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Office of the Inspector General

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Dear Ms. Bickelman:

As a result of a legislative request, the Office of the Inspector General has reviewed the procurement process for the statewide contract for information technology services (ITS23).

Our review found that the Operational Services Division awarded contracts to proposers willing to pay for attendance at the division's annual Statewide Training and Resources (STAR) Exposition even though participation in STAR was optional. At least three firms, including Chloen Systems, eDatamate, and Seabrook Technologies, did not volunteer to pay to attend STAR and as a result initially failed to be placed on the statewide contract. Since that time two of these vendors have been placed on the state contract as a result of corrected scoring errors. Had STAR participation not been an evaluation criterion, the evaluation scores of these three firms would have earned them places on the contract from the start. After we began our review, the division informed us that it discontinued the practice of evaluating proposers based on STAR participation. However, in the case of the ITS23 procurement, one firm remains blocked from the statewide contract because it did not acquiesce to pay to the division the fee to participate in STAR, a fee that is supposed to be voluntary.

Our review also found that the division used subjective and poorly defined evaluation criteria that resulted in an unfair procurement that may not have provided the best value to the commonwealth. We must recommend that the division re-procure the ITS23 contract using a fair and competitive process as soon as practicable. We also recommend that proposers excluded from ITS23 solely because of a failure to earn STAR participation points now be added to ITS23 until the time that the contract can be re-procured.

The division is responsible for monitoring statewide contracts and for creating contracts that are open, fair, and competitive. In February 2005, the division released a request for responses (RFR) for statewide contract ITS23, the successor to statewide contract ITS07. The RFR covered four categories of information technology service providers: technical specialists, staff augmentation (general purpose and very low overhead), solution providers, and business process reengineering. The initial term of the contract is two years (July 1, 2005 through June 30, 2007) with one 12-month optional extension period. According to the division's Comm-PASS website, the division originally awarded the contract to 116 proposers during May and June of 2005 (38 technical specialists, 27 staff augmentation, 31 solution providers, and 20 business process reengineers). The division subsequently awarded the contract to an additional nine proposers (six technical specialists, and three staff augmentation) due to scoring errors committed by the evaluation team.

While this letter specifically addresses only the procurement of technical specialists, one of the four types of information technology providers under ITS23, the recommendation to re-procure extends to the entire ITS23 contract. We recommend re-procurement for the entire contract because the same issues, such as the division's use of subjective and poorly defined evaluation criteria, impacted all four provider types.

Evaluation Criteria

The RFR contained a list of the evaluation criteria for each of the four information technology providers. The criteria for technical specialists, the provider type we specifically reviewed, included:

- reference letters
- prior experience with commonwealth agencies
- added value
- project/task descriptions
- affirmative market program
- years in business
- commitment to exhibit at STAR
- prompt pay discounts
- ability for contracting departments to hire contractor staff

While the RFR indicated the criteria to be most heavily weighted (reference letters, prior experience, added value and project/task descriptions), the RFR did not include specific information on the weight of each criterion (with the exception of the Affirmative Market Program which is required by law to be 10 percent of the total score). The division provided the following weighted scoring *after* awarding the contracts (100 points total):

- Up to 20 points -- reference letters
- Up to 20 points -- prior experience with commonwealth agencies
- Up to 20 points -- added value
- Up to 17 points -- project/task descriptions

- Up to 10 points -- affirmative market program
- Up to four points -- years in business
- Three points -- commitment to exhibit at STAR (Y/N)
- Up to three points -- prompt pay discounts
- Up to three points -- ability for contracting departments to hire contractor staff

The division evaluated individual proposals using two members from a ten-person evaluation team. The division then ranked the proposals based on the point totals and initially awarded the contract to the top 38 proposers in the technical specialist category. The 38 proposals scored between 58 and 88 points.

Issues

Issue 1: The division effectively excluded proposers from the statewide contract by using participation at the STAR exposition as an evaluation criterion.

The RFR stated that participation at STAR was “desirable” but not required for technical specialists and certain staff augmentation contractors (as described in the RFR). Instead, during the evaluation process, division staff awarded points to technical specialists and certain staff augmentation contractors that committed to attending STAR. By assigning evaluation points for STAR, the division effectively lowered the scores of the three proposers previously mentioned, initially resulting in these contractors being excluded from the statewide contract. Using STAR participation as an evaluation criterion when the RFR did not require it was unfair and prejudicial and excluded responsible and responsive proposers from the contract. Regardless of the scoring, the RFR language concerning STAR should have been clearer and consistent. This would have avoided the confusion that has created the appearance of an unfair and prejudicial contract.

