

Child Support Enforcement Program:

Acquiring the State Disbursement Unit to Collect, Disburse, and Record Child Support Payments Will Complete the Procurements for the California Child Support Automation System



June 2004
99028.3

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June 2, 2004

99028.3

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 479, Statutes of 1999 (Chapter 479), the Bureau of State Audits (bureau) presents its third audit report concerning the procurement of a single, statewide automated child support system by the Department of Child Support Services (department), with the Franchise Tax Board (board) acting as its agent. The statute requires the bureau to monitor the evaluation and selection process for any signs of bias or favoritism.

There are two distinct components of a single statewide system: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The California Child Support Automation System (project) procured the first component on July 14, 2003, when the State signed a contract with the IBM Group, a business consortium led by IBM, to design, develop, and implement the CSE system, for a total of \$801 million. In September 2003, we reported that during our monitoring of the negotiation sessions, nothing came to our attention that would lead us to believe that the negotiations resulted in significant changes in the contract that might violate the requirements in Chapter 479 or the solicitation document. Our limited review of the contract found that it included the major business needs areas that the CSE system must address and the compensation method agreed to by the parties did not violate the law and was within the parameters of the solicitation document. With the CSE system contract in place, the project team turned to procuring a vendor for the SDU.

This report discusses the project team's procurement process for the SDU contract, describing how the team developed interest in the SDU, selected a pool of qualified business partners, and developed the request for proposals. The report also describes the compliance phase, which provides an opportunity for qualified business partners to receive feedback on preliminary versions of their proposals before they are finalized and not subject to change. During our monitoring of the process used to qualify vendors and develop the request for proposals, nothing came to our attention that would cause us to conclude that the project team deviated from the predefined selection process or the process it established to develop the request for proposals. Nor has anything come to our attention that would have resulted in unfair treatment of potential vendors.

The project team has several challenges ahead before it completes the SDU procurement and begins development of the SDU. It must evaluate the qualified business partners' final proposals and obtain Department of Finance (Finance) approval before it can award the contract. It must also complete and submit to Finance the feasibility study, a document that provides the business reasons to justify the investment of state resources in the project; the reasons for undertaking the project; the means of ensuring the success of the project; and a comprehensive analysis of its costs and benefits.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

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SUMMARY

Audit Highlights . . .

Our continued monitoring of the Department of Child Support Services and the Franchise Tax Board's (project team) procurement of a single, statewide automated child support enforcement system revealed the following:

- Nothing came to our attention that would cause us to conclude that the project team deviated from the predefined qualification process or the process it established to develop the request for proposals. Nor has anything come to our attention that would have resulted in unfair treatment of bidding vendors.*
- An internal legal analysis found that members of the IBM Group—the contractor for the Child Support Enforcement (CSE) system—were not restricted by legislation from bidding on the State Disbursement Unit (SDU) procurement.*
- Despite members of the IBM Group's potential advantage over other qualified business partners in understanding how the SDU must integrate with the CSE system, the board's legal analysis concluded that the State's acceptance of the interface design document provides no bidding advantage to members of the IBM Group.*

continued on next page . . .

RESULTS IN BRIEF

In 1988, Congress passed the Family Support Act (act), a legislative initiative directed at enforcing the payment of court-ordered child support. The act mandated that each state have a single, statewide automated system for child support enforcement. Although Congress extended its initial operational deadline of October 1995 to October 1997, California has yet to fully develop a system for child support enforcement. The State's failure to meet the deadline has resulted in the federal government imposing penalties on the State that, according to the Legislative Analyst's Office, will total almost \$1 billion by the end of fiscal year 2004–05.

In 1999, the Legislature attempted to address the situation by restructuring the way the State conducts its child support enforcement activities. Chapters 478 and 479, Statutes of 1999, established the California Department of Child Support Services (department) and gave it the responsibility, through the Franchise Tax Board (board) as its agent, of procuring, developing, implementing, and maintaining the statewide automated system for child support enforcement. The legislation required the Bureau of State Audits to monitor the evaluation and selection stages of the procurement process for signs of bias or favoritism toward any bidder.

The single, statewide system for child support enforcement, called the California Child Support Automation System, has two distinct components: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The team responsible for procuring the statewide automated system (project team), which comprises members from the board and the department, selected a vendor for the first component on July 14, 2003. On that date, the State signed a contract with the IBM Group, a business consortium led by IBM, to design, develop, and implement the CSE system for \$801 million. With the CSE system contract in place, the project team turned to procuring a vendor for the SDU.

This audit report discusses the project team's procurement process for the SDU contract, describing how the staff developed interest in the SDU among vendors, selected a pool of business

- ☑ *The project team provided the qualified business partners and interested state and federal agencies with draft copies of the request for proposals and specifically requested comments from them to develop a request for proposals that would be realistic and fair. After obtaining Department of Finance (Finance) approval, the project team released the request for proposals to the qualified business partners on December 4, 2003.*
 - ☑ *The project team still needs to review and evaluate the bidders' final proposals and cost bids, complete and submit to Finance the feasibility study report, and must obtain Finance's approval before it can award the contract.*
-

entities qualified to partner with the State to provide SDU services (qualified business partners), and developed the request for proposals. The report also describes the compliance phase, in which the qualified business partners can receive input on preliminary versions of their proposals before finalizing them. During our monitoring of the process used to qualify vendors and develop the request for proposals, nothing came to our attention that would cause us to conclude that the project team deviated from the predefined qualification process or the process it established to develop the request for proposals. Nor has anything come to our attention that would have resulted in unfair treatment of bidding vendors.

