California State Auditor

BUREAU OF STATE AUDITS

Child Support Enforcement Program:

The State Has Contracted With Bank of America to Implement the State Disbursement Unit to Collect and Disburse Child Support Payments

March 2005
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CALIFORNIA STATE AUDITOR

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March 8, 2005 99028.4

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 479, Statutes of 1999 (Chapter 479), the Bureau of State Audits (bureau) presents its final audit report concerning the procurement of a single, statewide automated child support system by the Department of Child Support Services (department) and the Franchise Tax Board (board) acting as its agent. The statute requires the bureau to monitor the evaluation and selection process for any signs of bias or favoritism.

There are two distinct components of a single, statewide automated system: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The California Child Support Automation System (project) procured the first component on July 14, 2003, when the State signed a contract with the IBM Group, a business consortium led by IBM, to design, develop, and implement the CSE system, for a total of $801 million. In September 2003, we reported that during our monitoring of the negotiation sessions, nothing came to our attention that would lead us to believe that the negotiations resulted in significant changes in the contract that might violate the requirements of Chapter 479 or the solicitation document. Our limited review of the contract found that it included the major business needs areas that the CSE system must address and the compensation method agreed to by the parties did not violate the law and was within the parameters of the solicitation document. With the CSE system contract in place, the project team turned to procuring a vendor for the SDU.

This report discusses the final stages of the project team's process for selecting a vendor to provide SDU services. During our monitoring of the process used to evaluate the draft and final proposals submitted by qualified business partners to provide SDU services, the development of the feasibility study report required by the Department of Finance, and the final award of the SDU contract to the consortium led by the Bank of America, nothing came to our attention that would cause us to conclude that the project team, comprised of staff from the department and the board, deviated from its predefined process for evaluating and scoring vendors' proposals as outlined in the SDU request for proposal. Nor did we see anything to indicate any bias or favoritism toward any bidder.

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SUMMARY

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Our monitoring of the Department of Child Support Services and the Franchise Tax Board's (project team) procurement of a single, statewide automated child support enforcement system revealed the following:

- ☑ ***Nothing came to our attention that would cause us to conclude that the project team deviated from the predefined evaluation process it established to review and score each of the bidders' final proposals for the State Disbursement Unit (SDU). Nor has anything come to our attention that would have resulted in unfair treatment of bidding vendors.***
- ☑ ***The project team rejected final proposals from two vendors for administrative violations of the request for proposal (RFP).***
- ☑ ***One disqualified vendor initially lodged a protest that was ultimately withdrawn.***
- ☑ ***The project team prepared a feasibility study report to obtain the Department of Finance's (Finance) approval to fund the SDU contract with Bank of America, the winning bidder, which Finance conditionally gave.***
- ☑ ***Final approval for the SDU is subject to legislative consent during the annual budget review process.***

RESULTS IN BRIEF

In 2003 the federal Office of Child Support Enforcement estimated that accumulated unpaid child support was approaching $100 billion for the nation as a whole and more than $18 billion for California. To better enforce payment of court-ordered child support, Congress passed the Family Support Act (act) in 1988, mandating that each state have a single, statewide automated system for child support enforcement by October 1995. Although Congress extended this deadline by two years, California has yet to complete development of a system for child support enforcement. By failing to meet the deadline, the State has incurred sizeable federal penalties, which may total almost $1 billion by the end of fiscal year 2004–05.

To address these delays and the mounting penalties, the Legislature restructured the State's child support enforcement activities in 1999 by establishing the California Department of Child Support Services (department) and giving it the responsibility, using the Franchise Tax Board (board) as its agent, of procuring, developing, implementing, and maintaining the statewide automated system for child support enforcement. The legislation also requires the Bureau of State Audits to monitor the evaluation and selection stages of the procurement process for signs of bias or favoritism toward any bidder; this report, covering part of that process, finds no such bias or favoritism.

The single, statewide automated system for child support enforcement, called the California Child Support Automation System (CCSAS), will have two distinct components: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The CSE system will manage and enforce child support obligations of noncustodial parents, and the SDU will perform the banking function of collecting and disbursing child support payments. In 2003 a project team of members from the board and the department, responsible for procuring the statewide automated system, selected the IBM Group to design, develop, and implement the CSE system for $801 million.

