

Special Report

Arkansas Legislative Audit

Review of Selected Software Procurements and Cooperative Purchasing Agreements

Arkansas Department of Human Services

For the Period May 2011 Through May 2015



INTRODUCTION

As a result of testimony by officials from the Department of Human Services (DHS) at the November and December 2014 meetings of the Legislative Joint Auditing Committee (LJAC), a request was made by LJAC members, and approved by the Executive Committee on June 4, 2015, for Arkansas Legislative Audit (ALA) to provide additional information on selected DHS software procurements, including procurements under statewide cooperative purchasing agreements.

OBJECTIVES

The objectives of this report were to:

- Assist the General Assembly in understanding various aspects of state procurement.
- Determine DHS compliance with state purchasing laws and rules.
- Determine total cost or most recently-available cost of selected software purchases by DHS.

SCOPE AND METHODOLOGY

This review was primarily for the period May 2011 through May 2015. The information provided in this report was obtained from DHS and the Department of Finance and Administration (DFA). ALA staff interviewed former and current employees of both agencies and reviewed relevant documents, such as contracts, statements of work, memoranda of understanding, financial data in the Arkansas Administrative Statewide Information System (AASIS), and various other financial records.

The methodology used in preparing this report was developed uniquely to address the stated objectives; therefore, this report is more limited in scope than an audit or attestation engagement performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

SUMMARY OF ISSUES

As a result of ALA staff review, the following issues were noted:

Issue #1: DHS did not adequately monitor or hold vendors accountable for contract fulfillment.

Issue #2: Sole source contracts were not always used appropriately.

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Issue #3: Cooperative purchasing agreements were not always properly used.

Issue #4: DHS did not always adequately disclose entire projects to the General Assembly or comply with state purchasing laws and rules.

Issue #5: DHS's use of staff augmentation contracts (contract labor) without adequate project management resulted in inadequate cost containment.

These issues are noted at various places in the report. Complete results of review can be found on pages 5-14.

BACKGROUND

Arkansas Procurement Laws and Rules

Various procurement laws and rules govern the expenditure of state funds, including the following:

- Ark. Code Ann. § 19-11-211 states that “Every contract . . . imposes an obligation of good faith in its performance or enforcement.”
- Ark. Code Ann. § 19-11-203(14)(BB) describes commodities and services related to proprietary software (e.g., technical support, renewals, additional copies, and license upgrades) that are exempt from the competitive procurement process.
- Ark. Code Ann. § 19-11-229 states that when competitive bidding is used, public notice inviting bids should be given 5 to 30 calendar days preceding the date for the opening of bids and provided at least once in a statewide newspaper or via electronic means.
- Ark. Code Ann. § 19-11-249 authorizes the State to participate in cooperative purchasing agreements, which allow a governmental entity to use an existing purchasing agreement established by another governmental entity, either within the State or outside the State, to contract with a vendor.
- Ark. Code Ann. § 19-11-265 requires that all contracts for technical and general services in the area of information technology (IT) in excess of \$100,000 be presented to Legislative Council for review.
- State Procurement Rule R8:19-11-230(a) allows negotiations regarding competitive proposals to be repeated with a second respondent, when time permits, if an agreement with the first respondent cannot be reached.
- State Procurement Rule R8:19-11-230(b) requires that the purpose and objectives of negotiations regarding competitive proposals be documented.
- State Procurement Rule R1:19-11-232(b) states that sole source procurements are allowed only if an agency provides written documentation establishing that only one source exists for the desired product or service; otherwise, the competitive bidding process should be used.
- State Procurement Rule R1:19-11-233(d) states that an emergency procurement request must establish that other procurement methods would “endanger human life or health, state property or the functional capability of the agency.”
- A Legislative Council memorandum issued in January 2015 requires agencies to report to Legislative Council expenditures related to cooperative purchasing agreements.

New Laws, Policies, and Procedures

During the 2015 Regular Session, the General Assembly enacted Act 557, effective August 1, 2015, to address the need for reporting and review of state contracts. Act 557 requires that Legislative Council or Joint Budget Committee review:

- Contracts of \$100,000 or more with technical and general services, including all amendments and extensions, before execution of the contract.
- Contracts for professional and consulting services of \$50,000 or more.

Additionally, contracts between \$25,000 and \$100,000 for technical and general services and between \$10,000 and \$50,000 for professional and consulting services shall be reported monthly to the Legislative Council or Joint Budget Committee. Likewise, purchases made under cooperative purchasing agreements shall be reported quarterly to the Legislative Council or Joint Budget Committee.

On April 30, 2015, the Office of State Procurement (OSP), a department within DFA, issued the following new procurement requirements:

- Procurements with total projected costs above \$1 million must be approved by the Governor.
- IT purchases with total projected costs above \$100,000 must be approved by the Department of Information Systems (DIS).

These requirements also specify coding in AASIS for purchases above \$10,000.

DHS established a Project Management Office (PMO) to oversee or track 95% of DHS's IT projects. The office is organizationally under the Division of Medical Services (DMS) but is overseen by an IT steering committee composed of DHS employees. The PMO was established as part of a sole source professional services contract that DHS entered into in October 2014, after approval by OSP and Legislative Council. DHS did not assign a PMO Director until April 2015. As of May 31, 2015, all other PMO staff were contract labor.

Relevant State Procurement Processes

State agencies may use several processes to procure goods and services. **Appendix A** illustrates the procurement processes discussed in this report and the associated contracts, vendors, and DHS projects.

Sole Source Procurements

Sole source procurement refers to purchasing from a single identified vendor based on specific needs that can only be fulfilled by that vendor. Because only one vendor can provide the contractual services needed, any attempt to obtain bids would result in bids from only that vendor. According to State Procurement Rule R1:19-11-232, procurement from a single source, as it relates to professional and consultant service contracts, should only be used when all other methods of contracting are clearly not applicable. The need for sole source professional and consultant service contracts, except for those exempt by law, must be justified in writing. Sole source contracts are approved by OSP.

Competitive Bidding

Two types of procurements discussed in this report require either a bid or solicitation: Request for Proposal (RFP) and Request for Qualification (RFQ). An RFP is issued by OSP to potential vendors, who submit a proposal. The RFP presents the requirements for the commodity or service and dictates the structure and format of the vendor's response. RFPs are "scored" based on multiple factors, not only on cost.

An RFQ is sent to vendors who possess the ability to perform the work specified. Notification to the public shall be in accordance with the provisions of Ark. Code Ann. § 19-11-229(d). The agency makes its initial selection based upon the respondents' qualifications. Only after the most qualified respondent is identified does cost become a factor in determining the award. Discussions may be conducted with respondents who are likely to be selected in order to clarify solicitation requirements and to obtain best and final offers.

Cooperative Purchasing Agreements

According to Ark. Code Ann. § 19-11-249, the State may

participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one (1) or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants.

For the 2015 fiscal year, the State entered into participating addendums¹ for 119 cooperative purchasing agreements. In a typical arrangement, entities using a cooperative purchasing agreement develop a statement of work outlining the services to be performed by the vendor.

The following sections discuss two cooperative agreements utilized by the State in recent years.

