



Florida Department of
Law Enforcement


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Ron DeSantis, *Governor*
Ashley Moody, *Attorney General*
Jimmy Patronis, *Chief Financial Officer*
Nikki Fried, *Commissioner of Agriculture*

MEMORANDUM

DATE: May 17, 2022

TO: Mark Glass, Acting Commissioner
Office of the Executive Director

FROM: Lourdes Howell-Thomas, Inspector General
Office of Inspector General 

SUBJECT: Final Report
Contracts Audit
Project Number: IA-2122-02

The Office of Inspector General (OIG) has completed an audit of the Florida Department of Law Enforcement's (FDLE) contract procurement procedures. Attached is the Final Report, which contains two findings with recommendations. Management agreed to all findings and indicated in their response, that corrective action had been taken on the two findings. Prior to the issuance of the report, OIG staff verified the recommendations were implemented. The two findings are closed.

Director of Auditing Tijuana Comer and I are prepared to provide you with a brief overview of the report at your convenience.

We appreciate the assistance and cooperation provided by the members of the Office of General Services during this project. Please let me know if you have any questions or concerns.

LHT/tc

Attachment

Acknowledged by:



Mark Glass, Acting Commissioner



Date



Florida Department of Law Enforcement Office of Inspector General

May 17, 2022

Report No. IA-2122-02

Contracts Audit

INTRODUCTION

As part of the *Office of Inspector General Fiscal Year 2021-2022 Annual Plan*, our office conducted a compliance audit of the Florida Department of Law Enforcement's (FDLE) contract procurement procedures. This audit satisfies the requirements of House Bill 1079, passed during the 2020-2021 Legislative Session. This bill amended Section 287.136, Florida Statutes (F.S.), to require a periodic risk-based compliance audit of all contracts executed by a state agency to identify any trends in vendor preferences.

BACKGROUND

The state's purchasing laws are designed to promote fair and open competition in the public procurement process. The goal is to reduce the appearance and opportunity for favoritism and to foster public confidence that contracts are awarded equitably and economically.

Use of state term contracts is mandatory for Florida agencies in accordance with Section 287.056, F.S. A state term contract is a contract that is competitively procured by the Florida Department of Management Services (DMS), Division of State Purchasing for selected products and services for use by state agencies and eligible users.

All contracts are required by Section 215.985(14)(a), F.S., to be entered into the Florida Accountability Contract Tracking System (FACTS) within 30 days of execution.

Between July 1, 2018 and June 30, 2021, FDLE procured goods and services through the execution of 91 contracts. There were 31 contracts¹ (34%) valued at less than \$2,500².

¹ Eleven of the 31 contracts contained a zero dollar (\$0) amount for the contract value. Per the FACTS FAQs located on the FACTS website, this indicates that the amount of the agreement has not been capped. The agreement will identify specific services authorized to be performed but will not identify a quantity because it may be based on factors beyond the provider's and/or the agency's control.

² Pursuant to rule 60A-1.002(2), Florida Administrative Code (F.A.C.), purchases below \$2,500 "shall be carried out using good purchasing practices. Such practices include but are not limited to the receipt of written quotations or written records of telephone quotations."

There were 26 contracts (29%) valued at or above \$2,500 but less than or equal to \$35,000³ for the review period. In this category, contracts were for goods and services such as lodgings and meetings, telecommunications, and building maintenance.

The remaining 34 contracts (37%) were for amounts above \$35,000. By law, contractual services exceeding the \$35,000 threshold⁴ require a competitive solicitation for vendor selection unless excluded by statute. Of the 34 contracts, 25 were procured under Chapter 287, F.S., which was the focus of this audit engagement. The other nine contracts were removed from further review for the following reasons: eight contracts were for leases procured under Chapter 255, F.S.; and one contract was for an investment-related service procured under Section 17.57(2), F.S. Of the 25 contracts, six were procured competitively. The remaining 19 contracts met one or more of the statutory criteria to exclude them from competitive procurement. The exemptions included the following:

- Thirteen purchases made with “single source” contracts. These contracts were exempted from competitive procurement under Section 287.057(3)(c), F.S., due to the commodities or contractual services being available only from a single source.
- Four contracts were exempted under Section 287.057(3)(e)12, F.S., due to the commodities or services being provided by a government agency.
- Two contracts for legal services exempted under Section 287.057(3)(e)4, F.S.

RESULTS OF REVIEW

As required by Section 287.136, F.S., we found no trends in vendor preference by FDLE for the review period. We detected no fraudulent activity for the review period. We concluded the procurement function has implemented internal processes and procedures to ensure compliance with state purchasing laws; however, we found four instances of non-compliance with statute and four instances of inaccurate data entered in FACTS for the period reviewed.

Finding 1 – The quarterly report required by Section 287.057(6), F.S., was not submitted to DMS

Section 287.057(6), F.S., requires each agency to submit a quarterly report to DMS detailing procurements in which less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, and the agency negotiates on the best terms and conditions in lieu of resoliciting competitive sealed bids, proposals, or replies.

³ Rule 60A-1.002(3), F.A.C., lays out specific requirements for purchases within this range, which exceed those required of purchases for less than \$2,500.

⁴ Section 257.057(1), F.S., and rule 60A-1.002(4), F.A.C.

