



AUDITOR GENERAL
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DEPARTMENT OF MANAGEMENT SERVICES
MYFLORIDAMARKETPLACE
Operational Audit

July 2002 Through February 2004,
Prior Related Planning Actions Resulting in the Issuance of the
Invitation to Negotiate (ITN No. DMS 00/01-015), and
Other Selected Actions Taken Through December 16, 2004

OBJECTIVES, SCOPE, AND METHODOLOGY

This operational audit focused on the Department's management of MyFloridaMarketPlace contracts during the period July 2002 through February 2004, prior related planning actions resulting in the issuance of the Invitation to Negotiate (ITN No. DMS 00/01-015), and other selected actions taken through December 16, 2004. MyFloridaMarketPlace is a Statewide outsourcing project to provide an integrated, transaction-oriented, electronic procurement (eProcurement), Internet-based host site developed to facilitate and to effectuate buyer and seller procurement transactions for the State.

Our objectives were to determine the appropriateness of Department planning processes supporting the decision to outsource, evaluate the performance of management's compliance with procurement laws and rules, and assess the effectiveness of Department contract management practices.

The audit included a review of contract provisions and deliverables for the MyFloridaMarketPlace Service Provider (Accenture, LLP) and the third-party consulting services monitor (The North Highland Company). The audit included interviews of appropriate Department staff, observations of Department processes and procedures, review of documentation, and performance of other audit procedures as determined necessary to evaluate controls and compliance related to the MyFloridaMarketPlace contracts.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable **Government Auditing Standards** issued by the Comptroller General of the United States. This audit was conducted by Aileen B. Peterson, CPA, and supervised by Nancy Tucker, CPA. Please address inquiries regarding this report to Dorothy R. Gilbert, CPA, Audit Manager, via e-mail (dorothygilbert@aud.state.fl.us) or by telephone (850-488-5444).

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DEPARTMENT OF MANAGEMENT SERVICES

MYFLORIDAMARKETPLACE

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BACKGROUND

The Department of Management Services (Department) is created by Section 20.22, Florida Statutes. The head of the Department is the Secretary, who is appointed by the Governor and subject to confirmation by the Senate. The Secretaries who served during the audit period were as follows:

| Secretary | Period of Service | Referred To In Report As |
|-------------------------------|---------------------------------------|---------------------------|
| Thomas D. McGurk | January 5, 1999, to August 14, 2000 | Not Referred To In Report |
| Cynthia Henderson | September 5, 2000, to January 7, 2003 | Former Secretary |
| Simone Marstiller (Interim) | January 7, 2003, to April 13, 2003 | Former Interim Secretary |
| William S. Simon ¹ | April 14, 2003, to Present | Secretary |

On October 9, 2002, the Department entered into a contract with Accenture, LLP (Accenture), to outsource the development and operation of a Web-based electronic procurement (eProcurement) system. The decision to develop an eProcurement system was the end result of many years of discussion, study, and other endeavors to modernize the State's aging financial management information systems. During the 1996-97 fiscal year, the Florida Financial Management Information System (FFMIS) Coordinating Council, the Financial Management Information Board, and the Legislature engaged in a series of initiatives to replace the existing components of the FFMIS with a commercial-off-the-shelf (COTS) enterprise resource planning (ERP) system to support the State's core business functions. Pilot projects were launched but later discontinued because of escalating cost estimates. The five functional FFMIS subsystems and their agency "owners" are:

| Function | Name | Owner |
|-----------------|---|-----------------------------------|
| Accounting | Florida Accounting Information Resource Subsystem | Department of Financial Services |
| Human Resources | Personnel Information Subsystem | Department of Management Services |
| Purchasing | Statewide Purchasing Subsystem | Department of Management Services |
| Budgeting | Legislative Appropriation System – Planning and Budgeting Subsystem | Executive Office of the Governor |
| Cash Management | Cash Management Subsystem | Department of Financial Services |

In 1999, the Legislature provided funding for the *Modernization of State Government Financial Management Business Practices Study*, a business case study for replacing the FFMIS components and associated business processes. The Department engaged KPMG to oversee the business case study. The February 2000 business case study considered the functionality that would be provided under five defined options: as-is, enhanced, custom, COTS, and best-of-breed (primarily the COTS option, but leaving in place some FFMIS subsystems that rated well during the study). After comparing the options to the vision and the functional and technical requirements of the State, and after assessing the risk and financial impacts, KPMG recommended, in part, that the State pursue implementation of the best-of-breed option whereby an ERP system would replace the State's accounting and personnel subsystems and to partially replace the budgeting, cash management, and purchasing subsystems.

According to the business case study, the best-of-breed option would have an estimated \$281.3 million implementation cost over five years and a net fiscal impact of \$358.5 million in technology-related savings over 15

¹ Secretary Simon resigned from the Department on January 28, 2005. Robert H. Hosay was subsequently appointed by the Governor as Interim Secretary.

years. The amount of implementation cost and technology savings specific to the Statewide Purchasing Subsystem was not identified, although the business case study did show that by reengineering the purchasing process the State could realize an additional \$22.3 million in savings. These additional savings could be realized primarily from the elimination of centralized positions dedicated to manual processing steps, savings that could only be achieved through the introduction of a technology solution.

Because of budgetary constraints, the transformation to an ERP system did not occur as envisioned by the business case study. In August 2000, the Executive Office of the Governor issued *Guidelines for Introducing Competition into Government Services*, directing State agencies to look at each program, service, and activity to determine its worth and value to government and citizens and to explore introducing public/private competition into the delivery of such programs, services, and activities as a viable way to reduce costs and improve efficiencies. Around this time, the Department, as functional owner of the FFMIS Statewide Purchasing Subsystem, shifted its focus from modernizing the State's purchasing function to seeking a solution requiring little or no up-front investment by the State.

On March 5, 2001, the Department issued an Invitation to Negotiate (ITN) soliciting innovative approaches for an eProcurement system that would enable the State "and other government entities to efficiently purchase, receive, and pay for goods and services from the desktop." The ITN sought a solution whereby an eProcurement system would be developed that promoted selection of goods and services at the lowest available cost, open competition, and leveraged buying power through volume discounts; performed on-line bidding, bid award, and posting; encouraged minority participation; and facilitated effective asset management.

On October 9, 2002, after nearly a year and a half of negotiations, the Department awarded the contract to Accenture. The contract provides for the development of an integrated, transaction-oriented, electronic procurement, Internet-based host site developed to facilitate and to effectuate buyer and seller procurement transactions for State of Florida government and covers a period of 61 months. Costing \$92 million, the project, named MyFloridaMarketPlace (MFMP), was structured to be financed entirely through 1-percent transaction fees paid by vendors doing business with the State.

According to the Department, since the beginning of the contract in October 2002, the Department has had four contract managers for MFMP, as listed below:

| Contract Manager | Title | Period of Service |
|------------------|---|------------------------------|
| Edwin Rodriguez | Deputy Secretary | October 2002 – February 2003 |
| David Bennett | Senior Management Analyst | February 2003 – June 2003 |
| Jennifer Young | State eProcurement Project Director | June 2003 – December 2003 |
| Ailneal Morris | State of Florida IT Procurement Project Manager | December 2003 - Present |

Nearly two years into the contract, the Department gave Accenture notice of "Event of Default" on September 28, 2004, citing Accenture's refusal to devote sufficient resources to the MFMP project; to allow the Department to inspect its accounting records, particularly payroll records; to provide the Department copies of subcontracts on the project; and to pay over \$3 million for procurement expenditures. After several weeks of negotiations, the Department and Accenture reached a tentative agreement. However, this tentative agreement has not been finalized as of the date of this report.

SUMMARY OF FINDINGS

MFMP is a State initiative that, as authorized by law², encompasses the development and implementation of an electronic on-line procurement system. The Department, in consultation with the State Technology Office and the Chief Financial Officer, is responsible³ for developing a program for on-line procurement of commodities and contractual services. To enable the State to promote open competition and to leverage its buying power, agencies shall participate in the on-line procurement program, and eligible users may participate in the program. Only vendors prequalified as meeting mandatory requirements and qualifications criteria shall be permitted to participate in on-line procurement.

The MFMP project is a State initiative in which the issues are complex and the investment of time and money is also great. As the State continues to embark on the implementation of new initiatives that result in multi-million dollar contracts, proper contract administration is paramount to ensure that there is a maximum return on the State's contracted dollars.

Many challenges are involved with the implementation of State initiatives, including, but not limited to: (1) complying with the applicable laws, rules, and regulations that are enacted at the local, State, and Federal levels of government; (2) ensuring that the procurement process used to select a vendor results in the State receiving the best value for its money; (3) entering into contractual agreements that prudently benefit all parties involved; (4) obtaining sufficient funding to finance the project and responsibly disbursing the allotted funds in a manner that promotes accountability; (5) assuring the adequacy of project management for the duration of a project and the provision of deliverables in accordance with the contractual terms; and (6) updating the operating policies and procedures in a timely manner to provide effective and efficient administrative oversight for the implementation of these initiatives.

Recognizing the ongoing challenges that must be met to effectively and efficiently implement this new on-line procurement system, we conducted an audit of the procurement and contract administration of the MFMP project. As outlined in our **OBJECTIVES, SCOPE, AND METHODOLOGY**, this audit included a review of compliance and selected controls, policies, and procedures over the evaluation, negotiation, and contract processes, including deliverables and contractual provisions relevant to the State contracting agency for this project (Department of Management Services), the contractor (Accenture, LLP), and the third-party consulting services monitor (The North Highland Company).

We noted control deficiencies and compliance matters as summarized below.

Planning

An outsourcing initiative on the scale of MFMP requires thoughtful and detailed planning to help ensure a successful project that meets its objectives and delivers on time and within budget. Our review disclosed deficiencies in actions taken and not taken by the Department during the planning of the ITN. Specifically, the Department planning process did not include timely completion of a cost-benefit or risk analysis. Additionally, the Department could not provide documentation that key end-users, stakeholders, subject matter experts, and seasoned technology project managers were consulted in the preparation of the ITN. Also, significant baseline data, including total procurement spend and total procurement processing costs, was not available and analyzed

² Chapters 2000-164; 2001-278; and 2002-207, Laws of Florida.

³ Chapter 2002-207, Laws of Florida.

during the planning process, nor was it available for the consideration of ITN responders. A mechanism to capture and track all Statewide costs associated with the implementation and operation of MFMP was not established. Although the Department allowed vendors to submit questions during the pre-ITN response conferences, not all the Department answers were informative or constructive to the ITN process. **(Finding Nos. 1, 7, and 8)**

Evaluations and Negotiations

The Department failed to document the independence of some of the contract evaluators and negotiators, as well as the collective knowledge and experience of the evaluation and negotiation teams. Additionally, the Department's former Inspector General, in conflict with his oversight of internal audit responsibilities, participated in the evaluation of the eProcurement contract. **(Finding Nos. 2 and 10)**

Contract and Amendment Provisions

Modifications to the eProcurement contract provided new system functionalities that were paid from transaction fees, costs that may have been avoided had the Department adequately conferred with the Department of Financial Services prior to the original contract. Modifications also created a "contingency bucket" that was not anticipated by the original contract, the stated purpose of which was to allow the project to continue without interruption should future modifications be required. Net additions and subtractions from the scope of the project provided \$1.1 million for a contingency bucket. A reduction of the contract's audit and performance bond requirements added an additional \$550,000 to the contingency bucket. Additionally, regarding the North Highland contract, several contract amendments may have been avoided had the Department established and implemented effective policies and procedures in accordance with Chapter 287, Florida Statutes. **(Finding Nos. 4 and 11)**

Fees and Revenue Share

The Department did not clearly document how it was determined that a 1-percent transaction fee would adequately fund the eProcurement system. Additionally, the Department did not promulgate rules communicating those transactions and vendors exempted from transaction fees until nearly nine months after the contract was signed. Also, revenues generated by the transaction fees for the first two years of the contract have fallen far short of projections, leading to a renegotiation of the contract. After it became apparent that an interface within FLAIR would not be feasible, the contract was modified to provide for a Billing and Collection System (currently referred to as the Transaction Fee Reporting System). This System relies on vendors to self-report sales and transaction fees. **(Finding Nos. 3 and 5)**

Funding and Financial Matters

MFMP, as it currently operates, gives Accenture custody of all transaction fees, even though the fees are to first pay the procurement oversight budget of the Department. Additionally, Accenture maintains the records for fees collected. Interest earnings on the transaction fees held by Accenture, not addressed in the contract, have become the subject of dispute. In addition, although the cost for rental space at State offices was required to be incorporated into third-party consultant ITN responses, the Department did not charge for work space provided to North Highland. The Department did not request specific appropriated funding for the third-party monitor contract and, without informing the Executive Office of the Governor, Office of Planning and Budgeting, and the Legislature, the Department utilized recurring appropriations that were requested for and previously used to assist in administering its natural gas contract. **(Findings No. 6, 9, and 12)**

FINDINGS AND RECOMMENDATIONS

The Deputy Secretary, in her written response, stated that the findings and recommendations in our report reiterate issues made by the Department's Inspector General in Internal Audit Report No. 2004-01, dated April 19, 2004. In that audit, the Inspector General selected and reviewed 35 contracts totaling \$5.4 million that included 21 custodial contracts (\$4.4 million) and 14 consultant services contracts (\$1 million). The Inspector General reported that there was a lack of accountability and control over the Department's contract management and procedures that we believe may affect many of its current contracts. Our report, however, provides specific details relating to our audit of the multi-year MyFloridaMarketPlace outsourcing contracts with Accenture, LLP, and The North Highland Company totaling over \$94 million, contracts not included within the scope of the Department Inspector General's audit.

The Deputy Secretary, in concurring with two of our recommendations, stated that MFMP is not an outsourcing initiative. Notwithstanding the Deputy Secretary's response, the contract between Accenture, LLP, and the Department refers to the project having outsourced services. For example, Attachment C – Business Operations and Service Level Agreements, page 103, states “Service Provider will provide outsourced procurement services to the State of Florida in conjunction with the implementation of an eProcurement solution.”

ACCENTURE

On October 9, 2002, the Department signed a 61-month, \$92 million contract with Accenture, to provide “an integrated, transaction-oriented, electronic procurement, Internet-based host site developed to facilitate and to effectuate buyer and seller procurement transactions for State of Florida government.” Accenture is a global management consulting, technology services, and outsourcing company headquartered in Hamilton, Bermuda, with its main national office in Illinois. Accenture's contract with the Department has been modified two times and a third modification has been tentatively agreed to but as of December 16, 2004, has not been signed.

Finding No. 1: Planning

When considering a major outsourcing, it is essential that the current activity, program, or function being outsourced is clearly understood. As described in State law⁴, careful planning and detailed preparation before negotiations begin are necessary to properly identify what services are needed, how services should be provided, and what provisions should be in the contract. Our review of the Department's outsourcing of the eProcurement system disclosed deficiencies with Department planning processes, as described below:

- Prior to the issuance of ITN No. DMS 00/01-015 (ITN) in March 2001, the Department did not conduct cost-benefit and risk analyses of outsourcing the development and operation of the eProcurement system. Further, as the KPMG business case study (see **BACKGROUND**) did not consider or recommend outsourcing the procurement process, the Department could not rely on the KPMG analysis to provide the information necessary to analytically compare the advantages and disadvantages of outsourcing. In response to audit inquiries, the State of Florida IT Procurement

⁴ Section 287.042(4)(d), Florida Statutes (2000).

Project Manager (Project Manager) provided an analysis that was prepared months after the ITN release.

- The analysis, *Cost Analysis by Category*, prepared in September 2001, six months after the ITN release, consisted of a spreadsheet that identified costs by major categories of expenditures. This spreadsheet showed costs for the two vendors that were negotiating with the Department. The costs for the solutions presented by Accenture and KPMG totaled \$91.5 million and \$90.5 million, respectively, and costs for a Department and State Technology Office (STO) in-house solution totaled \$82 million. The spreadsheet did not include any narrative or other depiction of the benefits, risks, and other variables associated with each solution.
- In response to audit inquiries, the Project Manager stated, “During this time there were several challenges. 1.) It was very difficult to get legislative approval for appropriations thus making it practically impossible for DMS [Department] to get the necessary funds to run the project effectively. 2.) Even if the money was available the State did not have any resident subject matter experts to implement the project. Based on the number provided in the analysis and the factors described above it was decided by DMS and STO that the risk involved with taking on a software integration project of this size was too high for the State to pursue on its own. Therefore it was determined in the best interest of the State to leverage a private sector vendor to implement the software, shifting the risk to the vendor and allowing the State’s interests to be covered with a performance bond.”

