



THOMAS A. SCHWEICH
Missouri State Auditor

August 21, 2012

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Alana M. Barragán-Scott, Director
Department of Revenue
and
Douglas E. Nelson, Acting Commissioner
Office of Administration
Jefferson City, Missouri

Dear Governor Nixon, Director Barragán-Scott, and Commissioner Nelson:

This letter relates to our review of decisions made by the Department of Revenue (DOR) and Office of Administration (OA) to award and then cancel the contract to operate the Maplewood (formerly Deer Creek) Contract License Office. The OA awarded the contract to Deer Creek License Office Management, Inc., of St. Louis on May 18, 2012, and canceled the contract on May 31, 2012.

The objectives of our review were to determine if:

1. The proposal submitted by Deer Creek License Office Management Inc., of St. Louis was adequately and effectively evaluated by the DOR and OA.
2. The decision to cancel the contract was reasonable and properly documented.

Our review determined the OA awarded the contract to operate the Maplewood Contract License Office even though the bidder failed to meet certain requirements of the Request for Proposals (RFP). It is unclear why the DOR and OA did not consider the proposal to be insufficient at the time the bid was initially evaluated. In addition, while the DOR and the OA decision to cancel the contract was appropriate, no written documentation to support the rationale for subsequently canceling the contract with Deer Creek License Office Management, Inc., of St. Louis was retained. In addition, we noted concerns with the uncooperative and untimely nature in which the DOR addressed our requests for information. DOR responses to our requests and specific questions often lacked sufficient detail, did not directly address the question, and were not provided in a timely manner.

Methodology

The methodology to accomplish our objectives included (1) reviewing and evaluating certain aspects of the proposal submitted by Deer Creek License Office Management, Inc., of St. Louis to operate the Maplewood Contract License Office, (2) reviewing and evaluating proposal evaluation documents and other related information prepared by DOR and OA personnel, and (3) obtaining an understanding of applicable legal provisions.

Background - Contract License Offices

Pursuant to Section 136.030(2), RSMo, the DOR has the authority and responsibility for the collection of motor vehicle registration fees, driver license fees, motor vehicle sales and use tax, and all other taxes. Pursuant to Section 136.055, RSMo, the director of the DOR has appointed 183 contract agents to operate contract license offices. This section also provides that the State Auditor may audit the contract license offices. The DOR, License Office Bureau, under the management of the Motor Vehicle and Driver Licensing (MVDL) Division, is responsible for administering contract license offices throughout the state.

The OA awards contract license offices through a competitive bidding process, as required by Section 136.055.2, RSMo. This bidding process must give priority to organizations and entities that are exempt from taxation (not-for-profit) under the Internal Revenue Code, and political subdivisions such as municipalities, counties, and fire protection districts. Contracts for the license offices are typically for one year, with three one-year renewal periods. The contract agents do not receive compensation from the DOR, but do receive fees, set by statute, from customers for each type of transaction processed by the office. The contract may be canceled at the discretion of the DOR.

Although the OA, Division of Purchasing and Materials Management manages the bidding process for the contract license offices, the DOR assists with developing the terms of the Request for Proposals (RFP). In accordance with Chapter 34, RSMo, the contract license office contract must be awarded to the lowest and best offeror.

The DOR is responsible for evaluating bids and proposals for:

- Sales and service, efficient operations, and technical support.
- Personnel qualifications, financial stability, and past performance and experience.
- Oral conference, if needed.
- Compliance with state sales tax provisions.

The OA is responsible for determining and awarding points for:

- Not-for-profit or political subdivision status.
- Minority business enterprise/woman's business enterprise participation.
- The offeror's commitment to return to the state a percentage of earned processing fees.

The OA issued the RFP to operate the Maplewood Contract License Office in November 2011. The OA awarded the contract to Deer Creek License Office Management, Inc., of St. Louis on May 18, 2012, with the contract period set to begin on June 4, 2012. Ms. Kathleen Burkett is listed as President of the company. According to the DOR, for the year ended June 30, 2011, the Maplewood Contract License Office conducted 125,327 transactions and generated agent processing fees of \$418,222.

Results and Conclusions

During the initial evaluation of proposals, the DOR and OA did not ensure the financial stability documentation submitted was adequate, resulting in the OA improperly awarding the contract to operate the Maplewood Contract License Office. The financial stability requirement requires offerors to provide documentation in their bid/proposal verifying the availability of credit/assets for the offeror in the amount of at least \$105,000. Acceptable documentation includes (1) a document from a bank or other lending institution indicating that the offeror can obtain the amount of credit specified, or (2) an asset letter from a bank or other financial institution verifying the value of unencumbered assets equal to at least \$105,000. However, the Deer Creek License Office Management, Inc., of St. Louis proposal provided a bank letter which stated the bank "**commits to consider** a \$105,000 line of credit." The DOR needs to strengthen verification procedures to ensure offerors submit proposals that comply with the terms of the RFP.

The DOR and OA did not prepare and retain written documented support for the criteria and/or reasons considered when canceling the contract. The DOR indicated the decision to cancel the contract was made jointly by the DOR and OA, but there is no written documented criteria to support this decision. The DOR indicated the contract was canceled because the offeror failed to meet the obligation of the credit/asset verification requirement of the RFP by providing acceptable documentation. It is unclear why the documentation provided as part of the proposal was considered sufficient at the time the proposal was initially evaluated, but later determined to be unacceptable after the contract had been awarded. The DOR and OA needs to retain adequate documentation of actions taken related to contract awards to support the reasonableness and appropriateness of decisions made.

The DOR did not provide full cooperation during our inquiry related to decisions made regarding the award and subsequent cancelation of the Maplewood Contract License Office contract. A summary of our specific requests and the timing of responses is presented below:

- On May 25, 2012, we requested information from the OA documenting that the DOR had determined whether the offeror owed state taxes. On May 29, the OA referred us to the DOR for documentation.
- On June 4, we requested information from the DOR regarding the cancelation of the contract and the process to ensure all state taxes are paid. After several follow-up requests, we scheduled a June 11 meeting with the Director of the MVDL division, to discuss our request for information.
- Following the meeting, on June 13, the Director requested that we submit our questions in writing, which we did that day.
- On June 18, we received a response to our information request; however, the response lacked sufficient detail and did not fully address our questions, and some requested documentation was not provided. That same day and on June 21, we sent the DOR another request to provide additional information for questions not addressed.
- On July 19, after several more requests, the DOR provided additional responses to our requests submitted on June 18 and 21. However, the responses again lacked sufficient detail.
- On July 30, the DOR finally provided access to documentation indicating the DOR had properly determined whether the offeror owed state sales taxes.

Recommendations

We will review these issues further when we conduct a follow-up audit to Report No. 2012-28, *Contract License Offices Bidding and Procurement*, issued in April 2012. We are providing this information to the DOR and the OA at this time so appropriate corrective action can be made to procedures regarding the evaluation and awarding of contract license office contracts. We recommend the DOR take action to strengthen financial stability verification procedures prior to awarding contract license office contracts, and the DOR and OA ensure all actions related to the award and cancellation of contracts are properly documented.

Sincerely,

A handwritten signature in black ink that reads "Thomas A. Schweich". The signature is written in a cursive style with a large, sweeping initial 'T' and a long, horizontal flourish at the end.

Thomas A. Schweich
State Auditor