

Audit Highlights



Contracts With Consultants (A.B. 463)

Highlights of Legislative Auditor report on Contracts with Consultants (A.B. 463) issued on December 8, 2010. Report # LA10-27.

Background

During the 2009 Legislative Session, legislators expressed concerns regarding the State's use of consultant contracts. As a result, Assembly Bill 463 was passed. The bill included numerous provisions to strengthen controls over consultant contracts. These controls consist primarily of requirements for certain contracts to be approved by or reported to the Interim Finance Committee (IFC). A.B. 463 requires IFC approval before an agency can employ, by contract or otherwise, a consultant if one of four conditions exists.

- The person is a current employee of the State.
- The person is a former employee of the State and less than 1 year has expired since their employment ended. This provision also applies to employment through a temporary employment service.
- The term of the contract is for more than 2 years, or is extended beyond 2 years.
- The person is employed by the Department of Transportation for a federally funded project that is more than 4 years, including extensions.

Other provisions within the bill provide various reporting requirements and exemptions.

During our audit, we identified 250 current and former employees providing services to the State. These employees were paid a total of \$11.6 million during fiscal years 2008 and 2009.

Purpose of Audit

The purpose of our audit was to analyze the use of consultant and other professional service contracts with current and former state employees. This audit focused on professional service contracts with Executive Branch agencies in effect during fiscal years 2008 and 2009, and included activities through September 2010 for certain areas.

Audit Recommendations

This audit report contains seven recommendations to improve the state's contracting practices with current and former employees. Six recommendations relate to ensuring contract agreements are entered into, contracts with current and former employees are adequately disclosed, and employees rendering contract services are properly monitored. In addition, one recommendation was made to clarify the term consultant for purposes of providing information to the IFC.

The Department of Administration accepted the seven recommendations.

Status of Recommendations

The agency's 60-day plan for corrective action is due on March 8, 2011. In addition, the six-month report on the status of audit recommendations is due on September 8, 2011.

Results in Brief

Better oversight is needed for contracts with current and former state employees. The State does not have adequate controls to prevent current employees from performing contractor activities during their state work hours. Because controls are not in place to prevent abuse and detect timesheet discrepancies, some employees were paid twice for the same time. Further, agencies did not always enter into a contract with current and former employees. We also found several former employees provided services to the same agency they previously worked for, and performed similar duties for an extended period. In addition, agencies did not properly utilize the Contract Summary form to disclose important information, and former employees were frequently hired by the State through temporary employment services. Improved monitoring of contracts with current and former employees will provide transparency and help ensure contract costs are minimized.

The 2009 Legislature passed A.B. 463 to provide better oversight of state contracts with consultants. This includes requirements that information be provided to the Interim Finance Committee regarding contracts with current and former employees. However, the IFC has received very little information regarding consultant contracts entered into by state departments, divisions, and other agencies. Shortly after enactment of A.B. 463, the Department of Administration narrowly defined the term consultant to exclude individuals that provide any type of work product. Therefore, only under rare circumstances would a contractor be deemed a consultant and reported to the IFC.

Principal Findings

The State does not have adequate controls to prevent current employees from performing contractor activities during their state work hours. Because controls are not in place to prevent abuse and detect timesheet discrepancies, some employees were paid twice for the same time. We tested 23 employees with a state contract and found 8 employees either performed contractor activities during their regular state work hours, or did not provide adequate documentation to verify contractor activities were performed on their own time. For example, one employee was paid for 25 hours in 1 day. This included 10 hours of contract services, a regular 10-hour shift on his timesheet, plus an additional 5 hours of overtime. Another employee used 8 hours of family sick leave on a day he provided 2.5 hours of contract services at a rate of \$250 per hour.

Executive Branch agencies did not always enter into a contract for services provided by current and former state employees. We identified 111 individuals that were either a current or former employee and found 28 (25%) were paid for services without a contract. When there is no contract, state requirements for contract approvals are bypassed. Sixteen individuals rendered services for 2 years or more without a contract, and one current employee was paid \$62,590 during fiscal years 2008 and 2009 in addition to her state salary.

The contract hourly rate was not always comparable to the employee hourly rate when current and former employees contracted to perform similar duties. We found some instances when an individual performed similar duties at a significantly higher hourly rate. For example, one agency contracted with a former employee at a rate of \$350 per hour vs. \$65 per hour cost to the State as an employee. Another former employee had a contract rate of \$150 per hour vs. \$71 per hour cost to the State as an employee.

Our testing of 18 former employees, hired through a temporary employment service, found some pay rates were excessive and other pay rates were reasonable. For example, one individual was paid \$121 an hour compared to \$60 an hour cost to the State as an employee. This individual retired, returned to the same agency, and was paid \$117,500 during a 2-year period. This individual was also paid \$25,150 by another agency during the same period. On the other hand, a former department director provided services at a reasonable pay rate of \$30 an hour compared to \$69 an hour cost to the State as an employee.

The Department of Administration did not provide any consultant contracts to the IFC for review and approval from July 2009 through July 2010, a period of more than 1 year. Before the Department narrowed its definition of consultant, it submitted a list of 32 consultant contracts for the June 25, 2009, IFC meeting. However, 30 of the contracts were already approved by the Board of Examiners on June 17, 2009. Therefore, the IFC approved two applicable contracts. During our audit, no other consultant contracts were submitted to the IFC for review and approval.