



New York State Department of Motor Vehicles

Contracts for Personal and Miscellaneous Services

Report 2009-S-50



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

July 1, 2010

Mr. David J. Swarts
Commissioner
New York State Department of Motor Vehicles
6 Empire State Plaza
Albany, NY 12228

Dear Mr. Swarts:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of Contracts for Personal and Miscellaneous Services. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objectives

One objective of our audit was to determine whether the Department of Motor Vehicles (Department) justified the need to contract for personal and miscellaneous services. Another objective was to determine whether the Department periodically reassessed personal and miscellaneous services contracts to identify what work could be deferred, eliminated, or reduced to save State funds.

Audit Results - Summary

Various directives from the New York State Division of the Budget and the Governor's Office include the need for State agencies to justify their personal and miscellaneous service contracts (Service Contracts) and to reassess whether they can be deferred, eliminated or reduced to help achieve overall budgetary reductions and related cost savings. These directives have added significance because in August of 2008 the Governor required State agencies to achieve spending reductions of 10.35 percent for State fiscal year 2008-09. For the period April 1, 2006 through June 25, 2009, the Department had 131 State-funded Service Contracts valued at \$287 million.

We found that the Department generally justified the need for new and renewed Service Contracts. For example, we reviewed a sample of 25 Department Service Contracts valued at \$113.9 million and found that the Department had documented justification for the need for 22 of these contracts valued at \$106.6 million. However, no documentation was available to justify the need for the remaining three Service Contracts valued at \$7.3 million because the Department considered the need for the contracts to be self evident. We believe that supporting documentation is still necessary to adequately establish that the Department has reached the correct conclusions about the need for contracted services and the extent of opportunity for reducing contract scope to achieve savings.

Department officials told us their overall cost reduction efforts were successful and yielded \$26.5 million of savings. However, these efforts only included reassessment of five Service Contracts accounting for \$1.6 million of savings. The Department did not provide documentation to support that it reassessed all of its Service Contracts. Therefore, the Department may be missing opportunities to further reduce costs and save State funds. For example, we noted that if the Department reassessed one contract for security staffing and could identify a reduction of just one security staff at each of ten offices, a savings of about \$728,000 would result.

Our report contains two recommendations for improving Department efforts to attain savings through justification and reassessment of Service Contracts. Department officials agreed with our recommendations and indicated they will be implemented.

This report, dated July 1, 2010, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or

Office of the State Comptroller

Division of State Government Accountability

110 State Street, 11th Floor

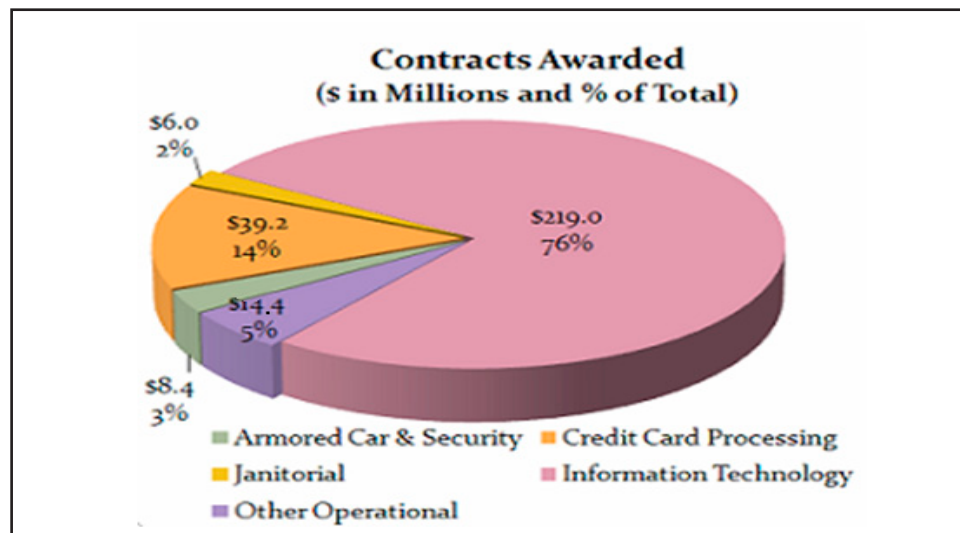
Albany, NY 12236

Introduction

Background

The mission of the Department is to promote traffic safety, protect consumers, verify identities and issue secure documents, provide information services, and collect revenues. To help achieve its mission, the Department enters into personal and miscellaneous service contracts (Service Contracts). Service Contracts typically cover such items as research and analysis, data processing, computer programming, engineering, environmental assessments, health and mental health services, accounting or auditing, or other similar services.