In February 2001, the project team attempted to develop interest in the SDU procurement by advertising in the state contracts register and sending requests for interest to business entities that had previously expressed interest in doing business with the State. However, according to the project team, it halted the process in October 2001 to allow time for the SDU procurement to better coordinate with the CSE system development. In March 2002, according to the project team, it sent new requests for interest to the business entities that had responded to the first requests for interest. To all responding business entities, the board sent invitations to partner, which described the details and requirements for submitting proposals for providing a solution to meet the SDU requirements. The project team reported receiving 12 responses to the invitation to partner in April 2002, and by July 2002, the project team had determined that seven business entities were qualified to partner with the State on the SDU procurement.

Following an internal legal analysis, the project team concluded that the SDU procurement was for information technology (IT) services rather than IT development. Therefore, the project team decided it was more appropriate to adopt a procurement approach that uses a request for proposals rather than one that uses a solicitation for conceptual proposals. Consequently, the project team halted the process once again, altered its procurement approach, and then reopened the invitation-to-partner process to vendors on February 13, 2003.

In addition to following established procedures to develop interest in the SDU procurement, the project team developed and followed procedures for evaluating the invitation-to-partner responses and established a qualification team to select a pool of qualified business partners. By May 2004, seven qualified business

partners remained in the pool selected by the qualification team. Three of the seven qualified business partners are consortiums of businesses. IBM and Accenture Ltd., which are members of the IBM Group, the contractor for the CSE system, are among those qualified business partners. The former project director requested an analysis from the board's legal counsel to determine whether any members of the IBM Group should be permitted to bid on the SDU procurement. The legal analysis found that, based on several factors, the members of the IBM Group were not restricted by legislation from bidding on the SDU procurement. Under the CSE system contract, the IBM Group must provide a series of deliverables to the State for acceptance before the SDU contract is awarded. One of the deliverables is the CSE System Interface Design Document (interface design document), which must describe how the SDU will integrate with the CSE system. Although the State expects to accept the interface design document before the SDU contract is awarded, the document will not be available to the SDU's qualified business partners before they must submit their final proposals.

Despite IBM's and Accenture Ltd.'s potential advantage over other qualified business partners in understanding how the SDU must integrate with the CSE system, the legal analysis concluded that the State's acceptance of the interface design document provides no bidding advantage to members of the IBM Group. The IBM Group is not scheduled to deliver the interface design document until after all qualified business partners submit their final proposals for the SDU and the project team evaluates them. Therefore, the SDU request for proposals does not require bidders to describe an SDU solution that meets CSE system design specifications. According to its current director, the project team has focused on "leveling the playing field" for all potential SDU vendors to encourage and maintain fair and open competition. In addition, the project team took a number of measures to mitigate the risks of further delay, including a failure to successfully integrate the CSE system and SDU services.

To discuss the procurement approach and to hear concerns about early drafts of its request for proposals, the project team held nonconfidential discussions with the qualified business partners. In addition, the project team provided the qualified business partners and interested state and federal agencies with draft copies of the request for proposals and specifically requested comments from them to develop a request for proposals that would be realistic and fair. Overall, the project team reported that it approved 626 of the 923 proposed changes

to the request for proposals. After obtaining Department of Finance (Finance) approval, the project team released the request for proposals to the qualified business partners on December 4, 2003.

Releasing the request for proposals marked the beginning of the compliance phase of the procurement bidding process, which gave the qualified business partners the opportunity to receive input through confidential discussions on whether preliminary versions of their proposals were responsive to the administrative and technical requirements of the request for proposals. Shortly after releasing the request for proposals, the project team held a conference with the qualified business partners, enabling the qualified business partners to review with the project team the information and requirements of the request for proposals and to voice any concerns they had before submitting their final proposals. Confidential discussions, internally generated questions, and communications with other state entities allowed the project team to further clarify and amend the request for proposals. On April 1, April 23, and May 18, 2004, the project team issued addenda to the request for proposals. Qualified business partners' final proposals, due on June 8, 2004, must respond to the request for proposals and the addenda.

Before it awards the contract for the SDU procurement, the project team must evaluate the qualified business partners' final proposals and obtain approval from Finance. It must also complete and submit to Finance a feasibility study report, a document that provides the business reasons that justify investing state resources in procuring the SDU, the reasons for undertaking the SDU procurement, the means of ensuring the success of the procurement, and a comprehensive analysis of its costs and benefits.

AGENCY COMMENTS

The Health and Human Services Agency and the State and Consumer Services Agency, representing the department and the board, concur with the information included in the report and believe that it accurately reflects the steps taken thus far by the department and the board. ■

INTRODUCTION

BACKGROUND

In 1988, Congress passed the Family Support Act (act), a legislative initiative directed at enforcing the payment of court-ordered child support. The act mandated that each state have a single statewide automated system for child support enforcement. The initial operational deadline for the system was October 1, 1995, but Congress later extended the deadline to October 1, 1997. The system still being developed in California, called the California Child Support Automation System, will have two components: the Child Support Enforcement (CSE) system and the State Disbursement Unit (SDU). The SDU will receive and process child support payments—which will include performing preliminary identifications of the involved custodial and noncustodial parties—and will forward the payment and identification information to the CSE system. The CSE system will use the information provided by the SDU to positively identify the involved parties, allocate and distribute payment information to the appropriate cases and parties, manage the support obligations, and perform the appropriate enforcement activity. The CSE system will maintain the case files and provide the SDU with disbursement instructions. Using these instructions, the SDU will disburse support payments to the appropriate parties and provide the controls, logs, records, and reports (state and federal) needed to accommodate fiscal and SDU operational audits.

In its *Analysis of the 2004–05 Budget Bill*, the Legislative Analyst’s Office (LAO) reported that as of February 2004, the estimated cost of the California Child Support Automation System is \$1.3 billion (\$869 million in federal funds and \$459 million in state funds) over 10 years. Of this total, \$801 million has been set aside to develop and maintain the CSE system, and the remaining \$499 million goes toward the cost of the SDU and covers associated state costs, such as salary and wages, rent, staff travel and training, and consultant services for both the SDU and CSE. None of the \$801 million is earmarked for the SDU procurement.

