

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Julia Connelley, Performance Auditor

CC: Department of Administration
John Lewis, Director
Cheryl Grey, Administrator, State Financial Services Division
Matt Pugh, Deputy Administrator, State Financial Services Division
Meghan Holmlund, Chief Procurement Officer, State Financial Services Division

DATE: August 2020

RE: Performance Audit Follow-Up (20SP-06): *Administration of State Procurement and Contract Management* (orig.17P-04)

ATTACHMENTS: Original Performance Audit Summary

Introduction

The *Administration of State Procurement and Contract Management* (17P-04) report was issued to the Legislative Audit Committee in November 2018. The audit included seven recommendations to the Department of Administration (department). We conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

Our original audit found that the Department of Administration was not properly overseeing procurement activities by state agencies and lacked sufficient policies and expectations for agency procurement staff. We noted shortcomings in the areas of delegation agreement criteria, procurement staff training, agency compliance reviews, and eMACS usage, among others. Our follow-up work indicates the department has made positive changes in addressing the seven recommendations, with six implemented and one being implemented. The department has revised the relevant state policies and improved the delegation agreement template to clearly define the roles and responsibilities of those involved in the procurement process. The department has also made changes to improve the delegation agreement process that will ensure agencies are following procurement requirements and standards. More state agencies are now using eMACS to monitor contracts and payments, and to track procurement staff training. The department has taken steps to provide required training to the agency procurement officers and staff online and through the Professional Development Center. The department is in the process of developing a biennial report to address agency usage of eMACS and contract management systems. The department plans to have the report complete later in 2020 and present it to relevant legislative committees.

Background

The Department of Administration's State Financial Services Division (SFSD) oversees procurement services needed by state agencies. Once an agency has identified a need for certain goods or services, it begins the procurement process with the State Procurement Bureau (SPB) within SFSD. Agencies are delegated certain

purchasing authority levels, either Level I (\$25,000 for services and \$50,000 for supplies) or Level II (\$200,000 for supplies and services), for the procurement of needed goods or services that can be made without SPB approval. SPB issues delegation agreements providing this spending authority for each agency. When a procurement leads to a contract, the agency acts as contract manager to monitor vendor activities and amend the contract as needed. The department develops and monitors delegation agreements with agencies.

Audit Follow-Up Results

The following sections summarize the progress toward implementation of the report recommendations. To assess the department's implementation status, we reviewed delegation agreements executed after the audit was complete, agency requirement checklists, and compliance review documents. We also reviewed updated state procurement policies, the State of Montana Procurement Manual and training opportunities offered through SPB and the Professional Development Center. We also interviewed the chief procurement officer and State Procurement Bureau staff regarding changes that occurred since the conclusion of our audit work. The following sections discuss the implementation status of each recommendation.

RECOMMENDATION #1

We recommend the Department of Administration clearly define, in Montana Operations Manual policy and in the delegation agreement template:

- A. The role and responsibilities of the delegation agreement liaison, and**
- B. "Satisfactory performance history," "procurement staff," and "public procurement experience."**

Implementation Status – Implemented

During audit work, we noted that delegation agreement requirements and policy definitions were not clear. Therefore, SPB could not ensure these requirements were being followed by agencies. In follow-up work, we reviewed the updated delegation agreement template in state policy and agency delegation agreements for calendar year (CY) 2020-21 related to the agency procurement officer (APO) and procurement staff. We also reviewed delegation agreements approved for the CY 2020-21 two-year cycle. We identified updates to the delegation agreement template that included roles and responsibilities for APOs, including monitoring compliance with the delegation agreement, communicating expectations within the agency, approving eMACS access for agency staff, and reporting on procurements and contracts.

The delegation agreement template and relevant state policies also included updated definitions for "satisfactory performance history" and "procurement staff." Department staff explained that "public procurement experience" was removed from the agreements and policies because the department does not have the authority to dictate who is eligible for hiring within the agencies. The agencies can determine what experience is necessary for employees before joining the procurement staff, but SPB's authority extends to monitoring staff experience and training once they are in the role.

