



Agency Contracts Audit Audit Report 202122-18

May 9, 2022

Executive Summary

As part of the Office of Inspector General 2021-2022 Audit Plan, our office conducted a compliance audit of the Florida Highway Safety and Motor Vehicles (Department) contract procurement procedures. This audit satisfies the requirements of House Bill 1079, passed during the 2020-2021 Legislative Session, which amended Section 287.136, Florida Statutes (F.S.), to require a periodic risk-based compliance audit of all contracts executed by a state agency to identify any trends in vendor preferences.

The scope of the audit focused on the Department's standard two-party agreements, three or more party agreements, revenue agreements, and master agreements during the 2018-2019 through 2020-2021 Fiscal Years.

As required by Section 287.136, F.S., we found no trends in vendor preference. However, we noted two areas in which improvements could be made to strengthen controls.

Our review determined compliance with Section 215.985(14), F.S., should be improved by strengthening controls to ensure required information is posted and updated in the Florida Accountability Contract Tracking System (FACTS). We recommend Bureau of Purchasing and Contracts (BPC) management ensure required contract information is completely, accurately, and timely entered into FACTS. We also recommend BPC management establish directive controls to include specifying in writing the roles and responsibilities of BPC members regarding posting and updating contract information in FACTS. We further recommend BPC management establish management oversight controls to review the accuracy of contract data posted in FACTS.

Our review also determined compliance with Section 287.057 F.S., should be improved by implementing better controls to maintain contract supporting documentation. We recommend BPC management improve controls for maintaining supporting documentation for procurement methods as outlined in Section 287.057, F.S.

Background and Introduction

The state's purchasing laws are designed to promote fair and open competition in the public procurement process. The goal is to reduce the appearance and opportunity for



favoritism and foster public confidence that contracts are awarded equitably and economically.

A state term contract is a contract that is competitively procured by the Florida Department of Management Services (DMS), Division of State Purchasing for selected products and services for use by state agencies and eligible users. Use of state term contracts is mandatory for Florida agencies in accordance with Section 287.056, F.S.

Per Section 215.985(14)(a), F.S., the Florida Department of Financial Services (DFS) is required to maintain a contract tracking system. The purpose of this system is to enhance public trust through a transparent and centralized statewide reporting system. The system maintained by DFS is FACTS. The FACTS system provides a means to track state contracts by government agencies and gives the public access to contract information.

Section 215.985(14)(a), F.S., requires that within 30 calendar days after executing a contract, each state entity must post information relating to the contract in FACTS. The Department's BPC, Contracts Team, is responsible for posting contract information specified in Section 215.985(14)(a), F.S.

Section 215.985(14)(b), F.S., requires the state entity that is a party to any amendment to an existing contract, must update any relevant information within 30 calendar days in FACTS. An amendment to a contract includes, but is not limited to, a renewal, termination, or extension of the contract or a modification of the terms of the contract. The BPC's, Contracts Team, is responsible for updating contract information in FACTS.

Between July 1, 2018, and June 30, 2021, the Department procured goods and services through the execution of 55 contracts. Ten (10) of the 55 were excluded from our audit review because they were contracts with governmental entities. We reviewed the remaining 45 contracts for compliance with Chapter 287. Out of the 45 contracts reviewed:

- 3 contracts (7%) included goods and services valued less than \$2,500. Contracts that were included in this category were for "in-building" radio-distribution devices and antennas for the Neil Kirkman Building, the automated driver license testing system, and electric car training;
- 4 contracts (9%) were valued between \$2,500 and up to \$35,000. In this category, contracts were for services such as law enforcement accreditation and recovery software; and
- 38 contracts (84%) exceeded \$35,000. By law, contractual services of this amount require a competitive solicitation for vendor selection unless excluded by statute.



Findings and Recommendations

As required by Section 287.136, F.S., we found no trends in vendor preference by the Department. We concluded that while the procurement function has implemented processes and procedures to ensure compliance with state purchasing laws, we identified two instances in which controls should be improved.

Posting and Updating Required Information in FACTS

Finding No. 1: Compliance with Section 215.985(14), F.S., should be improved by strengthening controls to ensure required information is posted and updated in FACTS.

