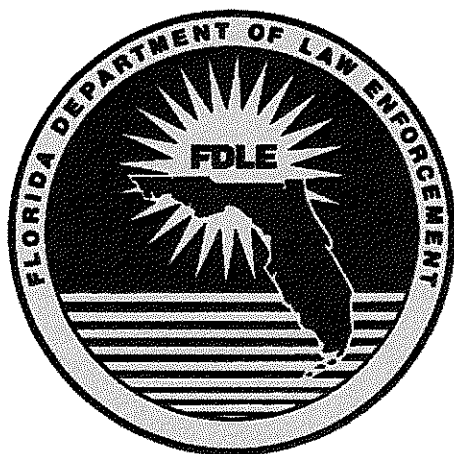


FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General



PROJECT NUMBER: IG-0025

Enterprise Contracting Audit Follow-up

SIX-MONTH STATUS REPORT

January 7, 2013



Florida Department of Law Enforcement
Office of Inspector General

| | | | |
|---|--|---|-------------------------|
| SIX-MONTH STATUS REPORT | | DATE: January 7, 2013 | AUDIT #: IG-0025 |
| AUDIT TITLE: Enterprise Contracting Audit | | | |
| RESPONSIBLE MANAGERS: Victoria Kliner, Business Support Program Director and Penny Kincannon, Information Resource Management Director | | AUDITOR: Theresa Skipper, Senior Management Analyst II | |
| BACKGROUND: | <p>The Executive Office of the Governor, Office of the Chief Inspector General (CIG) initiated an enterprise audit to evaluate state agencies' current policies, procedures, and processes for contracting. In cooperation with the CIG, the Florida Department of Law Enforcement (FDLE), Office of Inspector General (OIG) conducted an audit of FDLE's contracting procedures and training. FDLE's final report, <i>Enterprise Contracting Audit</i>, dated June 12, 2012 was approved for distribution on June 13, 2012.</p> <p>The report included five findings, which identified areas for improvement.</p> | | |
| FINDING #1.1: | <p>It is unclear who FDLE designates to function as contract manager, the member responsible for enforcing contract performance and serving as a liaison with the contractor.</p> | | |
| RECOMMENDATION: | <p>It was recommended that the Office of General Services (OGS) and Information Resource Management (IRM) consider correcting any inconsistencies between the General Services Manual and IRM procedures. It was also recommended that the OGS strengthen the General Services Manual by clarifying the responsibilities of a contract manager.</p> <p>Prior to release of the report, the OGS updated the General Services Manual to revise the functional titles used for those involved in the contracting process. It was suggested that the OGS and IRM continue to work together, along with the Office of General Counsel, to address any inconsistencies in procedures and the Exhibit 1 with regards to the responsibilities of a contract manager.</p> | | |
| ORIGINAL RESPONSE: | <p>Agree.</p> <p><u>IRM Response:</u> "IRM will modify procedure 1.300 (IRM Contract Administration) to eliminate areas where there is overlap/duplication in the General Services Manual and focus on areas that are not covered in the manual. For example, the IRM procedure will address contract staff augmentation and change management/contract amendments. In the future, IRM will rely on the General Services Manual, the Contract and Grant User Guide published by the Department of Financial Services, and the revised IRM procedure."</p> <p><u>BSP Response:</u> "The Business Support Program (BSP) understands that IRM will remove from IRM procedure 1.300 any verbiage that constitutes overlap, duplication or inconsistency with the Office of General Services (OGS) Manual regarding contracts."</p> | | |

OGS will collaborate with IRM, and the Office of General Counsel (OGC) on provisions to include in the Exhibit 1 attachment. The revised Exhibit 1 will incorporate a special conditions section that captures language needed for IT-related contracts.

Although BSP agrees with the recommendation that OGS strengthen the General Services Manual by clarifying the responsibilities of a contract manager, we found clarification to be problematic after research revealed differing views of the terms 'contract management' and 'contract manager' between the Florida Department of Management Services (DMS) and the Florida Department of Financial Services (DFS). Due to each agency's respective contract management processes an OGS purchasing unit member could be considered a contract manager from a DMS perspective and a program area designee assigned to monitor contract performance could also be considered a contract manager from a DFS perspective. At times a technical manager, sometimes referred to as a project manager, may also be involved in contract management, too.

