

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

DEPARTMENT OF EDUCATION

Selected Administrative Activities
and Prior Audit Follow-Up



Sherrill F. Norman, CPA
Auditor General

Commissioner of the Department of Education

Pursuant to Article IX, Section 2 of the State Constitution and Section 20.15, Florida Statutes, the State Board of Education supervises the system of free public education and is the head of the Department of Education. The State Board of Education appoints the Commissioner of Education who serves as the Executive Director of the Department. The following Commissioners of Education served during the period of our audit:

Pam Stewart	From September 17, 2013
Pam Stewart, Interim	From August 2, 2013, through September 16, 2013
Tony Bennett	Through August 1, 2013

The team leader was Joshua T. Barrett, CPA, and the audit was supervised by Allen G. Weiner, CPA.

Please address inquiries regarding this report to Christi Alexander, CPA, Audit Manager, by e-mail at christialexander@aud.state.fl.us or by telephone at (850) 412-2786.

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DEPARTMENT OF EDUCATION

Selected Administrative Activities and Prior Audit Follow-Up

SUMMARY

This operational audit of the Department of Education (Department) focused on selected administrative activities and also included a follow-up on finding Nos. 1 and 2 noted in our report No. 2013-094. Our audit disclosed the following:

Finding 1: The Department did not document that vendor cost proposals for the Florida Kindergarten Readiness Screener assessment instrument were evaluated utilizing comparable costs.

Finding 2: The Department had not established policies and procedures for the collection and use of social security numbers or evaluated its collection and use of social security numbers to ensure compliance with State law.

Finding 3: As similarly noted in our report No. 2013-094, the Department should establish a mechanism for reporting and analyzing detailed student and teacher information to effectively monitor individual school district and Statewide reasonableness of Virtual Instruction Program provider student-teacher ratios.

BACKGROUND

Pursuant to State law,¹ the Department of Education (Department) is responsible for assisting in providing professional leadership and guidance and in carrying out education policies, procedures, and duties authorized by State law and by the State Board of Education, and as necessary, attaining the purposes and objectives of the Florida K-20 Education Code.² Under the direction of the State Board of Education and executive oversight of the Commissioner of Education, the Department plans, administers, and delivers its programs and services through seven divisions and two offices.³

The Department serves as the single repository of education data from school districts, State and community colleges, universities, and independent postsecondary institutions. According to Department records, the Department serves nearly 2.7 million students, 28 colleges, and approximately 4,200 public schools, 47,000 college professors and administrators, 192,000 teachers, and 321,000 full-time staff.

¹ Section 1001.20(2), Florida Statutes.

² Chapters 1000 through 1013, Florida Statutes.

³ Section 20.15(2), Florida Statutes.

FINDINGS AND RECOMMENDATIONS

Finding 1: Procurement of the Florida Kindergarten Readiness Screener Assessment Instrument

State law⁴ establishes that fair and open competition is a basic tenet of public procurement and that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. When procuring commodities or contractual services in excess of \$35,000, State agencies are to use the competitive solicitation processes authorized by State law.⁵ For those procurements accomplished through an invitation to negotiate (ITN),⁶ State law⁷ requires that, among other things, agencies:

- Specify the criteria to be used for determining the acceptability of the reply and guiding the selection of the vendors with which the agency will negotiate, and evaluate replies against all evaluation criteria set forth in the ITN to establish a competitive range of replies reasonably susceptible of award.
- After negotiations are concluded, award the contract to the responsible and responsive vendor the agency determines will provide the best value to the State, based on the selection criteria.
- Document within the contract file the basis for selecting the vendor, the vendor's deliverables and price, and an explanation of how the deliverables and price provide the best value to the State.

The Department, Office of Contracts and Procurement, was responsible for ensuring all Department procurements of goods and contractual services were performed in accordance with applicable laws and rules. The Department established written policies and procedures⁸ to provide pertinent employees a comprehensive foundation for the contracting process. According to Department and MyFloridaMarketPlace⁹ records, during the period July 2013 through February 2015, the Department procured 272 contracts and executed 439 purchase orders in excess of the \$35,000 threshold. Those contracts and purchase orders totaled approximately \$260 million and \$56 million, respectively.

In January 2014, the Department issued an ITN to procure a new assessment instrument for the continued administration of the Florida Kindergarten Readiness Screener (FLKRS).¹⁰ The ITN specified an initial 3-year contract period and provided the Department with two optional 1-year contract renewals. The ITN required that vendor replies detail proposed costs, by year, for each of the following elements:

⁴ Section 287.001, Florida Statutes.

⁵ Section 287.057(1), Florida Statutes.

⁶ An invitation to negotiate is a solicitation used by a State agency to determine the best method for achieving a specific goal or solving a particular problem, and is to identify one or more responsive vendors with which the agency may negotiate to receive the best value.