LEGISLATIVE RESTRUCTURING OF THE STATE'S CHILD SUPPORT ENFORCEMENT ACTIVITIES

California's failure to develop an automated system for child support enforcement by the federal deadline has resulted in significant financial consequences for the State. Specifically, in fiscal year 1998–99, the State began accruing federal penalties for having missed the deadline. According to the LAO, the penalties in fiscal year 1998–99 amounted to \$11.9 million and through fiscal year 2002–03 had grown to approximately \$562 million. By the end of fiscal year 2004–05, penalties will reach a total of almost \$1 billion.

In an attempt to address these mounting penalties, the Legislature passed several laws in 1999 that restructured the way the State conducts its child support enforcement activities. Chapter 478, Statutes of 1999, created the Department of Child Support Services (department) and transferred responsibility for enforcing child support from the Department of Social Services to the new department. Chapter 479, Statutes of 1999 (Chapter 479), designated the department as responsible for procuring, developing, implementing, and maintaining the statewide automated system. The statute also named the Franchise Tax Board (board) as the department's agent in fulfilling these responsibilities.

In other words, the department is responsible for procuring a system that meets federal requirements, and the board plays a major role on the department's behalf. Staff from the department and the board make up the team working on procuring the statewide automated system (project team).

For the procurement of the CSE system, which required information technology (IT) design and development, the project team used a performance-based procurement method that included a solicitation for conceptual proposals. Using this approach, the project team asked vendors to propose a technical solution based on solving the business problems identified by the department, the counties, and other stakeholders in the bid proposal and achieving the outcomes shown in the text box.

For the SDU procurement, the project team is following a different path to achieve the desired outcomes, using a request for proposals rather than a solicitation for conceptual proposals. Simply stated, the function of the SDU is to receive payments that

Desired Outcomes of the Project to Develop a Statewide Automated System for Child Support Enforcement

- **Certification:** Meet federal certification requirements, thereby relieving the State from federal penalties.
- **Worker effectiveness:** Provide timely access to accurate and uniform data, thus improving state and federal program performance.
- **Customer service:** Enable case members and related institutions greater access to timely, accurate, and consistent information and uniform business services.
- **System maintainability:** Allow for timely and cost-effective system modifications to accommodate required changes in business needs of the Child Support Enforcement Program.
- **System implementation:** Implement the system on schedule and in a manner that mitigates risk to program performance, business disruption, and user acceptance.

come from noncustodial parents and to issue payments to custodial parties. Thus, the SDU contract is fundamentally for IT services, not IT design and development. As a services contract, the SDU procurement is not subject to the federal requirements for reviewing data processing systems. The project team expects to award a contract in December 2004. The Appendix shows the timeline of key events leading to the award of the SDU procurement contract.

PREVIOUS AUDIT REPORTS ON THE VENDOR SELECTION PROCESS FOR THE AUTOMATED CHILD SUPPORT ENFORCEMENT SYSTEM

Chapter 479 requires the Bureau of State Audits (bureau) to monitor the process of evaluating and selecting vendors for the statewide automated system for child support enforcement to determine whether the vendor or vendors were chosen according to the methodology and the criteria contained in the request for proposals and the solicitation for conceptual proposals. In December 2002, we issued a report on the progress of the procurement process through June 2002, before contract negotiations for the CSE system were completed. In that report, we concluded that nothing came to our attention during the process used to score the proposal to indicate that the project team had deviated from the evaluation criteria or that it had materially deviated from the predefined evaluation process in a way that would have resulted in unfair treatment of the potential vendors. In our September 2003 report, we discussed the procurement process through July 14, 2003, the date the State signed a contract with the IBM Group to design, develop, and implement the CSE system. Our evaluation of the process the project team used to score the proposal revealed nothing to lead us to conclude that the project team deviated from the predefined evaluation criteria. Further, in monitoring the contract negotiating sessions and comparing the business requirements and compensation approach included in the contract to the terms outlined in the solicitation for conceptual proposals, we found no indication that the project team deviated from its predefined negotiating process or deviated from the business requirements and compensation approach in the solicitation for conceptual proposals.

THE DEPARTMENT OF FINANCE'S OVERSIGHT OF PROCURING A VENDOR FOR THE STATE DISBURSEMENT UNIT

According to the board's legal counsel, the Department of Finance (Finance) required a business case analysis and an independent review and assessment of the SDU request for proposals. On August 8, 2003, the project team submitted to Finance a business case analysis to obtain approval to undertake the SDU procurement. In the analysis, the project team recommended procuring a vendor for collection and disbursement services as the solution that best satisfied the defined business objectives and represented the alternative with the best value. The business case analysis described the request for proposals as containing approximately 225 enforceable requirements and more than 25 discrete deliverables subject to state acceptance and industry standards. As such, the request for proposals would ensure that, among other things, the SDU is implemented within a specified time frame and scope, meets federal certification requirements,

and minimizes the State's risk. Also, according to the business case analysis, the recommended solution could be implemented while adhering to the schedule the project team and the IBM Group have contractually agreed to for the CSE system.

Conditions of the Department of Finance's Approval of the Business Case Analysis

- The procurement is expected to meet the State's business requirements without providing a predetermined technical solution.
- The project team must submit solicitation and procurement documents to Finance for review and approval before releasing them to vendors. Finance must also review any addenda to the documents.
- The project is subject to Finance's requirements for project reporting and oversight.
- Before awarding the contract, the project team must submit a feasibility study report to Finance for review and approval.

On September 23, 2003, Finance approved spending resources for the SDU procurement effort when it accepted the business case analysis, subject to several conditions (see the text box). The SDU procurement is intended to obtain services related to processing payments and making disbursements as well as the use of any automated systems needed to support those activities. The estimated total cost of the SDU procurement for fiscal years 2004–05 through 2009–10 is \$122.7 million and includes costs to be paid to the SDU service provider. The procurement will be funded through a combination of federal and state funds.

