

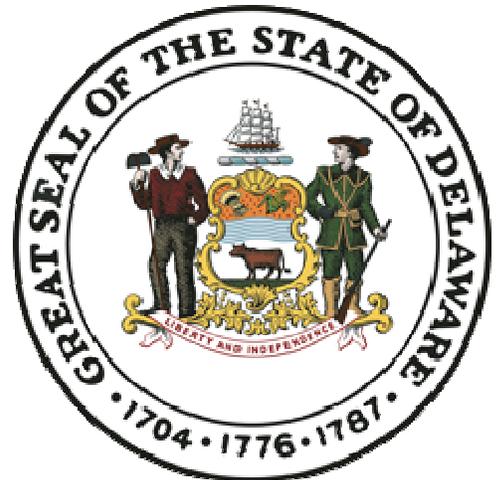
**State of Delaware
Office of Auditor of Accounts**

**How is Delaware Using Consultants?
A Look Into the
Division of Facilities Management.**

July 1, 2009 through March 31, 2010

**Fieldwork End Date: October 22, 2010
Issuance Date: November 23, 2010**

R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts





STATE OF DELAWARE
OFFICE OF AUDITOR OF ACCOUNTS

R. THOMAS WAGNER, JR., CFE, CGFM, CICA
AUDITOR OF ACCOUNTS

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To the Acting Director of Facilities Management:

The attached report provides the results of our performance audit on consulting contracts utilized by the Division of Facilities Management.

My office was authorized, under 29 Del. C., c. 29, to perform post audits of all the financial transactions of all State agencies. The law requires that the audits be made in conformity with generally accepted auditing principles and practices. Such principles and practices are established by the U.S. General Accounting Office, which has issued generally accepted government auditing standards.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report can be accessed online through the Auditor of Accounts website at <http://www.auditor.delaware.gov>.

Sincerely,

R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts

October 22, 2010



**State of Delaware
Office of Auditor of Accounts
R. Thomas Wagner, Jr., CFE, CGFM, CICA**

At a Glance

Working Hard to Protect YOUR Tax Dollars

WHY WE DID THIS REVIEW

The Office of Auditor of Accounts (AOA) is conducting a performance audit of Statewide Consulting Contracts. This report pertains to Office of Management and Budget – Division of Facilities Management’s (FM) use of consultants for the period of July 1, 2009 through March 31, 2010.

BACKGROUND

FM is responsible for the State’s building design, construction, and operation for all State agencies. The unit is responsible for the design and construction of all public buildings, with the exception of school buildings, road construction, and certain facilities operated by the Departments of Natural Resources and Environmental Control and Transportation.

HOW IS DELAWARE USING CONSULTANTS? A LOOK INTO THE DIVISION OF FACILITIES MANAGEMENT

What We Found

- More than \$78,000 of the agency’s consulting expenditures was improperly classified under professional services in the State’s soon-to-be decommissioned accounting system.
- The work between architectural and engineering (A/E) firms and FM staff is redundant from the start to the close out of a project.
- FM lacks a comprehensive process to manage projects.
- FM does not use a time tracking mechanism to monitor the amount of time spent on each project.
- FM’s Construction Project Administrator does not monitor all open projects on an ongoing basis.
- FM does not use non-compete agreements or monitor dual employment.
- Project files were not adequately and consistently maintained.
- FM has not fully implemented after-the-fact evaluation forms to ensure vendors with dissatisfactory performances were not re-hired.
- There is a lack of staff rotation on the A/E firm selection committees to help ensure that preferential treatment is not given to any one vendor over others.
- FM did not adhere to their own “Basic Services Fee Schedule” when paying consultants.
- Various weaknesses in the State’s accounting system, including the inability to record contract identification numbers, which do not allow for efficient monitoring or recording of consulting expenditures.

Please read the complete report for a full list of findings/recommendations and to review Facilities Management’s response to our findings.

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Objective, Scope, and Methodology

The audit objective was to determine the State's ability to manage and monitor the use of consultants for the period of July 1, 2009 through March 31, 2010. During a Statewide expenditure analysis performed on consulting expenditures, we identified several operational areas to evaluate with respect to the ongoing use of consultants. This report pertains to the hiring of consultants by the Office of Management and Budget, Division of Facilities Management (FM).

The Office of Auditor of Accounts (AOA) performed the following procedures:

- Administered a questionnaire to key agency personnel to gain an understanding of their use of consultants. Survey methodology and results are located at Appendix A.
- Reviewed various construction project files to determine administration of projects and verified that it was an appropriate use of State funds.
- Confirmed compliance with professional services procurement regulations as discussed in Delaware Code, Title 29, Chapter 69, §6981 and §6982.
- Interviewed Project Managers and other agency personnel responsible for the project files.
- Validated employee and vendor social security numbers and cross-referenced to ensure no employees are vendors.
- With the assistance of Division of Revenue, confirmed that FM had not paid any vendors that are delinquent Delaware taxpayers.
- Confirmed that vendors were not debarred as represented in the U.S. General Services Administration, Federal Excluded Parties List System.
- Verified that the projects reviewed were not federally funded.
- Performed various data analysis techniques, such as:
 - Cross-referenced vendor mailing addresses to employee mailing addresses to identify any potential employees paid as vendors and to ensure there were no related party transactions.
 - Identified checks that were intercepted from the Treasurer's Office by agency personnel to be hand delivered to the vendor and obtained justification for such occurrences.
 - Ensured there were no duplicate payments based on vendor number and invoice number.
 - Identified vendors who were paid on multiple occasions during the same week for possible cost savings.
 - Researched disaggregated payments to determine if FM was attempting to circumvent the Purchase Order (PO) process.

Our observations, findings, and related recommendations resulting from these procedures are presented in this report.

Background

Delaware Code, Title 29, Chapter 69, § 6902 (18), defines professional services as “services, which generally require specialized education, training or knowledge and involve intellectual skills. Examples of professional services include, but are not limited to, engineering, environmental engineering, environmental monitoring, land surveying, landscape architecture, geology, architectural, archaeologists, architectural historians, historians, educational consultants, management, medical, teaching, planning, computer information management, financial, accounting, auditing, construction management and arbitration services.” The State’s definition of professional services is consistent with Webster’s Dictionary’s¹ definition of consultant, “a person referred to for expert or professional advice.”

