



Thomas A. Schweich
Missouri State Auditor

REVENUE and ADMINISTRATION

Contract License Offices Bidding and Procurement

April 2012
Report No. 2012-28



<http://auditor.mo.gov>



Thomas A. Schweich
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Department of Revenue and Office of Administration, Contract License Offices, Bidding and Procurement

Background

The Director of the Department of Revenue (DOR) appoints contract agents to operate the 183 contract license offices, throughout the state, responsible for collecting motor vehicle registration fees, driver license fees, and motor vehicle sales and use tax. In 2009, the DOR began awarding contract license offices through a competitive bidding process. The DOR assists with developing the terms of the Request for Proposals (RFP), and the Office of Administration (OA), Division of Purchasing and Materials Management manages the bidding process. Contract agents receive statutorily set fees for each type of transaction processed. Contract agents assessed and retained over \$30 million per year in total processing fees in fiscal years 2011, 2010 and 2009. We reviewed the competitive bidding process for 20 contract license offices.

Evaluation of Bids/Proposals

The DOR does not make its evaluation tool available to bidders. The current RFP lists the five categories for which points will be awarded, but does not provide potential bidders with the subcategories or maximum points per subcategory. In certain circumstances, bidders may earn up to 8 points in an oral conference during which DOR and OA personnel pose questions from a master list, but the DOR has no written criteria for evaluating the responses to help ensure it awards points fairly and equitably. Bidders also get extra points when the contract manager and office manager positions are filled by separate individuals because the DOR said it provides an extra level of supervision, but the DOR does not require contract managers to conduct documented supervisory reviews. During our audits of contract license offices, we found no evidence of such reviews. In one instance, we found DOR personnel failed to comply with evaluation criteria, preventing a bidder from participating in an oral conference, and potentially changing the award outcome.

Noncompliant Bids/Proposals

The OA does not always reject noncompliant bids/proposals. During 2009, the OA determined a not-for-profit entity (the NFP) was using a subcontractor for services directly required by the contract, which is prohibited by the RFP. The OA canceled the contracts for 10 affected offices but allowed the NFP to participate in the rebidding and continue to operate the offices during the rebidding and re-awarded the contracts to the NFP for eight contract license offices. In addition, the OA allowed the NFP to change its bids/proposals to a best and final offer (BAFO) for five other pending awards to make them comply with the RFP, against state regulation. The OA also accepted a late bid/proposal to a BAFO, even though state regulation provides that proposals received after the time set for opening of bids/proposals shall be considered late and not opened. Considering the noncompliant and late bids/proposals of some bidders puts other bidders at a disadvantage.

Preference Points	The DOR and OA increased the number of preference points for not-for-profit entities and political subdivisions by two points after the RFP had been issued and the evaluation criteria announced for certain contract license offices. In addition, neither the DOR nor the OA documented the reasons for increasing the number of preference points.
Return to State	In January 2009, the DOR and OA began awarding up to five RFP evaluation points based upon the bidder's willingness to return to the state a percentage of its earned processing fees. The total return to state for all contract license offices for the past 3 fiscal years equaled \$15,200 in 2009, \$707,750 in 2010, and \$1,073,500 in 2011. There is no statutory authority for the return to state provision. State law specifically establishes the various fees to which the contract license offices are entitled and specifies which entities are to be given priority (not-for-profits and political subdivisions); it says nothing about entities willing to return money to the state. In addition, the current practice has led to significant disparities, with some offices that agreed to return fees returning as much as 14.05% and others as little as .01%. If the DOR wants to recoup some portion of its oversight costs from the contract license offices, an administrative fee based upon the volume of transactions and/or state fees collected would be a more equitable approach.
Policies and Procedures	The DOR and OA need to improve several policies and procedures. Some awards of contract license offices were not timely. In 55 percent of the awards we reviewed, it took more than 6 months between the RFP date and the award date, including two which took more than 12 months. The DOR has not conducted analyses to determine whether it has the proper number of contract license offices, whether they are located in the appropriate locations, or what the fiscal impact is on the state and the taxpayers when an office is opened or closed.

In the areas audited, the overall performance of these entities was **Fair**.*

American Recovery and Reinvestment Act (Federal Stimulus) Not Applicable.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

All reports are available on our Web site: auditor.mo.gov

Department of Revenue and Office of Administration

Contract License Offices, Bidding and Procurement

Table of Contents

State Auditor's Report	2
------------------------	---

Introduction	
Background	4
Scope and Methodology	5

Management Advisory Report - State Auditor's Findings	
1. Evaluation of Bids/Proposals	8
2. Noncompliant Bids/Proposals	11
3. Preference Points	13
4. Return to State	15
5. Policies and Procedures	18

Appendixes	
A Contract Agents - As of June 30, 2011	21
B Timeline for Evaluation Criteria and Points Awarded	26



THOMAS A. SCHWEICH

Missouri State Auditor

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

In fulfillment of our duties under Chapter 29, RSMo, we have audited certain aspects of the Contract License Offices, Bidding and Procurement by the Department of Revenue and the Office Administration. The objectives of our audit were to:

1. Evaluate policies and procedures pertaining to the bidding and procurement of contract license offices.
2. Evaluate compliance with certain legal provisions pertaining to the bidding and procurement of contract license offices.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions, pertaining to the bidding and procurement of contract license offices.