National Association of State Procurement Officials ValuePoint

National Association of State Procurement Officials (NASPO) ValuePoint (formerly known as Western State Contracting Alliance [WSCA]) is a cooperative purchasing program that assists with public procurement solicitations by providing purchasing support and procurement resources. No fees are charged for membership in NASPO ValuePoint, but an administrative fee of up to 0.25% of sales is charged to vendors. Contracts issued by NASPO ValuePoint are a result of a formal, competitive solicitation made in accordance with the lead state's procurement laws and regulations. As of May 31, 2015, the State had 20 cooperative purchasing agreements through NASPO ValuePoint.

Software House, Inc. (SHI), is the software reseller used as the vendor for fulfillment of the NASPO ValuePoint contract for commercial off-the-shelf (COTS) software and related services to eligible users. In addition to selling software, maintenance, and support agreements for new and previously-purchased software, SHI provides related services that include, but are not limited to, tracking licenses (new and existing), monitoring volume levels and opportunities,

Cooperative purchasing agreements allow a governmental entity to use an existing purchasing agreement established by another governmental entity, either within the State or outside the State, to contract with a vendor.

¹ Documents in which the vendor agrees to comply with state law and the State agrees to use the vendor for certain services.

training, implementation, and consulting. The Cúram and CoCentrix software were purchased by DHS from SHI under the NASPO ValuePoint cooperative purchasing agreement.

Exhibit I provides payments by the State to SHI for the past 10 fiscal years.

Commonwealth of Pennsylvania

In 2007, the State signed a participating agreement with the Commonwealth of Pennsylvania for the Enterprise Staff Augmentation Services contract. This cooperative purchasing agreement assists procurement officials in locating IT contract labor needed temporarily, generally less than one year. The current agreement provides for 26 job titles with fixed hourly rates based on Arkansas market conditions. Under staff augmentation contracts, vendors are not held responsible for delivery of a finished product. Currently, the Staff Augmentation Services cooperative purchasing agreement vendor is Computer Aid, Inc. (CAI). According to the participating addendum, a 6.9% mark-up of all invoices is made by CAI. **Exhibit II** provides expenditures to CAI by fiscal year since inception of the contract.

All current statewide cooperative purchasing agreements and other statewide contracts are provided in **Appendix B** and **Appendix C**, respectively.

RESULTS OF REVIEW

ALA staff reviewed multiple DHS contracts related to three projects:

- A. The Arkansas Universal Assessment and Care Planning Suite.
- B. The Eligibility and Enrollment Framework.
- C. The Arkansas Health Care Payment Improvement Initiative (AHCPII).

Review revealed that DHS's agreement with Charles H. Mack and Associates (CH Mack) failed to result in the delivery of a usable universal assessment platform and did not contain specifically-defined objectives or detailed, measureable deliverables. Furthermore, DHS entered into a contract with CoCentrix for a similar product 10 months prior to terminating the contract with CH Mack and did not properly use sole source procurement to contract with CoCentrix. As of May 31, 2015, payments to CH Mack and CoCentrix related to the Universal Assessment and Care Planning Suite totaled \$4.8 million and \$9.24 million, respectively.

Exhibit I

State of Arkansas
Payments to Software House, Inc. (SHI)
For Fiscal Years 2006 through 2015*

| Fiscal Year | Amount Paid |
|--------------|-----------------------|
| 2006 | \$ 5,352,731 |
| 2007 | 6,826,532 |
| 2008 | 6,565,314 |
| 2009 | 9,002,082 |
| 2010 | 9,087,031 |
| 2011 | 9,821,772 |
| 2012 | 8,604,306 |
| 2013 | 20,700,693 |
| 2014 | 18,760,585 |
| 2015* | 21,226,569 |
| Total | \$ 115,947,615 |

*Through May 31, 2015

Source: Arkansas Administrative Statewide Information System (AASIS; unaudited by Arkansas Legislative Audit)

Exhibit II

State of Arkansas
Payments to Computer Aid, Inc. (CAI)
For Fiscal Years 2007 through 2015*

| Fiscal Year | Amount Paid |
|--------------|-----------------------|
| 2007 | \$ 1,336,142 |
| 2008 | 2,774,163 |
| 2009 | 4,757,170 |
| 2010 | 7,914,574 |
| 2011 | 10,207,560 |
| 2012 | 15,135,845 |
| 2013 | 14,911,697 |
| 2014 | 45,382,474 |
| 2015* | 50,959,012 |
| Total | \$ 153,378,637 |

*Through May 31, 2015

Source: Arkansas Administrative Statewide Information System (AASIS; unaudited by Arkansas Legislative Audit)

Regarding the Eligibility and Enrollment Framework, DHS did not follow RFP procedures and improperly used the Commonwealth of Pennsylvania cooperative purchasing agreement to contract with CAI. As of May 31, 2015, payments to CAI related to this project totaled \$106.1 million.

ALA staff review also revealed that although DHS personnel evaluated multiple vendors to provide services related to the AHCPH project, DHS used a sole source procurement to contract with McKinsey and Company (McKinsey). Expenditures related to this project totaled \$89.35 million as of May 31, 2015.

Further detail regarding these results is provided below by topic.

A. Arkansas Universal Assessment and Care Planning Suite

A universal assessment platform captures information on multiple aspects of an individual's overall health condition and circumstances, including caregiver supports and need for assistance with activities of daily living. The tools transfer the data into algorithms known as InterRAI instruments, resulting in identification of care management service tiers for which individuals may be eligible. Because the tools are used for multiple populations and programs and are designed to capture a broad set of information, the universal assessment process can be lengthy. To initiate development of the Arkansas Universal Assessment and Care Planning Suite, a universal assessment platform, DFA issued an RFQ in July 2010, on behalf of DHS. Resulting contracts with two vendors for this project are discussed below.²

Charles H. Mack and Associates (CH Mack) Contracts

Through the RFQ process, DHS entered into a contract for \$2.14 million with CH Mack, on May 4, 2011, for development of the Arkansas Universal Assessment and Care Planning Suite. Events subsequent to the contract inception are listed below:

- May 2012 – DHS's contract with CH Mack was renewed for \$2.16 million.
- September 2012 – A purchase order for \$2.42 million (Purchase Order 4501292304), coded as exempt by law, was issued for additional implementation services and licenses to be provided by CH Mack. Of this amount, \$1.39 million should not have been considered exempt under Ark. Code Ann. § 19-11-203. **(Issue #4)**
- January 2013 – A DHS Vendor Performance Report noted unsatisfactory performance by CH Mack.
- May 2013 – DHS's contract with CH Mack was renewed for \$2.16 million and reviewed by Legislative Council.
- September 2013 – An additional purchase order for approximately \$260,000 (Purchase Order 4501386925), coded as exempt by law, was issued for licenses and support to be provided by CH Mack.
- March 2014 – DHS notified CH Mack that the contract would be cancelled in May 2014.
- May 2014 – DHS's contract with CH Mack was cancelled, with a total of \$4.84 million expended.

²It should be noted that performance of the assessments is part of a \$3.29 million contract with a separate vendor. As of May 31, 2015, expenditures under this contract totaled approximately \$1.43 million.

After cancellation of the contract, DHS personnel testified before LJAC in November and December 2014 that the software failed to provide adequate functionality as a universal assessment platform and that CH Mack failed to resolve this issue. Additionally, purchase orders and a related memorandum of understanding for CH Mack identified procurements that appear to be for the design and development of aspects of the universal assessment platform. This is beyond the scope of exempt items described in Ark. Code Ann. § 19-11-203. Due to a lack of adequate performance measures within the contract (**Issue #1**), DHS did not pursue legal remedies to recoup monetary damages. As discussed later in the report, DHS entered into a sole source contract with CoCentrix for similar services 10 months prior to cancellation of the contract with CH Mack (**Issue #2**). Total expenditures to CH Mack are provided in **Exhibit III**.