With the CSE system contract in place, the project team turned to procuring a vendor for the SDU. Our June 2004 report discussed the project team's procurement process for the

SDU contract, whereas this report discusses the project team's selection of a business consortium led by the Bank of America (B of A) to develop and implement the SDU using a request for proposal (RFP). After four business entities that had qualified to partner with the State to provide SDU services (qualified business partners) submitted their final proposals for review in June 2004, the project team began following its established procedures to conduct three evaluations—administrative, business services, and financial—of the bidders' proposals. After the project team disqualified two vendors for administrative violations of the RFP requirements, it gave B of A the highest evaluation score and named it the winning bidder. The board announced its intent to award the SDU contract to B of A on September 9, 2004. The project team's evaluation report found that the B of A proposal addressed the SDU business problems, demonstrated successful past performance, and provided the better value to the State. One of the disqualified vendors filed a protest alleging that its proposal had fully met all the RFP's requirements; however, before the scheduled hearing by the Office of Administrative Hearings, the vendor withdrew the protest. In our review of the evaluation process and vendor selection, we saw nothing to indicate bias or favoritism toward any bidder.

To obtain approval from the Department of Finance (Finance) to fund the contract with B of A, the project team prepared and submitted a feasibility study report (feasibility report) to Finance in November 2004. The feasibility report includes a baseline analysis to compare the existing system for collecting and disbursing child support payments to the SDU solution. The feasibility report also analyzes the two proposals that met the RFP requirements and examines the project team's rationale for selecting B of A as the winning vendor. Finance has approved the project team's proposed funding for the SDU subject to several conditions, including requirements that the project team submit two documents: a benefits measurement plan within six months of the contract signing and another feasibility report before the end of the contract term. Concluding that B of A's proposal meets the RFP requirements and objectives and offers the lowest risks and the best value to the State, the feasibility report concurs with the evaluation of the proposals. In reviewing the feasibility report, we saw nothing to indicate any bias or favoritism toward any bidder.

On December 27, 2004, the executive officer of the board and the director of the department signed a contract with B of A to develop and implement the SDU. Also, although Finance has conditionally approved the SDU project funding, funding now requires the Legislature's approval during the annual budget process.

AGENCY COMMENTS

The Health and Human Services Agency and the State and Consumer Services Agency, representing the department and the board, concur with the information included in the report and believe that it accurately reflects the procurement effort. ■

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INTRODUCTION

BACKGROUND

Some Federally Required Functions of the California Child Support Automation System

- Locating parents or alleged parents who are not financially supporting their children.
- Establishing paternity through blood testing and court hearings and assessing the amount of financial support owed.
- Processing, tracking, and controlling cases after initiation.
- Billing absent parents regularly for all obligations, and collecting and disbursing payments.
- Monitoring, tracking, and remedying cases with delinquent payments, through such means as attaching wages and intercepting tax refunds and other income.
- Generating various reports for federal, state, and county managers.

In 1988 Congress passed the Family Support Act (act), a legislative initiative directed at enforcing the payment of court-ordered child support. Partly to prevent noncustodial parents from escaping child support payments by crossing state lines, the act mandated that each state have a single, statewide automated system for child support enforcement. The initial operational deadline for the system was October 1, 1995, later extended to October 1, 1997. Still in development, California's system, the California Child Support Automation System (CCSAS), will locate and bill parents who are absent from their children's homes, disburse payments to custodial parents, and enforce delinquent payments (see textbox for some of the federally required functions of this system). The CCSAS will have two components: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The State has contracted with the IBM Group to implement the CSE system, an automated data processing and information retrieval system. The IBM Group will design, develop, and implement the CSE system, including performing data conversion and system integration.

Linked to the CSE system, the SDU will be a separate centralized system for collecting and disbursing child support payments. The SDU will make preliminary identifications of the involved custodial and noncustodial parties and receive and process child support payments, then forward the payment and identification information to the CSE system. The CSE system will then use this information to positively identify the involved parties, allocate and distribute information about payments to the appropriate cases and parties, manage the files relating to the child support obligations, and perform the appropriate enforcement activity. The CSE system will also maintain the case files and provide disbursement instructions to the SDU. The SDU will then disburse support payments to the appropriate parties and provide the controls, logs, records, and reports (state and federal) needed to accommodate fiscal and SDU operational units.