Although the Department of Revenue and the Office of Administration established many critical internal controls necessary for the bidding and procurement of contract license offices, some controls need to be strengthened to enhance the integrity and credibility of the bidding and procurement process. In addition, for the areas audited, we identified noncompliance with legal provisions and the need for improvement in management practices and procedures.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards

require that we plan and perform our 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 such a basis.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	Harry J. Otto, CPA
Director of Audits:	John Luetkemeyer, CPA
Audit Manager:	Toni Crabtree, CPA
In-Charge Auditor:	Katie Twiehaus
Audit Staff:	Corey McComas, M.Acct., CPA Kelli Oldham

Department of Revenue and Office of Administration

Contract License Offices, Bidding and Procurement

Introduction

Background

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution, as the central collection agency for state revenues. The DOR is headed by the Director of Revenue who is appointed by the Governor with the advice and consent of the Senate. Section 136.030(2), RSMo, provides the director of revenue shall make provisions for the collection of motor vehicle registration fees, driver license fees, motor vehicle sales and use tax, and other taxes. The Motor Vehicle and Driver Licensing (MV/DL) Division facilitates the registration of motor vehicle, trailer, and marine craft in the state, and the licensing of all operators of motor vehicles residing in the state, as well as tax collection.

The License Office Bureau, under the management of the MV/DL Division, is responsible for administering the operations of 183 contract license offices throughout the state. Additionally, a central license office is operated by the DOR in Jefferson City. Pursuant to Section 136.055, RSMo, the Director of the DOR appoints contract agents to operate the contract license offices. The contract agents do not receive compensation from the DOR, but do receive fees, set by statute, for each type of transaction processed by the office. The contract agent is responsible for all expenses of the contract license office, including the compensation of office employees, office furniture, and supplies. However, the DOR furnishes certain computer equipment for processing the transactions.

Historically, the DOR maintained contract license offices throughout the state which were managed by contract agents selected and appointed by the Governor. Beginning in January 2009, the DOR began awarding contract license offices through a competitive bidding process.

Effective August 2009, Section 136.055, RSMo, requires contract license offices to be awarded through a competitive bidding process. 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. Also, ". . . fees collected by a tax-exempt organization may be retained and used by the organization." The following table shows the total collections remitted to the DOR by the contract license offices and the total processing fees assessed and retained by the contract agents for the 3 years ended June 30, 2011.

	Year Ended June 30,		
	2011	2010	2009
Total collections	\$ 755,334,570	715,275,358	728,594,585
Total processing fees	30,617,800	30,308,234	31,027,899



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Introduction

Although the Office of Administration (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 assigned the responsibility to conduct a portion of the evaluation by subjectively evaluating bids/proposals on:

- Sales and service, efficient operations, and technical support.
- Personnel qualifications, financial stability, and past performance and experience.
- Oral conference, if needed.

The OA is responsible for determining and awarding points for:

- Not-for-profit or political subdivision status.
- Minority business enterprise (MBE)/woman's business enterprise (WBE) participation.
- Return to the state.

Contracts for the contract license offices are typically for 1 year, with three 1-year renewal periods. However, the contract may be canceled at the discretion of the DOR. The contract license office contract must include a requirement which allows the State Auditor to audit the contract license offices.

Scope and Methodology

The scope of our audit included, but was not necessarily limited to, the 3 years ended June 30, 2011.

Our methodology included conducting interviews with appropriate DOR and OA personnel, as well as certain external parties; reviewing written policies and procedures; reviewing applicable state law; reviewing and evaluating DOR and OA bidding and procurement records and other pertinent documents; and testing certain transactions.

We obtained an understanding of internal controls that were significant within the context of the audit objectives and assessed whether such controls had been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that were significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Introduction

To review the competitive bidding process for contract license offices, we identified the contract agents for the contract license offices as of March 1, 2011. For the period July to December 2010 and the 2 years ended June 30, 2010, we obtained, from the DOR, for each contract license office 1) the total fees retained by the contract agent, 2) the total amount of agent fees returned to the state from that office, and 3) the total liquidated damages (penalties) paid by each office. From this information, we selected 20 offices to review the competitive bidding process for the awarding of the office to the contract agent.

We selected some contract license offices which had the same contract agent for more than one office; offices where some controversy over the award had come to our attention (past/current litigation, media reports, concerns received by the State Auditor's office etc.); offices that had significant fees retained by the agent and/or returned to the state, and that had significant penalties assessed; and offices that had significant weaknesses reported by the DOR, Internal Compliance Bureau.

We reviewed the bidding process and related bidding records for these offices and determined whether:

- Various clauses and requirements in the RFP issued for that specific office were consistent with other RFPs issued during the same general time period.
- Bids/responses were received before the stated deadline.
- The OA performed due diligence for compliance with various requirements, such as contract license office employee background checks, tax-exempt status, and business name filed with the Secretary of State.
- The reasons for the rejection of a bid/response and/or for allowing an entity to rebid were documented and reasonable.
- A best and final offer request was properly sent to all applicable bidders.
- Modifications to the RFP or evaluation system during the bidding process were significant to cause a rebid of the office.
- The evaluation of the office appeared fair and reasonable, and evaluation points were properly awarded.
- If applicable, points awarded for the oral conference were adequately supported.



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Introduction

If an entity was awarded more than one office, we determined whether the same and/or similar bid/responses to the various RFP requirements were consistently evaluated.

In addition, we used the publication *State and Local Government Procurement: A Practical Guide* issued by the National Association of State Procurement Officials and the *Model Procurement Code* issued by the American Bar Association as criteria for bidding and procurement best practices.

Department of Revenue and Office of Administration

Contract License Offices, Bidding and Procurement

Management Advisory Report - State Auditor's Findings

1. Evaluation of Bids/Proposals

The Department of Revenue (DOR) needs to improve certain policies and procedures related to its evaluation of contract license office bids/proposals.