In addition, Finance cautioned that its approval alone does not guarantee that funds or expenditure authority for the SDU contract will be available; rather, it means that funding and expenditure authority will be granted in accordance with the State's normal budget process.

Also on September 23, 2003, the board reported to Finance the results of an independent review and assessment (assessment) of the SDU request for proposals. Consistent with its understanding of Finance's expectations, the board contracted with an IT consultant to assess how well the request for proposals meets the State's business needs, identifies risks, encourages competitive bidding, adheres to requirements, and evaluates risk. The assessment concluded that the request for proposals incorporates sound procurement practices, follows state policies, and addresses all state and federal requirements for the functionality expected of a state disbursement unit. In addition, the IT consultant found that the board and department are identifying and actively managing major risks to the procurement effort according to well-established risk management processes. Finally, the assessment concluded that the provisions of the request for proposals to provide SDU services support open competition from business entities qualified to partner with the State (qualified business partners) and support any necessary rebidding.

SCOPE AND METHODOLOGY

Chapter 479 requires the bureau to monitor the process of evaluating and selecting vendors for the statewide automated system for child support enforcement to determine whether the evaluation is based on the criteria contained in the request for proposals or the solicitation for conceptual proposals. Further, it requires the bureau to monitor the process to determine whether the project team chooses the vendor or vendors according to the methodology in the request for proposals or the solicitation for conceptual proposals and to determine whether it does so without bias or favoritism toward any bidder. Our previous report on the Child Support Enforcement Program, issued in September 2003, focused on the procurement process through July 14, 2003, the date the State signed a contract with the IBM Group to design, develop, and implement the CSE system.

This report focuses on the SDU, the second part of procuring the State's automated child support enforcement system, and contains our observations of the vendor qualification process, development of the request for proposals, the various discussions between the qualified business partners and the project team, and the compliance phase.

To monitor the qualification of vendors, we reviewed the qualification process and outcomes. To monitor the development of the request for proposals, we observed the process by attending a variety of meetings and reviewing documents, including the independent review and assessment of the SDU request for proposals.

At the time of this report, the project team had finished evaluating the preliminary versions of the qualified business partners' proposals and had held confidential discussions with the qualified business partners to help them better understand the requirements of the request for proposals.

The procurement process for the SDU is not yet complete. As required by statute, we will continue to monitor the evaluation and selection stages of the process. ■

AUDIT RESULTS

THE FIRST OF TWO PROCUREMENTS FOR THE CALIFORNIA CHILD SUPPORT AUTOMATION SYSTEM IS COMPLETE, AND THE SECOND IS IN PROGRESS

For the first of two procurements for the California Child Support Automation System—selecting a vendor for the design, development, and implementation of the Child Support Enforcement (CSE) system—a solicitation for conceptual proposals was used. Selection of the CSE system vendor was completed on July 14, 2003, with the signing of a contract. The second part of the system, the State Disbursement Unit (SDU), is being procured as a services contract using a request for proposals. The team working on the procurements (project team)—comprising staff from both the Department of Child Support Services (department) and the Franchise Tax Board (board)—has made progress in the SDU procurement, but still has some important tasks remaining.

The project team followed established procedures to attract potential service providers, select business entities qualified to partner with the State to provide SDU services (qualified business partners), develop the request for proposals, and provide input on preliminary versions of the qualified business partners' proposals. After developing interest in the SDU procurement among vendors, establishing a pool of qualified business partners, and holding discussions with the qualified business partners, the project team publicly released the request for proposals to the qualified business partners on December 4, 2003. In monitoring the project team's activities in these areas, nothing came to our attention to indicate that the project team had deviated from established procedures. Additionally, nothing came to our attention to indicate that the project team carried out the SDU procurement with bias or favoritism toward any bidder.

THE PROJECT TEAM FOSTERED INTEREST IN THE STATE DISBURSEMENT UNIT AMONG POTENTIAL SERVICE PROVIDERS

To develop interest in the SDU procurement, the project team used the request for interest to identify businesses that might want to submit bids. The team also used the invitation to partner

to provide qualification guidelines to entities expressing an interest and thus signifying their wish to partner with the State. In late February 2001, the project team advertised the request for interest in the state contracts register and sent a request for interest to business entities that had previously expressed a desire to do business with the State. The request for interest stated that respondents would receive an invitation to partner with the intention of soliciting potential business partners that have extensive experience in payment collection, disbursement, and e-commerce technologies.

Subsequently, in October 2001, the request for interest was canceled because, according to the project team, a delay in the process would allow time for the SDU procurement to better coordinate with the CSE system development. Without the delay, the project team reported, the selected SDU contractor would be sitting idle for several months.

On March 4, 2002, the project team sent a new request for interest to the approximately 300 business entities that indicated an interest in the procurement. In addition, the new request for interest was again advertised in the state contracts register. These efforts resulted in responses from approximately 210 business entities. Only business entities that responded to the request for interest received an invitation to partner, which described the details and requirements for submitting a response and stated that the project team would use a performance-based procurement approach similar to that used for the CSE system. In a performance-based approach, selected businesses are asked to submit proposals to design, develop, implement, and maintain a solution to the business problems identified by various stakeholders. The project team reported receiving 12 responses to the invitation to partner on April 25, 2002. After completing the invitation-to-partner process on July 9, 2002, the project team qualified seven business entities to partner with the State on the SDU procurement.

In February 2003, the project team notified the qualified business partners for the SDU procurement that it had determined it was more appropriate to use the request-for-proposals approach rather than the solicitation for conceptual proposals to procure the SDU. The board had used the solicitation for conceptual proposals to make several procurements for information technology (IT) development projects, including the CSE system. However, based on an internal legal analysis that concluded the SDU procurement was seeking IT services rather than IT development, the project

The project team decided to use the request-for-proposals approach to obtain State Disbursement Unit services.

team determined that it was more appropriate to use the request for proposals. As a result of changing the procurement approach, on February 13, 2003, the project team reopened the invitation-to-partner process to potential service providers and advertised the request for interest in the state contracts register. According to the project team, the amended request for interest was sent to 324 business entities expressing interest in the amended invitation to partner. During our review of the project team's process for developing interest in the SDU procurement among potential service providers, nothing came to our attention that would indicate bias or favoritism toward any bidder.