Staff from the Department of Child Support Services (department) and the Franchise Tax Board (board) make up the project team that has been working on procuring the CCSAS. To complete implementation of the CCSAS, the project team has selected Bank of America (B of A), which, in consortium with Deloitte Consulting, First Data/GovConnect, and Informatix, Inc., will implement, maintain, and operate the SDU. In December 2004 the board and the department signed a contract with B of A for the SDU services. According to a Department of Finance (Finance) analysis of the project team's feasibility study report (feasibility report), B of A is responsible under the SDU contract for collecting child support payments from noncustodial parents or their employers and issuing payments to custodial parties. To coincide with the CSE system's timing, B of A will implement its solution in two phases. In the first phase, the SDU will interface with the statewide system created in the CSE system and with the two county consortia systems for collections and disbursements. The project team estimates that this phase will begin in September 2005. In the second phase, which the project team estimates will be complete by August 2008, the SDU will interface exclusively with the CSE, eliminating all interfaces with county consortia. With the completion of phase two, CCSAS, the single, statewide automated system, should be fully implemented and comply with federal and state requirements.

According to a November 2004 letter that Finance sent to the Joint Legislative Budget Committee, the total project cost for the SDU is $217 million, of which $186 million is for the contract and $31 million is for state operations and staffing dedicated to the project. Federal financial participation will generally cover 66 percent of the costs for the SDU, and the State's General Fund will provide the remaining 34 percent. B of A's seven-year contract for $185.9 million includes an initial term of five years of service, with an option for two additional years, with compensation for B of A primarily based on the volume and types of transactions it processes.

In its February 2005 report, titled *Analysis of the 2005–06 Budget Bill*, the Legislative Analyst's Office (LAO) estimated that the CSE will cost $1.3 billion ($876 million in federal funds and $465 million in state funds) over 10 years. Of these total costs, $815 million is earmarked for IBM Group to develop and maintain the CSE system and the remainder set aside for the associated state costs.

THE LEGISLATURE HAS RESTRUCTURED THE STATE'S CHILD SUPPORT ENFORCEMENT ACTIVITIES

California has incurred significant financial consequences from failing to meet the federal deadline to develop an automated system for child support enforcement. According to the LAO, as of February 2004, federal penalties had grown to about $562 million by fiscal year 2002–03 and were estimated to reach a total of almost $1 billion by the end of fiscal year 2004–05.

To address these mounting penalties, the Legislature passed several laws in 1999 that restructured how the State conducts its child support enforcement activities. Chapter 478, Statutes of 1999, created the department and transferred responsibility for enforcing child support from the Department of Social Services to the new department. Chapter 479, Statutes of 1999 (Chapter 479), designated the department as responsible for procuring, developing, implementing, and maintaining the statewide automated system and named the board as the department's agent in fulfilling these responsibilities. In other words, the department is responsible for procuring a system that meets federal requirements, and the board plays a major role on the department's behalf.

Desired Outcomes of the California Child Support Automation System

- **Certification:** Meet federal certification requirements, thereby relieving the State from federal penalties.
- **Worker effectiveness:** Provide timely access to accurate and uniform data, thus improving state and federal workers' program performance.
- **Customer service:** Enable custodial parents, noncustodial parents, children, and related institutions greater access to timely, accurate, and consistent information and to uniform business services.
- **System maintainability:** Allow for timely and cost-effective system modifications to accommodate required changes in business needs of the Child Support Enforcement system.
- **System implementation:** Implement the system on schedule and in a manner that mitigates risk to program performance, business disruption, and user acceptance.

Source: SDU feasibility study report.

The department and the board established five desired outcomes for the statewide CCSAS (see textbox). To procure the CSE system, which required information technology (IT) design and development, the project team used a performance-based procurement method that included a solicitation for conceptual proposals. Using this approach, the project team asked vendors to propose a technical solution based on achieving the five desired outcomes and on solving the business problems that the department, the counties, and other stakeholders in the bid proposal had identified. To procure the SDU, the project team followed a different path to achieve the five desired outcomes, sending vendors a request for proposal (RFP) rather than a solicitation for a conceptual proposal. Because the SDU's function is to receive payments from noncustodial parents and issue payments to custodial parties, the board considers the SDU contract to be fundamentally for IT services rather than for IT design and development. As a services contract, according to the project team, the SDU procurement is not subject to federal requirements for reviewing data processing systems.

THE BUREAU OF STATE AUDITS HAS ISSUED PREVIOUS REPORTS ON THE VENDOR SELECTION PROCESS FOR THE CCSAS

Chapter 479 requires the Bureau of State Audits (bureau) to monitor the process of evaluating and selecting vendors for the CCSAS to determine whether the project team chose vendors according to the methodology and the criteria contained in the RFP and the solicitation for conceptual proposals. In December 2002 we reported on the progress of the procurement process through June 2002, before the department and the board had completed contract negotiations for the CSE system. In that report, we concluded that we saw nothing during the process used to score the proposal to indicate that the project team had deviated from the evaluation criteria or materially deviated from the predefined evaluation process so as to create unfair treatment of the potential vendors.

