

Solutions

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State Comptroller

Office of the State Comptroller
Division of Management Audit & State Financial Services

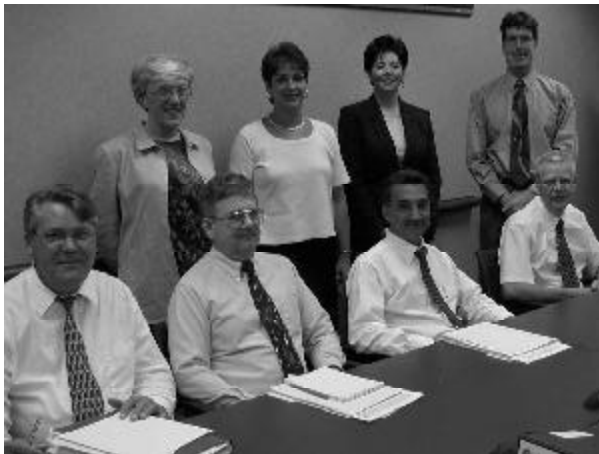
New Contract Management System Development Underway

In December 2001, the Bureau of Contracts embarked on an exciting initiative which, when implemented, will significantly improve and streamline OSC's contract review and approval process.

Incorporating a technology solution, the Bureau will replace many functions of its current paper-based process with a system that contains the automated tools necessary to better proactively manage an average

annual volume of more than 14,000 new contracts, 30,000 contract amendments

and 1,200 purchase orders, with a value exceeding \$10.9 billion per year. Most importantly, the system will include the technical architecture needed to support the future implementation of a variety



Project Team for the Contract Management System: (front row) Jim Sheriff, Gregory Wisnewski, Dave Vitale, Rich Hill, (back row) Anne Marie Hislop, Michelle Jackson, Annette Franchini, Tony DiVirgilio.

of e-Government initiatives, such as e-Procurement, e-Grants, and the Electronic Signatures and Reporting Act (ESRA). In addition, using data gathering techniques, the system will allow the Bureau to target and tailor its training and outreach initiatives so that they are

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OSC Briefs Agencies on "PayServ"

Improvements

In June 2002, OSC's Payroll System Upgrade Project staff briefed more than 400 agency representatives around the State on key improvements that will result from the system upgrade, scheduled for mid-2003.

Improvements will include: a shift to a web-based, browser environment; major changes to streamline garnishment processing; the replacement of mailed notification letters to agencies with Online Reveal software reports; and the introduction of employee self-service to view paycheck data through a pilot program.

According to Assistant Deputy Comptroller Ray Casey, the name of the payroll system will also change from PaySR (adapted from the Payroll System Replacement Project) to PayServ. "The new name reflects our attention to customer service," said

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Statewide Project Outreach for Procurement Training

During the past 18 months, OSC's Contract Bureau has implemented a highly-rated, successful Statewide Project Outreach. Project Outreach is a customer service initiative designed to provide State agencies with both on-site training using procurement training modules and customized technical assistance as needed. The Contract Bureau is both supporting agency requests for training and taking a proactive approach. Through the use of analytical tools, the Bureau identifies specific agency training needs. Once the training need is identified, a training module is developed, the scheduling needs are coordinated and training session(s) is delivered for the benefit of the specified agency. In addition to the formal training, the Bureau has dedicated staff to respond to daily questions regarding specific procurement problems or needed technical assistance.

Since Outreach's inception 18 months ago, 3,000 staff in over three-dozen agencies across New York State have received training. According to Joan Sullivan, Director of Contracts,

"Statewide Outreach is a critical mission for the Contract Bureau and is tantamount to good customer service. There is a direct correlation between training received and an increase in the quality of procurement documents reviewed by OSC."

Project Outreach is an invaluable tool for staff development as Mary Meister, Deputy Commissioner for the Office Of Temporary and Disability Assistance (OTDA) asserts. She states, "Staff attending the sessions consistently rated the presentations as excellent. The extensive knowledge and informal, conversational manner were most impressive to the participants. Experienced and newer staff both were able to benefit from the training."

Since purchasing authority for most State agencies is contained in the State Finance Law, particularly Article 11 (the Procurement Stewardship Act), many of the training modules are designed to provide insight into the intricacies of the Law, the application of the Law in State purchases and the business rules implemented to ensure compliance. For

those agencies and purchases governed by separate or additional laws, the Contract Bureau's expert staff provides tailored training modules that employ the applicable law and the corresponding business rules to ensure compliance.