TO SELECT A POOL OF QUALIFIED BUSINESS PARTNERS, THE PROJECT TEAM FOLLOWED ESTABLISHED PROCEDURES

In addition to following established procedures to develop interest in the SDU procurement, the project team developed and followed procedures for evaluating responses to the invitation to partner and established a qualification team to select a pool of qualified business partners. According to the project team, it solicited participation on the qualification team from board and department staff working on the project and determined whether or not the group possessed the necessary skills and knowledge. The project team provided an orientation to the initial members of the qualification team on April 18, 2002, and another on April 2, 2003, to many of the initial members along with additional members of the team. Both orientations focused on ethical concerns relating to procurement, the qualification approach and the use of qualification worksheets, the evaluation schedule, and procedures to maintain the overall integrity of the evaluation. The project team also ensured that members of the qualification team completed a statement of economic interest and filed conflict-of-interest and confidentiality certifications. We found that the training was in accordance with the SDU Business Partner Qualification Plan and the SDU Procurement Handbook.

The qualification team comprised four subteams—administrative, two business and technical, and a financial—each evaluating separate areas of the responses to the invitation to partner.

The qualification team comprised four subteams, each evaluating separate areas of the responses to the invitation to partner. The administrative subteam consisted of procurement analysts who reviewed the invitation-to-partner responses for completeness and verified that each respondent met the requirement to obtain a performance bond. Two business and technical subteams examined the responses to determine whether the respondents

provided the required business information and had the requisite experience. These two subteams also verified the accuracy of the business information by contacting the respondents' references. The financial subteam ensured that responses included audited financial statements, annual reports, and annual securities and exchange filings.

Between May 2002 and June 2003, the qualification team had invited 10 business entities to sign partnering agreements.

Following the signing, those business entities were referred to as qualified business partners. By May 4, 2004, there were seven qualified business partners in the pool, as shown in the text box.

**SDU's Qualified Business Partners
as of May 4, 2004**

- ACS State and Local Solutions, Inc.; Union Bank*
- Bank of America; Deloitte Consulting; First Data/GovConnect; Informatix, Inc.*
- Maximus, Inc.; Bank One; IBM; US Bank; Wells Fargo Bank*
- Accenture Ltd.
- Data Management Products
- EDS/US Government Solutions
- Unisys

* The first three business partners are consortiums led by the first-named business.

Three of the seven qualified business partners were qualified as consortiums of business entities. Two of the seven qualified business partners are members of the IBM Group, the contractor for the CSE system: IBM, a member of the consortium led by Maximus, Inc., and Accenture Ltd.

In our monitoring of the process the project team used to qualify vendors, nothing came to our attention to indicate that the project team deviated from criteria established to eliminate conflicts of interest that could result in bias or favoritism toward any vendor. Nor has anything come to our attention that would have resulted in

unfair treatment of vendors. In addition, the process ensured that qualification team members had sufficient expertise and experience in evaluating responses.

**Members of the Consortium Contracted for the CSE System
Were Not Restricted From Bidding on the SDU Contract**

Despite being members of the consortium awarded the contract for the CSE system, IBM and Accenture Ltd. were allowed to bid on the SDU contract because of the timing of certain requirements in the CSE system development and the conclusions reached in a legal analysis. As stated earlier, the automated child support enforcement system consists of two procurements. The first procurement was a contract for information technology development, the CSE system. The State and the IBM Group—a business consortium comprising IBM, Accenture Ltd., and American Management Systems/Synergy—signed the CSE system contract in July 2003. Under the CSE system contract,

the IBM Group will provide a series of deliverables to the State for acceptance before the contract is awarded for the second procurement, the SDU. One of the deliverables is the CSE System Interface Design Document (interface design document), which must describe how the SDU will integrate with the CSE system. Although the State expects to accept the interface design document before awarding the SDU contract, the document will not be available to the SDU's qualified business partners before they must submit their final proposals. Because the IBM Group is developing the interface design document, it might understand more than other qualified business partners at the time final proposals are submitted about how the SDU must integrate with the CSE system. Nonetheless, the project team decided to allow members of the IBM Group—specifically, IBM, as part of a new consortium of businesses headed by Maximus, Inc. and Accenture Ltd.—to bid on the SDU contract.

The former director of the project team and the board's legal counsel determined that the 2003 legislation restricting consultants from writing procurement documents and then bidding to do the work did not apply and would not prevent members of the IBM Group from bidding for the State Disbursement Unit contract.

The project team based its decision on several factors. First, the IBM Group is not scheduled to deliver the interface design document until after all qualified business partners submit their final proposals for the SDU and the project team evaluates them. Therefore, the SDU request for proposals does not require qualified business partners to describe an SDU solution that meets CSE system design specifications. Second, to prevent the Maximus consortium and Accenture Ltd. from having an advantage over other qualified business partners bidding for the SDU contract, the project team set up security procedures to restrict inappropriate access and established other procedures to ensure that all bidders had the same information about the SDU procurement. Third, the former director of the project team determined that the 2003 legislation restricting consultants from writing procurement documents and then bidding to do the work did not apply and would not prevent members of the IBM Group from bidding for the SDU contract.

Because of the need to work closely with the State in developing the CSE system, staff from the IBM Group set up offices near those of the project team. The former director of the project team recognized that by being on site during CSE system implementation, the IBM Group could potentially influence the development of SDU requirements or obtain SDU procurement information before other bidders. To eliminate this potential, the project team instituted procedures to isolate SDU procurement activities. For example, the IBM Group does not have access to the project team's archive library, shared electronic folders, or schedule. The IBM Group can request information relevant

to the SDU procurement; however, if the project team releases that information to the IBM Group, it will also release the same information to all the other SDU bidders. All SDU procurement documents are maintained in a confidential environment until ready for public release to all interested parties. Additionally, security measures were put in place to restrict access to the physical space occupied by the project team assigned to the SDU procurement.

