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An Audit Report on

A Selected Contract at the Department of Information Resources

May 2021
Report No. 21-018



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Overall Conclusion

The Department complied with statutes related to contract planning and procurement for the Public Cloud Manager contract. However, several aspects of the Department's vendor scoring process related to the procurement of the contract did not consistently follow Department policies and procedures or lacked documentation that would help ensure transparency of the process. Specifically, the Department did not:

- Ensure that its evaluators consistently provided justification for their scores and that documentation was maintained to clearly show when the scores were finalized for each round of scoring.
- Update the experience and past performance scores for both vendors in the second round of scoring, despite receiving revised responses from both prospective vendors.
- Ensure that the minimum vendor qualifications were consistent between the Request for Offer (RFO), the Department's evaluation plan, and the evaluators' scoring sheets.
- Communicate consistent evaluation criteria to the vendors after final scoring as it moved to the negotiations phase of the procurement process, and present the final weighted scores calculated by the Department to the unsuccessful vendor during the vendor debrief.

Background Information

The Department entered into a four-year contract with Rackspace US, Inc. on May 7, 2020. That contract was for Public Cloud Manager services, a component of the Department's Next Generation Data Center Services. The contract had an initial value of \$29.73 million, with options to extend for four additional years for a total of \$56.89 million. The contract also included optional transformation projects valued at \$7.38 million. If the optional transformation projects are exercised, the total value of the contract would be \$64.27 million over 8 years.

The contract was amended on July 20, 2020, to allow Rackspace to contract directly with cloud service providers, which added \$1.97 million to the total value.

Source: The Department's contract with Rackspace.

In addition, the Department should ensure that (1) all of its addenda to the RFO are reviewed and approved prior to being posted and (2) its project management plan is finalized and approved.

The Department should also ensure that (1) the required disclosure forms are consistently completed by its staff and (2) members of its governing board complete the required contracting training.

The Department followed its administrative procedures relating to vendor protests and complied with Public Information Act request requirements related to the Public Cloud Manager contract.

Table 1 presents a summary of the findings in this report and the related issue rating. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters/Subchapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating ^a
1	The Department Had Inconsistencies in Its Vendor Scoring Process for Procuring the Public Cloud Manager Contract	High
2-A	While the Department Procured the Contract in Accordance With Statutory Requirements, It Should Strengthen Its Procurement Document Review and Approval Process	Medium
2-B	While the Department Complied With Statutory Contract Planning Requirements, It Should Ensure That Required Planning Documents are Finalized and Approved	Medium
3	The Department Did Not Consistently Obtain Required Disclosures and Ensure That Contracting Training Was Completed	Medium
4	The Department Followed its Administrative Procedures Related to Vendor Protests and Complied With Statute Related to Public Information Act Requests	Low

^a A chapter/subchapter is rated **Priority** if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **High** if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **Medium** if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A chapter/subchapter is rated **Low** if the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

Auditors communicated other, less significant issues separately in writing to the Department's management.

Summary of Management's Response

At the end of certain chapters in this report, auditors made recommendations to address the issues identified during this audit.

The Department agreed with the recommendations in this report; however, it disagreed with the High issue rating of Chapter 1. Auditors discussed this rating with the Department and reviewed the Department's response to Chapter 1. Ultimately, the auditors used professional judgment to rate Chapter 1 as High

based on the determination that the combined issues could substantially affect the Department's ability to effectively administer the vendor scoring process.

Audit Objective and Scope

The objective of this audit was to determine whether the Department administered certain contract management functions in accordance with applicable requirements.

The scope of this audit covered the Department's planning, procurement, and vendor selection related to the Public Cloud Manager contract. Additionally, auditors reviewed the vendor protest procedures and requests for public information related to the audited contract.

Contents

Detailed Results

Chapter 1	
The Department Had Inconsistencies in Its Vendor Scoring Process for Procuring the Public Cloud Manager Contract	1
Chapter 2	
The Department Complied With Statutory Requirements for Contract Planning and Procurement; However, It Should Strengthen Processes Related to Reviewing and Approving Planning and Procurement Documents	12
Chapter 3	
The Department Did Not Consistently Obtain Required Disclosures and Ensure That Contracting Training Was Completed	16
Chapter 4	
The Department Followed Its Administrative Procedures Related to Vendor Protests and Complied With Statute Related to Public Information Act Requests	19

Appendices

Appendix 1	
Objective, Scope, and Methodology	21
Appendix 2	
Issue Rating Classifications and Descriptions	24
Appendix 3	
Internal Control Components	25
Appendix 4	
Related State Auditor’s Office Reports	27

Detailed Results

Chapter 1

The Department Had Inconsistencies in Its Vendor Scoring Process for Procuring the Public Cloud Manager Contract

Chapter 1
Rating:
High ¹

The Department had inconsistencies in its Public Cloud Manager procurement vendor scoring process. The Department developed an evaluation plan for the scoring of the procurement; however, it did not ensure that the plan was consistently followed.

Public Cloud Manager Procurement Timeline

The Public Cloud Manager Request for Offer (RFO) was issued on October 25, 2019. The Public Cloud Manager is part of the Data Center Services' (DCS) hybrid cloud computing environment and would provide the following services: (1) compute; (2) storage; (3) database services; (4) backup; (5) disaster recovery, (6) infrastructure as a service, (7) platform as a service, and (8) software as a service (see text box for more information about the DCS program).

Following the issuance of the RFO, two vendors (Cloud 49 and Rackspace) submitted responses to the solicitation by the due date of January 8, 2020.

Round 1 of Scoring. The Department evaluated and scored those initial responses. Following Round 1 of scoring and the collection of questions raised by the evaluators, the Department held meetings with each vendor to help clarify requirements and allow all parties to ask questions.

Round 2 of Scoring. As a result of those meetings, the Department elected to issue a Request for Revised Offer. Both vendors submitted revised responses that were evaluated and scored. The Department held additional meetings

Background Information on the Data Center Services Program

As technology and customer needs have evolved, the Department has implemented a new DCS program that it calls the Next Generation Data Center. The vision of the Next Generation DCS Program is "to evolve current Data Center Services to enhance the DCS customer experience with a modern, secure, state-of-the-art hybrid data center environment, providing enhanced automation with rapid and consistent delivery of services at a competitive price through a true digital experience."

As part of the Next Generation DCS program, the Department issued Requests for Offer to solicit proposals for each individual service component of DCS as follows:

- Texas Private Cloud.
- Managed DCS Network.
- DCS Security Operations Services.
- Technology Solution Services.
- Public Cloud Manager.
- Print, Mail, and Digitization.
- Mainframe Services.

Source: The Department's Request for Offer.

