



Florida Department of Transportation

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ANANTH PRASAD, P.E.
SECRETARY

June 5, 2014

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

Re: Review of Contract/Grant Agreements and Related Contract/Grant Management Activities for FDOT

Dear Director Smith:

Thank you for the opportunity to respond to the contract and grant agreement audit conducted by Department of Financial Services (DFS) for the review period January 1, 2012 through December 31, 2012. As detailed in your letter dated May 12, 2014, the review encompassed twenty agreements, and identified areas of improvement for six grant agreements, one purchase order, and five service contracts.

As an agency with over 8,600 active agreements, the Department of Transportation (FDOT) acknowledges the critical importance of a well-defined contract scope of work, measurable deliverables, and effective levels of monitoring to ensure performance of agreement terms and conditions. We have reviewed the comments provided by DFS for the six grant agreements, one purchase order, and five service contracts cited with deficiencies, and we offer the following responses:

I. Scope of Work and Deliverables

Comment:

One service contract (BDS55) and four grant agreements (AQC90, AQH34, AQ308, AQM27) were identified by DFS as not containing clear scope requirements. Additionally, deliverable deficiencies were cited with four grant agreements (AQC90, AQH34, AQ308, APZ32), and three service contracts (C9104, BDS55, BDT77).

Response:

FDOT concurs that training would be beneficial to clarify scope requirements for FDOT contract managers. Contract managers for the subject agreements will attend the DFS Contract/Grant Monitoring training, which addresses scope of work, deliverables and development of monitoring plans.

Additionally, FDOT looks forward to the certified contract and grant manager training to be developed by Department of Management Services (DMS) by December 2014.

Contract No. C9104 was cited for not defining the monthly level of service expected prior to payment.

FDOT disagrees with this assessment. FDOT provides standards, codes, and handbooks, which are incorporated by reference in design and surveying and mapping contract scopes, for the purpose of consistently establishing level of service/performance for all surveying and mapping projects. The reference documents include:

- a. All applicable Florida Statutes and Administrative Codes
- b. Applicable Rules, Guidelines Codes and authorities of other Municipal, County, State and Federal Agencies.
- c. FDOT Aerial Surveying Standards for Transportation Projects Topic 550-020-002
- d. FDOT Right of Way Mapping Handbook
- e. FDOT Surveying Procedure Topic 550-030-101
- f. Florida Department of Transportation Right of Way Procedures Manual
- g. Florida Department of Transportation Surveying Handbook
- h. Right of Way Mapping Procedure 550-030-015

These documents adequately establish level of service for surveying and mapping projects, in support of the contract scope.

II. Financial Consequences

Comment:

Three service contracts (BDS55, BDR32, BDT77) were identified as not containing financial consequences that meet the requirements of Section 287.058(1) (h), F.S.

Response:

FDOT staff has been working with the DFS Bureau of Auditing to develop acceptable language for financial consequences, which will be added to the contract boilerplate for contractual services agreements and grant agreements (excluding professional services, design-build, construction, and maintenance contracts). FDOT appreciates the assistance provided by DFS with developing an acceptable financial consequence contract provision. The proposed financial consequence provision is:

Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216), Florida Statutes. Deliverable(s) must be received and accepted in writing by the Contract Manager on the Department's invoice transmittal forms prior to payment. If the Department determines that the performance of the Vendor is unsatisfactory, the Department shall notify the Vendor of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Vendor shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Vendor will address all issues of contract non-performance, unacceptable performance, failure to meet

the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Vendor shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the vendor resolves the deficiency. If the deficiency is subsequently resolved, the Vendor may bill the Department for the retained amount during the next billing period. If the Vendor is unable to resolve the deficiency, the funds retained may be forfeited at the end of the agreement period.

III. Contract/Grant Management

Comment:

DFS identified one Purchase Order (PO43793) and two service agreements (BDS55, BDS99) where contract files did not provide sufficient documentation to verify deliverables.

Response:

As previously referenced, FDOT concurs that training is necessary to clarify best practices for contract monitoring. Contract managers for the subject purchase orders and contracts will be required to attend the DFS Contract/Grant Monitoring training, which addresses monitoring tools and monitoring plans for contractor performance. Contract managers will also be required to attend the certified contract and grant manager training to be developed by DMS by December 2014.

IV. Cost Analysis

Comment:

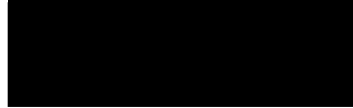
DFS' review identified one grant agreement without documentation verifying cost analysis (ACQ90). In addition, DFS identified one purchase order (PO43793) and one grant agreement (AQA59) without documentation to support review of cost elements from the submitted budget.

Response:

FDOT concurs that procedural updates are necessary. The Department's procedures will include the requirement to perform a cost analysis and document the Department's review of individual cost elements for allowability, reasonableness and necessity prior to entering into the agreement.

We greatly appreciate the assistance and cooperation provided by your staff during the review. Thanks for your efforts to improve fiscal accountability. If you have any questions, please contact our Inspector General Bob Clift at 850-410-5800.

Sincerely,



Ananth Prasad, P.E.
Secretary

AP: cp

cc: Brian Peters, Assistant Secretary for Finance and Administration
Robert Clift, Inspector General