The former director of the project team also requested an analysis from the board's legal counsel to determine whether any members of the IBM Group should be permitted to bid on the SDU procurement. This concern stemmed from Senate Bill 1467, effective January 1, 2003, which amended the Public Contract Code. According to the internal legal analysis prepared for the former director of the project team, the legislation prohibited so-called follow-on contracts, in which a consulting firm essentially writes the procurement document and then enters the competition for the goods and services sought by the procurement. However, the legal analysis found that, based on several factors, the legislation does not restrict members of the IBM Group from bidding on the SDU procurement. Specifically, the legal analysis concluded that the CSE system contract is not a consulting contract; rather, it is a system design, development, implementation, maintenance, and operations contract. Moreover, the legal analysis stated that (1) the CSE system contract does not require the IBM Group to make any recommendations regarding SDU services; (2) the timing of the two procurements for the California Child Support Automation System together with SDU security procedures protects the SDU procurement from IBM Group influence; and (3) the State's acceptance of design deliverables for the CSE system does not constitute the State's acceptance of an "end product" that requires or suggests SDU services, an element that would need to be present to be prohibited by the Public Contract Code.

The legal analysis also concluded that the State's acceptance of the interface design document provides no bidding advantage to members of the IBM Group. According to the legal analysis, there is a relationship between the CSE system contract and the SDU contract in that the SDU services must be conducted by interfacing with the CSE system. The analysis acknowledged that performing analysis and design tasks for the CSE system would give the IBM Group more precise information about the SDU interface requirements than that available to other SDU bidders. In fact, the IBM Group is not scheduled to deliver the interface design document before the project team evaluates the final

The legal analysis concluded that the State's acceptance of the interface design document provides no bidding advantage to members of the IBM Group.

proposals of the qualified business partners bidding on the SDU procurement. However, the SDU request for proposals does not require the qualified business partners to describe an SDU solution that meets the design specifications of the CSE system.

The project team established requirements to mitigate the risks of a schedule delay associated with integrating the Child Support Enforcement system and the State Disbursement Unit.

As early as March 2003, the project team was aware that if the qualified business partners have to prepare their proposals for the SDU procurement without sufficient information about the technical interface with the CSE system, scope changes might be required after the SDU contract award that would increase costs and delay the project schedule. In fact, in identifying the risk, the project team stated that not having the interface design document available to the SDU's qualified business partners during proposal development could result in the bidders underestimating the scope of the interface requirements. When asked how the project team mitigated this risk, the current director of the project team stated that the project team has been very careful to avoid or decrease any risks associated with integrating the CSE system and the SDU. Moreover, he stated that the project team has focused on providing a "level playing field" for all potential SDU vendors to encourage and maintain fair and open competition. Specifically, according to the current director of the project team, to mitigate the risk of further delay, such as failing to integrate the CSE system and the SDU, the project team established the following requirements:

- The CSE system must have an "open," nonproprietary architecture capable of integration with SDU interfaces.
- Nonconfidential and confidential discussions, as well as the SDU request for proposals, must emphasize that a delay in integrating the SDU and the CSE system is a project risk.
- The selected SDU service provider must, at the start of the project, analyze CSE system deliverables for their impact on the SDU and provide such analysis to the State and the IBM Group.
- The selected SDU service provider must coordinate implementation consistent with an integration plan.¹ The project team made the integration plan available to the qualified business partners.

¹ The integration plan is not the same as the previously discussed interface design document, which will not be available until after the qualified business partners submit their final proposals. The integration plan, developed by the IBM Group, includes a description of the technical solution, integration, IBM Group responsibilities and deliverables, audits and controls, and performance requirements that span the SDU and the CSE system. It also outlines how these requirements are allocated between the two systems.

- The selected SDU service provider must time its implementation to be consistent with the CSE system design and project schedule. All final and state-approved deliverables for the CSE system, including the current project schedule, have been given to all qualified business partners to review before submitting their final proposals.
- The selected SDU service provider must demonstrate compliance with CSE system design and requirements through testing.
- The SDU request for proposals must require the qualified business partners to describe in their final proposals, in significant detail, their approach to integration with the CSE system, including their approach to testing and risk identification and mitigation.
- Compensation for both the IBM Group and the SDU service provider must depend on successfully identifying and mitigating integration risks, resolving integration issues with the State, and achieving a successful interface between the CSE system and the SDU.

During our review of the project team's analysis to permit members of the IBM Group to bid on the SDU procurement and the project team's measures to mitigate the risks of a delay in integrating the CSE system and the SDU, nothing came to our attention that would result in unfair treatment of potential vendors.

DEVELOPING THE REQUEST FOR PROPOSALS INCLUDED NONCONFIDENTIAL DISCUSSIONS WITH THE QUALIFIED BUSINESS PARTNERS AND A REVIEW OF NUMEROUS CHANGES

The project team sought to develop an SDU request for proposals that met the State's business needs and at the same time encouraged competition. For example, to develop a request for proposals that would provide a realistic business opportunity and a fair process, the project team gave the qualified business partners draft copies of sections of the request for proposals and specifically requested comments from them. From August 2002 through July 2003, the project team held three nonconfidential discussions with the qualified business partners as a group to discuss the procurement approach. As the project team researched and answered questions generated from the

nonconfidential discussions, it documented the questions and answers and released them to all qualified business partners on at least 10 occasions.

The request for proposals for the State Disbursement Unit incorporates 626 of the 923 changes proposed by the qualified business partners, the department, the board, and other state and federal agencies.