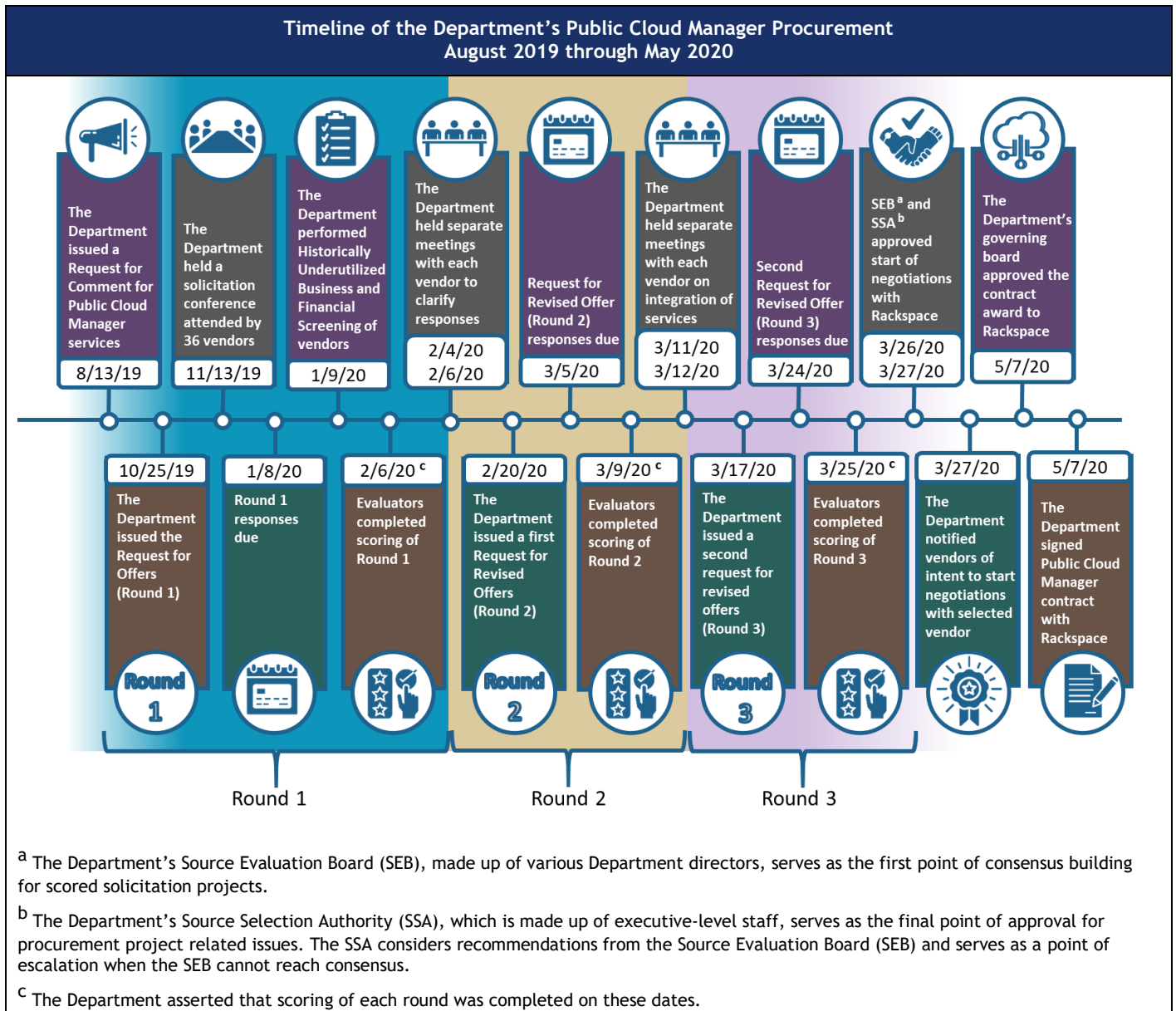
¹ The risk related to the issues discussed in Chapter 1 is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

with each vendor, which included more comprehensive questions and answers to eliminate assumptions that remained in each vendor’s responses.

Round 3 of Scoring. Following the additional meetings with each vendor, the Department issued another Request for Revised Offer to both vendors and conducted reference checks on both vendors. The Department then evaluated and scored the vendors’ revised responses, which resulted in a selection of Rackspace for contract negotiations.

Figure 1 presents the timeline of the Public Cloud Manager procurement from August 2019 through May 2020.

Figure 1



Source: The Department.

Inconsistencies in the Vendor Scoring Process

Although the Department accurately tabulated the vendors' scores in each round, several aspects of the Department's vendor scoring were either inconsistent or lacked documentation that would help ensure transparency of the scoring process. For example:

- Evaluators did not consistently provide justifications for their scores.
- The Department did not maintain documentation that clearly showed when the scores were finalized for each round.
- The Department did not score the experience and past performance scores for both vendors in the second round, despite having received revised information from both prospective vendors.
- The minimum vendor qualifications was not consistent between the RFO, the evaluation plan, and the evaluators' scoring sheets.
- The Department did not communicate consistent evaluation criteria to the vendors after final scoring as it moved to the negotiations phase of the procurement process.
- The Department did not present the final weighted scores of the procurement in its vendor debrief with Cloud 49.

Justification of Scores. Evaluators did not consistently document justification for their scores as required by the Department's evaluation plan for this procurement. Specifically, justification of scores was not documented for 27 percent of the scores related to the evaluation criteria for: (1) technical solution and service delivery and (2) transition. However, justification was documented for all the scores related to the evaluation of experience and past performance. (see text box for more information on the evaluation criteria used by the evaluators). Consistently documenting justification for each score would increase the transparency of the scoring process.

Evaluation Criteria
The Department used the following evaluation criteria (listed in order of priority) to determine the best value for the State:
1. Technical Solution and Service Delivery (45 percent).
2. Experience and Past Performance (30 percent).
3. Transition (20 percent).
4. Pricing (5 percent).
Source: The Department.

