



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. McCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

March 6, 2008

Leslie A. Kirwan
Secretary of Administration and Finance
State House, Room 373
Boston, MA 02133

Dear Secretary Kirwan:

On Dec. 7, 2007, you wrote to me to request a review the state's procurement of Cognos software in August 2007 because you had recently learned of possible errors having been made in the procurement process. You also asked me to advise you whether to void the agreement and re-do the procurement if I find that this purchase did not conform to relevant state laws and regulations. I have found that the process did not conform to these rules. Therefore it is my opinion that you should void this agreement as soon as possible, return the software, obtain repayment from Cognos, and conduct a new, proper procurement for the software to be used for this important program.

On August 24, 2007, you signed an order agreement for the perpetual, unlimited statewide use of 17 modules of software from Cognos Corporation that collectively comprise the firm's Performance Management Enterprise product. This \$13 million order agreement was signed for the purpose of implementing performance management systems across the government, as called for in Chapter 27 of the Acts of 2007, the Emergency Bond Bill passed by the Legislature and signed into law on March 23, 2007.

The Emergency Bond Bill also directed the Information Technology Division to "develop and adopt procedures to ensure an open and competitive process" for the three technology accounts totaling \$94.9 million funded by the bill, including this one. ITD did not develop and adopt these procedures prior to issuing its Request for Quotes for the performance management software. Instead, ITD issued its Request for Quotes on April 30 - well before the promulgation of enhanced procurement rules that Chapter 27 of the Acts of 2007 mandated would apply to expenditures of these bond funds. The

procedures adopted to enhance openness, fairness and competitiveness were developed and adopted in late May, and forwarded for certification to the comptroller, who certified the procedures in a report to the Legislature in July. Under the pre-existing rules and the new enhancements adopted to comply with the legislative mandate, other procurements funded by this bill followed the procedures established by ITD, including gathering business requirements through extensive user interviews, developing a detailed solicitation request, establishing selection criteria, posting the solicitation on the internet, and maintaining a procurement file that contemporaneously documents all steps in the process.

However, the \$13 million order agreement for performance management software did not comply with the enhanced rules adopted to comply with the legislative mandate or even with the pre-existing rules governing competitive procurements.

At all times relevant to this procurement, the rules required that the solicitation for performance management software be widely and publicly advertised. This standard is typically met by posting the solicitation on the web through Comm-PASS. However, in this case, no solicitation was ever posted on Comm-PASS or otherwise widely advertised. A staff member at ITD simply consulted a chart of leaders in performance management developed by the analytical firm Gartner Group and emailed the Request for Quotes to four companies identified as "leaders". The second sentence of the solicitation reads: "This RFQ is restricted to selected vendors only." That is the opposite of an open process.

Also, the enhanced rules adopted to comply with the Emergency Bond Bill's mandate to improve competitiveness "require agencies to include a description of their selection criteria in their solicitation documents for [information technology] Bond-funded projects." There is no such description in the Request for Quotes issued in April by ITD. In addition, these same rules require that agencies engage in due diligence to obtain the best value for the Commonwealth and that this due diligence process be well documented in the agency's procurement files. This standard was not met.

Since 1997, state rules regarding technology procurement have required agency staff to use a procurement management team, or PMT, to obtain "best value" for the Commonwealth as opposed to lowest price. According to Operational Services Division regulations, the "best value" standard is met when a procurement helps the state achieve required outcomes, generate best quality economic value, is performed timely, minimizes the burden on administrative resources, and supports the other principles detailed in 801 CMR 21.01. In a number of ways which are detailed below, this procurement failed to show that the "best value" standard was met.

Typically, the PMT obtains "best value" for a major software acquisition by following several steps. First, a team made up of ITD staff from the relevant groups along with participants from OSD and user agencies defines the scope and objectives of the

project. The panel then gathers business requirements from users and stakeholders, taking stock of the existing technological environment, rules governing control of various data, costs and difficulties of transition, and other issues. Only after the team has assessed the state's needs and objectives is an official procurement solicitation most generally known as a Request for Responses drafted and issued. At this point, vendors typically have several weeks to respond to the Request for Responses, followed by presentations, periods for clarification and evaluation of proposals. For a major acquisition, this process should normally take at least several months.

In this case, much of the established procurement process was either ignored or artificially compressed into an unworkably short time period, resulting in several serious flaws.