RECOMMENDATION #2

We recommend the Department of Administration:

- A. Implement procedures to ensure delegation agreement liaisons and procurement staff are obtaining all trainings and years of public procurement experience as required within the delegation agreement.**
- B. Suspend delegation agreements for agencies not meeting the agreements' requirements until corrective actions are taken by the agency.**

Implementation Status – Implemented

During our original audit, we found most agencies were not meeting delegation agreement training requirements. At the time, 69 percent of agencies, either with Level I or Level II delegation authority, did not meet required training and experience for procurement staff. For follow-up work, we reviewed the documents involved in the review process and interviewed SPB staff to determine the success of the reviews. We also identified a contract management training course offered through the Professional Development Center that agency procurement staff are now required to attend and complete. SPB implemented a review checklist for agencies to report on staff training. The checklist process also includes a review by SPB staff and corrective measures for agencies not in compliance with training requirements. During this process, agencies self-report on each checklist item and SPB staff verify the agencies' responses and determine risk levels. Agencies identified as "high risk" are those not in compliance with training standards. So far this year, eight agencies were identified as high risk. Those agencies are then subjected to an on-site review by the SPB team and the agency's compliance is monitored after the SPB team and agency procurement staff have identified corrective measures to meet the training requirements. SPB staff confirmed that terminating agreements due to noncompliance would happen if an agency repeatedly does not implement necessary corrective measures. No agencies have had their agreements terminated since the audit was completed.

RECOMMENDATION #3

We recommend the Department of Administration improve agency procurement reviews by:

- A. Randomly and judgmentally selecting agency contracts to review,**
- B. Developing a review scoring system,**
- C. Providing feedback to agencies after reviews are completed, and**
- D. Verifying that issues identified during these reviews are corrected.**

Implementation Status – *Implemented*

Prior to our audit, SPB was not conducting compliance reviews often, if at all. Instead, SPB staff would hold informal "meet-and-greets," but there was no formal review process in place. The bureau began conducting reviews more frequently during audit fieldwork, with a goal of reviewing and meeting with each agency every three years and check-ins every quarter. SPB implemented a compliance review program that includes a risk-based sample of agencies to review, a scoring system for compliance with delegation agreements, feedback for corrective measures, and verification of measures taken to comply with requirements. Agencies are sampled from the "risk factor" identification used in the requirement checklist process. SPB sampled agencies with "high risk" of noncompliance. In our follow-up work, we reviewed the compliance review program, including the plans for reviews and the review template used for the selected agencies. We also examined completed reviews from SPB to verify the program has the components we recommended. We discussed the process for implementing the review process with SPB staff, who believe the review process will work well in identifying both individual and large-scale issues. The department's goal is to review ten agencies every year, with three 2020 agency reviews completed and three in progress as of August.

RECOMMENDATION #4

We recommend the Department of Administration review all commodity codes on each delegation agreement during the renewal process and communicate with the agency liaisons to determine if any codes are no longer necessary.

Implementation Status – *Implemented*

Across state government, agencies with delegated procurement authority can in certain instances be granted unlimited purchase authority for a variety of supplies and services without approval from SPB. This is typically based on agency expertise or common agency needs. These categories of goods and services are each assigned unique commodity codes. During our audit, we learned commodity codes used for unlimited spending authority

for a variety of goods and services were not reviewed by SPB and agencies during the delegation agreement renewal process. Agency procurement staff were unaware how commodity codes were chosen, and which codes could be used for agency needs. There was confusion between agencies with Level I and Level II purchasing authority on how commodity codes were determined. Commodity codes should be reviewed every two years during the renewal process for delegation agreements, thus the agency procurement officers and staff should be aware of the assigned commodity codes. Another issue identified through our original audit work was agencies had unnecessary commodity for current agency operations.

During our follow-up work, we reviewed current commodity codes by agency and the number of codes eliminated during the CY 2020-21 delegation agreements. We also interviewed staff from SPB to discuss the review and elimination process. From the most recent agreements, there are 545 total commodity codes available for unlimited use by one or more agencies. SPB implemented a commodity code review form in the new delegation agreements for agencies to self-report and request spending exemptions (commodity categories). SPB staff review the form for the new agreements and discuss exemptions with the agency. In total, 17 of 33 agencies have unlimited spending authority for certain items using commodity codes. The Department of Transportation currently has the most commodity codes with 71. In total, 12 codes were eliminated during the CY 2020-21 delegation agreements. SPB staff said most agencies with eliminated codes understood the decision. For example, the Department of Transportation still had a for printing, which the department no longer uses since it no longer has its own print shop.