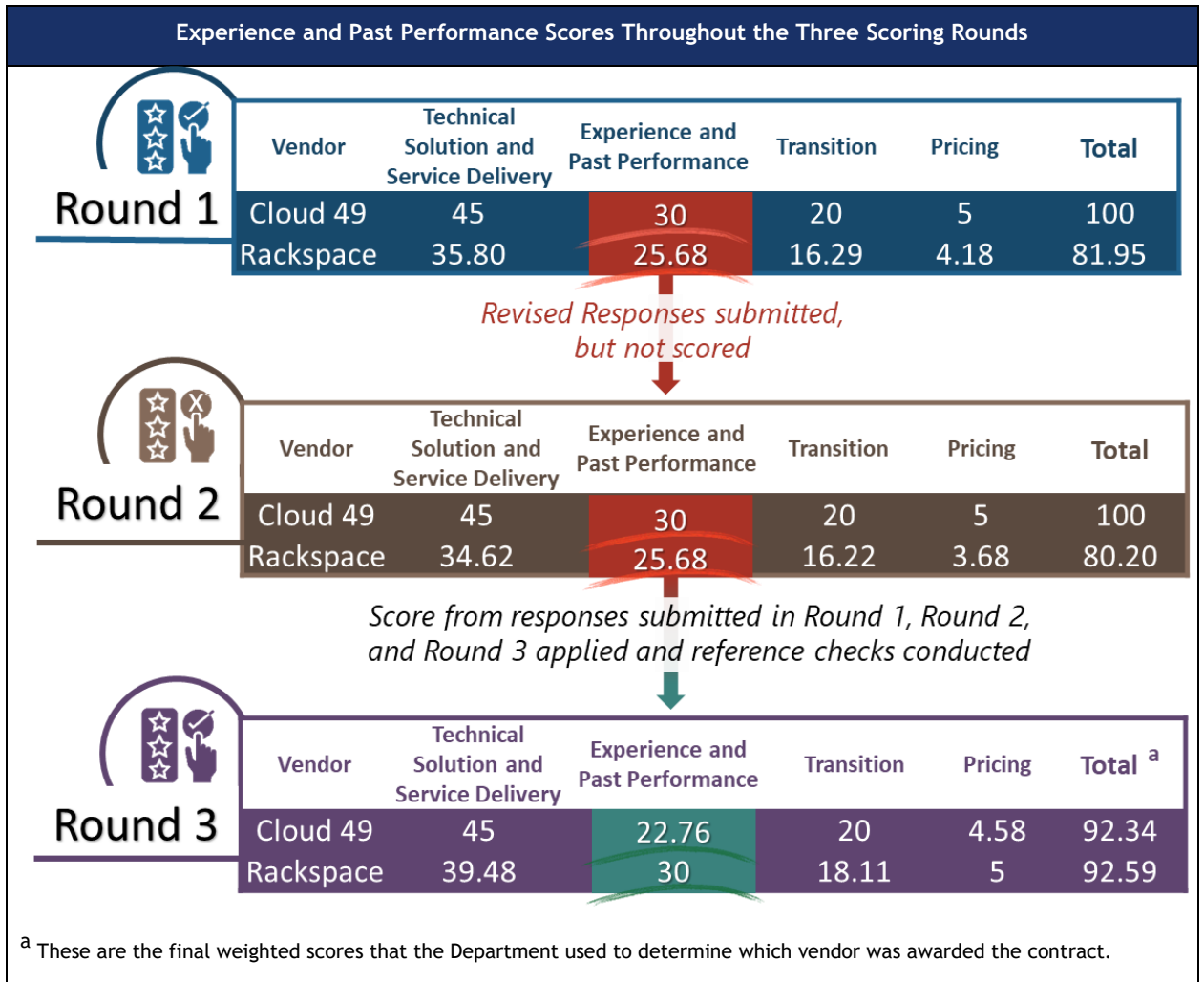
Finalization of Evaluators' Scores. The documentation maintained by the Department did not clearly show when the scores were finalized for each round of scoring. When the evaluators completed their scoring, the information was compiled into an evaluation tool that tabulated the results. All evaluators signed and dated the three rounds of evaluations at the end of the third round of scoring rather than on the dates when the actual

evaluations occurred. In addition, according to the Department, the tabulated results for each round were reviewed and approved by the Source Evaluation Board, but that process was not clearly documented. Clearly documenting when scoring of each round is complete would help ensure that scores cannot be changed after being finalized.

Evaluation of Round 2. The Department did not score evaluation criteria related to the vendors' experience and past performance during the second round of scoring, despite having received revised responses for that evaluation criteria from both prospective vendors. Instead, the Department carried over the experience and past performance scores from the initial round of scoring and waited until the final round of scoring to update those scores. The final round was scored using responses received in Round 1, 2, and 3, as well as reference checks performed during Round 3. According to the Department, Round 2 was not scored on experience and past performance because that scoring round was more focused on the technical aspects of the solutions offered by each vendor, and the Department knew that an additional Revised Request for Offer would be necessary.

Figure 2 on the next page shows how the vendor scores significantly changed in the third round when the experience and past performance scores were scored.

Figure 2



Source: The Department.

Minimum Vendor Qualifications. The Department did not ensure that the evaluation criteria related to minimum qualifications were consistent between the RFO, the approved evaluation plan, and the evaluators' scoring sheets. Specifically, the RFO required the respondents to have entered into at least two similar major projects within the last 10 years where the annual contract value was at least \$3 million, but the evaluation plan listed the contract value at \$2 million. Additionally, the evaluators' scoring sheets listed the contract value at \$3 million during the first round of scoring and \$2 million in the final round of scoring. However, this discrepancy did not appear to affect the respondents' evaluations, as both respondents met that required qualification. Figure 3 on the next page shows those inconsistencies related to minimum vendor qualifications.

Figure 3






Source: The Department.

Communication of Evaluation Criteria. The Department did not communicate consistent evaluation criteria to the vendors after final scoring as it moved to the negotiations phase of the procurement process. Specifically, on March 27, 2020, the Department communicated to both vendors its intent to enter into negotiations with Rackspace. In that communication, the Department identified the evaluation criteria that were used to score the vendor responses. However, those evaluation criteria were not consistent with the criteria listed on the amended RFO. According to the Department, this was due to an administrative oversight. It is important to note that the vendor responses were scored based on the evaluation criteria listed on the amended RFO and not on the criteria communicated to the vendors on March 27, 2020.

See Figure 4 on the next page for differences between evaluation criteria listed in the RFO, the amended RFO, and communicated to the prospective vendors.

Figure 4

Differences Between Listed Evaluation Criteria		
 10/25/2019 Evaluation Criteria (Initial RFO)	 11/27/2019 Revised Evaluation Criteria (Amended RFO)	 03/27/2020 Email to Prospective Vendors
1 Technical Solution and Service Delivery	1 Technical Solution and Service Delivery	1 Technical Solution and Service Delivery
2 Transition, including but not limited to Transformation Projects	2 Experience (including business relationship experience) and Past Performance;	2 Transition
3 Experience (including business relationship experience) and Past Performance;	3 Transition, including but not limited to Transformation Projects	3 Experience (including Business Relationship Experience) and Past Performance
4 Proposed Organizational Structure, Personnel (including key), and subcontractors	✗	4 Proposed Organizational Structure, Personnel (including Key), and subcontractors
5 Pricing	4 Pricing	5 Pricing
		6 Exceptions ^a

^a In the email to the prospective vendors, the Department included exceptions in the numbered list of criteria, but indicated that it would not score exceptions. Exceptions were defined in the RFO as vendors' objections to or issues with the requirements of the RFO; however, exceptions were not listed in the numbered criteria items.

Source: The Department.

