REPORT BY THE

OFFICE OF THE AUDITOR GENERAL

TO THE

JOINT LEGISLATIVE AUDIT COMMITTEE

F-322

THE STATE HAS NOT ADEQUATELY MONITORED THE REPORTING AND EVALUATION OF CONSULTING SERVICES CONTRACTS

FEBRUARY 1984

Telephone:
(916) 445-0255

Thomas W. Hayes
Auditor General

STATE OF CALIFORNIA
Office of the Auditor General
660 J STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814

February 7, 1984 F-322

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the state's system of reporting and evaluating consulting services contracts. The report indicates a need for a system to ensure that state agencies submit their quarterly contract activity reports. The report also indicates that the Department of General Services' Legal Office needs to improve its monitoring of the contract evaluation process.

Respectfully submitted,

THOMAS W. HAYES
Auditor General

Attachment

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SUMMARY

Chapter 1208, Statutes of 1982, requires the Auditor General to review the State's system for monitoring consulting services contracts for fiscal years 1982-83, 1983-84, and 1984-85. The Department of General Services (department) has overall responsibility for monitoring these contracts during the same period. In that function, the department is to develop and administer a system for monitoring contract evaluation. As an essential part of that system, state agencies are required to complete pre-evaluation forms for proposed consulting services contracts, evaluate their completed consulting services contracts and submit a copy of the post-evaluation to the department within 30 days after completion of the contract, and report their consulting contract activity to five state offices quarterly. The agencies' fourth-quarter reports must describe the agencies' consulting contract activity during the entire fiscal year.

State agencies are not fully complying with the provisions of the new law. We found that many state agencies are not submitting quarterly reports as required. Of the 125 state agencies that had planned to contract for consulting or professional services during fiscal year 1982-83, only 50 agencies filed contract evaluations with the department during the fiscal year; 18 of the 50 agencies did not submit fourth-quarter reports on their consulting contract activity and nine of the 18 agencies did not submit any quarterly reports during the fiscal year. Only 32 agencies submitted all required reports. In addition, not all reports submitted were complete. We identified 277 contracts that had not been included in any of the agencies' reports. Moreover, agencies are not filing reports on time: 15 of the 32 agencies that submitted fourth-quarter reports were late in submitting the reports. Finally, the fourth-quarter reports of 11 agencies were not complete. As a result of state agencies' failure to submit complete and timely quarterly reports, the Legislature is still without complete information regarding the consulting activity of state agencies.

We also found that some state agencies are not complying with requirements for evaluating contracts. Although we found some weaknesses in the pre-evaluation process for consulting services contracts, we did not identify any major problems. Agencies attempted to follow pertinent provisions in the State Administrative Manual. However, agencies did not always comply with the provision requiring filing of post-evaluations within 30 days after completion of the contracts. In our sample of 50 contracts that terminated after January 1, 1983, we found that agencies had not filed post-evaluations for 22 (44 percent) of the contracts as of September 23, 1983. As a result, other agencies that intended to use consulting services were unable to review evaluations of some consultants who had previously contracted with the State.

The failure of state agencies to comply with the provisions of Chapter 1208, Statutes of 1982, occurred for several reasons. Although the department had informed state agencies of their quarterly reporting responsibilities, none of the five state offices designated to receive the reports was given responsibility for enforcing compliance or providing guidance on reporting requirements. Further, the department did not issue revised contract pre- and post-evaluation forms by January 1, 1983, as required by statute. The department did not issue these revised forms until May 2, 1983, and did not have its post-evaluation monitoring system in place until mid-June 1983.

To remedy these weaknesses in the State's system for monitoring consulting services contracts, the Legislature should assign responsibility for enforcing state agencies' compliance with the quarterly reporting requirements to the Department of Finance. To improve the pre- and post-evaluation process for consulting services contracts, the Department of General Services should ensure that all state agencies comply with requirements for filing complete and prompt contract evaluations.

