



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 1, 2009

Ms. Denise E. O'Donnell
Commissioner
NYS Division of Criminal Justice Services
4 Tower Place
Stuyvesant Plaza
Albany, NY 12203

Re: 2008-BSE-15-002

Dear Commissioner O'Donnell:

We examined¹ payments the Division of Criminal Justice Services (Division) made to Sagem Morpho (Morpho) for maintenance of the Statewide Automated Fingerprint Identification System (SAFIS) under contract C002047 for the period April 1, 2007 through March 31, 2008. Our objectives were to determine whether the Division (i) paid Morpho only for those services covered under the contract, (ii) can save money under a future maintenance contract, and (iii) received the maintenance services as specified in the contract.

We provided a draft copy of this report to the Division for review and comment. We considered the comments in preparing this report and have included them as Attachment A.

A. Background and Methodology

The Division's Office of Criminal Justice Operations receives, processes, and identifies criminal, civil and crime scene fingerprints against more than 40 million fingerprint images in SAFIS for law enforcement agencies, district attorney offices and to courts for use in arraignment and bail determinations and other authorized agencies for employment background checks. The Division purchased SAFIS in 1988. Because the software is proprietary, the Division relies on Morpho to maintain SAFIS in optimal operating condition.

The Division paid Morpho \$22.8 million over the life of the ten-year maintenance contract, which expired in March 2009. During the examination period, the Division paid Morpho almost

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.

\$2.9 million for a site license on certain equipment, preventive and remedial maintenance and replacement parts.

To accomplish our objectives, we examined the purchase and maintenance contracts' terms and conditions, vouchers, and supporting documentation for SAFIS maintenance. We analyzed data regarding Morpho's cost to deliver parts and services under the contract and provided this information to the Division. In addition, we interviewed Division and Morpho managers and staff.

B. Results of Examination

We found the Division (i) paid Morpho at least \$546,360 for a test bed site license not included in the contract, (ii) may be able to obtain maintenance at a lower price under the new contract, and (iii) did not have clearly defined, comprehensive preventive maintenance requirements for SAFIS as a whole, but received the defined hardware preventive maintenance for a part of SAFIS.

Site License

Over the life of the contract, Morpho maintained and upgraded SAFIS. Morpho tested changes to the system on a scaled-down version of SAFIS (test equipment) that the Division purchased. Using this test equipment allowed Morpho to test the changes prior to implementation to minimize SAFIS disruptions and downtime.

Under its original purchase contract (C000659), the Division paid Morpho a fee to license the software for this test equipment. In the most recent purchase (C002060) and maintenance (C002047) contract, there is no provision for Morpho to continue to charge the Division for this fee. In addition, a Morpho Account Executive could not provide any documentation to support that it could continue to charge the Division for this site license. As a result, Morpho has not had the authority to charge the Division for this site license since September 30, 2001, when contract C000659 expired.

Since October 2001, Division managers did not identify that the Morpho invoices continued to include this charge. During fiscal year 2007-08, the Division paid Morpho \$82,027 for this fee. Since October 2001, we estimate the Division paid Morpho at least \$546,360 for this site license. Division managers agreed with our finding and have begun efforts to recover the actual amount paid to Morpho for this site license.

Future Maintenance Contract

Over the course of our examination, we found that Morpho has decreased its cost of providing maintenance on SAFIS by reducing the number of personnel providing maintenance and by no longer providing routine software upgrades. We also found that Division managers have decided to limit their requests for specific maintenance services to only those services critical to the efficient and effective operation of SAFIS. However, the Division continued to pay the fixed rate established under the contract even though Morpho provided less service.

We analyzed the price the Division paid Morpho during fiscal year 2007-08 to identify cost saving opportunities given the above changes. We estimate the Division can save up to \$765,000 annually under a new maintenance contract with Morpho by negotiating a contract with performance standards more reflective of actual need and paying Morpho a reasonable price based on the quantity and quality of resources provided.

Division managers also recognized the significant savings that could be realized and have used our information to help negotiate an interim contract with Morpho to provide SAFIS maintenance beginning in April 2009. Under this contract, Division managers expect to save \$600,000 for each of the next two years.