RECOMMENDATION #5

We recommend the Department of Administration develop and maintain a comprehensive procurement and contract management manual to clearly identify and implement industry best practices.

Implementation Status – *Implemented*

Our original audit work found a comprehensive manual on procurement and contract management did not exist. SPB maintained a manual for the request for proposal (RFP) process, but no policy and procedure manual for procurement. The department developed a comprehensive manual in September 2019. The manual is available on the SPB's website. During follow-up work, we reviewed the "State of Montana Procurement Manual" and identified areas of best practices within the manual, including vendor communication, procurement planning, contract awards, and contract management. We also interviewed agency procurement staff from three agencies and SPB staff. Through discussions with SPB Staff, the bureau expects to continually update the manual as needed. Staff also plan on discussing the manual with agencies as often as requested, though agencies have adjusted to using the manual for their procurement activities. Agency procurement officers noted that they are aware of the new manual and have begun to use it when questions about procurements and contract management arise.

RECOMMENDATION #6

We recommend the Department of Administration identify appropriate contract management training and update the delegation agreement template to require this training for all agency delegation agreement liaisons and contract managers.

Implementation Status – *Implemented*

During our original audit work, we found agencies were not fully compliant in managing contracts as required by state policy. Agency-identified contract managers and SPB were neglecting several required steps in the process. Specifically, we noted missing documentation, vendor payment records, and close-out forms for contracts related to RFPs and invitation for bids. We also noted SPB staff were not monitoring training compliance, and we found many agency liaisons and agency procurement staff did not have the required training for their work. During our follow-up work, we examined the online basic contract management training that was established by DOA and reviewed the agency delegation agreements for CY 2020-21 to identify updated

training requirements and liaison roles and responsibilities. A sample of delegation agreements was reviewed for five agencies for the upcoming biennium. The delegation agreement template was updated to include liaison roles and responsibilities, and the name of the identified liaisons were included for each agency, along with agency management.

Training responsibilities were included in the new delegation agreement, and the online basic contract management training included recommended standards for agency liaisons and procurement staff. The department also offers training courses through the Professional Development Center related to contract management. Agencies monitor their staff training records and report on training compliance during the new compliance review process (see Recommendation #3). SPB staff received many inquiries about the implemented online basic contract management training, which they interpreted as agency staff being eager to complete their training requirements. While training compliance is monitored by the agencies, SPB staff have access to the Learning Management System, for which the online training is offered, and can pull reports on which agency employees have completed the training.

RECOMMENDATION #7

We recommend the Department of Administration:

- A. Complete the connectivity between the eMACS Total Contract Manager module and the Statewide Accounting, Budgeting and Human Resources System,**
- B. Establish, in Montana Operations Manual policy, procedures for all state entities under delegation agreements to upload contract data into the eMACS Total Contract Manager module, and**
- C. Develop and present a biennial report to the legislature detailing agency usage of all eMACS modules, and the existence of duplicative contract management systems currently in place at all agencies.**

Implementation Status – *Being Implemented*

In 2015, the department acquired the eMACS contract management system, with a goal of standardizing procurement and contract management across all state agencies. During our audit, we noted most state agencies were not using eMACS to manage contracts through the system's Total Contract Manager (TCM) module. We found only four agencies were using eMACS. Though agency procurement staff were pleased with eMACS, agency satisfaction with the contract management capabilities was low. SPB had not yet integrated TCM with SABHRS to allow agencies to improve their contract management capabilities. During our follow-up, we examined eMACS, reviewed relevant state policies regarding agency requirements to use eMACS, and interviewed SPB staff. The TCM module has been implemented into eMACS and is now connected to SABHRS. The connectivity of TCM allows agency procurement staff to make payments to selected contracts and view all previous payments made. Agency procurement staff were invited to demonstrate the TCM integration and were able to give feedback to SPB. Once TCM was officially integrated, agencies were notified through email and were provided training on the module. As of August 2020, four agencies were using eMACS full-time, with eight additional agencies in the process of implementing eMACS. SPB also updated relevant state policies for contract management and procurement methods in January 2020. The policy for procurement rules and methods now requires agencies to use eMACS throughout the procurement process. SPB is currently in the process of developing a biennial report on eMACS usage and contract management systems to be presented to the legislature. As part of this process, SPB issued a survey to agency staff and 17 agencies responded. SPB staff will use the survey results to create the report.