

Office of the Internal Auditor

AUDIT REPORT

November 2022

HB1079 Post-Implementation
Audit



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Executive Summary

Background

Florida law requires state agencies that wish to procure commodities or contractual services in excess of \$35,000 to use a competitive solicitation process. Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods: an invitation to bid (ITB), a request for proposals (RFP), or an invitation to negotiate (ITN).

House Bill (HB) 1079, effective July 1, 2021, makes several changes relating to the evaluation, management, and oversight of competitively procured contractual services. The bill included the following notable provisions:

- Provides guidance on Contract Managers' primary responsibilities and prohibits a person from managing a contract where such person was employed in the prior 5 years by the contracted vendor.
- Establishes experience requirements to manage contracts above \$10 million annually.
- Supervisors of Contract Managers and Contract Administrators will be required to complete the Florida Department of Management Services (DMS) offered training, once the DMS has completed the development of the training.
- Requires the creation of a "continuing oversight team" for each contractual services contract of \$5 million or greater and establishes meeting and reporting requirements. For contracts greater than \$20 million this team must include outside agency representation.
- Prohibits a contract by a state agency from containing non-disclosure language that prohibits the vendor from disclosing information relevant to the performance of the contract to members of the House or Senate.
- Requires notification to DMS of any vendor meeting the grounds for suspension and describes the required documentation for such reporting.
- Requires the agency Inspector General to complete a risk-based compliance audit every three years of all contracts in the preceding three years.

Objectives and Scope

The objective of this audit was to assess the readiness, adequacy, and efficiency of HB1079 processes, controls, and oversight procedures to ensure the program is effective and department objectives are achieved. This assessment focused on the controls for the following areas:

- Contract Manager, Administrator, and Negotiator, roles and responsibilities including contract management/negotiation experience and certification requirements
- Contract Manager Conflict of Interest
- Supervisors of Contract Managers and Contract Administrator training requirements
- Non-disclosure contractual language
- Vendor suspension notification process
- Continuing oversight of team appointments, meetings, and reporting requirements
- Inspector General contract compliance audit process



Executive Summary

- Obtained benchmarking information from State of Florida agencies that implemented the same agency contracts for commodities and contractual services requirements under HB1079 to Citizens

Management's Assessment on Reporting Controls

The Office of the Internal Auditor provided Vendor and Purchasing management an opportunity to share known control weaknesses and their plans to remediate them. This process is intended to foster an environment whereby management and staff conduct periodic proactive reviews of controls and are aware of the risks to the business. It also enables Internal Audit to focus its audit efforts on areas where it can add value to the organization.

At the start of the HB1079 Post Implementation Audit, Vendor Management and Purchasing Management shared the following control weakness and remediation plans with Internal Audit:

During the implementation of the new statutory language resulting from HB1079, the workgroup came to a consensus that for those contracts in which there is a panel of vendors, the Vendor Management and Purchasing Office (VMAP) would rely on Contract Managers to perform at minimum, an annual review of their contracts and self-report through a Good Faith Estimate when the spend for a specific vendor was reached or was identified to reach, the threshold to trigger the establishment of a Continuing Oversight Team (COST). However, during a random contract manager audit performed by VMAP, prior to the year anniversary of the new language becoming law, it was identified that the self-reporting process was not being followed. In response, VMAP developed a process where the VMAP Continuing Oversight Team Managers will track and proactively communicate with Contract Managers to ensure Good Faith Estimates are being submitted in a timely manner. Internal Audit has reviewed the draft procedures and provided input to management.

Results

Internal Audit completed a post-implementation assessment of the processes and procedures developed by Management to comply with the requirements of HB1079 and noted that the following favorable practices are in place:

- Contract Manager experience, training, and certification requirements are captured and tracked in the Vendor Management Contract System (VMCS).
- A Continuing Oversight Team (COST) procedure has been established for the appointment of team members and meeting and reporting requirements for contracts that meet the statutory threshold.
- A vendor non-compliance reporting procedure has been established to report vendor terminations/suspensions to the Florida Department of Management Services.
- The Office of the Inspector General performs a contract compliance audit to comply with HB1079.

A low-rated observation was noted related to the process for capturing documentation confirming the Contract Manager has not worked for the vendor during the past five years. The observation has been discussed with Management and remediation plans are in progress.



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We would like to thank management and staff for their cooperation and professional courtesy throughout the course of this audit.



Distribution

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The Honorable Jimmy Patronis, Chief Financial Officer
The Honorable Ashley Moody, Attorney General
The Honorable Nikki Fried, Commissioner of Agriculture
The Honorable Wilton Simpson, President of the Senate
The Honorable Chris Sprowls, Speaker of the House of Representatives

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