1.1 Evaluation tool

The DOR does not make its evaluation tool available to bidders. The current Request for Proposals (RFP) states that a certain number of points will be awarded in five categories: 1) sales and service, efficient operations, and technical proposal; 2) personnel qualifications, financial stability and past performance/experience; 3) not-for-profit or political subdivision status; 4) MBE/WBE participation; and 5) return to state. However, the DOR evaluation tool contains a detailed list of subcategories, with certain maximum points for each subcategory. For example, under the sales and service category there are multiple subcategories receiving points for items such as office hours, staffing, implementation plan, and inventory forms/supplies.

According to the National Association of State Procurement Officials (NASPO) publication (best practices) *State and Local Government Procurement: A Practical Guide*, an RFP should include all criteria to be used for the evaluation of proposals to help ensure the evaluation process is properly communicated and the bidding process is fair for all bidders, and no factor should be considered that is not included in the RFP.

1.2 Oral conferences

The DOR has not prepared written evaluation criteria for its evaluation of oral conferences.

When the top bidders receive evaluation scores within two points of each other, bidders are invited to attend an oral conference. This conference is typically a phone conference with the proposed contract manager answering a series of questions posed by DOR and Office of Administration (OA) personnel. Currently, a bidder may earn up to eight points for their responses.

Although the DOR has prepared a master list of questions to be asked at an oral conference, the DOR has not developed written criteria for the evaluation of the responses. The development of written evaluation criteria for oral conferences helps ensure points are awarded in a fair and equitable manner.

1.3 Points for contract manager

The DOR does not require contract managers to perform certain documented supervisory activities, when the contract and office manager are separate individuals. As a result, the current practice of awarding points when different individuals serve as the office and contract managers does not ensure better segregation of duties actually occurs.



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

The maximum number of points awarded for the position of office manager is eight points, based on experience. The evaluation tool only provides for a maximum of six points if the office manager also serves as the contract manager. According to DOR personnel, separate individuals acting as the contract and office manager provide an extra level of supervision. However, during our audits of contract license offices, we found no documented supervisory reviews by contract managers. Since the DOR does not require a contract manager to exercise certain documented supervisory activities, there is no assurance supervision actually occurs.

1.4 Points for inventory

In one instance, DOR personnel did not comply with the criteria of the evaluation tool when evaluating a bid proposal. In addition, this deviation may have affected the ultimate award of the office.

The RFP provides that bidders describe plans for monitoring of inventory such as license plates, tabs, and decals and office supplies, and establishing inventory reorder points. According to the evaluation tool, if a bidder appears to understand the importance of inventory monitoring and reordering, the bidder is to receive a full point for this subcategory. However, in one instance the bidder received .75 points instead of a full point for an inventory requirement. According to DOR personnel, this bidder was considered a successful office operator, and the bidder's response appeared to indicate an understanding of inventory and reordering. If the bidder had received the full point, an oral conference would have been held, and potentially could have changed the contract award.

The DOR should abide by the evaluation tool criteria to ensure all bidders are treated in a fair and equitable manner.

Recommendations

The OA and DOR:

- 1.1 Include the DOR evaluation tool in the RFP to ensure bidders clearly understand and address all requirements.
- 1.2 Develop written criteria for the evaluation of oral conferences.
- 1.3 Require certain documented supervisory activities be performed by contract managers when the contract and office manager are separate individuals before determining the amounts of points to award for the office manager.
- 1.4 Take steps to ensure bid evaluators understand and follow the evaluation tool criteria.



Auditee's Response

The DOR provided the following written responses:

- 1.1 The RFP contains contractual requirements. The evaluation tool does not contain contractual requirements-its purpose is to help ensure consistency of the evaluation of proposals. Note that the evaluation tool is a publicly available document.*
- 1.2 The Department has criteria for evaluation of oral conferences and will place them in written format.*
- 1.3 The RFP contains contractual requirements, including management requirements. The RFP also requires the contract manager to perform supervisory duties, and requires an explanation of how contract management will be performed. The Department will discuss with OA the addition of more specificity to the RFP.*
- 1.4 The evaluation tool was designed to help ensure consistency of the evaluation of proposals. Evaluators receive training and refresher training in performing evaluations and how to use the evaluation tool. That training will continue.*

The OA provided the following written responses:

- 1.1 When evaluating a response to an RFP, the Division of Purchasing and Materials Management must examine both the offeror's commitment to comply with contractual requirements and the quality of its submission information. Contractual requirements document the State's performance requirements and are codified by words such as "shall or must" verses "should or may". These words distinguish what are mandatory verses desirable requirements.*

The offeror's submission information is used to evaluate how the offeror intends to meet the contract requirements and objectives through its performance strategy. The DOR and the OA will examine the evaluation tool process to balance precision of information with the need to ensure the evaluation tool does not usurp the evaluation process by, in essence, writing a proposal for an offeror which is not the intent of the RFP process.

- 1.2 The OA will work with the DOR on the criteria for evaluation of oral conferences.*

1.3&

- 1.4 The OA will discuss with the DOR.*



2. Noncompliant Bids/Proposals

The OA is not consistent in rejecting all noncompliant bids/proposals. For the 20 contract license offices reviewed, the OA rejected noncompliant bids/proposals in 7 offices. However, other noncompliant bids/proposals were not rejected. The OA needs to better handle noncompliant proposals to ensure fair and impartial treatment to all entities participating in the bidding process.

2.1 Subcontractor

During 2009, the OA determined a not-for-profit entity (the NFP) did not comply with a significant requirement in the RFP. However, the OA allowed the NFP to rebid several office contracts and to change bid/proposals for other pending office contracts in the Best and Final Offer (BAFO) process.

