



STATE OF ILLINOIS OFFICE OF THE AUDITOR GENERAL

Frank J. Mautino, Auditor General

REPORT DIGEST

PERFORMANCE AUDIT

**Release Date:
May 2018**

Audit performed in
accordance with
**House Joint
Resolution 63**

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EXECUTIVE SUMMARY

State's Leasing Decision

On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State's decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East.

The decision to enter into the lease actually involved two different leases – one for a file storage warehouse and one for an IT (Information Technology) and Telecommunications Support Center. After the winning vendors were selected but prior to the final award, the Department of Central Management Services (CMS) switched the purposes of the leases and the using agencies. However, CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded. For example, the vendor awarded the warehouse lease was not a qualified respondent under the Procurement Code as it had submitted a response for the IT and Telecommunications Support Center and not the warehouse lease. This was no fault of the vendors as the decision to switch leases was made by CMS. In addition:

- Offers were evaluated and awards selected based on the requirements set forth in the solicitation document. These requirements were then changed.
- CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. However, the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.
- Other responders did not get the opportunity to change their bids to meet the new lease requirements violating the principle of fair and equal treatment.
- By not rebidding, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.
- The State Purchasing Officer responsible for reviewing the leases could not provide adequate documentation of review.

Other key findings of the audit include the following:

- The information provided by CMS to the Procurement Policy Board for the Department of Human Services (DHS) warehouse lease was misleading and incomplete which hampered the Board's ability to review the lease. A draft version of the information sent to the Board contained additional language explaining the switching of leases but it was removed in the final version sent to the Board.
- The amount of space requested in the DHS space request was insufficient to meet its file storage needs. DHS also could not provide documentation demonstrating any cost savings resulting from consolidating files.
- CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East.
- DHS has not conducted a comprehensive cost-benefit analysis of digitizing records.

AUDIT SUMMARY AND RESULTS

Dwight Correctional Center (Dwight) was closed effective March 26, 2013. In October 2013, the Illinois Department of Corrections submitted a request to the Department of Central Management Services (CMS) to surplus the Dwight property. At that time, it was decided to use the prison site for Department of Human Services (DHS) file storage. DHS began moving file cabinets and boxes to Dwight in January 2014.

In September 2015, DHS submitted a space request to CMS for new file storage space in Central Illinois. The conditions at Dwight had deteriorated and DHS also needed additional space to consolidate files from local offices. On October 4, 2016, the DHS warehouse was awarded to Climate Controlled Holdings, LLC for a facility located at 2410 South Grand Ave. East in Springfield, Illinois.

On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State’s decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East. The audit resolution contained 11 determinations.

The decision to enter into the lease actually involved two different leases – one for a file storage warehouse and one for an IT and Telecommunications Support Center.

The decision to enter into the lease actually involved two different leases. The lease at 2410 South Grand Ave. East is for a DHS file storage warehouse. However, this lease originated as an IT (Information Technology) and Telecommunications Support Center for the Department of Innovation and Technology (DoIT). The DHS warehouse originated under a different lease. After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies.

After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies.

- In September 2015, DHS submitted a space request to CMS for a new **file warehouse** in Central Illinois. The solicitation was issued and four bids were received by the due date of December 15, 2015. On April 20, 2016, an offer was selected from MGM Jefferson Corporation for property at 719 W. Jefferson St. in Springfield, Illinois.
- In September 2015, the CMS Bureau of Communications and Computer Services (BCCS), which is now DoIT, submitted a space request for an **IT and Telecommunications Support Center** to be located in Springfield. The solicitation was issued twice with no bids received. The solicitation was issued a third time with two bids received by the due date of February 24, 2016. On April 20, 2016, an offer was selected from Climate Controlled Holdings, LLC for property at 2410 South Grand Ave. East in Springfield, Illinois.