DMS is the state agency that is responsible for providing uniform commodity and contractual service procurement policies, rules and procedures. It certifies public purchasing professionals who possess the knowledge, skills and abilities to effectively design, solicit, negotiate, award and 'manage contracts'. The purchasing and procurement certifications for the State of Florida are:

- Florida Certified Purchasing Agent
- Florida Certified Purchasing Manager
- Florida Certified Contract Manager
- Florida Certified Contract Negotiator

The above certifications require that certain criteria are met before a person can pursue the designation. Typically, a person must have a minimum of twelve (12) months experience in a full time purchasing position for the State of Florida where the majority of work time includes making final decisions on procurement methods, contract and purchase order terms and conditions, and conducting source selection processes. Program area members, for example, typically do not handle this type of work and, therefore, would likely not meet the criteria for becoming a 'Florida Certified Contract Manager'.

OGS purchasing unit members are typically eligible to pursue such certification and are very knowledgeable about procurement best practices. Their procurement skills and abilities are concentrated in competitive bidding, invitations to negotiate, requests for proposals, sole and single source purchases, category threshold restrictions and public procurement ethical standards. While this expertise is necessary for appropriate contract management, the subject matter knowledge regarding the commodity or service is also necessary to manage the contract and that specific expertise requires someone with a program operations perspective.

DFS conducts training for agency 'contract managers' responsible for contracts exceeding Category Two threshold amount (\$35,000) to meet the requirements of Section 287.057 (14), Florida Statutes. Contract management in this context is for monitoring and documenting contractor performance, and reviewing and documenting all deliverables exceeding Category Two. Since inception of the statutory requirements, program area members that coordinate documentation of deliverables must complete this training. Technical (contract) managers may also

| | |
|--|---|
| <p>IMPLEMENTATION DATE:</p> <p>SIX-MONTH STATUS RESPONSE:</p> <p>COMPLETION DATE:</p> <p>AUDITOR'S VERIFICATION:</p> | <p>serve as the program area coordinator of deliverables documentation; however, that varies among programs.</p> <p>These separate distinctions complicate the ability to clearly identify the member who is responsible for managing contract performance. While the functional titles used for those involved in the contracting process have been revised in the OGS Manual as a result of the findings, BSP believes further clarification is needed from an enterprise statewide level to clarify the roles and at that point further revision of the OGS Manual may be appropriate."</p> <p>June 30, 2012</p> <p><u>IRM Response:</u> "IRM will rescind procedure 1.300, Contract Administration. IRM will rely on agency policy and procedures to administer contracts. IRM is working on a new procedure that will deal with contract IT staff.</p> <p>IRM has supplied 'Special Conditions' to OGS that deal with topics appropriate for information technology contracts. This document is under review by the Office of General Counsel."</p> <p><u>BSP Response:</u> "OGS and IRM have worked with the Office of General Counsel, to address any inconsistencies in procedures and the Exhibit 1 with regard to the responsibilities of a contract manager. OGS has revised agency Exhibit 1, now known as, 'Standard Terms and Conditions Exhibit 1'."</p> <p><u>IRM Response:</u> "IRM will rescind procedure 1.300 and have it removed from IRM's web site by 12/31/2012.</p> <p>The new procedure associated with contract IT staff will be published by 1/31/2013.</p> <p>The Office of General Counsel is expected to complete their review by 1/31/2013."</p> <p><u>BSP Response:</u> "The revised 'Standard Terms and Conditions Exhibit 1' was completed December 18, 2012."</p> <p>Clarification regarding the roles involved in the contracting process was provided by the enterprise team and forwarded to Director Kliner on July 30, 2012.</p> <p>Based on IRM's response and a review of FDLE's Intranet conducted on December 21, 2012, IRM rescinded procedure 1.300 and it is no longer posted on the IRM Intranet webpage.</p> <p>Based on a comparison of the Standard Terms and Conditions Exhibit 1, December 2012 revision and the General Services Manual, November 2012 revision conducted on December 21, 2012, responsibilities of a contract manager have been clarified.</p> <p>This finding has been addressed and will be closed.</p> |
| <p>FINDING #1.2:</p> | <p>Requirements for training contract managers and qualifications for negotiators of contracts in excess of \$1 million and \$10 million were not found in the General Services Manual.</p> |