This after-the-fact *Cost Analysis by Category* did not provide an adequate representation of significant factors to be considered in outsourcing a major government activity, program, or function. Further, although the Project Manager’s recollection of the decisions made at the time may be accurate, it is not a substitute for properly conducted and documented cost-benefit and risk analyses. Such analyses weigh the available options, providing credence and building confidence around selecting certain courses of action over others, such as whether the risks, costs, and benefits of an outsourcing solution is more desirable than an internal solution or a partnered effort of Department staff and consultants.

- The Department did not provide documentation that showed key end-users and significant stakeholders were involved in the development of the ITN. In response to an audit request for a listing of all Department management and key end-users, including outside parties, who participated in the development of the ITN, the Project Manager provided the names of only three Department employees: the former Secretary, the former State Purchasing Director, and a Senior Management Analyst. Upon further inquiry, the Project Manager stated that there was a conscious effort to involve a subject matter expert from both the State Technology Office and the Department of Financial Services (DFS), “owner” of the Florida Accounting Information Resource Subsystem (FLAIR); however, no documentation to support their involvement was provided. Considering the advice and perspectives of key end-users, stakeholders, subject matter experts, and seasoned technology project managers early in the planning and ITN development stages would help ensure a well-designed ITN and contract.
- The Department was unable to provide documentation that significant baseline data, including total procurement spend⁵ and total procurement processing costs, was available and analyzed during the planning process. In response to audit inquiry, the Project Manager indicated that he was “Unable to locate a baseline reference.” In planning to implement an eProcurement system, resources should be allocated to analyze the current spend profile: who spends the money, when is it spent, what is it spent

⁵ Spend is the value of purchases made.

on, where is it spent, and how is it spent. Baseline data should include the total spend over a given time period, as well as the cost of the existing procurement process, so that measurements can be made as the eProcurement system is implemented. Establishing baseline data from fragmented legacy systems may be difficult and, pragmatically, may require employing sampling and estimation techniques. In general, the effort in acquiring baseline data should be commensurate with the scope of the project. Without baseline data, measuring success may be problematic.

- The Department did not establish a mechanism to capture and track all Statewide costs associated with the implementation and operation of MFMP. Such a mechanism, coupled with accurate baseline data, is necessary for a determination of any cost savings or efficiencies attributable to MFMP.
- The ITN required respondents to provide a funding analysis that included estimated costs of the solution, capital financing plan, government financing, revenue sources and forecasts, operations and maintenance financing plan, cash flow analysis, total cost of ownership model, and other value-added services. For available data to research, the ITN referred respondents to the KPMG business case study, the State of Florida's financial statements, and Exhibit G to the ITN, *Purchase Order Statistics for Jun[e], 2000*.
 - The KPMG business case study, dated February 15, 2000, estimated that the State annually expended \$24.9 million in customer⁶ costs, agency costs, and centralized costs to carry out the purchasing process for goods and services. The business case study provided that State agencies annually purchase more than \$1 billion worth of commodities and services through purchase orders and procurement (purchasing) cards.
 - The State's financial statements for the fiscal year ended June 30, 2000, included expenditure data by function for all governmental fund types for the last ten fiscal years and showed that, in the 1999-2000 fiscal year, \$37.7 billion was expended, of which \$24 billion was for education and health and social concerns.
 - Exhibit G to the ITN, *Purchase Order Statistics for Jun[e], 2000*, shows that 43,645 new purchase orders were issued for the fiscal year totaling \$1.3 billion and that 21,230 purchase orders (or 48.6 percent) were under \$1,000.

These documents, while informative, did not appear to provide enough information for respondents to be able to forecast the probable volume of transactions and spend that would flow through an eProcurement system.

- Respondents were instructed to forward questions to the Department for a pre-response conference on March 20, 2001, to clarify any points in the ITN. Many submitted questions regarding volume and spend. Our review of Department responses to the questions posed disclosed that the Department did not provide any estimates of future spend or adequate baseline data for respondents to make such estimates. In response to vendor questions, the Department indicated, "Historically the amount of purchase orders transactions are as indicated in Exhibit G of the ITN, but the Department anticipates this number to increase with the implementation of the eProcurement System." Additionally, the Department informed respondents, "The amount forecast to spend is unknown. Exhibit G reflects last

⁶ The term "customer" as used in the KPMG business case study refers to an employee of a State agency who has duties and responsibilities not related to purchasing.

year's spend through SPURS. However, the Department believes that there are substantial expenditures for products and services that are not currently captured in SPURS." The Department stated that "additional spend will be derived through eligible users who do not use SPURS but will have access to the eProcurement System."

The Department, in addition to not providing data necessary for forecasting a reasonable estimate of spend, did not mention in either the ITN or in written responses to vendor questions that certain types of agency transactions would be exempt from the eProcurement system and that such exempted transactions would reduce the volume of spend through the eProcurement system.

For any technical problem for which a competitive and negotiated solution is sought, the failure to provide baseline data and other critical information could result in vendor responses that are too divergent for comparison purposes and contractual provisions that are based upon faulty assumptions.

As further described in other findings in this report, the planning deficiencies noted above appear to have contributed to flawed contract provisions, resulting in delays in project implementation.

Recommendation: The newly created Governor's Center for Efficient Government (Center), housed within the Department, is in the process of developing a Gate Management Process through which outsourcing projects will be evaluated at key milestones by the Center. This process has the potential for providing greater oversight and accountability for future outsourcing initiatives. In conjunction with this effort, the Department should develop internal policies and procedures that require objective cost-benefit and risk analyses during the planning phase of outsourcing proposals. In developing the ITN, Department policies and procedures should consider the input and advice of subject matter experts, seasoned technology project managers, key end-users, and stakeholders. Additionally, for all future outsourcing and competitive sourcing endeavors, the Department should ensure that significant baseline data is available for analyses conducted before, during, and after implementation. Also, to facilitate determining the extent of cost savings or efficiencies attributed to MFMP, the Department, as the State contracting agency, should establish a mechanism to capture and track all Statewide costs incurred with the MFMP project. The Department should strive to provide ITN information that is as comprehensive as possible and, when questions arise from respondents, the Department should attempt to fully address the questions to the extent possible.

The Deputy Secretary, in her written response, stated that the costs associated with the implementation of MFMP "deal with training and change management which by their nature are hard to track." Notwithstanding the difficulty envisioned by the Deputy Secretary, in measuring the success of an outsourcing, privatization, or other contractual services endeavor, it is fundamental that costs associated with the endeavor are considered in the calculation of cost savings. The Department's Long Range Program Plan (LRPP)⁷ dated September 15, 2003, stated that, in addition to generating savings via the reduced cost of goods and services, MFMP would generate process efficiencies from reduced paperwork, overhead, and processing costs. Therefore, in order to demonstrate the cost savings realized by the success of MFMP, as envisioned by the LRPP, we again recommend that the Department establish a mechanism to capture and track Statewide costs incurred with the MFMP project.

⁷ Department of Management Services *Long Range Program Plan*, dated September 15, 2003, addressed to the Executive Office of the Governor, Office of Policy and Budget, the Staff Director of the House Appropriations Committee and the Staff Director of the Senate Appropriations Committee.

Finding No. 2: Evaluations and Negotiations

ITN No. DMS 00/01-015 provided, “In determining whether to select or reject a response, the Department will consider and balance all information submitted in response to this ITN including information presented during oral presentation; . . . In its assessment of submitted Responses, the Department will analyze the information submitted in relation to the information requirements and evaluation criteria of this ITN, the applicable provisions of the Florida Statutes, and the Florida Administrative Code, and will compare each Response to the other Responses submitted and rank those Responses that are responsive and responsible.” For scoring purposes, the ITN grouped evaluation criteria in four categories: provider’s business history, experience, and organization (25 points maximum); provider’s solution and responses to work plan (40 points maximum); financial capability, cost, and price (25 points maximum); and revenue sharing, enhancements, and business opportunities (10 points maximum).

Our review of the evaluation and negotiation processes disclosed that several deficiencies existed, as discussed below:

- The evaluation and negotiation teams were each comprised of five members. The evaluation team included three members from the Department, one from the STO, and one from the Department of Financial Services. The negotiation team included the former Secretary and three members from the Department and later, an outside counsel. Representatives and subject matter experts for FLAIR and SPURS were not included on the negotiation team.
- Four of the five evaluation team members signed *Attestation Conflict of Interest and Non-Disclosure Statements* certifying that they were independent of, and had no conflict of interest with, any of the entities evaluated or selected. The fifth team member, and also the current Project Manager, indicated that he remembered signing the document, but it was not maintained in Department contract files. We noted, however, that only one of the five negotiation team members signed the document. In our review of contract files, we did not locate any documentation indicating that any of the evaluation and negotiation team members had a direct or non-direct interest in the entity awarded the contract. However, although not required by State law⁸ for competitively procured contracts, a written attestation by all individuals involved in the evaluation and negotiation of agency contracts that they are independent of, and have no conflict of interest in, the entities evaluated and selected serves to remind such individuals of the objectivity required for such activities.
- State law⁹ provides that, for a contract in excess of the threshold amount for CATEGORY FOUR (\$150,000), the agency head shall appoint at least three persons to evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought, and at least three persons to conduct negotiations during a competitive sealed reply procurement who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought. The Department did not document for the public record that the evaluators and negotiators possessed the collective experience and knowledge. While the law described above does not specify documentation requirements, Section 287.001, Florida Statutes

⁸ Section 287.057(19), Florida Statutes (2000).

⁹ Section 287.057(17), Florida Statutes (2002).

(2000), recognizes that documentation of the acts taken in public procurement are an important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are provided.

- Evaluation team members included the Department's former Inspector General. An Inspector General or the applicable Director of Auditing is, by law,¹⁰ required to provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the State agency. To effectively carry out these duties, the Inspector General should maintain independence from the programs and operations of the State agency. Therefore, it is inappropriate for the Department's Inspector General to participate in an evaluation or negotiation of a Department contract in any way other than an advisory capacity.

Recommendation: Policies and procedures should be developed to ensure that evaluation and negotiation team members are independent of, and have no conflict of interest in, the entities being considered for ITN initiatives and that such matters are documented in the contract files. Additionally, to evidence the teams' collective knowledge and experience, the qualifications and work history of each evaluator and negotiator should be concisely documented and incorporated into the contract files. The Department should also ensure that appropriate representation from major affected organizational units and systems are included on contract negotiation teams. The Secretary should ensure that the Inspector General and the staff of the Office of the Inspector General remain independent of all programs and operations of the Department.

Finding No. 3: Transaction Fees, Exemptions, and Revenue Share

Transaction Fees

State law¹¹ provides that the Department may collect fees for the use of the on-line procurement systems and that such fees may be imposed on an individual transaction basis or as a fixed percentage of the cost savings generated. At a minimum, the fees must be set in an amount sufficient to cover the projected costs of such services, including administrative and project service costs, in accordance with the policies of the Department.

Section 4.2 of the eProcurement contract states, "A Transaction Fee, established by the Department in accordance with Chapter 287, Florida Statutes, not to exceed 1%, shall be used as the sole source of revenue for the funding of the eProcurement System and for payment to Service Provider of any amounts due under this contract The Parties agree that the risk associated with the level of revenue produced through the Transaction Fee less the Legislative Budget Request for the Department's Division of State Purchasing not being sufficient to fund the development, installation, operation, and maintenance of the system as well as provide a reasonable return on investment for the Service Provider is borne entirely by the Service Provider. Service Provider shall not look to the Department or the State for relief from any losses incurred, except for those limited situations described in Sections 8.5.2(c) and 10.10."

Section 8.5.2(c) of the eProcurement contract relates to Service Provider remedies of termination where the Department fails to fully comply with any final order, subject to and including appeals, if any, issued by a court of competent jurisdiction as a result of Service Providers' petition seeking equitable relief under terms of the contract, within 30 days. Section 10.10 relates to any changes in statutes, rules, or regulations that exist as of the

¹⁰ Section 20.055(2)(d), Florida Statutes (2000).

¹¹ Section 287.057(23)(c), Florida Statutes (2001).

date of the contract, or the issuance of new statutes or promulgation of new rules or regulations, and states, in part, “if the reduction in the revenue share caused by the change in statute, rule, or regulation is more than 35% on an annual basis from that total annual revenue share actually received or projected to be received (projected total on Attachment I to the eProcurement contract) by the Service Provider under the existing statute/regulation, the Service Provider shall have the option to terminate the contract for convenience by providing 90 days notice.” The projected base compensation of Accenture as described in Attachment I to the contract is shown below:

| Year | Period | | Accenture's Base Compensation |
|-------|-----------------|------------------|-------------------------------------|
| | Beginning | Ending | |
| 1 | October 9, 2002 | June 30, 2003 | \$ 640,000 |
| 2 | July 1, 2003 | June 30, 2004 | \$20,020,000 |
| 3 | July 1, 2004 | June 30, 2005 | \$23,780,000 |
| 4 | July 1, 2005 | June 30, 2006 | \$23,780,000 |
| 5 | July 1, 2006 | November 8, 2007 | \$23,780,000 |
| Total | | | \$92,000,000 |

The determination that a transaction fee of 1 percent would be sufficient to fund the eProcurement system was not documented in Department records. Historically, there had been, by law,¹² a 1-percent surcharge on users (generally, State agencies and other governmental entities) of State term contracts in order to fund the costs, including overhead, of the Department’s procurement function (approximately \$7.8 million for the 2003-04 fiscal year). Generally, the usage fees were collected by the State term contract vendors. (See **Finding No. 5** for more information on usage fees.)

In its ITN response, Accenture put forth a solution using a 1.75-percent transaction fee to fund eProcurement; KPMG, the other vendor selected by the Department for negotiations, proposed a 2-percent transaction fee. In response to audit inquiry regarding how the 1-percent transaction fee was derived, the Project Manager stated, “The determination to limit the transaction fee to 1% was made at the DMS Secretary level and above. We have found no materials documenting how or why that decision was made.” However, our review of contract files disclosed an e-mail from the Department’s outside counsel to KPMG on April 12, 2002, which indicated that the former Secretary had just returned from a meeting with the Executive Office of the Governor and had been directed that the Service Provider’s fee would be 1 percent. Nonetheless, there was no other documentation in the contract files that showed the factors and assumptions used in determining that the 1-percent transaction fee could generate revenue sufficient to fund the eProcurement system in accordance with State law.¹³ Furthermore, although we were provided a copy of Accenture’s *MyFloridaMarketPlace Business Model Dashboard* as of May 21, 2003, which predicted spend, fees, and compensation based on various assumptions, the Project Manager indicated that the Department had never seen Accenture’s business model used to determine the contract price.

¹² Section 287.1345, Florida Statutes.

¹³ Section 287.057(23)(c), Florida Statutes.

Exemptions

As noted in **Finding No. 1**, there was no mention that certain agency transactions would be exempt from the eProcurement system in either the ITN or the Department’s responses to vendor questions. It was not until July 1, 2003, nearly 27 months after the ITN was issued and 9 months after the contract was signed, that rules were promulgated by the Department communicating MFMP vendor registration, transaction fees, and transaction fee exemptions. Exhibit A to this report includes all exemptions identified by rule.

As noted previously under the subheading, **Transaction Fees**, there are eProcurement contract termination clauses (Section 10.10 of the eProcurement contract) relating to changes in statutes, rules, or regulations that may affect revenue reductions. While these clauses may be an oblique reference to the impact exempt transactions could have on MFMP, exempt transactions or vendor exemptions are not specifically discussed in the contract. In response to audit inquiry regarding discussions during the negotiation phase concerning the impact of exempt transactions on revenue, the Project Manager stated, “Exemptions to the transaction fee were well known in accordance with FS 287 established prior to the signing of the contract. The rules although established later expounded on the already established statute.” Our review of contract files showed documentation of meetings, presentations, and correspondence from February through April of 2003 regarding vendor exemption and exempt transaction issues. However, we were unable to locate any documentation in the contract files that showed that, during the negotiation process, June 2001 through October 2002, all parties understood that some vendors and transactions would be exempt from the imposed fees. With negotiations being conducted for well over a year, it is unclear why the Department did not provide vendors with specific documented information on exemptions during the ITN and negotiation process and waited until months after the contract was signed to begin to formulate the exemptions into rule.