On July 8, 2016, CMS decided to switch the lease facilities, awarding the DHS file warehouse to Climate Controlled Holdings and awarding the IT and Telecommunications Support Center to MGM Jefferson Corporation. It appeared that the decision to switch the leases was done with the intent of finding the best fit for the agencies as well as protecting both prospective landlords from loss of time, effort, and monies already expended. (pages 15-25)

Digest Exhibit 1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
	08-04-15	Department of Agriculture notifies BCCS that BCCS will need to move from the building at the State Fairgrounds
DHS sends CMS a memo regarding the poor conditions at the Dwight facility	08-18-15	
CMS Statewide Facility Manager emails DHS that space usage at Dwight is 41,905 square feet	09-08-15	
DHS submits a space request to CMS for new file storage space in Central Illinois	09-10-15	
	09-14-15	BCCS submits a space request for an IT and Telecommunications Support center that will combine staff located at the State Fairgrounds and two other locations
	10-14-15	CMS issues RFI #6627 seeking 44,000 square feet of office/climate-controlled warehouse space for BCCS with a due date of 11-19-15; no bids are received
CMS issues RFI #6628 seeking 26,000 square feet of climate-controlled warehouse space for DHS with a due date of 12-01-15	11-09-15	
State Purchasing Officer cancels RFI #6628 because one offer received was inadvertently opened early in error	11-30-15	
CMS re-issues RFI #6628 with a due date of 12-15-15; four bids are received	12-01-15	
	12-07-15	CMS re-issues RFI #6627 with a due date of 01-13-16; no bids are received
	01-19-16	CMS re-issues RFI #6627 for a third time with a due date of 02-24-16; two bids are received
CMS and DHS conduct first of four site suitability visits for possible locations of the DHS warehouse	03-18-16	
	03-24-16	Following a site suitability visit, BCCS emails the CMS Leasing Representative a list of concerns with the South Grand Ave. East location
Award notice published announcing selection of an offer from MGM Jefferson Corporation for DHS for 24,210 square feet at the W. Jefferson St. location	04-20-16	Award notice published announcing selection of an offer from Climate Controlled Holdings for BCCS for 44,000 square feet at the South Grand Ave. East location
	05-04-16	Series of emails begins between BCCS and CMS discussing issues with South Grand Ave. East location
	06-13-16	Secretary Designate of DoIT emails CMS that they want to hold off on the move to the South Grand Ave. East location
	06-16-16	CMS Leasing Representative sends a draft lease to Climate Controlled Holdings for review
CMS Leasing Representative sends a draft lease to MGM Jefferson Corporation for review	06-21-16	
	07-08-16	
CMS Lease Administrator recommends switching the locations for the leases and utilizing the South Grand Ave. East location for DHS files and the W. Jefferson St. location for BCCS		
 DHS warehouse facility		
 BCCS IT and Telecommunications Support Center		
 Applies to both leases		

Digest Exhibit 1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
CMS reassesses the amount of space being used by DHS at Dwight and determines the total is 36,819 square feet	07-13-16	
08-10-16 Deputy Director of the CMS Bureau of Property Management approves switching the locations for the leases		
State Purchasing Officer publishes notice of lease award for lease #6627 awarding the DHS warehouse to Climate Controlled Holdings for 60,158 square feet at the South Grand Ave. East location	10-04-16	
Lease #6627 for the DHS warehouse is a non-agenda item for the meeting of the Procurement Policy Board; no discussion of the lease	10-20-16	
Lease #6627 is signed by Director of CMS	11-03-16	
	12-22-16	State Purchasing Officer publishes notice of lease award for lease #6628 awarding the BCCS IT and Telecommunications Support Center to MGM Jefferson Corporation for 24,210 square feet at the W. Jefferson St. location
	01-19-17	The Procurement Policy Board objects to lease #6628 as it had questions regarding who is paying for the cost of ADA compliance improvements
DHS begins moving files into the new warehouse facility	Early Feb – 17	
	02-24-17	CMS provides additional information to the Procurement Policy Board which then approves lease #6628
	02-27-17	Lease #6628 is signed by the Director of CMS
 DHS warehouse facility		
 BCCS IT and Telecommunications Support Center		
 Applies to both leases		
Source: OAG analysis of lease files and emails.		

CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded.

However, **CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded.** Climate Controlled Holdings was not a qualified respondent under the Procurement Code as it had not submitted a response for the warehouse lease. Conversely, MGM Jefferson Corporation was awarded the BCCS IT and Telecommunications Support Center but was not a qualified respondent as it had submitted a response for the warehouse lease. **This was no fault of the vendors as the decision to switch leases was made by CMS.**

Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. These requirements were then changed.

The State Purchasing Officer responsible for reviewing the leases could not provide adequate documentation of review.

The solicitation document, called the Request for Information, for each lease contained language on the selection of the winning vendor. **Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. These requirements were then changed.** When CMS decided to switch the leases, officials did not give other responders the opportunity to change their bids to meet the new lease requirements violating the principle of fair and equal treatment. Also, by not rebidding the DHS warehouse lease or the BCCS IT and Telecommunications Support Center lease, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.

