



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KURT S. BROWNING
Secretary of State

October 4, 2011

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

Re: Review of selected Department of State service contracts/grant agreements in effect on or after July 1, 2010, and related management activities

Dear Ms. Smith:

Attached is the Department of State's corrective action plan which addresses how these deficiencies will be corrected for future contracts associated with your review of selected Department of State service contracts/grant agreements in effect on or after July 1, 2010, and related management activities.

If you have questions or require additional information, please contact Jennifer Kennedy Assistant Secretary of State, at 245-6525. Thank you for the opportunity to respond to your report.

Sincerely,

Kurt S. Browning
Secretary of State

Attachment (1)

cc. Jennifer Kennedy, Assistant Secretary of State and Chief of Staff
JuDee L. Dawkins, Deputy Secretary for Cultural, Historical and Information Programs
John Boynton, Deputy Secretary for Administrative Services, Corporations and Elections
John L. Greene, Inspector General



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**CORRECTIVE ACTION PLAN FOR
DEPARTMENT OF FINANCIAL SERVICES REVIEW OF SELECTED
DEPARTMENT OF STATE SERVICE CONTRACTS/GRANTS AGREEMENTS
IN EFFECT ON OR AFTER JULY 1, 2010, AND RELATED MANAGEMENT ACTIVITIES
OCTOBER 2011**

Deliverables

Services contracts and grant agreements must contain clear scopes of work, deliverables directly related to the scopes of work, minimum required levels of services, 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.

Our review noted that payment terms for two services contracts were based solely on hours worked rather than the satisfactory completion of services as stated in the scope of work.

Contract #	Service Provider	Contract Amount
A353B0	CommerNet, Inc.	\$ 196,680
A2C1C9	Technisource, Inc.	\$ 78,400

Agency's Response:

In response to your concerns about deliverables, the Department's Division of Administration developed a Payment Processing Checklist form. This form will be used by staff in the Disbursement Unit whenever they process an invoice for payment if it is for a service contract or grant agreement.

The form will provide a final summary review to document that all requirements for requesting payments have been met before the invoice is submitted to DFS. This form is intended to supplement the checklists that are already in use by the Divisions. It will serve as the Department's final checklist to verify that all documentation and approvals have been obtained.

Financial Consequences

Three of the 11 services contracts sampled did not contain financial consequences. Effective July 1, 2010, Section 287.058(1)(h), Florida Statutes, requires services contracts to contain provisions for financial consequences an agency must apply if a provider fails to perform in accordance with a contract. The Department should re-examine its process to ensure its contracts are in compliance with this requirement.

Contract #	Service Provider	Contract Amount
A353B0	CommerNet, Inc.	\$ 196,680
A2A590	Synergy Advertising and Design	\$ 99,820
A2C1C9	Technisource, Inc.	\$ 78,400

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Agency's Response:

The Department's purchasing office will develop a procedure process to ensure that financial consequences provisions are included in all services agreements as stated in Section 287.058(1)(h), Florida Statutes.

Chief Financial Officer (CFO) Memorandum #4(05-06)

Seven grant agreements with recipients of state financial assistance did not contain all of the required provisions related to the use of the grant funds. For example, there were no provisions requiring the agreement be charged with only allowable costs incurred during the term of the agreement or that unobligated cash not authorized to be retained for subsequent periods was to be returned to the State.

Contract #	Service Provider	Contract Amount
11-ST-47	Orange County Library System	\$ 817,196
11-ST-87	Three Rivers Library System	\$ 279,996
11-ST-94	Wilderness Coast Public Libraries	\$ 315,902
11-LCG-06	Tampa Bay Library Consortium	\$ 325,000
11-ST-13	Heartland Library Cooperative	\$ 450,000
HAVA Grant	Volusia County Supervisor of Elections	\$ 58,120
HAVA Grant	Broward County Supervisor of Elections	\$ 179,354

Agency's Response:

The Department of State will incorporate the following new language into grant award agreements for all State Aid to Libraries and Library Cooperative Grants. This will necessitate an amendment to *Florida Administrative Code* rules governing those grant programs and the applicable materials incorporated by reference. The Division of Library and Information Services is currently beginning the process of revising the administrative rules related to the State Aid to Libraries and Library Cooperative Grant programs and will incorporate the needed changes noted as a part of the review into the grant agreements for these programs. It is anticipated that the rule changes would be completed in the spring of 2012 and would be implemented into the Library Cooperative Grant agreements and State Aid to Library Grant agreements for projects implemented in the 2012-2013 fiscal year.