Recommendation: Since the division no longer considers STAR participation in an RFR evaluation, the ITS23 contract should be no different. If STAR participation is not considered in the evaluation of ITS23 proposers, there are three firms (Chloen Systems, eDatamate, and Seabrook Technologies) initially excluded from the contract that should now be added to the ITS23 contract until the time that the contract is re-procured.

Issue 2: The division has no consistent formal standards for the use of evaluation criteria in the procurement process.

Division staff informed this office that there are no formal internal standards or guidelines for the use of evaluation criteria in the procurement process. This includes whether or not to incorporate detailed evaluation criteria and scores or weights into an RFR, when to use subjective versus objective criteria, and how to draft effective evaluation criteria. Instead, it is left up to the division’s individual procurement management teams to determine whether or not to include detailed evaluation criteria and scores or weights in an RFR and what those criteria should be.

As a result, proposers remain unaware of how they will be scored in an RFR process. This office believes that in any procurement, the best value will be achieved when potential proposers are given as much information as possible. When evaluation criteria are left unspecified, there is a higher probability that a proposer will not include information that would provide value to the commonwealth. For example:

Based on the non-weighted evaluation criteria included in the RFR, a business with 10 years of experience might not think it needed to include something of “added value,” such as free software to its proposal.

Another business with 10 years of experience that offered free software, even if the free software had nothing to do with any of the potential contract assignments the business might receive under the state contract or be of any use to a contracting agency might score higher than the business that didn’t offer the software.

Division staff stated that the procurement teams intentionally keep evaluation criteria vague so as not to lock themselves into a specific point system or evaluation criteria. Division staff further informed this office that the procurement teams make the decision to include specific evaluation criteria and/or weighting of criteria on a case by case basis. This is a completely subjective process hidden from the proposers.

It is problematic that each procurement team is doing something different without any guidelines or standards. Without guidelines or standards, it is difficult to ensure the consistency, fairness and uniformity of the procurement process. Although this office can appreciate having flexibility in the process to achieve the “best value,” this flexibility should not compromise the procurement process. Division staff informed this office that subjective criteria are used to capture innovations or other unanticipated services. This gives staff the flexibility to award points to proposers for goods and services either not envisioned or found in the RFR. However, this office believes that ultimately this type of practice increases the division’s vulnerability to fraud, waste and abuse in the procurement process. Subjectivity could be used to favor one proposer over another regardless of whether a reasonable justification exists for this favoritism. As subjectivity increases, the fairness of a process decreases. As fairness decreases, vulnerability to fraud, waste, and abuse increases.

Recommendation: Evaluation criteria guidelines should be developed for all procurement teams to minimize subjectivity.

Issue 3: The ITS23 RFR evaluation criteria contain subjective categories that may not ensure “best value” procurement.

The RFR evaluation criteria include a 20-point category (20 percent of the total possible scoring) called “Bidders Additional Value.” This criterion allows division staff to identify

and give proposers points for what could be considered an added value or an addition to what the division requested of the proposers in the RFR. In theory, staff could award points for virtually anything offered by the proposer.

The division has created a situation where a proposer could receive evaluation points for offering a good, service or discount that has little or nothing to do with the RFR. This is problematic because other proposers might have offered the same items had they been asked to in the RFR. The division relies too heavily on the proposers sweetening their respective proposals. This flexibility in the evaluation process could render a competitive process less meaningful.

For example, an inferior proposer that sweetened its offer could end up on the contract instead of a proposer with superior references and qualifications. All things being equal, gaining points for added value can make up for such things as poor references. This type of flexible process would have awarded a banking services contract to the bank offering a toaster for each new account because the toaster would be considered value added. However, a toaster has nothing to do with the quality and cost of banking services. In fact, the bank offering the toaster might charge higher fees but in the evaluation process the toaster received higher points.

The division must decide what the commonwealth is trying to achieve through the RFR process and what, in fact, is the best value for the commonwealth. The division needs to decide whether a free toaster, as used in the previous anecdote, is truly worth more than lower fees, higher interest, and/or positive references.

This apparent confusion about what constitutes best value came to light in the technical specialists section of the ITS23 contract. Added value points for certain proposals acted to exclude seven proposers from the contract. The proposals that outscored these seven included added value items such as free copies of licensed products, free web hosting, free web interface, and free training. These items did add value to the contract, but it is not clear whether this created the best value. A savvy proposer will propose something of added value regardless of whether there is actual added value to the contract.

