



Procurement Audit
Audit Report Number 15-A001

December 3, 2015

Executive Summary

The Office of Inspector General (OIG) conducted an audit of the Division of Emergency Management (Division) procurement activities. The purpose of the audit was to assess the appropriateness and effectiveness of the Division's internal control framework to support procurement and contracting activities. Specifically, the objectives of the audit were to determine if:

- Internal controls over the procurement process are complete and effective; and
- Procurement and contracting activities comply with applicable statutes, policies, procedures, and regulations.

This audit of the Division's procurement activities was conducted as part of the OIG's annual work plan.

Our audit did not disclose any significant discrepancies; however, we noted that for three of the procurements reviewed, the procurement methods were incorrectly posted in MyFloridaMarketPlace. In response to this, the Bureau of Finance has implemented corrective actions to help ensure that the procurement method is correctly posted in MyFloridaMarketPlace. Specifically, the Bureau of Finance has implemented a requisition tracking log to record the details of each purchase request.

During the course of the audit we were also made aware of a process improvement the Bureau of Finance has initiated. The Bureau of Finance is developing a protocol for procurements over Category Two (\$35,000) that will require Division bureaus, legal, Deputy Director and Bureau of Finance to meet to discuss the proper type of procurement to be used, purpose of the procurement, scope of work, and deliverables. For procurements over \$35,000, this meeting would improve Division communication; more efficiently initiate the procurements, and help ensure that the procurements are conducted in accordance with applicable statutes, rules and other guidance.

Background and Introduction

As part of its annual work plan, the OIG conducted an audit of the Division's procurement activities. The purpose of the audit was to assess the appropriateness and effectiveness of the Division's internal control framework to support procurement and contracting activities. Specifically, the objectives of the audit were to determine if:

- Internal controls over the procurement process are complete and effective; and
- Procurement and contracting activities comply with applicable statutes, policies, procedures, and regulations.

A sample of procurements from June 1, 2013, through February 28, 2015, funded by the Public Assistance Program, the Homeland Security Grant Program, and the Hazard Mitigation Grant Program, were selected for audit. The OIG reviewed applicable policies, procedures, laws and regulations, as well as funding sources to identify allowable and unallowable costs for the individual procurements included in the sample. The types of procurements in the sample included: State Term Contracts, Alternate Contract Source, Informal Quotation Purchases, Request for Proposals, and Single Source Purchases.

The Procurement section of the Bureau of Finance oversees procurement of goods and services for the Division. MyFloridaMarketPlace is used to support the procurement process.

Competitive Solicitations

Section 287.001, Florida Statutes (F.S), states, "It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services." Typically, state agencies are required to use competitive solicitation methods for all purchases of commodities or contractual services. The competitive solicitation methods available to state agencies are explained below:

Invitation to Bid

State agencies are required to use an Invitation to Bid (ITB) as the first choice for competitive solicitation. An ITB is to be used when the agency is capable of either specifically defining the scope of work for which a contractual service is required or establishing precise specifications defining the actual commodity, or group of commodities, required. Examples of these are commodities and contractual services, such as:

- Lamps;
- Lawn Equipment;
- Office Supplies;
- Pest Control; and
- Shredding.

If an ITB does not meet the agency's needs, the agency must justify the reason why, and may then issue a Request for Proposal.

Request for Proposals

The Request for Proposals (RFP) is to be used by a state agency when the purposes and uses for the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables. Each RFP must include a statement describing the commodities or contractual services sought, the relative importance of price and other evaluation criteria, and consideration of prior relevant experience of the vendor.

If an RFP will not meet the agency's needs, the agency must justify the reason why, and may then issue an Invitation to Negotiate.

Invitation to Negotiate

An Invitation to Negotiate (ITN) is to be used by a state agency to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the agency may negotiate in order to receive the best value. An ITN is helpful where the agency believes that the best value will be obtained by holding discussions with the top respondents, where the agency would benefit from giving respondents the opportunity to improve their initial offers, or where modification of the agency's initial requirements to more closely match the offerings and capabilities of respondents is most advantageous.

