



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

June 22, 2015

Mr. Ken Lawson, Secretary
Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-2202

Dear Secretary Lawson:

The Bureau of Auditing (Bureau) performs audits in accordance with section 17.03, Florida Statutes (F.S.). This statute relates to the Chief Financial Officer's (CFO) responsibilities to settle the claims of the state using various methods. The Bureau also audits pursuant to the requirements of section 215.971, F.S., for grant agreements funded with Federal and State monies. Audits on contractual services agreements are audited pursuant to sections 287.057 and 287.058(1), F.S. The CFO also issues memorandums that provide additional audit requirements.

The Bureau audits contracts and grants to determine whether:

- the agreement clearly establishes the tasks to be performed by the provider (has a clearly defined scope of work)
- the agreement defines quantifiable, measurable, and verifiable units of deliverables that must be received and accepted before payment is made
- the agreement specifies the financial consequences that the agency must apply if the provider fails to perform in accordance with the contract
- the agreement contains provisions of §287.058, F.S.
- the manager provided written certification for the receipt of goods and services.

Because many of the deficiencies in agency contract and grant agreements stem from poor contract management and a lack of effective monitoring, the Bureau visits agencies and reviews contracts, along with the contract manager's files. In addition to reviewing the contract document, the Bureau evaluates the contract management function to determine if the agency is monitoring the contractor's performance and validating the actual delivery of goods and services. These audits result in written reports to the agency, with the agency providing a corrective action plan to address any deficiencies noted during the review. To date, 30 have been completed and

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the results are available on the Bureau website
http://www.myfloridacfo.com/aadir/auditing_activity.htm.

We have concluded our audit of selected Department of Business and Professional Regulation (Department) grants and contracts active July 1, 2013 through June 30, 2014, and related management activities. Our audit focused on compliance with the following statutory requirements:

- Contract/grant agreements must contain a clear scope of work.
- Contract/grant agreements must contain deliverables that are quantifiable, measurable, verifiable and directly related to the scope of work.
- Contract/grant agreements must contain financial consequences that an agency must apply if the provider fails to perform in accordance with the agreement.
- Contract/grant agreements contain all other provisions of §287.057, F.S. and 69I, Florida Administrative Code.
- Contract/grant managers must complete training as required by statute.
- Contract/grant managers must enforce performance of the agreement terms and conditions; review and document all deliverables for which payment is requested by service providers; and provide written certification of the Department's receipt of goods and services.

A total of 10 agreements, totaling \$7,914,422, were selected for audit. Of those selected, we reviewed seven (7) agreements to determine if required contract provisions were included. Additionally, we reviewed the contract management files for all 10 agreements.

There were areas where improvements can be made. A summary of our review is included as Attachment A.

Scope of Work and Deliverables

Each service contract and grant agreement must contain a clear scope of work, deliverables directly related to the scope of work, minimum required levels of service, criteria to successfully evaluate satisfactory performance, and compensation for each deliverable. This structure is very important for payment processing; without it, the Department cannot gauge whether the State is receiving value and payments may be delayed by requests for additional documentation. In some cases, if any of these elements are missing, the only mechanism to provide payment to vendors may be through executed settlement agreements.

- The **Florida Association of Broadcasters (FAB)** was to provide public service announcements (PSA) designed to increase public awareness of the dangers of hiring unlicensed individuals. The agreement required the provider to air a total of 12 PSAs

in two (2) languages on television and on the radio from May 1, 2014 to June 30, 2014. The agreement did not establish time-of-day priorities for airing the announcements.

- The agreement with **Galen W. Dunton** to provide professional opinions, evaluations and testimony at the request of the Department does not specify the minimum level of service to be performed prior to payment. The provider is paid a fixed monthly rate of \$5,000, regardless of the duties assigned or hours worked.

Financial Consequences

Effective July 1, 2010, service contracts are required to contain provisions for financial consequences an agency *must* apply if a provider fails to perform in accordance with a contract. One (1) agreement did not contain financial consequences for nonperformance or noncompliance. Specifically, we noted the following:

- The agreement with **Galen W. Dunton** does not provide a provision for financial consequences that must be applied. The agreement gives the Department the option to withdraw requests for services if the provider fails to provide a written response within a specified timeframe and, in turn, the provider would not receive compensation for time spent prior to termination. Since the provider is not paid an hourly rate for time spent on assigned duties, there would be no basis for calculating an amount for financial consequences.

Contract/Grant Management

Contract and grant managers must enforce performance of the contract terms and conditions, review and document all deliverables for which payment is requested and provide written certification of the Department's receipt of goods and services and ensure all payment requests are certified.

Our audit disclosed that the Department had Contract/Grant management deficiencies with six (6) agreements. Specifically, the following was noted:

- The Department did not verify the receipt of deliverables prior to certifying the payment for \$100,000 to **Florida Association of Broadcasters** for airing 12 public service announcements (PSA). The agreement required the provider to submit a report documenting the airtime of 12 PSA's in two (2) languages on television and radio prior to payment. The Department approved payment three (3) months prior to receipt of the report. Upon receipt of the report, there was no indication that the PSA's were aired in both languages as required by the agreement.