INTRODUCTION

The Governor's Budget for fiscal year 1982-83 identified 125 state agencies that had planned to contract for consulting and professional services during the year for a total expenditure to the State of about $300 million. Most of these services were to be provided through consulting services contracts. Effective January 1, 1983, the Legislature amended the California Government Code to increase administrative controls over consulting services contracts. Chapter 1208, Statutes of 1982 (codified in Section 14830 et seq. of the Government Code), enacted provisions to govern the approval, evaluation, audit, public notice, modification and other requirements of consulting services contracts.

Section 14830.1 of the Government Code defines consulting services contracts as follows:

> All services which are of an advisory nature, provide a recommended course of action or personal expertise, have an end product which is basically a transmittal of information either written or verbal and which is related to the governmental functions of state agency administration and management and state agency program management or innovation, and which are obtained by awarding a procurement-type contract.

The code also specifically identifies certain contracts that are excluded from this definition. There is no corresponding definition of professional services contracts.

Specific provisions of the new sections of the code require the Department of General Services (department) to supervise and administer contracting for consulting services, including the contract evaluation process, to ensure that agencies contract for consulting services in accordance with applicable law. The department is responsible for monitoring the consulting activity of state agencies through June 30, 1985.

An integral part of the department's responsibility is preparation of standardized forms for evaluating consulting services contracts. Section 14830.13 of the Government Code requires state agencies to complete a pre-evaluation form on which agencies are to justify entering into a consulting services contract. Unless the contract is specifically exempted, it must be submitted to the department's Legal Office for approval. The Government Code specifies that the department's Legal Office will not approve a contract without a properly completed pre-evaluation.

The Government Code also requires state agencies to evaluate consulting services contracts following completion of the contract. According to Section 14830.14 of the code, the contracting agency must complete a contract post-evaluation within 30 days after a contract is completed. The agency is to keep one copy of the post-evaluation in its contract files and submit one copy to the department's Legal Office. Prior to 1983, the department provided contract evaluation forms that agencies completed voluntarily. Section 14840.12 of the Government Code

required the department to revise these forms and distribute them to each state agency by January 1, 1983. The revised forms were to enable agencies to provide information required by the new sections of the Government Code.

Section 14830.15 of the Government Code requires the department's Legal Office to retain each contract post-evaluation for 36 months. Although these evaluations are not public records, directors of state agencies may request copies of post-evaluations for review. Section 14830.16(e) of the code requires that before entering into a consulting services contract, state agency personnel must review evaluations of the proposed contractor on file with the department or must attach to the contract resumes for each principal contract participant.

State agencies must also file reports of their consultant contracting. Section 14830.4 of the Government Code requires all state agencies to file quarterly reports on consulting contract activity with the Legislative Analyst, the Department of Finance, the Auditor General, the Senate Finance Committee, and the Assembly Ways and Means Committee. This report must describe each consulting services contract entered into, completed, or amended during the previous quarter; the fourth-quarter report is to provide information on all consulting services contracts entered into, completed, or amended during the preceding twelve months. The Government Code requires state agencies to submit these quarterly reports within ten days after the end of each quarter.

SCOPE AND METHODOLOGY

Section 14830.12 of the California Government Code requires the Auditor General to perform two review functions regarding consulting services contracts: (1) review of the standardized evaluation forms to evaluate their effectiveness; and (2) periodic audit of contracts to determine whether the evaluation process is effective. In response to the first review function, the Auditor General issued an assessment of the department's draft of the revised standardized evaluation forms and recommended changes to those forms.*

The objective of this current review was to determine if the process for evaluating consulting services contracts is effective and to determine if state agencies are complying with the requirement that they submit quarterly reports on their contract activity. We were specifically interested in whether the Department of General Services had developed a tracking system by which it could adequately supervise contracting, whether state agencies are evaluating consulting services contracts timely and effectively, and whether state agencies submitted timely and complete quarterly reports to the Auditor General. The period covered by this review began January 1, 1983.