Twenty-five contracts applicable to the scope of the audit were reviewed. Of the 25 contracts, four (16%) were determined to have been procured under Section 287.057(6), F.S. However, FDLE did not submit the quarterly report to DMS for these four contracts. Further, FDLE management indicated they have not previously submitted the quarterly report for any contracts procured under this statute as there was no mechanism to submit the report to DMS.

Recommendation

The Office of the Inspector General (OIG) recommends that FDLE management:

1. Report to DMS the four contracts identified in this audit procured under Section 287.057(6), F.S.; and
2. Create a process to submit the quarterly report to DMS.

Response

1. Agree. The Office of General Services (OGS) reported the four contracts identified in this audit to DMS on April 18, 2022.
2. Agree. OGS has inserted a statement in each formal solicitation (Invitation to Bid, Request for Proposal and the Invitation to Negotiate) procedures to remind members of the requirements if the solicitation results in an "exceptional purchase."

Implementation Status

Prior to the issuance of the final report the OIG confirmed corrective action was taken and the recommendations were implemented. This finding is closed.

Finding 2 – Four contracts were entered into FACTS with inaccurate methods of procurement

Twenty-seven contracts were initially reviewed for this audit. Of the 27 contracts, four were determined to have been entered into FACTS with inaccurate methods of procurement. FDLE management corrected the methods of procurement for the four contracts during the course of the audit. Once corrected, two contracts (C and D, as indicated in the table below) were removed from further review due to not being procured under Chapter 287, F.S., bringing the total number of contracts applicable to the scope of the audit to 25.

FDLE Office of Inspector General

Contract	Initial Method of Procurement	Corrected Method of Procurement
A	Agency Invitation to Bid	Agency negotiated after receiving fewer than two responsive offers to a competitive procurement
B	Agency Request for Proposal	Agency negotiated after receiving fewer than two responsive offers to a competitive procurement
C	Agency negotiated after receiving fewer than two responsive offers to a competitive procurement	DFS Exemption, Investment Related Services
D	Exempt, Services or Commodities provided by Governmental Agencies	Leases with federal agencies and other State/Local government entities

Recommendation

The OIG recommends that FDLE management:

1. Include in written procedure a process for the verification of contract information entered into FACTS.

Response

1. Agree. OGS has added verification language to "\$100,000 Report" desk procedure to review the FACTS summary page for accuracy prior to submission of the quarterly \$100,000 report for final review.

Implementation Status

Prior to the issuance of the final report the OIG confirmed corrective action was taken and the recommendation was implemented. This finding is closed.

ACKNOWLEDGEMENTS

We wish to thank FDLE management and staff for their cooperation and assistance which contributed to the successful completion of this engagement.

Respectfully submitted by:



Lourdes Howell-Thomas
Inspector General

APPENDIX A - PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

The **purpose** of this engagement was to conduct a risk-based compliance audit of contracts procured under Chapter 287, F.S., and executed by FDLE during the 2018-2019 through 2020-2021 fiscal years. In accordance with Section 287.136(2), F.S., the audit included an evaluation and identification of any trends in vendor preferences.

The **scope** of the audit focused on FDLE's standard two or more-party contracts exceeding \$35,000 for the 2018-2019 through 2020-2021 fiscal years.

The audit **objectives** were to:

- Determine if complete and accurate data was recorded in FACTS as described in Section 215.985(14)(a), F.S., for a selected sample of FDLE contracts.
- Evaluate a selected sample of contracts for compliance with Chapter 287 and other applicable procurement statutes and rules.
- Identify possible fraudulent activity in FDLE procurement.
- Analyze the overall FDLE contracting process to identify any trends in vendor preference.

To achieve our audit objectives, our **methodology** included:

- Reviewing applicable statutes, regulations, and internal operating procedures;
- Reviewing the contracts entered into the FACTS online application;
- Reviewing applicable contract files, including their procurement;
- Reviewing employee and vendor information; and
- Interviewing appropriate FDLE staff and management regarding the processes and controls used in the procurement and contracting process.

DISTRIBUTION, PROJECT TEAM AND STATEMENT OF ACCORDANCE

ACTION OFFICIAL DISTRIBUTION:

Mark Glass, Acting Commissioner
Michelle Pyle, Assistant Commissioner
Sharon Wester, Director of Business Support
Rona Kay Cradit, Deputy Director of Business Support

INFORMATION DISTRIBUTION:

Ron DeSantis, Governor of Florida
Melinda Miguel, Florida Chief Inspector General
J. Todd Inman, Secretary, Department of Management Services
Patrick Gillespie, Deputy Secretary, Department of Management Services
Cliff Nilson, Director of State Purchasing
Sarah Hall, Inspector General, Department of Management Services
Sherrill F. Norman, Auditor General of Florida

PROJECT TEAM:

This engagement was conducted and supervised by:

Jason Hunter, Senior Management Analyst II
Tijuana L. Comer, Director of Auditing

Statement of Accordance

This audit was conducted pursuant to Section 20.055, Florida Statutes, and in accordance with Generally Accepted Government Auditing Standards as published by the United States Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report and other reports prepared by the OIG can be obtained by contacting:

Public Records Custodian
Office of the General Counsel
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