Exhibit III

Arkansas Department of Human Services
Charles H. Mack (CH Mack) Expenditure Analysis
For the Period May 1, 2011 through May 31, 2014

| Description | Amount Paid |
|---------------------------------|---------------------|
| Original Contract | \$ 2,159,860 |
| Purchase Order 4501292304 | |
| Amount not exempt by law* | 1,386,065 |
| Amount exempt by law* | 1,031,546 |
| Total Purchase Order 4501292304 | 2,417,611 |
| Purchase Order 4501386925 | 259,988 |
| Total Payments | \$ 4,837,459 |

*Based on Arkansas Legislative Audit (ALA) staff analysis.

Source: Arkansas Administrative Statewide Information System (AASIS; unaudited by Arkansas Legislative Audit)

CoCentrix Contracts

It appears that, as early as July 2013, DHS personnel determined that the software developed by CH Mack would not provide a functional universal assessment platform. In August 2013, DHS developed a statement of work outlining the goals and processes for a pilot project for development of the Universal Assessment Care Planning Suite with a new vendor, CoCentrix. Within the statement of work, a timeline of developments and testing was outlined between August 2013 and January 2014. Relevant events are provided below:

- On October 1, 2013, Arkansas Medicaid Director Andy Allison, who left employment effective June 1, 2014, requested approval for development of the CoCentrix software platform by means of sole source procurement. The justification identified CoCentrix as the "only one vendor [that] could provide the complete solution, delivered in the manner required by DHS and within the very short timeframe required." In the justification, the cost annually was identified as \$67,500, with fiscal year 2014 costing \$65,625. The statement of work could be renewed annually for up to six years.
- On October 14, 2013, a purchase order for \$101,779 was issued and subsequently paid to CoCentrix.

Sole source procurement refers to purchasing from a single identified vendor based on specific needs that can only be fulfilled by the identified vendor.

After testing was complete under the pilot project, CoCentrix was selected to develop the new universal assessment platform. Tim Lampe, Director of the DHS Office of Quality Assurance, requested that CoCentrix be added to the NASPO ValuePoint cooperative purchasing agreement; DFA immediately approved the request (**Issue #3**).

The first DHS division to use CoCentrix licenses and services was the Division of Developmental Disabilities Services (DDDS). The first statement of work was prepared in April 2014, with subsequent statements of work signed in July and October 2014. The goal and processes of the project, according to the statements of work, included development of a universal assessment platform based on the CoCentrix software that would:

- Provide a standardized, automated process to transfer the data into the algorithms (InterRAI instruments mentioned previously).
- Determine an individual's level of need and the most appropriate level of services.
- Provide a single end-to-end system that would facilitate the development of interfaces with external systems, such as the Medicaid Management Information System (MMIS) and the Medicaid Eligibility System (Eligibility and Enrollment Framework).

As of March 31, 2015, payments to CoCentrix totaled \$9.24 million, including \$101,779 for pilot project costs and \$9.14 million for licenses and services procured by DHS through SHI.

Exhibit IV on page 8 illustrates the overlap of payments to and contracts with CH Mack and CoCentrix from 2010 to 2015.

As of report date, CoCentrix software is still in the development and implementation phase. Certain divisions within DHS have experienced delays due to late installation of application and supporting software. In addition, problems in converting data from CH Mack to the CoCentrix software must be solved, or alternative methods of transferring data must be found.

McKinsey and Company

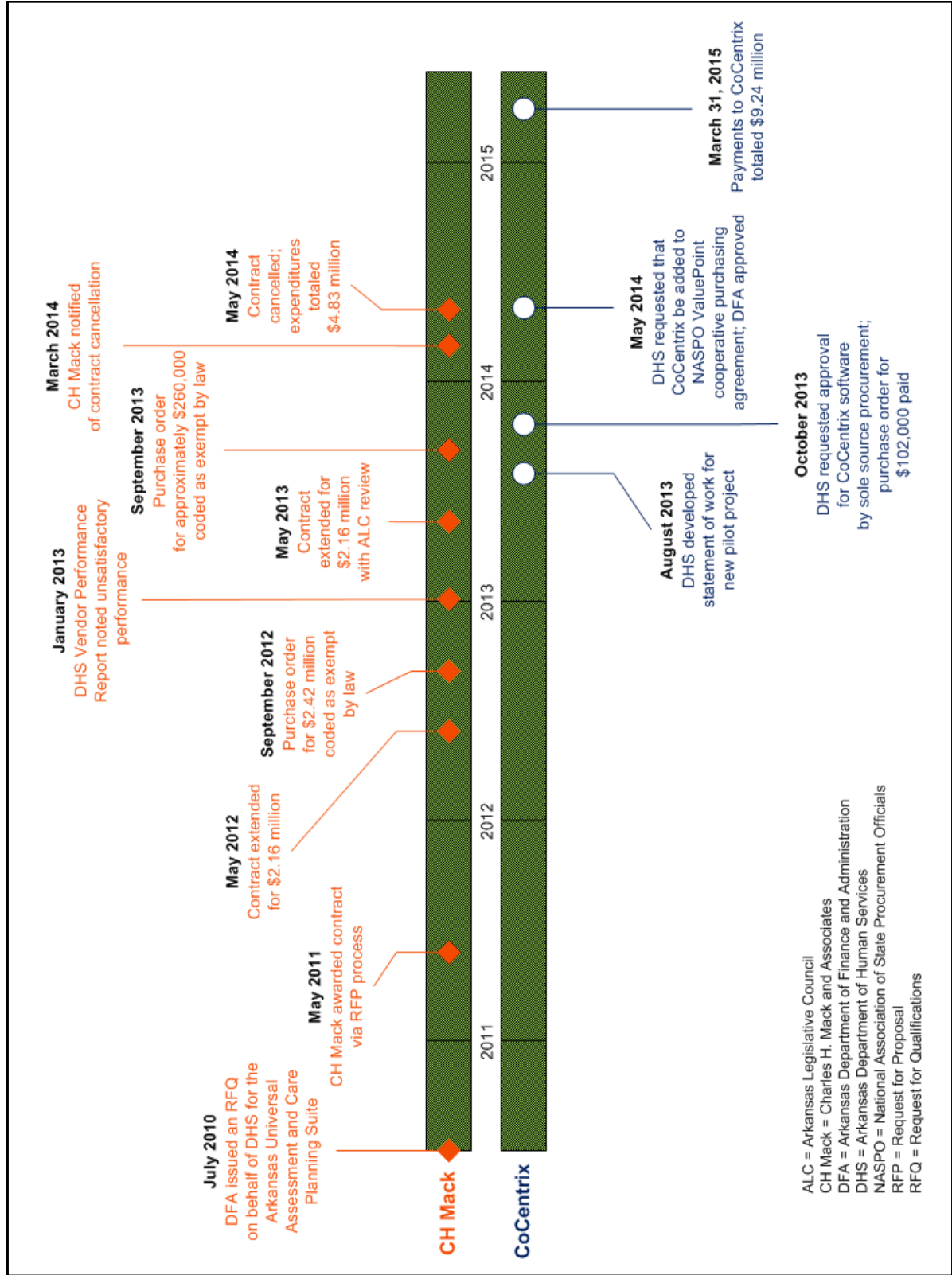
DHS has a flat-rate, sole source contract with McKinsey. Because of the invoicing method used, neither DHS nor McKinsey can determine exact amounts paid for consulting related to specific subject matter or programs under this contract. Additional information regarding DHS contracts with McKinsey is provided later in the report and in **Note 1 of Exhibit V on page 10**.

