



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 14, 2010

Dr. Melodie Mayberry-Stewart
Chief Information Officer and Director
Office for Technology
Empire State Plaza
Swan Street Building - Core 4
Albany, NY 12223

Re: 2008-0311

Dear Dr. Mayberry-Stewart:

Our Office examined¹ payments made by the Office for Technology (OFT), for services Avaya, Inc. (Avaya) rendered under contract C002248 during the period January 1, 2008 through December 31, 2008 and certain charges during calendar year 2009. These payments were for maintenance services on the integrated telecommunications system known as Capital Network (CAPNET). The objective of our examination was to determine whether OFT obtained maintenance services at a reasonable price.

A. Results of Examination

We found OFT had reduced the cost on a portion of this contract by reducing the required staffing level. However, if OFT officials had used information about past performance to help predict resource needs for the 2009 year, they may have been able to obtain further savings. We also found OFT may be able to negotiate a lower price for maintenance services under its next integrated telecommunications contract if it obtains and analyzes all of the relevant information available from the vendor.

In response to our draft report, OFT officials agreed to evaluate information about past performance to predict future resource needs under a portion of its contract. OFT officials also noted (i) they did not receive competing bids for the Repair and Maintain portion of the contract, (ii) the costs we used in our analysis were not comparable to the agreed-upon contract rates, (iii) simply using costs as a guide does not adequately ensure the necessary skill level of the needed

¹ We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

technicians, and (iv) there is no guarantee that vendors would contract at the rates we identified in our analysis.

OFT's acceptance of the rates Avaya proposed does not provide assurance those rates are reasonable. Our analysis conservatively estimated direct costs associated with the Repair and Maintain portion of the contract, given the skill level of the needed technicians as well as Avaya's normal overhead and profit. While we agree there is no guarantee when negotiating contract pricing, the \$2.3 million that remained after we accounted for direct costs of providing the maintenance suggests OFT may be able to negotiate better pricing in its future maintenance contracts.

B. Background and Methodology

OFT provides centralized technology policies and services to New York State government organizations. The organizations use the CAPNET system for dial tone services, voice mail, on-net calling, call center services, audio teleconferencing, and an assortment of telephone devices.

OFT issued Requests For Proposal for four distinct components (i.e., Lots) of CAPNET maintenance. It awarded contract C002248, a \$34 million contract that runs from April 1, 2004 through September 30, 2012, to Avaya to provide Lot 1 and Lot 4 maintenance services. Under Lot 1, Avaya provides the staff and replacement parts needed to repair and maintain about 76,000 active phone ports for the CAPNET system. Under Lot 4, Avaya provides the staff needed to move, add and change voice and data station cabling and terminating equipment (cabling and equipment). During calendar year 2008, OFT paid Avaya \$5.2 million for these maintenance services, excluding \$300,000 certain agencies elected to pay for services Avaya rendered outside normal business hours.

To accomplish our objective, we reviewed the contract, related payments and other relevant OFT and Avaya records. We also interviewed OFT management and staff.

C. Details of Findings

Lot 4 – Move, Add and Change

During calendar year 2008, OFT paid Avaya \$1.7 million for 12 technicians to provide maintenance services under Lot 4 of the contract. These services included moving, adding, and changing certain CAPNET equipment, such as cables.

The contract gives OFT the right to determine the number of technicians required to perform the Lot 4 maintenance services and the option to change the number of technicians twice a year. Based on our discussions with OFT officials, Avaya has the information to demonstrate the correlation between maintenance needs and the number of technicians required under Lot 4. This includes information regarding (i) the number of service orders completed during prior

periods, (ii) the amount of time it took to complete those orders, and (iii) the number of technicians required to complete the service orders. OFT also obtains information about current and future maintenance requirements based, in part, on information from the Office of General Services Leasing Unit (OGS). OGS advises OFT of upcoming leasing projects for the year which may include phone cabling and installation.

In February 2009, OFT reduced the number of Lot 4 technicians by one. While this reduction saved OFT \$127,500 for services rendered during 2009, OFT was unable to demonstrate why this reduction was limited to one technician. OFT did not have documentation to support the types of services required during 2009, how long it would take to complete those services, and how many technicians would be required to complete those services. If OFT officials had used information about past performance to help predict resource needs for the 2009 year, they may have been able to evaluate whether they could further reduce the number of technicians needed to provide Lot 4 maintenance services, thereby increasing the amount of savings. OFT officials agreed to use all available information to ensure they have the appropriate number of technicians under Lot 4.

Lot 1 – Repair and Maintain

During calendar year 2008, OFT paid Avaya \$3.5 million for five full-time equivalent (FTE) staff and parts to repair and maintain the CAPNET system. Unlike the Move, Add and Change portion of the contract, OFT is not able to adjust its costs for these services based on the number of resources Avaya provides.