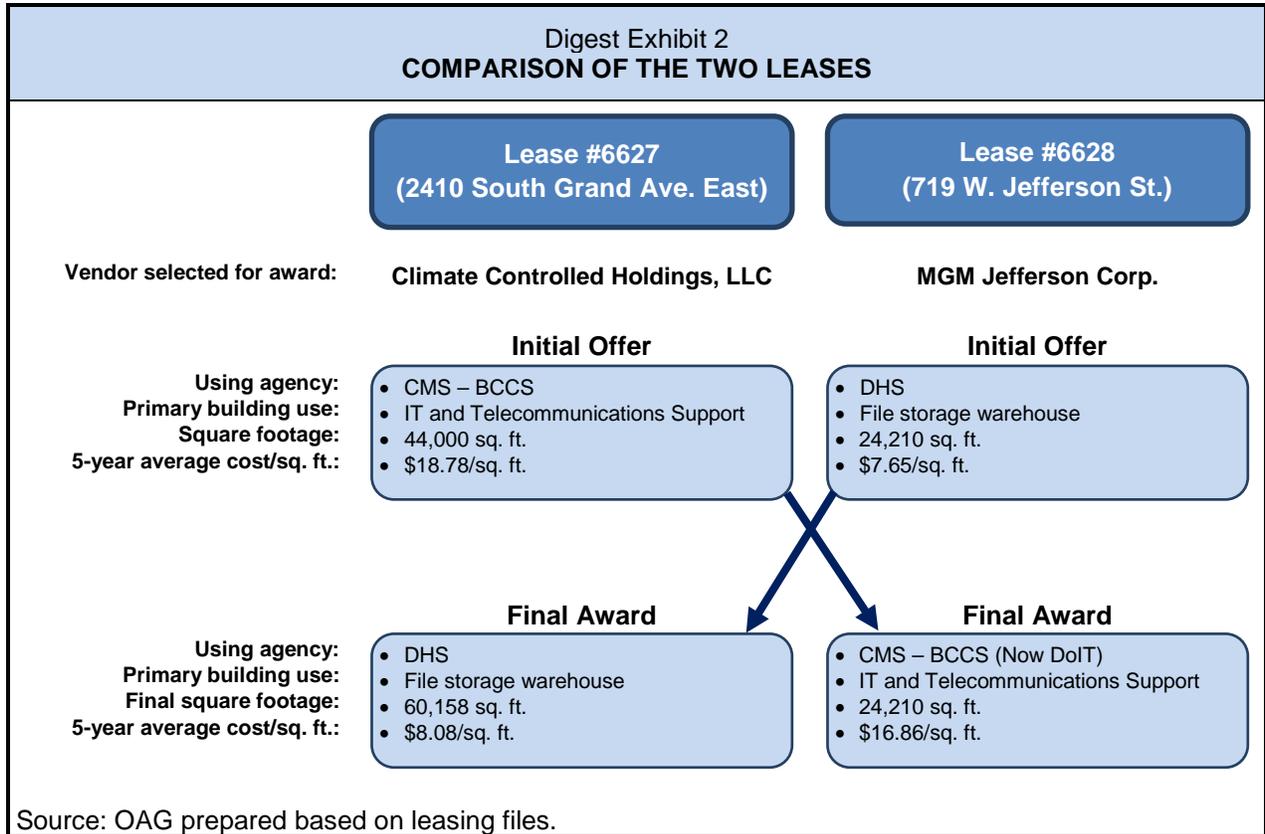
State Purchasing Officers, under the authority of the Chief Procurement Office (CPO) for General Services, have the authority to approve or reject contracts. However, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.

CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. The State Purchasing Officer cited a section of the standard lease agreement that allows for a change in the using agency. However, the section would only apply once the lease was executed. Secondly, and more importantly, **the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.** In summary:

- DHS requested 26,000 square feet for a warehouse which was initially awarded to MGM Jefferson Corporation, which offered 24,210 square feet for property located on W. Jefferson St. in Springfield. DHS was moved to a 60,158 square foot warehouse located on South Grand Ave. East in Springfield. MGM Jefferson Corporation submitted a bid for a warehouse but was awarded an IT and Telecommunications Support Center.
- BCCS requested 44,000 square feet of office and warehouse space which was initially awarded to Climate Controlled Holdings, which offered 44,000 square feet, plus additional space if needed, for property located on South Grand Ave. East. BCCS was instead moved to the 24,210 square foot facility located on W. Jefferson St. Climate Controlled Holdings submitted a bid for an IT and Telecommunications Support Center but was awarded a warehouse.