If you are interested in receiving training or would like to learn more about our outreach efforts, please e-mail Pam Russell at prussell@osc.state.ny.us or phone her at (518) 486-3075. The following are a few examples of the modules available for on-site agency training:

Pitfalls: A discussion of a wide scope of common problems agencies face when procuring goods and services. It is intended to help State procurement officials obtain protest-free and approvable contracts by sharing some preventive measures.

Request for Proposals: This presentation will assist agency representatives in developing the Request for Proposals (RFP) and it highlights important details to be

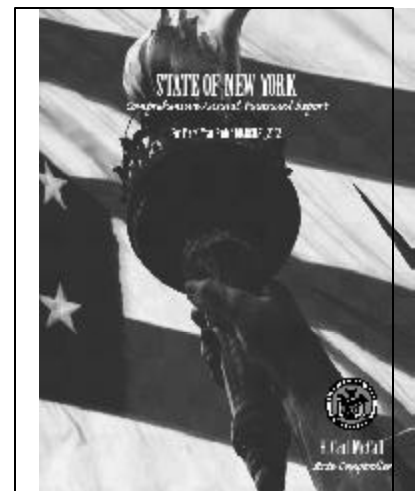
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2002 Fiscal Year End Highlights

The 2002 Comprehensive Annual Financial Report and the State Comptroller's 2002 Report on the Financial Condition of New York State are now available. For the 13th consecutive year, the Comptroller's Office was awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association. The award was presented for the 2001 Comprehensive Annual Financial Report. You can view the reports on the State Comptroller's website at www.osc.state.ny.us.

Highlights of the reports include:

- The State recorded a General Fund GAAP operating deficit of \$3.4 billion compared with a \$32 million operating surplus in 2001.
- The General Fund GAAP operating deficit follows six consecutive years of operating surpluses.
- The General Fund is reporting a GAAP accumulated surplus of \$493 million compared to



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Agencies Cannot Delegate Responsibility for Proper Internal Controls

Many State agencies contract with outside service organizations to provide such services as medical claims processing, data processing, tax receipt processing, revenue collection, and Internet data services. When a State agency manager decides to rely on an outside service organization, it is incumbent upon the State agency manager(s) to assess the internal control systems in place at the service organization to ensure that:

- the services are provided economically, efficiently and effectively;
- State resources are safeguarded against loss due to waste, abuse, mismanagement, errors, and fraud;
- the services are provided according to laws, regulations, contracts and management directives; and,
- the outside organization is able to produce reliable financial and management data.

To ensure appropriate control systems are in place at outside service organizations, it is best to define the

requirements and include them in the contract. Appropriate guidance for identifying elements of a good system of internal control can be found in the State Comptroller's **Standards for Internal Control in New York State Government**. You can access the State Comptroller's guidance at: <http://www.osc.state.ny.us/audits/audits/controls/ics.htm>.

In assessing the controls during the course of the contract term, there are several options available to agency managers. For example, many outside service organizations are the subject of independent audits on behalf of user organizations. These audits are commonly known within the auditing industry as SAS 70 Type I or Type II audits. It would be appropriate to rely upon the SAS 70 Type II audit if the auditor believes the control systems are working appropriately – these audits are more comprehensive and the auditor tests to see if the controls are operating effectively. In a SAS 70 Type II audit, the auditor's report should address

whether:

- controls were suitably designed to achieve specified control objectives;
- controls had been placed in operation at a specific date; and,
- controls tested were sufficiently effective to provide reasonable assurance that control objectives were achieved during the period specified.

In the absence of a SAS 70 Type II audit, it may be appropriate to assign your agency's internal auditor the task of assessing whether the control systems are working as intended at the service organization. If an internal auditor is not assigned to your agency and the contract represents a significant aspect of your operations, it may be necessary to require, as a condition of the contract, that the service organization obtain a SAS 70 Type II audit.

If you have questions on this topic or you require more information, please contact David R. Hancox at 518-402-4104.

Statewide Project Outreach for Procurement Training

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addressed in the development and evaluation steps of the award process.

Procurement Stewardship Act: Familiarizes participants with the 1995 Legislative Act, amended in June 2000, which currently governs many State procurements. Participants will be guided through sections of this Act, describing the necessary application of its provisions.

Invitation for Bids: Provides assistance in developing Invitation for Bids (IFB) and provides guidance for completing the various stages of the award process.

Contract Approval Process: What happens to your contract package after it is received by the State Comptroller's Office? This module provides in-depth look at what happens behind the "scenes" at OSC.