Furthermore, the division may be giving bonus points to proposers that are offering software not in compliance with the Information Technology Division's (ITD) Enterprise Open Standards Policy or for services already offered by ITD. The division should consult with the Information Technology Division regarding these practices. Also, accepting this software and other "free" items in the added value category could contradict state procurement policies.

Recommendation: The division must ensure that evaluation criteria help achieve the best possible overall value for the commonwealth not just additional value from sweetened deals. Additionally, the division must ensure that it is not awarding contracts to vendors offering goods and services that are not in compliance with commonwealth practices.

Issue 4: The division applied extra evaluation points unfairly.

The division named 35 “specialties” for technical specialists in the ITS23 RFR including, data recovery, system architecture services, and education information systems. The division required each technical specialist to name at least one and up to five specialties from this list of 35.

Division staff informed this office that once the division received and evaluated all of the proposals, the division would identify which specialties would be considered “scarce and valuable specialties.” If a specialty was listed on three or fewer proposals it was considered to be a scarce and valuable specialty. The division then awarded additional “bonus” points to the proposers providing these scarce and valuable resources.

The awarding of these points was problematic. The RFR only required the proposer to provide a written description for the first two specialties out of a possible five that the proposer could cite. The division’s evaluation team determined which specialties constituted scarce and valuable specialties by only reviewing the specialties with written descriptions. In other words, the team only looked at the first two specialties cited by a proposer. The team awarded points based on this analysis.

This is problematic because the team awarded points without considering all of the different specialties identified in each proposal. If one proposal listed, for example, data warehousing as the second item on a list of five specialties, this proposer received bonus points. If another proposal included data warehousing as the third item on the list of specialties, this proposer did not receive bonus points.

By awarding additional points for scarce and valuable specialties as determined during this procurement, the division again creates a situation where a proposer with lower scores in the other evaluation categories may earn bonus points and win the contract over a proposer with higher scores in the other categories. This could happen simply because of how a proposer listed its specialty services. Just because a proposer did not choose the “correct” five specialties to list (or sort that list “correctly”) out of the 35 possible specialties listed in the RFR does not mean that the proposer is not capable of providing that specialty.

Moreover, if the commonwealth can identify what “scarce and valuable” specialties it might need prior to the RFR, these specialties could become the basis of a competition and could put proposers on a level playing field by comparing the merits of firms with the same specialization. Waiting until after the proposals were submitted to determine which services were scarce and valuable does not appear to be an effective method of guaranteeing the best value for the commonwealth.

Recommendation: The RFR should identify which specialties are considered valuable. The RFR could also require proposers to rank the specialties they offer. The RFR should not ask for information that the evaluation teams will not review or consider. Finally, the division should award the additional points for the scarce and valuable

specialties for all proposers listing that specialty, regardless of the order of specialties identified on the proposal.

Issue 5: The division did not verify information provided by proposers.

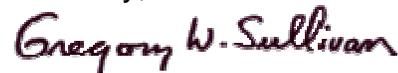
Each of the four information technology provider categories: technical specialists, staff augmentation, solution providers, and business process reengineering proposers; had its own qualification requirements. For example, the RFR required technical specialists to be incorporated and registered to do business in Massachusetts not individuals or sole proprietorships. The RFR also required these firms to have a gross annual income of \$2 million or less. Division staff informed this office that the procurement team did not verify that the proposers met the contract requirements. For example, the division could have checked with the Secretary of the Commonwealth to verify business registration information. The division could have requested audited financial statements to verify a proposers gross income.

Recommendation: The division should verify all qualification requirements submitted in proposals.

The division should ensure that all statewide contracts protect the public interest and that the users of the contracts are receiving competitive, best value prices and that all contracts and contract procurements are open, fair, and competitive. Evaluation criteria should be established before the procurement begins and evaluator subjectivity should be limited to ensure fairness and to prevent fraud, waste and abuse in the procurement system.

Thank you for your cooperation. If you have any questions or concerns, please contact Wendy Todd, Staff Analyst at 617-722-9140.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: William McAvoy, Operational Services Division, General Counsel
Marge MacEvitt, Operational Services Division, Procurement Team Leader
Louis Gutierrez, Information Technology Division Director and Chief Information Officer of the Commonwealth