Preventive Maintenance

The maintenance contract required Morpho to perform preventive maintenance according to its maintenance manual. We found that neither Morpho nor the Division had a manual. The Division and Morpho had several documents that described the preventive maintenance requirements for hardware and software on a variety of SAFIS components. However, there was not a comprehensive document that fully defined the preventive maintenance expectations for SAFIS.

The contract also required the Division to maintain a log of all preventive maintenance performed. We found that the Division did not maintain such log. It did have weekly reports of many tasks Morpho performed, but this report did not include all preventive maintenance activities.

We recommend the Division maintain a comprehensive maintenance manual and logs to record the work actually taking place. Division managers agreed with our finding and have implemented the use of a log to record preventive and remedial maintenance. Division managers are also working with Morpho to develop a preventive maintenance manual.

Recommendations

1. *Determine and recover the actual amount paid to Morpho for the non-contract site license fees paid since October 1, 2001.*
2. *Finalize an interim contract with Morpho that will provide for the efficient and effective operation of SAFIS based on the Division's needs at a reasonable price considering the quantity and quality of resources Morpho provides.*
3. *Maintain a comprehensive maintenance manual and record actual maintenance performed in logs.*

We thank the management and staff of the Division for the courtesies and cooperation extended to our auditors.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

cc: R. Wright



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May 27, 2009

Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
110 State Street
Albany, NY 12206

Dear Mr. McHugh:

Thank you for the opportunity to respond to Draft Report # 2008-BSE-15-002 covering the Office of the State Comptroller's (OSC) examination of payments to Sagem Morpho (Morpho) under contract C002047 for the period April 1, 2007 through March 3, 2008. These payments were made by the Division of Criminal Justice Services, to Morpho, for maintenance of the Statewide Automated Fingerprint Identification System (SAFIS).

In 2007, the Division acknowledged the need to replace the outdated SAFIS system and has implemented a plan to procure a new system. In addition, with the current Morpho Maintenance Agreement due to expire in September 2009, the Division acknowledged the need to negotiate a new maintenance agreement with Morpho. A decision was made early on to negotiate a maintenance agreement that would ensure the uninterrupted operation of SAFIS.

The findings and recommendations included in the OSC Draft Report proved valuable in the final negotiation of the new maintenance agreement. Based upon the information provided to us, the Division negotiated a new maintenance agreement with Morpho that will provide for the continued operation of SAFIS. The information provided to the Division also will be relied upon in DCJS' attempt to recover fees paid for the non-contract site license since 2001.

Detailed below is our response to the recommendations contained in your Draft Report. For ease of review, we have listed OSC's recommendation followed by the Division's response.

Recommendation 1

Determine and recover the actual amount paid to Morpho for the non-contract site license fees paid since October 2001.

The Division concurs with this recommendation and has begun efforts to recover the actual amount paid to Morpho for the non-contract site license fees paid since October 2001. The Division will pursue all avenues deemed necessary to recover these fees.

Recommendation 2

Continue to negotiate an interim contract with Morpho that will provide for the efficient and effective operation of SAFIS based on the Division's needs at a reasonable price considering the quantity and quality of resources Morpho provides.

The Division concurs with this recommendation and based upon the information provided has reached an agreement with Morpho. The new two year agreement provides for break/fix services for \$600,000 per year less than prior year payments to Morpho.

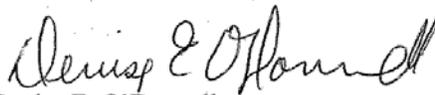
Recommendation 3

Maintain a comprehensive maintenance manual and record actual maintenance performed in the logs.

The Division concurs with this recommendation and is pleased to report that the unit responsible for oversight of the Morpho maintenance agreement has already implemented the use of a log to record preventive maintenance and remedial maintenance. In addition, the Division will begin working with Morpho to develop a preventive maintenance manual.

Again, thank you for the opportunity to respond to the findings and recommendations detailed in the Draft Audit Report. Please contact Bob Wright at 485-5759 with any questions you have concerning this matter.

Very truly yours,


Denise E. O'Donnell

Cc: S. Byrne
A. Roest
D. Capone
B. Wright