*The Auditor General's report is entitled "Review of Standardized Forms for Pre- and Post-Evaluation of Consulting Services Contracts," Report P-273, January, 1983.

Since the department's Legal Office is the central depository for evaluations of consulting services contracts, we interviewed staff of the Legal Office to determine whether that office had developed a mechanism to track the contracts and required evaluations. We also examined the files of evaluations maintained by the Legal Office.

We tested the pre-evaluation process by examining a sample of 30 contracts that had been entered into after January 1, 1983. To evaluate the post-evaluation process, we examined a sample of 50 contracts that terminated after January 1, 1983. We reviewed each contract evaluation to determine whether the contract had been evaluated in accordance with the standard evaluation forms, whether the contract was consistent with the agency's activities, and whether contracting was appropriate under the circumstances.

To determine whether state agencies were evaluating all consulting services contracts and submitting complete quarterly reports on their contract activity, we compared evaluations of contracts that terminated after January 1, 1983, with the quarterly reports that agencies had submitted to the Auditor General. We also analyzed the quarterly reports to determine whether they were submitted on a timely basis.

AUDIT RESULTS

I

STATE AGENCIES DID NOT SUBMIT QUARTERLY REPORTS ON CONSULTING CONTRACT ACTIVITY IN ACCORDANCE WITH SECTION 14830.4 OF THE CALIFORNIA GOVERNMENT CODE

State agencies are not submitting complete and timely quarterly reports on their consulting contract activity as required by the California Government Code. Less than one-third of the state agencies that had budgeted for consulting and professional services during fiscal year 1982-83 submitted quarterly reports to the Auditor General. In addition, several of the reports that were submitted were incomplete and almost half were submitted after the time limit stipulated in the Government Code. Although agencies had been informed of the reporting requirements, none of the offices designated to receive the reports has responsibility for monitoring the reporting process.

Of the 125 agencies budgeted for consulting and professional services in the Governor's Budget for fiscal year 1982-83, we identified 50 agencies that submitted reports or evaluations of consulting contracts to the Department of General Services since January 1, 1983. Only 32 agencies submitted all quarterly reports on their consulting contract activity as required. Eighteen of the 50 agencies did not submit a fourth-quarter report and nine of these 18 agencies did not submit any reports at all. Conversely, the nine agencies that did not submit any quarterly reports submitted to the department's Legal Office evaluations

for 20 consulting services contracts. We also found that the fourth-quarter reports of 11 agencies were not complete; these 11 agencies submitted post-evaluations on more consulting services contracts than the agencies reported in their fourth-quarter reports. Finally, we identified 277 contracts that were not reported on any of the agencies' reports.

Furthermore, some state agencies that did submit quarterly reports did not comply with specified time requirements. Although the Government Code stipulates that quarterly reports must be submitted within ten days after the end of the quarter, 15 of the 32 agencies that submitted fourth-quarter reports submitted their reports late; the delays ranged from one week to two months. Moreover, during fiscal year 1983-84, state agencies have continued to submit their quarterly reports late.

The department informed state agencies prior to January 1, 1983, of the requirements for reporting consulting contract activity. The department revised Section 1200 et seq. of the State Administrative Manual, which describes contracting requirements to be followed by state agencies, to more fully explain the provisions of Section 14830 of the Government Code. The department issued this revision to state agencies in December 1982, before the new reporting requirements became effective. State agencies, therefore, had detailed instructions concerning their reporting responsibilities for the entire period under our review.

As a result of the state agencies' failure to submit complete and timely quarterly reports on their consulting contract activity, the Legislature still lacks accurate information concerning the magnitude of state contracting for consulting services.

Although state agencies are required to submit quarterly contract activity reports to each of five offices, none of those offices has the responsibility to ensure that all agencies submit complete and timely reports. Assigning enforcement responsibility to the Department of Finance should improve the reporting performance of state agencies.