| | |
|---|--|
| <p>RECOMMENDATION:</p> <p>ORIGINAL RESPONSE:</p> <p>IMPLEMENTATION DATE:</p> <p>AUDITOR'S VERIFICATION:</p> | <p>The OGS should enhance the General Services Manual to include requirements for contract manager training and requirements for participation in negotiation of contracts in excess of \$1 million and \$10 million.</p> <p>Prior to release of this report, the OGS updated the General Services Manual to include the training requirements for contract managers. It was recommended that the OGS further update the General Services Manual to include requirements for participation in negotiations.</p> <p>Agree.</p> <p>"Prior to audit language, Florida Statute, Section 287.057(14) referencing contract manager training was added to the OGS Manual, Section G, Contractual Services/Two Party Signed Documents, (4) Contract Manager Training Requirements.</p> <p>The following language for Florida Statute, Section 287.057(16) and in keeping with Florida Administrative Code (FAC) 60A 1.041 as it relates to solicitation requirements and contract negotiation and certification definitions was added to the OGS Manual Section D, Requirements for Competition or Non-Competition in Purchasing, (9) Requirements for all FDLE Formal Solicitations:</p> <p>Section 287.057(16), F.S. and F.A.C. 60A 1.041 require that an 'Invitation to Negotiate' in excess of \$1 million in any fiscal year must include at least one person conducting the negotiations hold a 'State Certified Contract Negotiator' certification recognized by the Department of Management Services. If the value of a contract is in excess of \$10 million in any fiscal year, at least one of the persons conducting the negotiations must hold a 'Project Management Professional' certification from the Project Management Institute."</p> <p>Complete.</p> <p>Based on a review of the General Services Manual, November 2011 revision conducted on December 21, 2012, requirements were added for contract manager training and qualifications for negotiators.</p> <p>This finding has been addressed and will be closed.</p> |
| <p>FINDING #1.3:</p> <p>RECOMMENDATION:</p> | <p>The General Services Manual does not include requirements for identifying potential convicted vendors, using agreements such as Memoranda of Understanding (MOU) and Memoranda of Agreement (MOA), reviewing invoices, and closing-out contracts.</p> <p>The OGS should enhance the General Services Manual to include procedures for identifying potential convicted vendors, using MOUs and MOAs, reviewing invoices, and closing-out contracts.</p> <p>Prior to the release of this report, the OGS updated the General Services Manual and included guidance for MOUs/MOAs. It was suggested that the OGS consider updating the General Services Manual to address convicted vendors, invoicing, and close-out as described in this finding.</p> |

| | |
|----------------------------------|---|
| <p>ORIGINAL RESPONSE:</p> | <p>Agree.</p> <p>"The following Convicted Vendor language has been added to the OGS Manual Section D, Requirements for Competition or Non-Competition in Purchasing, (11) Convicted Vendors, and in keeping with FAC 60A 1.006 is referenced in Section C General Purchasing, (14) Vendor Relations:</p> <p>A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.</p> <p>Language has been added to the OGS Manual, Section G, Contractual Services/Two Party Signed Documents, (1) Policy, referencing MOUs and MOAs.</p> <p>The following language has been added to the OGS Manual, Section I, Receiving, Invoicing and Return/Exchange Procedures, (4) Invoicing, as invoicing impacts all forms of procurement documents:</p> <p>Upon the receipt of the goods/services, invoices should be reviewed for accuracy and completeness. Invoices should clearly reflect the following if applicable:</p> <ul style="list-style-type: none"> • Detailed description of the goods/services • Number of goods/service units provided • Period of services • Payment terms as identified in the purchasing document • Payment/request/invoice period coincides with documentation submitted • Invoice amount is in compliance with the terms of the purchasing document <p>Verify that any required supporting documentation has been submitted.</p> <p>Review documentation to gain reasonable assurance that goods/services have been satisfactorily provided within the terms of the purchasing document.</p> <p>All steps have been satisfactorily completed, including any agency unique requirements.</p> <p>The following language has been added to the OGS Manual, Section G, Contractual Services/Two Party Signed Documents, (7) Payment Verification Actions:</p> <p>The purpose of the payment verification process is to ensure that the Agency has received the goods and/or services required to be provided before payment is made. Please see Section I, Receiving, Invoicing and Return/Exchange Procedures, (4), Returns/Exchanges, of the OGS manual for further invoice information.</p> <p>The following language was added to the OGS Manual, Section G, Contractual Services/Two Party Signed Documents, (8) Contract Closeout:</p> |
|----------------------------------|---|