First, ITD issued the Request for Quotes on April 30, 2007 with a timetable calling for bidders to respond within five business days and a bidder selection to be made by May 16 – an insufficient time to conduct a solicitation and evaluation in conformity with ITD's procurement rules and 801 CMR 21.00 for an acquisition of this magnitude and complexity. ITD launched this effort in a cutting edge field with which no one on the procurement management team had relevant experience. The procurement management team was formed after the April 30, 2007 Request for Quotes was written and issued by one person. The group, made up of six ITD staff members and an independent contractor, had almost no information about agencies' and users' requirements nor did they have any firm grasp on how this array of tools would be most effectively deployed in the regulatory landscape governing the state's vast data storehouses. It is axiomatic that one cannot obtain "best value" without knowing what one's needs are and what one is seeking to accomplish.

After the Request for Quotes was issued but before bidders had responded, the procurement management team devised a selection criteria and scoring methodology system, using an Excel spreadsheet with 104 units of evaluation in the scoring grid. Here, let me restate that the development of the selection criteria after the issuance of the solicitation was in violation of the enhanced rules mandated by Chapter 27 of the Acts of 2007 that were ultimately adopted in May and certified by the comptroller in July.

After meeting with all three vendors who responded to the Request for Quotes, the members of the procurement management team began a process of scoring each proposal in the 104 criteria listed in the Excel spreadsheet. While the team never finalized this evaluation process, this office carefully scrutinized this document. At the point at which the procurement team stopped work on it, the scoring spreadsheet indicates Cognos has 69.39 points, SAS has 57.38 points and Oracle has 27.49 points, which would appear to indicate that Cognos was the top scorer.

However, our review of the scoring system has detected a series of errors. For example, the largest number of points was available in the category of functionality.

Because of a typographical error in the spreadsheet formula, points earned in 63 of the 104 evaluation categories were ignored. As a result, 70 of SAS's 114 points were not counted, 47 of Oracle's 83 points were not counted and 59 of Cognos's 120 points were not counted. In addition, the scoring criteria set a maximum number of points in the pricing category of 25, and yet SAS and Cognos were credited with 30 and 35 points respectively. Finally, in the pricing category, points were awarded based on the lowest maintenance cost *as a percent of the license fee*. This standard is used in other circumstances by OSD. However, in this case, this standard can – and did – have the perverse effect of directing the highest number of points to the vendor with the most expensive license fee.

This office did not attempt to recalculate or correct the errors in the scoring methodology because the members of the procurement management team never met again after May 22, 2007 to finalize their evaluation of the proposals for performance management software. Nor was their scoring document ever transmitted to Administration and Finance prior to your decision to acquire the Cognos software in August.

As I indicated above, the procurement management team began but never finalized its evaluation of the bidders. Instead, after meeting with all three vendors who responded to the Request for Quotes, the team unanimously felt that much more information had to be gathered because they did not adequately understand how various agencies and administrators would use performance management software. This view was expressed in an interim evaluation drafted just before the procurement was suspended. In it the group recommended the process start over with extensive investigation of the business needs and technological requirements of line agencies, top executive branch officials and legislative users. (Alternately, the procurement team also said the state should require the top vendors demonstrate a pilot program before the state committed millions of dollars to one system, but in interviews members of the procurement management team said the first option was clearly the preferred option.)

Nevertheless, this uniformly held opinion was not what was communicated to you. While the procurement management team had urged that the procurement be re-done, on May 18, the acting Chief Information Officer at ITD presented a status report with interim evaluation results to your deputy, Henry Dormitzer. According to each of their accounts of the meeting, the acting Chief Information Officer said that Cognos was the best choice for performance management software procurement. Dormitzer subsequently relayed this misinformation to you during a conversation in the spring, according to your memory of events. That verbally transmitted representation apparently formed the basis of your belief that due diligence had been performed to achieve "best value" for the state and that Cognos Corporation had been deemed the top-scoring vendor of the three respondents. On that basis, you signed the \$13 million order agreement in August.

This outcome, no matter how well intentioned, does not comply with the enhanced procurement rules adopted to conform to Chapter 27 of the Acts of 2007 or to 801 CMR 21.00. Accordingly, this office concludes that this procurement must be voided, the Cognos software returned, the \$13 million repaid to the state, and a proper procurement be conducted for performance management software.

Sincerely,

A handwritten signature in cursive script that reads "Gregory W. Sullivan".

Gregory Sullivan
Inspector General