The contract license office RFP prohibits the contractor from using subcontractors for services directly required by the contract and requires the contractor to manage and operate the contract license office and be solely responsible for providing the required services.

Prior to September 2009, the OA awarded the NFP 10 contract offices. In September 2009, the OA received information which raised questions about whether the NFP contract manager was actually a subcontractor. After investigating the situation, the OA informed the NFP, in December 2009, that the NFP contract manager, for the previously awarded contract license offices, was not an employee of the NFP. Rather, the contract manager was an employee of a separate entity which contracted with the NFP to provide services. Therefore, the NFP was noncompliant (not in compliance) with the RFP subcontractor requirement.

The OA canceled the contracts for the ten offices but permitted the NFP to participate in the rebidding. In addition, the OA, to avoid disruption in services, allowed the NFP to continue to operate the contract license office until the office was rebid and awarded. According to OA personnel, the NFP was permitted to participate in the rebidding because they did not believe the NFP intentionally misled the OA or the DOR. Ultimately, the OA awarded contracts to the NFP for eight of the ten offices.

In addition, the NFP had previously submitted bids/responses for five other office contracts that did not comply with the subcontractor requirement. The awards of these offices were pending as of September 2009. The OA allowed the NFP to change its contract manager during the BAFO process and subsequently awarded these five contracts to the NFP.

According to OA personnel, this type of decision (allowing a noncompliant bidder to rebid) is made on a case by case basis in the best interest of the state, and all data is reviewed to reach an informed and rational decision. However, state regulation 1 CSR 40-1.050, provides that withdrawal of the



bid/proposal shall be the vendor's sole remedy for an error other than an obvious clerical error. Also, the NASPO best practices provide that when a bidder submits a bid/proposal which takes exception to a material requirement of the RFP (for example, the violation of a clause), the bid/proposal is to be ineligible for award and should be rejected.

2.2 Late bid/response

The OA did not reject a bid/proposal to a BAFO when the NFP submitted the bid/proposal later than the timeframe specified in the BAFO.

The BAFO required the bid/response to be returned by 5 p.m. on June 24, 2010; however, the OA accepted a bid/response from the NFP which was not received until June 25, 2010. The NFP was later awarded this office.

The deadline for a BAFO is not a firm deadline, but rather a guide and bids/responses are accepted beyond that date; and accepting bids/responses after the return date was a judgment call which depended upon how quickly a contract needed to be awarded, according to OA personnel.

State regulation 1 CSR 40-1.050 provides that proposals received after the time set for the opening of bids/proposals shall be considered late and not opened. Only in extraordinary circumstances, outlined in the regulations, is a late bid/proposal opened. Extraordinary circumstances did not exist in this case since the OA was not closed due to weather conditions, postal services not delayed due to labor strikes/unforeseen "Act of God", and postal delivery time was not promised to bidder. In addition, NASPO best practices provide that the principle which applies to an initial evaluation should also apply to revision of offerors submitted with a BAFO.

Recommendation

The OA ensure the same standards are applied to the RFPs and BAFOs as set forth by the NASPO best practices.

Auditee's Response

The OA believes that current practice ensures the same standards apply to RFPs and BAFOs. Those standards are driven by legal language whereby the words "must and shall" are mandatory and the words "should and may" are desirable or permissible. These standards are applicable in all contract and proposal language.

The OA uses words carefully as language such a non-responsive and non-compliant have legal connotations. The Auditor used an example in which a not-for-profit agency received several contracts, but contracts were later cancelled by OA when it learned that a contractual requirement was not met.

The Auditor noted that the cancelled contractor was given an opportunity to modify its offers on outstanding RFPs, and referenced 1 CSR 40-1.050. This regulation prescribes an offeror's remedy if it submits an incorrect



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

response. A more applicable reference is Section 34.042, RSMo, which prescribes a State remedy for dealing with incorrect responses. Section 34.042, RSMo, states "negotiations may be conducted with responsible offerors who submit proposals selected by the commissioner of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements." The OA outlines deficiencies in proposals (non-responsiveness) to offerors of a solicitation and provides an opportunity to clarify and assure a full understanding of and responsiveness to the solicitation requirements. The opportunity was provided to all offerors of this situation. In addition, new state regulations took effect in December of 2011, and 1 CSR 40-1.050(19) provides specific detail of OA's process in addressing nonresponsive submissions to an RFP.

The Auditor also stated the OA did not reject a bid/proposal to a BAFO that was received later than the time frame specified, and referenced a regulation that states that proposals received after the time set shall be considered late and not opened. In response, the BAFO language did not mandate a specific response time; instead, it used permissive language rather than mandatory. Accordingly, the OA also did not accept a late proposal in that the OA was negotiating with responsible offerors and not accepting new proposals to an RFP.

However, the OA will review its procedures to determine if it is appropriate and necessary for the last Best and Final Offers to be treated the same as late proposals.

Auditor's Comment

It is not fair and equitable to bidders when the OA uses a judgment call to decide whether to accept or reject a BAFO which is not received by the requested date and time. Accepting a BAFO received 1 or 2 days after the stated date and time in one bidding process but not in another is not appropriate.

3. Preference Points

The DOR and the OA did not appropriately handle the awarding of points for NFP entities and/or political subdivisions (PSD) when evaluating the bids/proposals for certain contract license offices. Additionally, the DOR and the OA did not provide clear documentation to support the reasoning for increasing the points awarded to NFPs/PSDs.