In our September 2003 report, we discussed the procurement process through July 14, 2003, when the State signed a contract with the IBM Group to design, develop, and implement the CSE system. In monitoring the contract negotiating sessions and comparing the business requirements and compensation approach included in the contract to the terms outlined in the solicitation for conceptual proposals, we found no indication that the project team deviated from its predefined negotiating process or deviated from the business requirements and compensation approach in the solicitation for conceptual proposals.

In our June 2004 report, we discussed the procurement process for the SDU prior to the June 8, 2004, deadline for the qualified business partners to submit their final proposals. In the Audit Results section of this report, we describe the June 2004 report and our finding of no deviation from the established process or bias toward vendors.

SCOPE AND METHODOLOGY

Chapter 479 requires the bureau to monitor the process of evaluating and selecting vendors for the CCSAS to determine whether the evaluation is based on the criteria contained in the RFP or the solicitation for conceptual proposals. Further, Chapter 479 requires the bureau to monitor the process to determine whether the project team chooses the vendor or vendors according to the methodology in the RFP or in the solicitation for conceptual proposals and to determine whether the project team makes its choice without showing bias or favoritism toward any bidder. Our most recent report on the CCSAS, issued in June 2004, focused on the SDU procurement process, including our observations of the vendor qualification process, the development of the RFP, and the compliance phase.

This report again focuses on the SDU and contains our observations of the draft and final evaluation of proposals that the project team conducted, the project team's development of the feasibility report, and the final SDU contract award.

To monitor the draft and final evaluation of proposals, we reviewed the evaluation process and outcomes and attended various planning and development meetings, as well as meetings at which the project-team evaluators scored each of the proposals. To monitor the project team's development of the feasibility report and the final contract award, we attended a variety of meetings and reviewed documents, including the draft and final versions of the feasibility report as well as the final contract. ■

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AUDIT RESULTS

THE SECOND OF TWO PROCUREMENTS FOR THE CALIFORNIA CHILD SUPPORT AUTOMATION SYSTEM HAS BEEN COMPLETED WITHOUT APPARENT BIAS

To implement the California Child Support Automation System (CCSAS), a project team of staff from the Department of Child Support Services (department) and the Franchise Tax Board (board) in July 2003 selected the IBM Group to design, develop, and implement the Child Support Enforcement (CSE) system, one arm of the CCSAS. Using a request for proposal (RFP), the project team has now selected a vendor to implement the State Disbursement Unit (SDU), the other arm of the CCSAS. In May and June of 2004 the project team invited business entities that had qualified to partner with the State to provide SDU services (qualified business partners) to submit draft and final proposals of how they would provide SDU services. Three qualified business partners submitted draft proposals (an optional step in the process) for evaluation; and, by the June 8 deadline, four qualified business partners submitted final proposals for the project team's review.

Following established procedures, the project team began to conduct the administrative, business services, and financial evaluations of the four bidders' proposals. After the project team disqualified two vendors for administrative violations of the RFP requirements, the board notified the bidders of its intent to award the SDU contract on September 9, 2004, to the bidder whose proposal scored the highest on the evaluation. Finally, the project team developed a feasibility study report (feasibility report), which describes the justification for selecting a particular vendor, as well as the costs of implementing the SDU. In November 2004 the Department of Finance (Finance) conditionally approved the feasibility report. As we monitored these activities, we saw nothing that indicated that the project team had deviated from established procedures or showed bias or favoritism toward any bidder as it evaluated the final proposals for the SDU contract.

In our June 2004 report, *Child Support Enforcement Program: Acquiring the State Disbursement Unit to Collect, Disburse, and Record Child Support Payments Will Complete the Procurements for the California Child Support Automation System*, we discussed the project team's procurement process for the SDU contract: how the team developed interest in the SDU, established and selected qualified business partners, and developed the RFP. As we monitored the process that the project team used to qualify vendors and develop the RFP, we saw no indication that the project team deviated from the predefined qualification process or the process it had established to develop the RFP. Nor did we notice anything that would have resulted in unfair treatment of potential vendors.

THE PROJECT TEAM INVITED THE QUALIFIED BUSINESS PARTNERS TO SUBMIT DRAFT PROPOSALS FOR REVIEW

Project-team evaluators reviewed the draft proposals and provided comments indicating any faulty administrative aspect of the proposals that could cause the project team to reject final proposals for material noncompliance with the RFP.