In summary, as of May 31, 2015, the total expended for development of the Universal Assessment and Care Planning Suite was \$14.5 million, as shown in **Exhibit V on page 10**. According to DHS, the system will be used to house 13,311 assessments; 1,438 have already been completed and processed, bringing the cost per individual to over \$1,000. If all of the \$23.4 million paid to McKinsey, discussed in **Note 1 of Exhibit V on page 10**, is applicable, the cost per individual increases to over \$2,800.

As stated in footnote 2 on page 6, performance of the assessments is part of a \$3.29 million contract with a separate vendor, with cost per assessment totaling approximately \$250 per individual. As of May 31, 2015, expenditures under this contract totaled approximately \$1.43 million.

Exhibit IV

Arkansas Department of Human Services (DHS)
 Timeline of Events Related to Contracts with Charles H. Mack and Associates (CH Mack) and CoCentrix
 For the Period July 2010 through March 2015



Source: DHS records (unaudited by Arkansas Legislative Audit)

Exhibit V

Arkansas Department of Human Services (DHS)
Expenditure Analysis for the Arkansas Universal Assessment and Care Planning Suite
As of May 31, 2015

| Payee | Total Paid |
|---|----------------------|
| CH Mack under contract | \$ 2,159,860 |
| CH Mack under purchase order coded as exempt by law | 2,677,599 |
| Total Payments to CH Mack | 4,837,459 |
| CoCentrix pilot project | 101,779 |
| CoCentrix under NASPO ValuePoint cooperative purchasing agreement | 9,139,977 |
| Total Payments to CoCentrix | 9,241,756 |
| Total Payments to McKinsey and Company | (Note 1) |
| Total Payments to University of Michigan (Note 2) | 445,560 |
| Total Expended | \$ 14,524,775 |

CH Mack = Charles H. Mack and Associates

NASPO ValuePoint = National Association of State Procurement Officials ValuePoint (formerly known as Western State Contracting Alliance [WSCA])

Note 1: A portion of \$23.4 million paid to McKinsey and Company was for consulting services associated with DHS divisions that will use the Universal Assessment and Care Planning Suite. However, of the \$23.4 million, neither DHS nor McKinsey could determine the exact amount paid for these services, and this amount is not reflected in the total expended.

Note 2: The amount paid to the University of Michigan was for development of the InterRAI algorithms and DHS staff training.

Source: Arkansas Administrative Statewide Information System (AASIS) and DHS Project Management Office Report (unaudited by Arkansas Legislative Audit)

B. Eligibility and Enrollment Framework

The Eligibility and Enrollment Framework project is the first phase of a DHS-wide plan to move all DHS programs into an Agency-wide commercial-off-the-shelf (COTS) software framework. DHS will use this framework to automate the business processes of the various DHS divisions and offices. This framework will also serve as the system of record for Medicaid eligibility and enrollment and must exchange data with MMIS to process Medicaid claims. DHS currently interfaces with the MMIS system using two existing mainframe systems: (1) the Arkansas Client Eligibility System (ACES) and (2) Arkansas's Networked System for Welfare Eligibility and Reporting (ANSWER), the DHS centralized system. The new framework will replace both of these systems and interface with the legacy MMIS.

The Eligibility and Enrollment Framework project consists of three phases:

1. *Health Care Reform* is scheduled to be moved into the maintenance and operations stage by January 2016, a five-month delay from the initial estimate of July 2015.
2. *Supplemental Nutrition Assistance Program (SNAP)* has been developed on a parallel track by RedMane Technologies. The pilot implementation is scheduled for April 2015 through June 2015, with a state-wide roll-out starting in April 2016, an eight-month delay from the initial estimate of July 2015.
3. *Traditional Medicaid* contains more than 10 separate programs, with implementation currently delayed. DHS's intent is to develop an RFP for release during the early part of calendar year 2016.

Computer Aid, Inc., Statements of Work

As mentioned previously, Computer Aid, Inc. (CAI), is the staff augmentation services vendor under the Commonwealth of Pennsylvania cooperative purchasing agreement. Beginning in August 2011, DHS engaged CAI's through three statements of work, costing \$369,660, to complete the following:

- Assessment of existing IT software solutions at DHS.
- Incremental modernization of DHS's IT infrastructure.
- Finalizing the draft RFP for the Eligibility and Enrollment Framework.

Contract Negotiation Process

On behalf of DHS, OSP issued an RFP for the Eligibility and Enrollment COTS Framework project on July 5, 2012. Proposals with cost estimates were submitted by Northrop Grumman and Noridian Administrative Services, LLC (Noridian), for \$52.8 million and \$65.4 million, respectively. DHS selected the proposal submitted by Noridian and began negotiations on November 8, 2012; the purpose and objectives of negotiations were not documented, as required by State Procurement Rule R8:19-11-230(b). The decision to cease negotiations on February 13, 2013, after approximately three months, was made by DHS personnel involved with the project, including Joni Jones, Director of the Division of County Operations; Dick Wyatt, Chief Information Officer; Janie Huddleston, DHS Deputy Director; and John Selig, DHS Director, in consultation with Jane Benton, OSP Director.³ Negotiations were stopped due to the failure of DHS and Noridian to agree on milestone dates and penalties.

Under State Procurement Rule R8:19-11-230(a), negotiations can proceed with the second respondent when time permits. However, instead of entering into negotiations with the vendor submitting the second highest scoring proposal (i.e., Northrop Grumman), DHS personnel chose to utilize an existing state-wide cooperative purchasing agreement with CAI for IT staff augmentation, which requires paying CAI a 6.9% mark-up of all invoices, as discussed on page 5 (**Issues #3 and #5**). Under the cooperative purchasing agreement with CAI, DHS developed numerous statements of work for various contractors, three of which were identified in the Noridian proposal discussed above: (a) Cúram Software, (b) EngagePoint, and (c) eSystems, Inc. In addition, Northrop Grumman, the second highest scoring proposal, is still being utilized on the project.

To summarize, CAI prepared the RFP and was responsible for the staff augmentation contracts. Additionally, vendors used were already familiar to DHS, and DHS paid \$4.9 million in fees to CAI (**Issue #5**).

As shown in **Exhibit VI on page 12**, as of May 31, 2015, DHS had expended \$106.1 million for development of the Eligibility and Enrollment Framework. Of this amount, DHS has identified \$78.1 million as being directly related to the proposal received from Noridian (**Issue #5**).

According to a PMO report issued by DHS, implementation of the Eligibility and Enrollment Framework is anticipated to continue through 2023. According to testimony given by Director John Selig at a June 17, 2015, meeting of the Joint Performance Review Committee, costs for the Eligibility and Enrollment Framework are expected to total between \$180 million and \$220 million.

³Joni Jones and Janie Huddleston are no longer employed with DHS, and Jane Benton is no longer employed with OSP.