Digest Exhibit 2 compares the two leases from the initial offer to the final award. For example, for lease #6627, the using agency, primary building use, square footage, and cost per square foot all changed from the time of the initial offer to the final award. The cost per square foot decreased from initial offer to final award for one lease and increased for the other.

The exhibit also shows the shifting of the leases. The arrows show the IT and Telecommunications Support Center shifting from one lease to the other; the same shift occurred for the DHS file storage warehouse. (pages 26-35)



Information Related to the Audit Determinations

The audit determinations are discussed extensively in Chapter Three. Digest Exhibit 3 summarizes the status of the determinations. Following are the key findings related to the audit determinations.

DHS could not provide documentation demonstrating any cost savings resulting from consolidating files.

To justify the need for a new warehouse, DHS cited the poor conditions at Dwight Correctional Center and the need to consolidate files located at Family Community Resource Centers. DHS stated *“This lease will end up saving a great deal of money as the warehouse space will be considerably less expensive than housing the files in the local offices.”* However, **DHS could not provide documentation to show an analysis had been conducted to demonstrate any cost savings.**

Digest Exhibit 3 SUMMARY OF AUDIT DETERMINATIONS	
Determination	Status
1) <i>The justification for the space request by DHS, including the location and condition of the premises where the records were previously stored and the functions were previously performed ("existing space").</i>	<ul style="list-style-type: none"> DHS submitted a space request with a justification that the conditions at Dwight had deteriorated and that consolidating files would save money. However, DHS could not document any cost savings. In addition, the amount of space requested in the DHS space request was insufficient to accommodate the files stored at Dwight.
2) <i>Whether CMS or other appropriate State agencies considered renovating the existing space and, if so, what projections were made for the cost of renovating the existing space.</i>	<ul style="list-style-type: none"> CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space.
3) <i>Whether CMS considered the availability of other State-owned or leased space before the decision to enter into a new lease was made, including what specific State-owned or leased properties were reviewed prior to making the decision to enter into a new lease.</i>	<ul style="list-style-type: none"> CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available.
4) <i>Whether CMS conducted an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East, Springfield, Illinois, including costs associated with renovating and maintaining the property.</i>	<ul style="list-style-type: none"> CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. The only analysis conducted was a fiscal analysis of bids that CMS performs for every lease.
5) <i>Whether DHS or any other appropriate State agency has conducted a cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form, including the costs of storage, access, and travel, if any, to retrieve hard copy records for various official purposes, as well as the security risks of confidential records in one form as compared to the other.</i>	<ul style="list-style-type: none"> DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form.
6) <i>The role of the Procurement Policy Board in reviewing the lease, including whether the Board has any conflict-of-interest procedures for members to recuse themselves because of personal, professional, or financial relationships.</i>	<ul style="list-style-type: none"> The DHS warehouse lease was not discussed or voted on at the Board’s October 2016 meeting. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest
7) <i>Identification of the persons involved in the procurement, and their respective roles and responsibilities.</i>	<ul style="list-style-type: none"> See Appendix C for a list of those involved, their titles, and their respective roles.
8) <i>The process, time frame, and coordination followed by CMS in examining the lease requirements and advertising the procurement opportunity, including any steps taken to ensure adequate competition.</i>	<ul style="list-style-type: none"> CMS has procedures in place for examining lease requirements and advertising the procurement. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease and to ensure adequate competition.
9) <i>Whether any confidential information was shared between the CMS leasing agent and any of the bidders or potential bidders in the procurement process.</i>	<ul style="list-style-type: none"> The CMS Leasing Representative shared pricing information between the bidders selected for the awards of the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases.
10) <i>The decision of CMS to proceed with the warehouse lease after receiving only one bid.</i>	<ul style="list-style-type: none"> The warehouse lease received four bids. The State’s decision to switch leases is discussed in Chapter Two.
11) <i>Whether relationships between the seller of the property ("Barney's"), the buyer of the property, and the chairman of the Procurement Policy Board played a role in the warehouse lease.</i>	<ul style="list-style-type: none"> Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease.
Source: OAG summary of the audit determinations.	

The amount of space requested in the DHS space request was insufficient to meet its needs.