Revenue Share

Section 4.2.2 of the eProcurement contract describes the calculation of revenue share. Within any fiscal year, all transaction fees collected will be first used to fund the Department’s Legislative Budget Request (LBR)¹⁴ for the Division of State Purchasing. Once the budget has been paid, the remainder of the transaction fees collected will be paid to Accenture until the cumulative sum of \$92,000,000 (base compensation) is reached. There is an annual adjustment to the base compensation equal to the lesser of \$6,400,000 or the actual LBR, less \$1 million. Only after Accenture receives the full amount of the base compensation plus any adjustments will revenue sharing actually begin as shown in the table below:

| Transaction Fees Collected During Each Fiscal Year After Base Compensation Has Been Met and After Payment of LBR | Split (Department - Accenture) |
|--|-----------------------------------|
| Next \$20,000,000 | 70% - 30% |
| Next \$20,000,000 | 80% - 20% |
| Next \$20,000,000 | 90% - 10% |
| Thereafter | 100% - 0% |

¹⁴ The Department’s Legislative Budget Request (LBR) is defined in the contract as “The Department’s annual fiscal budget request to the State for funding the Division of State Purchasing, Office of Supplier Diversity, Motor Pool Operating Trust Fund (but limited to \$375,000.00), and the general revenue funding of SPURS (an amount of about \$1,300,000.00). The total LBR during the first fiscal year of this Contract is estimated to be about \$8,120,000.00.”

The impact that exemptions have on the MFMP transaction fees, coupled with the transaction fee rate itself, will largely determine the success or failure of the transaction fee as a funding source for MFMP. Two years into the contract, the likelihood that the revenue-sharing provisions noted will be realized appears to be minimal as the spend flowing through MFMP that is subject to transaction fees has been far short of original projections. In response to audit inquiry regarding Accenture's ability to terminate the contract via the terms expressed in Section 10.10 of the contract, the Deputy Secretary stated, "Although the actual revenue share paid to Accenture for the first two years will likely fall below 35% of the projected revenue share in Attachment I, it will not be due to a change in statute, rule or regulation. Rather the revenue share will not meet its projections due to, among other things, the failure to roll-out the system to all Initial Users by April 2004 and a flawed business plan which included purchases/spend that are not governed by Chapter 287."

In addition to the reasons enumerated by the Deputy Secretary as to why the contract has not lived up to expectations, the failure to automate the transaction fee process, that resulted in the continued self-reporting of sales and transaction fees by vendors, may have led to underreporting of fees. (See **Finding No. 5** for a discussion of underreporting of fees.) MFMP documents show that, for the first two years of the contract, Accenture has fallen short of its projected base compensation by \$16.5 million.

In proviso language to the 2004 Appropriations Act, the Legislature, aware of the MFMP revenue shortfall, provided that, in return for a significant reduction in compensation to be paid to Accenture, the Department was authorized to submit a budget amendment "to use the 1 percent transaction fee and shared realized strategic sourcing¹⁵ savings to pay Accenture, LLP." The terms of any new compensation model was to be agreed to by the parties to the contract and associated budget authority required to implement the contract would require approval by the Legislative Budget Commission. Subsequently, Accenture and the Department began renegotiating certain aspects of the contract. In response to audit inquiry, the Project Manager stated, "Specifically, the parties are endeavoring to adjust the business model to provide a better value for the State and more flexibility to the State while still being acceptable to Accenture. The Prime Contract provides for certain minimal annual target Revenue share to Accenture and provides remedies in the event that such targets are not met. The State is currently at risk for not meeting the target Revenue Share. Current negotiations avoid Accenture's invocation of those remedies and further provide that Accenture will reduce the Base Compensation threshold provided by the Prime Contract as well as further restrict Accenture's ability to share in revenues above that Base Compensation." Negotiations, however, failed to resolve the issues at hand, and on September 28, 2004, the Department's Deputy Secretary, in a letter to Accenture citing dissatisfaction with Accenture's performance, gave notice of "Event of Default." After several weeks of continued negotiation, the Department and Accenture reached a tentative agreement. However, as this tentative agreement had not been finalized as of the end of our audit field work, we have not reviewed the agreement.

¹⁵ Strategic sourcing is the consolidation and classification of procurement data to provide an understanding of supplier relationships in order to develop procurement strategies that reduce costs, make procurement predictable and repeatable, enlighten supplier partnership decisions, and provide leverage over suppliers in negotiations.

Recommendation: To ensure continuity of contract knowledge and experience throughout the effective life of the contract, the Department should develop policies and procedures that require that documentation be maintained in contract files explaining the factors, assumptions, and methodologies used to develop key financial provisions of its contracts, particularly for contracts that extend for multiple years. Additionally, contracts should address all significant issues that impact the financial viability of the contract. Furthermore, the Department should ensure that the factors, assumptions, and methodologies applicable to the tentative agreement are clearly documented in the contract files.

Finding No. 4: Contract Modifications

Section 3.2 of the eProcurement contract with Accenture provides a process for change orders. For those change orders necessary for legal mandates or for system viability, the Department may unilaterally modify the deliverables or services to be provided, including any change in the statement of work or a change in the time frames or schedule (Modification). For all modification requests by the Service Provider (Accenture), the Department may issue a change order. Modifications that result in a material increase or decrease in the Service Provider's work effort would require an appropriate increase or decrease to base compensation of the contract and extension or reduction for an appropriate number of days of the contract term in order to pay the increase in such base. Alternatively, or in combination of the preceding, the cost of the modification can be offset against liquidated damages or performance penalties. Our review showed that rather than increasing or decreasing the base compensation of the contract or the number of days of the contract term for modifications made to the requirements of the contract, the parties agreed to the use of transaction fees to pay for cost of the modifications, as described in detail below.

Modification 1 to the contract, executed June 26, 2003, amended the implementation schedule of the contract by extending the Development Phase of the contract through month 9 rather than month 7 and to begin the Deployment Phase of the contract in month 10 rather than in month 8. Additionally, Modification 1 provided that the Department would pay Accenture an initial sum of \$76,000 for DFS Audit Requirements, an additional system functionality that would allow DFS to audit each MFMP invoice. Total cost of the DFS Audit Requirements was \$192,104, and the Modification specified that "the terms of payment for the remaining amount would be set forth in a subsequent Modification."

On September 5, 2003, Modification 2 to the eProcurement contract was executed. Modification 2 provided that there were "new system functionalities" that would be accommodated by the Department and paid from the self-reported fees collected beginning July 1, 2003. The transaction fees were to be used to fund these functionalities prior to funding the LBR. Included under this accommodation was the remaining \$116,104 for the DFS Audit Requirements. Additionally, an Online Interface Requirement between MFMP and FLAIR and a Billing and Collection System were included in the accommodation. The products and resources needed for the Online Interface Requirement was established at a cost of \$941,200, and the Billing and Collection System was established at a cost of \$723,460. As discussed in **Finding No. 5**, the Billing and Collection System was needed because original contract provisions for an automated fee deduction in FLAIR was determined not to be feasible. The extra costs associated with DFS Audit Requirements, the Online Interface Requirement, and the Billing and Collection System may have been avoided had the Department adequately conferred with DFS prior to entering into the original contract. (For further clarification of the transaction fees used for these functionalities, refer to the table in **Finding No. 6**.)

Another provision of Modification 2 was to create a “contingency bucket” to “help allow the project to continue without interruption should future modifications be required.” As a result of net additions and subtractions from the scope of the project, \$1.1 million was designated for the contingency bucket. To add an additional \$550,000 to the contingency bucket, Modification 2 also changed the audit and performance bond provisions of the contract, as discussed below:

- Section 4.5.3 of the eProcurement contract requires Accenture to provide an audit report to the Department for each fiscal year (July 1 to June 30, unless otherwise notified in writing by the Department) except that the first complete fiscal year will include the portion of the year from the execution of the contract. Thus, the first audit was to cover the period October 9, 2002, through June 30, 2004; to be followed by an audit for each ensuing fiscal year (July 1, 2004, through June 30, 2005; July 1, 2005, through June 30, 2006; July 1, 2006, through October 8, 2007). The audit reports are to be prepared by an independent certified public accountant, reflecting the collection of all transaction fees and the payment of the revenue share.

Modification 2 asserts that the audit requirement of the original contract represented \$500,000 in anticipated costs to Accenture, although a cost figure for the audit requirement was not part of the original contract. Modification 2 replaces Section 4.5.3 of the original contract and provides instead that Accenture “shall allocate a maximum of \$200,000 to support two (2) audits during the term of the Prime Contract, to be conducted as of 06/30/04 and 06/30/06, and to be prepared by an independent certified accountant, reflecting the collection of all Transaction Fees and the payment of the Revenue Share.” The net result of this modification is an addition of \$300,000 to the contingency bucket.

This reduction in audit requirements results in no audit coverage for the last 16 months of the contract. In response to audit inquiry, the Project Manager stated that “the contract requirements were intended to establish a schedule. All activities are subject to an audit at any given time.” Contractual provisions do provide for others (i.e., Auditor General or the Department’s authorized representatives) to inspect and audit all work, books, accounts, materials, payrolls, and records pertaining to the financing, development, and operation of the eProcurement System. However, such inspections and audits will require State resources rather than Accenture resources as originally contemplated in the contract.

- Section 7.6 of the eProcurement contract requires Accenture, at its own cost, to provide the Department an original performance and payment bond covering the faithful performance of the contract and payment of all obligations arising from the contract in the amount of \$35 million for the first year of the contract, reduced to \$20 million for the second year, and further reduced to \$10 million for the remaining years. On October 9, 2002, Accenture obtained a performance bond for \$35 million in accordance with contract provisions. The performance bond indemnifies the Department from and against any failure on Accenture’s part to faithfully perform the obligations imposed under the terms of the contract.

In response to audit inquiry, the Project Manager stated, “During the planning process it was decided that DMS [Department] would not have the resources available to assume the responsibilities of this contract. Based on this fact, DMS used the performance bond to cover the costs of acquiring another vendor to assume the responsibilities.” Upon further audit inquiry as to how the Department

determined that amounts for the performance bonds were sufficient, the Project Manager stated that “Based on negotiations and the discussion around setting the costs accrued per year in attachment J, it was deemed acceptable by both parties to set the performance bond at those levels. DMS knew that most of the costs associated with a project of this nature would occur in the first year and decline from that point on.” The contract’s *Attachment J – Termination for Default Payment* lists cumulative estimated costs for the contract.

In the table below, amounts from *Attachment J* are replicated, as well as the annual cost and performance bond amounts. By comparing the annual cost to the performance bond amounts, there appears to be some correlation, although the performance bonds for Years 3 and 4 are set at levels below the annual costs. As also shown in the table below, Modification 2 replaces Section 7.6 of the original contract and provides that Accenture, at its own cost, shall provide to the Department an original performance and payment bond covering the faithful performance of the contract and payment of all obligations arising from the contract in the amount of \$35 million for the first year of the contract, reduced to \$10 million for the second year, and further reduced to \$5 million for the remaining years. The net result of this modification is a reduction of Accenture’s anticipated costs from \$500,000 to \$250,000. In response to audit inquiry, the Project Manager explained, “In June 2003, following further consideration, DMS made the determination that some reduction in the Performance Bond was possible without increasing the risk to the state and that this would have the benefit of creating a contingency reserve for the project to help allow the project to continue without interruption should future modifications be required.” No analysis or other documentation was provided to support this determination that risk would not be increased by reducing the performance bonds by 50 percent.

| Year | Quarter | Cumulative Contract Cost | Annual Contract Cost | Performance Bond (Original) | Performance Bond (As Modified) |
|------|---------|--------------------------|----------------------|-----------------------------|--------------------------------|
| 1 | 1 | \$12,922,000 | } \$31,986,000 | \$35,000,000 | \$35,000,000 |
| | 2 | \$20,408,000 | | | |
| | 3 | \$27,466,000 | | | |
| | 4 | \$31,986,000 | | | |
| 2 | 1 | \$37,265,000 | } \$14,622,000 | \$20,000,000 | \$10,000,000 |
| | 2 | \$40,577,000 | | | |
| | 3 | \$43,592,000 | | | |
| | 4 | \$46,608,000 | | | |
| 3 | 1 | \$55,941,000 | } \$22,400,000 | \$10,000,000 | \$5,000,000 |
| | 2 | \$59,836,000 | | | |
| | 3 | \$64,422,000 | | | |
| | 4 | \$69,008,000 | | | |
| 4 | 1 | \$74,746,000 | } \$13,742,000 | \$10,000,000 | \$5,000,000 |
| | 2 | \$78,870,000 | | | |
| | 3 | \$80,916,000 | | | |
| | 4 | \$82,750,000 | | | |
| 5 | 1 | \$86,319,000 | } \$9,250,000 | \$10,000,000 | \$5,000,000 |
| | 2 | \$88,274,000 | | | |
| | 3 | \$90,171,000 | | | |
| | 4 | \$92,000,000 | | | |

The eProcurement contract was nearly a year old when Modification 2 was executed. In that period of time, the Department Secretary had changed twice, as had the Contract Manager and implementation of MFMP was already several months behind. It is not clear why, at this juncture, the Department chose to take on the increased risks of reduced audit coverage and reduced performance bonds or whether other options were considered such as seeking a remedy through the appropriation process.

Recommendation: The Department should establish policies and procedures that ensure parties materially affected by an outsourcing endeavor are consulted on all applicable terms and provisions. The Department should also amend the contract to ensure that all transaction fees and the payment of the revenue share are subjected to audit as originally contemplated in the contract. Additionally, to clarify the factors and assumptions behind contract provisions and modifications, the Department should establish written policies and procedures that require documentation explaining key decisions.

The Deputy Secretary, in her written response, did not concur with our recommendation to amend the contract to ensure that transaction fees and payment of revenue share are subjected to audit as originally contemplated in the contract, stating that “According to the terms of the current contract, as well as, the mandates of State law, all transaction fees and payment of the revenue share to Accenture are subject to audit at any time...” However, the point of our finding is that the original negotiated cost of the contract was based on Accenture paying for such audit coverage. Since the current contract does not provide for a scheduled audit of the fees and payment of revenue share during the last 16 months of the contract and State resources will be required rather than Accenture resources as originally contemplated in the contract, we continue to recommend that the Department amend the contract.

Finding No. 5: Billing and Collection

In 1996, State law¹⁶ created a 1-percent usage fee on State term contracts in order to fund the costs, including overhead, of the Department’s procurement function. Generally, the usage fees were collected by the State term contract vendors and self reported to the Department. The Department was unable to verify that the vendors submitted all the surcharges due to the State and, in response to previous audit findings,¹⁷ indicated that it planned to utilize the new eProcurement system to address this deficiency.

Thus, provisions of the eProcurement contract required that Accenture develop a billing and collection process within FLAIR that would deduct a 1-percent fee automatically from those vendors paid through FLAIR and distribute the fees to the Department and Accenture. This process was expected to reduce revenue “leakage” typically seen in the self-reporting environment (as presented by the Department, leakage is 3 to 5 percent for an automated system versus 30 percent or more for a self-reporting system). Although DFS staff, the functional owner of FLAIR, was involved in the early planning and ITN evaluation process, subject matter experts from DFS were not part of the negotiation team that drafted the eProcurement contract. According to a MFMP presentation on June 6, 2003, by the former Project Director, the Department and DFS had to back away from the original FLAIR approach as it became evident that using FLAIR to automatically deduct fees from vendor payments was not feasible. As shown below in an excerpt from the presentation, the reasons for the change in approach were both application/system-related and business-related:

“Reasons for the change in direction:

- Application/System Related Reasons
 - DFS is in the process of replacing the current FLAIR system
 - DFS resources are being stretched across multiple key operational priorities and new initiatives
 - FLAIR required significant and complex modifications to satisfy the business requirements needed to accommodate the accounting for the 99% and 1% transactions
- Business Related Reasons
 - Agencies would incur additional workload tracking the automatic withholding
 - CFO [Chief Financial Officer] was concerned about the accounting treatment and reconciliation issues given the capabilities of the current FLAIR system.”