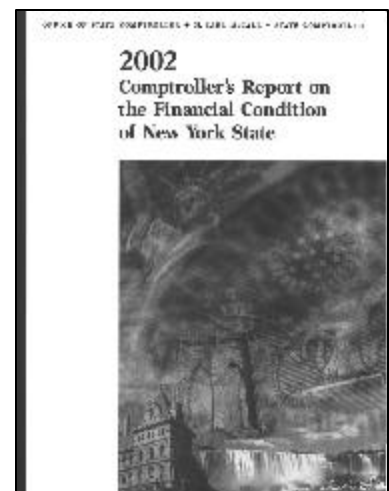
2002 Fiscal Year End Highlights

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a \$3.9 billion surplus in 2001.

- The State had a General Fund cash basis operating deficit of \$1.918 billion compared with a \$269 million operating surplus in 2001.

- Total debt outstanding was \$36.5 billion at March 31, 2002, a decrease of \$400 million over the prior year.



GAO Issues Questions and Answers Document on Auditor Independence

In July 2002, David M. Walker, Comptroller General of the United States, released important guidance on auditor independence requirements under *Government Auditing Standards*. These standards, which were first published in 1972 and are commonly referred to as the “Yellow Book,” cover Federal entities and those organizations receiving Federal funds. Various laws require compliance with the Comptroller General’s auditing standards in connection with audits of Federal entities and funds. Furthermore, many States and local governments and other entities, both domestically and internationally, have voluntarily adopted these standards.

On January 25, 2002, GAO issued

significant changes to *Government Auditing Standards* related to auditor independence, which substantially changed the previous standard especially regarding nonaudit, or consulting services. In issuing the new standards in January, the Comptroller General stated that protecting the public interest and ensuring public confidence in the independence of auditors of government financial statements, programs, and operations, both in form and substance, were the overriding considerations in his decision to issue these new standards.

Because of the significant effect on audit organizations of the new independence standards’, GAO indicated plans to subsequently provide further guidance

to assist in its implementation. This new guidance responds to questions related to the independence standards’ effective date, implementation time frame, underlying concepts, and application in specific nonaudit circumstances.

According to the Comptroller General, in making judgments on independence under *Government Auditing Standards* and applying the principles and safeguards established by the new independence standards, audit organizations should take a “substance over form” approach and consider the nature and significance of the services provided to the audited entity on a facts and circumstances basis. Before an audit organization agrees to perform

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Congress Increases Control Over Accounting Profession

On July 30, 2002, President Bush signed the Sarbanes-Oxley Act of 2002 into law. The Act was initially passed by the Senate by a 99-0 vote and by the House by a 423-3 margin. The Act affects CPA firms, publicly traded companies, attorneys who work for publicly traded companies and brokers, dealers and investment bankers, and establishes more controls and oversight over accounting and reporting procedures. The law establishes a five-member New Public Company Accounting Oversight Board (PCAOB), to be appointed by the SEC, with two members being CPAs, to oversee accounting firms. This board will be responsible for registering accounting firms and establishing auditing, quality control, ethics, and independence standards as well as investigating and disciplining firms to ensure compliance

with the Act. Workpapers and other audit-related documentation must be maintained by the auditors for a period of seven years and the Board may ask for various sanctions, including fines up to \$750,000 in response to violations of the Act.

The Act bans CPA firms from performing most consulting work for audit clients, precludes the audit of firms who have high level employees who were members of the audit team within the past year, mandates audit partners be rotated after five consecutive years of working with a particular client and establishes corporate and criminal fraud liability for various violations.

The Act also identifies several requirements to be met by audited corporations, such as a prohibition of

making untruthful statements to the auditors, establishment of a code of ethics for financial officers, affirmation of the financial statements by CEOs and CFOs, establishment of penalties for fraud, prohibitions of insider trading and the creation of additional rules relative to enhanced financial disclosures. Regulations would also be established to require conflict of interest disclosures by securities analysts and brokers as well as requiring attorneys to report violations of the Act.

It is hoped that passage of the Act by such a wide margin will provide a signal to both the accounting profession and corporate officers that it is critical to the future of the economic stability of the nation that enhanced control guidelines and mandates be closely adhered to.

Is It a Purchase Contract or Is It a Revenue Contract?

As staffing levels shrink, State agencies face a growing challenge to successfully carry out their missions. And, to help meet this challenge, agencies are looking for creative, alternative ways to procure necessary goods and services.

One way agencies are creatively procuring is to “barter” the opportunity for the vendor to generate revenues for its business in return for providing the agency with a good or a service. For example, one State agency recently entered into a contract with a vendor to provide important messages to the agency’s customers via television monitors the vendor would set up in agency offices throughout the State. The cost to the agency - \$0.00! In return for providing this service, the agency granted the vendor the right to sell advertising. The contract had certain provisions that limited the kind of advertising the vendor could include with the messages and reserved for the agency the right to veto any advertisement deemed inappropriate and/or unacceptable to the State.