For the State Aid to Libraries Grants, the new language to be incorporated into the grant award agreement, via rule revision, is as follows: "...any balance of unobligated cash that has been paid may be retained for direct program costs in a subsequent period." Additionally, for verification purposes, the Division will require a statement with the subsequent year's financial report to document compliance that the funds have been used for the purpose for which they were awarded.

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For the Library Cooperative Grants, language will be incorporated into the grant award agreement that includes an ending date by which all grant funds must be expended

For the HAVA Grants, proviso language has been included in the Grant Awards Agreement that allows supervisors of elections to keep the funds and use them for the same purposes as they were originally intended until the funds have been depleted.

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 by vendors; and provide written certification of the agency's receipt of goods and services. Our review disclosed that the contract management activity for four services contracts was not sufficient, as the Department did not always document verification that services were satisfactorily delivered prior to approving invoices for payment. The validation process should include reconciling vendor-generated data such as timesheets and activity reports to data controlled and maintained by the Department or an independent third party and the contract files should contain documentation of the steps taken to verify service delivery.

Contract #	Service Provider	Contract Amount
A2C1C9	Technisource, Inc.	\$ 78,400
A27A69	Image API, Inc.	\$ 90,000
A353B0	CommerNet, Inc.	\$ 196,680
A2F7D6	Cornerstone Software Services	\$ 47,680

Agency's Response:

With respect to grant agreements for various programs within the Department of State, we concur with the recommendations as presented in the review by the Department of Financial Services concerning deliverables. The Department of Financial Services recommends that grant agreements contain clear scopes of work, deliverables directly related to the scopes of work, minimum required levels of services, criteria to successfully evaluate satisfactory performance, and compensation for each deliverable.

The Department believes that the various grant award agreement instruments currently contain scopes of works, deliverables, required levels of service, methods to evaluate satisfactory performance and compensation processes either within the body of the instrument or as material incorporated by reference (such as grant guidelines for the program, as well as individual grant project narratives and project budgets). Grant managers use the following internal attestations to determine and document compliance:

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1. A "Summary of Contractual Services Agreement/Purchase Order" form that is submitted to the Department of State's Division of Administrative Services along with all partial or full grant payment requests. The form must be completed and deliverables and payment amounts documented. The form must also be signed by both the Contract Manager and Agency Management.
2. Division grant managers also utilize checklists retained in internal individual grant files to document compliance with grant award agreement provisions, such as match requirements, expenditure logs to determine allowable costs, satisfactory deliverables, and reporting requirements.
3. The Department produces a monthly "non-compliance" report to document grantees that are not in compliance with grant agreement requirements. This information is shared via the Department's intranet so that all divisions will be notified and non-compliance in one division will restrict funding in other divisions.

In addition to grant/contract concerns about deliverables, the Department's Division of Administration developed a Payment Processing Checklist form. This form will be used by staff in the Disbursement Unit whenever they process an invoice for payment if it is for a service contract or grant agreement.

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Other Issues

As part of payment processing contract managers must certify that services are satisfactorily received and payment is due prior to submitting the invoices to Accounting for payment. Payments related to two services contracts were missing the required written certification statement by the contract.

Contract #	Service Provider	Contract Amount
454001	The Gale Group	\$ 2,064,120
A353B0	CommerNet, Inc.	\$ 196,680

For another services contract an invoice was approved for payment that was not provided for in accordance with the terms of the agreement. A partial payment was made, prior to completion of all contracted services, although the contract provided for a single payment after receipt of all services.

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Contract #	Service Provider	Contract Amount
A39209	Southern Mapping Technology	\$ 50,130

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