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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 13, 2009

Ms. Catherine Durand
Deputy Chief Information Officer
Office for Technology
Swan Street Building
Core 4, 5th Floor
Empire State Plaza
Albany, NY 12223

Re: OFT Procurements

Dear Ms. Durand:

We examined the 9 "T" contracts the Office for Technology (OFT) used to procure services valued at $386,747 during calendar year 2008.[1] The objective of our examination was to determine if OFT procured services in accordance with State Finance Law (Law) and the State Procurement Guidelines (Guidelines).

A. Background and Methodology

"T" contracts are used by agencies to procure services that have multiple payments and do not require the Comptroller's approval. The contract amounts are below the Comptroller's approval threshold. Like any other procurement, however, the Law and Guidelines must be followed.

The State procurement process should facilitate each agency's mission while protecting the interests of the State and promoting fairness in contracting with the business community. Section 163 of the Law and the Guidelines outline the State's procurement process for goods and services.

To accomplish our objective, we obtained and reviewed documents contained in the procurement record and discussed the contract process with OFT Finance Office representatives. In addition, OFT's Finance Office staff reviewed the procurement records for the 9 contracts to identify if any of the required procurement record documents were missing.

[1]We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

B. Results of Examination

OFT did not adequately conduct its procurement process in accordance with the Law and Guidelines for 8 of the 9 procurements examined. The circumstances surrounding OFT's procurement of services leaves OFT open to criticism for not ensuring fair and open competition.

The Law and Guidelines detail that the procurement process should ensure: goods and services acquired meet the agencies' need; the selection of each vendor is documented and justified; the reasonableness of price is documented and justified; and that the State buys from responsible vendors. The Guidelines also require agencies to maintain a Procurement Record (Record) for each acquisition. The Record formalizes and documents the procurement process including documenting decisions on the reasonableness of price, and proof the procurement was properly advertised in the New York State Contract Reporter.

We found OFT did not have complete procurement records containing information necessary to support the procurement process for 8 of the 9 procurements under review. Items missing from the record include: 5 statements of need and the services that will fill that need; 5 justifications for selection of the vendor; 4 justifications for the reasonableness of price; 8 Contract Reporter advertisement; and 5 evaluations of vendor responsiveness and responsibility. **See Attachment A.**

OFT officials attributed the incomplete procurement records to outdated policies and procedures. They also indicated that key procurement staff left OFT employment during calendar year 2008 – the period of our examination. However, we reviewed OFT procurement policies and procedures and found OFT did include Procurement Guideline requirements. We also reviewed OFT employment histories and found OFT's current Purchasing Agent, an employee directly involved in the procurement process, has been in the same procurement role since September 2006. The majority of the purchase requests showed the Purchasing Agent signed them indicating Purchasing Office control over the contracts.

In one example, we found the procurement process for a contract (contract number T000242 for technical writing) suggests favoritism. Initially, OFT valued the contract at $49,950, which is just below the Comptroller's Office threshold for approving a contract. Additionally, OFT did not advertise the procurement in the Contract Reporter as required by Law. While OFT awarded this contract to an individual from Florida, OFT officials involved in the procurement were unsure how they identified him as a technical writer. Further, the OFT program person dated the Purchase Requisition the day after the vendor signed the contract (i.e., September 25, 2008 and September 24, 2008, respectively). According to OFT's procurement procedures, the program is

to submit the Purchase Requisition prior to OFT obtaining proposals, selecting a vendor and awarding the contract.

Recommendation

Ensure the procurement process is followed and documented in the procurement records consistent with the Law and Guidelines.

We would appreciate your response to this report by September 14, 2009, indicating any actions planned to address the recommendations in this report. We thank the management and staff of the Office for Technology for the courtesies and cooperation extended to our auditors.

Sincerely,

Patrick D. Hall
Audit Supervisor

cc: Kevin Nephew

Attachment A
Procurement Record Documents
January 1, 2008 through December 31, 2008

Contract Number	Vendor	Contract Amount	Statement of Need	Justification of Vendor Selection	Reasonableness of Price	Contract Reporter Ad	Documentation that Vendor is Responsive and Responsible
T000214	Software Solutions	$49,999	Yes	Yes	Yes	**No**	Yes
T000216	CGI Technologies	$49,200	**No**	**No**	**No**	**No**	**No**
T000229	CMA Consulting	$49,000	Yes	Yes	Yes	**No**	Yes
T000231	New Concepts Consulting	$49,999	**No**	**No**	**No**	**No**	**No**
T000234	Microknowledge	$40,000	**No**	**No**	**No**	**No**	**No**
T000235	Ajilon	$38,880	Yes	Yes	Yes	**No**	Yes
T000239	Contingency Alternatives	$49,999	**No**	**No**	**No**	**No**	**No**
T000242	Damien L. Sharp	$49,950	**No**	**No**	Yes	**No**	**No**
Total		**$377,027**	**5**	**5**	**4**	**8**	**5**

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MELODIE MAYBERRY-STEWART, Ph.D.
CHIEF INFORMATION OFFICER
DIRECTOR OF OFFICE FOR TECHNOLOGY

September 14, 2009

State of New York
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Hall;

We appreciate your review of the "T" contracts for the Chief Information Officer/Office for Technology (CIO/OFT) during calendar year 2008 and are providing responses to your findings. In response to your recommendation to 'Ensure the procurement process is followed and documented in the procurement records consistent with the Laws and Guidelines', we have begun to undertake the following steps:

- Increased training of purchasing staff in discretionary purchase opportunities with OSC and OGS;
- Increased program understanding of purchasing procedures from submittal of purchase requisition until issuance of formal purchasing award to promote fairness in contracting with the business community and protecting the best interests of the State.

We would like to clarify that CIO/OFT Finance managers did not indicate that any processing errors were a result of outdated procedures. Managers did acknowledge that procedures were not consistently followed. As a result the increased training planned will incorporate compliance with both CIO/OFT purchasing procedures and State purchasing guidelines.

A number of the errors during the purchasing process were a result of staff turnover during this time. As indicated in your letter the same purchasing agent was involved throughout the purchasing process, however, this individual reported to the director of purchasing who was responsible to ensure adherence to procurement procedures. The director of purchasing position turned over during this period and was vacant for part of the year. To address the errors and lack of adherence to our procurement procedures we are taking the following improvement steps:

- Review of Finance Service procedures with purchasing staff;
- Increased review of future "T" contracts within the purchasing area to ensure that the procurement process is followed and documented in procurement record;

- Recruitment of seasoned purchasing staff to assist in review. Currently, Finance Services remains under targeted fill levels due to budget constraints. However, fill target relief has been obtained and Finance Services managers are looking to recruit more experienced purchasing staff to provide training opportunities.

Finally when the discretionary threshold was changed from $15,000 to $50,000, effective April 10, 2006 and covered under OSC bulletin g-225, there was confusion among our staff as to whether the advertising requirements for the Contract Reporter also changed to the$50,000 limit. We believe the failure to advertise in the Contract Reporter may have been attributable to certain staff misunderstanding that the advertising threshold was not raised to $50,000 commensurate with the discretionary purchase threshold. We have reinforced with staff that the Contract Reporter advertising threshold remains at $15,000.

As described above, we have taken a number of steps to address your recommendation. If you have any questions please feel free to contact me.

Sincerely,

Catherine Durand
Deputy CIO for Shared Services