CONCLUSION

State agencies have not fully complied with the requirement to submit quarterly reports on contract activity. Furthermore, some agencies filed incomplete reports and almost half of the reporting agencies filed their reports late.

RECOMMENDATION

Agency contract officers should ensure that quarterly reports on consulting contract activity are completed and sent to the appropriate agencies within ten days after the end of the quarter. In addition, the Legislature should designate the Department of Finance to enforce agency compliance with Section 14830.4 of the California Government Code.

II

THE DEPARTMENT OF GENERAL SERVICES WAS LATE IN DEVELOPING THE CONTRACT EVALUATION PROCESS

Although most state agencies were substantially complying with the requirement to submit pre-evaluations of consulting services contracts, delay by the Department of General Services in distributing revised evaluation forms hampered the evaluation process. The post-evaluation process is not working as effectively as it could. Agencies did not have post-evaluations on file at the department's Legal Office for almost half of the contracts we reviewed. Additionally, some agencies submitted evaluations not required by the Government Code. Inadequate post-evaluations may limit agencies in evaluating candidates for consulting services contracts.

As we noted in our previous report on the department's standardized evaluation forms, the department did not revise and disseminate the standardized forms for pre- and post-evaluations by January 1, 1983, as required by Section 14830.12 of the California Government Code. The department issued these forms to state agencies in its Management Memo 83-20 dated May 2, 1983.

Section 14830.13 of the Government Code requires state agencies to document the need for a consulting services contract. To determine if state agencies are submitting proper pre-evaluations, we reviewed 30

contracts that had been entered into after January 1, 1983. Although agencies had completed a pre-evaluation form for all 30 contracts, in most cases the agencies had submitted forms that were used prior to 1983. As a result, not all of the pre-evaluations provided all information that is required by the Government Code. Nonetheless, all contract pre-evaluations did include some statement justifying entering into the proposed contract.

We found, however, more serious problems in the department's system for monitoring post-evaluations of contracts. Section 14830.14 of the Government Code requires each state agency to file with the department's Legal Office a post-evaluation on each of its consulting services contracts within 30 days of the contract's completion. The agency is to retain a copy of the post-evaluation in its contract files.

In our audit of a sample of 50 contracts that terminated after January 1, 1983, we discovered that post-evaluations for 22 (44 percent) of those contracts were not on file at the department's Legal Office as of September 23, 1983. This high rate of noncompliance means that many contractor evaluations are not available for review by state agencies awarding new consulting services contracts. The Auditor General's April 1981 report entitled "Improvements Needed in the Administration of State Contracts for Consultant Services" (Report P-016.2) disclosed a similar low incidence of state agencies' preparing post-evaluations.

Since the department had not provided the appropriate evaluation forms to state agencies by January 1, 1983, it must share in the responsibility for the failure of the state agencies to fully justify a specific contract, evaluate a contractor's performance, and submit post-evaluations within the period specified in the Government Code.

While some state agencies are not submitting all evaluations or reports that are required, other state agencies reported on and evaluated contracts that are not required under the definition of consulting services contracts. We found that agencies have filed reports or evaluations on contracts to conduct examinations for professional licensing and architectural and engineering services that are specifically excluded from the definition of consulting services in Section 14830.1 of the Government Code and Section 1240 of the State Administrative Manual.

The failure of many state agencies to comply with the contract evaluation procedures set forth in Section 14830 of the Government Code is in part the responsibility of the department's contract tracking system. Until mid-June 1983, the department's Legal Office used a contract tracking system that was designed primarily for billing purposes. Under that system, Legal Office staff maintained a contract log card for each contract submitted to the Legal Office for approval. This card does not, however, indicate what type of contract has been approved or evaluated (e.g., consulting service, lease, service, grant, etc.).