- The Department did not verify performance measures were met prior to certifying payment for two (2) agreements.
 - **Florida State University (FSU)** is to facilitate the Florida Building Commission and other specified committee meetings according to their 3-year agreement totaling \$255,497. FSU is to submit meeting summary reports within the timeframe specified after the conclusion of each meeting. At the time of our review, the Department's contract management file did not document the receipt of the summary reports necessary for the contract manager to evaluate performance prior to certifying payment. Instead, the reports were being submitted to the program managers. Upon our inquiry, the Department's contract manager stated that the receipt of summary reports had not been monitored for timeliness. As of the date of the audit, the Department has paid \$90,902 to FSU.
 - The 5-year agreement with **Spectra Systems Corporation**, totaling \$1,482,380, is for annual support and maintenance of the Race Monitoring System (RMS). The agreement requires the availability of RMS 99% of the time, with the exclusion of scheduled maintenance. The Department did not verify that performance measures were met prior to certifying payment. The Department's IT section monitors system availability; however, there was no evidence in the contract management file that the results of the monitoring are communicated to the contract manager. Without this knowledge, the contract manager cannot evaluate the provider's performance as established in the agreement.
- **International Code Council, Inc. (ICC)** is to schedule and administer exams to eligible candidates when notified by the Department. The agreement establishes monthly compensation as a fixed unit price for each exam administered to an eligible candidate and for each exam where the eligible candidate did not show up to take the exam at the time scheduled. The provider submits a monthly report along with the invoice. The Department only verifies the candidates scheduled and/or tested are eligible to take the test; the Department does not verify the test was administered prior to payment. The renewed three year **ICC** agreement is valued at \$620,000.
- The Department could not provide documentation required by the agreement with the **Presidio Corporation**. The agreement requires the provider to submit a project timesheet to evidence the "... number of hours completed and projects worked on during a reporting period." The project timesheets are to be signed by the employee and approved by the employee's supervisor and the Department's IT Business

Consultant Manager over Support and Infrastructure. The contract management file did not provide evidence of the required signatures on the project timesheets prior to approving payment.

Section 287.057(14) F.S., require that each contract manager who is responsible for agreements in excess of the threshold amount for CATEGORY TWO under section 287.017, F.S., must, at a minimum, complete training conducted by the Chief Financial Officer for accountability in contracts and grant management.

- The Contract Managers for the agreements with **Florida Association of Broadcasters (FAB)** and **TS Staffing Services, Inc.** had not attended Advancing Accountability training within the timeframe required by CFO memoranda.

Pursuant to section 287.057(14), F.S., the Department's contract manager for **FAB** would now be required to complete the Florida Certified Contract Manager training that incorporates material from Advancing Accountability, since the value of the agreement exceeds \$100,000 annually.

Cost Analysis

State agencies are required to maintain records to support a cost analysis, which includes a detailed budget submitted by the person or entity awarded funding and the agency's documented review of the individual cost elements from the submitted budget for allowability, reasonableness and necessity. This includes any agreements executed on or after July 1, 2010, which were awarded on a noncompetitive basis.

- The Department did not provide documented evidence that a cost analysis was performed prior to the execution of the agreements with **Florida Association of Broadcasters** and **Galen W. Dunton**.

Please provide the Department's corrective action plan which addresses how these deficiencies will be corrected for future contracts. This plan should include steps the Department will take to provide a system of quality control, including training, periodic management review, and feedback to Department staff that develop and manage contracts and grants. We request that the plan be submitted within 30 days of receipt of this letter.

Our office provides Contract Manager Training that would be beneficial to your staff. Additional information on these classes is available at <http://www.myfloridacfo.com/aadir/AuditingTraining.htm>

We appreciate your staff's support and cooperation during the audit. Please contact Mark Merry, Chief of the Bureau of Auditing, at [REDACTED], if you have any questions.

Sincerely,



Christina Smith

Attachment A

Department of Business and Professional Regulation

Agreement Number	Service Provider	Contract Amount	Agreement Type	Contract/Grant Agreement				Contract/Grant Management	Cost Analysis	TOTAL NUMBER OF AREAS WITH DEFICIENCIES
				Scope of Work/Deliverables	Financial Consequences	State and Federal Financial Assistance	Other			
10-0038	Clemons, Rutherford & Associates Inc	\$709,425	Standard 2-Party	Y	Y	NA	Y	Y	NA	0
AA3072	Florida Association of Broadcasting	\$171,369,624	Purchase Order	N	Y	NA	Y	N	N	3
12-00003	Florida Restaurant & Lodging Association	\$2,826,792	Grant Agreement	NA*	NA*	NA*	Y	Y	NA	0
13-00007	Florida State University	\$255,497	Standard 2-Party	Y	Y	NA	Y	N	NA	1
09-00002	Galen W Dunton	\$360,000	Standard 2-Party	N	N	NA	Y	Y	N	3
11-00001	International Code Council, Inc	\$620,000	Standard 2-Party	NA*	NA*	NA*	Y	N	Y	1
12-00001	Smith, Thompson, Shaw, and Manausa, P.A.	\$1,275,717	Grant Agreement	Y	Y	Y	Y	Y	NA	0
13-00005	Spectra Systems Corporation	\$1,482,380	Standard 2-Party	NA*	NA*	NA*	Y	N	NA	1
A8396C	The Presidio Corporation	\$197,600	Purchase Order	Y	Y	NA	Y	N	NA	1
A7F784	TS Staffing Services, Inc.	\$87,011	Purchase Order	Y	Y	NA	Y	N	NA	1
TOTAL NUMBER OF AGREEMENTS WITH DEFICIENCIES				2	1	0	0	6	2	11

NA* - Contract was reviewed by the Bureau of Auditing prior to this audit