



DEPARTMENT OF MANAGEMENT  
**SERVICES**

**RICK SCOTT**  
Governor

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Secretary

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## MEMORANDUM

**DATE:** January 17, 2012

**TO:** John P. Miles, Secretary

**FROM:** Steve Rumph, Inspector General

**SUBJECT:** 12-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 12-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.

Three findings and recommendations remain open from the original audit report. Our response addresses the three findings and recommendations in the same order as they appear in the report. Based on our review and discussion with the Division of State Purchasing and Bureau of Financial Management Services staff, we are recommending that the three findings and recommendations be closed.

### **12-Month Status Report**

#### **Finding No. 3 - Quotation Thresholds:**

The quotation thresholds established within the (Information Technology) IT Consulting Services State term contract did not require State entities to obtain the best value or maximize competition when procuring such services.

#### **Recommendation No. 3:**

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.

**Original Response To Recommendation No. 3:**

***Division of State Purchasing:*** 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 Request for Quote's (RFQ) 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 established<sup>1</sup>. 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), Florida Statute states, in pertinent part, that "agencies and eligible users may use a RFQ to obtain written pricing or services information from a state term contract vendor for commodities or contractual services available on state term contract" (emphasis added)<sup>2</sup>. 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.

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<sup>1</sup> See Section 287.057(1), Florida Statutes (F.S.).

<sup>2</sup> See Section 287.056(3), F.S.

**Six-Month Status of Recommendation No. 3:**

***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.

**Current 12-Month Status of Recommendation No. 3:**

***Division of State Purchasing:*** The Division has examined the use and level of the monetary thresholds and their impact on obtaining the best value for the state within the IT Consulting Services contract. The state term contract was competitively bid and ceiling rates established. Additionally, the contract currently exceeds statutory requirements by including mandatory requirements for agencies to request quotes. Moreover, if agencies follow the contract requirements and obtain quotes they should obtain the best values while maximizing competition. Accordingly, the Division does not feel that reducing threshold levels would result in any savings to the state.

**Office of Inspector General Position:**

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

**Recommendation No. 6:**

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 Department of Financial Services (DFS) policy.

**Original Response To Recommendation No. 6:**

***Bureau of Financial Management Services:*** 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 No. 6:**

***Bureau of Financial Management Services:*** The Division of Real Estate Development and Management will provide a complete listing of all fixed capital outlay projects to be capitalized by June 24, 2011 and to be booked by close of fiscal year August 9, 2011. The listing will be provided annually to the Bureau of Financial Management Services by June of each year.

**Current 12-Month Status of Recommendation No. 6:**

***Bureau of Financial Management Services:*** The Bureau of Financial Management Services received the necessary information from the Division of Real Estate Development and Management and booked the required amounts of \$25,142,007 in fixed capital outlay as of 06/30/2011.

**Office of Inspector General Position:**

***We agree with the actions taken by the Bureau of Financial Management Services and recommend this finding be closed.***

***While the recommendation was addressed to the Bureau, successful implementation of the recommendation required actions by the Division of Real Estate Development and Management. Our review shows that the Bureau made the appropriate accounting entries based on the information provided by the Division.***

***The Auditor General, in conjunction with its ongoing Operational Audit of the Department, will be assessing whether the actions taken and the information provided by the Division to the Bureau was sufficient. Should the Auditor General find during its current review that the actions taken by the Division are not sufficient to provide correct information to the Bureau, any repeat finding will be addressed to the Division.***

### **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 No. 8:**

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.

### **Original Response to Recommendation No 8:**

***Division of State Purchasing:*** 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 No. 8**

***Division of State Purchasing:*** The Division's rulemaking project for Florida Administrative Code 60-A 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 OFAAR, 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.

**Current 12-Month Status of Recommendation No. 8**

***Division of State Purchasing:*** The Division of State Purchasing has reconsidered adding the security clauses prohibiting the disclosure of nonpublic information by vendors to the two purchasing forms (PUR 7721 and PUR 7722). Rather than adding the clauses to the forms, the Division will instead include these clauses, as applicable, within the terms and conditions of the State Purchasing Agreement and Alternate Contract Source documents. This provides flexibility and allows the Division to stay current with best practices and to amend the security policies as necessary without requiring the rulemaking process.

**Office of Inspector General Position:**

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

cc: Kathy Dubose, Staff Director, Joint Legislative Auditing Committee  
David W. Martin, Auditor General  
Brett Rayman, Chief of Staff  
Debra Forbess, Director, Administration  
Kelly Loll, Director, State Purchasing  
Tom Berger, Director, Real Estate Development and Management  
Mitchell Clark, Bureau Chief, Bureau of Financial Management Services