In September 2003, the project team provided a complete draft request for proposals to the qualified business partners and asked for their input. The project team also asked Finance, as the state agency responsible for reviewing and approving the request for proposals before its release to the qualified business partners, to comment on the draft. Moreover, the project team sought comments from the Department of General Services and other state and federal agencies to develop a fair and comprehensive request for proposals. Overall, the project team reported that it approved and incorporated 626 of the 923 proposed changes to the request for proposals generated by the qualified business partners, the department, the board, and other state and federal agencies. Based on our monitoring of the project team's process for considering the proposed changes, nothing came to our attention that changed the request for proposals' objectives or requirements in such a manner as to cause a bias or unfairness toward any vendor. After Finance's approval, the request for proposals was released to the qualified business partners on December 4, 2003.

DURING THE COMPLIANCE PHASE, THE PROJECT TEAM PROVIDED INPUT TO THE QUALIFIED BUSINESS PARTNERS ON THEIR PROPOSALS

The release of the request for proposals on December 4, 2003, triggered the compliance phase of the SDU procurement. During the compliance phase, the qualified business partners could receive the project team's input on preliminary versions of their proposals before submitting their draft and final proposals. Throughout the compliance phase and the release of addenda to the request for proposals, project team management, the procurement officer, and members of the qualification team followed established procedures to ensure the integrity of the procurement process.

On December 12, 2003, the project team hosted a conference for the qualified business partners, giving all participants the opportunity to review the information and requirements of the request for proposals and discuss any questions or concerns the qualified business partners might have before submitting their proposals. At the nonconfidential

conference, the project team emphasized the need for thorough and complete responses from all the qualified business partners. Additionally, the project team updated the qualified business partners on the status of the SDU procurement process and activities. Although the qualified business partners were not required to attend the conference, the project team encouraged their attendance.

The primary focus of the compliance phase was to offer confidential discussions in which the qualified business partners could receive input on whether preliminary versions of their proposals were responsive to the technical and administrative requirements of the request for proposals. The compliance phase was an opportunity the qualified business partners had to revise their proposals before they become final and not subject to change. During this phase, the project team did not qualitatively evaluate the proposals or score them competitively; that will occur later during the final phase. Some of the qualified business partners took advantage of the compliance phase by submitting preliminary proposals.

To discuss any defects the project team identified, some of the qualified business partners requested and participated in two confidential discussions. These confidential discussions provided a structured method for discussing alternative solutions to the requirements and helped guide the qualified business partners in submitting proposals that are technically responsive to the requirements of the request for proposals, contain approved contract language, and are free of administrative and clerical errors.

Throughout the compliance phase, the project team provided all the qualified business partners with clarifications to the SDU request for proposals. The clarifications were either responses to questions posed by the qualified business partners or information that the project team felt would further explain the instructions or requirements of the request for proposals. In addition, a wide range of issues generated by sources such as the qualified business partners and state entities, including the board, the department, and the project team, caused the project team to amend the request for proposals. The project team recorded, analyzed, and approved issues it included in addenda using the same tracking and approval process it used for the development of the request for proposals. The project team issued its first addendum to the request for proposals on

The qualified business partners had an opportunity to have their preliminary proposals reviewed for administrative and technical compliance before submitting their final proposals.

April 1, 2004, its second addendum on April 23, 2004, and its third on May 18, 2004. As previously discussed, Finance reviewed and approved each addendum.

THE PROJECT TEAM FACES MORE WORK TO FINISH PROCURING THE STATE DISBURSEMENT UNIT

The project team has several challenges ahead before it completes the State Disbursement Unit procurement and awards the contract.

The project team has several challenges ahead before it completes the SDU procurement and awards the contract (see the Appendix for a timeline of key events leading to the award of the SDU contract). Specifically, after the qualified business partners submit their final proposals on June 8, 2004, the project team will conduct an administrative review of the proposals, evaluate the bidders' responses to the requirements in the request for proposals, and subsequently, evaluate the bidders' cost bids. Before it can award the contract, the project team must obtain Finance's approval of the procurement and complete and submit to Finance a feasibility study report. In the feasibility study report, the project team must include the business reasons that justify investing state resources in the project, the reasons for undertaking the project, the means of ensuring the success of the project, and a comprehensive analysis of its costs and benefits.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