To assist vendors in submitting a final proposal that fully met the RFP requirements, the project team encouraged qualified business partners to submit draft proposals; three qualified business partners did so. Project-team evaluators reviewed the draft proposals and provided comments indicating any faulty administrative aspect of the proposals that could cause the project team to reject final proposals for material noncompliance with the RFP. As we observed the evaluators' administrative review of draft proposals, we saw nothing that would indicate bias or favoritism toward any bidder.

Although the project-team evaluators indicated that they would inform bidders of potential defects in draft proposals, this administrative evaluation was cursory, intended to minimize the risk that the evaluators might reject the final proposal for material noncompliance with the RFP. Even though the evaluators provided this review to any bidder who submitted a draft proposal, the project team told bidders that the evaluators would not necessarily identify all defects or notify the bidder of them.

The RFP instructions indicated that the bidder was not to include cost figures in the business services portion of the bid, warning that the presence of such figures could be a basis for rejecting the proposal. The evaluators' procedures indicated that if they found a draft proposal with cost figures, the evaluators would suspend their review of that proposal and notify the bidder of that defect. During this review, the evaluators noted that the draft proposal from Maximus, Inc., in a consortium with Bank One, IBM, US Bank, and Wells Fargo Bank (Maximus), included cost figures in the business services portion of its bid, a material deviation that the RFP rules strictly prohibited. When the project team requested that Maximus submit replacement pages without the cost figures, Maximus complied.

USING ESTABLISHED PROCEDURES, THE PROJECT TEAM EVALUATED FOUR FINAL PROPOSALS FROM ITS QUALIFIED BUSINESS PARTNERS

The project team received final proposals from four qualified business partners, and certain members of the project team conducted the evaluation. Using the project team's established procedures, the evaluators conducted an administrative review of the proposals and awarded scores to those proposals they deemed materially compliant with the RFP. As we discuss later in this report, during the administrative evaluation of two of the four final proposals, the evaluators noted material deviations from the RFP requirements, which disqualified both bidders. After scoring the remaining two proposals using predetermined evaluation procedures, the evaluators identified the proposal that was more responsive to the RFP and provided the better value to the State. As we monitored the process that the evaluators used to review and score the final proposals, we saw nothing to indicate that the project team deviated from its established evaluation procedures or that the evaluators showed bias or favoritism toward any bidder.

The Project Team Developed Procedures to Evaluate Each of the Final Proposals

The RFP required that each bidder submit a two-part final proposal. The first part was to contain the bidder's proposed solution in several business services categories: implementation, integration, testing, turnover, operations management, collections, and disbursements. The second part of the proposal was to contain the bidder's description of the cost to provide the SDU. As Table 1 on the following page indicates, for both of these parts, the RFP established a process for the evaluators to review and award points and use these points to determine which bidder would receive the SDU contract.

Before the evaluators did any scoring, the RFP required them to conduct an administrative evaluation of each part of the final proposal to ensure its compliance with the list of general administrative requirements that the RFP outlined. If the team identified areas in which the proposal deviated from RFP requirements, the RFP instructed the team to determine whether the deviation was material by subjecting it to a set of questions

Questions to Determine the Materiality of a Proposal's Deviations From the RFP

- Is the proposal not in substantial accord with the solicitation requirement?
- Does the proposal provide the bidder an advantage over other bidders?
- Does the proposal have a potentially significant effect on the delivery of the item quoted?
- Does the proposal have a potentially significant effect on the quantity of the items quoted?
- Does the proposal have a potentially significant effect on the quality of the items quoted?
- Does the proposal have a potentially significant effect on the amount paid to the bidder?
- Does the proposal have a potentially significant effect on the cost of the project?

Before the evaluators did any scoring, the RFP required them to conduct an administrative evaluation of each part of the final proposal to ensure its compliance with the list of administrative requirements that the RFP outlined.

established in the RFP (see textbox on previous page). If the team determined the deviation to be material, the proposal would fail the administrative review; the evaluators would then reject and therefore not fully score the proposal.

For each final proposal that passed the administrative evaluation of the first part, the business services portion of the proposals, the RFP required the evaluators to review and score the implementation and operations management elements of each bidder's proposal. Further, for final proposals that passed the administrative evaluation of the second part, the financial portion of the proposals, the RFP required the evaluators to evaluate each bidder's total estimated contract cost and proposed rate to perform each transaction. The evaluators would then award points to each proposal in several categories. A summary of this process appears in Table 1. The project team would award the SDU contract to the bidder whose proposal earned the greatest number of points.