Although this has not yet been tried, another creative way to procure a needed good or service might be to allow a vendor to use the agency as a test case. In this scenario, a vendor supplies a new product or service at no cost to the agency. In return, the agency uses that product or service and reports back to the vendor on the results.

Not all of the alternative arrangements we are seeing are no-cost contracts. Some actually generate a little revenue for the State as well. In fact, whenever a vendor is willing to provide a good or service in return for the opportunity to make money for itself, we recommend the contract include a revenue sharing

provision. Usually, these provisions require revenue to be shared once a certain threshold has been passed.

If you are involved with State contracting, you know that contracts \$15,000 and over must be approved by the State Comptroller. This approval is required by the State Finance Law. What you may not realize is that this provision covers only those contracts that will result in State expenditures. If a contract does not involve the expenditure of State money, the OSC approval threshold is \$10,000. In addition, if you buy goods and services for the State, you know that, generally, purchases over \$15,000 have to be competitively bid. However, while these provisions of the State Finance Law govern most purchase contracts, they do not apply to revenue contracts. There is no specific law governing revenue contracts. However, it is OSC’s policy that, as a condition of its approval, a fair and impartial competitive process must generally be adhered to.

So, as agencies continue to seek new ideas in contracting, they often must determine whether a prospective contract: (1) is a purchase contract governed by the State Finance Law, (2) is a revenue contract subject only to a “fair and impartial competitive process,” and, (3) must be approved at \$15,000 or at \$10,000?

The answers to these questions are actually quite simple. If the primary purpose in entering into the contract is to procure goods and services needed to carry out the agency’s mission, it is a purchase contract and the procedures required by the State Finance Law should be followed. It does not matter that the vendor will be compensated in some manner other than the State



paying money to that vendor. Another way to look at it is if the agency would otherwise have to procure these goods or services and pay for them with State money, then it’s a purchase contract. And, when an alternative compensation method is used, the contract must be approved by OSC if the value of the goods or services received is \$10,000 or more.

If the true purpose of the contract is to generate revenue for the State, it is not a purchase contract, it is a revenue contract, the award of which is not subject to any specific law, but rather a “fair and impartial competitive process.” OSC approval will be required if the value of the contract is \$10,000 or more.

The best way to ensure a fair and impartial competitive process is to adhere to the procedures established in Sections 160-168 of the State Finance Law. Following these procedures, even when not required, protects the agency against charges of favoritism, fraud and corruption in awarding public contracts. It ensures no one can argue that the agency is attempting to avoid the competitive bidding laws and further ensures that the awarded contract optimizes the revenues received in return for the consideration that the State is giving. Finally, it makes the agency’s decision simple.

Do you have a contracting question or issue you’d like to discuss? Please contact James Hettie at (518) 486-3037.

Audit Alert – How Secure Are You?

In light of terrorist activities, it is important that every State manager and employee work to ensure State assets and personnel are safeguarded. OSC, in conjunction with the Attorney General's Office and the Department of State, has uncovered serious weaknesses with some security guard companies that employ unqualified security guards, some of whom have faked credentials, some of whom may be convicted criminals. Who's guarding your facility?

A joint audit of security guard companies employed under the statewide contract

has identified alarming findings. Hundreds of security guards did not have the required criminal background checks. None of the guards in our audit met all of the minimum qualifications required by the contract terms. Several guards had drunk driving convictions, others had tested positive for drug use, and others have fake social security cards and other credentials. Many were not even registered with the Department of State as required by law.

Protection of individuals and agency property are two important tasks of

security. Regardless of the advanced technology used to secure facilities, the need for quality security personnel is increasing. The advantage of qualified security personnel is they have the freedom of movement to make necessary patrols and respond to emergencies and emerging conditions. They can also make intelligent decisions during periods of crisis.

It is every agency manager's responsibility to ensure legally and contractually qualified security guards are on duty at your facilities.

New Contract Management System Development Underway

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agency or topic specific. This front-end assistance should help improve the overall quality of procurement documents received in OSC for review and thereby expedite approval.

The Contract Management System Project, is divided into four distinct phases. Phase One, which is scheduled for implementation in late March 2003, will include the following functionality.

- An automated workflow component allowing assignment and tracking of all contracts received in the Bureau of Contracts.
- An interactive auditing section that will enhance the contract review process for each method of award.
- Routine, custom, and ad hoc reporting and query capabilities.
- A data capturing component, allowing the tracking of contract terms, budgets and payment information.
- "Flags" built in to identify general areas of concern to the contract reviewer, or for post-audit purposes.
- An interface with the Central Accounting System.
- Links to pertinent websites and databases to assist auditors in completing a contract review.