⁷ Section 287.057(1)(c), Florida Statutes.

⁸ Department *Contract Management and Accountability Workshop Training Manual and Handbook*.

⁹ MyFloridaMarketPlace serves as the State's Web-based eProcurement system and is utilized by State agencies and other users to procure goods and contractual services.

¹⁰ Section 1002.69(1), Florida Statutes, requires the Department to adopt a Statewide kindergarten screening that assesses the readiness of each student for kindergarten based upon performance standards adopted by the Department. Each school district is required to administer the screening to every kindergarten student in the school district within the first 30 days of each school year.

- License fees.
- Classroom kits.¹¹
- Test Administration Manual.
- Training.

For the license fees portion of the price reply, vendors were to specify license fee costs for each year administering the assessment instrument. Total license fee costs for each contract year were to be calculated by the vendor based on the vendor's per student license fee and the Department's estimated number of students to be administered the instrument. In total, the ITN specified that an estimated 1,355,269 students were to be administered the instrument during the initial and renewal contract periods.

In response to the ITN, the Department received three responses. The Department's evaluation team scored each vendor's response and, based on the evaluation team's recommendation, the Department negotiated with two vendors, requesting from each vendor a Best and Final Offer (BAFO). In June 2014, the Department executed a 3-year contract with NCS Pearson, Inc. (Pearson) for \$2,720,250.

As part of our audit, we examined Department records related to the procurement of the FLKRS assessment instrument to evaluate the Department's compliance with State law and to determine whether the Department ensured that comparable proposed vendor costs, specified in accordance with the ITN, were evaluated. Our audit procedures disclosed that:

- Pearson's \$4,537,550 BAFO for the entire 5-year contract period (initial 3-year contract period with two 1-year renewals) was calculated using an estimated student count 305,269 (22.5 percent) less than the 1,355,269 estimated student count specified in the ITN. As a result, Pearson's BAFO was \$273,655 (5.7 percent) less than the other vendor's \$4,811,205 BAFO. Had Pearson utilized the estimated student count specified in the ITN, Pearson's BAFO would have exceeded the other vendor's BAFO by \$766,000 for the 5-year contract period and \$456,616 for the initial 3-year contract period.
- The Department's negotiation team recommended that the contract be awarded to Pearson, indicating that, although Pearson's \$2,720,250 BAFO for the initial 3-year contract period was higher than the other vendor's \$2,693,875 BAFO, Pearson's BAFO was lower when the optional renewal years were considered and provided the best value. However, we noted that the Department could not provide documentation demonstrating that the negotiation team analyzed each vendor's BAFO based on comparable estimated student counts.

In response to our audit inquiry, Department management indicated that both vendors were asked to provide a BAFO that fell within the Department's \$2.7 million available budget for the 3-year contract period. Notwithstanding Department management's explanation, evidence of the consideration of comparable cost data during the ITN negotiation process is necessary to demonstrate that all relevant factors, including price, are appropriately considered when making procurement decisions in the best interest of the State.

Recommendation: We recommend that Department management ensure that an evaluation of comparable vendor cost data is documented when making procurement decisions.

¹¹ Vendors that proposed non-paper based solutions were not required to complete this portion of the price reply.

Finding 2: Collection of Social Security Numbers

The Legislature has acknowledged in State law¹² that a person's social security number (SSN) was never intended to be used for business purposes. However, over time the SSN has been used extensively for identity verification and other legitimate consensual purposes.

Recognizing that an SSN can be used to perpetrate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the Legislature specified¹³ that State agencies may not collect an individual's SSN unless the agency is authorized by law to do so or it is imperative for the performance of that agency's duties and responsibilities as prescribed by law. Additionally, State agencies are required to provide each individual whose SSN is collected written notification regarding the purpose for collecting the number. The SSNs collected may not be used by the agency for any purpose other than the purposes provided in the written notification. State law further provides that SSNs held by an agency are confidential and exempt from public inspection and requires each agency to review its SSN collection activities to ensure the agency's compliance with the requirements of State law and to immediately discontinue SSN collection upon discovery of noncompliance.

We noted that the Department had not established written policies and procedures for the collection and use of SSNs or provided individuals from whom a SSN was collected written notification of the purpose for collecting their SSNs. Additionally, we found that the Department had not evaluated its collection and use of SSNs to ensure compliance with State law. In response to our audit inquiry, Department management indicated that procedures were being implemented to notify new employees of the purpose for collecting their SSN and to provide current employees with written notification during their upcoming annual performance evaluations. However, Department management further indicated that, as of July 2015, the Department had not developed policies and procedures for providing non-Department employees, such as teachers and vocational rehabilitation clients, written notification for the purpose of collecting their SSNs.