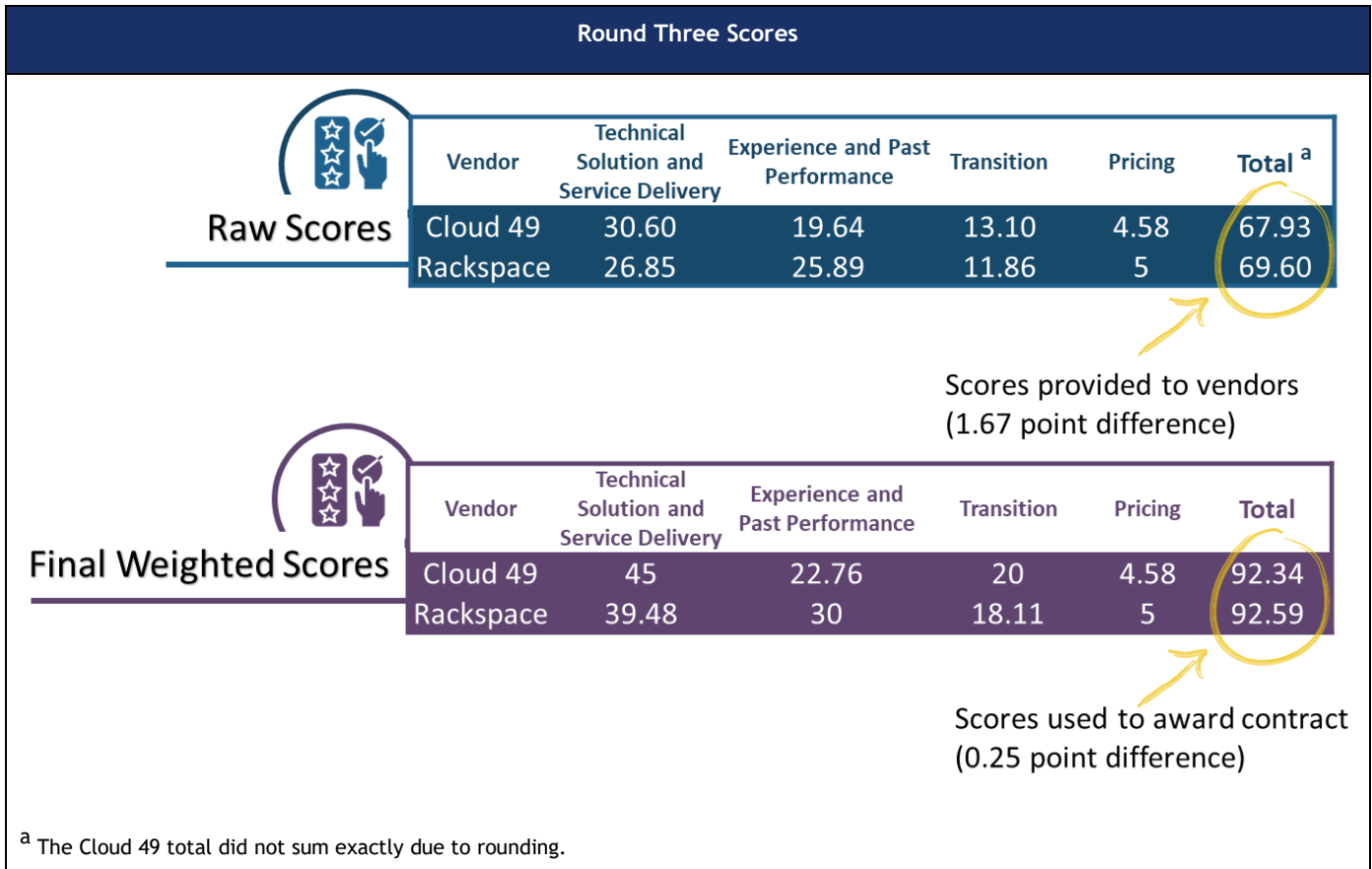
Scores Presented in Vendor Debrief. After awarding the contract, and in accordance with its policies and procedures, the Department held a debriefing session with Cloud 49 regarding the procurement and evaluation process (see text box for more information on the vendor debrief). The documentation provided to Cloud 49 during the debriefing session did not contain the final weighted scores used to determine the winning vendor; instead, it disclosed the raw scores. The final weighted scores and the raw scores indicate the same winning vendor for this contract; however, the variance between the vendor scores was much narrower in the final weighted scores than in the raw scores. Specifically, the total raw scores in the third round were 67.93 and 69.60 for Cloud 49 and Rackspace, respectively, while the final weighted scores were 92.34 and 92.59 for Cloud 49 and Rackspace, respectively. Review of the other DCS procurements indicated that providing the raw scores instead of the final weighted scores was a common practice of the Department's vendor debrief for those procurements. Figure 5 on the next page shows the raw scores and final weighted scores from round three.

Vendor Debrief

The purpose of the vendor debrief is to provide vendors feedback on their scores and discuss strengths and weaknesses of their responses. The debrief offers vendors an opportunity to ask questions about the procurement process and provide feedback to the Department regarding their experience in the solicitation process.

Source: The Department.

Figure 5



Source: The Department.

To calculate the vendors’ scores, the Department used an evaluation tool containing formulas that accurately tabulated the evaluators’ raw scores, which were converted to final scores using the weighted evaluation criteria. The Department used this process to determine the highest score, resulting in the selection of a vendor for contract negotiations and subsequent contract award.

Recommendations

The Department should ensure that:

- Evaluators provide the underlying reasons for each score.
- It maintains documentation that clearly shows when each round of scoring is finalized. This would help improve the transparency of the scoring process.
- Evaluators use all available information to score each round.

- The evaluation criteria are consistent between the RFO, the evaluation plan, and the evaluators' scoring sheets.
- The evaluation criteria categories communicated to the vendors are consistent throughout the procurement process.
- The final weighted scores are included in the vendor debriefing.

Management's Response

The Department agrees with the recommendations; however, we respectfully disagree that the issues justify a high-risk rating. While certain aspects of the procurement failed to meet the standards of excellence the Department sets for itself, the procurement fully complied with state law. The Department does not agree that a procurement that conformed to all applicable state law "present[s] risks or effects that if not addressed could substantially affect the [Department's] ability to effectively administer the program."

Rather than building processes and procedures around minimum compliance, the Department's own internal processes and procedures set standards that significantly exceed those set by state law to increase the integrity, objectivity, and transparency of the procurement process. The Department finds it unacceptable that some of those practices were not correctly adhered to in this case, but also respectfully has a different view concerning some of the conclusions reached by the auditors.

- *The Texas Procurement and Contract Management Guide does not require a narrative justification for each discrete component of an evaluation score. Nevertheless, the Department agrees to clarify the language concerning justification of scores in its evaluation plans.*
- *The Department disagrees that there was inadequate documentation to determine whether scores had been changed after a round of evaluations concluded. The digital format in which those documents were scored kept an auditable log of each time the document was opened, and any changes made to the document after its initial creation. Furthermore, evaluators signed their score sheets at the conclusion of the process to verify them as true and correct. The Department maintains that its records verify the integrity of the scoring documents and unambiguously show that evaluators did not change their scores after the fact. Moving forward, the Department will require that evaluators formally document their scores when they become final by affixing a dated signature at such time and ensure the Source Evaluation Board clearly documents the finalization of the scores after each round.*

- *The Department is not required by law to conduct detailed debriefings to explain its procurement decisions to unsuccessful respondents. The Department voluntarily conducts such debriefings to provide greater transparency into procurements and to help respondents improve their competitiveness in future procurements. It is the Department's usual process to include only the final raw scores, as it believes these scores provide the greatest transparency. Moving forward, the department will provide both the final raw and weighted scores to respondents when requested.*
- *The Department acknowledges that not re-scoring experience and past performance in the second round may have created the perception that scores were the same for two rounds and changed significantly only in the final round of scoring. Moving forward, the Department will unambiguously communicate to respondents which portions of proposals will not be re-scored.*
- *The Department acknowledges that clerical errors occurred in an email to both respondents informing them about which vendor would proceed to negotiations. After that email, the Department voluntarily held a debriefing with the unsuccessful respondent in which the vendor had the opportunity to ask about the differences in the email. No questions were asked by either vendor presumably because these factors were all represented accurately in the RFO and in the materials relied on by evaluators. The Department will strengthen its quality control checks to reduce clerical errors.*
- *The Department acknowledges its error in not assuring that the dollar value of the contracts used to determine the experience and past performance scores were accurately and uniformly recorded across the evaluation documents which, as noted in the report, did not impact the outcome of the procurement because each respondent was able to meet either standard. The Department will strengthen its quality control checks to reduce clerical errors.*

The Department will strengthen its processes as outlined above.