Our review was intended to evaluate the processes used throughout the State to manage the use of professional service consulting contracts. Delaware Code, Title 29, § 6981, and 6982, and the Purchasing and Contracting Advisory Council establish thresholds that trigger formal bidding procedures. The Open Market Request of Quotes process is used for contracts less than \$50,000 and a Formal Request for Proposal is used for contracts of \$50,000 or more.²

The Statewide accounting system is designed to capture all contracted professional consulting services using a standardized coding system. However, the use of professional consulting services will vary among agencies and departments based on operational needs. Therefore, an evaluation is needed at an operational level.

AOA received an allegation that Facilities Management (FM) was not awarding contracts fairly, had conflicts of interest with vendors, and was improperly compensating contractual employees³; therefore, we decided to review consultant contracting at FM as a first in a series of organizational reports.

FM oversees building design, construction, and operation for all State agencies. The unit is responsible for the design and construction of all public buildings, with the exception of school buildings, road construction, and certain facilities operated by the Departments of Natural Resources and Environmental Control and Transportation.

FM is charged with managing the State’s construction and renovation programs, maintaining facilities in good and safe condition, and increasing energy efficiency in State facilities for various state agencies such as Departments of Correction; Health and Social Services; State; Services for Children, Youth and Their Families; and the Judicial Branch of Government.

FM’s website states the following as their mission: “The division’s mission is to support the activities of state government by accommodating state agencies’ space needs, maintaining state facilities in good condition, and by implementing programs and initiatives to ensure each facility is energy efficient, architecturally accessible and environmentally safe. The division’s mission is to also ensure that all demolition, renovation, and new construction of state buildings is completed in a timely fashion and meets the latest standards of construction technology, building and life safety codes and space standards through plan review, technical oversight and assistance.”

The activities of FM include, but are not limited to:

¹ “Consultant” Webster’s Dictionary of the English Language, Deluxe Edition. Chicago: J. G. Ferguson Publishing Company. 1992

² <http://gss.omb.delaware.gov/contracting/spp.shtml>

³ All allegations made were unsubstantiated.

- Reviewing and approving Statewide professional services and construction bid documents.
- Providing Statewide construction management for major and minor capital projects, including environmental compliance, architectural accessibility, and energy efficiency work.
- Providing Statewide annual pre-qualification services to contractors, State agencies, and School Districts that elect to use pre-qualification for large public works contracts.
- Providing construction management accounting and reporting.⁴

FM Project Managers play an integral role in the consulting process, overseeing the entire project from start to finish. Construction project management involves administering and coordinating the planning, design, and construction stages between architects, consulting engineers, construction managers, planners and other professionals involved in the construction and renovation of buildings, structures, and facilities and facility systems such as electrical, plumbing, and heating systems.

⁴ Per the FY2010 Governor's Recommended Budget

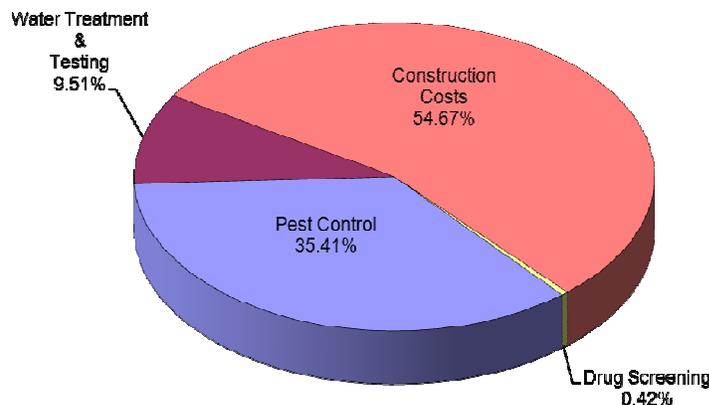
What Did Our Review Uncover?

Improperly Coded Expenditures

Of the more than \$406 million in consulting expenditures recorded Statewide for the nine-month audit period, approximately \$1.5 million, detailed in Table 1 below, were incurred by FM. More than \$78,000 of expenditures were improperly coded as consulting expenditures by FM, as demonstrated by Figure 1 below.^{R1} The improper coding is a result of limitations in the State accounting system and the fact that certain expenditure object codes that are not related to consulting or professional services are deemed professional services in the system. For example, expenditures for inspection fees and pest control are considered other professional services.

Architects	\$ 699,884.72
Asbestos, Lead, and Air Quality	4,030.50
Engineers	415,021.44
Geoscience Consultant	19,391.33
Staffing Firms	240,488.42
Real Estate Valuation and Appraisal	30,700.00
Improperly Coded Expenditures	78,902.33
Total	\$ 1,488,418.74

Figure 1: How Were Improperly Coded Expenditures Used?



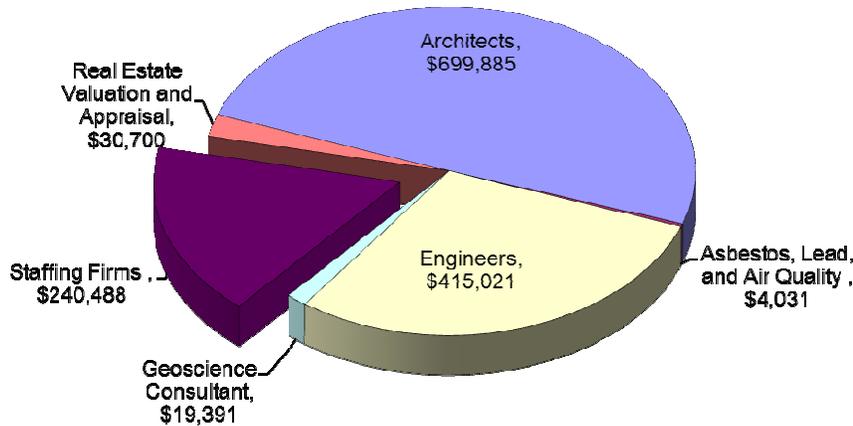
During a survey of FM employees, AOA learned that 20% of survey respondents were not aware that FM was using consultants to perform work on behalf of FM. Increasing Statewide awareness of the use of consultants and properly determining how a consulting expenditure is used would assist with rectifying the improper coding of expenditures. Furthermore, there is inadequate review of expenditure coding throughout the State agencies that process payments.⁵

⁵ Once an expenditure is recorded, it receives approval from one individual at FM, and two approvals by personnel at the Office of Management and Budget. During the audit period, the Division of Accounting would also approve all expenditures exceeding \$2,500.