| | |
|---|---|
| <p>IMPLEMENTATION DATE:</p> <p>AUDITOR'S VERIFICATION:</p> | <p>A contract closeout includes, but is not limited to determining and documenting that:</p> <ul style="list-style-type: none"> • All deliverables and services have been delivered and accepted in writing • All applicable reports have been received and accepted in writing • If applicable, financial consequences have been assessed for non-performance/noncompliance • Coordinate with the Office of Financial Management for Payment Closeout" <p>Complete.</p> <p>On December 21, 2012, the General Services Manual, November 2011 revision was reviewed. Revisions include requirements regarding convicted vendors, MOUs and MOAs, invoice review, and contract close-out.</p> <p>This finding has been addressed and will be closed.</p> |
| <p>FINDING #1.4:</p> <p>RECOMMENDATION:</p> <p>ORIGINAL RESPONSE:</p> <p>IMPLEMENTATION DATE:</p> <p>SIX-MONTH STATUS RESPONSE:</p> <p>COMPLETION DATE:</p> <p>AUDITOR'S VERIFICATION:</p> | <p>The General Services Manual requires the use of a standard contracting template, Exhibit 1; however, the template does not include clauses to address penalties, auditing, documentation for required reports, and reconciliation of required reports.</p> <p>The OGS, the Office of General Counsel, and the IRM program should work together to develop an updated Exhibit 1 to include the above listed topics. The IRM program has developed various contracting documents that address the above listed topics and additional requirements that may be applicable to other FDLE programs.</p> <p>Prior to release of this report, the OGS updated the General Services Manual to require the use of Exhibit 1 for contractual services in excess of \$35,000, not including formal solicitations. Formal solicitations are required to include Department of Management Services form PUR 1000, which contains standard contract terms and conditions. However, it is still recommended that the OGS enhance Exhibit 1 to include the topics mentioned in this finding. Members of the OGS have indicated that the Exhibit 1 is in the process of being updated.</p> <p>Agree.</p> <p>"Additional language will be added to the FDLE Exhibit 1 to include 'A Right to Audit' and 'Financial Consequences' clause."</p> <p>June 30, 2012</p> <p><u>BSP Response:</u> "The 'Right to Audit language' and 'Financial Consequences' clause have been included in the revised 'Standard Terms and Conditions Exhibit 1' dated December 18, 2012, which was developed and approved in consultation with IRM and the Office of General Counsel."</p> <p>December 18, 2012</p> <p>A review of the Standard Terms and Conditions Exhibit 1, December 2012 revision and the General Services Manual, November 2012 revision was conducted on December 21, 2012. Revisions to Exhibit 1 include clauses addressing the right to audit and financial consequences. Revisions to the General Services Manual address requirements for contracting documents, including clauses related to deliverables and expectations for reports.</p> |

| | |
|--------------------------------|--|
| | This finding has been addressed and will be closed. |
| FINDING #2.1: | There are limited on-going training opportunities for contract managers. Training could be enhanced by addressing certain specific topics, such as: contract enforcement, contract close-out, and available resources. |
| RECOMMENDATION: | The OGS should enhance training for contract managers by conducting an assessment of training needs and, as a minimum, addressing the topics listed in this finding. |
| ORIGINAL RESPONSE: | <p>Disagree.</p> <p>"Due to reduced purchasing/procurement staffing in OGS, adequate resources are not available to conduct an assessment of training needs nor enhance training for program operations 'contract managers'. Currently, though, OGS full time purchasing/procurement members are given one-on-one training, as needed, and that practice will continue. Additionally, as procurement laws change, OGS staff members routinely disseminate updates to program area members that handle program related contracts. As mentioned earlier in Finding 1.1, these members are also statutorily required to attend contract training through the Department of Financial Services.</p> <p>The Business Support Program would like to offer additional business support training to program staff associated with these (and other BSP) functions; however, the resources both in staff time and costs of travel have been depleted over the last four budget years.</p> <p>It is recommended that the assessment of statewide training needs and continuing education of members (in procurement units, such as OGS, as well as applicable members in the program areas) is provided at an enterprise statewide level."</p> |
| AUDITOR'S VERIFICATION: | <p>The request for an assessment of statewide training needs and continuing training regarding contract administration and contract management was forwarded to the enterprise audit team on June 25, 2012.</p> <p>Although resources for training are limited, the Business Support Program is encouraged to provide information to members about available resources, such as the <i>State of Florida Contract and Grant User Guide</i>, the <i>Reference Guide for State Expenditures</i>, and various state agency websites. The Business Support Program is also encouraged to pursue opportunities for partnering with other agencies that provide contracting related training.</p> <p>Based on management's response, the risk of not implementing the recommendation has been accepted and this finding will be closed.</p> |

**Florida Department of Law Enforcement
Office of Inspector General**

Enterprise Contracting Audit

SIX-MONTH STATUS REPORT

Auditor:

Theresa Skipper
Theresa Skipper, Senior Management Analyst II

1/7/13
Date

Audit Manager:

Loures Howell-Thomas
Loures Howell-Thomas, Director of Auditing

1/7/13
Date

Inspector General:

Al Dennis
Al Dennis, Inspector General

1-7-13
Date