As many of the parties involved in the negotiations were no longer employed by the State and because negotiations lasted for over a year and the contract files did not evidence key decisions made, it was not possible for us on audit to determine why FLAIR was originally considered a viable solution for automatically deducting transaction fees from vendor payments. However, it does appear that FLAIR subject matter experts were not

¹⁶ Chapter 96-236, Laws of Florida.

¹⁷ Audit Report No. 02-048.

adequately involved during the development of the technical aspects of the eProcurement contract. Additionally, it does not appear that adequate consideration was given during planning and negotiations to the resources needed by DFS and State agencies with regard to the original FLAIR approach.

Modification 2 to the contract was executed on September 5, 2003, and provided that Accenture implement a "Billing and Collection System" to be used until the replacement for FLAIR is implemented (currently scheduled for the 2005-06 fiscal year). The Billing and Collection System was beyond the scope of work as provided by the original eProcurement contract and was not included in Accenture's expected costs or base compensation. Accordingly, the modification provided \$723,460 for "a portion" of the Billing and Collection System requirements, \$623,460 upon signing of the modification to cover up-front hardware and software acquisition costs and system design costs, and the remainder upon completion of the successful implementation of the System. (In October 2003, Accenture retained \$623,460 in transaction fees to cover these costs. Refer to the table in **Finding No. 6.**) Additionally, because there were costs incurred with collections of fees being manually rather than automatically remitted, the parties agreed that Accenture would pay the LBR on a month-by-month basis for actual expenditures beginning October 2003.

It took Accenture approximately 13 months to develop and successfully launch the Billing and Collection System (currently referred to as the Transaction Fee Reporting System). From July 1, 2003, when MFMP went live at two pilot agencies, through October 4, 2004, when the Transaction Fee Reporting System became operational, vendors were required to self-report and mail in transaction fee reports and transaction fees, as was done under the old usage fee system. Under the Transaction Fee Reporting System, vendors can submit transaction fee reports on-line although transaction fees must still be submitted by mail directly to MFMP. According to Department staff, Accenture and the Department are exploring ways to reconcile vendor invoices paid through FLAIR with the sales and fees reported in the Transaction Fee Reporting System. Until such time that this reconciliation process is perfected, the Transaction Fee Reporting System is a self-reporting mechanism. And thus, given the expected "leakage" in the self-reporting environment, transaction fees may still be underreported.

Modification 2 provides that, upon implementation of the replacement for FLAIR, the Department and DFS will automate the transaction fee collection process so that the 1-percent fee is deducted from invoices submitted by vendors. However, the Project Manager communicated to us on October 28, 2004, that this issue is still under review with DFS and that no decision had been made at this time.

Also, it should be noted that regardless of whether the replacement for FLAIR does include an automatic 1-percent fee deduction, present plans for MFMP provide that sales and transaction fees will have to be self-reported for all users not on the State's financial system. Currently, this issue does not greatly impact MFMP, since users of MFMP have been limited to State agencies. However, as other eligible users (i.e., local governments, universities, colleges, and public schools) are brought on MFMP, the self-reporting issue will take on increasing importance.

Recommendation: The Department should ensure that, for future outsourcing contracts, the appropriate technical and subject matter experts are consulted during the planning and negotiation phases, particularly with regard to the integration or enhancement of existing financial management systems, as noted in several recommendations in this report. With regard to MFMP, the Department should continue working with DFS to interface MFMP with the replacement for FLAIR and look for ways to maximize vendor collections.

Finding No. 6: Collected Fees and Interest Earnings

State law¹⁸ provides that the Department and STO may collect fees for the use of the on-line procurement systems. For purposes of compensating the provider, the Department may authorize the provider to collect and retain a portion of the fees. The providers may withhold the portion retained from the amount of fees to be remitted to the Department. Our review disclosed certain deficiencies in the collection process over transaction fees collected pursuant to this law.

As discussed in **Finding No. 5**, the original contract provided that the Department would utilize the existing FLAIR to work in conjunction with interfaces developed by Accenture so that transaction fees would be automatically collected at the time of submission of an invoice by the vendor. This approach was abandoned when it became evident that utilizing FLAIR would not be feasible. A MFMP presentation given by the former Project Director to the Executive Office of the Governor (EOG) and legislative staff dated June 6, 2003, indicated that an alternative proposed method would have had MFMP bill vendors directly for 1 percent of the invoice amount. Under this method, vendors would remit the 1-percent transaction fee to the Department for deposit in the Grants and Donations Trust Fund. The Department would then, on a monthly basis, disburse collected funds to Accenture, once the LBR had been satisfied. However, in order for this method to operate, the Department determined it would need, based on estimated receipts for the year, nonoperating budget authority to make monthly disbursements from the Grants and Donations Trust Fund to Accenture.

On September 30, 2003, a MFMP presentation prepared by the former Project Director for legislative briefings indicated that, after discussions with the EOG, Office of Planning and Budgeting (OPB), and the Legislature, the Department examined a second alternative using a third party (bank). Under this alternative, billing would be conducted by Accenture and processing and disbursement of collected fees would be performed by the bank. The bank would disburse fee receipts, first to the Grants and Donations Trust Fund for payment of the procurement budget, and then to Accenture in accordance with contract provisions. The Department would provide guidelines to the bank and sign off on the disbursements. The presentation concluded that this option provided enhanced control and auditing functionality and would provide the most seamless transition to the intended process in the future. We noted that Modification 2 to the contract, executed on September 5, 2003, 25 days prior to the presentation, provided that Accenture would implement a billing and collection system, but was silent with regards to the functionality of a third-party bank.

Our audit disclosed that MFMP has not operated as depicted in the September 30, 2003, presentation as the bank has not disbursed collected fees. Fees were first remitted to MFMP in July 2003, when MFMP went live at two pilot agencies. Vendors, then and now, are instructed to mail MFMP fees to a MFMP address for deposit into a MFMP account at Bank of America (BOA). BOA has had the account since November 2003. (Previously, from July 2003 through October 2003, transaction fees were deposited into an Accenture/MFMP Bank One account.) Accenture employees also collect fees misdirected to the Department and deposit the fees into the BOA account. Accenture Corporate Treasury automatically sweeps the balance of the MFMP account on a nightly basis, moving the funds into the company's consolidation account at Bank One for centralized cash management purposes. Thus, Accenture has custody and control of the transaction fees.

¹⁸ Section 287.057(23), Florida Statutes (2001).

We also noted that, during our audit, Accenture provided the Department with detailed spreadsheets of fees collected and deposited to which the Department staff could reconcile BOA bank statements. Also, Department staff indicated that they traced detailed transaction fee reports to deposits for a period of three months in the 2003-04 fiscal year to provide assurance that the process was working. However, until the Transaction Fee Reporting System was launched on October 4, 2004, Accenture maintained custody and control over the supporting documentation for the transaction fees remitted to MFMP. Using the Transaction Fee Reporting System, Department staff now has easy on-line access to vendor transaction fee reports and payment histories.

As noted in **Finding No. 4**, the original contract and Modification 2 required an independent certified public accounting firm to perform audits of the collection of all transaction fees and payment of the revenue share. We noted that KPMG was engaged to perform certain attestation procedures agreed to by the management of Accenture and the Department. In its review of *Schedule A – Summary of Transaction Fees Collected/Revenue Share for the State of Florida Fiscal Year ended June 30, 2004*, KPMG noted no material exceptions during the performance of the agreed-upon procedures. The data presented on *Schedule A* is shown below:

| Schedule A - Summary of Transaction Fees Collected/Revenue Share for the State of Florida Fiscal Year ended June 30, 2004 | | | |
|---|---|---|----------------------------|
| Month | Transaction Fees Collected From Vendors | Less: Disbursements to Accenture and Department | Revenue Share to Accenture |
| Jul-03 | \$ 1,107,760 | \$ - | \$ 1,107,760 |
| Aug-03 | \$ 1,945,157 | \$ - | \$ 1,945,157 |
| Sep-03 | \$ 759,074 | \$ - | \$ 759,074 |
| Oct-03 | \$ 643,527 | \$ (937,134) | \$ (293,607) |
| Nov-03 | \$ 784,837 | \$ (313,733) | \$ 471,104 |
| Dec-03 | \$ 769,520 | \$ (429,837) | \$ 339,683 |
| Jan-04 | \$ 1,419,169 | \$ (4,076,337) | \$ (2,657,168) |
| Feb-04 | \$ 760,184 | \$ (544,676) | \$ 215,508 |
| Mar-04 | \$ 1,255,323 | \$ (651,313) | \$ 604,010 |
| Apr-04 | \$ 1,118,821 | \$ (450,046) | \$ 668,775 |
| May-04 | \$ 1,309,842 | \$ (448,896) | \$ 860,946 |
| Jun-04 | \$ 1,149,252 | \$ (1,058,233) | \$ 91,019 |
| Total | \$ 13,022,466 | \$ (8,910,205) | \$ 4,112,261 |

Our review of Modification 2 of the eProcurement contract, FLAIR records, and other documentation shows that the breakdown of disbursements to Accenture and the Department was as shown in the table below. We noted that an immaterial difference of \$60 for the month of October 2003 exists between the KPMG report and contract records.

| Month | Accenture's Payment of LBR Per FLAIR | | Transaction Fees Retained for DFS Audit Requirements, Per Modification 2 | Transaction Fees Retained for Billing and Collection, Per Modification 2 | Transaction Fees Retained for Online Interface, Per Modification 2 | Total Disbursement of Transaction Fees for 2003-04 Fiscal Year Actions |
|--------------|--------------------------------------|-----------------|--|--|--|--|
| | Received Date | Amount | | | | |
| Jul-03 | | | | | | |
| Aug-03 | | | | | | |
| Sep-03 | | | | | | |
| Oct-03 | | | | \$ 623,460 | \$ 313,734 | \$ 937,194 |
| Nov-03 | | | | | \$ 313,733 | \$ 313,733 |
| Dec-03 | | | \$ 116,104 | | \$ 313,733 | \$ 429,837 |
| Jan-04 | | | | | | |
| Feb-04 | | | | | | |
| Mar-04 | 03/18/04 | \$ 2,556,579.12 | | | | \$ 2,556,579 |
| Apr-04 | 04/20/04 | \$ 544,676.06 | | | | \$ 544,676 |
| May-04 | | | | | | |
| Jun-04 | 06/09/04 | \$ 1,093,485.93 | | | | \$ 1,093,486 |
| Total | | \$ 4,194,741.11 | \$ 116,104 | \$ 623,460 | \$ 941,200 | \$ 5,875,505 |
| Late Payment | 09/30/04 | \$ 3,034,759.86 | —————→ | | | \$ 3,034,760 |
| Total | | \$ 7,229,500.97 | | | | \$ 8,910,265 |

As noted in **Finding No. 4**, to provide coverage for costs incurred with the collections of fees being manually rather than automatically collected, Accenture was allowed to pay down the LBR on a month-by-month basis for actual expenditures starting in October 2003. Because the transaction fees reside in Accenture’s bank accounts, the Department must invoice Accenture for payment of monthly LBR expenditures. Disputes over certain credits and accrued interest have resulted in Accenture not always timely remitting LBR payments. One of the issues identified in the Department’s “Event of Default” letter sent to Accenture on September 28, 2004, was that Accenture still owed the Department over \$3 million for the 2003-04 fiscal year LBR. The Department received Accenture’s payment two days later.

Under original contract provisions, the eProcurement system was to send daily batch files to FLAIR containing payment authorizations (invoices) processed within MFMP. Each batch file was to create two and up to three transactions per invoice: one creating a payment to the invoice vendor, one creating a journal transfer to the Department for its share of the transaction fee, and one for creating an electronic funds transfer payment to Accenture for its revenue share of the transaction fees. The contract did not address interest earnings, most likely because under the process described in the original contract, interest earnings had little impact.

However, with the changes brought about by Modification 2 to the contract and transaction fees transferred daily to Accenture’s bank account, interest earnings, unanticipated by statute and contractual provisions, have become the subject of dispute between Accenture and the Department. Accenture maintains it owes interest only on late payments of the LBR, a total of \$23,794 for the period October 2003 through March 2004. In his response dated November 16, 2004, to our audit inquiry regarding how much interest the Department believed it was owed, the Project Manager stated that the “Matter has not been resolved.”

Recommendation: To safeguard the Department's share of the transaction fees collected as well as interest earnings on those transaction fees, the Department should reconsider using a third-party bank to control transaction fees as envisioned by the September 30, 2003, presentation that described the enhanced control and auditing functionality of such a process. Should the Department not require that a third-party bank maintain control over the transaction fees, then consideration should be given to additional agreed-upon procedures to include internal controls.

NORTH HIGHLAND

On December 12, 2002, approximately three months after signing a contract with Accenture to implement MFMP, the Department issued Invitation to Negotiate (ITN No. 58-973-561-N) seeking to establish a five-year contract for third-party consulting services for management of MFMP. The North Highland Company (North Highland), a Georgia corporation with an office located in Winter Park, Florida, was selected to provide third-party consulting support for implementation and performance monitoring of the eProcurement contract and the MFMP project.

On February 19, 2003, North Highland began working for the Department, and on March 6, 2003, the Department and North Highland entered into a 54-month contract totaling \$1,800,000.

Finding No. 7: Planning

As previously stated, MFMP represents one of the State's major initiatives. As managers gather to determine strategies to implement such initiatives, it is fundamental that the related costs be considered. Good business practices require that, before making a decision to outsource significant services, a cost-benefit analysis should be performed to ensure that all options are explored and the best solution for the outsourcing task is selected. Additionally, a needs assessment should be conducted that includes a systematic process for documenting the relevant needs of the Department, setting priorities, and making decisions regarding the allocation of resources. Our audit inquiries with Department personnel disclosed that the Department's decision to outsource the third-party consulting services for the MFMP Project was not supported by a cost-benefit analysis or needs assessment. In response to audit inquiry, the Project Manager stated, "The third party monitor was contracted in response to the Legislatures recommendation to the People First project."¹⁹

State law²⁰ provides that the Department is responsible for the development of procedures to be used by an agency in deciding to contract including, but not limited to, identifying and assessing in writing, project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency workload capabilities, and the ability of any other State agency to perform the services. Absent a cost-benefit analysis or needs assessment, the Department could not document that outsourcing was in fact the best method of accomplishing this specific task.

Recommendation: To ensure that viable options are explored and the best solution is selected, the Department should precede the procuring of significant services by performing and documenting a needs assessment and cost-benefit analysis.

¹⁹ Appropriations for a third-party monitor were provided to the Department for People First, an HR outsourcing project, and were discussed in Audit Report No. 2005-047.

²⁰ Section 287.042(3)(d), Florida Statutes (2002).

Finding No. 8: Communications with Prospective Providers

As part of its duties and functions, the Department is required by law²¹ to prescribe the methods of securing competitive sealed bids, proposals, and replies. Such methods may include, but are not limited to, conducting conferences or written question and answer periods for purposes of responding to vendor questions. Open and effective communication during the ITN process helps to ensure that responses received provide viable solutions for the services required.

On December 12, 2002, the Department issued an ITN (No. 58-973-561-N) to solicit responses from interested firms to establish a five-year contract for third-party consulting services for management of MFMP provided by Accenture. State law²² provides, “The invitation to negotiate is used when the agency determines that negotiations may be necessary for the state to receive the best value.” Section 1.05, a component of the ITN, provided that offerors should address any questions to the Contract Manager, and that such questions should be in writing and received by the Department within a specified timeline, as well as answered by the Department within a specified timeline. Further, the ITN provided that the offerors should not contact any other employee of the Department or the State for information relevant to the ITN.

On January 8, 2003, Addendum No. 1 – Questions and Answers to the ITN was posted by the Department relating to 61 questions (from six companies) that had been received. The Addendum grouped the questions and answers according to similar content.

Some of the questions that were raised by the offerors and the Department’s response are listed below:

| Question Number | Offerors' Questions | Department's Response |
|-----------------|--|---|
| 40 | Is any portion of Accenture's fees based on savings from Sourcing events? If so, when are those savings considered; at contract negotiation or at realization of spend against the contract price? | These questions seek information that is not necessary to prepare a responsive reply. |
| 41 | What processes have been established to have control of this project passed to another vendor if Accenture is determined to be non-compliant? | |
| 42 | If Accenture is determined to be non-compliant, can the vendor who has been selected as the PMO (Project Management Office) be considered to take control of the project? | |
| 43 | If Accenture is determined to be non-compliant, will the vendor that assumes control be subjected to the same financial terms as Accenture has established with the State? | |

²¹ Section 287.042(4)(a), Florida Statutes (2002).