Responsible Party: Chief Procurement Officer

Target Date: June 1, 2021

Auditor Follow-Up Comment

The auditors used professional judgment to rate Chapter 1 as High based on the determination that the combined issues could substantially affect the Department's ability to effectively administer the vendor scoring process.

Finalization of Evaluators' Scores. The Department did not provide auditors sufficient evidence that showed the scores that the Source Evaluation Board (SEB) reviewed for each round of scoring and when the SEB verified those scores.

The Department Complied With Statutory Requirements for Contract Planning and Procurement; However, It Should Strengthen Processes Related to Reviewing and Approving Planning and Procurement Documents

For contract planning and procurement, the Department complied with statutory requirements. Specifically, the Department (1) performed the contract planning activities necessary to determine the contract objectives; (2) developed a needs assessment and a cost estimate; (3) identified the appropriate procurement method; and (4) posted the RFO and addenda to the RFO on the Electronic State Business Daily (ESBD) for the appropriate time frame. However, the Department did not obtain the approvals required by Department policies prior to posting two addenda, and it did not ensure that the project management plan was finalized and approved prior to the beginning of the procurement process.

Chapter 2-A

While the Department Procured the Contract in Accordance With Statutory Requirements, It Should Strengthen Its Procurement Document Review and Approval Process

**Chapter 2-A
Rating:
Medium ²**

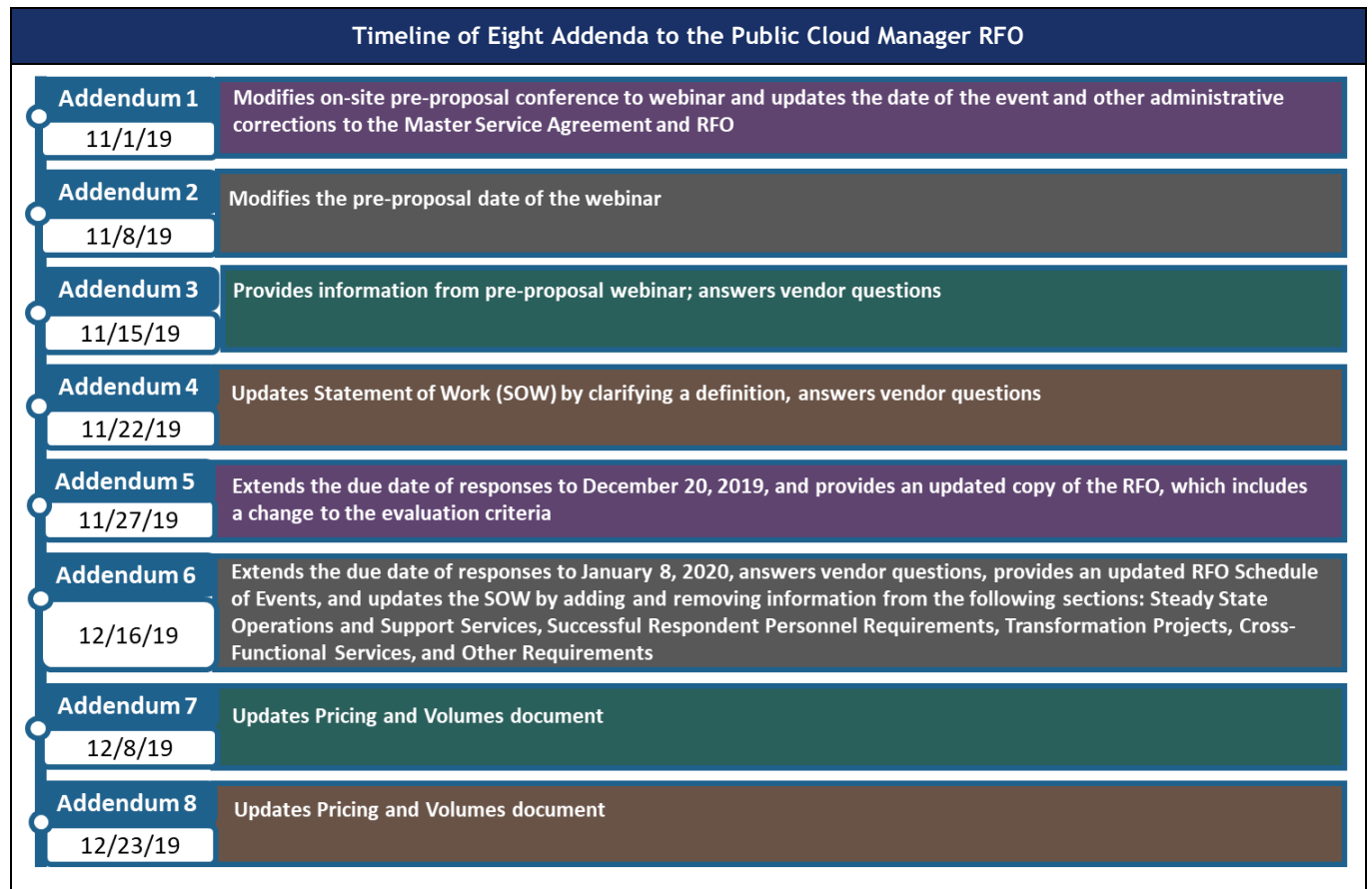
The Department posted the RFO and the eight addenda to the RFO on the ESBD for the appropriate time frame in accordance with applicable rules and statutes. However, the Department posted addenda 1 and 2, which were made up of administrative changes such as date changes, to the ESBD without obtaining documented review and approval from the Department's Source Evaluation Board as required by Department policies. Not obtaining the required review and approval presents a risk that changes to the solicitation documents may contain errors, which could affect the length or accuracy of the solicitation process.

The eight addenda to the RFO were issued to correct administrative errors, modify the date of the pre-proposal webinar, provide information on the conducted webinar, answer vendor questions, and to update the following: (1) evaluation criteria, (2) statement of work; (3) pricing templates; and (4) to extend response due dates.

Figure 6 on the next page lists the addenda to the RFO.

² The risk related to the issues discussed in Chapter 2-A is rated as Medium because they present risks or results that if not addressed could moderately affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Figure 6



Source: The Department.

Recommendation

The Department should ensure that all solicitation documents are reviewed and approved prior to being posted to the Electronic State Business Daily.

Management's Response

The Department agrees with the recommendation and will revise its internal policy to ensure that changes to solicitation documents are reviewed and approved appropriately.

Responsible Party: Chief Procurement Officer

Target Date: June 1, 2021

While The Department Complied With Statutory Contract Planning Requirements, It Should Ensure That Required Planning Documents Are Finalized and Approved

**Chapter 2-B
Rating:
Medium ³**

The Department performed the required contract planning activities necessary for identifying the contract objective and procurement strategy. However, the Department did not ensure that the project management plan developed for the Next Generation DCS program was finalized and approved.

The Department developed a needs assessment and a cost estimate for the entire Next Generation DCS program, which includes the audited contract.

In addition, the Department selected the appropriate procurement method for the contract and developed a statement of work that included the elements required by the *State of Texas Procurement and Contract Management Guide*.

The Department also consulted with the Quality Assurance Team and incorporated 12 of the 14 Contract Advisory Team (CAT) recommendations into its solicitation. The Department provided written explanations to CAT regarding why 2 recommendations related to including the relative weights assigned to each evaluation criterion were not applicable. State agencies are required by Texas Government Code, Section 2262.101 to either comply with CAT recommendations or submit written explanations regarding why the recommendations are not applicable to the procurement under review.

As part of its planning for the procurement process, the Department developed a project management plan that included the Public Cloud Manager procurement and other procurements related to the Next Generation DCS program. However, the Department did not ensure that the project management plan was finalized and approved by the Department's Source Evaluation Board and procurement manager, as required by the Department's policies and procedures.

The purpose of the project management plan was to provide the overall guidelines under which the Next Generation DCS program was going to be organized, administered, and managed to ensure timely accomplishment of objectives. The initial estimated budget for the first four years of the contracts related to those procurements was approximately \$760 million.

³ The risk related to the issues discussed in Chapter 2-B is rated as Medium because they present risks or results that if not addressed could moderately affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Recommendation

The Department should ensure that it completes all required planning documents, such as the project management plan, and that it seeks appropriate review and approval of those documents prior to the start of the procurement process.

Management's Response

The Department agrees with the recommendation. The department will ensure that it appropriately documents the finalization and approval of all required planning documents.

Responsible Party: Chief Procurement Officer

Target Date: June 1, 2021

The Department Did Not Consistently Obtain Required Disclosures and Ensure That Contracting Training Was Completed

Chapter 3
Rating:
Medium ⁴

Similar to a previous finding reported in *An Audit Report on Selected Contracts at the Department of Information Resources* (State Auditor’s Office Report 17-038, June 2017), the Department did not consistently collect statutorily required nepotism and conflict of interest disclosures from its employees involved in the procurement of the audited contract. Verifying that the required nepotism and conflict of interest disclosure forms were completed by all applicable individuals would help ensure that the procurement process is fair and objective. The Department did ensure that all individuals involved in the procurement signed nondisclosure agreements.

The Department did not verify that all of its governing board members received required contracting training.

Nepotism Disclosures. The Department did not ensure that 3 (6 percent) of the 49 employees involved in the procurement process signed the nepotism disclosure forms required by Texas Government Code, Section 2262.004. The Texas Government Code requires employees involved on major contracts (contracts valued at \$1 million or greater) to complete that form.

Conflict of Interest Disclosures. The Department asserted that to comply with the requirement for evaluators to disclose any conflicts of interest, it required evaluators to complete conflict of interest forms. However, the Department could not provide documentation of completed conflict of interest disclosures for 2 (20 percent) of the 10 evaluators tested.

Additionally, the Department did not require its contract developer and two purchasers to certify their compliance with conflict of interest prohibitions described in the *State of Texas Procurement and Contract Management Guide*, version 1.3. According to the Department, this requirement was not

Required Disclosures

Nepotism Disclosure Form

This form is used to disclose certain family relationships and financial interest by employees of a state agency who make decisions or provide recommendations regarding:

- The preparation of solicitations or evaluation of bid proposals.
- The development of contract terms or conditions on major contracts.
- Who to be awarded a major contract.

Conflict of Interest

Each employee or official of a state agency involved in procurement or contract management must disclose any potential conflict of interest.

Nondisclosure Agreement

The nondisclosure agreement requires the individuals involved in the procurement to agree to maintain confidentiality of the information relating to the procurement process.

Sources: Texas Government Code, Sections 2262.004, 2261.252, and *State of Texas Procurement and Contract Management Guide*, version 1.3.

⁴ The risk related to the issues discussed in Chapter 3 is rated as Medium because they present risks or results that if not addressed could moderately affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

applicable for this procurement.⁵ However, considering the nature and financial impact of the procurement, it would have been a best practice to follow the *State of Texas Procurement and Contract Management Guide* regarding disclosures of potential conflicts of interest. Auditors performed limited procedures related to conflicts of interest and did not identify any potential conflicts of interest.

Nondisclosure Agreements. The Department verified that all individuals involved in the procurement process signed the required nondisclosure agreements.

Contracting Training of the Governing Body. The Department did not ensure that all members of its governing board obtained the contracting training required by Texas Government Code, Section 656.053. When the Department executed the Public Cloud Manager contract, 3 (30 percent) of the 10 board members had not completed the required contract management training. Verifying that all board members received the required contracting training was necessary, considering the importance of their role in the oversight of the Department's contracting processes.

Recommendations

The Department should ensure that:

- All applicable employees involved in the contracting process complete required nepotism disclosure forms.
- All board members complete the required contract training.

To increase the objectivity, fairness, and transparency of the procurement process, the Department should consider requiring its personnel involved in procurements and contract management to certify their compliance with conflict of interest prohibitions.

Management's Response

The Department agrees with the recommendations. The Department will ensure that all applicable employees involved in the contracting process complete the required nepotism forms. Exceeding the requirements of state law, the Department will require its personnel involved with procurements and contract management to certify their compliance with conflict-of-interest prohibitions. The Office of the General Counsel will track board member

⁵ According to the Department, the audited contract was not procured under the Comptroller's Office's delegation of authority, and therefore, the conflict of interest disclosures were not applicable to the Department's contract developer and purchasers.

training to facilitate the completion of required contract training by all board members.

