

Recommendations

Recommendation 1. As a condition of soliciting the private sector for high-value services, the General Assembly should require state agencies to submit a business case to OSBM and P&C for review and approval.

As discussed in Finding 2, state agencies are not documenting the results of their determinations to use contracted services. The lack of documentation supporting the decision to contract with a private entity to provide these services increases the risk that the State will not obtain best value. While state agencies may be conducting an informal sourcing evaluation, the lack of documentation identifying the factors considered and the associated analysis performed to arrive at this decision limits the ability of P&C to monitor state agency procurement processes and ensure cost-effective performance.

To ensure achievement of best value from contracted services, the General Assembly should amend N.C. Gen. Stat. § 143 to require P&C, in consultation with the Office of State Budget and Management, to develop and promulgate a business case template(s) for contracted services to include:

- unit and total cost of performing the service for the most recently completed fiscal year;
- detailed description of current process to perform service;
- description of metrics to evaluate performance;
- current and expected performance for each identified metric;
- contract formation and management resource requirements to ensure best value obtained;
- availability of private sector service providers;
- justification for waiver of competitive bidding requirements, if applicable;
- justification for use of multiple providers to perform service, if applicable;
- information security requirements, as applicable;
- identification of roles, organizational placement, responsibilities, and qualifications of key project team members, to include demonstrated competency incorporating government-vendor partnerships into the procurement process;
- funding requirements and associated funding source for proposed contract period; and
- a service delivery transition process, both incoming and outgoing.³⁹

In addition, the General Assembly should amend N.C. Gen. Stat. § 143 to require state agencies to document the results of the determination to contract with a private service provider as specified in the proposed business case template. This requirement should be applicable for any

³⁹ As specified in NC. Gen. Stat. §143-135.9(a)(2), a government-vendor partnership is a mutually beneficial contractual relationship between state government and a service provider, wherein the two share risk and reward, and wherein value is added to the procurement of needed goods or services.

proposed procurement of a contracted service, to include rebids of currently contracted services with an estimated value exceeding \$1 million. The estimated value should be based on the estimated realized revenue to the service provider during the contract period, including extension periods authorized in the original contract.

The General Assembly should also amend state law to include a requirement for the Division of Purchase and Contract (P&C) to review and approve the business case documenting the decision to contract with a private service provider. In addition, for contracted services with an estimated value exceeding \$5 million, including applicable extension periods, state agencies should also be required to include documentation demonstrating OSBM review and approval of the business case as a condition of P&C review and approval.

For contracted services up to a maximum estimated value of \$5 million, the General Assembly should authorize P&C to delegate business case approval authority to the applicable state agency director, including applicable extension periods. This delegated authority should be subject to the ability of the state agency to demonstrate it has the requisite competencies to effectively perform the sourcing evaluation phase of the procurement process for contracted services. At a minimum, the decision by P&C to delegate business case approval authority should include consideration of the following factors:

- demonstrated competency of state agency procurement staff, to include skills necessary to effectively utilize government-vendor partnerships to achieve best value, and
- results of recent P&C compliance reviews of state agency procurement processes.

In addition, the General Assembly should amend state law to require the State Purchasing Officer and the applicable state agency to consult with the Joint Legislative Commission on Governmental Operations prior to P&C review and approval of a business case with an estimated value of greater than \$1 million, including applicable extension periods. If no action is taken by the Joint Legislative Commission on Governmental Operations within 15 days of notification of the associated business case value analysis, P&C may authorize the state agency to proceed with the procurement process as identified in the applicable business case.

To help ensure all of the services provided by state agencies achieve best value, the General Assembly should also direct OSBM to produce a report that includes a plan and resource requirements for determining whether commercial services can be more effectively performed by a private provider. This report should be submitted to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by December 1, 2016.

Recommendation 2. The General Assembly should direct the Department of Administration to implement a contract management system for state agency-administered contracted services.

As described throughout this report, the Program Evaluation Division found that the process to procure contracted services does not ensure achievement of best value. Specifically, as discussed in Finding 3, achievement of best value from a contracted service is directly linked to the adequacy of the requirements identified in the solicitation for a service. State agencies are not consistently including necessary information to ensure best value is obtained. As described in Findings 4 and 5, the Program Evaluation Division also determined state management and monitoring of contracted services does not consistently contribute to effective performance. As a result, state agencies may not be uniformly complying with the applicable terms and conditions of service contracts or consistently achieving best value from service providers.

To ensure P&C and state agencies can effectively monitor and manage contracts to ensure compliance with applicable requirements and achievement of best value, the General Assembly should require P&C to implement a contract management system and require state agencies to effectively manage the procurement process for all of their contracts for services.

State agencies should be required to utilize the contract management system for all contract awards issued after its installation. For contract awards issued prior to installation of the contract management system, state agencies should be authorized to use the existing legacy system to monitor contract expenditures but be required to provide P&C with the amount spent under each applicable contract for services during the preceding fiscal year, as well as any other information required to produce the annual report on state agency-administered contracts for services.

At a minimum, the contract management system should include the capacity to ensure

- payments are made in accordance with the applicable contract terms and conditions,
- key documents for all state agency-managed contracted services can be stored and retrieved from a searchable database, and
- customizable management reports can be generated by state agencies and other state entities with oversight responsibilities.

In addition, the General Assembly should amend state law to require P&C to provide the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division with an annual report on state agency-administered contracts for services to include:

- description, value, and procurement method of service contracts awarded during the previous year, which provides annual and total payments issued under each applicable contract;
- description, submission and approval date, and estimated value of business cases submitted to P&C; and
- results of P&C reviews of state agency procurement processes.