After reviewing the materiality test and general administrative requirements in the RFP, we saw nothing that would favor or create a bias toward any bidder.

TABLE 1

Summary of the Evaluation Process for Proposals

Evaluation Area	Evaluation Categories	Total Points Available
Administrative	Compliance with RFP requirements	Pass/fail*
Business services	• Implementation • Integration • Testing • Turnover • Operations management • Collections • Disbursements	650
Financial	• Cost	350
Total points possible		**1,000**

Source: Project team's evaluation and selection report for the State Disbursement Unit.

* Failure to pass the administrative evaluation results in the bidder's disqualification.

The Evaluators Followed Established Procedures When Evaluating Final Proposals

By the deadline of June 8, 2004, the evaluators received four final proposals from the following qualified business partners:

- ACS State and Local Solutions, in consortium with Union Bank of California (ACS).
- Bank of America, in consortium with Deloitte Consulting, First Data/GovConnect, and Informatix, Inc. (B of A).
- EDS/US Government Solutions (EDS).
- Maximus, Inc., in consortium with Bank One, IBM, US Bank, and Wells Fargo Bank (Maximus).

After reviewing and evaluating the four proposals, the evaluators determined that the final proposals from B of A and ACS had no material deviations from the RFP. Therefore, the evaluators fully scored and compared these two proposals' scores to one another, with B of A's total score exceeding that of ACS, as Table 2 indicates. The evaluators did not completely score the EDS and Maximus final proposals because they contained material deviations; the evaluators eliminated the proposals from the procurement.

TABLE 2

Final Proposal Ratings

	ACS	B of A	EDS	Maximus
Administrative evaluation score	Pass	Pass	Fail	Fail
Part One—Business services score	519.30	490.20	594.10	Not evaluated
Part Two—Financial score	288.00	338.26	Not evaluated	Not evaluated
Total score	**807.30**	**828.46**	**Not evaluated**	**Not evaluated**

Source: Project team's evaluation and selection report for the State Disbursement Unit.

Based on the proposals' scores, the project team awarded the SDU contract to B of A. In its evaluation and selection report for the SDU, the project team indicated that the B of A final proposal met the RFP requirements, addressed the business problems, demonstrated successful past performance, provided costs and benefits consistent with the predefined evaluation criteria, demonstrated lowest risk, and provided the best value to the State.

In our observation and review of the final evaluation process, scoring, and ultimate selection of an SDU contractor, we saw nothing to indicate bias or favoritism toward any bidder.

The Evaluators Rejected the Maximus Proposal During the Final Administrative Review of the Business Services Portion of the Proposals

During the administrative evaluation of the final proposal from Maximus, the evaluators noted the presence of cost information in the business services portion of the proposal. Determining that including such cost figures constituted a material deviation from the RFP, the evaluators terminated further evaluation, and the board rejected the proposal.

During their review of the Maximus draft proposal, the evaluators had noted and reported to Maximus that the business services portion of its draft proposal contained cost figures, which, if they appeared in the final proposal, would constitute a material deviation and cause the board to reject the final proposal.

During their review of the Maximus draft proposal, the evaluators had noted and reported to Maximus that the business services portion of its draft proposal contained cost figures, which, if they appeared in the final proposal, would constitute a material deviation and cause the board to reject the final proposal. Maximus corrected this deviation in its draft proposal and submitted revised pages to the evaluators for review. However, the business services portion of the Maximus final proposal eliminated only some of the cost figures. Thus, the board notified Maximus on June 15, 2004, that it was rejecting the Maximus proposal because of this material deviation. In its letter, the board outlined the deviation that the evaluators had noted in the Maximus proposal, as well as the board's action to reject the proposal on those grounds.

On June 21, 2004, the Maximus attorneys responded to the rejection letter, stating that they disagreed with the determination that the proposal contained a material deviation and asking the board to reconsider its decision to reject the Maximus proposal. On June 30, 2004, the board responded to the Maximus request for reconsideration, citing the Public Contract Code, which establishes rules for separating cost from other information and states that agencies must complete the evaluation of all criteria other than cost before the cost portions of proposals are opened. Further, the board explained that it was bound to follow the rules of the procurement outlined in the RFP and that because it deemed this deviation to be material, the board must reject the Maximus proposal.

In our review of the rejection of the Maximus proposal because of a material deviation from the RFP conditions, we saw nothing to indicate bias or favoritism toward any bidder.