Since consulting services contracts were not specifically identified under this contract tracking system, the Legal Office staff could not determine whether state agencies were submitting post-evaluations of all consulting services contracts. Consequently, the department could not entirely fulfill its statutory charge to supervise contracting for consulting services.

During June 1983, the Legal Office changed its contract tracking system. The new system requires special procedures when Legal Office staff identify a consulting services contract that has been submitted for approval. These procedures include maintaining a copy of the contract log card filed by termination date in a special "tickler" file. Each month, Legal Office staff identify consultant services contracts for which post-evaluations have not been received. They then send a memo to the contracting agency as a reminder of its responsibility to prepare an evaluation. The Legal Office has not developed additional disciplinary actions yet, although Section 14830.15 of the Government Code stipulates that failure to send a post-evaluation to the department shall be grounds for the rejection of future contracts.

Section 14830.16(e) of the Government Code requires that before entering into a consulting services contract, state agency personnel must review contractor evaluations on file with the department or must attach to the contract completed resumes for each principal contract participant. When contract post-evaluations are not placed on file with

the department, agencies that award consulting services contracts may be unable to evaluate a potential contractor's previous performance in a state contract.

CONCLUSION

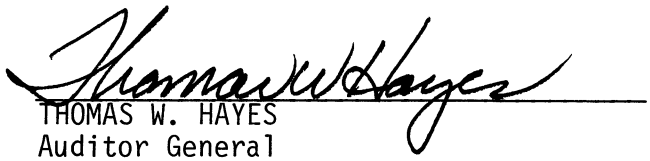
Most state agencies are completing contract pre-evaluations, but the contract post-evaluation process is not effective. State agencies are not completing post-evaluations on all consulting services contracts and are unnecessarily evaluating contracts that are not consulting services contracts.

RECOMMENDATION

Contract officers in state agencies should ensure that the proper evaluations of consulting services contracts are completed and filed with the Department of General Services' Legal Office within 30 days after contract completion as required by Section 14830 of the California Government Code. Agency personnel who are not sure if a contract should be classified as "consulting services" should refer to Section 1240 of the State Administrative Manual or contact the department's Legal Office. In addition, the department's Legal Office should ensure that all state agencies comply with the requirements of Section 14830 of the Government Code.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



THOMAS W. HAYES
Auditor General

Date: January 30, 1984

Staff: Ulrich Pelz, CPA, Audit Manager
Nancy Woodward, CPA

GEORGE DEUKMEJIAN, GOVERNOR

State and Consumer Services Agency
OFFICE OF THE SECRETARY
915 Capitol Mall, Suite 200
Sacramento, CA 95814

(916) 323-9493
TDD: (916) 323-6975

January 18, 1984

Mr. Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, California 95814

Re: Auditor General Report #F-322

Dear Mr. Hayes:

In response to your letter of January 10, 1984, we have carefully reviewed the draft of the report entitled "The State Has Not Adequately Monitored The Reporting and Evaluation of Consulting Services Contracts."

We appreciate the professional manner in which the audit was conducted and we certainly do not have any objection to the recommendation.

Insofar as its evaluation of the Department of General Services' activities is concerned, the only critical comments appear to be the objection that some of the forms and procedures required by the new statutes, which became effective on January 1, 1983, were not in place upon that date. The report does, however, correctly establish that these matters had been published before completion of the audit.

We intend to vigorously pursue the enforcement of those statutes which are within the area of the responsibility of the entities under this Agency.

The Auditor General may wish to update his report by making reference to the Public Contract Code sections which have superseded some of the Government Code sections to which reference is made in the report. *

Sincerely,

SHIRLEY R. CHILTON for
Secretary of the Agency

*Auditor General's Comment:

jk Certain provisions of Government Code Section 14830 et seq. were transferred to the Public Contracts Code in September 1983. Our report relates to the period ended June 30, 1983, and we refer to the code sections then in effect.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps