The Honorable Christine Todd Whitman  
Governor of New Jersey

The Honorable Donald T. DiFrancesco  
President of the Senate

The Honorable Jack Collins  
Speaker of the General Assembly

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Statewide Copier Contracts issued by the Department of the Treasury for the period July 1, 1996 to August 17, 1998.

If you would like a personal briefing, please call me at (609) 292-3700.

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State Auditor  
November 4, 1998
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Department of the Treasury
Statewide Copier Contracts

Scope
We have completed an audit of photocopier contracts issued by the Purchase Bureau for use by agencies of the State of New Jersey for the period July 1, 1996 to August 17, 1998. Photocopier contracts we reviewed include the acquisition of copiers (via rental, lease, outright purchase), procurement of photocopies (known as cost-per-copy), maintenance and supplies. New Jersey is expending approximately $11 million annually for photocopier goods and services.

Objectives
Our objectives were to determine whether the financial transactions for photocopier contracts were reasonable and properly recorded in the accounting systems.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology
Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, photocopier contracts and policies of the Purchase Bureau and state agencies. Provisions that we considered significant were documented and compliance with those requirements was verified by interview and observation and through our samples of financial transactions. We also reviewed financial trends and interviewed Purchase Bureau and agency personnel to obtain an understanding of the policies and the internal control. In addition, a survey was conducted regarding the administration for the contracts sampled.

A nonstatistical sampling approach was used. Our sample of contracts was designed to provide conclu-
sions about the validity of contracts as well as internal control and compliance attributes. We selected a sample of 55 photocopier acquisitions involving 116 machines. The acquisitions were judgmentally selected. Our selection encompassed a cross section of the different types of photocopier services acquired through different contracts and residing within different agencies of the executive and judicial branches.

Conclusions

We found that the $11 million expended for photocopier procurement, maintenance and supplies was recorded properly in the accounting systems. However, $2.7 million of cost savings could be achieved with full utilization of the cost-per-copy contracts.

In making this determination, we noted weaknesses in the complaint process for nonperforming vendors and other internal control weaknesses meriting management’s attention.

Auditee’s Response

The Division is pleased that OLS has recognized much of the progress made by the Division in the past year. The Division believes that the Report’s recommendations, which were implemented by the Division prior to the commencement of the audit, is a validation of the direction in which the Division is moving. However, the Division recognizes that it must not become complacent. Rather, it must continue to be vigilant in improving all aspects of its performance. The statewide copier contracts are no exception. In this regard, the Division is committed to exploring and implementing prudent modifications to the manner in which it conducts its business.
In this spirit, the Division has reviewed the OLS Audit Report of the Statewide Copier Contracts for the period of July 1, 1996 to August 17, 1998. As noted above, the Report contains several recommendations which the Division believes may be beneficial to the State. The Division will internally discuss these recommendations and develop plans for their implementation.
A more proactive approach is required by the Purchase Bureau and Printing Control Office to move using agencies to the current cost-per-copy contracts. Significant improvements have occurred in the 1990's in the method of copier procurements. Contract terms are clearer, recourse is provided for poor service, ownership of machines remains with vendors, and prices are lower. In the most recent procurement, entitled “cost-per-copy” (CPC), an annual cost savings per the Printing Control Office of $1.2 million has been realized when using agencies discontinued the older more costly machines and moved towards the current CPC contracts during fiscal year 1998.

We estimate an additional $2.7 million in cost savings could be achieved annually if the state discontinued the older, more costly machines and moved to the current CPC contracts.

We found that insufficient effort is made by the Purchase Bureau to phase out the older contracts. Extensions of these contracts are made because the process to acquire a photocopy machine begins with the using agency. While the Purchase Bureau has communicated via addendums to the current Notice of Awards (NOA), these notifications have not successfully discouraged agencies from extending the older contracts.

**Recommendation**

We recommend that the Purchase Bureau and the Printing Control Office actively market to state agencies, the benefits of the current CPC contracts and use MACSE edit for restricting usage to payments only.

**Auditee’s Response**

The report does not provide an explanation as to how OLS calculated these estimated savings. Thus, the Division is unable to assess the validity of OLS’ estimate. The Division notes that the “older, more costly machines” referenced by the Report are the subject of rental or lease agreements which have not yet expired. In order to “move to the current CPC contracts”, the remaining periods of these agreements would have to be bought out. The Division is unclear what, if any, cost OLS allocated to the buyout of these agreements.
agreements. It is impossible to quantify the cost to do so at this time. Moreover, the buyout of these agreements must be examined individually to determine whether each is in the State’s financial interest. In addition, the recent termination of the lowest bidder under the CPC Contracts for non-performance will result in increased costs per copy for all copier placements made subsequent to that termination. The effect of these factors on the achievable savings which the State might realize is, therefore, unclear.

The Report recommends that the Division actively market the benefits of the current CPC Contracts. The Division agrees that a more proactive approach to the marketing of these contracts may result in more agencies using the CPC Contracts and more savings to the State.

Contract Administration

Training and monitoring of using agencies is required to ensure compliance with contract terms and to outline each party’s responsibilities.

As procurements for photocopiers and their related expenses evolved over the last six years, significant changes in the terms and conditions have occurred to better service the state’s interest.

These improvements, however, have caused confusion and have created a cumbersome process for both using agencies and vendors alike. Also, the Standard Terms and Conditions of the State of New Jersey Contract are not included as part of the NOA. Terms 3.14 and 4.5 are both key elements which grant a using agency recourse in the event of unsatisfactory performance. We found instances where agencies did not exercise these options resulting in the vendor receiving payment for unsatisfactory performance and/or inaccurate billings.
In the rental and current maintenance contracts, specifications disclose that meter readings are required for billing purposes. Our review of 22 using agencies found 10 were not verifying the meter readings shown on the vendors’ bill. Errors in the meter readings could result in over/under payments.

According to the terms for active contracts, substitution of machines are not allowed without the Director of Purchase and Property’s approval. This is to prevent the vendors from arbitrarily substituting a machine from the one ordered. Our testing disclosed ten instances where the machine received by the using agency was not the one ordered; one vendor was responsible for nine of these unauthorized substitutions.

Generally, the procurement documentation does not provide using agencies with the information they need to verify prices. Therefore, agencies rely on the vendor to provide the accepted price without verification. The results of our testing disclosed that in 26 out of 42 acquisitions reviewed the state was not paying the price as agreed upon. There were 12 instances of overpayments and 14 underpayments. In 13 other cases, there was either insufficient information on the vendor bills or the machine invoiced was not included in the vendor’s bids.

As noted in a previous audit report on the automated purchasing system, fundamental input edits do not exist which would otherwise ensure the accuracy of data. An environment exists where agencies can process purchase orders against incorrect contracts. We noted 17 out of 55 acquisitions reviewed had payments processed against incorrect contracts.

One of the 3 procurements was extended strictly for transitioning from lease/purchase agreements to more economical CPC contracts. We found 10 of 27 sampled acquisitions within this procurement did not transition to CPC, but improperly kept their old machines and payment terms. While the Purchase Bureau communicated the restricted usage for the
related contracts generically through the NOA forum, this notification has proved ineffective.

**Recommendation**

We recommend that the Purchase Bureau and the Printing Control Office provide training to users of the copier contracts outlining their responsibilities, contractual rights, and the correct method to process a payment. (The training could be done in cooperation with the Office of Management and Budget.) A periodic review should be performed by them on the usage of these contracts and should be performed in conjunction with the Contract Administration Unit, which is charged with monitoring adherence with contract terms. This would identify agencies who are in need of additional guidance and training. In addition, agencies should be provided with current contracted price lists and should verify vendors’ invoices with the price lists and meter readings. Furthermore, appropriate corrective measures should be taken for those using agencies or vendors found to be in non-compliance with the contract.

**Auditee’s Response**

The State employs a decentralized purchasing scheme. This type of scheme requires that agencies paying a vendors’ bills have the primary responsibility for reviewing the bills which they are paying to ensure that: (1) it has, in fact, received the exact copier models which were ordered and (2) it is being charged the rates set forth in the contract based upon actual meter readings. The Division simply does not have the authority or resources to assume these responsibilities.

The Division agrees that additional training and monitoring of using agencies would help to ensure compliance with contract terms. The Division took two steps to provide training and monitoring of using agencies. The first step was the designation, in January 1998, of a point person within the Purchase Bureau to take the initiative for establishing training sessions for using agencies. This training extends to both State agencies and local governments. To date, more than 150 people have been trained in the use of State contracts.
The second step was the establishment of the CCAU in October 1997. To date, CCAU has audited approximately 100 contracts issued by the Division resulting in the return of over $128,000 to the State of overpayments made by agencies to vendors and identification of corrective action which could ultimately save the State in excess of $2.0 million. Admittedly, with one exception, CCAU has not audited the State’s copier contracts.

The Division is committed to continue its training and monitoring efforts to the extent that its resources permit.

Nonperforming Vendors

The complaint process is the current mechanism to address a vendor’s failure to comply with contract provisions. Its purpose is not only to document substandard performance but also to mutually and productively resolve complaints in a manner which fosters performance conforming to the requirements of the contract.

Over the years, it has been perceived through experience from using agencies that this process is meaningless. According to the Procurement Task Force report issued by the Department of the Treasury in October 1996, “Several Purchase Bureau customers expressed frustration with the existing PB-36 system. They feel that it does no good to complain about the performance of a contractor because the Bureau will not take appropriate action against a non-performing contractor. Furthermore, while the Purchase Bureau cites procedures that require buyers to check the existing complaint database prior to awarding a contract, customers perceive that the Bureau continues to award to contractors against whom they have filed complaints. Users stated that they submit the PB-36 form as a last resort, having made frequent attempts to resolve the problem with the vendor on their own. As a result, the Purchase Bureau fre-
quently has no knowledge of the vendor's poor performance."

We found significant improvements have been made in the complaint process. Evidence was provided to us indicating contractor terminations and vendor bypasses have occurred for other commodities due to complaints. However, we find a continuance of using agency perceptions during our audit of photocopier contracts.

Specifically, 6 of 22 agencies we interviewed stated that they had contractual problems with copier vendors, but did not complain for the same reasons noted in the Procurement Task Force Report. In addition, 15 of the agencies we interviewed were not satisfied with the performance of their photocopier vendor. Agencies need feedback from the Purchase Bureau as to immediate action and long term corrective measures to resolve substandard performance by a vendor.

Presently, there are conflicting directives on when an agency should file a formal complaint. NJAC 17:12-4.2 stipulates that agencies will notify the Purchase Bureau immediately, while the instructions for filing a PB-36 (complaint form) states agencies should first try to resolve problems with the vendor. In April 1998 the Purchase Bureau developed a formal complaint booklet which provides clear and concise guidance on when and under what terms a formal complaint should be filed. This booklet, however, had not been disseminated as of August 17, 1998.

Nonperforming vendors should be terminated promptly.

NJAC 17:12-4.6 allows the Director of Purchase and Property to rescind a contract with a non-complying vendor and immediately utilize another source. While the process allows the Division of Purchase and Property to debar or suspend vendors for nonperformance, the division has chosen not to follow this procedure in the case of photocopiers. (A review of the June 1998 statewide list of debarred and suspended vendor cases disclosed that 988 cases are currently on the list: 15 due to nonperformance. However, none of those were initiated by the Purchase Bureau.)
Instead, the division’s process before terminating a vendor for poor performance includes appeal rights both within the division and the appellate court. Not all time frames for filings and decisions are mandated. In cases where a time requirement is stated, extensions are granted. As a result, we found in the case of one photocopier vendor that terminating this vendor was not dealt with promptly.

Based upon a plethora of formal complaints (34 in total dating back to April 1997) concerning poor performance of a photocopier vendor, the division issued a termination letter to the vendor in early March 1998. An informal hearing was held April 30, 1998, with a final determination letter from the director on August 6, 1998. This delay included extensions granted by the director, appellate court litigation and ruling, and an absence of time requirements to respond to documents presented. Moreover, appeal options are still available to the vendor with the appellate court. Throughout this process the vendor has continued to conduct business with the state and the complaints dealing with poor performance have continued to be filed.

To avoid dealing with a poor performing vendor, we found that using agencies sometimes have to circumvent policies and procedures or knowingly retain an older more costly machine.