^{Rx} – See Recommendations Section

Of the \$1,409,516 in expenditures properly recorded, Figure 2 demonstrates that the majority of the consulting expenditures were attributed to services from architects and engineers. There was a small portion of the funds used for environmental and appraisal consultants. All of these costs seemed consistent with fulfilling FM’s mission. Staffing firm expenditures, which total \$240,488 and represent 17% of FM’s consulting expenditures, would ordinarily be recorded as operational expenditures.

Figure 2: How is Facilities Management Using Consultants?



Use of Staffing Firms

A closer look revealed that the staffing firm expenditures were used to supplement FM’s Project Management Staff⁶ with three Project Managers and one architect. Nearly 50% of the staffing firm expenditures were paid using Minor Capital Improvement (MCI) Funding and this supplement to staffing was equivalent to 36% of FM’s authorized project management positions. Further, FM did not have any approved vacant positions at the time they used the staffing firms. Our best estimate is that these individuals have been working for FM since at least July of 2009. While there has not been a Governor’s Executive Order that has addressed this issue, it is common knowledge that the State has made significant efforts to downsize State authorized positions.

Was the Supplemental Staffing Needed?

Our audit identified factors that cast doubt on the appropriateness of supplementing State authorized positions. First, FM was not able to substantiate that staff work load necessitates additional staffing. Second, we learned of redundant efforts between FM staff and A/E firms. Reducing redundancy would create a more efficient process overall, which would result in a reduction in the need for staffing firms and an increase in the available funds for MCI projects.

Real Estate Consultants

AOA found that FM paid a consultant \$25,200 to represent the Office of Management and Budget (OMB) in the preparation, negotiation, and legal review of real property leases. A Deputy Attorney General is assigned to each agency to assist with contracting. AOA has made a recommendation asking FM to evaluate the ongoing need for such consulting work.^{R2}

⁶ FM Project Management Staff consists of one Construction Project Administrator, seven Construction Project Managers, and three Building Support Systems Engineers.

FM's Overall Process for Projects

We identified 26 consulting contracts, many consisting of numerous projects, which incurred expenditures during our audit period. Table 2 below represents a detailed description of these projects.

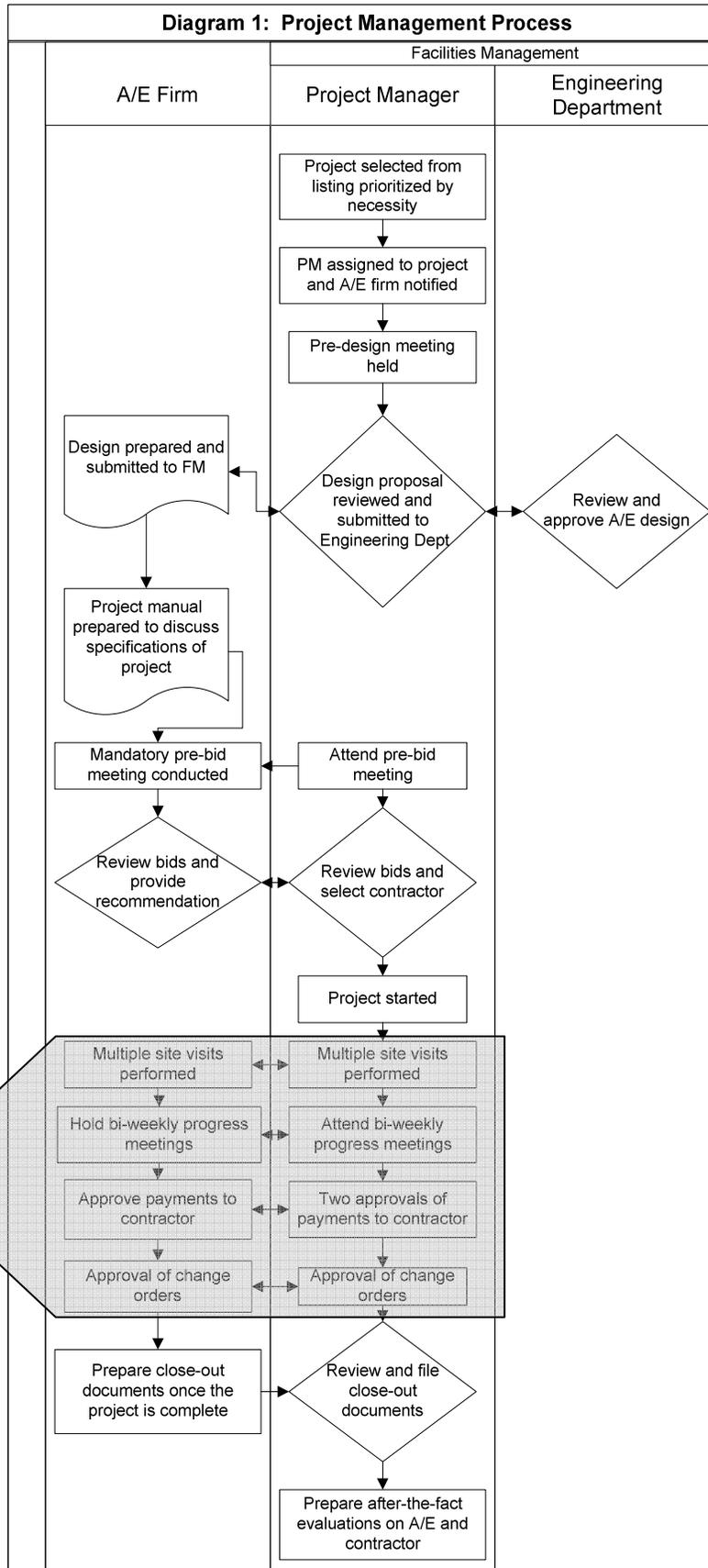
Table 2: Facilities Management Professional Services Contracts Effective July 1, 2009 - March 31, 2010		
Project Type⁷	Architectural / Engineering Firm (A/E)	Description
Minor Capital Improvements (Estimated costs of ≤ \$500,000 or expected life of ≥ 10 years)	Becker Morgan Group, Inc.	Department of Services for Children, Youth and their Families (DSCYF), Department of Safety and Homeland Security (DSHS), Delaware National Guard (DNG), and Administrative Office of the Courts – Architectural/Engineering Services OMB – Architectural Services
	Bernardon Haber Holloway Architects	Department of State (DOS) – A/E Services
	Davis, Bowen, & Friedel, Inc.	Department of Health and Social Services (DHSS) – Architectural Services
	Delaware Engineering and Design	OMB – Engineering Services DHSS – Engineering Services
	Fayda Engineering and Energy Solutions	Governor Bacon Health Center Campus Electrical Governor Bacon Health Center Emergency Generator
	Furlow Associates, Inc.	Bissell Hospital Elevator
	Landmark Engineering, Inc.	Delaware Emergency Management Agency (DEMA) Site Drainage
	Mahaffy & Associates, Inc.	Department of Correction (DOC) – Engineering Services
	TBS Services, Inc.	William Penn Building Front Entrance
	Tetra Tech, Inc.	DOC – Architectural Services
	William Byler, AIA, Architect	New Sussex County Maintenance Facility
Major Capital Improvements (Estimated costs of ≥ \$500,000 and expected life of ≥ 10 years)	Apex Engineering	New Castle County Courthouse – New Parking Lot
	ARRAY Healthcare Facilities Solutions	Stockley Medical Center
	Cooperson Associates, Inc.	Statewide Roofing and Repair
	Duffield Associates, Inc.	OMB – Project Technical Assistance
	Facilities Dynamics	Statewide Commissioning
	George, Miles & Buhr, Inc.	Sussex Fire School Expansion
	Mahaffy & Associates, Inc.	Townsend Building Renovations
	Moeckel Carbonell Associates, Inc.	Kent County Courthouse Renovations & Expansion
	Nason Construction	Vaughn Correctional Center Freezer Kent County Courthouse
	Thornton Tomasetti, Inc.	Young Correctional Institution Exterior Walls
Environmental (Removal of Hazardous Material)	Harvard Environmental, Inc	Statewide Asbestos Abatement and Associated Services