Exceptions to Competitive Solicitation

While state agencies are typically required to use competitive solicitation methods for purchases of commodities or contractual services, some purchases are exempt from competitive solicitation. Specifically, Emergency Purchases, Mandatory Exceptional Purchases, and Optional Exceptional Purchases are exempt from competitive solicitation. Each of these categories is explained below:

Emergency Purchases

Emergency situations may arise that pose an immediate danger to the public health, safety, or welfare, or bring substantial loss to the state. In these situations, the Division may sometimes make purchases with minimal competitive solicitation, in compliance with specific requirements provided by Florida Statutes, Florida Administrative Code, and DMS guidance.

Mandatory Exceptional Purchases

Mandatory Exceptional Purchases require state agencies to purchase from specific entities according to specific guidelines. These purchases are exceptions to competitive solicitation and they *must* be used by state agencies, if available, in the order shown below:

Statutorily Mandated Purchases

Florida and federal law sometimes mandates which vendor an agency or state may do business with; or 2) the rate of payment to a specific vendor. In these cases, state agencies must award the contract for commodities or contractual services without competition to the specified vendors or at the rate of payment provided.

RESPECT

The purpose of the Rehabilitative Enterprises, Services, and Products (RESPECT) program is to encourage and assist blind and other severely handicapped individuals by marketing their products suitable for purchase by state agencies. State agencies must purchase commodities and contractual services from RESPECT, if available.¹

PRIDE

The Prison rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) is a nationally recognized inmate training company that develops products for purchase through correctional work programs. Except for purchases from RESPECT, state agencies must purchase commodities from PRIDE, if available.

State Term Contracts

A State Term Contract is an indefinite quantity contract to furnish commodities or contractual services during a defined period that is the result of a competitive solicitation conducted by the Department of Management Services (DMS). State Term Contracts are written between DMS and the specified contractor(s) and contain language that allows state agencies to purchase the defined commodities and contractual services according to pre-negotiated terms.

Except for purchases from RESPECT and PRIDE, state agencies *must* fill procurement needs with commodities and contractual services offered under State Term Contracts, if available.

Optional Exceptional Purchases

Optional Exceptional Purchases are purchases that state agencies *may* make exempt from competitive solicitation, depending on the specific conditions surrounding the particular procurement need. The types of Optional Exceptional Purchases are explained below:

Alternative Contract Source

An Alternative Contract Source is a contract written between a governmental entity and specified contract(s), for the purchase of commodities and contractual services, that includes contract terms that

¹ When a State Term Contract also offers the product or service, the agency can choose to purchase from the State Term Contract or the RESPECT contract, based upon best value to the state.

allow other entities to purchase the defined commodities and contractual services according to the terms established in the contract. Alternative Contract Sources are very similar to State Term Contracts, except that the governmental entity that is a party to the contract is one other than DMS. Therefore, state agencies must request permission from DMS to make Alternative Contract Source purchases.

Discretionary Purchase

Purchases valued at less than \$2,500 are considered to be Discretionary Purchases and shall be carried out using good purchasing practices. Such practices include maintaining written quotations or written records of telephone quotations.

Informal Quotation Purchase

Informal Quotation Purchases meet or exceed \$2,500, but are less than or equal to \$35,000 (the Category Two purchasing threshold amount provided by 287.017, Florida Statutes). Informal Quotation Purchases may be made using written quotations, written records of telephone quotations, or informal bids to be opened upon receipt, whenever practical. If a state agency receives verbal quotations, the name and address of each respondent and the amount quoted shall be a part of the written documentation. If a state agency receives less than two quotations, the written documentation must include a statement as to why additional quotes were not received.

Single Source Purchases

Single Source Purchases may be made when a state agency believes that the needed commodities or contractual services are available only from a single source. To confirm purchases are only available from a single source, the agency must follow multiple steps, including posting a Notice of Intended Decision to Enter into a Single Source Contract to the Vendor Bid System of MyFloridaMarketPlace. Agency staff must also attest in writing that they are independent and have no conflict of interest in the entities selected. Once the agency determines the commodity or service is only available from a single source, the Division must post its decision for at least 72 hours in the Vendor Bid System.

Exempt Commodities and Contractual Services

Florida Statutes and Florida Administrative Code identify a list of commodities and contractual services that are exempt from competitive solicitation.

Findings and Recommendations

The Bureau of Finance generally complied with applicable statutes, policies, procedures, and regulations; however, the following internal control issue was identified during our audit.

