

OVERVIEW

Audit of Selected State Agencies' Procurement of Professional Services Contracts

Report No. 05-05, May 2005

Summary

This audit was initiated to assess compliance with the Hawai'i Public Procurement Code and to assess management controls and oversight concerning the procurement of professional services. Specifically, the audit focused on contracts subject to Act 52 of the 2003 Regular Session. Act 52 amended Section 103D-304, Hawai'i Revised Statutes, to allow for independent, impartial, and qualified committees to review and select the most qualified professional service contractors based on published criteria. The audit concentrated on the Departments of Accounting and General Services, Human Services, and Transportation.

We found that the State Procurement Office's lax oversight has contributed to the difficulty all three agencies have experienced with procuring professional services. Although required by law to do so, the State Procurement Office has failed to periodically review the procurement practices of all government bodies. The State Procurement Office has also failed to maintain a procurement manual, as required by statute, that clarifies the laws and administrative rules and provides useful information to individuals responsible for procuring professional services.

In all three audited agencies, we found lack of a common understanding of the process for procuring professional services. All three agencies appeared to have little, if any, oversight or review of the processes they used. Additionally, the agencies lacked documentation to demonstrate the impartiality, independence, and qualifications of the committee members responsible for reviewing and selecting contractors, which clearly disregards the Legislature's changes to the Procurement Code with the passage of Act 52.

More seriously, we found untimely, and at times, questionable professional services procurement practices occurring within the audited agencies. We found contracts that strongly suggest work began prior to contract execution and contracts that were executed without a clearly defined scope of services and fee compensation. We also found different applications of the annual notice requirement and project-specific notices published for reasons other than those allowed by statute. Some of the audited agencies used selection criteria that are not included in the statute and used methods of evaluating submittals including a *consensus* process that appeared subjective. These procurement practices are inefficient and increase the State's liability.

Practices in the Med-QUEST Division of the Department of Human Services have raised the issue of improper employer-employee relationships and issues of conflicts of interest regarding statements of impartiality and independence.

Section 103D-304(i), Hawai'i Revised Statutes, requires professional services contracts for \$5,000 or more to be posted electronically within seven days of the



contract award. However, 49 percent of the contracts we reviewed were not posted within the first 30 days of contract award. Some postings ranged from 94 to 222 calendar days after contract award. Because electronic posting is the main venue for disseminating information regarding the selection process and triggering the time for unsuccessful contractors to request debriefing or to file any protests, the late postings are troubling.

Although mandated by law, the State Procurement Office has failed to provide procurement training to state agencies. Since November 2000, 12 training sessions were conducted for state agencies and only three of these were initiated by the State Procurement Office. Our audit also revealed that very little training is formally provided by the departments nor is formal training requested from the State Procurement Office. We also noted that state agencies must also shoulder the responsibility of providing their staff with appropriate procurement training to enable them to comply with the Procurement Code.

Recommendations

We recommended that State Procurement Office take a proactive role in ensuring that agencies process contracts more efficiently and post awards in a timely manner. We also recommended that the State Procurement Office comply with its statutory responsibilities to develop and administer a statewide training program, maintain and distribute a procurement manual, and periodically review the procurement practices of all government bodies.

We recommended that agencies develop, implement, and enforce clearly defined written policies and procedures, and require documentation to support the impartiality and independence of review and selection committee members, as well as individuals authorized to negotiate fees. We also recommended that agencies increase training for employees who procure professional services and request training from the State Procurement Office for the agencies' employees.

Our final recommendation was that the Department of Human Services, Med-QUEST Division, review and make appropriate changes to the status of the medical director and consultants of the Medical Standards Branch.

All three of the audited agencies and the State Procurement Office generally agreed with our recommendations. The Department of Transportation responded that it acknowledges the concerns noted in the draft report and will work with the State Procurement Office to address our concerns. The Department of Human Services welcomed our recommendations and commented that they serve to improve the contracting processes. The Department of Accounting and General Services replied that our report provides an independent evaluation of its policies and procedures and clearly points out the improvements that it needs to pursue. We made some technical revisions that do not affect the substance of the report.

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