⁷ State of Delaware *Budget and Accounting Manual*, Chapter IV

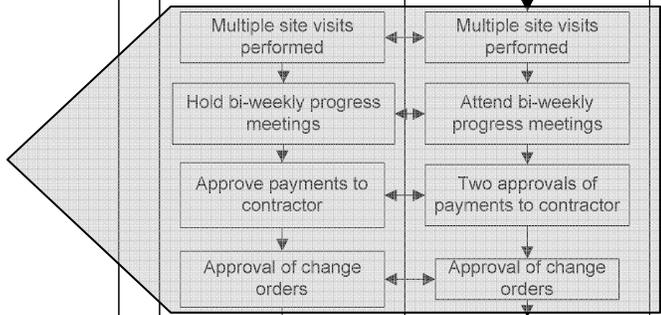
Project Management Process

FM is required by the Delaware Code to follow a uniform hiring process to find professional service firms to assist with their construction projects. They primarily use what is referred to as a design-bid-build approach. A/E firms are initially contracted to perform the *design* of a project. As the design progresses, the A/E firm prepares cost estimates for FM. Once FM reviews and approves the design, it is used to put the project out to *bid* with construction companies. Upon completion of construction documents and specifications, the project is bid and subsequently awarded to the general contractor with the lowest bid. The A/E firm reviews and evaluates the construction bids and makes recommendation to FM. With FM's concurrence, a construction contractor is selected and engaged to *build*. The A/E firm will monitor the construction of the project, acting as FM's agent.

In order to evaluate the effective use of consultants, AOA needed to gain an overall understanding of FM's project management as demonstrated in Diagram 1.



Redundant Efforts^{R3}



Numerous Weaknesses in Project Management

As a result of procedures performed, AOA noted the following weaknesses:

- **FM lacks a comprehensive process to manage the projects.**^{R4} As mentioned earlier in the report, the workload of Project Managers is not monitored nor is there justification for supplementing staffing levels via staffing firms. While some monitoring of A/E firms' work is appropriate, there should not be significant overlap between the A/E firms and FM staff. In fact, AOA learned that Project Managers typically perform site visits on a weekly basis while the A/E firm on the project normally performs site visits on a bi-weekly basis. According to FM, Project Managers are not qualified to sign-off on all aspects of the project since they lack the professional background to do such evaluations. In addition, Project Managers are not willing to perform less frequent site visits to monitor the project's progress since they believe the A/E firm may not look out for the State's best interest when left to perform the inspection without FM representation. The current process is wasteful. AOA was unable to estimate the extent of redundancy since FM staff does not have a detailed time reporting process in place.^{R5}
- **The work between A/E firms and FM staff is redundant from the start to close out of a project.**^{R3} Diagram 1 details the overlap in site visits, progress meetings, payment approvals, and change orders. According to FM personnel, the only difference between their responsibilities is the A/E firm's preparation of meeting minutes from each progress meeting.
- **FM's Construction Project Administrator does not monitor all open projects on an ongoing basis.**^{R6} Although FM was able to construct a list of consulting contracts in response to AOA's audit request, when asked for a project listing, the Construction Project Administrator expressed concerns over the amount of time and effort that it would take to compile such a listing. Good project management would dictate that comprehensive reports are available to manage all open projects, including project payments, timely progress, and completion of projects.⁸
- **Although non-compete agreements are used elsewhere in the State, FM has not implemented such controls to ensure that those working with the consultants, such as Project Managers, are not employed by a consultant under contract with FM.**^{R7} Therefore, there is potential for partiality or favoritism towards any one consultant. By signing such an agreement, the employee would agree that he or she would not work as a consultant during their employment with the State, nor would they leave the State and work as a consultant on a project previously assigned to them.
- **FM does not have a dual employment policy.**^{R7} If an effective dual employment policy is not in place, the State is at risk for collusion with vendors, time theft, and poor quality products and services. A dual employment policy would require personnel to notify and obtain approval from FM prior to accepting employment with another employer.
- **One project file reviewed lacked adequate documentation to demonstrate that the FM engineer did not autonomously make a decision to increase a cost proposal by \$254,000 as a result of a change in project specifications.**^{R4} AOA found a project with an initial proposed cost of \$100,000, which increased to \$354,000 without adequate justification in the project file, other than an analysis detailing a more efficient piece of equipment. There was no documentation

⁸ *Project Management for Construction* by Chris Hendrickson, Department of Civil and Environmental Engineering, Carnegie Mellon University, Pittsburgh, PA

to substantiate that other vendors were afforded the opportunity to respond to the change in project specifications. In addition, project file documentation of e-mail correspondence from two suppliers showed each proposing a substitute for the equipment originally recommended, which made the selection appear biased. FM acknowledged that the level of documentation and consistency between Project Managers is an issue and that improvement in this area is needed.