Responsible Party: Chief Procurement Officer, General Counsel

Target Date: June 1, 2021

The Department Followed Its Administrative Procedures Related to Vendor Protests and Complied With Statute Related to Public Information Act Requests

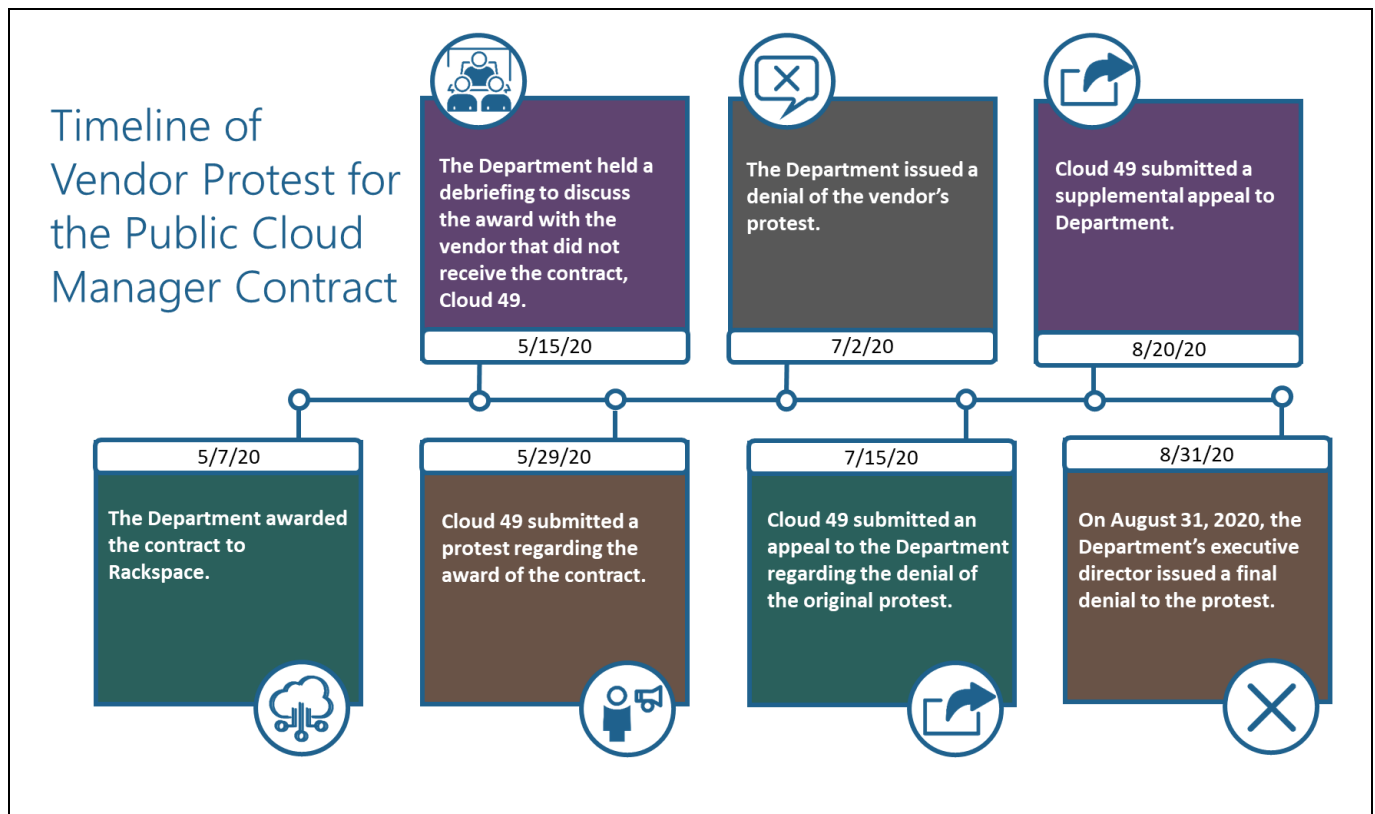
Chapter 4
Rating:
Low ⁶

The Department followed its vendor protest procedures and complied with Public Information Act request requirements for the Public Cloud Manager contract.

Vendor Protest. To comply with Texas Government Code, Section 2155.076 relating to vendor protest procedures, the Department adopted Texas Administrative Code, Title 1, Section 201.1 and developed vendor protest procedures. The Department followed its processes regarding the vendor protest submitted in relation to the Public Cloud Manager contract.

Figure 7 shows the timeline related to the protest.

Figure 7

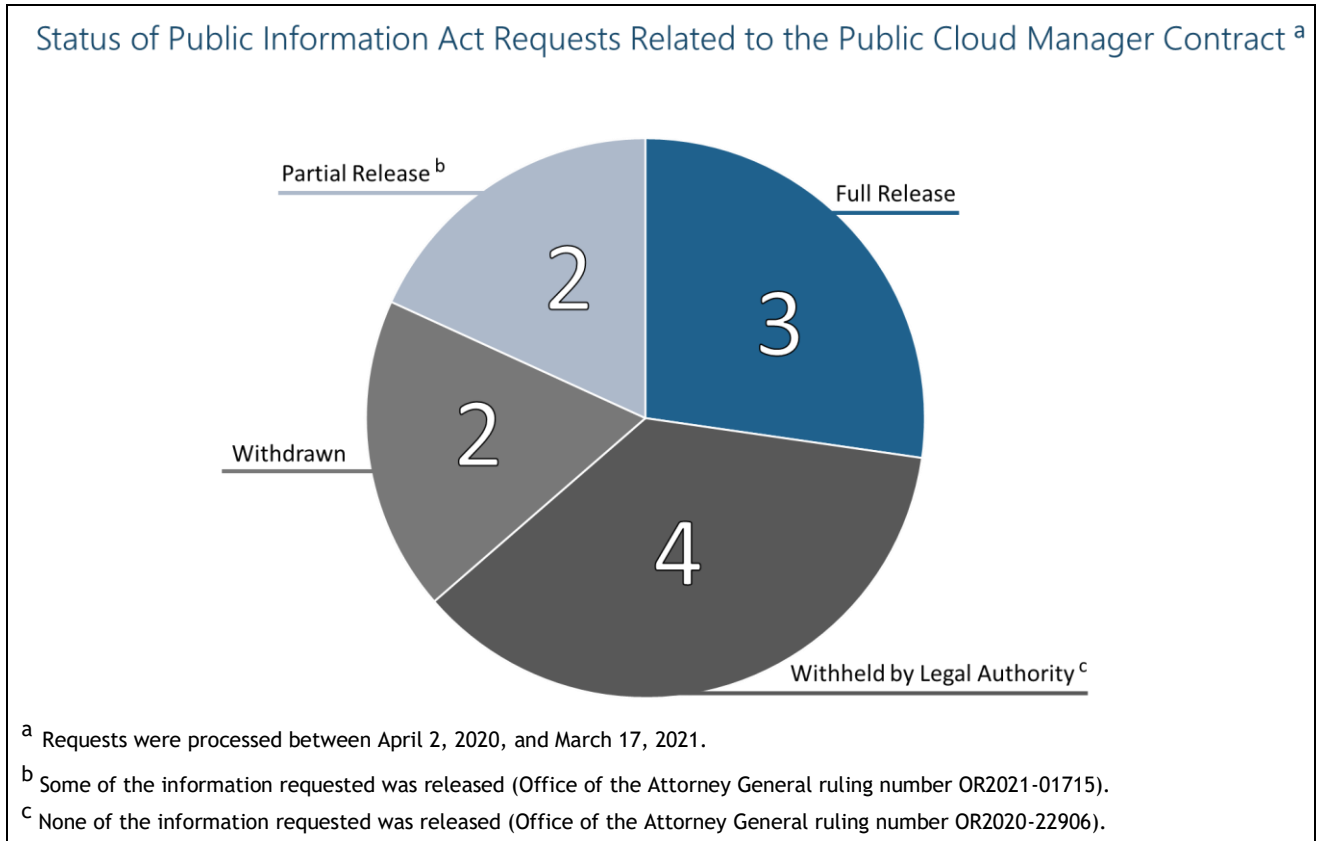


Source: The Department.

