



AUDITOR GENERAL

WILLIAM O. MONROE, CPA



DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

CONTRACT MANAGEMENT

Operational Audit

SUMMARY

This operational audit, for the period July 2003 through February 2005, focused on Department procedures and practices for selecting contractors and administering contracted projects. In general, the Department effectively managed the contracts tested; however, some improvements can be made.

Finding No. 1: The Department did not require individuals taking part in the contractor selection process to attest in writing as to their independence and impartiality with respect to the entities evaluated and selected.

Finding No. 2: The Department had not implemented policies and procedures containing comprehensive guidance relative to the monitoring of contractor performance.

BACKGROUND

The Department of Agriculture and Consumer Services is responsible for:

- Ensuring the safety and quality of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;
- Assisting Florida’s farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the State’s agricultural and natural resources by reducing wildfires, promoting environmentally safe

agricultural practices, and managing public lands.

In the conduct of Department business, the Department contracts for the purchase of various goods and services. During the period July 2003 through January 2005, according to information in the Department’s contract system, the Department entered into contracts obligating the Department for a total of approximately \$53 million, exclusive of Federally-funded projects.¹

We reviewed 30 contracts for the purchase of goods and services, which included 10 single source purchases, 15 competitive purchases, and 5 emergency procurement contracts. The dollar value of Department obligations associated with these contracts totaled approximately \$14.5 million, and examples of the related purchases included supplies, maintenance and repair services, construction services, hazardous waste disposal services, and computer software.

Our audit disclosed that, in general, the Department effectively managed the contracts tested. However, there are actions that Department management could take to demonstrate and document that contractors are selected in an impartial manner and that contractors adhere to the provisions of the contracts.

¹ As indicated under the heading OBJECTIVES, SCOPE, AND METHODOLOGY, the scope of this audit did not include Federally-funded contracts. Those contracts are subject to examination as part of our Statewide audit of Federal programs.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Independence Attestations

For procurements in excess of \$25,000 accomplished without competition, Section 287.057(20), Florida Statutes, requires that individuals taking part in the contractor selection process attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected. The contractor selection process consists of the development or selection of criteria for evaluation, the evaluation process, and the award process.

As part of our audit, we examined Department procurement procedures and the files of ten single source contracts (contracts awarded without competition). We determined that Department procedures regarding outside employment and other activities require employees to become familiar with and clearly understand the Department’s Administrative Policies and Procedures No. 1-1, Conflicts of Interest, and to sign an annual statement indicating that they are or are not currently engaged in outside employment. However, the Department had not adopted procedures requiring written attestations of independence and, contrary to Section 287.057(20), Florida Statutes, written attestations of independence were not on file for any of the individuals involved in the selection process for the ten single source contracts. The value of these ten contracts totaled \$589,064 and ranged from \$30,000 to \$176,000. Goods and services purchased pursuant to these contracts included machine maintenance, marketing, software, and research.

Similarly, the Department does not require written attestations of independence from individuals involved in selecting contractors through competitive means. While Florida law does not require written attestations of independence under such circumstances, good business practices suggest the execution of the attestations.

Documentation of the independence and impartiality of individuals involved in selecting procurement sources helps ensure, in fact and appearance, a fair and open procurement process.

Recommendation: We recommend that the Department adopt procedures requiring that, for contracts valued in excess of \$25,000, all staff involved in the contractor selection process attest in writing as to their independence and impartiality. We also recommend that the Legislature amend Section 287.057(20), Florida Statutes, to require, for competitive procurements, the execution of written affirmations of independence.

Finding No. 2: Contract Monitoring

Contract monitoring helps provide qualitative observations and data on how well services are being provided and whether desired service outcomes are being achieved. Additionally, contract monitoring provides a basis for identifying performance problems as early as possible so that corrective action may be taken timely.

To ensure that contract monitoring is conducted in a comprehensive and consistent manner, it is essential that written policies, procedures, and standards be developed and communicated to contract managers. The procedures should include provisions specifying the particular procedures that may be used to evaluate contractor performance and the documentation that is to be maintained to serve as a record of contractor performance and Department monitoring efforts.