Section 215.985 (14)(a), F.S., states that within 30 calendar days after executing a contract, each state entity shall post information relating to the contract in FACTS.

Section 215.985 (14)(b) F.S., states that within 30 calendar days after an amendment to an existing contract, the state entity must update the information in FACTS. An amendment to a contract includes, but is not limited to, a renewal, termination, or extension of the contract or a modification of the terms of the contract.

The *Internal Control Integrated Framework*, published by the Committee of Sponsoring Organizations (COSO), discusses documented policies and procedures as control activities to establish clear responsibility and accountability.

We reviewed a list of 45 contracts to determine if complete and accurate data was recorded in FACTS in accordance with the requirements outlined in Section 215.985(14), F.S. We compared contract data obtained from the Department's contract management system, Electronic Repository of Executed Contracts (EREC), to contract data exported from the DFS contract management system, FACTS.

During our review, we noted the following regarding posting contract information in FACTS. Out of the 45 contracts reviewed:

- 6 contracts (13%) were not located in FACTS;
- 11 contracts (24%) were not timely entered into FACTS. Contracts were placed into FACTS from 1-113 days past the 30-day time frame; and
- 3 contracts (7%) had beginning and/or ending dates that did not match FACTS.

We additionally noted the following regarding updating information in FACTS:

- 38 contracts had past end dates according to the pulled FACTS generated report, yet were listed with an "active" status;
- 6 contracts had a "status" discrepancy between EREC compared to FACTS; and
- 1 contract was listed as an active contract with an inactive vendor.



The Department's Purchasing and Contracts Manual does not designate any particular individual or position responsible for ensuring contract information is posted in FACTS and updated as necessary. During audit inquiry, we were advised that it was the Contract Team's responsibility.

Without written guidance and designated responsibilities for this function, the Department has less assurance that contract information is maintained in FACTS as required. Because the intent of the FACTS system is to provide public transparency in government spending, public trust may decrease by not providing accurate and complete information within a statewide reporting system.

Recommendations

We recommend BPC management ensure required contract information is completely, accurately, and timely entered into FACTS.

We also recommend BPC management establish directive controls to include specifying in writing the roles and responsibilities of BPC members regarding posting and updating contract information in FACTS.

We further recommend BPC management establish management oversight controls to review the accuracy of contract data posted in FACTS.

Management Response

BPC concurs with the finding and is in the process of revising our Purchasing and Contracts Manual and will include information on entering and updating formal, two-party signed expenditure contract information into FACTS in accordance with section 215.985 (14)(b) F.S. BPC will also specify in the revised Purchasing and Contracts Manual the roles and responsibilities of BPC staff for entering accurate data, as well as the roles and responsibilities of program offices to properly and timely close out related contracts. BPC Management will also formalize a process for routinely sampling of contract entries to validate information enters conforms with the above-mentioned requirements. Expected completion by November 2022.

Supporting Contract Documentation Requirement

Finding No. 2: Compliance with Section 287.057 F.S., should be improved by implementing better controls to maintain contract supporting documentation.

Section 287.057(15)(a), F.S. requires that for each contractual services contract, the agency shall designate an employee to function as a contract manager who shall be



responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor.

Section 287.057(16), F.S. states that each agency shall designate at least one employee who shall serve as a contract administrator responsible for maintaining a contract file and financial information on all contractual services contracts and who shall serve as a liaison with the contract managers and the Department.

The Contract Administration Best Practices Guide published by the National Association of State Procurement Officials (NASPO), states that the contract file should contain the essential record of contract award and performance, such as the solicitation document, all responses to bids or proposals, copy of the contract, including all attachments and amendments, documentation of deliverables, payment records, and contract closeout documentation.

We reviewed a list of 45 Department contracts to determine if procurement rules were followed for contracts procured under Chapter 287.057, F.S. This included reviewing 7 contracts that were procured using Request for Proposal (RFP) and 5 contracts procured using Intent to Negotiate (ITN) and verifying that required documentation to support the procurement method was maintained.

Our review of 7 RFP contracts noted:

- 1 contract without documentation specifying in writing, why the Invitation to Bid (ITB) was not practicable; and
- 1 contract without the following required documentation:
 - Specifying in writing, why the ITB is not practicable;
 - Price specified in the proposal;
 - Price for renewal; and
 - Documented reasons this method is in the best interest of the state in lieu of resoliciting competitive sealed bids, proposals, or replies.

