

Ken Lawson, Secretary

Rick Scott, Governor

July 20, 2015

Ms. Christina Smith
Director, Division of Accounting and Auditing
Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0353

Dear Ms. Smith:

We appreciate the opportunity to respond to the results of the Department of Financial Services' audit of selected Department of Business and Professional Regulation grants and contracts and related management activities. The attached response presents our plans for ensuring that the deficiencies noted in your letter of June 22, 2015 will be corrected for future contracts.

Thank you for the professionalism and courtesy extended by your team during the audit process.

If you require additional information concerning our response, please contact Lynne Winston, Inspector General, at 414-6700.

Sincerely,



Ken Lawson

Attachment

Department of Business and Professional Regulation

Response to Department of Financial Services Audit of Selected Grants and Contracts and Related Management Activities Issued June 22, 2015

Scope of Work and Deliverables

The department's Contract Administrator is responsible for ensuring that all contract/grant agreements for services comply with the provisions of Sections 287.057 and 287.058(1), Florida Statutes. Upon his employment with the department in August 2012, the Contract Administrator revised the department's core contract/grant document and developed new procurement-related information and forms for immediate use by program staff. The Contract Administrator reviews all contract/grant agreements prior to their execution to ensure the agreement contains a clear scope of work, deliverables directly related to the scope of work, minimum required levels of service, criteria to evaluate satisfactory performance, and compensation for each deliverable.

In February 2015, the Contract Administrator determined the department needed to improve its process for reviewing service agreements established by purchase order. Accordingly, all purchase orders for contractual services are routed to the Contract Administrator for review and approval. This procedural change ensures that the Contract Administrator reviews and approves the proposed scope of work and deliverables prior to final purchase approval in MFMP. Of the two agreements referenced in this area, one was established by purchase order prior to implementation of the department's revised review process.

The auditors found that a second agreement did not include a statutorily required contract provision regarding minimum service levels. This provision was effective for contracts executed on or after July 1, 2010, and was not a statutory requirement when the department executed the contract on June 30, 2009. The Contract Administrator had previously identified the need to improve the contract in this area and at the time of the audit, the program office was drafting a new contract to include the required provision.

Financial Consequences

The department's Contract Administrator is responsible for ensuring that all contract/grant agreements for services comply with statutory contracting provisions, including requirements regarding financial consequences for nonperformance. And as previously discussed, the Contract Administrator now reviews and approves all purchase orders for contractual services prior to final purchase approval in MFMP. The department's revised review process should help ensure that all future service contracts, including those established by purchase order receive appropriate review for compliance with statutory provisions regarding financial consequences.

Effective July 1, 2010, service contracts are required to establish financial consequences an agency "must" apply for a provider's failure to perform in accordance with the contract. The auditors found that the 2009 contract referenced above did not fully comply with this requirement. However, the contract was executed a year before the provision cited in the audit report went into effect. The Contract Administrator had previously audited this contract and identified the same areas for improvement. At the time of the DFS audit, the program office was in the process of drafting a new contract with improved provisions regarding financial consequences.

Department of Business and Professional Regulation

Contract/Grant Management

The department's revised contract/grant review process will help ensure that the Contract Administrator reviews all service agreements for compliance with statutory contracting requirements. As part of this review, the Contract Administrator ensures the contract terms and conditions provide the appropriate mechanism(s) for the contract manager to validate payment for services rendered.

The Contract Administrator also provides a variety of on-line management tools for the department's contract and grant managers, including a quarterly desk review form and an annual on-site monitoring form. The Contract Administrator conducts ongoing review of contract management activity and requires managers to submit corrective action plans if issues are identified. The Contract Administrator also provides ongoing training for the department's contract and grant managers.

The Contract Administrator ensures that all contract and grant managers have completed contract management training in accordance with statutory requirements prior to their appointment as contract manager. The Contract Administrator maintains a system to track when contract managers have received training and when refresher training is required. As of this writing, all contract and grant managers have attained Advancing Accountability training or are registered to attend Florida Certified Contract Manager training when such is available. The Contract Administrator also now coordinates with the department's MFMP Administrator to identify any new managers of service contracts established by purchase order in excess of Category Two to ensure the manager possesses the statutorily required training certification.

Cost Analysis

Improvements addressed in this area were associated with the service agreement established by purchase order and the 2009 contract. As discussed above, the department's revised review process will ensure that a cost analysis is performed in accordance with Section 216.3475, Florida Statutes, prior to the Contract Administrator's approval of an MFMP purchase request or standard agreement. We note that the requirement for a documented cost analysis applies to agreements executed on or after July 1, 2010. This requirement was therefore not in effect when the department executed the 2009 contract. However, as is the case with other areas of improvement, the Contract Administrator identified this issue in an audit of the 2009 contract. The Contract Administrator has provided program offices with information about the requirement to perform a cost analysis as well as forms and instructions for completing the analysis and maintaining appropriate documentation.