²² Section 287.012 (17), Florida Statutes (2002).

Based on our review of the above questions and those discussed in **Finding Nos. 9 and 11** that were posed by the offerors, it appears that the Department's response could have been communicated more effectively to better serve all involved parties. In its justification for the ITN, the Department stated that the "Justification for the ITN format is based on the fact that the scope of work involved is of such a broad nature, with need for definement, that the use of an Invitation to Bid (ITB) or Request for Proposal (RFP) would not allow the dialogue necessary with the prospective offerors to ensure that all possible issues could be addressed." However, by providing an open forum for offerors' questions but foregoing effectively answering the questions posed, the Department appears to have curtailed dialog, thus thwarting the communication process.

Respondents to an ITN are expected to obtain an understanding of the services required and become informed regarding the roles and relationships of the individual stakeholders in order to provide the best value to the State. In this instance, the offerors utilized their time and resources to ask questions that were not adequately answered by the Department. Communication is an integral component of a contractual relationship when seeking a successful outcome.

Recommendation: Department managers should ensure that an effective communication process is established during the ITN phase of a project.

Finding No. 9: Provision of State Work Space

In **Finding No. 8**, we discussed the importance of communicating effectively when seeking successful contractual outcomes and that during the ITN solicitation, offerors were provided the opportunity to address questions to the Contract Manager. In addition to the questions noted in **Finding No. 8**, several questions were posed by the offerors concerning office sites and the incurrence of expenses that pertained to travel and lodging as noted below:

| Question Number | Offerors' Questions | Department's Response |
|-----------------|---|---|
| 18 | Will the Department provide facilities to collocate the consultants with the PMO? If yes, how many offices, computers, phones, and network/Internet connections? | <p>The Department expects that all work will be performed in Tallahassee, Florida with the occasional need for out of town site visits. The State must charge for space and facilities used by consultants; however, meetings will be held in State space at the State's expense. Offerors should cost-load their models accordingly.</p> |
| 19 | In which cities are there State employees and Vendors that will participate and how many will participate in each city as users in each phase (Development/pilot, Statewide Deployment, Statewide Operations)? | |
| 20 | Do you expect to see hourly rates that include expenses, such as travel and lodging, or would you prefer to see a rate that does not include that and then see the expenses stated separately? | |
| 21 | Approximately what percentage of the work effort . . . related to the implementation is planned to take place centrally and what percentage is planned to take place at State offices around the State? | |
| 22 | You ask, "Provide a comprehensive staffing plan for the Contract, including organizations of functions, workflow, city/state where functions will be accomplished, etc." Since the implementation is in Tallahassee doesn't that mean the support or assistance has to be in Tallahassee? | |

During audit field work, we noted that the Department was providing North Highland employees with work space without charging for this service. We inquired about the costs incurred by the Department for providing work space including telephones, computers, office supplies, fax usage, etc. Also, we asked to be provided with an explanation and any supporting documentation to demonstrate how the Department was reimbursed for such costs. In response to audit inquiry, the Project Manager stated, "There are minimal costs incurred by DMS [Department] for providing office space. North Highland provides their own computers and office supplies. The space they use is vacant space that would be a cost incurred by DMS regardless. Phone/fax usage costs are negligible. Any expense incurred is more than offset by the value of having the North Highland team co-located with the DMS team. The decision to provide office space for the North Highland team was made by DMS management with this in mind." Further, regarding how the Department was reimbursed for such costs, the Project Manager stated, "No additional expense has been incurred." Lastly, we made inquiry as to whether the Department had any procedures regarding charging rent to consultants or subcontractors, and the Project Manager indicated that there were none.

Although the expense to the State for providing work space to North Highland may be minimal in value, providing such space is inconsistent with the Department's response stating "The State must charge for space and facilities used by consultants." Furthermore, it may be inconsistent with work space arrangements afforded to other contractors doing business with the Department.

Recommendation: The Department should determine the steps that can be taken to mitigate this contract deficiency and ensure proper consideration of such deficiency is given in other existing and future contracts.

Finding No. 10: Conflict of Interest Statements

In accordance with State law²³, it is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized by State agencies in managing and procuring commodities and contractual services, that detailed justification of agency decisions in the procurement of commodities and contractual services be maintained, and that adherence by the agency and the vendor to specific ethical considerations be required. Additionally, good business practices would suggest that those individuals taking part in the evaluation and selection of a service provider for contractual services are independent and have no interest in the entities being considered for the contract.

During our review of the North Highland contract process, we noted that the Department could not locate completed conflict of interest statements for those individuals that took part in the evaluation process. Best practices would require that such statements be completed before the evaluation process began to ensure that a fair and non-partial selection process occurred.

The evaluators included the following individuals:

- Department's Bureau Chief of Financial Management Services
- Former Department's State of Florida IT Procurement Project Manager
- Director of Tribridge, Inc.

We inquired about the need to outsource the third-party ITN evaluator (Tribridge, Inc., located in Tampa, Florida) and whether the selection process was documented. The Project Manager responded, "No but, the complexity, scope and lack of State subject matter experts in part drove the decision to outsource a third party ITN evaluator. Also, service was acquired through a SNAPS [State Negotiated Agreement Price Schedules] agreement which does not require the need to obtain quotes. The vendor was selected based on their experience and involvement with eProcurement and project monitoring."

We did not locate, or were not provided, any documentation to indicate that the individuals taking part in the evaluation process had an interest (direct or non-direct) in the entity awarded the contract. However, requiring and maintaining signed conflict of interest statements increases the assurance that a biased evaluator was not assigned to the evaluation process, giving an unfair advantage to any particular vendor and negating the State's ability to procure the best value or services.

²³ Section 287.001, Florida Statutes (2002).

Recommendation: In future contract evaluations, the Department should ensure that conflict of interest statements are completed prior to the selection process and maintained as supporting documentation within the contract files.

Finding No. 11: Contract Amendments

State law²⁴ provides that the Department shall establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services that shall include, but not be limited to, development of procedures that are used in deciding to contract. Such procedures are to include identifying and assessing in writing project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency workload capabilities, and the ability of any other State agency to perform the services. Our review of the North Highland contract disclosed escalating costs, resulting from contract amendments, that could have possibly been avoided had the Department established and implemented effective procedures in accordance with law.

A review of price comparisons of vendors selected to negotiate for the MFMP third-party consulting services contract shows that North Highland's initial ITN totaled \$3,218,000 and, after negotiations were finalized, a contract price of \$1,800,000 for a term of 54 months was agreed upon by the Department and North Highland, representing a reduction of approximately 44 percent as shown below:

| Vendor(s) | Response to the Invitation to Negotiate | Revised Response After Negotiations | Difference | % Difference |
|--|---|-------------------------------------|-----------------|--------------|
| Acclaris, LLC, and American Management Systems, Inc. | \$1,136,000.00 | \$2,643,426.00 | \$1,507,426.00 | 132.70% |
| Infinity Software Development, Inc. | \$3,891,200.00 | \$2,842,250.00 | -\$1,048,950.00 | -26.96% |
| Mevatec Corporation | \$1,464,099.99 | \$2,340,862.00 | \$876,762.01 | 59.88% |
| North Highland* | \$3,218,000.00 | \$1,800,000.00 | -\$1,418,000.00 | -44.06% |
| Unisys Corporation | \$6,888,777.00 | \$2,461,566.00 | -\$4,427,211.00 | -64.27% |

*Selected by Department to provide third-party consulting services for MFMP.

The Interim Secretary, in a memorandum to the Department's contract file, dated March 21, 2003, noted that North Highland began work on February 19, 2003, prior to the date (March 6, 2003) that the contract was signed by both parties. Further, this memorandum stated, "It was absolutely critical that the Contractor begin work as soon as possible, to avoid delay to the Accenture contract. Thus, even though further steps were necessary to process the contract and have it signed by both parties, at the Department's direction and in good faith the Contractor began work. The noncompliance with section 287.058(2), [Florida Statutes], in this case resulted partly from the Department not beginning the formal solicitation process earlier, a project management oversight the effect of which was exacerbated by matters outside the Department's control, e.g., the intervening holidays and the former Secretary's transition. To prevent reoccurrence of this type of oversight, the Department is dedicated to implementing and following its more robust project management procedures that will be part of the PMO [Project Management Office] structure."

²⁴ Section 287.042(3), Florida Statutes (2002).

From the contract signing through April 30, 2004 (approximately 14 months), the Department and North Highland entered into four contract amendments that increased the contract price from \$1,800,000 to \$2,502,220, an increase of \$702,220 (or 39 percent) as shown below:

| Original Invitation to Negotiate \$3,218,000 | | | |
|---|---------------|--|--|
| <u>Activity</u> | <u>Amount</u> | <u>Contract/Amendment Effective Date</u> | <u>Contract Increase/Decrease Amount</u> |
| Initial Contract | \$1,800,000 | 03-06-03 | |
| Amendment 1 | \$2,112,320 | 05-01-03 | \$312,320 |
| Amendment 2 | \$2,377,220 | 09-06-03 | \$264,900 |
| Amendment 3 | \$2,377,220 | 10-21-03 | \$0 |
| Amendment 4 | \$2,502,220 | 04-30-04 | \$125,000 |
| Total Contract Amendment Increases | | | \$702,220 |

Amendment Nos. 1, 2, and 4 increased the cost of the third-party consulting services contract as a result of increases in North Highland’s responsibilities and work hours. Amendment No. 3 restructured the deliverables and payment schedule required from North Highland to more closely align with the activities and responsibilities that were being provided to the State. The Amendments are discussed below:

- During the first few weeks of the contract, North Highland conducted an assessment of the progress of MFMP and highlighted several areas of concern that needed to be addressed to ensure the ultimate success of the project. North Highland noted that, through numerous discussions with Department project staff, it was apparent that the Department did not have adequate staff to address the identified shortfalls. While it was anticipated that the Department would hire internal resources to meet these needs long term, in the short term additional support was needed. Therefore, Amendment 1 required additional resources from North Highland to fulfill critical project roles in the areas of change management and technical validation (assistance). Also, the Department requested additional support from the North Highland Project Manager to provide overall project leadership for the Project Management Office.
- Amendment 2 was the result of the Department requesting that North Highland provide additional resources to the Project Management Office to meet ongoing requirements for assistance. Included in the Change Order for Amendment 2, North Highland stated, “During Phase 2 of the contracted project North Highland has provided various project management services to the Department. These services have included services outside of the originally contracted services as Third Party Monitor, supplementing Department resources to fulfill critical project roles in the areas of Technical/Application Development, Buyer/Vendor Management, Change Management, and Project Management.”

- Amendment 4 was due to a change in the staffing of the Department's Project Management Office and project schedule changes, requiring North Highland to provide resources to support the Project Manager, Stakeholder Management, and Technical/Application Development/Operations Managers. Similarly, in the Change Order for Amendment 4, North Highland indicated that the need of services provided for during Phase 2 continued to exist and were even more acute due to the delay in the initial work schedule of the Service Provider (Accenture) with respect to a number of project deliverables. Additionally, North Highland indicated that the Department did not have the staff, either in numbers or experience, to address these areas during what was determined a critical time for the project.

Some of the critical roles filled by North Highland resources as described in the Amendments are shown below:

- Technical resources were requested by the Department to address enterprise-architecture and solution development issues, specifically with regard to the Department of Financial Services interface, the MFMP Help Desk, development of the Billing and Collection System, monitoring of ADA (Americans with Disabilities Act) compliance issues, and development and monitoring of MFMP performance metrics.
 - Change management resources were requested by the Department to address communication and buy-in issues, training development, and agency readiness assessment issues. These resources were also requested to assist with agency implementation activities, training analysis, post-implementation effectiveness assessments, and agency specific workflow analysis and design.
 - Project management resources were requested by the Department to assist with overall project leadership for MFMP. This specifically related to providing advice in the areas of project management, strategic sourcing, developing the business case for other eligible users, and development and monitoring of MFMP performance metrics.
- North Highland provided additional contractual services totaling \$41,665 related to MFMP implementation as detailed in Amendment 4 to the contract during the period March 1, 2004, through April 30, 2004, prior to both parties signing Amendment 4. Pursuant to Comptroller's Memorandum No. 4 (1987-88) and Comptroller's Memorandum No. 7 (2002-03), a Settlement Agreement was entered into between the two parties on June 24, 2004. The Settlement Agreement states, "The Department regrets that the contract was not executed sooner. However, this situation will not recur since additional steps have now been taken to ensure any necessary future contract amendments are agreed to within an appropriate timeframe."

We also reviewed the correlation between the questions that were asked by the offerors during the ITN process and the Amendments that occurred under this contract. The offerors' questions and the Department's responses that pertained to the expectations of services and the availability of resources are noted below:

| Question Number | Offerors' Questions | Department's Responses |
|-----------------|--|---|
| 1 | Do you want expert assistance for your Project Management Office (PMO) or are you looking for a company to implement the system for you? | Accenture is responsible for implementing the MyFloridaMarketPlace system. The Department seeks expert assistance for its PMO. The selected service provider will act solely as an advisor to the Department's PMO. The service provider could potentially be liable for breaching the contract or for performing its services in a negligent manner. |
| 2 | Will the selected vendor be granted decision-making authority or will they be acting solely as an advisor to the State's personnel assigned to the PMO? Please describe the decision-making authority that will be granted to the selected vendor? | |
| 3 | What liability, if any, will the vendor be exposed? | |
| 7 | Where may we access the Project Plan, Project Charter, Staffing Plan and Detailed Project Plans provided by Accenture as required in the Mobilization Phase of their contract? | Please refer to the information included in the appendix to the Instructions to Offerors. Further details are not necessary to prepare a responsive reply. (See Exhibit B to this report.) |
| 8 | Will the State be providing the project manager for the MyFloridaMarketPlace program or do you expect the service provider to supply the project manager? | |
| 9 | Besides the Deputy Secretary and the DMS (Department) fulltime project manager, how many resources from the State/DMS side will work on MyFloridaMarketPlace? | |
| 10 | What is the average number of Full Time Employees Accenture is planning to staff on this project? | |
| 11 | How many Partners from Accenture will be staffed on this project? | |
| 12 | What is the average number of State employees that will be staffed on this project? | |

We made the following observations based on our review of the Amendments and Department responses to the offerors' questions:

- The Department's response to the offerors states, "The selected service provider will act solely as an advisor to the Department's PMO [Program Management Office]." Also, the North Highland contract states, "During Phase Two . . . the Service Provider shall provide an independent review and assessment of the project's progress."

To be effective, monitoring functions should be performed independently from implementation functions. The statements relating to services required of North Highland appear contrary to the additional responsibilities assigned to North Highland as the third-party consulting monitor in Amendment Nos. 1, 2, and 4. Additionally, North Highlands's statement that the services provided to the Department "included services outside of the originally contracted services as Third Party Monitor" appears to indicate that North Highland's independence as a third-party monitor was diminished.

- The Department's second response that references the *Appendix to the Instructions to Offerors* (see Exhibit B to this report) and states that "Further details are not necessary to prepare a responsive reply" does not appear to adequately answer the questions that were posed by the offerors. Also, it appears that had more information been provided to the offerors regarding the resources the Department and Accenture were dedicating to the project, resulting ITN responses and contract provisions may have been more realistic as to the resources required for the third-party consulting services.

- The North Highland contract was drafted by the former General Counsel, the former Deputy Secretary and Program Director, and the Vice-President, Project/Program Manager, and Principal of North Highland. Given that North Highland started providing services on February 19, 2003, prior to the date the contract was signed (March 6, 2003), it is not clear why many of the additional resource requirements provided in the Amendments were not recognized and addressed in the original contract.

The above observations appear to indicate the Department's planning procedures did not adequately assess project needs and requirements, availability of Department employees, and current and projected Department workload capabilities. Had the Department performed adequate planning, begun the formal solicitation process earlier, and thoroughly addressed the questions that were asked by the offerors, the need for all four Amendments may not have been warranted.

Although the term of the contract extends for 54 months, the Department has spent \$1,590,020 through the first 15 months of the contract, or approximately 88 percent of the original contract amount and 64 percent of the amended contract price. The possibility exists that, if North Highland continues to provide resources at the same level as in the first two years, future contract amendments incurring additional costs may become necessary before the 54-month term expires.