Our review of 5 ITN contracts noted:

- 1 contract without the following required documentation:
 - Letter of delegation of authority; and
 - A short plain statement explaining basis for selection of vendor, including deliverables, price, and best value to the state.
- 1 contract without documented reasons this method is in the best interest of the state in lieu of resoliciting competitive sealed bids, proposals, or replies.

Supporting documentation for RFP and ITN contracts used to substantiate compliance with Section 287.057, F.S., was not maintained in a central location, such as the Department's contract management system, EREC, or could not be readily retrieved by BPC when requested. Without controls to ensure supporting documentation for



contracts is maintained, the Department cannot substantiate compliance with Section 287.057, F.S.

Recommendation

We recommend BPC management improve controls for maintaining supporting documentation for procurement methods as outlined in Section 287.057, F.S.

Management Response

BPC acknowledges the need to improve maintaining supporting documentation as part of contract files within the current contract management system EREC and will formularize a consistent naming convention for our electronic records with expectations on roles and responsibilities in our revised Purchasing and Contracts Manual with expected completion by November 2022.



Purpose, Scope, and Methodology

The purpose of this engagement was to conduct a risk-based compliance audit of contracts procured under Chapter 287, F.S., that were executed by the Department. In accordance with Section 287.136(2), F.S., the audit included an evaluation and identification of any trends in vendor preferences. This audit engagement focused primarily on Department contracts that required competitive solicitation.

The scope of the audit focused on the Department's standard two-party agreements, three or more party agreements, revenue agreements, and master agreements for the 2018-2019 through 2020-2021 Fiscal Years.

The following contract types were excluded from our review:

- Grant agreements;
- Memorandum of Understanding (MOU);
- Data sharing agreements;
- Settlement agreements;
- Multiagency participation agreements;
- Agreements between government entities; and
- Exempt contracts entered pursuant to section 287.057(10), F.S.

The methodology included:

- Reviewing applicable statutes, regulations, and internal operating procedures;
- Reviewing contracts entered into the FACTS online application;
- Reviewing contract files; and
- Interviewing Department personnel regarding the processes and controls used in the procurement and contracting process.

Acknowledgement

We would like to thank all BPC Personnel who assisted during the audit and express our appreciation for their cooperation during the course of our review.



Distribution, Statement of Accordance, and Project Team

Distribution

Terry L. Rhodes, Executive Director
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Cliff Nilson, Director of State Purchasing and State Procurement Officer
Sarah Hall, Inspector General, Department of Management Services

Statement of Accordance

Section 20.055, Florida Statutes, requires the Florida Department of Highway Safety and Motor Vehicles' Inspector General to review, evaluate, and report on policies, plans, procedures, accounting, financial, and other operations of the Department and to recommend improvements. This audit engagement was conducted in accordance with applicable *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors and *Principles and Standards for Offices of Inspector General* published by the Association of Inspectors General.

Project Team

Engagement conducted by:
Kim Butler, Lead Auditor
Calvin Grissett, Auditor

Under the supervision of:
Erin Mook, Audit Director

Approved by:



Mike Stacy, Inspector General

ATTACHMENT - Management Response



Terry L. Rhodes
Executive Director

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MEMORANDUM

DATE: May 6, 2022
TO: Kim Butler, Acting Audit Director
FROM: Mark Hernandez, Bureau Chief Purchasing and Contracts
SUBJECT: Agency Contracts (202122-18)

The following is our response to the findings and recommendations presented in the report.

Finding No.1: Compliance with Section 215.985(14), F.S., should be improved by strengthening controls to ensure required information is posted and updated in FACTS.

Recommendations

We recommend BPC management ensure required contract information is completely, accurately, and timely entered into FACTS.

We also recommend BPC management establish directive controls to include specifying in writing the roles and responsibilities of BPC members regarding posting and updating contract information in FACTS.

We further recommend BPC management establish management oversight controls to review the accuracy of contract data posted in FACTS.

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Recommendation

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Cc: Mike Stacy, Inspector General