For 9 of 20 (45 percent) contract license offices reviewed, the points awarded for NFPs/PSDs were increased during the evaluation of the bids/responses for that office. While the competitive bidding process for the contract license offices is open to individuals, for-profit entities, NFPs, and PSDs, preference is given to NFPs and PSDs, as required by Section 136.055.2, RSMo, by providing these entities with extra points. Prior to January 2009, five points were given to civic organizations and NFPs;



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

between January 2009 and August 28, 2009, five points were given to NFPs and PSDs; and after August 28, 2009, seven points were given to NFPs and PSDs. Appendix B shows the timeframe and points used in the evaluation process.

NASPO best practices provide that once the RFP evaluation criteria are announced, the evaluation should only measure the proposals against those criteria; otherwise, the evaluation diverges from what the bidders were told, and the evaluation process becomes unfair. The increase in point preference for the NFPs/PSDs appears to be a significant change in the RFP evaluation for contract license offices. For one of the license offices reviewed, the increase in points may have affected the outcome of the award. If an NFP had not received two additional points, an oral conference would have been held between the NFP and a for-profit entity. The results of the oral conference may have changed the outcome of the awarding of the office.

In addition, it is unclear why the points for this preference was increased when these entities were already receiving a preference. DOR and OA personnel indicated that documentation was not prepared and retained to support the initial award of a five point preference, or the increase in points awarded after state law requiring priority for NFPs/PSDs became effective in August of 2009. Documentation of the reasons, assumptions, and goals should be prepared and maintained to support preferences allowed in the competitive bidding process to ensure all bidders are treated fairly and equitably.

Recommendation

The OA and the DOR refrain from changing criteria for awarding points after an RFP has been issued. Also, the OA and the DOR should prepare and maintain documentation to support decisions which allow a preference and/or priority be given to certain entities in the evaluation process.

Auditee's Response

The DOR provided the following written response:

The finding and recommendation omit that the identified change was required by law. The Department has not changed and does not foresee changing criteria absent legislative directive. The timeline for the change to the points, referred to in the finding, covers the period when a law that directly applied to the bid process for license office contracts went into effect. Points were and are awarded as provided by law.

Specifically, section 136.055, RSMo, went into effect on August 28, 2009 and provided, in relevant part, "The competitive bidding process shall give priority to organizations and entities that are exempt from taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986 as amended, and political subdivisions, including but not limited to, municipalities, counties, and fire protection districts." The requirement to



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

give a "priority" to the specific types of bidders identified in the law was effected by changing the pre-existing practice of awarding 5 points to those types of bidders, to awarding them 7 points upon the law's effective date. Reissuing the RFPs would have delayed the awards and was not required under the law.

Documentation is prepared and maintained. Whether a bidder receives the "priority" required by section 136.055 is determined by the bidder's completion and submission of Exhibit F, regarding exempt entity or political subdivision status. The bidder must provide acceptable documentation of its status. In the case of a tax exempt entity, the RFP specifically requires the bidder to provide a letter issued to it by the Internal Revenue Service, dated no more than twelve months prior to the due date for receipt of proposals, and confirming the bidder's status under Section 501(c)(3) or 501 (c)(6) of the Internal Revenue Code of 1986, as amended. If the letter is more than twelve months old, the bidder must provide its most recent federal Form 990 or 990-EZ filing. These documents are maintained in the Office of Administration Division of Purchasing and Materials Management - Awarded Bid and Contract Document Search System, and are made public upon award.

The OA provided the following written response:

The OA will discuss with the DOR and remain cognizant of this recommendation. Statutes and executive orders give support to the decisions outlined. The OA will maintain documentation where applicable.

Auditor's Comment

The DOR response is misleading. State law, effective August 2009, did not require the DOR to increase points given to exempt entities. Rather, Section, 136.055, RSMo, only provides that priority be given to exempt entities. In fact, the DOR was already giving priority to these entities when assigning five points in the evaluation to tax exempt entities.

4. Return to State

The DOR's assessment and collection of oversight costs from contract license offices may not be fair and legal. There are no statutory provisions that authorize the DOR and the OA to request a "return to state" (a firm, fixed percentage of fees earned that the bidder agrees to remit to the state) in the contract license office competitive bidding process. Additionally, the current practice of using the return to state as part of the bidding process has resulted in disparities among the offices, and does not provide that all offices pay an equitable share of DOR oversight costs. The return to the state for all contract license offices totaled approximately \$1,073,500, \$707,750, and \$15,200, for the years ended June 30, 2011, 2010, and 2009, respectively.



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

Beginning in January 2009, as part of the RFP, bidders may return to the state a firm, fixed percentage of the processing fees earned. In the evaluation process, a bidder may receive up to five points for the return to state, weighted in relation to the returns offered by other bidders for a particular contract. If no return to the state is included in the RFP, the bidder receives no points. According to DOR management, the return to state is based on fairness and is beneficial to taxpayers. Since the DOR spends time and resources to oversee and provide technical support to the contract license offices, the return to state helps defray some of these costs. In addition, because the contract agent makes a profit by handling state-mandated transactions, the DOR believes it is appropriate for agents to return some of the profit to the state.

Our audit revealed the following concerns related to the return to state provision:

- No statutory authority exists for the return to state provision, and the current practice of using this provision in the bidding process negates and is in direct conflict with past legislative actions to set processing fees. Section 136.055, RSMo, specifically establishes that contract license offices collect certain processing fees on the transactions processed as full compensation for services provided. Specific statutory authority also exists to require a competitive bidding process for the awarding of the contract license offices, and for priority to be given 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.
- The current practice of requesting a return to state has resulted in significant disparities in the amounts the offices return. For example, for the year ended June 30, 2011, 119 of 183 (65 percent) of the contract license offices returned a portion of their processing fees to the state, with the percentages of fees returned ranging from 0.01 percent to 14.05 percent. Additionally, the return to state for the 22 contract license offices with the largest collections (over \$10 million a year) ranged from \$0 to \$73,425 (0 to 13.6 percent).

