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Governor

DEPARTMENT OF MANAGEMENT
SERVICES

JOHN P. MILES
Secretary

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MEMORANDUM

DATE: July 14, 2011

TO: John P. Miles, Secretary

FROM: Steve Rumph, Inspector General

SUBJECT: Six-Month Status Report to Auditor General Report No. 2011-075

Pursuant to Section 20.055(5)(g), Florida Statutes, the following is our explanation of the six-month status of findings and recommendations included in the Auditor General's Report No. 2011-075, *Information Technology Consulting Services State Term Contract, Procurement and Expenditure Processes, and Additional Administrative Matters - Operational Audit*, dated January 14, 2011.

The report contained recommendations for the Division of State Purchasing, Finance and Accounting, and Department Purchasing. Our response addresses the findings and recommendations in the same order as they appear in the report.

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Six-Month Status Report

Finding No. 3 - Quotation Thresholds

The quotation thresholds established within the IT consulting services State term contract did not require State entities to obtain the best value or maximize competition when procuring such services.

Recommendation:

To effectively utilize the State's purchasing power and reduce overall costs for services provided to State entities, we recommend that the Division consider reducing the future quotation thresholds within the IT consulting services State term contract.

Department's Original Response:

Concur: We will revisit the quotation thresholds in a future contract, if we determine that doing so will increase the benefit of state term IT contracts.

While it may be beneficial to adjust the dollar levels at which RFQ's are required under the IT state term contract, we disagree with the comparison of the statutory categorical thresholds listed in Table 2 to the quotation requirements for the IT Consulting Services state term contract in Table 3. Table 2 lists the threshold categories for competitive purchases. For instance, purchases for commodities and contractual services in excess of Category 2 must be competitively established¹. By including Table 2, the report insinuates that the quotation requirements should mimic the category thresholds. However, there is no logical basis for the quotation requirements in the state term contract to mirror those of the category thresholds. In fact, it may be confusing and duplicative to require the RFQ process to mirror the statutory bid provisions. The IT Consulting Services state term contract complied with the category thresholds in statute, in that the contract itself was competitively procured.

Additionally, the statute does not mandate the use of RFQ's with state term contracts. Section 287.056(3), F.S. states, in pertinent part, that "agencies and eligible users may use a request for quote to obtain written pricing or services information from a state term contract vendor for commodities or contractual

¹ See Section 287.057(1), Florida Statutes (F.S.).

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services available on state term contract" (emphasis added)². The statute also provides that RFQs under a state term contract are not the same as and are not to be treated as a competitive solicitation. Therefore, the IT Consulting Services contract actually exceeds the requirements in statute, by requiring agencies to seek quotes based on the amount of their purchases. It is also important to note that, as illustrated in Table 3, the Division lowered the quotation requirements listed in the previous contract for some threshold amounts for the current contract.

The more stringent RFQ requirements in the IT Consulting Services contract are designed to provide additional competition, which they do. We disagree with the statement that "as a result of these high quotation thresholds, the IT Consulting services State term contract did not require State entities to obtain the best value when procuring services at the contractor selection stage." However, the Division exercised its judgment in setting the thresholds.

Six-Month Status of Finding and Recommendation:

Division of State Purchasing: The Division will examine the use and level of monetary thresholds and their impact on obtaining the best value for the state by December 2011.

Office of Inspector General Position

We will continue to monitor the implementation of this recommendation.

Finding No. 4 - Procedures and Records Maintenance

The Division did not always ensure that all required certificates of insurance and conflict of interest statements related to the solicitation of the IT consulting services State term contract were obtained and retained.

Recommendation:

We recommend that the Division enhance procedures to ensure that all required certificates of insurance and conflict of interest statements are timely obtained and retained in Division records. We also recommend that Division staff continue efforts to update procedures related to the solicitation and monitoring of State term contracts.

² See Section 287.056(3), F.S.

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Department's Original Response:

Concur: The Division has internal policies and procedures in place and is working to refine them. We have appointed a workgroup charged with ensuring that the policies and procedures are updated in a timely fashion. Additionally, we are working to enhance and strengthen those procedures with a procurement process management system which will be integrated into the sourcing tool and which will provide an automated base for the implementation of standard procedures and forms within the division. This system is in development and is targeted for implementation in March of 2011. Specifically, the system will allow for the setting and monitoring of tasks for the entire procurement process, from market research through contract management. The tool will also include a common library of forms and checklists to facilitate completion of procedures and retention of records. We believe that this system will enhance our internal procedures and address the audit concerns.

Six-Month Status of Recommendation:

Division of State Purchasing: On February 24, 2011, the Division began to implement the new process management system which will enable the tracking of alerts and reminders of contract requirements. Contracts are placed in the system as they are re-procured, so the implementation will take place over several years.

OFFICE OF INSPECTOR GENERAL POSITION

We agree with the actions taken by the Division of State Purchasing and recommend this finding and recommendation be closed.

Finding No. 5 - Background Screenings for IT Contractors

The Department did not always ensure that background screenings were timely obtained for eligible contractors who performed Department assignments with access to confidential or critical data or facilities.

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Recommendation:

We recommend that the Department ensure the timely completion of background screenings in accordance with applicable laws, administrative rules, and other guidelines.

Department's Original Response:

Concur: To ensure that background checks are conducted in a timely fashion Departmental Purchasing staff will meet with division personnel who generate purchase orders for such services to reinforce the importance of this requirement. Further, as to written agreements, the Department will amend its written agreement routing form to address this concern.