Exhibit VI

**Arkansas Department of Human Services (DHS)
Cost Analysis for the Eligibility and Enrollment Framework
As of May 31, 2015**

| Vendor | Amount Paid |
|--|-----------------------|
| <i>Outside Scope of Noridian Proposal</i> | |
| DHS employees | \$ 1,697,481 |
| Computer Aid, Inc. (CAI) | 15,085,335 |
| Department of Information Systems (DIS) | 5,404,539 |
| Hewlett-Packard | 1,655,949 |
| NASPO ValuePoint | 4,044,904 |
| Xerox | 189,405 |
| Amount Paid Outside Scope of Noridian Proposal | 28,077,613 |
| <i>Within Scope of Noridian Proposal</i> | |
| CAI | 56,158,268 |
| DIS | 757,980 |
| NASPO ValuePoint (Note 1) | 14,695,965 |
| Northrop Grumman | 6,457,562 |
| Amount Paid Within Scope of Noridian Proposal | 78,069,775 |
| Total Expended for Eligibility and Enrollment Framework | \$ 106,147,388 |
| Fees Incurred by Using CAI (Note 2) | \$ 4,915,809 |

NASPO ValuePoint = National Association of State Procurement Officials ValuePoint (formerly known as Western State Contracting Alliance [WSCA])

Note 1: The Cúram software was purchased from Software House, Inc. (SHI), under the NASPO ValuePoint cooperative purchasing agreement.

Note 2: Per the State's participating addendum under the Commonwealth of Pennsylvania cooperative purchasing agreement, a 6.9% mark-up of all invoices is made by CAI and paid by the State.

Source: DHS analysis and Arkansas Administrative Statewide Information System (AASIS; unaudited by Arkansas Legislative Audit)

C. Arkansas Health Care Payment Improvement Initiative (AHCPII)

McKinsey and Company Contracts

McKinsey describes itself as a global company with over 11,000 consultants and research and information professionals, including medical doctors, engineers, business managers, and scientists. DHS engaged McKinsey to help develop the Arkansas Health Care Payment Improvement Initiative (AHCPII), which was designed to move the health care payment system from fee-for-service to an episode-based bundled payment strategy. The strategy is intended to move the entire Arkansas delivery system to a new and sustainable model of health care financing and help stimulate needed system reform.

DHS requested and received sole source procurement approval to contract with McKinsey from OSP, in addition to emergency review from Legislative Council, on August 3, 2011. However, according to DHS personnel, four national management consulting firms with a specialty in health care delivery systems were evaluated by representatives from DHS, the Arkansas Department of Health, Arkansas Blue Cross Blue Shield, and QualChoice of Arkansas (**Issue #2**).

The stated purpose for emergency review was based upon an offer of a \$1.5 million grant by Arkansas Blue Cross Blue Shield if the contract was awarded to McKinsey on an emergency procurement. This purpose did not meet the requirements of State Purchasing Rule R1:19-11-233(d), which states, in part, "...The request must detail that to procure using other methods would endanger human life or health, state property or the functional capability of the agency" (**Issue #2**).

The \$3 million emergency contract with McKinsey (Contract Number 4600022402) was executed for July 29, 2011 to June 30, 2012, for completed services regarding the AHCPH. The following contract amendments, which were approved by OSP and Legislative Council, were subsequently made:

- Contract Amendment #1 was approved on December 19, 2011, to advance AHCPH into Phases 3 and 4 and add an additional \$5 million to the contract, increasing the total contract amount to \$8 million.
- Contract Amendment #2 was approved on April 25, 2012, to again advance AHCPH and add an additional \$5.17 million to the contract, raising the total contract amount to \$13.17 million.

Neither amendment changed the contract expiration date.

A second sole source contract for \$15 million (Contract Number 4600023743) was approved by OSP and entered into with McKinsey for the entirety of fiscal year 2013. The contract extended the work beyond the initial contract and included providing program management, governance, and technical input; furthering initial payment models; and launching a larger set of episode- and population-based models. The following contract amendments, which were approved by OSP and Legislative Council, were subsequently made:

- Contract Amendment #1 expanded the cost by \$12.4 million to \$27.4 million and expanded the services to be performed to include support for organizational and change management processes, payer approach to engaging and employing stakeholders with tools to improve performance, payer business process and operations to support provider engagement, scale-up design and operational planning, and enhancement of infrastructure and operations to support scale-up.
- Two other contract amendments changed funding sources and increased the contract amount by \$29.6 million to \$57 million.

These contract amendments also extended the contract through fiscal year 2014. Deliverables added to the contract included launching a larger set of episode- and population-based models and continued program management, governance, and technical input.

A third sole source contract for \$23.05 million (Contract Number 4600031815) was approved by OSP and entered into with McKinsey for the entirety of fiscal year 2015. The contract deliverables included program management, strategy, governance and capabilities, support for ongoing maintenance and operations, and analytical and technical support for AHCPH models.

A fourth sole source contract for \$15.4 million (Contract Number 4600034157) was approved by OSP and entered into with McKinsey for fiscal year 2016. The contract specifies deliverables similar to those included in the contract for fiscal year 2015.

It should be noted that Medicaid Director Andy Allison, who resigned from employment effective June 1, 2014, signed some of the McKinsey contracts and, as of 2015, was employed by McKinsey. According to DHS Director John Selig, Mr. Allison is not consulting for McKinsey on any current DHS projects.

An analysis of expenditures to McKinsey is provided, by contract, in **Exhibit VII**.

In summary, the total paid to McKinsey, primarily for the AHCPH project, is \$89.4 million, as shown in **Exhibit VII**. A portion of this amount was for consulting services related to the Universal Assessment and Care Planning Suite; however, DHS could not determine the exact amount paid for these services.

| Exhibit VII | | | | |
|---|-----------------|-----------------------|------------------------|----------------------------|
| Arkansas Department of Human Services (DHS) McKinsey and Company Contract Expenditure Analysis For Fiscal Years 2012 through 2016 | | | | |
| Fiscal Year | Contract Number | Contract Amounts | Amounts Paid Per AASIS | Remaining Contract Amounts |
| 2012 | 4600022402 | \$ 13,170,000 | \$ 13,170,000 | \$ 0 |
| 2013-2014 | 4600023743 | 57,000,000 | 57,000,000 | 0 |
| 2015 | 4600031815 | 23,050,000 | 19,180,000 | 3,870,000 |
| 2016 | 4600034157 | 15,400,000 | 0 | 15,400,000 |
| Totals | | \$ 108,620,000 | \$ 89,350,000 | \$ 19,270,000 |

Note: As noted on page 8, DHS engaged McKinsey, in addition to CH Mack and CoCentrix, to provide consulting services in relation to the Universal Assessment and Care Planning Suite; however, DHS could not determine the exact amount paid for these services. □

Source: Arkansas Administrative Statewide Information System (AASIS; unaudited by Arkansas Legislative Audit)

RECOMMENDATIONS

As a result of review of DHS contracts related to the Arkansas Universal Assessment and Care Planning Suite, Eligibility and Enrollment Framework, and Arkansas Health Care Payment Improvement Initiative (AHCPH), ALA staff recommend that DHS:

- Provide training to procurement personnel regarding the competitive procurement process and negotiation of detailed, measurable deliverables in agreements with vendors.
- Establish performance measures for all IT contracts to determine that deliverables are acceptable and useable, hold vendors accountable for contract fulfillment before making payment, and contain project costs so that valuable state resources are not wasted.