The following table shows some disparities of amounts returned during the year ended June 30, 2011:



Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Management Advisory Report - State Auditor's Findings

Office	Collections	Fees Retained	Return to State	Percentage
Columbia	18,660,289	703,102	7,032	1.00
South Fremont	15,399,876	620,978	73,423	13.60
Florissant	12,374,893	482,526	4,824	1.00
Jefferson City	12,259,291	480,915	48	0.01
Joplin	11,468,477	498,222	34,908	7.00
Grandview	9,104,515	349,123	0	0.00
Rolla	4,845,849	237,250	17,818	7.50
Branson	4,434,331	268,986	4,039	1.50
Buffalo	1,757,163	100,038	719	0.75
Gallatin	346,292	19,058	38	1.00

- The current practice of requesting a return to state does not ensure contract license offices pay an equitable share of DOR oversight costs. The DOR incurs personal service and expense/equipment costs in the management and monitoring of contract license offices. These costs include, but are not limited to, providing the offices with computer equipment/software to process the transactions, field coordinators who regularly visit each office to ensure proper procedures are followed, and central office staff who ensure daily deposits and reports are proper.

According to a NASPO research brief, *Administrative Fees*, issued in September 2009, many states utilize an administrative fee as a method to support certain procurement/management activity. Typically, these fees ranged from 0.5 percent to 2 percent, with 1 percent being the most common charge. An administrative fee assessed on each contract license office could help maintain and increase the effectiveness and level of service provided by the DOR. Assessing an administration fee on the volume of transactions and/or state fees collected by each contract license office may be a more equitable method of recovering costs associated with DOR oversight of the contract license offices. However, it appears that assessing an administrative fee will require enabling legislation.

The OA, DOR, and General Assembly should evaluate and address the current practices and inequities related to the competitive bidding process for contract license offices.

Recommendation

The OA and the DOR work with the General Assembly to determine the appropriateness of the return to state provision.

Auditee's Response

The DOR provided the following written response:

The optional return to the state provision has been included in the RFP since January 2009, before the legislature passed section 136.055, RSMo, which went into effect on August 28, 2009. Fees retained by license offices



and amounts returned to state have also been publicly available from the beginning of the process to bid out all 183 license offices. While the Department believes no statutory change is indicated at this time, the Department will continue to evaluate this and all provisions of the RFP, together with OA.

The OA provided the following written response:

The OA will discuss with the DOR.

5. Policies and Procedures

The DOR and the OA need to improve several policies and procedures related to the contract license office bidding and procurement process.

5.1 Timeliness of the award process

For some contract license offices, the length of time between issuing the RFP and awarding the office was not timely. For 11 of 20 (55 percent) awards reviewed, it took 6 months or more between the RFP date and the award date, and two awards took over 12 months. In some instances, the OA issued multiple BAFOs for some awards, which caused additional time lags.

According to DOR personnel, a time lag occurred in some instances because all contract license offices were bid in 2009, there was a learning curve in the process, and the RFP was continually refined to include all relevant information. However, our review found that offices bid after 2009 were not always awarded more timely. For example, of the 20 offices reviewed, 4 RFPs issued in January 2009 were not awarded for 6 to 12 months, while 2 RFPs issued in January 2010 were awarded 7 and 8 months later. The DOR does not anticipate significant time lags to occur in the future, according to DOR personnel.

The NASPO best practices provide that bids/proposals be evaluated expeditiously because unnecessary delays discourage competition. In addition, the NASPO best practices provide that contracts be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the RFP.

5.2 Number and location of offices

The DOR has not performed analyses to determine the optimum number of contract license offices, where those offices should be located, or the fiscal impact on the state when an office is opened or closed.

Currently 183 contract license offices operate throughout the state and the DOR operates an office in Jefferson City. There is typically a contract license office in each county seat, with multiple offices in urban areas such as St. Louis, Kansas City, and Springfield. The most recent contract license office opened in Imperial in 2006, and the DOR had no documentation to support the necessity of opening an office in this location.



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

An analysis, considering criteria such as population, distances between offices, and revenues collected, could provide a basis to support the elimination, consolidation, or addition of contract license offices throughout the state. The cost to the state when eliminating, consolidating, or adding an office should also be considered. For example, eliminating an office could reduce oversight costs incurred by the DOR, but also could inconvenience state taxpayers. Without such cost-benefit analyses, the department cannot ensure motor vehicle and drivers license services are provided to the public in the most economical and advantageous manner.

Recommendations

The OA and DOR:

- 5.1 Evaluate and implement procedures to ensure contract license offices are awarded in a timely manner.

The DOR:

- 5.2 Periodically, prepare an analysis to determine the optimum number and location of contract license offices.

Auditee's Response

The DOR provided the following written responses:

- 5.1 *The process of bidding out all 183 license offices around the state, which began in 2009, was massive and brand new for both the Department and OA. In the initial phases, more than half of all RFPs resulted in one or more Best and final Offers (BAFOs), which significantly added to the evaluation and award timeline. Over time, clarifications have been made to the RFP which significantly decrease BAFOs and time to award. Department staff has also developed experience in reviewing bids and uses the evaluation tool, which help minimize time to award. Working with OA, the Department will continue to evaluate the process to ensure offices are awarded as promptly as possible.*
- 5.2 *The Department regularly prepares reports of data such as transaction volumes, customer comments, wait times, and fees collected, and maintains a map of offices.*

The OA provided the following written response:

- 5.1 *The OA and the DOR issued contracts for 183 license offices over 18 months. The OA bid volume increased by 20% during this period with no staff increases. While the OA had solicited for some offices previously, this endeavor included every license office in the state. There were many changes to the requirements during the process as we learned of new issues raised by potential offerors and state staff.*



Department of Revenue and Office of Administration
Contract License Offices, Bidding and Procurement
Management Advisory Report - State Auditor's Findings

The OA and DOR will evaluate methodology to ensure license offices are awarded in as timely a manner as possible.