- **FM has not fully implemented after-the-fact evaluation forms to ensure vendors with dissatisfactory performances were not re-hired, as they stated they would in a prior AOA audit.**^{R8} Based on the survey results in which almost 14% of respondents⁹ indicated they were not satisfied with the quality of work received from consultants, implementing this process would help address the issue.
- **There is a lack of staff rotation on the A/E firm selection committees to help ensure that preferential treatment is not given to any particular vendor.**^{R9} During our fieldwork, FM staff stated they had not participated in certain aspects of the selection process for several years. Also, certain staff indicated that they did not understand why some consultants that had a history of providing quality work at a competitive price were no longer selected for contracting.

Inconsistencies in Determining A/E Firms’ Compensation

AOA reviewed three projects and found less than optimum negotiation of contracts, specifically relating to fees for A/E firms during the build phase of the project. While FM has a fee schedule that denotes the percentage applied to the cost of the construction project, this fee schedule was not used.^{R10}

In all three projects, the A/E firm was awarded a higher percentage than indicated by the fee schedule. As can be seen in Table 3 below, the schedule takes into account various aspects of a particular project, such as new construction versus renovation.

Table 3: Facilities Management Basic Services Fee Schedule

CONSTRUCTION COST	Complex Projects		Average Projects		Simple Projects	
	New	Renovation	New	Renovation	New	Renovation
UP TO \$500,000	9.0%	13.0%	8.0%	11.0%	7.5%	9.5%
UP TO \$2,500,000	8.5%	11.5%	7.5%	10.0%	7.0%	9.0%
UP TO \$5,000,000	7.5%	10.5%	7.0%	9.5%	6.5%	8.0%
UP TO \$10,000,000	7.0%	9.5%	6.5%	8.5%	6.0%	7.5%
UP TO \$15,000,000	6.5%	8.5%	6.0%	7.5%	5.5%	6.5%
OVER \$15,000,000	TO BE NEGOTIATED					

Complex Projects - Health, Research, Correctional, Museum, and Special Facilities.

Average Projects - School, Office, Recreational, Armory, Public Safety, and Library Facilities.

Simple Projects - Garage, Warehouse, Industrial Facilities, Roofing Projects (non-renovation).

If there were additional circumstances that may result in a fee schedule increase, they should have at minimum been documented and communicated to all Project Managers so all A/E firms are afforded the same consideration. An additional deviation was identified with one of the A/E firms that was awarded

⁹ AOA’s survey selection process covered a wide variety of FM personnel, which included employees who work closely with consultants on a daily basis and employees who may only have limited involvement with FM’s consultants. Refer to Appendix A for survey participant selection methodology.

two of the three projects tested. Apparently, at the A/E firm's request, FM used a blended construction cost that averaged the cost of all construction company bids instead of applying the rate to the actual awarded bid. When FM staff was questioned about this practice, they said the A/E firm felt it was unfair to charge their rate against the lowest bidder on the project. FM should have declined the A/E firm's request and selected another firm to perform the work.

Statewide Accounting System Limitations

When processing payments, end-users of the State accounting system are not required to provide a contract identification number.^{R11} Therefore, individual payments to vendors cannot be associated with the related contracts nor is there a methodology to systematically determine if contract limits have been exceeded. Furthermore, we identified payments that lacked detailed transaction descriptions that support the reason for the payment, which could help avoid erroneous payment approvals and improve the accuracy of expenditure coding and classification.

Lastly, the accounting system does not aggregate multiple payments; therefore, a vendor that is scheduled to have two invoices paid in a given week will receive two separate checks.^{R12} Aggregation of payments over a fixed period of time, such as weekly or bi-weekly, will result in a more efficient process. It is conservatively estimated to cost the State \$50 to issue one payment.

Future Statewide Initiatives

During meetings with FM personnel, it was determined that their office has been working with Government Support Services (GSS), another division of OMB, to advertise all FM contracts on bids.Delaware.gov. GSS has started an initiative to make the statewide contracting process more efficient and effective. Based on an interview with the Director of GSS, their objectives include:

- Combining contracts for similar services;
- Making bids.Delaware.gov the central repository location for all contracts issued in the State;
- Implementing E-Commerce Solutions into the new First State Financials (FSF) system to allow for more improved data analysis; and
- Creating service categories rather than using single service contracts.

In a May 2009 memorandum, GSS requested that all State agencies provide a listing of the current contracts for goods and services they solicited on their own. GSS' goal was to consolidate new requests for goods and/or services into existing contracts in order to reduce the cost, time, and effort required. A central database of all existing State contracts would allow GSS to perform analyses of contract data, such as debarment from other States and State tax delinquent vendors. It would also identify which State agencies could piggyback off existing contracts.

The school districts are an example of the potential impact realized if bid solicitations were aggregated statewide. In monitoring published solicitations for agencies who have not been taking advantage of the current initiatives, GSS has determined that local school districts have solicited a large number of bids for goods and services that could have been aggregated.

Since August 2008, 222 school district solicitations have been advertised in local newspapers without an attempt to aggregate contracts through GSS, which means the districts have been soliciting independently. GSS has identified 31 solicitations that could potentially have been combined with an existing contract.