Recommendation

We recommend that the Purchase Bureau develop and implement a marketing strategy to inform using agencies of the benefits of the complaint process. This should include the dissemination of the complaint booklet. The Purchase Bureau should also provide agencies with feedback as to immediate and long term corrective action.
In addition, we recommend that the Director of Purchase and Property seek legislative action to amend the applicable statutes to make more explicit the director’s authority which has always been inherent. Specifically, due to the compelling public need of the state to continue to conduct business without unnecessary interruption, the director should be able to promptly terminate a contract in appropriate circumstances. The legislation should make clearer the director’s authority to resolve disputes through an informal hearing process. The director’s final decision resulting from this process should be reviewable by the appellate court rather than the trial court.

**Auditee’s Response**

Upon its establishment in October 1997, CCAU has shouldered the primary responsibility for the complaint process. Since that time, CCAU has received 211 formal complaints (Form PB-36) filed by agencies against vendors. CCAU has closed 146 of these complaints; 110 of these complaints were closed with written opinions explaining the basis for the decision reached therein. In addition, in those instances in which the agencies have voiced legitimate complaints, CCAU has required the nonperforming vendors to take corrective action in an effort to prevent future deficient performance. Thus, CCAU has gone a long way to improve the performance of the Division when agencies have made their complaints known. For its part, the Purchase Bureau increased its reliance on a bidder’s past performance in the contract award process.

The Division agrees with the Report’s recommendation that the Division develop and implement a marketing strategy to inform using agencies of the benefits of the complaint process. As to the recommendation that the Division seek legislation to amend existing procurement statutes, the Division recognizes that such an issue although complex deserves a thorough examination.
Acquisition of Photocopiers

The process to acquire a photocopier begins with a request from the using agency in the form of a PB-6 requisition. The request is forwarded to the Printing Control Office, within the Division of Purchase and Property, for evaluation of need and approval. It then goes to the Purchase Bureau for review against the contract terms. Once approved, the Purchase Bureau generates the purchase order and mails it to the vendors with a copy to the requesting agency. Fragmented information is known and retained by each unit.

An analysis of the time taken to process a request was performed for fiscal year 1998. We found that 45 percent of the requests took in excess of 15 working days to process. An additional analysis was performed in cases where the request involved a photocopier vendor who was unable or refused to supply the machine as ordered. We found in those cases that 30 percent of the requests took in excess of 60 working days to complete. Since the current CPC contracts are more economical, cost savings could be realized sooner if the division could streamline the operation.

During the course of our interviews, agencies voiced concerns with the time delays in approving or denying requisitions. Better communication regarding the status of their request and the inability to obtain answers to questions from one source was another concern raised by agencies.

Recommendation

The Division of Purchase and Property should streamline the process of approving and ordering photocopiers. One alternative could be to merge the functions of the Printing Control Office into the Purchasing Bureau. This would reduce the fragmentation of information.

Auditee’s Response

The Division recognizes the importance of timely service. Prior to the audit, the Division began working hard to streamline the process to facilitate quicker processing of requests for photocopiers. The delays
referenced in the Report were cause by two factors. The first factor is that under the CPC Contracts, the State is required to perform a needs analysis to determine the appropriate copier (by segment speed) to be placed consistent with agency need and the terms of the contract.

The second factor is that during Fiscal Year 1998, the Division encountered a major increase in activity under the CPC Contracts due to their favorable pricing and number of agencies wishing to switch over those contracts. In fact, 849 copiers have been placed under the CPC Contracts. This increase in demand placed a considerable strain on the Office of Print Control’s (“OPC”) limited staff. Additional delays have occurred when the requesting agency or the vendor disagree with OPC’s determination regarding the copier to be placed. To speed up the process, the Purchase Bureau now issues purchase order via fax rather than regular mail. This modification immediately commences the delivery period.

To better assess overall placement performance, OPC has implemented a system to track and monitor the process of photocopier acquisition from receipt of the initial request to placement of the copier. In addition, the Purchase Bureau has established an on-line customer satisfaction survey. To date, the Purchase Bureau has received numerous surveys in response to this initiative.