According to its records, the Department had 131 State-funded active Service Contracts (excluding construction services) with a total value of more than \$287 million during the period April 1, 2006 through June 25, 2009. These contracts are categorized in the following chart:



The following directives issued from the New York State Division of the Budget and the Governor set forth expectations for State agencies to make sure that expenditures, including Service Contracts, are justified and are periodically reassessed:

- State Budget Bulletin H-1025, which became effective July 31, 2003, requires agency management to review all contracts (both new and renewals), including those that involve service delivery to affected citizens, to ensure that lower priority, overlapping or otherwise inefficient activities are eliminated. This Bulletin was in effect until the end of our audit fieldwork in September 2009.

- State Budget Bulletin B-1178, which became effective April 21, 2008, requires agency management to scrutinize all programs and operations to identify opportunities to eliminate less important activities and spending on non-essential items. It further requires agencies to develop plans to identify cost-savings and recurring savings. In this regard, under B-1178, agencies are required to scrutinize spending for contractual services among several other items. Furthermore, B-1178 requires agencies to develop plans that include a framework for continuing fiscal year 2008-09 savings through to fiscal year 2011-12.
- State Budget Bulletin B-1183, which became effective August 21, 2008, requires State agencies to review all agency programs and operations to identify opportunities for eliminating less essential activities and spending on non essential items.
- On June 4, 2008, the Governor issued Executive Order No. 6 (Order) requiring State agencies not to enter into Qualified Personal Services Contracts (e.g. engineering, research and analysis, data processing) exceeding \$1 million or more of personal service over any 12-month period unless the agency first determined that: (a) the contractor can carry out the task more efficiently or effectively than state employees; (b) the contractor can carry out the task for a lower cost than state employees; or (c) the contract is necessary to protect the public health or safety, or is for some other compelling reason.

Both the Budget Bulletins and the Order have added significance given the State's increasing fiscal difficulties. In this regard, in August 2008, the Governor directed that State agencies evaluate all programs and operations to identify opportunities to eliminate less essential activities and achieve spending reductions of 10.35 percent in State fiscal year 2008-09. As part of this responsibility, State agencies were to develop a detailed plan that described the agency's proposed process for reviewing/approving non-personal service spending. Agencies were expected to balance personal service and non-personal service reductions so as to not disproportionately impact either, and to ensure recurring savings in both categories.

Audit Scope and Methodology

One objective of our audit was to determine whether the Department justified the need for the services and the decision to contract out for personal and miscellaneous services (Service Contracts). Another objective was to determine whether the Department reassessed Service Contracts to identify what can be deferred, eliminated or reduced to help cope with the State's fiscal difficulties. For the purposes of our audit, Service Contracts are those in which the majority of the costs associated with the contracts are for services and labor. We did not include contracts for commodities or

capital construction. Our audit period was April 1, 2006 through September 11, 2009.

To achieve our objectives, we interviewed Department personnel, and reviewed contracts and other supporting documentation provided by the Department. We also reviewed relevant State laws, the Order and Budget Bulletins. We selected a judgmental sample of 25 Service Contracts totaling \$113.9 million from the 131 active contracts during our audit period. We selected our sample from contracts over \$50,000. The selection includes contracts for technology, janitorial, security/armored car, and other services.

We conducted our performance audit in accordance with generally accepted government auditing standards. 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.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

**Reporting
Requirements**

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this final audit report and are included at the end of the report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Motor Vehicles shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to the Report Major contributors to this report include Carmen Maldonado, Stephen Goss, Mark Ren, Brandon Ogden, Jeffrey Dormond, Michele Turmel, Michaela Siegel, and Sue Gold.

Audit Findings and Recommendations

Justification of Service Contracts

We selected a sample of 25 Service Contracts and reviewed available documentation to determine whether the decision to contract for services was justified with supporting documentation. The Department was able to demonstrate that it had formally evaluated and justified the need for 22 contracts totaling \$106.6 million. However, the Department did not have documentation showing that it formally evaluated the justification for the remaining three contracts, which total \$7.3 million. These contracts involve armored car services, security guard staffing and monitoring of defensive driving classes.

Department officials indicated that they decided these contracts were justified based on their experience and knowledge of the specific activities involved. Therefore, they did not formally evaluate them. They emphasized that lack of resources, cost and/or a lack of expertise preclude assigning this work to Department staff. For example, Department officials told us security guards are essential to public and employee safety, and the Department does not have in-house staff available for this aspect of operations.