Below is a summary of what the agency has found when reviewing school district advertisements:

Table 3: School Districts that Advertised Bid Solicitations more than Once without an Attempt to Aggregate Contracts through bids.Delaware.gov	
District	Number of Solicitations
Colonial and Red Clay School Districts	43
Brandywine School District	42
Appoquinimink School District	21
Christina School District	21
Cape Henlopen School District	20
Colonial School District	14
Red Clay Consolidated School District	12
Capital School District	11
Milford School District	6
Delaware School for the Deaf	5
Indian River School District	5
New Castle County Vo-Tech	5
Polytech School District	4
Lake Forest School District	3
Smyrna School District	2

In addition, GSS has expressed a desire to better analyze goods and services purchased by the State. Detailed expenditure data would allow GSS to compare specific items purchased among several agencies, thus efficiently aggregating contracts. An implementation of an E-Commerce Solution software into the new First State Financials system would provide detail by line item and allow for better spend management.

In response to the Statewide initiatives discussed above, the Director of GSS offers the following, “There is great opportunity through enhancements in our procurement practices to positively impact our efficiency, reduce our costs at all levels of government for our citizenry and reduce duplication of efforts. These enhancements can be accomplished while recognizing the needs of our customers to procure the goods and services necessary to carry out the functions of our government in a timely and effective manner.”

Summary of Recommendations

Based on the results of our review, AOA recommends the following:

- R¹ Expenditure coding should be revised to ensure that transactions are accurately classified and recorded in the State accounting system. Employees should be trained regarding what signifies a consultant, which would help increase the likelihood of consulting expenditures being properly coded. Expenditure coding should be reviewed during the various levels of approval.
- R² FM should research whether the Deputy Attorney General assigned to their agency could perform some or all of the tasks in the consulting scope of services. Furthermore, if FM determines that additional consulting is needed for non-legal services, FM should perform a cost-benefit analysis to determine if the use of a real estate consultant who provides services over real property leases is the most efficient use of State funds.
- R³ FM should re-evaluate the division of responsibility between the Project Managers and the A/E firms to reduce redundancy and to ensure that the Project Managers have sufficient involvement to properly monitor the A/E firms.
- R⁴ FM should expand their policies and procedures to clearly communicate the expectations of the Construction Project Administrator and the Project Managers. The policies and procedures should specify (1) the items the Project Managers are required to maintain in the project files to ensure adequate and consistent documentation and (2) the methodology used by the Construction Project Administrator to track and supervise the status of all outstanding projects.
- R⁵ FM should implement a time tracking mechanism for the project management staff in order to monitor the productivity of the staff and the amount of time required for each project.
- R⁶ FM should implement a project tracking system. This can be accomplished by utilizing a software package or developing internal spreadsheets or logs that would provide project documentation, scheduling, and basic project administration.
- R⁷ FM should implement non-compete agreements and a dual employment policy, which would require personnel to notify and obtain approval from FM prior to accepting employment with another employer and allow FM to monitor that their employees are in compliance with State Merit Rule 15.2.
- R⁸ After-the-fact evaluation forms should be completed upon the closeout of each project. Once the form is completed, FM should consider meeting with the consultant to discuss the results of the evaluation and have the consultant sign the after-the-fact evaluation form.
- R⁹ FM should develop a process that allows all eligible employees to participate in the A/E selection process.
- R¹⁰ FM should implement a policy to adhere to the fee schedule while thoroughly documenting the payment calculations, any deviations from the fee schedule, and the approval of those deviations in the project file.
- R¹¹ The end-user should be required to enter the contract identification number and a detailed transaction description into the State's accounting system when processing a payment.
- R¹² FM should make every effort to aggregate vendor payments, if payment due dates fall within one to two weeks of each other.

Auditee Responses



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

October 22, 2010

Mr. R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts
Office of Auditor of Accounts
401 Federal Street, Suite 1
Dover, DE 19901

RE: Consulting Contracts Audit

Dear Mr. Wagner:

Thank you for the opportunity to respond to your summary of recommendations relating to the use of consultants in the Division of Facilities Management. Attached, please find our written response. While many of your recommendations were helpful and are already being implemented, we discussed others with your staff and offered additional clarifying information and explanations. Hopefully this has given your staff a more accurate understanding of our operation and they can reflect that in their final report findings.

Again, thank you and should you have any questions, please do not hesitate to contact me at (302) 739-5644.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark A. DeVore".

Mark A. DeVore, P.E.
Acting Director

MAD/nac
Attachment

cc: Ann Visalli, Director, Office of Management and Budget
Kathleen O'Donnell, Chief Administrative Auditor



FACILITIES MANAGEMENT
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Summary of Recommendations

Based on the results of our review, AOA recommends the following:

1. Expenditure coding should be revised to ensure that transactions are accurately classified and recorded in the State accounting system. Employees should be trained regarding what signifies a consultant, which would help increase the likelihood of consulting expenditures being properly coded. Expenditure coding should be reviewed during the various levels of approval.
 - It is the Auditors Office interpretation that Division of Accounting did not properly classify the codes when they loaded them in DFMS. FM's classification of the expenditures was proper in accordance with the description of the object code (ie. Exterminator, Inspections, etc.). In addition, expenditure codes are statewide and established by the Department of Finance, not by each individual agency.
2. FM should research whether the Deputy Attorney General assigned to their agency could perform some or all of the tasks in the consulting scope of services. Furthermore, if FM determines that additional consulting is needed for non-legal services, FM should perform a cost-benefit analysis to determine if the use of a real estate consultant who provides services over real property leases is the most efficient use of State funds.
 - FM regularly works with the Deputy Attorney General in the Attorney General's Office who is assigned to real estate matters and has this expertise. In addition, the hiring of a short-term supplemental resource with the real estate experience to support the FM staff was justified as the state saved over \$2M in lease costs as a result of the re-negotiation work which costs less than \$50k and the project has since been completed.
3. FM should re-evaluate the division of responsibility between the Project Managers and the A/E firms to eliminate redundancy and to ensure that the Project Managers have sufficient involvement to properly monitor the A/E firms.
 - Both A/E firms and Project Managers are required to perform multiple site visits and approve payments to contractors and change orders. FM believes that this is a necessary requirement to provide additional needed oversight and to ensure proper monitoring of the project.
4. FM should expand their policies and procedures to clearly communicate the expectations of the Construction Project Administrator and the Project Managers. The policies and procedures should specify (1) the items the Project Managers are required to maintain in the project files to ensure adequate and consistent documentation and (2) the methodology used by the Construction Project Administrator to track and supervise the status of all outstanding projects.
 - FM not does believe that this is necessary as the document check list which is found in the policies and procedures manual denotes the items that are required in the project file. This procedures manual and check list is used by Project Managers.
5. FM should implement a time tracking mechanism for the project management staff in order to monitor the productivity of the staff and the amount of time required for each project.
 - While FM does monitor staff time by project, this process will be automated with the implementation of Time & Labor. It has been recommended that OMB implement Time & Labor when resources are available.