Date: June 2, 2004

Staff: Doug Cordiner, Audit Principal
Arn Gittleman

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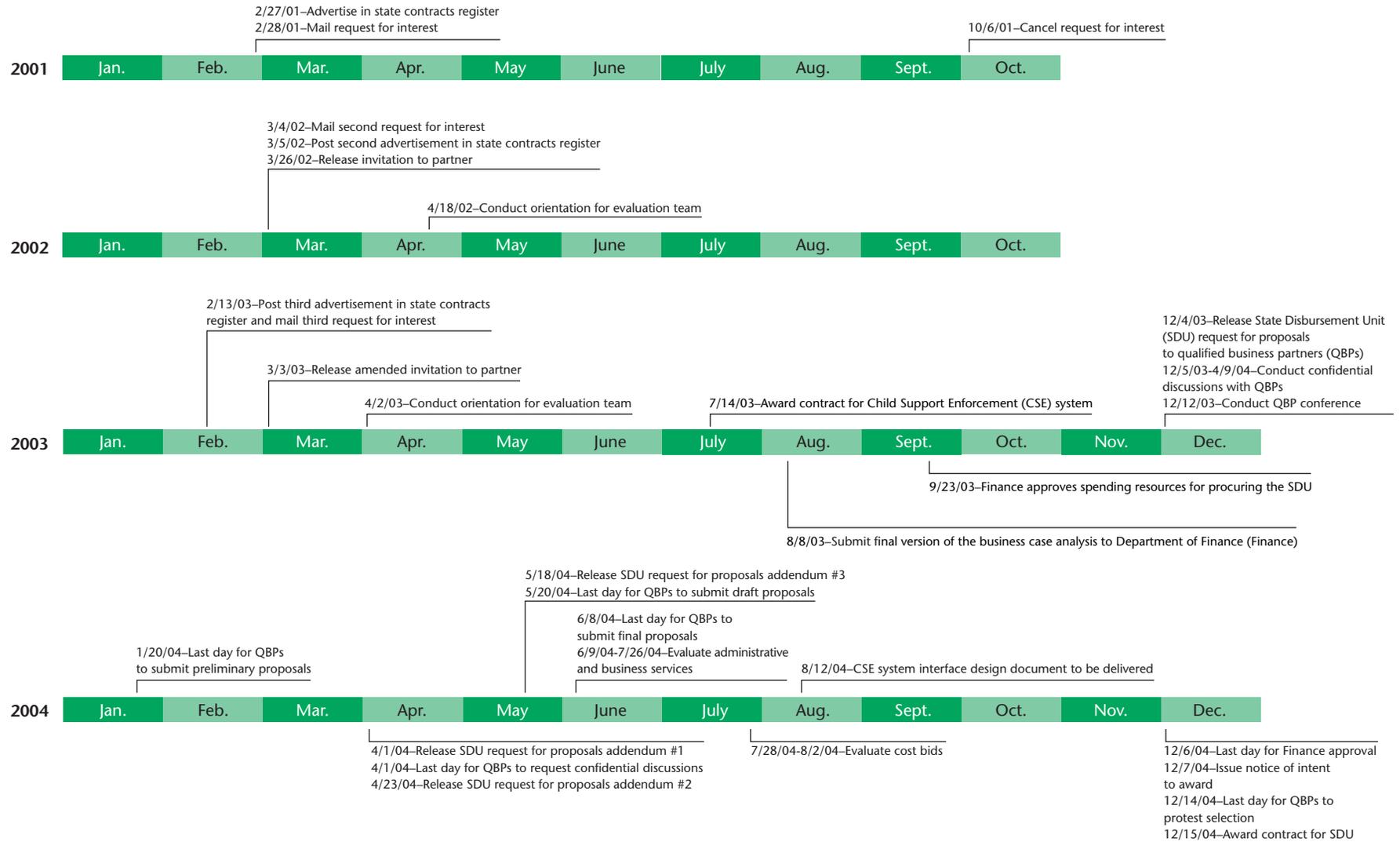
APPENDIX

Timeline of Key Events Leading to the Contract Award for the State Disbursement Unit

Figure A.1 on the following page is a timeline of key events and tasks associated with the process of procuring the State Disbursement Unit (SDU)—the second and final part of the single, statewide automated child support enforcement system. The first key events occurred in February 2001, when the project team began the process to develop interest in the SDU, and the final event is expected to occur in December 2004 with the award of the SDU contract.

FIGURE A.1

Timeline of Key Events Leading to the Contract Award for the State Disbursement Unit



Source: California Child Support Automation Project.

Agency's comments provided as text only.

Health and Human Services Agency
S. Kimberly Belshé, Secretary
1600 Ninth Street, Room 460
Sacramento, CA 95814

May 19, 2004

Elaine M. Howle, State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

SUBJECT: DRAFT REPORT ON CHILD SUPPORT ENFORCEMENT PROGRAM: ACQUIRING THE STATE DISBURSEMENT UNIT TO COLLECT, DISBURSE, AND RECORD CHILD SUPPORT PAYMENTS WILL COMPLETE THE PROCUREMENTS FOR THE CALIFORNIA CHILD SUPPORT AUTOMATED SYSTEM

Enclosed is the combined response from the Franchise Tax Board and the Department of Child Support Services to your draft report titled "Child Support Enforcement Program: Acquiring the State Disbursement Unit to Collect, Disburse, and Record Child Support Payments Will Complete the Procurements for the California Child Support Automated System".

On behalf of the California Health and Human Services Agency and the State and Consumer Services Agency, I want to thank you for your efforts in monitoring the procurement for the State Disbursement Unit (SDU) component of the statewide automated system for child support enforcement. Your role in monitoring the procurement has served to ensure that the procurement was made without signs of bias or favoritism toward any bidder.

We concur with your report and believe that it accurately reflects the steps taken by the Franchise Tax Board and the Department of Child Support Services to ensure full integration of this SDU contract with the child support enforcement component.

We appreciate the continued extensive work undertaken by you and your staff to monitor the entire procurement process of the statewide automated system for child support enforcement.

Sincerely,

(Signed by: Lorna M. Fong)

Lorna M. Fong
Assistant Secretary

Enclosure

California Department of Child Support Services
P.O. Box 419064
Rancho Cordova, CA 95741-9064

May 18, 2004

Ms. Elaine M. Howle, State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

SUBJECT: CHILD SUPPORT ENFORCEMENT PROGRAM: ACQUIRING THE STATE
DISBURSEMENT UNIT TO COLLECT, DISBURSE, AND RECORD CHILD
SUPPORT PAYMENTS WILL COMPLETE THE PROCUREMENTS FOR THE
CALIFORNIA CHILD SUPPORT AUTOMATED SYSTEM

The Department of Child Support Services (DCSS) and the Franchise Tax Board would like to thank you for the independent validation of the fairness of our State Disbursement Unit procurement. We concur with your report and believe that it accurately reflects the complexity of the procurement and the extensive reviews and analysis necessary to ensure full integration of this contract and the Child Support Enforcement component.

We appreciate the extensive efforts that you and your staff have made in monitoring this procurement through observation and review of all of the important activities undertaken. Your careful monitoring of the process the Franchise Tax Board and DCSS took in conducting this procurement are sincerely appreciated.

Sincerely,

(Signed by: Curtis L. Child)

CURTIS L. CHILD
Director
Department of Child Support Services

Sincerely,

(Signed by: Gerald H. Goldberg)

GERALD H. GOLDBERG
Executive Officer
Franchise Tax Board

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press