Recommendation: The Department should ensure, through its planning procedures, that an analysis is performed that documents the necessary requirements to implement a project, including the extent of dedicated Department resources. To ensure the effectiveness of the third-party monitor, the Department should separate monitoring functions from other consulting services. Specifically, for the North Highland contract, the Department should review the functions assigned to determine the extent, if any, of incompatible duties being performed. Also, the Department should ensure that contracts, including amendments, are signed prior to commencement of work.

Finding No. 12: Contract Funding

The North Highland contract, currently totaling \$2,502,220, was not specifically appropriated funds within the 2002-03 and 2003-04 General Appropriations Acts. The funding source for the North Highland contract was the Purchasing Oversight (Support) Program, Grants and Donations Trust Fund, Special Categories, Contracted Services, for the 2002-03 and 2003-04 fiscal years.

Previously, based on Executive Order No. 92-253, Section 4.C., dated October 8, 1991, the Department was to develop a procedure for the cost-effective bulk purchase of natural gas and other energy efficient fuels by State agencies. To carry out this mandate, the Department established the EnergyDirect Program (formerly called the Natural Gas Procurement Program). As a part of this Program, funding was made available from the Purchasing Oversight (Support) Program, Grants and Donations Trust Fund, Special Categories, Contracted Services, to obtain the services of utility consultants and an attorney to assist the Department with implementation of the State term contract for natural gas and with field visits to facilities to assist in the conversion of the sites.

The Department's 2000-01 fiscal year LBR Exhibit D-3A, Expenditures By Issue and Appropriation Category stated the following:

- "Currently Energy Direct is providing natural gas to 36 facilities. Over 100 facilities are in the conversion process, and another 300 are in the evaluation stage. It is estimated that over 5,000 facilities qualify."

- Additional language in this Exhibit states, “State Purchasing receives a recurring appropriation of \$750,000 for the following resources to assist its staff in administering the natural gas contract: (1) utility consultant services to analyze the cost effectiveness of converting sites/facilities (i.e., State prisons, hospitals, and universities) to natural gas; (2) the services of a Washington, D.C.-based attorney to represent the State in Federal Energy Regulatory Commission (FERC) matters; (3) systems programmer services to maintain a database that monitors gas flow and capacity; (4) metering database consultant to provide programming for the automated metering program called Energytrac; (5) expenses to administer the program; and (6) operating capital outlay to maintain the Energy Direct data base.”

Based upon the above LBR language, the ongoing Program was funded for the 2000-01 fiscal year. However, contract files included a notation made by the Supervisor of the Natural Gas and Fuels Office dated May 3, 2001, that the former Director of State Purchasing directed the Supervisor to close out the consultant contracts described above. In addition, we were informed that the former Secretary dismantled the Program and the recurring appropriation that was previously used for the natural gas consultants and attorney was then reduced to \$570,500 and later utilized by the Department to fund the North Highland contract.

We inquired of the Department’s Budget Director as to whether the Department had informed the EOG (OPB), or the Legislature that the EnergyDirect Program was no longer in existence and that the recurring appropriation was currently being used to fund North Highland contractual services. The Budget Director indicated that the Department had not informed those parties of those facts. In addition, the Budget Director stated, “We used existing base budget resources to manage project needs.” Further, in response to our inquiries, the Director of Administration stated, “The cash for the funding of the contracts [North Highland] was provided by the one percent vendor assessment.” However, while we agree with the Director’s statement that the vendor transaction fees fund the Department’s procurement function (see **Finding No. 4**) and thus the North Highland contract, the fact remains that the Department used the recurring appropriation in the manner noted above and failed to disclose this matter to policymakers.

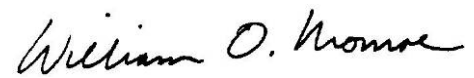
We did note, that for another third-party monitoring contract (Acclaris for the People First Project) entered into by the Department approximately six months prior to the North Highland contract, a specific budget request was made. It is necessary that policymakers (both OPB and the Legislature) be provided information necessary for informed decision-making on budget issues. As one of the State’s major outsourcing initiatives, all significant MFMP-related costs (including the procurement of a third-party monitor) should be communicated via the budget process.

Recommendation: The Department should ensure that its legislative budget requests include detailed information useful to others, such as legislative and OPB staff making decisions regarding State budgets.

The Deputy Secretary, in her written response, concurred with our recommendation and stated that “The Department routinely assesses its budget needs and reflects these needs in sufficient detail in the legislative budget request.” Notwithstanding the Deputy Secretary’s response, as enumerated in this finding, policymakers were not provided complete information for decision making.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



William O. Monroe, CPA
Auditor General

AUDITEE RESPONSE

In accordance with Section 11.45, Florida Statutes, our preliminary and tentative findings were submitted for response to the Secretary of the Department of Management Services. In a letter dated February 7, 2005, the Deputy Secretary provided responses to our preliminary and tentative findings. This letter is included in its entirety as Exhibit D to this report.

EXHIBIT LIST

- Exhibit A** **Summary of DMS Rule 60A-1.032, Florida Administrative Code.**
- Exhibit B** **Appendix to the Instructions to Offerors**
- Exhibit C** **MyFloridaMarketPlace – Chronology**
- Exhibit D** **Auditee Response**

EXHIBIT A

SUMMARY OF DMS RULE 60A-1.032, FLORIDA ADMINISTRATIVE CODE

| DMS Rule 60A-1.032, FAC | Subject | Description |
|----------------------------|--|---|
| (1)(a) | Road Construction and Maintenance | Procurements under Section 337.11, F.S., unless the agency decides to conduct such procurements via MFMP and impose a transaction fee. Section 337.11, F.S., provides for the contracting authority of the Department of Transportation for the constructing and maintenance of roads designated as part of the State Highway System or the State Park Road System or of any roads placed under its supervision by law; rest areas, weigh stations, and other structures used in connection with such facilities. Section 287.057(5)(f), F.S., specifically exempts contracts entered into pursuant to Section 337.11, F.S., from the competitive solicitation requirements of the Section. |
| (1)(b) | Architects and Engineers | Procurements under Section 287.055, F.S. Section 287.055, F.S., provides for the acquisition of professional architectural, engineering, landscape architectural or surveying, and mapping services. |
| (1)(c) | Public Property and Buildings | Procurements under Chapter 255, F.S., unless the agency decides to conduct such procurements via MFMP and impose a transaction fee. Chapter 255, F.S., pertains to public property and publicly owned buildings. Section 287.012, F.S., provides that the term “contractual service” does not include labor and materials contracts entered into pursuant to Chapter 255, F.S. |
| (1)(d) | Non-Profits | Transactions with an entity designated as non-profit under the Internal Revenue Code unless such entity is awarded a contract following a competitive solicitation involving for-profit entities and such contract, if awarded to a for-profit entity, would have been subject to the transaction fee |
| (1)(e) | Government Entities and Private Florida Universities | Transactions with another governmental entity, a private university in Florida, an agency of another state, or with another sovereign nation unless such entity is awarded a contract following a competitive solicitation involving private entities and such contract, if awarded to a private entity, would have been subject to the transaction fee. |
| (1)(f) | Sole Providers | Transactions in which law or government regulation requires that the commodity or service be provided by a sole provider and transactions in which the price paid and the payee are established by Federal or private grant. |
| (1)(g) | Unregistered Vendors Pursuant to Rule | Payments to unregistered vendors pursuant to DMS Rule 60A-1.030(3), FAC. Such payments are made only if: (a) the transaction can be consummated only through use of the State purchasing card; (b) the Department has delegated to agencies permission to purchase through use of the State purchasing card; (c) information about the vendor is exempt from disclosure under the Public Records Law, Chapter 199, F.S.; and (d) various health services transactions. |
| (1)(h) | Certain Health Care Providers | Payments to a vendor in exchange for providing health care services at or below Medicaid rates, even if the vendor is otherwise registered in MFMP. |
| (1)(i) | State Financial Assistance | Disbursements of State financial assistance to a recipient; disbursements of Federal awards to sub-recipients; payments of State dollars to satisfy Federal maintenance of efforts requirements; and payment of State dollars for matching Federal awards. |
| (2)(a) and (b) | Mission Critical | With Department approval, an agency may exempt particular transactions provided that the transaction is critical to the agency’s mission or necessary for the public health, safety, or welfare; imposition of the fee would prevent the consummation of the transaction. |
| (3)(a) and (b) | Emergency Purchases | An agency may exempt a particular transaction if the Governor suspends purchasing regulations due to an emergency; the agency head declares an emergency pursuant to statute. |