6. FM should implement a project tracking system. This can be accomplished by utilizing a software package or developing internal spreadsheets or logs that would provide project documentation, scheduling, and basic project administration.
 - FM has researched available project management software programs and will evaluate whether it is appropriate to purchase a software program in the current economic climate or continue to manage projects using an excel spreadsheet.
7. FM should implement non-compete agreements and a dual employment policy, which would require personnel to notify and obtain approval from FM prior to accepting employment with another employer and allow FM to monitor that their employees are in compliance with State Merit Rule 15.2.
 - State employees are subject to DE Code Chapter 58 Section 5806- Laws regulating the conduct of officers and employees of the state. Those rules are enforced statewide and by each agency.
8. After-the-fact evaluation forms should be completed upon the close-out of each project. Once the form is completed, FM should consider meeting with the consultant to discuss the results of the evaluation and have the consultant sign the after-the-fact evaluation form.
 - This practice is not consistently being done. FM will determine what projects (i.e. dollar threshold, type of project, etc) should require an after-the-fact evaluation form and meeting and will incorporate into its policies and procedures.
9. FM should develop a process that allows all eligible employees to participate in the A/E selection process.
 - FM's current process does allow all eligible employees to participate in the selection process. FM selects employees to serve on panels based on their expertise and current workload.
10. FM should implement a policy to adhere to the fee schedule while thoroughly documenting the payment calculations, any deviations from the fee schedule, and the approval of those deviations in the project file.
 - This is FM's current practice and will be incorporated into the policies and procedures.
11. The end-user should be required to enter the contract identification number and a detailed transaction description into the State's accounting system when processing a payment.
 - Project numbers and contract identification numbers are the same. OMB/DFM's current practice is that project numbers are entered into the chartfield coding for purchase orders in FSF.
12. FM should make every effort to aggregate vendor payments, if payment due dates fall within one to two weeks of each other.
 - Aggregating payments is an ongoing effort that has been improved with the implementation of FSF. While DFMS did not aggregate vendor payments FSF consolidates payments to vendors on a statewide basis.

Auditor's Follow-up Comments to Auditee Responses

- ^{R1} AOA understands that FM used the appropriate object codes; however, the use of the professional services object class is incorrect. Therefore, FM needs to work with the State Division of Accounting to correct this issue. The Director of OMB has committed to addressing these issues in First State Financials (FSF), the State's new accounting system.
- ^{R3} FM's current process is inefficient and inconsistent with other entities that practice project management. FM must be thoughtful in the re-evaluation of their process; therefore, we recommend the review to reduce redundancy. AOA revised the wording of the original recommendation from "eliminate redundancy" to "reduce redundancy".
- ^{R4} At FM's own admission, there were issues with inconsistent and incomplete documentation; therefore, AOA's recommendation stands as written.
- ^{R7} FM's response does not address the recommendation and the internal control issues addressed in this report.
- ^{R11} FSF, the State's new accounting system, is expected to address these issues.

Appendix A

Survey Methodology

AOA created a survey using an online surveying tool and published the survey to the web. Using FM's Organizational Chart and through interviews with FM Management, AOA identified key personnel who work closely with consultants and used this information to select survey participants. In addition, AOA haphazardly selected various employees to participate in the survey. Forty-three FM employees were asked to participate in the survey.

Participant's Position	Method of Selection	# of Participants Selected
Administrative Specialist	Haphazard	5
Architectural Associate	Identified as Key Personnel	1
Building Support Systems Engineer	Identified as Key Personnel	3
Conservation Technician	Haphazard	2
Conservation Technician Manager	Haphazard	1
Construction Project Administrator	Identified as Key Personnel	1
Construction Project Manager	Identified as Key Personnel	10
Custodial Superintendent	Haphazard	1
Custodial Worker	Haphazard	1
HVAC/Refrigeration Technician	Haphazard	1
Indoor Air Quality Program Manager	Identified as Key Personnel	1
Management Analyst	Haphazard	1
Office Manager	Haphazard	1
Physical Plant Maintenance	Haphazard	1
Physical Plant Maintenance Superintendent	Haphazard	3
Physical Plant Maintenance Supervisor	Haphazard	2
Physical Plant Maintenance Trades Mechanic	Haphazard	6
Energy Risk Manager	Identified as Key Personnel	1
Real Property Specialist	Haphazard	1

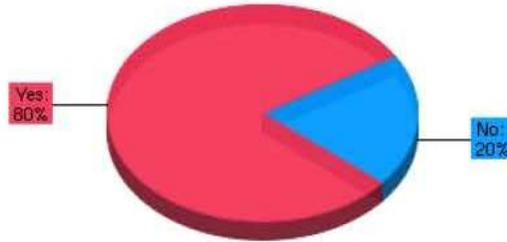
AOA sent the published web-link to selected FM personnel using the AOASurvey@state.de.us e-mail account, which was created specifically for AOA's surveying purposes. AOA requested that employees complete the survey utilizing the web-link provided. AOA received responses from 30 of the 43 selected participants. Some participants chose not to answer the survey in its entirety.

The responses to all closed-ended questions are provided below. The responses to all open-ended questions have been excluded from this report in order to protect the identity of the respondents.

Appendix A

Survey Results

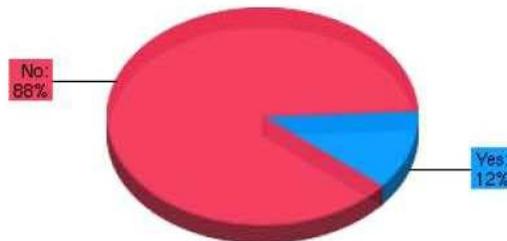
1. To your knowledge, does your agency utilize the work of consultants?