Appendix A

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Contract Agents - As of June 30, 2011

Office	Contract Agent
Affton	Lavin Company, LLC
Alton	Freda S. Davis
Arnold	Community Service Arnold Jaycees
Aurora	Denise Blauvelt
Ava	Alternative Opportunities, Inc.
Belton	Karen Meador dba Meador's Professional Services
Bethany	Debra J. Kinnison
Blue Springs	City of Blue Springs
Bolivar	T & J Stark Enterprises, LLC
Bonne Terre	Bonne Terre Chamber of Commerce
Boonville	Sherry Shelton
Bowling Green	Koester & Koester
Branson	BT Express/Barb Ghan
Bridgeton	MT Services, Inc.
Brookfield	Heidi L. Martin
Buffalo	Scott C. Baker
Butler	Blen Enterprises, LLC
Cabool	Gregory Financial Services, Inc.
California	Roberta Elliott
Camdenton	Alternative Opportunities, Inc.
Cameron	Cameron License Office (Becky Curtis)
Cape Girardeau	Southeast Missouri University Foundation
Carrollton	Carrollton Area Chamber of Commerce
Carthage	Alternative Opportunities, Inc.
Caruthersville	Rebecca Cole
Cassville	Rebecca Rae Brown
Chaffee	Ernst & Sadler Licensing
Charleston	Charleston Chamber of Commerce
Chesterfield	Ryker Enterprises, Inc.
Chillicothe	Kathryn Diane Harlow
Clayton	License Management, LLC
Clinton	Connie S. Rogers
Columbia	Columbia Licensing Services, LLC
Crane	Cara L. McMenemy
Creve Coeur	Ryker Enterprises, Inc.
Cuba	JKM Management Group, LLC
Deer Creek (St. Louis)	Alternative Opportunities, Inc. (1)
De Soto	Julie Lewis Wagner, LLC
Des Peres	Ryker Enterprises, Inc.

Appendix A

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Contract Agents - As of June 30, 2011

Office	Contract Agent
Dexter	Elizabeth Rowland
Doniphan	John Young
Downtown (St. Louis)	City of St. Louis Collector of Revenue
Edina	Barbara Hunziker
Eldon	The Lake of the Ozarks Marine Dealers Association
Ellington	Rebecca Darlene Rhea
Elsberry	Katherine Schilling
Eminence	Turner Insurance
Excelsior Springs	Tipton Tigers
Farmington	Alternative Opportunities, Inc.
Fayette	Howard County Farm Bureau Service Company
Ferguson	Lions Club of Ferguson
Florissant	Florissant Rotary Club
Forsyth	Patricia L. Dreyer
Fredericktown	Lee Agencies, LLC
Fulton	Koester & Koester
Gainesville	Lisa F. Turner
Gallatin	Heather LaRae Stephenson
Gladstone	James R. Williams
Glenstone (Springfield)	Breast Cancer Foundation of the Ozarks
Grandview	City of Grandview
Grant City	City of Grant City
Greenfield	Patti Hayes dba Greenfield License Office
Hannibal	Donald R. White
Harrisonville	Red Moon Enterprises, LLC
Hartville	Freda Barr
Harvester (St. Charles County)	Harvester License Office, LLC
Hermann	Hermann Area Chamber of Commerce
Hermitage	Hickory County Farm Bureau Services, Inc.
High Ridge	High Ridge Services, LLC
Houston	Cynthia L. Blades
Imperial	Paul R. Schmidt, Sr.
Independence	Paul J. Wrabec Co., Inc.
Ironton	The Mayfield Group, LLC
Jackson	Deuce Enterprises
Jefferson City	License & Verification Services, LLC
Joplin	Alternative Opportunities, Inc.
Kahoka	L. Sue Scott
Kansas City - Fletcher Daniels Building	DTC-DMV, Inc.

Appendix A

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Contract Agents - As of June 30, 2011

Office	Contract Agent
Kennett	License Office of Kennett, Inc.
Keytesville	Doug & Cheri, LLC
Kingston	Kingston License Office (Lisa M. Prater)
Kirksville	Judy J. Albin
Lakeview - Branson West	BT Express/Barb Ghan
Lamar	Joyce E. Moser
Lancaster	Lisa Kephart
Lebanon	TM Management (Toni M. Morris)
Lee's Summit	Lee's Summit, LLC
Lexington	Lexington Area Chamber of Commerce
Liberty	James R. Williams
Licking	Alicia J. Swindell
Linn	City of Linn
Louisiana	City of Louisiana
Macon	James L. Willis
Malden	James G. Burrow
Marble Hill	Bollinger County Abstract & Title Co., Inc.
Marshall	Minerva Licensing Services, LLC (Rebecca Buie)
Marshfield	Marshfield Public Schools Foundation
Maryville	Maryville Chamber of Commerce
Maysville	Roberta Sue Steiner
Memphis	Lisa Grubb
Mexico	David Koester, Jr. & David Koester, Sr.
Milan	Heather LaRae Stephenson
Moberly	Douglas D. Galaske
Monett	The Monett Chamber of Commerce
Monroe City	City of Monroe City
Montgomery City	Montgomery County Farm Bureau
Monticello	Brenda Redmon
Mound City	Joseph Laukemper
Mount Vernon	Mount Vernon Area Community Foundation, Inc.
Mountain Grove	Mountain Grove License Office c/o Britney Michel
Mountain View	Pamela Sue Smith
Neosho	Neosho Area Business and Industrial Foundation, Inc.
Nevada	Alternative Opportunities, Inc.
New London	Cyntha Jane Kilby
New Madrid	Rose Mary Williams
Nixa	Alternative Opportunities, Inc.
North County (St. Louis)	Invaluable Solutions, LLC