Although the Department has adopted monitoring policies and procedures, those policies and procedures are general in nature and address primarily the assignment of monitoring responsibility to contract managers and the applicable contract manager’s responsibility for approving contract invoices and maintaining documentation relating to the procurement process. The effectiveness of the monitoring procedures, and the resulting monitoring efforts, would be improved by expanding the

procedures so that they require each contract manager to:

- Develop checklists or reports to document, as appropriate, on-site visits to contractors, evaluation of contract deliverables, and evaluation of the satisfaction of other contract terms, such as those relating to contractor reporting, performance metrics, and audits.
- Maintain documentation relative to monitoring efforts.
- Follow up to ensure that all material contractor performance issues are timely resolved.

Without more specific monitoring policies and procedures, the Department lacks reasonable assurance that monitoring efforts are documented and that these efforts will be sufficiently rigorous to detect contractor performance issues. Absent timely detection of such issues, the Department may forgo the opportunity to effectively correct problems related to billing, payment, or contractor performance. Our audit tests did disclose that monitoring efforts relative to some contracts were documented and were sufficiently rigorous. However, in many other instances, there was no evidence of contract monitoring, other than the contract manager’s approval of contractor invoices.

In a report dated November 1, 2004, the Department’s Inspector General also identified a need for improvement in the Department’s documentation of contract monitoring. Department personnel indicated to us that they are developing more detailed and comprehensive policies and procedures for contract monitoring.

Recommendation: We recommend that the Department complete and implement appropriate contract monitoring procedures.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives of the audit were:

- To evaluate the efficiency and effectiveness of Department procedures relating to contractor selection and contract management.
- To evaluate the extent to which the Department complied with significant laws governing State contracting.

The scope of this audit focused on contracting procedures in effect during the period July 2003 through February 2005. The scope of this audit did not include Federally-funded contracts.

In conducting our audit, we interviewed Department personnel, observed selected operations, tested selected Department contract records and controls, and completed various other analyses.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

William O. Monroe
 William O. Monroe, CPA
 Auditor General

AUDITEE RESPONSE

In a letter dated September 9, 2005, the Commissioner provided responses to our preliminary and tentative findings. The letter is included in its entirety at the end of this report as Exhibit A.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Governmental Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Yueh-Lin Sullivan, CPA, and supervised by Don Reeder, Jr., CPA. Please address inquiries regarding this report to Don Hancock, CPA, Audit Manager, via email at donhancock@aud.state.fl.us or by telephone at (850) 487-9037.

This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

EXHIBIT A
AUDITEE RESPONSE



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
The Capitol • Tallahassee, FL 32399-0800

September 9, 2005

Please Respond to

William O. Monroe, CPA
Auditor General
111 West Madison Street
Claude Pepper Building, G-74D
Tallahassee, Florida 32399

Dear Mr. Monroe:

The following comments are provided in response to the preliminary and tentative findings and recommendations in your audit of "Contract Management" in the Department of Agriculture and Consumer Services.

Thank you for acknowledging the effective management of contracts in the Department of Agriculture and Consumer Services. The Department continues to strive for excellence in both program and administrative responsibilities. We believe that our contract management processes are in accordance with essential "Best Management Practices" at this time.

Administration management has been very proactive in improving the guidance provided to contract managers since the Internal Audit in November 2004. Our improvements have focused on two key areas: (1) comprehensive "desk-top reference" procedures; and (2) training. A "Contract Management Manual" was developed and distributed in May 2005 identifying detailed procedures to be used as guidance in managing and documenting contracts. Contract management training by the Department of Financial Management Services has been recommended to contract managers and sponsored in-house by the Department. Department personnel are also providing a "Grant Writing Training" program that incorporates contract management and documentation information.

In addition, the Department implemented independence attestation forms for single source acquisitions in March 2005 and will have a similar form for competitive acquisitions by October 2005.

I appreciate the interest and efforts of your staff and the professionalism they exhibited in helping to improve operations of state government.

Sincerely,

Handwritten signature of Charles H. Bronson in black ink.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

CHB/gb



Florida Agriculture and Forest Products
\$62 Billion for Florida's Economy