EXHIBIT B

APPENDIX TO THE INSTRUCTIONS TO OFFERORS

Appendix

- 1 Project approach
- 2 Project Management Organizational Structure

EXHIBIT B – CONTINUED

APPENDIX TO THE INSTRUCTIONS TO OFFERORS

Project Approach

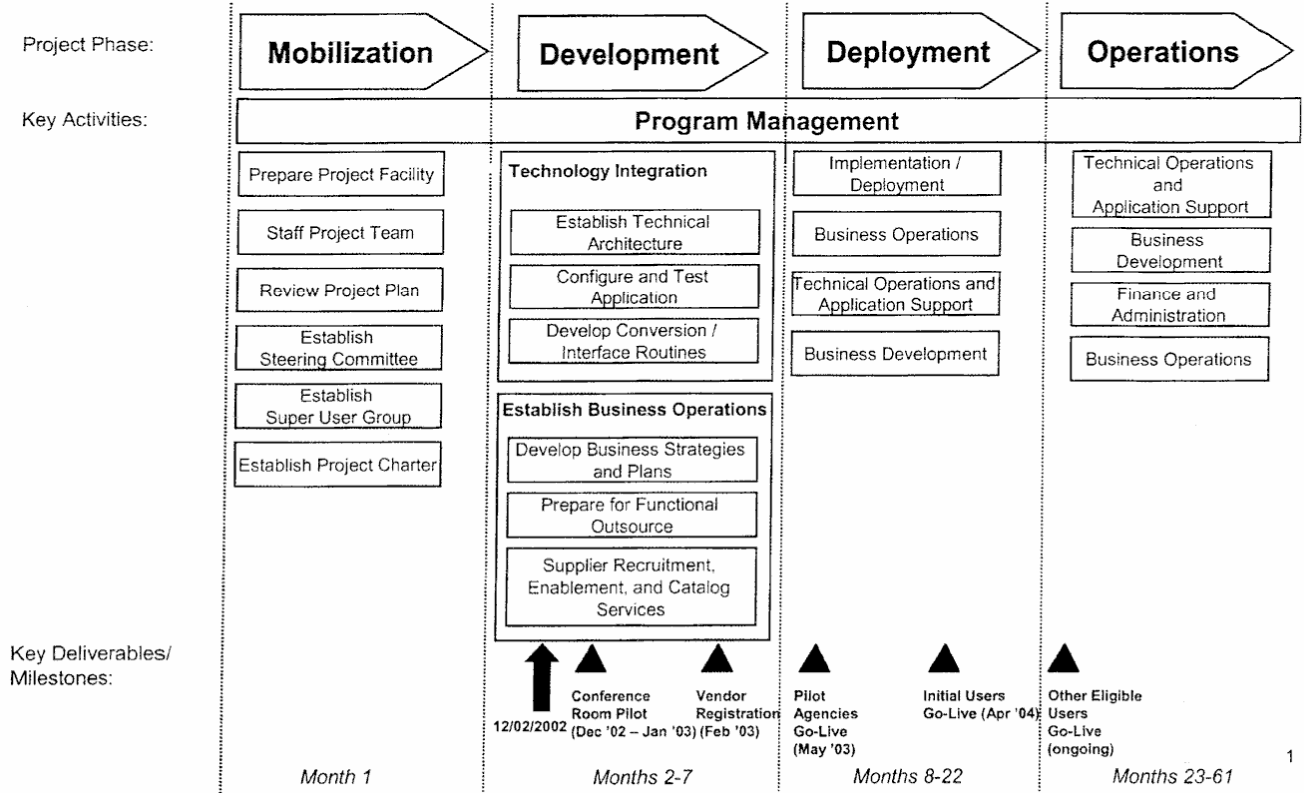


EXHIBIT B – CONTINUED

APPENDIX TO THE INSTRUCTIONS TO OFFERORS

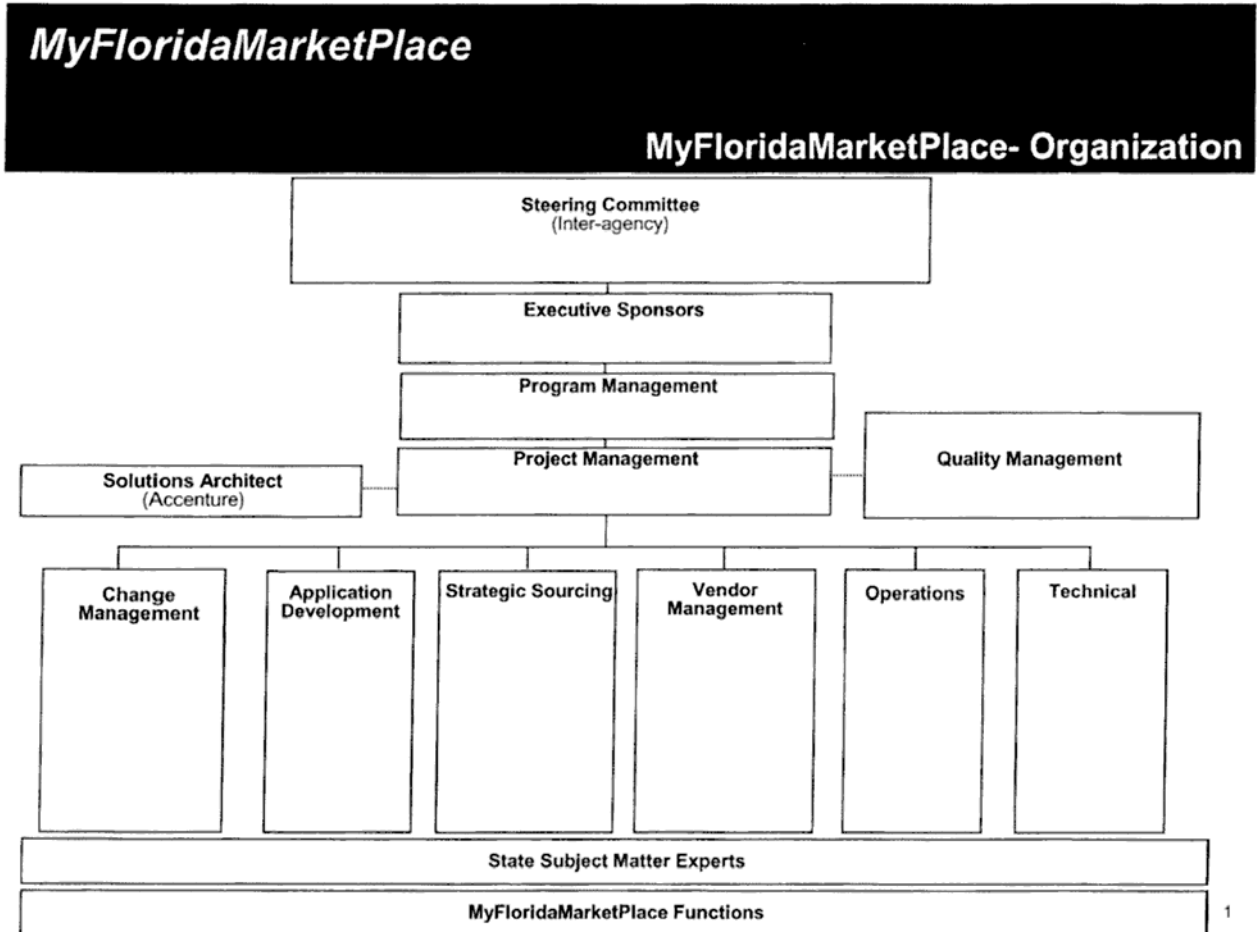


EXHIBIT C

MYFLORIDAMARKLETPLACE – CHRONOLOGY

| Date | Activity |
|-----------------------|---|
| August 1999 | KPMG begins study on changes to Florida Financial Management Information System (FFMIS); 5 options considered: <ul style="list-style-type: none"> • As-Is. • Enhanced. • Custom. • Commercial-Off-the-Shelf (COTS). • Best-of-Breed. |
| February 15, 2000 | KPMG releases <i>Modernization of State Government Financial Management Business Practices Study (Business Case Study)</i> . Recommends “Best-of-Breed” option for FFMIS which would have an estimated \$281.3 million implementation cost over 5 years and a net fiscal impact of \$358.5 million in technology-related savings over 15 years. |
| August 14, 2000 | Thomas D. McGurk resigns as Secretary. |
| August 31, 2000 | Executive Office of the Governor issues to State agencies <i>Guidelines for Introducing Competition into Government Services</i> . State agencies are directed to look at each program, service, and activity (PSA) to determine its worth and value to government and citizens and to explore introducing public/private competition into the delivery of PSA as a viable way to reduce costs and improve efficiencies. |
| September 5, 2000 | Cynthia Henderson is appointed as Secretary. |
| March 5, 2001 | Department issues ITN No. DMS 00/01-015 for a Web-Based Electronic Procurement System. |
| March 20, 2001 | Pre-Response Conference is held. |
| April 18, 2001 | Responses Opening Date for the Web-Based Electronic Procurement System ITN No. DMS 00/01-015. Seventeen replies are received. Department invites all 17 respondents to make oral presentations. |
| April 25, 2001 | Attestation Conflict of Interest and Non-Disclosure Statements are signed and dated by the evaluators. |
| May 1, 2001 | Vendors sign <i>Consent To Closed Meetings and Nondisclosure</i> forms which acknowledge that the initial demonstration sessions have been determined by the Department not to be subject to the Florida Public Meeting Law (Section 286.011, Florida Statutes) and that the vendor consent to the sessions being closed to the public and all persons not directly associated with the Provider or the Department. Discussions are to be treated as confidential between the Department and the Provider until the Department has entered into a final contract. |
| May 1 - 11, 2001 | Sixteen vendors each provide a 6+ hour presentation summarizing their responses and answering questions. The information exchanged during these sessions is used by the proposal evaluation team as part of the evaluation and scoring process. |
| May 15, 2001 | Department announces the ranking of vendor proposals and its intent to negotiate with the 2 highest-ranked vendors, Accenture and KPMG. |
| May 22, 2001 | Requests for clarifications were sent to the 2 vendors. As part of the request, each vendor was invited to participate in 2 days of discussions. The plan for the first day was for a more detailed clarification of the vendor’s response. The plan for the second day was to enter into preliminary negotiations. |
| May 29 – June 1, 2001 | Clarification responses are received. Vendors (Accenture and KPMG) present and discuss their respective solutions for 2 days. |

EXHIBIT C - CONTINUED

MYFLORIDAMARKLETPLACE – CHRONOLOGY

| Date | Activity |
|------------------------|--|
| June 2001 | The negotiation process with the top 2 vendors begins. |
| September 6, 2001 | Accenture presents cost estimates for several different proposals including a modified partnership solution with the Department and State Technology Office (STO) costing \$68,779,058. Presentation estimates that it would cost STO \$113.7 million to produce a solution equivalent to the Accenture solution costing \$91.5 million. The \$113.5 million cost includes \$33.2 million associated with lost savings to the State due to the assumption that implementation would take STO four months longer than Accenture. |
| June 21, 2001 | Accenture and KPMG released from the confidentiality requirements imposed by <i>Consent To Closed Meetings and Nondisclosure</i> signed May 1, 2001. |
| September 7, 2001 | <p>Purchasing Director sends e-mail to Secretary Henderson regarding a presentation prepared by the Department of Financial Services (DFS, formerly Department of Banking and Finance), STO, and the Department. The presentation contrasts 3 options for implementing the eProcurement system, as described below:</p> <ul style="list-style-type: none"> • “Full Service” - selecting either Accenture or KPMG to provide complete outsourcing of the eProcurement as originally proposed. (Cost - \$80 - \$90 million.) • “Partnership” - selecting either Accenture or KPMG to provide the software, equipment, and implementation and business reengineering services while DMS provides the Vendor Management and Customer Services, and STO houses and eventually takes over operation of the equipment at the Shared Resource Center. (Cost - \$50 - \$60 million.) • “DMS/STO” - re-bid acquisition of the software, equipment, and system implementation services; DMS and STO operate the eProcurement system from the Shared Resource Center. (Cost - \$80 - \$95 million.) |
| September 25, 2001 | <p>Accenture provides a 7-year revenue, costs, and benefits analysis across 4 options:</p> <ul style="list-style-type: none"> • Accenture’s Full Outsourcing Model. (Cost - \$130.7 million) • Accenture/State Partnership Model. (Cost - \$115.3 million) • State-Led Model. (Cost - \$129.9 million) • Business “As-Is” Model. (Cost – \$45.9 million) |
| September 2001 | <p>DMS Cost Analysis by Category shows the costs for 3 options:</p> <ul style="list-style-type: none"> • Accenture. (Cost - \$91.5 million) • KPMG. (Cost - \$90.5 million) • DMS/STO. (Cost - \$74.9 - \$82.2 million) |
| October 9, 2001 | KPMG submits its Best and Final Offer. |
| October 16, 2001 | Department issues an Intent to Award, announcing its intention to enter into final negotiation with KPMG. In the event of an impasse, the Department reserves the right to enter into final negotiations with other potential services providers. |
| October 18, 2001 | Accenture informs the Department that they intend to protest the Department’s decision to enter into final negotiation with KPMG. |
| December –January 2002 | Negotiations continue with KPMG. |
| February 2002 | Department retains an outside counsel from the Gray Harris Law Firm to be the lead negotiator. |

EXHIBIT C - CONTINUED

MYFLORIDAMARKLETPLACE – CHRONOLOGY

| Date | Activity |
|-----------------|---|
| April 12, 2002 | Outside counsel e-mails KPMG regarding direction to Secretary Henderson by the Executive Office of the Governor “that the Service Provider’s fee, after first paying LBR, is 1% until \$83 million is paid, then the 1% fee is to be re-negotiated.” Extends the deadline for KPMG to provide written agreement to the fundamental terms of the contract to April 15, 2002. |
| April 15, 2002 | KPMG corresponds to Secretary Henderson stating “Your request that KPMG Consulting provide a broad acceptance or rejection of the currently proposed material terms is, with all due respect, premature in light of the history of the contract negotiations and the unresolved issues facing the parties.” |
| April 16, 2002 | Outside counsel formally advises KPMG Consulting that an impasse has been reached and that the Department intends to move forward with negotiations with the second-ranked potential Service Provider (Accenture). |
| April 18, 2002 | Outside counsel, in correspondence to KPMG, clarifies that the Department has not terminated negotiations with KPMG, but has declared an impasse and provided notice of its intent to negotiate with the second-ranked potential Service Provider (Accenture). |
| May 7, 2002 | KPMG responds to Department request to confirm “whether it is in agreement or not in agreement with the substantive terms of the contract.” KPMG indicates that it and its key team member, SAP, desire to reach agreement but require that the contract terms be appropriate for the project and that the contract fairly and rationally allocate risk between the State and KPMG Consulting. Identifies 8 key issues that needed further negotiation and clarification. |
| July 26, 2002 | Outside counsel e-mails Accenture and KPMG of the process to be used to make an award, or alternatively, the events that would trigger a re-procurement. The e-mail instructs that the firm that returns the contract signed without modification with the most beneficial and highest quality scope, software functionality, and service level agreements, as determined by the sole opinion of the Department, shall be awarded the contract. |
| July 29, 2002 | Accenture and KPMG are given “final” versions of the eProcurement contract with 5 business days to return the signed contract. |
| August 5, 2002 | KPMG declines to sign the contract as presented. Accenture signs a proposed modified contract and attachments. |
| August 6, 2002 | Department issues an Intent to Award indicating that they intend to award the Web-based eProcurement system contract to Accenture and that the Intent to Award supersedes the Intent to Award issued October 16, 2001. |
| August 9, 2002 | Counsel for KPMG serves a Notice of Protest regarding the ITN Intent to Award to Accenture. |
| August 13, 2002 | KPMG sends letter to Secretary Henderson indicating that they have no choice but to protest the Notice of Intent to Award to Accenture since Accenture had made very material changes to the contract in contravention of the Department’s explicit instructions to sign the contract without making any changes. |
| August 16, 2002 | Department’s Assistant General Counsel sends letter to the Counsel for KPMG stating that the Department has decided to withdraw the Intent to Award dated August 6, 2002. As a result, KPMG’s protest is moot since there is no intended agency action with respect to which KPMG is required to file a formal written protest. |
| August 20, 2002 | Department issues an Intent to Award indicating that it intends to award the Web-based eProcurement system contract to Accenture and that the Intent to Award supersedes the Intent to Award dated August 6, 2002. |
| October 2002 | Edwin Rodriquez, Deputy Secretary, becomes MFMP Project Manager. |

EXHIBIT C - CONTINUED

MYFLORIDAMARKLETPLACE – CHRONOLOGY

| Date | Activity |
|---------------------|--|
| October 7, 2002 | Accenture signs Web-based eProcurement system contract. |
| October 9, 2002 | Secretary Henderson signs Web-based eProcurement system contract. |
| December 12, 2002 | Department issues ITN No. 58-973-561-N for third-party consulting services for management of the MFMP. |
| January 7, 2003 | Secretary Henderson resigns; Simone Marsteller is appointed Interim Secretary. |
| January 8, 2003 | Offeror questions in response to ITN No. 58-973-561-N (North Highland) are posted. |
| January 10, 2003 | Department amends ITN No. 58-973-561-N to change the due date for replies to January 16, 2003; change negotiations begin date to January 23, 2003; and change electronic posting notice of award date to February 3, 2003. |
| January 16, 2003 | ITN responses for third-party consulting services are opened. |
| January 17, 2003 | Department issues purchase order for Tribridge Inc., to provide assistance with the evaluation of replies for the ITN responses for third-party consulting services. Vendor was paid \$4,900 for 28 hours of service. |
| January 20-24, 2003 | Evaluation Team reviews and evaluates ITN responses for third-party consulting services. |
| January 24, 2003 | Interim Secretary Marsteller designates Negotiation Team; top 5 vendor responses are selected for negotiations (Unisys, North Highland, Mevatec, Infinity-Software, and Acclaris). |
| January 28-30, 2003 | Negotiation meetings with individual vendors are conducted. |
| February 2003 | David Bennett, Senior Management Analyst, replaces Edwin Rodriguez as the MFMP Project Manager. |
| February 10, 2003 | Notice to award contract to North Highland is posted. |
| February 19, 2003 | North Highland begins third-party consulting services for MFMP. |
| March 6, 2003 | Interim Secretary Marsteller signs \$1.8 million contract with North Highland to provide third-party consulting support for implementation and performance monitoring of Accenture contract and MFMP. |
| March 14, 2003 | Florida Administrative Weekly publishes Department's Notice of Proposed Rule Development for MyFloridaMarketPlace rules. |
| March 21, 2003 | Interim Secretary Marsteller prepares certification of circumstances per Comptroller's Memorandum No. 07 (2002-03) explaining why North Highland contract signed after services are rendered. |
| March 31, 2003 | "Go-Live" for Vendor Registration System of MFMP. |
| April 14, 2003 | William S. Simon is appointed Secretary. |
| May 1, 2003 | Secretary Simon signs \$312,320 Amendment No. 1 to the North Highland contract. Amendment is for additional resources through August 30, 2003. |
| June 2003 | Jennifer Young, State eProcurement Project Director, replaces David Bennett as the MFMP Project Manager. |

EXHIBIT C - CONTINUED

MYFLORIDAMARKETPLACE – CHRONOLOGY

| Date | Activity |
|-------------------|--|
| June 27, 2003 | Secretary Simon signs Modification 1 to the Accenture contract. Modification revises the contract's Statement of Work Schedules and modifies the contract's System Functionality provisions. It also provides that the Department will compensate Accenture for the additional services required by the System Functionality modifications in the amount of \$192,104 (June 2003, \$76,000 and December 2003, \$116,104). |
| June 27, 2003 | Voucher for \$76,000 is made to Accenture by the Department for professional services associated with Modification 1. |
| July 1, 2003 | Department adopts rules as identified in the Florida Administrative Code: Rule 60A-1.030, MyFloridaMarketPlace Vendor Registration; Rule 60A-1.031, MyFloridaMarketPlace Transaction Fee; and Rule 60A-1.032, MyFloridaMarketPlace Transaction Fee Exemptions. |
| July 1, 2003 | MFMP is "Go-Live" at two pilot agencies: DMS and DOT. |
| September 5, 2003 | Secretary Simon signs Modification 2 to the Accenture contract. |
| September 6, 2003 | Secretary Simon signs \$264,900 Amendment No. 2 to the North Highland contract. Amendment is for additional resources for the period September 1, 2003, through December 31, 2003. |
| October 2003 | Accenture claims \$937,194 from transaction and usage fees collected and deposited into Accenture's MFMP bank account for professional services associated with Modification 2. <ul style="list-style-type: none"> • \$313,734 for completion by Accenture of the design requirements for the on-line interface. • \$623,460 for up-front hardware and software acquisition costs and system design costs for the Billing and Collection Requirements. |
| October 21, 2003 | Secretary Simon signs Amendment No. 3 to the North Highland contract to restructure the deliverables and payment schedule. |
| November 2003 | MFMP Real Time Integration achieves "Go-Live." |
| November 2003 | Accenture claims \$313,733 from transaction and usage fees collected and deposited into Accenture's MFMP bank account for completion by Accenture of the design requirements for the on-line interface as required by Modification 2. |
| December 2003 | Ailneal Morris, State of Florida IT Procurement Project Manager, replaces Jennifer Young as the MFMP Project Manager. |
| December 2003 | Accenture claims \$429,837 from transaction and usage fees collected and deposited into Accenture's MFMP bank account for professional services associated with Modification 2. <ul style="list-style-type: none"> • \$313,733 for the completion by Accenture of the design requirements for the on-line interface. • \$116,104 for the outstanding balance related to DFS Audit Requirements |
| February 11, 2004 | Department revises Rule 60A-1.031, Florida Administrative Code, MyFloridaMarketPlace Transaction Fee. |
| April 30, 2004 | Deputy Secretary Hosay signs \$125,000 Amendment No. 4 to the North Highland contract on Secretary Simon's behalf. Amendment is for additional resources during the period January 1, 2004, through June 30, 2004. |

EXHIBIT C - CONTINUED

MYFLORIDAMARKETPLACE – CHRONOLOGY

| Date | Activity |
|---------------------|---|
| May 16, 2004 | Department revises Rule 60A-1.030, Florida Administrative Code, MyFloridaMarketPlace Vendor Registration. |
| June 24, 2004 | Deputy Secretary Hosay signs settlement agreement pursuant to Comptroller's Memorandum No. 4 (1987-88) and Comptroller's Memorandum No. 7 (2002-03) for services provided by North Highland for the period March 1, 2004, through April 30, 2004, prior to both parties signing Amendment No. 4. |
| July 1, 2004 | In proviso to the Appropriations Act (Chapter 2004-268, Laws of Florida), Legislature authorizes Department to submit a budget amendment to use the 1-percent transaction fee and shared realized strategic sourcing savings to pay Accenture. |
| September 28, 2004 | Deputy Secretary Hurley sends "Event of Default" letter citing Accenture's withdrawal of resources, refusal to allow the Department access to accounting and payroll records, refusal to provide copies of subcontracts, failure to pay the Department over \$3 million for 2003-04 fiscal year LBR payments, and failure to confirm that Accenture has undertaken an audit pursuant to the contract. |
| September 30, 2004 | Department receives \$3 million LBR payment from Accenture. |
| October 4, 2004 | Billing and Collection System successfully launched per Project Manager. Subsequently referred to as the Transaction Fee Reporting System. |
| October 12-13, 2004 | Department issues 5 <i>Completion Contract for MyFloridaMarketPlace</i> RFQs: Development and Integrations - Application Development; Operational and Support - Buyer Adoption and Post-Implementation Support; Operational and Support - Systems Maintenance and Operation; Operational and Support - Customer Service Desk; Staff Augmentation – Customer Service Desk. Responses to RFQs are due on various dates during the month of November 2004. |
| October 27, 2004 | KMPG provides <i>Independent Accountant's Report on Applying Agreed Upon Procedures</i> which entails a review of the MFMP transaction fees collected and revenue share. |
| November 7, 2004 | Department revises Rule 60A-1.031, Florida Administrative Code, MyFloridaMarketPlace Transaction Fee. |
| December 2, 2004 | Department signs letter of intent specifying that, upon approval by the Legislative Budget Commission, Modification 3 to the eProcurement contract, reducing Accenture's base competition from \$92 million to \$69 million, will be signed. |
| January 28, 2005 | William S. Simon resigns as Secretary. |
| January 31, 2005 | Robert H. Hosay is appointed as Interim Secretary. |

EXHIBIT D

AUDITEE RESPONSE



*The Administrative and Operations Arm
of Florida's Government*



DEPARTMENT OF MANAGEMENT
SERVICES

JEB BUSH, GOVERNOR

ROBERT H. HOSAY, INTERIM-SECRETARY

February 7, 2005

VIA HAND DELIVERY

Mr. William O. Monroe, CPA
Auditor General
Office of the Auditor General
Claude Denson Pepper Building
111 West Madison Street
Tallahassee, Florida 32301

Dear Mr. Monroe:

Pursuant to Section 11.45(4)(d), Florida Statutes, this is our response to your Report, Department of Management Services MyFlorida MarketPlace for the Period July 2002 through February 2004, Prior Related Planning Actions Resulting in the Issuance of the Invitation to Negotiate (ITN No. DMS 00/01-015), and Other Selected Actions Taken through December 16, 2004, herein after referred to as "the Report."