Appendix A

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Contract Agents - As of June 30, 2011

Office	Contract Agent
North Kansas City	James R. Williams
Northside (St. Louis)	Roberts-Roberts & Associates, LLC
Oakville	Belle LH Schmidt
O'Fallon	Elle Management, LLC
Olivette	Alternative Opportunities, Inc.
Osceola	Tammy L. Young
Overland	Wentzville Agency Management, LLC
Owensville	Gasconade County Farm Bureau Services Co.
Ozark	Alternative Opportunities, Inc.
Pacific	Pacific Area Chamber of Commerce
Palmyra	Joseph R. Smith
Paris	Christy Barton
Parkville	Red Moon Enterprises, LLC
Perryville	Conservative Ventures
Piedmont - Greenville	Piedmont Area Chamber of Commerce
Pineville	William Hugh Brower
Platte City	Platte Civic Association
Plattsburg	CPLO Enterprises, LLC
Poplar Bluff	Three Rivers Endowment Trust
Potosi	Washington County Chamber of Commerce
Princeton	Donna Place Herdrich
Raytown	Benny J and Betty S Sharp dba Sharp Services
Republic	Alternative Opportunities, Inc.
Richmond	Lexington Area Chamber of Commerce
Rock Port	Midwest Data Center, Inc.
Rolla	Rolla Public Schools Foundation a/k/a Champions of Rolla Education
Salem	Linda J. Harris - Dent County License Office
Sarcoxie	City of Sarcoxie
Savannah	Cathy Bowman
Sedalia	Connie S. McLaughlin
Shelbina	Tim's Home Center, LLC
Sikeston - Miner	Terry Ramsey Cole dba Sikeston License Bureau
South County (St. Louis)	Lavin Company, LLC
South Fremont (Springfield)	Alternative Opportunities, Inc.
South Kingshighway (St. Louis)	South Kingshighway Services, LLC
Springfield - Landers State Office Building	Alternative Opportunities, Inc.
St. Charles	Kielty Enterprises, LLC
St. Clair	St. Clair Area Chamber of Commerce
St. Joseph	Saint Joseph, LLC

Appendix A

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Contract Agents - As of June 30, 2011

Office	Contract Agent
Stanberry	City of Stanberry
Ste. Genevieve	Joseph J. Rozier, III
Steelville	Cynthia R. Brinkmann
Stockton	Linda Sue Bolen
Sugar Creek	Paul J. Wrabec Co., Inc.
Sullivan	Jackie Vaughn & Steve Vaughn
Thayer	Ranette Ray
Trenton	Trenton Area Chamber of Commerce
Troy	Troy Chamber of Commerce
Twin City (Jefferson County)	Twin City Area Chamber of Commerce
Union	Union Area Chamber of Commerce
Unionville	Jan MaShelle Trimble
Van Buren	Sherry L. Crider
Vandalia	City of Vandalia
Versailles	Morgan County License Bureau
Viburnum	The Mayfield Group, LLC
Vienna	Maries County Missouri
Warrensburg	Warrensburg Missouri Chamber of Commerce
Warrenton	Wentzville Agency Management, LLC
Warsaw	Connie L. Siercks dba Benton County License Office
Washington	Washington Area Chamber of Commerce
Waynesville	Pulaski County Growth Alliance
Wentzville	Elle Management, LLC
West County (St. Louis)	Sanguinity, LLC
West Plains	Missouri License Office of West Plains, LLC
Westside (St. Louis)	Automobile Club of Missouri
Willow Springs	Willow Springs Chamber of Commerce

(1) The awarding of this office was in litigation that was resolved in October 2011.
 The operator of the office is the former operator, Deer Creek Building Management, LLC.
 A new RFP for this office was issued in November 2011.

Appendix B

Department of Revenue and Office of Administration
 Contract License Offices, Bidding and Procurement
 Timeline for Evaluation Criteria and Points Awarded

<u>Date</u>	<u>Criteria</u>	<u>Points</u>
Prior to January 1, 2009	Customer service, efficient operations, and technical proposal	50
	Past performance, experience, reliability, financial stability, personnel qualifications, and resources	25
	Civic organization or not-for-profit certification	5
	Minority business enterprise (MBE) or women business enterprise (WBE)	5
	Processing fees	5
	Oral conference	10
	Total	<u>100</u>
January 1, 2009 to August 28, 2009	Sales and service, efficient operations, and technical proposal	45
	Personnel qualifications, financial stability, and past performance/experience	30
	Not-for-profit or political subdivision status	5
	MBE/WBE participation	5
	Return to the state	5
	Oral conference	10
	Total	<u>100</u>
After August 29, 2009	Sales and service, efficient operations, and technical proposal	45
	Personnel qualifications, financial stability, and past performance/experience	30
	Not-for-profit or political subdivision status	7
	MBE/WBE participation	5
	Return to the state	5
	Oral conference	8
	Total	<u>100</u>