Six-Month Status of Recommendation:

Bureau of Department Purchasing: On February 1, 2011, the department amended Departmental Purchasing Form DP200 Contract/Amendment Approval Form. The amended form now includes an area for the contract manager to verify that the required background screening has been conducted for employees/contractors being used to provide services under the contract. Further, Departmental Purchasing has communicated with Department staff who generate purchase orders regarding the importance of ensuring such background checks are conducted before purchases are routed for approval.

OFFICE OF INSPECTOR GENERAL POSITION

We agree with the actions taken by the Bureau of Department Purchasing and recommend this finding and recommendation be closed.

Finding No. 6 - Capitalization of Fixed Capital Outlay Project Expenditures

The Department did not properly record qualifying fixed capital outlay expenditures in capital asset accounts and records.

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Recommendation:

We recommend that the Department review its fixed capital outlay expenditures and ensure that capital asset records have been updated in a manner consistent with DFS policy.

Department's Original Response:

Concur: The Bureau of Financial Management Services will work with the Division of Real Estate Development and Management to ensure all future fixed capital outlay expenditures in the amount of \$100,000 or more are recorded in the appropriate capital asset account per DFS policy. All tangible property discovered during the audit period will be recorded by January 31, 2011 to the property records.

Six-Month Status of Recommendation:

Bureau of Finance and Accounting: The Division of Real Estate Development will provide a complete listing of all fixed capital outlay projects to be capitalized by June 24, 2011 to be booked by close of fiscal year August 9, 2011. The Division of Real Estate Development has agreed to provide a complete listing of all future fixed capital outlay projects in the amount of \$100,000 or more annually in June to the Bureau of Financial Management Services.

Office of Inspector General Position

We agree with the actions taken by the Bureau of Finance and Accounting. However, until the complete listing of fixed capital outlay projects has been booked then the finding and recommendation will remain open.

Finding No. 7 - FLAIR Access

The Department did not restrict Florida Accounting Information Resource Subsystem (FLAIR) access to only those modules necessary and compatible with an employee's current position responsibilities. Additionally, the

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Department did not perform periodic reviews of FLAIR access privileges to identify and remove excess or incompatible privileges granted to employees.

Recommendation:

We recommend that the Department enhance procedures to ensure that access to FLAIR is restricted to only those modules that are necessary to and compatible with an employee's current position responsibilities. Additionally, we recommend that the Department perform periodic reviews of FLAIR access privileges to identify and remove any excess or incompatible privileges.

Department's Original Response:

Concur: The policies and procedures will be updated to include that the access control report will be reviewed quarterly to ensure that access to FLAIR is restricted to only the modules that are necessary to and compatible with the employee's current responsibilities. In addition, user access will be reviewed at the time a supervisor or other management personnel request a change to a current user's access.

Six-Month Status of Recommendation:

Bureau of Finance and Accounting: The Bureau will conduct quarterly reviews of FLAIR access to ensure that access to FLAIR is restricted to the modules that an employee needs to complete their job responsibilities. On June 30, 2011, the Bureau of Finance and Accounting conducted and completed their first quarterly review of FLAIR access to DMS employees.

Office of Inspector General Position

We agree with the actions taken by the Bureau of Finance and Accounting and recommend this finding and recommendation be closed.

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Finding No. 8 - Security Clauses

As similarly noted in audit report No. 2009-078, deficiencies in certain operating procedures and standard documents and templates created by the Department may affect the Department's ability to safeguard nonpublic information.

Recommendation:

We again recommend that the Department enhance its procedures to ensure that clear and unambiguous security clauses prohibiting disclosure of nonpublic information by vendors is included in applicable Department standard documents and templates designed for procuring goods and services.

Department's Original Response:

Concur: As stated in our response to the Auditor General's prior audit report, State Purchasing Agreement and Alternate Contract Source vendors are required to comply with all applicable state laws, including those prohibiting disclosure of "nonpublic" information. There are rules in place to ensure that confidential information obtained by a vendor is protected. However, we agree that the two forms, the State Purchasing Agreement and Alternate Contract Source documents, do not specifically contain security clauses prohibiting the disclosure of nonpublic information by vendors. Therefore, as of December 17, 2010, the Division of State Purchasing is actively engaged in the rulemaking process to amend these documents (PUR 7721 and PUR 7722) to include a requirement that confidential information be protected.

Six-Month Status of Recommendation:

Division of State Purchasing: The Division's rulemaking project for Florida Administrative Code 60A which incorporated 60A-1.002, 60A- 1.016, 60A-1.041, and 60A-1.025 was active as of December 17, 2010. However, it was stayed via Executive Order 11-01 which prohibited all rulemaking for 90 days. Due to the stay, a statutory deadline was missed and the project had to be withdrawn. However, the Department has reported to the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR), regarding its regulatory plan for the next fiscal year. Rule 60A-1.025, F.A.C., which incorporates PUR forms 7721 and 7722 was included in the regulatory plan. As soon as approval is obtained from OFARR, the Division will again start rulemaking to include the requested changes to the PUR forms 7721 and 7722. The Division is anticipating that rulemaking approval will be given by October 2011.

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Office of Inspector General Position:

We agree with the actions taken by the Division of State Purchasing. However, until the rulemaking process is completed then the finding and recommendation will remain open.

cc: Kathy Dubose, Staff Director, Joint Legislative Auditing Committee
David W. Martin, Auditor General
Brett Rayman, Chief of Staff, DMS
Debra Forbess, Director, Division of Administration
Tim Gibney, Director, Division of State Purchasing
Mitchell Clark, Bureau Chief, Finance and Accounting