Effective controls, including written policies and procedures addressing the Department's collection and use of individuals' SSNs, and periodic assessments of SSN collection activities, would better ensure and demonstrate Department compliance with statutory requirements and reduce the risk that SSNs may be unnecessarily collected or utilized for unauthorized purposes.

Recommendation: We recommend that Department management establish written policies and procedures regarding the collection and use of individuals' SSNs and take appropriate steps to demonstrate compliance with applicable statutory requirements.

Finding 3: Monitoring of Virtual Instruction Program Provider Student-Teacher Ratios

State law¹⁴ establishes school district Virtual Instruction Programs (VIPs) and specifies that the purpose of the VIPs is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. State law further requires that all providers seeking to offer

¹² Section 119.071(5)(a)1.a., Florida Statutes.

¹³ Section 119.071(5)(a)2.a., Florida Statutes.

¹⁴ Section 1002.45, Florida Statutes.

a VIP must first be approved by the Department. As of June 23, 2015, the Department had six approved VIP providers.¹⁵

State law¹⁶ requires that Department-approved VIP providers publish student-teacher ratios and other instructional information in all contracts negotiated with school districts. While this statutory requirement appears to contemplate the ability of school districts to monitor the reasonableness of student-teacher ratios on a district-by-district basis, VIP teachers may provide instruction to students in more than one school district. For example, Department records indicated that during the 2014-15 school year, K12 Inc. had VIP contracts with 32 State school districts. Consequently, the nature of the virtual instruction world limits the ability for any one school district to effectively monitor the reasonableness of student-teacher ratios for its district and compels that a more comprehensive assessment of such ratios be performed on a Statewide basis for all school districts by VIP provider.

In our report No. 2013-094, finding No. 2, we noted that the Department had not established a mechanism for reporting and analyzing detailed student and teacher information to effectively monitor the individual districts' and the Statewide reasonableness of VIP provider student-teacher ratios. As part of our audit, we evaluated whether Department management had taken corrective actions to monitor the reasonableness of VIP provider student-teacher ratios on both an individual school district and Statewide basis. In response to our audit inquiry, Department management indicated that the Department was developing a method to generate VIP provider student-teacher ratios by combining information maintained in the Department's Automated Student Information System with information maintained in the Department's Automated Staff Information System; however, as of May 20, 2015, technical issues and staff workload had prevented a working mechanism from being developed.

The establishment of an effective mechanism for reporting and analyzing detailed student and teacher information would enhance the Department's ability to effectively monitor the reasonableness of VIP provider student-teacher ratios on an individual school district and Statewide basis.

Recommendation: We recommend that Department management continue efforts to establish a mechanism for reporting and analyzing detailed student and teacher information that will provide for effective monitoring of the reasonableness of VIP provider student-teacher ratios by individual school district and Statewide.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the applicable findings included in our report No. 2013-094.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant

¹⁵ Edgenuity, Inc.; Edmentum, Inc.; Florida Connections Academy, LLC; K12, Inc.; Mater Academy, Inc.; and Somerset Virtual Academy, Inc.

¹⁶ Section 1002.45(2)(a)8.e, Florida Statutes.

information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2015 through July 2015 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.

This operational audit focused on selected administrative activities. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, finding Nos. 1 and 2 noted in our report No. 2013-094.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Obtained an understanding of governing laws, rules, regulations, and other guidelines related to Department operations, including contract procurement.
- Performed inquiries and inspections of documents and records to determine whether Department management had adequately designed and implemented controls, including policies and procedures, for the procurement of goods and contractual services.
- Performed inquiries of Department personnel and inspected Department records to gain an understanding of the Department's mechanism for tracking and maintaining contract information.
- Evaluated whether the Department procured goods and contractual services in accordance with State law. During the period July 2013 through February 2015, the Department executed 711 contracts and purchase orders exceeding \$35,000 and 1,571 contracts and purchase orders less than \$35,000. Those contracts and purchase orders totaled \$315.2 million and \$14 million, respectively. From this population, we examined documentation related to 47 contracts and purchase orders totaling \$202.9 million.
- Analyzed Department data related to all purchase orders made during the period July 2013 through February 2015 to identify and investigate purchases of goods or contractual services potentially divided to avoid the competitive procurement requirements of State law.
- Compared the Department's list of contracts executed during the period July 2013 through February 2015 to Florida Accounting Information Resource Subsystem (FLAIR) contract expenditure data and Florida Accountability Contract Tracking System records to determine whether Department controls were sufficient to ensure the completeness of the contract list.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - Budgetary, cash management, revenue, and contract administration and monitoring processes.
 - The assignment and use of motor vehicles. According to FLAIR property records, as of February 2015 the Department owned 43 motor vehicles with acquisition costs totaling \$808,831, including 2 motor vehicles, totaling \$45,970, acquired during the period July 2013 through February 2015.
- Compared dates of employment separations with the dates user access privileges were deactivated to evaluate the timeliness of the deactivation of FLAIR access privileges for the 61 Department employees who separated from Department employment during the period July 2013 through November 2014.
- Reviewed Department processes for collecting and utilizing individuals' social security numbers to evaluate Department compliance with applicable statutory requirements.
- Evaluated Department actions taken to correct finding Nos. 1 and 2 noted in our report No. 2013-094. Specifically, we:
 - Examined the Department's Virtual Instruction Program (VIP) contract template to determine whether the contract template included all elements required by Section 1002.45, Florida Statutes.
 - Performed inquiries of Department management to determine whether the Department had established mechanisms for reporting and analyzing detailed student and teacher information