The Evaluators Also Rejected the EDS Proposal During a Final Administrative Review of the Financial Portion of the Proposals

During their administrative evaluation of the financial portion of the final proposal from EDS, the evaluators noted that this proposal contained a series of pricing assumptions, which the evaluators identified as a material deviation from the RFP.

During their administrative evaluation of the financial portion of the final proposal from EDS, the evaluators noted that this proposal contained a series of pricing assumptions, which the evaluators identified as a material deviation from the RFP. Therefore, the evaluators terminated further evaluation, and the board rejected the EDS proposal. According to the evaluation and selection report that the project team prepared after the evaluation, once the evaluators identified the pricing assumptions, they conducted the materiality tests outlined in the RFP and concluded that these pricing assumptions constituted a material deviation of the RFP requirements. Thus, the evaluators concluded that if they had not rejected this proposal, these pricing assumptions would provide EDS an unfair advantage over the other bidders. Because the evaluators deemed these pricing assumptions to be material deviations of the RFP requirements, they did not score the financial portion of the EDS proposal.

On August 3, 2004, the board notified EDS in a letter that the board had identified 38 pricing assumptions in the financial portion of the EDS final proposal, many inconsistent with the RFP's specific requirements. For example, according to the letter, EDS stated in its bid that it would require the project team to negotiate a "standby" payment to protect EDS from any financial damage if the project team delayed the SDU implementation schedule. The letter also indicated that the project staff had informed bidders through the RFP that such a "standby" payment would not be permitted. The evaluators concluded that this pricing assumption would provide EDS with an unfair bidding advantage; therefore, the board rejected EDS from consideration for the SDU procurement.

On August 5, 2004, EDS responded, asking the board to reconsider its rejection of the EDS proposal. EDS's letter argued in support of its position that the pricing assumptions merely provided the board with insight into its bid construction and did not alter or change the contract's terms and conditions. Further, on August 10, 2004, EDS followed up on its earlier communication, providing several arguments to persuade the board to reconsider its decision. One argument was that the deviation, if any, of the assumptions from RFP requirements was immaterial and that the board had additional options, such as not accepting the pricing assumptions when evaluating the proposal, rather than outright dismissing EDS from the procurement. On August 11, 2004, the board responded to EDS, indicating that it had reconsidered its decision to reject the EDS proposal but had come to the same conclusion: EDS's pricing assumptions essentially made the EDS final proposal a conditional bid, which the RFP expressly prohibited; this material deviation required the board to reject the EDS proposal.

In our review of the board's rejection of the EDS proposal over a material deviation from the RFP's conditions, we saw nothing to indicate bias or favoritism toward any bidder.

ONE DISSATISFIED BIDDER INITIALLY PROTESTED THE PROCUREMENT BUT ULTIMATELY WITHDREW ITS PROTEST

According to the RFP, once the board announces the intent to award the contract, the proposals become public record; thus, each bidder can review the contents of all final proposals. EDS, one bidder that the evaluators disqualified for deviating from the terms of the RFP, initially lodged a protest alleging that its proposal met all the RFP's requirements but that the other vendors' proposals had material deviations from the RFP. In its protest, EDS made several allegations against the board, saying that the board had failed to follow its solicitation procedures when finding those other bidders' final proposals met all the RFP requirements and had erred in determining that the EDS proposal materially deviated from the RFP. For each of these issues, the EDS attorneys provided EDS's interpretation in its protest.

EDS, one bidder that the evaluators disqualified for deviating from the terms of the RFP, initially lodged a protest alleging that its proposal met all the RFP's requirements but that the other vendors' proposals had material deviations from the RFP.

In response, the board enlisted counsel from the attorney general to defend its decision to disqualify EDS from the SDU procurement. Further, the Office of Administrative Hearings (OAH) scheduled a hearing for September 27, 2004, to consider the protest. However, EDS formally withdrew its protest on September 24, 2004, before OAH could conduct the hearing. Because EDS withdrew its protest, OAH cancelled the hearing.

In our review of EDS's protest of the SDU procurement, we saw nothing to indicate bias or favoritism toward any bidder.

FINANCE CONDITIONALLY APPROVED THE FEASIBILITY STUDY REPORT TO FUND THE SDU

To obtain approval from Finance and the Legislature to fund the SDU contract with B of A, the project team prepared a feasibility study report (feasibility report). This feasibility report comprises several components, including a business case analysis that gives the SDU's objectives, as well as a baseline analysis that describes the existing systems and processes for collecting and disbursing child support payments and compares them to the proposed SDU solution. The feasibility report also describes and analyzes the two proposals (and their respective costs) that met the RFP requirements and provides the project team's rationale for selecting B of A's as the winning proposal. Concluding that B of A's proposal meets the RFP requirements and objectives and offers the lowest risks and the best value to the State, the feasibility report concurs with the evaluators' recommendation for awarding the contract.

