



DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

January 23, 2018

The Honorable Anthony Kern, Chair
Joint Legislative Audit Committee

The Honorable Bob Worsley, Vice Chair
Joint Legislative Audit Committee

Dear Representative Kern and Senator Worsley:

Our Office has recently completed a 48-month followup of the Review of Selected State Practices for Information Technology Procurement regarding the implementation status of the 7 audit recommendations (including sub-parts of the recommendations) presented in the special audit report released in November 2013 (Auditor General Report No. 13-14). As the attached grid indicates:

- 3 have been partially implemented,
- 3 have not been implemented, and
- 1 is not applicable.

Given the status of the Arizona Department of Administration's efforts to implement the report's recommendations and/or the lack of documentation supporting these efforts, we believe that additional followup would be of limited value. Therefore, unless otherwise directed by the Joint Legislative Audit Committee, this concludes our follow-up work on the Department's efforts to implement the recommendations from the November 2013 special audit report.

Sincerely,

Dale Chapman, Director
Performance Audit Division

DC:ka
Attachment

cc: Gilbert Davidson, Interim Director
Arizona Department of Administration

Kevin Donnellan, Deputy Director
Arizona Department of Administration

Review of Selected Practices for Information Technology Procurement

Auditor General Report No. 13-14 48-Month Follow-Up Report

Recommendation

Status/Additional Explanation

Chapter 1: Department's standard terms and conditions protect the State, but should be specialized for IT procurement

- | | |
|--|---|
| <p>1.1 The Department should develop contract templates with IT-specific terms and conditions. Specifically, the Department should:</p> <ul style="list-style-type: none">a. Undertake a review of terms and conditions used in IT procurements by considering all the requirements in the uniform and special terms and conditions, selecting all requirements that are relevant to IT procurements, and obtaining stakeholder input on these requirements from procurement, technology, risk management, and legal personnel, as well as representatives from state agencies and the vendor community, as appropriate;b. In reviewing and considering revisions to existing terms and conditions based on stakeholder input, seek direction from the Legislature and/or Governor, as appropriate; | <p>At the time of the initial followup in May 2015, the Department had developed a plan to implement the recommendations under 1.1 by March 2017. At the time of the 24-month followup in December 2015, the Department was continuing with that plan. However, the information the Department provided for this followup demonstrated that it chose to implement some recommendations in a different manner or did not maintain documentation demonstrating its efforts to implement the recommendations. Documentation provided by the Department indicated that there have been significant changes to the Department's procurement of IT goods and services since the audit report was originally issued in November 2013. These changes include revisions to IT terms and conditions issued through a technical bulletin in February 2015.</p> <p>Not implemented</p> <p>The Department reported that it conducted stakeholder meetings to obtain additional input on the terms and conditions issued in February 2015. However, the Department did not provide sufficient documentation to establish that these meetings occurred or that any changes to the terms and conditions resulted from this input.</p> <p>Not applicable</p> <p>In the 24-month followup, the Department reported that the nature of revisions made to the IT terms and conditions did not require direction from the Legislature and/or Governor.</p> |
|--|---|

Recommendation

Status/Additional Explanation

- c. Based on its review, develop and implement a specialized template of contract terms and conditions for IT procurements. In addition, the Department should consider creating and using separate templates specific to procurement of IT materials and services;
- d. Develop and implement policies and procedures to guide the regular review of the IT-specific terms and conditions included in its contract template(s). These policies and procedures should indicate how frequently the terms and conditions should be reviewed and who should participate in the review;
- e. Provide training and/or written guidance to procurement officers at SPO and the state agencies with delegated procurement authority on how to use and modify the template(s); and
- f. Negotiate terms and conditions for IT procurements, as necessary, and provide training and/or written guidance to procurement officers at SPO and the state agencies with delegated procurement authority to reduce inconsistencies in the negotiation process that can be addressed through training.

Partially implemented at 48 months

The Department reported that it developed a universal request for proposal template that includes all elements needed for all types of IT procurements that a procurement officer may import into solicitations and contracts. Although the Department did not develop templates for different types of IT procurements, the terms and conditions used in a 2017 solicitation the Department provided as an example are more in line with industry standards than those reviewed for the 2013 audit. For example, the Department now allows procurement staff to limit a vendor's or contractor's liability to a fixed amount rather than defaulting to an unlimited amount the State may seek if it is damaged by the vendor or contractor. See also the status and explanation for Recommendation 2.1 for improvements to the Department's intellectual property rights clauses.

Partially implemented at 48 months

The Department developed a policy in April 2017 that requires it to review IT-specific terms and conditions if they have not been changed or reviewed in the prior 3 years. However, the Department did not provide evidence that the IT-specific terms and conditions have undergone a review per this policy.

Not implemented

Although the Department reported that it provided training on how to use and modify terms and conditions in IT procurements, it did not provide documentation to support this.

Not implemented

The Department did not provide documentation supporting that it negotiates terms and conditions for IT procurements or that it trains procurement staff on how to do so.

Chapter 2: Department should further modify intellectual property terms and conditions

- 2.1 The Department should include options for intellectual property rights, as described in the FAR, in the IT-specific contract templates recommended in Chapter 1 (see Recommendation 1.1, pages 10 through 11). These options should provide flexibility to ensure that the intellectual property rights included in a particular IT solicitation are appropriate based on who pays for the IT development costs. The Department should also provide training and/or written guidance on the appropriate use of these terms and conditions.

Partially implemented at 48 months

The February 2015 technical bulletin issued by the Department included options for intellectual property rights for different degrees of ownership as described in the FAR. These options were used in the 2017 solicitation provided to auditors. The Department reported that new procurement officers are trained on these options, but it did not provide documentation to support this.