is located are used, even if incarcerated populations significantly decline and the facility is no longer needed. When the public owns the facility and the land, it has much more flexibility, and could even dispose of the facility all together.

The private prison corporation may not properly maintain the facility.

- Regular maintenance of a facility is crucial to ensuring healthy and safe day-to-day conditions for both prisoners and workers. However, there's reason to be cautious about CoreCivic's and GEO Group's commitment to high-quality facility maintenance.
- When CoreCivic (then Corrections Corporation of America) managed Hernando County's jail north of Tampa, Florida, the corporation failed to repair rusted doors, replace damaged windows, seal cracks in walls and floors, fix damaged ceiling tiles, and patch leaks in the roof, even though maintenance was a requirement in its agreement with the county.[10] When the sheriff's office assumed management of the facility in 2010, the county commissioned a report that found CoreCivic responsible for roughly $1 million in deferred maintenance costs.[11]
- In 2011, the Occupational Safety and Health Administration (OSHA) investigated the GEO Group-managed East Mississippi Correctional Facility and cited the corporation for numerous workplace violations, including cell doors with broken locks that could not be opened by staff from outside, but could be opened by prisoners from inside.[12]

Public-private partnerships may decrease opportunities for public and stakeholder input.

- Since these deals hand over the entire responsibility for design, construction, finance, and maintenance to one corporation, and bundle these project phases into one contract, public and stakeholder input may be limited or even non-existent.

- When a government uses public debt and a more traditional procurement process, the project has multiple distinct phases in which the government can solicit stakeholder input, engaging in a more democratic process and increasing the likelihood that the resulting facility will reflect the needs of the community and other stakeholders, such as families of those who are incarcerated. By handing control of the entire process to a corporation, there is little opportunity or incentive to solicit stakeholder input. Unlike the government, which is ultimately accountable to the public, CoreCivic and GEO Group are only beholden to their shareholders.
- The public and other stakeholders may not have access to important information about the construction project and resulting facility, as they would if the government was managing the process. CoreCivic and GEO Group have a history of avoiding releasing information about their facilities to the public, claiming "trade secrets" and other exemptions to open records laws, even though much of this same information would be public under a government-run facility.[13]

Private prison construction deals prop up companies with records of human rights abuses.

- Regardless of whether a new facility will be operated by private or public sector staff, these deals grow and strengthen CoreCivic and GEO Group, both of which have extensive records of extensive human rights abuses.
- In 2010, CoreCivic's (then Corrections Corporation of America) prisoners claimed that understaffing and mismanagement made the Idaho Correctional Center so violent it was nicknamed the "Gladiator School." The rate of prisoner-on-prisoner assaults at the facility was four times that of the other seven prisons in Idaho combined.[14] The company relinquished control of the facility to gangs to save money on employee wages, severely endangering prisoners and the few correctional officers on staff.[15] CoreCivic was later held in contempt of the court in 2013 for failing to fix the staffing shortage that created these violent conditions. CoreCivic admitted its employees had filed reports that falsely showed 4,800 hours of vacant security posts as being staffed during the night shift alone from April to October 2012.[16] For more information about CoreCivic's track record, see In the Public Interest's recent fact sheet.
- In 2012, federal District Judge Carleton Reeves wrote that the GEO Group-managed Walnut Grove Juvenile Detention Center in Mississippi was "a picture of such horror as should be unrealized anywhere in the civilized world" and "a cesspool of unconstitutional and inhuman acts."[17] A U.S. Justice Department report found that GEO Group staff had sex with incarcerated youth and that poorly trained workers brutally beat youth while they were handcuffed and defenseless and excessively used pepper spray.[18]

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Endnotes

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