MyFloridaMarketPlace Procurement Method Postings

Finding

Section 215.86 F.S., states, *“Each state agency...shall establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; **reliability of records and reports**; and safeguarding of assets.”* The Division uses MyFloridaMarketPlace to support the procurement process. MyFloridaMarketPlace is a source for centralized procurement activities, which helps streamline interactions between vendors and state government entities. MyFloridaMarketPlace benefits the Division by reducing paperwork, improving order processing time, lowering the cost of goods and services, and lowering overhead and processing costs. It also benefits vendors by providing an efficient way of doing business with the State.

OIG staff selected and reviewed a sample of forty-three procurements in MyFloridaMarketPlace to determine if internal controls over the procurement process were complete and effective; and if procurement and contracting activities complied with applicable statutes, policies, procedures, and regulations. For three of the procurements, the procurement method was incorrectly posted in MyFloridaMarketPlace:

- A State Term Contract procurement was incorrectly listed as a Request for Proposal procurement;
- An Exempt Utilities procurement was incorrectly listed as an Informally Quoted Purchase procurement; and
- A State Term Contract procurement was incorrectly listed as a Purchase Under \$2,500 procurement.

Recommendation

We recommend the Bureau of Finance review its process for entering information into the MyFloridaMarketPlace to identify measures to ensure that correct information, including procurement method, is entered into MyFloridaMarketPlace.

Management Response

Procurement and Finance staff have reviewed the process for entering information into MyFloridaMarketPlace and implemented corrective actions including a requisition tracking log to record the details of each purchase requisition. The first approver in MyFloridaMarketPlace will compare the requisition tracking log to the purchase requisition to verify that procurement information, including the procurement method, is accurately entered into MyFloridaMarketPlace.

Process Improvement

Rule 60A-1.002(5) F.A.C., states, *“When determining the amount or amounts of purchases for applying the threshold categories, agencies shall follow the definitions, classes, and groups of commodities or contractual services established by the Department. Acquisitions shall be reviewed and considered on an agency-wide basis ...”*

During the course of the audit we were made aware of a process improvement the Bureau of Finance has initiated. The Bureau of Finance is developing a protocol for procurements over Category Two (\$35,000) that will require Division bureaus, legal, Deputy Director and Bureau of Finance to meet to discuss the proper type of procurement to be used, purpose of the procurement, scope of work, and deliverables. For procurements over \$35,000, this meeting would improve Division communication; more efficiently initiate the procurements, and help ensure that the procurements are conducted in accordance with applicable statutes, rules and other guidance.

ATTACHMENT 1 - Objectives, Scope and Methodology

Section 20.055, Florida Statutes, requires the Office of Inspector General to conduct audits, investigations and management reviews related to programs and operations of the state agency. This examination was performed as part of the Office of Inspector General's responsibility to promote accountability, integrity and efficiency in government.

The objectives of this audit were to determine if:

- Internal controls over the procurement process are complete and effective; and
- Procurement and contracting activities complied with applicable statutes, policies, procedures, and regulations.

The scope of this audit included the Division's procurement activities related to the Public Assistance Program, the Homeland Security Grant Program, and the Hazard Mitigation Grants Program for the period of June 1, 2013, through February 28, 2015.

Our methodology included:

- Reviewing applicable policies, procedures, laws and regulations;
- Reviewing prior audits and reports;
- Reviewing the Divisions procurement process;
- Reviewing individual procurements for applicable policies, procedures, laws and regulations;
- Reviewing funding sources to identify allowable costs; and
- Interviewing appropriate Division staff.

ATTACHMENT 2 - Audit Team and Statement of Accordance

Engagement Team

Pace Callaway, Auditor
Ronnie Atkins, CPA, CIA, CMA, CIG, Deputy Inspector General

Statement of Accordance

To promote accountability, integrity, and efficiency in government, the Division of Emergency Management's Office of Inspector General audits the Division of Emergency Management's programs, activities, and functions.

This audit engagement was conducted in accordance with applicable *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors and *Principles and Standards for Offices of Inspectors General* published by the Association of Inspectors General.

ATTACHMENT 3 - Addressee and Distribution List

Bryan Koon, Director

Copies distributed to:

Jonathan Lord, Deputy Director

Phyllis Vaughn, Fiscal Administrator

Susanne McDaniel, Senior Management Analyst II

Tara Walters, Community Program Manager

Melinda M. Miguel, Chief Inspector General

Sherrill F. Norman, Auditor General