Phases two, three and four of the project include other important features integral to the future of effective contract management, such as enhanced workflows and reporting capabilities, correspondence generation and a web-enabled component which will grant authorized agency representatives "rights" to obtain the review status of individual contracts. Planning for these additional functionalities will begin this winter.

Please contact Annette Franchini, Project Manager at (518) 486-3003 or by e-mail at afranchini@osc.state.ny.us if you would like to learn more about this contract management initiative.

Customers Collaborate To Create Payroll Performance Measures

Last year, as part of a strategic planning process, the Bureau of State Payroll Services established performance indicators to measure payroll timeliness, accuracy, cost-effectiveness and customer satisfaction.

It quickly became clear, however, that measuring the Bureau's performance could not tell the full story. The State payroll process is a highly collaborative effort between OSC and agency payroll offices that collect and process the data used to generate paychecks. In order to truly measure our effectiveness, we had to measure agency performance as well.

At a meeting of the New York State Payroll Users Group, the Payroll Bureau's Management Information Analysis Unit posed five key questions:

- Are State employees paid on time?
- How long does it take to pay State employees on time?
- Are State employees paid accurately?
- How successful are we in increasing Direct Deposit?
- Is OSC providing timely information to our agency partners?

"We were delighted with the agency representatives' response," said Robin Rabii, Bureau Director. "They share our belief that processing payroll for State employees is a partnership endeavor and demonstrated their own eagerness to assess the accuracy and timeliness of their part of the process."

The Bureau compiled and shared data on the number and value of late and post-termination payments, days it takes to pay employees accurately, new and outstanding overpayments and employee refunds, direct deposit participation, and bulletin timeliness in the form of "Agency Report Cards." Agencies can compare their own data with statewide figures so they can match their performance with that of their peers.

Using the "Report Card" data as a benchmark, Bureau staff have begun meeting with a new subcommittee of the Payroll Users Group, including representatives from the State University and City University campuses, the Courts, the Department of Transportation, State Education

Department, and the Office of Mental Health.

"Our goal is to set performance standards and develop a strategy for introducing them to all agencies in the State payroll community," said Rabii. "The fact that the standards will be set and recommended by the New York State Payroll Users Group demonstrates the organization's dedication to quality and its willingness to work with the Bureau of State Payroll Services to achieve it."

The jointly developed performance measures will be used to identify and acknowledge agency best practices and improve processing procedures and internal controls. "Statewide performance measures will give agencies a shot in the arm," said Pat Rothaupt, Project Director, Office of Mental Health. "It will spur them to be prospectively more vigilant. This initiative mirrors what we have begun in our own agency and underscores the current need for hard data reflecting current payroll performance."

OSC Briefs Agencies on "PayServ" Improvements

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Casey. System changes are also planned to protect employee privacy, improve data access and reporting for agencies, and increase payroll processing efficiency.

A second round of regional information sessions this Fall will provide more in-depth information on system changes and assist agencies in assessing the upgrade's impact on their daily payroll operations. For further information regarding these and future sessions,

contact Judy Thomson, Project Change Management Lead, at jvthomson@osc.state.ny.us. The Project plans to post detailed questions and answers from the June and future sessions on the Bureau of State Payroll Services web page at www.osc.state.ny.us/payroll.



Upgrade Project Director Dan Berry, seated second from left, helped to answer questions from agency representatives.

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GAO Issues Guidance on Auditor Independence

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nonaudit services, it should carefully consider the need to avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the auditor is not able to maintain independence in conducting audits. It is important that auditors always be viewed as independent both in fact and appearance.

Importantly, when the independence standard was issued, GAO called for its provisions to be applicable to all audits for periods beginning on or after October 1, 2002. Because of the breadth of changes in the amendment and to allow additional time for the new independence standard's effective implementation, GAO is extending its effective date to be applicable to all audits for periods beginning on or after January 1, 2003.

Also, GAO's original intent was that any nonaudit service contract awarded on or after January 25, 2002, would not be exempt, or grandfathered. However, GAO has found that some audit organizations may not have understood this or were not aware of the standard until sometime after it was issued on January 25, 2002. To be fair to these audit organizations and other interested parties, GAO will exempt, or grandfather, all nonaudit services that were initiated, agreed to, or performed by June 30, 2002, provided the work is completed by June 30, 2003.

An electronic version of *Government Auditing Standards: Answers to Independence Standards Questions* (GAO-02-87OG, July 2002) is available on the GAO Internet site (<http://www.gao.gov/govaud/ybk01.htm>).

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