As previously reported by our own Inspector General's Office (Internal Audit Report Number 2004-01, Department Contract Management, April 19, 2004) the Department lacked accountability and control over its contracting processes primarily due to decisions made by previous administrations to dismantle the Departmental Purchasing Office as an administrative function. This action resulted in a leadership and management void in agency contracting practices and procedures, and existing internal controls over the purchasing function ceased to be effective.

In large measure, your report reiterates issues and recommendations made in our internal audit report. In response to our audit recommendations, the Department's Division of Administration is developing a comprehensive set of purchasing policies and procedures to include in all aspects of the acquisition process—from needs assessment and cost-benefit analysis to contract close out. As recommended in the internal audit, our draft policies and procedures address requirements for contract administration and management including appropriate documentation of contracting decisions and actions, and contract monitoring. These policies and procedures will be completed and available in hard copy, as well as posted on the Department's website for use by all Department personnel by March 1, 2005.

EXHIBIT D - CONTINUED

AUDITEE RESPONSE

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Page 2

Our response to the Report's recommendations follows in the order the findings were presented in the summary.

Planning (Findings No. 1, 7, and 8)

The Report: *The Department planning process did not include timely completion of a cost-benefit or risk analysis. Additionally, the Department could not provide documentation that key end-users, stakeholders, subject matter experts, and seasoned technology project managers were consulted in the preparation of the ITN. Also, significant baseline data, including total procurement spend and total procurement processing costs, was not available and analyzed during the planning process, nor was it available for the consideration of ITN responders. A mechanism to capture and track all Statewide costs associated with the implementation and operation of MFMP was not established. Although the Department allowed vendors to submit questions during the pre-ITN response conferences, not all the Department answers were informative or constructive to the ITN process.*

Report Recommendations (Finding 1):

- *The newly created Governor's Center for Efficient Government (Center), housed within the Department, is in the process of developing a Gate Management Process through which outsourcing projects will be evaluated at key milestones by the Center. This process has the potential for providing greater oversight and accountability for future outsourcing initiatives. In conjunction with this effort, the Department should develop internal policies and procedures that require objective cost-benefit and risk analyses during the planning phase of outsourcing proposals. In developing the ITN, Department policies and procedures should consider the input and advice of subject matter experts, seasoned technology project managers, key end-users, and stakeholders. Additionally, for all future outsourcing and competitive sourcing endeavors, the Department should ensure that significant baseline data is available for analyses conducted before, during, and after implementation.*
- *Also, to facilitate determining the extent of cost savings or efficiencies attributed to MFMP, the Department, as the State contracting agency, should establish a mechanism to capture and track all Statewide costs incurred with the MFMP project.*
- *The Department should strive to provide ITN information that is as comprehensive as possible and, when questions arise from respondents, the Department should attempt to fully address the questions to the extent possible.*

DMS Response:

- **CONCUR:** DMS' draft Administrative Policies and Procedures require all outsourcing initiatives to be submitted for evaluation to the Governor's Center for Efficient Government ("Center") through the Center's Gate

EXHIBIT D - CONTINUED**AUDITEE RESPONSE**

Mr. William O. Monroe
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Page 3

Management Process. The Gate Management Process requires agencies to provide cost-benefit and risk analyses and baseline data for use in evaluating the value to the state of the outsourcing initiative. The Center advises agencies to obtain the input of key internal and external stakeholders and to use subject matter experts, experienced project managers and seasoned technology project managers in drafting the Business Case and solicitation. In our opinion, use of the Gate Management Process will address the Auditor General's concerns. Therefore we are in the process of revising our internal policies and procedures to require Program Area managers to follow Gate Management Process requirements, including those related to cost-benefit and risk analyses, development of baseline data and inclusion of internal and external stakeholders, key end-users, subject matter experts and others in planning the procurement. Such policies will be extended to all procurements, not just outsourcing initiatives, where practicable.

- **NON-CONCUR:** Implementation costs associated with this program are minimal due to the fact that it is a web-based system that requires no agency to purchase additional software or hardware and therefore any costs associated with its implementation deal with training and change management which by their nature are hard to track.
- **CONCUR:** The Department has, and will continue to strive to fully address respondents' questions to the extent possible.

Report Recommendation (Finding 7):

To ensure that viable options are explored and the best solution is selected, the Department should precede the procuring of significant services by performing and documenting a needs assessment and cost-benefit analysis.

DMS Response:

CONCUR: See DMS Response to Finding No. 1 Recommendation.

EXHIBIT D - CONTINUED

AUDITEE RESPONSE

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Page 4

Report Recommendation (Finding 8):

Department managers should ensure that an effective communication process is established during the ITN phase of a project.

DMS Response:

CONCUR: The Gate Management Process addresses communication strategies during the procurement stage; see DMS Response to Finding No. 1 Recommendation.

Evaluations and Negotiations (Findings No. 2 and 10)

The Report: The Department failed to document the independence of some of the contract evaluators and negotiators, as well as the collective knowledge and experience of the evaluation and negotiation teams. Additionally, the Department's former Inspector General, in conflict with his oversight of internal audit responsibilities, participated in the evaluation of the eProcurement contract.

Report Recommendations (Finding No. 2):

- *Policies and procedures should be developed to ensure that evaluation and negotiation team members are independent of, and have no conflict of interest in, the entities being considered for ITN initiatives and that such matters are documented in the contract files. Additionally, to evidence the teams' collective knowledge and experience, the qualifications and work history of each evaluator and negotiator should be concisely documented and incorporated into the contract files. The Department should also ensure that appropriate representation from major affected organizational units and systems are included on contract negotiation teams.*
- *The Secretary should ensure that the Inspector General and the staff of the Office of the Inspector General remain independent of all programs and operations of the Department.*

DMS Response:

- **CONCUR:** We are pleased that the Auditor General's review disclosed no unqualified evaluators or negotiators, or conflicts of interest on the part of any evaluator or negotiator. The Auditor General's concerns, which center on administrative functions, are addressed in DMS' draft Administrative Policies and Procedures. These procedures set forth the required processes for recommending and approving members of the evaluation and negotiation teams, for documenting and maintaining documentation of team member

EXHIBIT D - CONTINUED

AUDITEE RESPONSE

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qualifications, and for completion and retention of team members' conflict of interest statements.

- **CONCUR:** It is the Department's policy, as prescribed in the Charter of the Office of Inspector General and signed by Interim Secretary Robert H. Hosay (and formerly, Secretary William S. Simon), that the Inspector General's Office shall remain independent from the programs and operations of the Department in order to avoid compromising its objectivity.

Report Recommendation (Finding No. 10):

- *In future contract evaluations, the Department should ensure that conflict of interest statements are completed prior to the selection process and maintained as supporting documentation within the contract files.*

DMS Response:

- **CONCUR:** See DMS Response to Finding No. 2 Recommendation.

Contract and Amendment Provisions (Findings No. 4 and 11)

The Report: Modifications to the eProcurement contract provided new system functionalities that were paid from transaction fees, costs that may have been avoided had the Department adequately conferred with the Department of Financial Services prior to the original contract. Modifications also created a "contingency bucket" that was not anticipated by the original contract, the stated purpose of which was to allow the project to continue without interruptions should future modifications be required. Net additions and subtractions from the scope of the project provided \$1.1 million for a contingency bucket. Additionally, regarding the North Highland contract, several contract amendments may have been avoided had the Department established and implemented effective policies and procedures in accordance with Chapter 287, Florida Statutes.

Report Recommendations (Finding No. 4):

- *The Department should establish policies and procedures that ensure parties materially affected by an outsourcing endeavor are consulted on all applicable terms and provisions.*
- *The Department should also amend the contract to ensure that all transaction fees and the payment of the revenue share are subjected to audit as originally contemplated in the contract.*

EXHIBIT D - CONTINUED**AUDITEE RESPONSE**

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- *Additionally, to clarify the factors and assumptions behind contract provisions and modifications, the Department should establish written policies and procedures that require documentation explaining key decisions.*

DMS Response:

- **CONCUR:** Although this is not an outsourcing initiative, the Department agrees that internal policies should mandate that key stakeholders are consulted in drafting terms and conditions in all procurements; see DMS Response to Finding No. 1 Recommendations.
- **NON-CONCUR:** According to the terms of the current contract, as well as, the mandates of State law, all transaction fees and payment of the revenue share to Accenture are subject to audit at any time therefore the Department sees no reason to amend the contract as it relates to this issue.
- **CONCUR:** The Department's draft Administrative Policies and Procedures establish contract management requirements, including clear documentation of decisions involving contract provisions and modifications.

Report Recommendations (Finding No. 11):

- *The Department should ensure, through its planning procedures, that an analysis is performed that documents the necessary requirements to implement a project, including the extent of dedicated Department resources.*
- *To ensure the effectiveness of the third-party monitor, the Department should separate monitoring functions from other consulting services.*
- *Specifically, for the North Highland contract, the Department should ensure that contracts, including amendments, are signed prior to commencement of work.*

DMS Response:

- **CONCUR:** The Center's Proposed Methodology for Cost Comparisons for Gate Process Stage 1: Planning, provides a structured approach for making cost comparisons between in-house and contract service delivery; see DMS Response to Finding No. 1 Recommendation.
- **CONCUR:** The Department will periodically assess project needs to identify the type of support required to advance project implementation.

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- **CONCUR:** Existing Department policies and procedures require managers to ensure that contractors do not commence work prior to execution of a contract or contract amendment. As noted in your report, the former Interim Secretary documented the criticality of work commencement so as to avoid delay to the Accenture contract. The former Interim Secretary also noted that such reoccurrence would be avoided by implementing and following a more robust Project Management Office structure.

Fees and Revenue Share (Finding Nos. 3 and 5)

The Report: The Department did not clearly document how it was determined that a 1-percent transaction fee would adequately fund the eProcurement system. Additionally, the Department did not promulgate rules communicating those transactions and vendors exempted from transaction fees until nearly nine months after the contract was signed. Also, revenues generated by the transaction fees for the first two years of the contract have fallen far short of projections, leading to a renegotiation of the contract. After it became apparent that an interface within FLAIR would not be feasible, the contract was modified to provide for a Billing and Collection System (currently referred to as the Transaction Fee Reporting System). This System relies on vendors to self-report sales and transaction fees.

Report Recommendations (Finding No. 3):

- *To ensure continuity of contract knowledge and experience throughout the effective life of the contract, the Department should develop policies and procedures that require that documentation be maintained in contract files explaining the factors, assumptions, and methodologies used to develop key financial provisions of its contracts, particularly for contracts that extend for multiple years. Additionally, contracts should address all significant issues that impact the financial viability of the contract. Furthermore, the Department should ensure that the factors, assumptions, and methodologies applicable to the tentative agreement are clearly documented in the contract files.*

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DMS Response:

- **CONCUR:** The Department's draft Administrative Policies and Procedures establish requirements for contract management, including documentation requirements.

Report Recommendations (Finding No. 5):

- *The Department should ensure that, for future outsourcing contracts, the appropriate technical and subject matter experts are consulted during the planning and negotiation phases, particularly with regard to the integration or enhancement of existing financial management systems, as noted in several recommendations in this report.*
- *With regard to MFMP, the Department should continue working with DFS to interface MFMP with the replacement for FLAIR and look for ways to maximize vendor collections.*

DMS Response:

- **CONCUR:** Although this was not an outsourcing initiative, we agree that this Recommendation should be extended to all procurements; see DMS Response to Finding No. 1 Recommendation.
- **CONCUR:** Although not well documented, MFMP could not have been implemented without the active participation of DFS in the project's conception, design and procurement. Since project initiation, the Department has worked in concert with DFS, and will continue to interact daily to maintain real-time interface with the FLAIR replacement. The Department will also continue to work with DFS in developing mechanisms to maximize vendor collections in the replacement system.

Funding and Financial Matters (Findings No. 6, 9, and 12)

The Report: *MFMP, as it currently operates, gives Accenture custody of all transaction fees, even though the fees are to first pay the procurement oversight budget of the Department. Additionally, Accenture maintains the records for fees collected. Interest earnings on the transaction fees held by Accenture, not addressed in the contract, have become the subject of dispute. In addition, although the cost for rental space at State Offices was required to be incorporated into third-party consultant ITN responses, the Department did not charge for work space provided to North Highland. The Department did not request specific appropriated funding for the third-party monitor contract and, without informing the Executive Office of the Governor, Office of Planning and Budgeting, and the Legislature, the Department utilized*

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recurring appropriations that were requested for and previously used to assist in administering its natural gas contract.

Report Recommendations (Finding No. 6):

- *To safeguard the Department's share of the transaction fees collected as well as interest earnings on those transaction fees, the Department should consider using a third-party bank to control transaction fees as envisioned by the September 30, 2003, presentation that described the enhanced control and auditing functionality of such a process. Should the Department not require that a third-party bank maintain control over the transaction fees, then consideration should be given to additional agreed-upon procedures to include internal controls.*

DMS Response:

- **CONCUR:** The Department agrees that the present transaction fee collection process can be improved and therefore will work toward implementing procedures that will provide the Department with more oversight and control over this process.

Report Recommendation (Finding No. 9):

- *The Department should determine the steps that can be taken to mitigate this contract deficiency [failure to charge for space and facilities used by the contractor] and ensure proper consideration of such deficiency is given in other existing and future contracts.*

DMS Response:

- **CONCUR:** The Department will submit this issue to the General Counsel for review and resolution. We will review other existing contracts to ensure that charges are being appropriately applied. The Department's Administrative Policies and Procedures will establish clear policy regarding such charges for future contracts.

Report Recommendations (Finding No. 12):

- *The Department should ensure that its legislative budget requests include detailed information useful to others, such as legislative and OPB staff making decisions regarding State budgets.*

EXHIBIT D - CONTINUED

AUDITEE RESPONSE

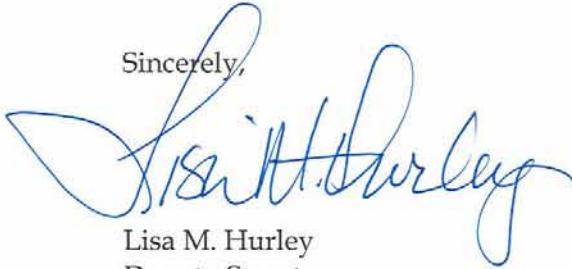
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DMS Response:

- **CONCUR:** The Department routinely assesses its budget needs and reflects these needs in sufficient detail in the legislative budget request.

If further information is needed concerning any of our responses, please contact Steve Rumph, Inspector General, at 488-5285.

Sincerely,



Lisa M. Hurley
Deputy Secretary

RHH/sll

cc: Robert H. Hosay, Interim-Secretary
Department of Management Services

Alberto Dominguez, General Counsel
Department of Management Services

Tom Clemons, Director
Division of Administration

Ailneal Morris, Project Manager
MyFloridaMarketPlace

Debra Forbess, Director
Planning and Budget

Jennifer Fennell, Director
Communications