Value	Count	Percent %
Yes	24	80%
No	6	20%

Statistics	
Total Responses	30

2. Do you believe that consultants are hired in your agency instead of filling vacancies?



Value	Count	Percent %
Yes	3	12%
No	22	88%

Statistics	
Total Responses	25

Appendix A

3. If you responded Yes to the previous question, in your opinion, is the practice of hiring consultants to fill vacancies working well for your agency?



Value	Count	Percent %
Yes	2	13.3%
No	1	6.7%
N/A	12	80%

Statistics	
Total Responses	15

4. In a typical workweek, do you spend time working with consultants?



Value	Count	Percent %
Yes	17	68%
No	8	32%

Statistics	
Total Responses	25

Appendix A

5. If you responded Yes to question #4, what percentage of your day do you spend assisting consultants?



Value	Count	Percent %
0 - 25%	14	77.8%
25 - 50%	3	16.7%
50 - 75%	1	5.6%
75 - 100%		0%

Statistics	
Total Responses	18
Sum	125.0
Average	31.3
StdDev	10.83
Max	50.0

6. If you responded Yes to question #4, what percentage of your day do you spend reviewing the work of consultants?

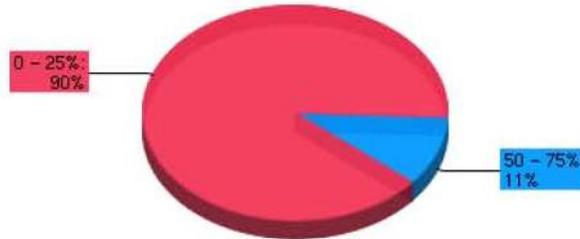


Value	Count	Percent %
0 - 25%	13	68.4%
25 - 50%	4	21.1%
50 - 75%	2	10.5%
75 - 100%		0%

Statistics	
Total Responses	19
Sum	200.0
Average	33.3
StdDev	11.79
Max	50.0

Appendix A

7. If you responded Yes to question #4, what percentage of your day do you spend supervising or monitoring consultants?



Value	Count	Percent %
0 - 25%	17	89.5%
25 - 50%		0%
50 - 75%	2	10.5%
75 - 100%		0%

Statistics	
Total Responses	19
Sum	100.0
Average	50.0
Max	50.0

8. In your opinion, is the amount of time spent working with consultants (assisting, reviewing their work, monitoring, etc.) excessive?

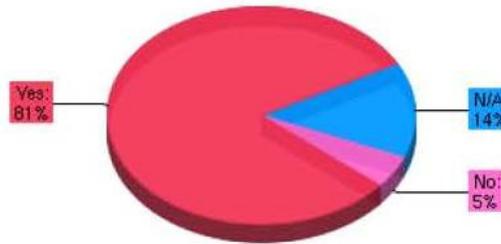


Value	Count	Percent %
Yes		0%
No	21	100%

Statistics	
Total Responses	21

Appendix A

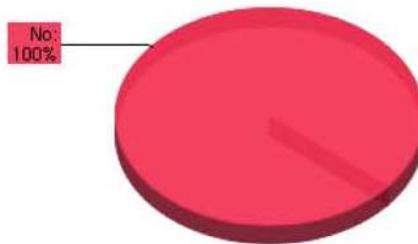
9. Do you feel that recommendations made by consultants (if applicable) are effectively implemented by your agency?



Value	Count	Percent %
Yes	17	81%
No	1	4.8%
N/A	3	14.3%

Statistics	
Total Responses	21

10. In the event that a contract is not awarded through the competitive bid process, are you aware of any related parties or conflicts of interest (for example, a close relative or friend who is associated with the consulting organization) with regards to your agency and the hiring of consultants?



Value	Count	Percent %
Yes		0%
No	23	100%
N/A		0%

Statistics	
Total Responses	23

Appendix A

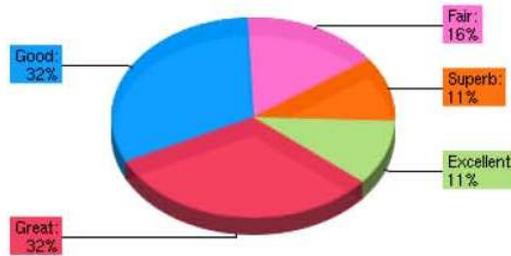
11. Based on your previous work with consultants, are you satisfied with the level of service and the quality of work received?



Value	Count	Percent %
Yes	16	76.2%
No	3	14.3%
N/A	2	9.5%

Statistics	
Total Responses	21

12. How would you rate the level of service provided by consultants at your agency?

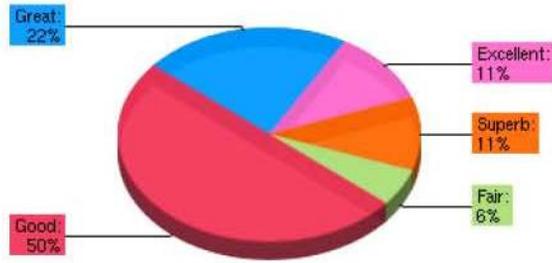


Value	Count	Percent %
Superb	2	10.5%
Excellent	2	10.5%
Great	6	31.6%
Good	6	31.6%
Fair	3	15.8%
Poor		0%

Statistics	
Total Responses	19

Appendix A

13. How would you rate the quality of work provided by consultants at your agency?



Value	Count	Percent %
Superb	2	11.1%
Excellent	2	11.1%
Great	4	22.2%
Good	9	50%
Fair	1	5.6%
Poor		0%

Statistics	
Total Responses	18

14. Would you be willing to speak with the AOA staff regarding follow up on your responses to this survey?



Value	Count	Percent %
Yes	13	54.2%
No	11	45.8%

Statistics	
Total Responses	24

Distribution of Report

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The Honorable Thomas J. Cook, Secretary, Department of Finance
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Ms. Valerie Watson, Acting Director, Division of Accounting

Legislative Branch

The Honorable Russell T. Larson, Controller General, Office of the Controller General

Other Elective Offices

The Honorable Joseph R. Biden, III, Attorney General, Office of the Attorney General

Other

Mr. Dennis Groom, Director, Division of Facilities Management, Office of Management and Budget
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