to effectively monitor individual school district and Statewide reasonableness of VIP provider student-teacher ratios.

- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



FLORIDA DEPARTMENT OF
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Commissioner of Education

December 2, 2015

Sherrill F. Norman, CPA
Auditor General
Office of Auditor General
111 West Madison Street, Suite G74
Tallahassee, FL 32399-1450

Dear Ms. Norman:

The following responses are offered with respect to the preliminary and tentative audit findings issued October 19, 2015, on the operational audit of the Department of Education (Department), Selected Administrative Activities and Prior Audit Follow-Up:

Finding No. 1: Procurement of the Florida Kindergarten Readiness Screener Assessment Instrument

Recommendation: We recommend that Department management ensure that an evaluation of comparable vendor cost data is documented when making procurement decisions.

Response:

The Department believes that a fair comparison of prices was conducted as part of the overall process as indicated in the recording of the Intent to Award meeting. During that meeting the members of the negotiation team had an extensive discussion of price comparing the BAFOs of the two vendors under consideration. However, we will review our procedures and make any changes necessary to ensure that all factors that are considered in the Invitation to Negotiate (ITN) process, including price comparisons, are documented in detail.

Finding No. 2: Collection of Social Security Numbers

Recommendation: We recommend that Department management establish written policies and procedures regarding the collection and use of individuals' SSNs and take appropriate steps to demonstrate compliance with applicable statutory requirements.

Response: As noted in the finding, the Department has established procedures for the notification of new employees regarding the collection and use of social security numbers (SSNs) and is in the process of implementing such notification for existing employees. The Department is also in the process of conducting an assessment of the Department's collection and use of SSNs and once that is completed the written policies and procedures will be finalized.

Finding No. 3: Monitoring of Virtual Instruction Program Provider Student-Teacher Ratios

Recommendation: We recommend that Department management continue efforts to establish a mechanism for reporting and analyzing detailed student and teacher information that will provide for effective monitoring of the reasonableness of VIP provider student-teacher ratios by individual school district and Statewide.

Response: The Department continues its efforts to effectively monitor student-teacher ratios by approved VIP providers and has the following mechanisms in place:

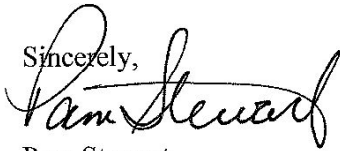
1. To capture information about VIP provider teachers with a consistent, unique identifier, a new edit has been implemented. This new edit will require that the Florida Educators Certificate Number be included in the Teacher Course Schedule for School Number 7001 = VIP Approved Providers. Districts will be required to obtain this information from providers and report it to the Department's Database.
2. Florida approved Virtual Instruction Providers are required to publish their student-teacher ratios on their Disclosure Website and to update their websites as changes occur. To facilitate this process and encourage compliance the Virtual Education office includes these links on our Department website:
 - a. Edgenuity - <http://www.edgenuity.com/florida>
 - b. Florida Connections Academy - <http://www.connectionsacademy.com/florida-virtual-school/disclosures.aspx>
 - c. K12 Florida - <http://www.k12.com/Florida-DOE>
 - d. Mater Virtual Academy - http://www.matervirtualacademy.com/apps/pages/index.jsp?uREC_ID=214155&type=d
 - e. Somerset Virtual Academy - [Somerset Academy website](#)

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3. The Virtual Education office has included the student-teacher ratios in the Model VIP Contract that is posted on our department website and is available as a template for districts to use when entering into contracts with VIP approved providers: Model VIP Provider Contract.

If you need additional information, please feel free to contact Martha K. Asbury, Assistant Deputy Commissioner, Finance and Operations, at (850) 245-0420 or via email at Martha.Asbury@fldoe.org.

Sincerely,



Pam Stewart
Commissioner

PS/tln

cc: Mike Blackburn, Inspector General
Linda Champion, Deputy Commissioner, Finance and Operations
Martha Asbury, Assistant Deputy Commissioner, Finance and Operations
Sally Roberts, Educational Policy Consultant, Virtual Education
Janice Brown, Chief, Bureau of Contracts, Grants and Procurement