⁶ The risk related to the issues discussed in Chapter 4 is rated as Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

Public Information Act Requests. The Department received 11 public information requests related to the Public Cloud Manager procurement and responded to each request within the time frames required by statute. Two of the 11 requests were withdrawn, and for the remaining 9 requests, the Department either (1) released the requested information or (2) obtained a ruling from the Office of the Attorney General allowing the Department to withhold some or all of the requested information. Figure 8 shows the status of those requests.

Figure 8



Source: The Department.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Department of Information Resources (Department) administered certain contract management functions in accordance with applicable requirements.

Scope

The scope of this audit covered the Department's planning, procurement, and vendor selection related to the Public Cloud Manager contract (Contract). Additionally, auditors reviewed the vendor protest procedures and requests for public information related to the audited contract.

The scope also included review of significant internal control components related to contract management (see Appendix 3 for more information about internal control components).

Methodology

The audit methodology included conducting interviews with Department management and staff; collecting and reviewing selected planning, procurement, vendor selection, and certain contract administration activities; reviewing applicable statutes and Department policies and procedures; and performing selected tests and procedures related to vendor protest procedures and requests for public information.

Data Reliability and Completeness

Auditors obtained the scoring tool used by the Department to tabulate the vendors' scores related to the Public Cloud Manager contract. Auditors assessed the reliability of the scoring tool by reviewing all key fields and the accuracy of the formulas contained in the tool. Auditors also traced the evaluators' scores contained in the tool to the evaluators' score sheets provided by the Department and determined that the evaluation tool data was sufficiently reliable for the purposes of this audit.

Information collected and reviewed included the following:

- The Department's Public Cloud Manager Request for Offer (RFO) and vendor proposals submitted in response to the RFO.
- The executed Contract, including all appendices and exhibits.
- The Department's planning and procurement files for the Contract.
- The Department's evaluation criteria.
- The Department's policies and procedures related to contract processes, including policies and procedures related to governing board member training.
- The Department's conflict of interest forms, nepotism disclosure statements, and nondisclosure statements.
- The Department's documentation for Contract amendments including approvals and change requests.
- The Department's vendor protest documentation related to the Contract.
- The Department's documentation for public information requests related to the Contract.

Procedures and tests conducted included the following:

- Interviewed Department management and staff to identify Department contracting processes related to the Contract, including internal controls and the information that supports those processes.
- Reviewed the Department contracting policies and procedures for compliance with applicable statutory requirements.
- Reviewed documentation to determine whether the Department performed selected planning, procurement, vendor selection, vendor protest, and public information request procedures related to the Contract.
- Reviewed documentation to determine whether Department personnel completed applicable conflict of interest disclosure statements, nepotism disclosure forms, and nondisclosure agreement forms.
- Tested vendor proposal responsiveness and recalculated evaluation scores using the Department's scoring methodology for vendor proposals for the Contract.
- Tested Contract amendments for supporting documentation and required approvals.

Criteria used included the following:

- Texas Government Code, Chapters 552, 572, 656, 2054, 2155, 2156, 2157, 2252, 2261, and 2262.
- Title 1, Texas Administrative Code, Section 201.1.
- *State of Texas Procurement and Contract Management Guide*, versions 1.0 through 1.3.
- The Department's *Contract Management Handbook*.
- The Department's *Shared Services Procurement Business Processes*, version 1.0.
- The Department's evaluation plan for the Contract.

Project Information

Audit fieldwork was conducted from February 2021 through April 2021. We conducted this performance audit in accordance with generally accepted government audit 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.

The following members of the State Auditor's staff performed the audit:

- Amadou Ngaide, MBA, CFE, CIDA, CICA (Project Manager)
- Armando Sanchez, MBA (Assistant Project Manager)
- Brady Bennett, MBA, CFE, CGAP
- Pamela A. Bradley, CPA, CFE
- Jeremy Wong
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Hillary Eckford, CIA, CFE (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Internal Control Components

Internal control is a process used by management to help an entity achieve its objectives. Government Auditing Standards require auditors to assess internal control when internal control is significant to the audit objectives. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) established a framework for 5 integrated components and 17 principles of internal control, which are listed in Table 3.

Table 3

Internal Control Components and Principles		
Component	Component Description	Principles
Control Environment	The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.	<ul style="list-style-type: none"> ▪ The organization demonstrates a commitment to integrity and ethical values. ▪ The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control. ▪ Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives. ▪ The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives. ▪ The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.
Risk Assessment	Risk assessment is the entity's identification and analysis of risks relevant to achievement of its objectives, forming a basis for determining how the risks should be managed.	<ul style="list-style-type: none"> ▪ The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives. ▪ The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed. ▪ The organization considers the potential for fraud in assessing risks to the achievement of objectives. ▪ The organization identifies and assesses changes that could significantly impact the system of internal control.
Control Activities	Control activities are the policies and procedures that help ensure that management's directives are carried out.	<ul style="list-style-type: none"> ▪ The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels. ▪ The organization selects and develops general control activities over technology to support the achievement of objectives. ▪ The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
Information and Communication	Information and communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.	<ul style="list-style-type: none"> ▪ The organization obtains or generates and uses relevant, quality information to support the functioning of internal control. ▪ The organization internally communicates information, including objectives and responsibilities

Internal Control Components and Principles		
Component	Component Description	Principles
		<p>for internal control, necessary to support the functioning of internal control.</p> <ul style="list-style-type: none"> ▪ The organization communicates with external parties regarding matters affecting the functioning of internal control.
Monitoring Activities	Monitoring is a process that assesses the quality of internal control performance over time.	<ul style="list-style-type: none"> ▪ The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning. ▪ The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.

Source: Internal Control - Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission, May 2013.

Related State Auditor's Office Reports

Table 4

Related State Auditor's Office Reports		
Number	Report Name	Release Date
20-029	<i>An Audit Report on Financial Processes at the Department of Information Resources</i>	April 2020
20-028	<i>A Report on Contract Monitoring Assessment at Certain State Agencies</i>	April 2020
17-038	<i>An Audit Report on Selected Contracts at the Department of Information Resources</i>	June 2017

Copies of this report have been distributed to the following:

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The Honorable Dan Patrick, Lieutenant Governor, Joint Chair
The Honorable Dade Phelan, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable Greg Bonnen, House Appropriations Committee
The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Department of Information Resources

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Mr. Carter Smith, Executive Director, Parks and Wildlife
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