- Adhere to state purchasing laws and rules regarding all procurement methods, commodities and services that are exempt from the competitive procurement process, as well as review and reporting of contracts to the General Assembly.
 - Use established contracting processes (i.e., RFP or RFQ), as allowed within state law, to make major IT procurements requiring considerable implementation costs.
 - Complete required documentation when negotiations are necessary.
-

SUMMARY

ALA staff review of contracts related to the Arkansas Universal Assessment and Care Planning Suite, the Eligibility and Enrollment Framework, and ACHPII revealed that DHS did not adequately monitor or hold vendors accountable for contract fulfillment, utilized sole source contracts inappropriately, and did not always use cooperative purchasing agreements properly. Additionally, DHS did not always fully inform the General Assembly regarding its contracts, did not adequately disclose entire projects to the General Assembly, did not always comply with state purchasing laws and rules, and did not adequately provide project management, which resulted in inadequate cost containment. As of May 31, 2015, costs related to these three projects totaled approximately \$210 million. Due to the issues discussed in the report, valuable state resources were wasted.

MANAGEMENT RESPONSE

Management Response is available in its entirety in **Appendix D**.

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APPENDICES

Appendix A – Arkansas Department of Human Services (DHS) – Procurement Processes Related to Vendors, Contracts, and Projects Discussed in this Report

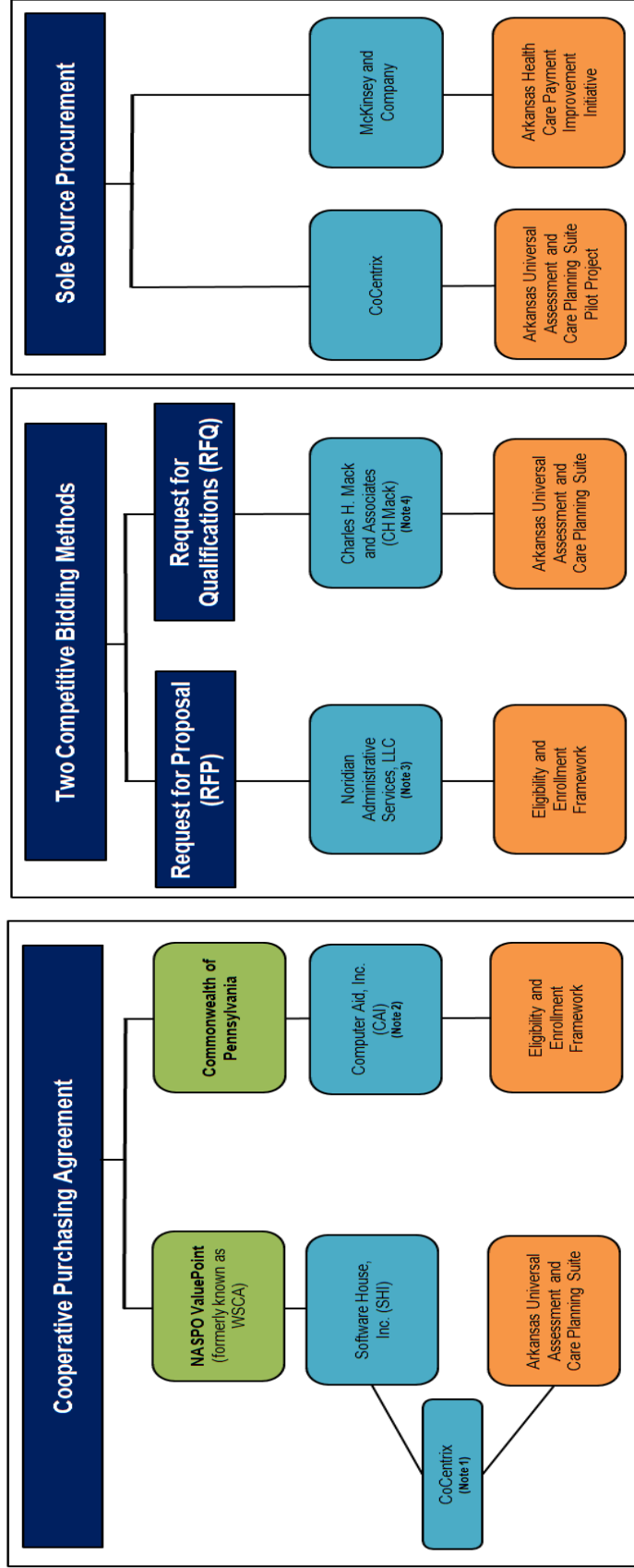
Appendix B – Statewide Cooperative Purchasing Agreements – As of May 31, 2015

Appendix C – Other Statewide Contracts – As of May 31, 2015

Appendix D – Arkansas Department of Human Services – Management Response

Appendix A

Arkansas Department of Human Services (DHS) Procurement Processes Related to Vendors, Contracts, and Projects Discussed in this Report



NASPO = National Association of State Procurement Officials
WSCA = Western State Contracting Alliance

- Procurement process
- Cooperative purchasing agreements in which the State currently participates
- Vendor with whom DHS contracted to provide services
- Project for which DHS contracted with the vendor

Note 1: DHS contracted with CoCentrix for development of a universal assessment platform 10 months before cancelling a contract with CH Mack. See Note 4. DHS also contracted with CoCentrix for a pilot project related to the universal assessment platform as shown in the Sole Source Procurement section.

Note 2: DHS entered into two contracts with CAI related to the Eligibility and Enrollment Framework project. One contract was for completion of the Request for Proposal related to the project, and the other was for completion of the project after DHS ceased negotiations with Noridian. See Note 3.

Note 3: DHS initially selected the proposal submitted by Noridian for completion of the Eligibility and Enrollment Framework but ceased negotiations and contracted with CAI for the project under a cooperative purchasing agreement.

Note 4: DHS cancelled the contract with CH Mack after the vendor failed to produce a usable universal assessment platform.

Source: DHS records (unaudited by Arkansas Legislative Audit)

Appendix B

Statewide Cooperative Purchasing Agreements As of May 31, 2015

| Commodity/Services | Vendor |
|---|-------------------------------------|
| Automotive and Light Duty Truck Parts | Auto Zone |
| Automotive and Light Duty Truck Parts | NAPA |
| Automotive and Light Duty Truck Parts | O'Reilly Auto Parts |
| Background Screening Services | Multiple Vendors |
| Body Armor | Point Blank Enterprises, Inc. |
| Body Armor | Protective Product Enterprises, LLC |
| Body Armor | Safariland, LLC |
| Breast Pumps | Evenflo Co., Inc. |
| Breast Pumps | Medela, Inc. |
| Bulk Fuel | Mansfield Oil |
| Child Safety Seats | Vehicle Maintenance Program, Inc. |
| Cleaning, Janitorial Supplies and Equipment | Amsan, LLC |
| Computers | Apple |
| Computers | Dell |
| Computers | EMC |
| Computers | Hewlett Packard |
| Computers | Howard Technologies |
| Computers | IBM |
| Computers | Lenovo |
| Computers | NetApp |
| Computers | Panasonic |
| Condoms | NV Healthcare, LLC |
| Defibrillators, AED | Cardiac Science Corp |
| Defibrillators, AED | Defibtech, LLC |
| Defibrillators, AED | Heartsine Technologies, Inc. |
| Defibrillators, AED | Medtronic Physio-Control Corp. |
| Defibrillators, AED | Philips Healthcare |
| Dental Supplies | Darby Dental Supply, LLC |
| Dental Supplies | Dental Health Products, Inc. (DHPI) |
| Dental Supplies | Henry Schein Dental |
| Drug Testing | American BioMedica |
| Drug Testing | BioTech Screening, LLC |
| Drug Testing | Medtox |
| Drug Testing | Phamatech, Inc. |
| Drug Testing Supplies and Services | Alere/Redwood Technology |
| Electronic Monitoring Equipment | 3M Electronic Monitoring |
| Electronic Monitoring Equipment | Alcohol Monitoring Systems |
| Electronic Monitoring Equipment | BI, Inc. |
| Electronic Monitoring Equipment | Satellite Tracking of People, LLC |
| Electronic Monitoring Equipment | Sentinel Offender Services, LLC |