Avaya was the only vendor to bid for the Repair and Maintain portion of the contract. As a result, OFT did not have bids from competitors to use as a comparison to gauge the reasonableness of Avaya's bid. In the absence of competition, OFT managers should use alternative methods to ensure reasonable pricing.

We assessed the reasonableness of the \$3.5 million OFT paid Avaya during calendar year 2008 for Lot 1 maintenance by estimating the amount OFT would have reasonably paid Avaya for the direct labor and parts Avaya dedicated to provide such maintenance. Using information available from several websites, we calculated conservative estimates, including reasonable overhead and profit, of the cost to OFT for Avaya's direct labor and certain parts replaced under the contract.

We estimated that OFT would have had to pay Avaya \$929,000 for direct labor to perform routine maintenance under Lot 1 during 2008. OFT officials were not able to tell us how much direct labor Avaya used to restore CAPNET to operating condition when the system was down for 62 hours during our scope period. Therefore, we were unable to determine a conservative estimate of OFT's cost for this direct labor.

Working with OFT managers, we were able to estimate it would have cost OFT \$293,000 for 90 percent of the parts Avaya replaced during 2008. OFT managers were not able to help us identify the costs for the remaining 10 percent of the parts Avaya replaced; however, OFT managers said these parts do not represent any major component of the CAPNET system. Therefore, the costs associated with this 10 percent of parts would be nominal.

Taking direct labor and parts together, we estimate OFT would have paid Avaya \$1.2 million for Lot 1 maintenance. The remaining \$2.3 million OFT paid Avaya was available to cover the nominal cost of 10 percent of replacement parts and the direct labor to correct 62 hours of down time.

OFT did not have information to support whether the \$2.3 million remaining was a reasonable amount to cover the unknown costs and Avaya's related overhead and profit.

Recommendations

- 1) *Develop a process to correlate the number of technicians needed for Lot 4 maintenance services based on historic and future workloads and adjust the number of technicians accordingly.*
- 2) *Obtain and evaluate information relevant to the vendor's reasonable costs, overhead and provide for providing future Lot 1 CAPNET maintenance.*
 - a) *Based on the results of the evaluation, seek to obtain a reasonable price for Lot 1 CAPNET maintenance in the next contract.*

We shared a draft copy of this report with OFT officials for review and comment and considered their comments in preparing this report. We would appreciate your response to this report by November 12, 2010 indicating any actions planned to address the recommendations. We thank the management and staff of OFT for the courtesies and cooperation extended to our auditors.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Appendix A
Appendix B

cc: Bruce Rollins



DAVID A. PATERSON
GOVERNOR

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MELODIE MAYBERRY-STEWART, Ph.D.
CHIEF INFORMATION OFFICER
DIRECTOR OF OFFICE FOR TECHNOLOGY

October 1, 2010

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
110 State St.
Albany, NY 12236

Re. Contract C002248 between OFT and Avaya, Incorporated Report 2008-0311

Dear Mr. McHugh:

The Chief Information Officer/Office for Technology (CIO/OFT) is responding to the August 28, 2010 audit results in regard to the above referenced report. Since the audit concluded, CIO/OFT has implemented the following to address all of the recommendations as follows:

Recommendation 1: Going forward, CIO/OFT will conduct quarterly reviews of completed service orders to move, add, and change equipment supporting the CAPNET system. CIO/OFT may exercise its right to change the number of technicians required based on our assessment of trends revealed by measures such as: the average number of orders completed; and average time to complete each order. Lastly, to monitor the performance of technicians, accumulated data will be used to development benchmarks.

Recommendation 2: It important to note that CIO/OFT did not receive competing bids for the Repair & Maintain portion of the contract. The costs of labor and parts your Office obtained in 2009 from the web are not comparable to the January 2008 agreed upon contract rates. The data used by your Office was obtained through a non-competitive process, thus there is no guarantee that vendors would contract for these rates. It has been our experience that simply using costs as a guide does not adequately ensure the necessary skill level of the needed technician.

Comment 1

I would like to thank the audit team for their consideration of CIO/OFT information and responses shown during this audit engagement.

Sincerely,

Catherine Durand
Deputy CIO for Shared Services
(on behalf of) Melodie Mayberry-Stewart, PhD

State Comptroller Comments on Auditee Response

1. In the absence of competitive bids, agencies have an obligation to exercise due diligence in negotiating pricing and determining if the cost is reasonable. Our review of the contract file shows OFT did not negotiate pricing with Avaya. Instead, OFT agreed to accept the rates Avaya proposed. Our analysis conservatively estimated direct costs associated with the Repair and Maintain portion of the contract, given the skill level of the needed technicians as well as Avaya's normal overhead and profit. While we agree there is no guarantee when negotiating contract pricing, we believe the \$2.3 million that remained after we accounted for direct costs of providing the maintenance suggests OFT may have been able to negotiate better pricing in its future maintenance contracts.