We acknowledge that there are times when outside consultants must be hired. However, even in these cases, a documented analysis is important to fully support that the Department's conclusions are correct and that opportunities and options for cost savings have been fully considered.

In April 2009, the Department developed a Business Case Template to document project need, alternatives considered, cost-benefit, and any underlying assumptions used. In response to our preliminary findings, Department management indicated the Business Case Template will help document the justification for all Service Contracts.

Reassessment of Service Contracts

Based upon our review of the Department's efforts to scrutinize Service Contract spending, we believe additional savings opportunities may be possible. During the two years ended March 31, 2009, the Department spent, on average, about \$21 million annually through Service Contracts. As part of its 2008 budget reduction effort, Department officials told us they identified \$26.5 million of savings, including \$1.6 million in savings to be realized from five Service Contracts. This equates to about 7.6 percent of the Department's annual Service Contract spending. However, the Department did not have documentation demonstrating that it had reviewed and evaluated all of its Service Contracts, both current and planned, as part of its budget reduction effort. Such an analysis is essential to ensure that

management has identified all opportunities where the scope of contract work may be deferred, eliminated or reduced to generate cost savings.

For example, we previously noted that our sample included three contracts for which Department officials did not formally justify the need for outside services. While management may not have been able to eliminate these contracts, there is a possibility that some could have been scaled back in some manner. If the Department had been able to reduce the cost of these three contracts by just the 10.35 percent savings goal for overall budgetary reductions as set by the Governor, it would have saved \$750,000 over the term of the contracts. In fact, a detailed review of the need for these services may have disclosed that some of them could have been reduced even further, thereby achieving even greater savings. We noted that if the Department was able to reduce security staffing by just one guard at each of its 10 New York City-based offices that currently have more than one guard in place, it could achieve a 26 percent reduction in security staffing. This would equate to a \$728,000 savings from the \$2.8 million remaining on this one contract.

We found the Department's spending plan also projects the same level of savings (\$1.6 million) to be achieved from Service Contracts in both 2009-10 and 2010-11, although the Department provided no documentation to show how these future savings were determined or which Service Contracts would be impacted. After our fieldwork concluded, the Governor again called for agencies to reduce spending in future fiscal years; this time by more than 11 percent. Even if the Department were only able to reduce its annual Service Contract spending by a level equivalent to this 11 percent goal, we estimate it could increase annual savings by about \$700,000 to \$2.3 million.

Department officials told us managers do reassess whether all Service Contracts are still necessary on an annual basis. They also said that planned contracts receive the most scrutiny under the assumption that existing contracts have already been reviewed at least once and deemed necessary. However, they did not provide documents showing such reviews or the basis of decisions made during these reviews. Given the State's fiscal crisis, Department officials should reassess all Service Contract spending. If officials conduct a top-to-bottom review of every current and planned contract, it is likely they will find some services that could be reduced to achieve savings.

- Recommendations**
1. Executive management should communicate to appropriate staff the requirement to support Service Contracts with written justifications of the need for the service, the appropriate level of service, and the need to contract out.
 2. Instruct managers to periodically reassess all Service Contracts to identify opportunities to suspend, eliminate, reduce or bring them in-house, and to document their determinations.

Agency Comments



WAYNE L. BENJAMIN
EXECUTIVE DEPUTY COMMISSIONER

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April 26, 2010

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
123 William Street - 21st Floor
New York, NY 10038

Re: 2009-S-50 Draft Audit Report

Dear Ms. Maldonado:

Thank you for the opportunity to respond to the draft audit report regarding the Department's Contracts for Personal and Miscellaneous Services. We have reviewed the document and have the following comments concerning the recommendations in the draft report.

Recommendation 1 – *Executive management should communicate to appropriate staff the requirement to support Service Contracts with written justifications of the need for the service, the appropriate level of service, and the need to contract out.*

Department Comments – Executive management has communicated, and will continue to communicate that when the need for a service contract is identified, the need for the service, the appropriate level of service and the need to contract out should be documented and the justification be included with the procurement record.

Recommendation 2 – *Instruct managers to periodically reassess all Service Contracts to identify opportunities to suspend, eliminate, reduce or bring them in-house, and to document their determinations.*

Department Comments – Managers will be reminded to periodically reassess all service contracts to identify opportunities, if feasible, for savings, and to maintain records of such determinations.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of this State. If you have any questions concerning this matter, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne L. Benjamin".

Wayne L. Benjamin
Executive Deputy Commissioner