



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

May 8, 2015

Mr. Kevin M. McCarty, Commissioner
Office of Insurance Regulation
200 East Gaines Street
Room 101A Larson Building
Tallahassee, Florida 32399

Dear Commissioner McCarty:

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

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

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plan to address any deficiencies noted during the audit. To date, 27 have been completed and the results are available on the Division of Accounting and Auditing website http://www.myfloridacfo.com/aadir/auditing_activity.htm.

An audit of nine (9) Office of Insurance Regulation (OIR) contracts was performed in 2011, resulting in a contract management deficiency rate of 55.56%. In response, OIR submitted a corrective action plan (CAP). As a follow-up, we have concluded our audit of selected OIR contracts in effect on or after July 1, 2013, through July 1, 2014, and related management activities. Our audit focused on OIR's compliance with the CAP and the following statutory requirements:

- Contract agreements must contain a clear scope of work.
- Contract agreements must contain deliverables that are quantifiable, measurable, verifiable and directly related to the scope of work.
- Contract agreements must contain financial consequences that an agency must apply if the provider fails to perform in accordance with the agreement.
- Contract agreements contain all other provisions of §287.058, F.S., and related CFO Memoranda
- Agencies must comply with the provisions of §216.3475, F.S., and related CFO Memoranda
- Contract managers must complete training as required by statute.
- Contract 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 receipt of goods and services by OIR.

A total of five (5) agreements were selected for audit. Of those selected, four (4) agreements were reviewed to determine if each agreement contained all the required contract provisions. There were no deficiencies identified.

Additionally, the contract management files for all five (5) agreements were reviewed for management activities. There are areas where improvements can be made. Attachment A provides a summary of all five (5) agreements audited.

Contract Management

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

Our audit disclosed that OIR had contract management deficiencies with three agreements. Specifically, the following was noted:

- The agreements with **Examination Resources, LLC, Highland Clark, LLC and Risk and Regulatory Consulting, LLC** required the provider to maintain general liability and workers compensation insurance throughout the life of the agreement. Although the required deliverables were evidenced in the contract management file, OIR did not have evidence to include the provider's proof of insurance coverage during the term of the agreement.

Contract Management-Other

Section 216.3475, F.S., and CFOM No. 2 (2012-2013), requires state agencies 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 all service agreements executed on or after July 1, 2010, which were awarded on a noncompetitive basis.

- OIR did not provide documented evidence that a cost analysis was performed prior to the execution of the agreement for one agreement.

- **Florida International University**

Please provide OIR's corrective action plan which addresses how these deficiencies will be corrected for future contracts. This plan should include steps OIR will take to provide a system of quality control, including training, periodic management review, and feedback to OIR staff that develop and manage contracts. 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,

[REDACTED]

Christina Smith

Commissioner McCarty
May 7, 2015
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Cc: Bonnie Deering
Inspector General
Office of Insurance Regulation

Attachment A

Office of Insurance 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			
I0071	Risk & Regulatory Consulting, LLC	\$144,890	Standard Two Party Agreement by Statute	Y	Y	NA	Y	N	NA	1
PO328447	MIKA Consulting LLC	\$898,940	Purchase Order	NA*	NA*	NA*	NA*	Y	NA	0
I0054	Examination Resources LLC	\$124,250	Standard Two Party Agreement by Statute	Y	Y	NA	Y	N	NA	1
I0110	Highland Clark LLC	\$54,375	Standard Two Party Agreement by Statute	Y	Y	NA	Y	N	NA	1
I0040	Florida International University	\$1,193,247	Standard Two Party Agreement by Statute	Y	Y	NA	Y	Y	N	1
TOTAL NUMBER OF AGREEMENTS WITH DEFICIENCIES				0	0	0	0	3	1	4

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