On November 23, 2004, the project team received approval of its feasibility report from Finance for the proposed plan of spending and resources for the SDU, subject to various conditions.

On November 23, 2004, the project team received approval of its feasibility report from Finance for the proposed plan of spending and resources for the SDU, subject to various conditions, including the following:

- The contract with B of A cannot be signed until 30 days after the project team notifies the Legislature of the contract. This 30-day period was completed on December 22, 2004.

- The federal Office of Child Support Enforcement must approve an accelerated schedule for implementation of the CSE system and changes to the CSE vendor contract. Both were granted on November 26, 2004.

- Within six months of signing the contract, the project team must submit a benefits measurement plan to Finance for review and approval to ensure that anticipated SDU project benefits can be confirmed as a result of implementing the project.

- No later than April 2006, the project team must conduct another feasibility report to determine the recommended approach for continuing SDU operations after the contract expires.

In its approval letter, Finance indicated that its approval does not in itself guarantee that funds or spending authority for the project will be available. The initiation and continuation of any information technology project remains subject to the availability of funding and to legislative concurrence for funding and spending authority in accordance with the normal state budget process.

Based on our review of the feasibility report and its conditional approval, we saw nothing to suggest bias or favoritism toward any bidder.

THE BOARD AND THE DEPARTMENT SIGNED A CONTRACT WITH B OF A TO DEVELOP AND IMPLEMENT THE SDU

On December 27, 2004, to complete the procurement of the SDU, the executive officer of the board and the director of the department signed a contract with B of A to develop and implement the SDU.

On December 27, 2004, to complete the procurement of the SDU, the executive officer of the board and the director of the department signed a contract with B of A to develop and implement the SDU. According to the project's deputy director, Finance has approved the request for an appropriation for the SDU project and has indicated that the governor's 2005–06 budget bill will include the necessary funding. However, before the State can appropriate the funds to implement the SDU project, the Legislature, including various legislative budget committees, must approve this budget item.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

Date: March 8, 2005

Staff: Doug Cordiner, CGFM, Audit Principal
Matt Taylor

Agency's comments provided as text only.

Health and Human Services Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814

February 15, 2005

Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for forwarding a draft copy of the Bureau of State Audits' (BSA) report titled, "Child Support Enforcement Program: The State Has Contracted With Bank of America to Implement the State Disbursement Unit to Collect and Disburse Child Support Payments." Enclosed is a joint response from the Department of Child Support Services and Franchise Tax Board to the draft report.

We appreciate the ongoing monitoring of the processes to evaluate and select vendors for the California Child Support Automation System (CCSAS). If you have any questions regarding the procurement, please contact Mr. David Maxwell-Jolly, CCSAS Project Director, Franchise Tax Board at (916) 845-3500.

Sincerely,

(Signed by: Kimberly Belshé)

KIMBERLY BELSHÉ
Secretary
Health and Human Services Agency

(Signed by: Fred Aguiar)

FRED AGUIAR
Secretary
State and Consumer Services Agency

Enclosure

California Department of Child Support Services
P.O. Box 419064
Rancho Cordova, CA 95741-9064

February 10, 2005

Ms. Elaine M. Howle, State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

SUBJECT: CHILD SUPPORT ENFORCEMENT PROGRAM: THE STATE HAS CONTRACTED WITH BANK OF AMERICA TO IMPLEMENT THE STATE DISBURSEMENT UNIT TO COLLECT AND DISBURSE CHILD SUPPORT PAYMENTS

The Department of Child Support Services (DCSS) and the Franchise Tax Board (FTB) would like to thank you for the independent validation of the objectivity of our State Disbursement Unit procurement. We concur with your report and believe that it accurately reflects the procurement effort.

We appreciate the extensive efforts that you and your staff have made in monitoring this procurement through observation and review of all of the important activities undertaken. Your careful monitoring of the process DCSS and FTB took in conducting this procurement are sincerely appreciated.

Sincerely,

(Signed by: Greta Wallace)

GRETA WALLACE
Director
Department of Child Support Services

Sincerely,

(Signed by: Gerald H. Goldberg)

GERALD H. GOLDBERG
Executive Officer
Franchise Tax Board

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press