The amount of space requested in the DHS space request was insufficient to accommodate the files being stored at Dwight. That is without even considering any additional files that would be moved from other locations. DHS relied on advice from CMS in developing the space request but, as the agency submitting the space request, DHS is ultimately responsible for submitting an accurate request that fully accommodates its needs. (pages 38-41)

CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space. CMS did not consider Dwight as functional enough to do an analysis on renovation. (pages 41-42)

CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available. CMS does not typically consider shuttered properties, such as prisons, because they are not acceptable for occupancy due to the same issues seen at Dwight. (pages 42-44)

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East.

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. Officials from CMS and the Capital Development Board signed a certification attesting that the lease was in the best interest of the State considering, among other items, “...*the cost-benefits of purchasing or constructing new space.*” However, it is impossible to know whether the lease is in the best interest of the State if a cost-benefit analysis of purchasing versus leasing is not performed. (pages 44-45)

DHS has not conducted a comprehensive cost-benefit analysis of digitizing records.

DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form. The analysis DHS provided was completed in May 2017 after the warehouse lease was awarded. The analysis contained two estimates that had substantially different total costs, did not include sufficient support for how the estimates were determined, and did not address any of the points in the audit resolution. (pages 46-47)

The Procurement Policy Board has the authority to review leases and object to leases. However, the DHS warehouse lease was not discussed or voted on at its October 2016 meeting. Because the Board did not object to the lease, it became effective at the end of the Board’s 30-day review period. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest. (pages 48-49)

CMS generally followed its leasing procedures in preparing the leases for publication. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease to ensure adequate competition. In addition, the geographic boundaries may have been unduly restrictive. (pages 53-55)

CMS officials said that they were unaware of any sharing of confidential information. However, emails indicated that the CMS Leasing Representative did share pricing information between the bidders selected for the awards for the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases. (pages 56-57)

Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease. (pages 58-59)

Other Issues

The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete.

The switching of leases lacked transparency. The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete which hampered the Board’s ability to review the lease. Based on the information provided, the Board would have been unable to tell that the lease originated as an IT and Telecommunications Support Center. A draft version of the white paper prepared by CMS contained additional explanatory language that was removed in the final version sent to the Board. (pages 62-65)

The Illinois Procurement Code provides authority to Procurement Compliance Monitors to review procurements and report any findings to the agency and the Chief Procurement Officer. In the spring of 2017, after the leases were executed, the Executive Director of the Executive Ethics Commission directed a Procurement Compliance Monitor to examine the leases. However, the Procurement Compliance Monitor was directed to stop his review by the Commission when the Commission voted to refer the matter to the Office of the Executive Inspector General. No report on findings was provided to CMS or the Chief Procurement Officer. The Executive Director stated that once the Commission referred allegations and related documents to the Executive Inspector General, the State Officials and Employees Ethics Act confidentiality provisions come into play and commission members, their employees, and agents were required to keep the matter confidential and not disclose it. However, if agencies are not provided a report on the findings of reviews conducted, the agencies are unable to correct any procurement deficiencies. (pages 65-66)

The Illinois Procurement Code gives responsibility to the chief procurement officers for publishing procurement notices to the Illinois Procurement Bulletin. For the two leases examined, posting to the Illinois Procurement Bulletin did not contain all of the information required by the Illinois Procurement Code and the General Services Standard Procurement Rules. In addition, for one of the leases, the procurement reference number was changed in the final award notice making it more difficult to track the lease from the initial posting. (pages 67-70)

For real property lease procurements, the Illinois Procurement Code requires State Purchasing Officers to make a written determination identifying responses that meet the minimum criteria. However, the State Purchasing

Officer’s review did not meet this requirement. In addition, there were no procedures in place to ensure the State Purchasing Officer’s comments and approval of the procurement process were documented. (pages 71-72)

RECOMMENDATIONS

This audit report contains ten recommendations: five recommendations directed to CMS; two recommendations directed to the CPO; one recommendation directed to both CMS and the CPO; one recommendation directed to DHS; and one recommendation directed to the Procurement Policy Board. The agencies generally agreed with the recommendations with the exception of the CPO who disagreed with Recommendation Number One. Appendix E to the audit report contains the agency responses.

This performance audit was conducted by staff of the Office of the Auditor General.

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Joe Butcher
Audit Manager

This report is transmitted in accordance with Sections 3-14 and 3-15 of the Illinois State Auditing Act.

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FRANK J. MAUTINO
Auditor General

FJM:DJB