Appendix B (continued)

Statewide Cooperative Purchasing Agreements As of May 31, 2015

| Commodity/Services | Vendor |
|--|--|
| Elevator Services and Maintenance | KONE, Inc. |
| Equipment Maintenance Program | The Remi Group |
| Facility Security Equipment and Service | Multiple |
| Fleet Card Program | Wright Express |
| Floor Coverings and Supplies | Milliken & Co. |
| Fuelmaster Fleet Management Technologies | Fuelmaster |
| Golf, Utility, and Hospitality Carts | E-Z-GO |
| Grounds Maintenance Equipment, Tractors, and Mowers | John Deere |
| Groundskeeping Material | Simplot Partners |
| Hand and Power Tools and Accessories | Snap-On Industrial |
| Hazardous Incident Response Equipment (HIRE) | Farber Specialty Vehicles |
| Hazardous Incident Response Equipment (HIRE) | Rae Systems |
| Heavy Construction Equipment, Compact Track Loaders, and Compact Tractors | Bobcat/Doosan |
| Heavy Equipment | RIGGS/CAT |
| HIV Rapid Testing Kits/Saliva Alcohol Testing Kits/Hepatitis C Rapid Testing | OraSure Technologies, Inc. |
| Incontinent Briefs | Binson's Hospital Supplies, Inc. |
| Incontinent Briefs | First Choice Medical Supply |
| Incontinent Briefs | Medline Industries, Inc. |
| Incontinent Briefs | Preferred Medical Supply, LLC. |
| Information Technology Contract Services | Computer Aid, Inc. (CAI) |
| Kitchen Equipment | CKEP, LLC |
| Lab Supplies | Fisher Scientific |
| Lab Supplies | VWR International |
| Lawn Care Equipment | The Toro Company |
| Lodging (Nationwide) | Multiple Vendors |
| Mail Processing Equipment | Bell & Howell |
| Mail Processing Equipment | Neopost USA, Inc. |
| Mail Processing Equipment, Supplies, and Maintenance | Francotyp-Postalia, Inc. |
| Mail Processing Equipment, Supplies, and Maintenance | Pitney Bowes, Inc. |
| Maintenance Repair, and Operation | Fastenal Company |
| Maintenance, Repair, and Operating Supplies | Grainger |
| Maintenance, Repair, and Operating Supplies | HD Supply |
| Maintenance, Repair, and Operating Supplies | Lowe's Home Center, Inc. |
| Maintenance, Repair, and Operating Supplies | MSC Industrial Supply Co., Inc. |
| Maintenance, Repair, and Operating Supplies | The Home Depot |
| Medical Supplies | Cardinal Health Medical Products |
| Medical Supplies | McKesson Medical-Surgical |
| Medical Supplies | Medline Industries, Inc. |
| Medical Supplies | PSS World Medical, Inc. |
| Medical Supplies | World Medical Government Solutions (Formerly PSS) |

Appendix B (continued)

Statewide Cooperative Purchasing Agreements As of May 31, 2015

| Commodity/Services | Vendor |
|--|-----------------------------------|
| Multi-State Laboratory Equipment and Supplies | VWR International |
| Multi-State Laboratory Equipment and Supplies | Fisher Scientific |
| Panasonic Solutions and Associated Services | Multiple |
| Park and Playground Equipment | Gametime |
| Park and Playground Equipment | Heartland Park and Recreation LLC |
| Park and Playground Equipment | Kompan |
| Park and Playground Equipment | Little Tikes |
| Park and Playground Equipment | Play & Park Structures |
| Park and Playground Equipment | Wayne Davis Playgrounds |
| Park, Playground, and Recreational Equipment | BSN Sports |
| Pharmaceuticals | Morris & Dickson |
| Playground Safety Surfaces | SofSurfaces |
| Public Safety Communications Equipment | Multiple |
| Safety Equipment | AAMSCO |
| Small Package Delivery | FedEx |
| Small Package Delivery | UPS |
| Tires | Bridgestone |
| Tires | Goodyear |
| Tires | Michelin |
| Uniform and Work Apparel | Service Wear Apparel |
| Uniforms, Direct Purchase | UniFirstCorporation |
| Utility Equipment and Vehicles, Grounds Maintenance Equipment, Tractors, and Mowers | Kubota |
| Vaccine | FFF Enterprises |
| Vehicle Rental | Enterprise/National |
| Vehicle Rental | Hertz Corporation |
| Vehicles: CNG | Russell Chevrolet |
| Wide Area Networking (WAN) | Brocade |
| Wide Area Networking (WAN) | Extreme |
| Wide Area Networking (WAN) | Juniper |
| Wide Area Networking (WAN) | ShoreTel |
| Wide Area Networking (WAN) | Shoretel |
| Wireless | AT&T |
| Wireless | DiscountCell |
| Wireless | Sprint |
| Wireless | Tessco |
| Wireless | T-Mobile |
| Wireless | Verizon Wireless |
| Wireless Management and Contract Compliance | Multiple Vendors |
| WSCA - Software LAR | Software House, Inc. (SHI) |

Source: Department of Finance and Administration – Office of State Procurement (<http://www.dfa.arkansas.gov/offices/procurement/contracts/Pages/default.aspx>; unaudited by Arkansas Legislative Audit)

Appendix C

Other Statewide Contracts
As of May 31, 2015

| Commodity/Services | Vendor |
|--|--------------------------------------|
| Advertising/Marketing Services | Multiple Vendors |
| Air Conditioner/Heat Pumps | Friedrich Air Conditioning |
| Ammunition | Multiple Vendors |
| APC Network Infrastructure Solutions | Multiple Vendors |
| Avaya/Nortel Unified Telephone Communication Solutions | Multiple Vendors |
| Barcode Scanners | Barcodes, LLC |
| Bathroom Tissue and Paper Towels | American Paper & Twine |
| Copier Rental | Multiple Vendors |
| Copier, Printer, Scanner Purchase | Multiple Vendors |
| Correctional Catalog | AR Correctional Industries |
| Court Reporter Services | Multiple Vendors |
| Custom Continuous Forms | Moore Wallace |
| Custom Snap Out Forms | Moore Wallace |
| Dairy | Hiland Dairy |
| Dairy | Turner Holdings |
| Debit Card Services | US Bank |
| Eaton Electrical Equipment and Services | Quintergy, Inc. |
| Emergency Potable Water | Arkansas Soft Water |
| Emergency Restoration Services | Multiple Vendors |
| Energy Management, Natural Gas | TME, Inc. |
| Envelopes and Letterhead | Bank & Business |
| Envelopes, Blank | Printing Papers |
| Envelopes, Printed | Printing Papers |
| Envelopes, with Security Tint (Blank and Printed) | Mac Paper Converters |
| Fresh Bread | Bimbo Bakeries |
| Fresh Bread | Flowers Baking Company of Batesville |
| Fresh Bread | Flowers Baking Company of Tyler |
| Furniture | Multiple Vendors |
| Grocery | Conway Wholesale |
| Grocery | Performance Food Group |
| Grocery | Sysco Arkansas |
| Grocery | Tankersley Foods |
| High-Speed Internet Access | Multiple Vendors |
| Lawn Care Equipment (Commercial) | Ariens Company/Gravely |
| Lawn Care Equipment (Commercial) | Bad Boy, Inc. |
| Lawn Care Equipment (Commercial) | Briggs & Stratton |
| Lawn Care Equipment (Commercial) | Carswell OEI/Husqvarna Group |
| Lawn Care Equipment (Commercial) | Carswell OEI/Schiller |
| Lawn Care Equipment (Commercial) | EKA/Husqvarna |
| Lawn Care Equipment (Commercial) | Hustler |

Appendix C (continued)

Other Statewide Contracts
As of May 31, 2015

| Commodity/Services | Vendor |
|---|-----------------------------------|
| Lawn Care Equipment (Commercial) | John Deere |
| Lawn Care Equipment (Commercial) | Moridge Manufacturing/Grasshopper |
| Library Binding and Re-Binding | HF Group, LLC |
| Lodging Facilities (In State) | Multiple Vendors |
| Nurse Investigation and Reporting Service | Multiple Vendors |
| Office Supplies | Multiple Vendors |
| Paint, Exterior and Interior | Sherwin Williams |
| Paper, Copier and Printshop | Printing Papers, Inc. |
| Portable Toilet Rental | Arkansas Portable Toilets |
| Pre-Assembled Personal Care Kits | ICS Jail Supplies, Inc. |
| Process Server Services | Action Process Service |
| Process Server Services | Anne Davidson Process Service |
| Process Server Services | Attorney's Services |
| Process Server Services | Burgess Process Service |
| Process Server Services | C&D Process Servers |
| Process Server Services | Civil Process Division, Inc. |
| Process Server Services | Craig Webb |
| Process Server Services | D Hall LPS |
| Process Server Services | David Platt |
| Process Server Services | Debra Woodhouse Process Service |
| Process Server Services | Donald Process Service |
| Process Server Services | Doug Gentry Process Service |
| Process Server Services | Four Seasons Civil Process |
| Process Server Services | Hill Services |
| Process Server Services | J&J Process Service |
| Process Server Services | J&S Service |
| Process Server Services | JB's Processing Services |
| Process Server Services | Lee Jardine Process Server |
| Process Server Services | McKinney Process Service |
| Process Server Services | Mid-South Investigations |
| Process Server Services | Owen & Associates |
| Process Server Services | Priority Civil Process Services |
| Process Server Services | Pryor Investigative Services |
| Process Server Services | Quinn Process Service |
| Process Server Services | Richard Butler Process Serving |
| Process Server Services | River Valley Civil Process |
| Process Server Services | Rodney Wilson |
| Process Server Services | Roy Smith Civil Process Service |
| Process Server Services | RRD Process Service |
| Process Server Services | Sykes Process Service |
| Process Server Services | Tri State Civil Process |

Appendix C (continued)

Other Statewide Contracts
As of May 31, 2015

| Commodity/Services | Vendor |
|--|--------------------------------------|
| Process Server Services | True Blue Paper Service |
| Process Server Services | Wright Investigations |
| Radar Units | Applied Concepts |
| Reverse Auction Services | eBridge |
| Sheets and Blankets | American Textile Systems |
| Shredding Services | Vital Records Control of Arkansas |
| Shredding Services | Shred-It Arkansas |
| State - Software LAR | Software House, Incorporated (SHI) |
| Substance Abuse Treatment for Drug Court Clients | Multiple Vendors |
| Substance Abuse Treatment for Probation Parole Clients | Multiple Vendors |
| Telephone Instruments New | Call One, Inc. |
| Thermal Paper With Special Cut | Partek Solutions, Inc. |
| Transitional Housing | Multiple Vendors |
| Vehicles | Allison Ford |
| Vehicles | Bale Chevrolet |
| Vehicles | George Nunnally Chevrolet |
| Vehicles | Landers Chevrolet |
| Vehicles | Landers Chrysler Dodge |
| Vehicles | Landers Ford |
| Vehicles | North Point Ford |
| Vehicles | North Point Nissan |
| Vehicles | Red River Dodge |
| Vehicles | Riser Ford |
| Vehicles | Smith Auto Group |
| Vehicles | Steve Landers Toyota |
| Video Camera - Law Enforcement In-Car System | Pannin Technologies, LLC |
| Video Conferencing Equipment | Multiple Vendors |
| Website Management | Arkansas Information Consortium, LLC |
| Wide Area Networking (WAN) | Cisco |
| Wide Area Networking (WAN) | Liebert |

Source: Department of Finance and Administration – Office of State Procurement (<http://www.dfa.arkansas.gov/offices/procurement/contracts/Pages/default.aspx>; unaudited by Arkansas Legislative Audit)

Appendix D

Arkansas Department of Human Services Management Response



Office of Director

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Response to Arkansas Legislative Audit Special Report

"Review of Selected Software Procurements and
Cooperative Purchasing Agreements"

July 17, 2015

On June 24, 2015, Arkansas Legislative Audit (ALA) provided the Department of Human Services (DHS) a draft special report regarding selected procurements within the last four years. DHS appreciates ALA allowing this opportunity to respond.

Two projects in particular – the Eligibility and Enrollment Framework (EEF) and the Universal Assessment – have presented unique challenges for DHS. As the Department has previously acknowledged, DHS staff could have and should have exercised better oversight and monitoring of vendor performance in both of these projects. Although a significant number of obstacles and challenges outside the Department have also impacted these projects, in particular EEF, the Department has worked to significantly improve its management of these projects. To this extent, the Department concurs with the findings of the Special Report. However, as explained in more detail below, the Department cannot fully concur with the Report's findings regarding procurement practices.

It is important to note the context of the time, in terms of general state procurement practices (as opposed to the Department's specific practices). At the time of these events:

- Pursuant to an agreement between the then-state procurement director and legislative leadership, it was the practice of the Office of State Procurement (OSP) to seek legislative review for only some information technology technical and general services contracts. For example, OSP sought review for technical and general services contracts for the implementation of software only when it involved the development of unique applications for the sole use of a state agency.
- By statute, responsibility for seeking legislative review of technical and general services contracts rested with the State Procurement Director, not the agency, per Ark. Code Ann. § 19-11-265(a)(3). A 2011 memo from the then-director of OSP confirmed this responsibility: "The Office of State Procurement will send to committee those contracts for which OSP has responsibility. The agency will be responsible for ensuring representation at the Review Committee meeting to answer member's questions."
- State procurement law did not require performance-based measures in most types of state contracts – measures such as specifically-defined objectives; detailed, measurable deliverables; and specific timelines for implementation with penalties for delays. At the time, the general state practice (in other words, for all state agencies, not just DHS) was

Appendix D (continued)

Arkansas Department of Human Services Management Response

to use these types of performance-based measures only in professional and consultant services (PCS) contracts, and not for other types of state contracts such as technical and general services contracts.

These practices have now changed significantly. On January 5, 2015, the leadership of Legislative Council directed OSP to submit all technical and general services contracts over \$100,000 for review. Subsequently, the 90th General Assembly passed Act 557 of 2015, which made far-reaching changes to state procurement practices. Effective August 1, 2015, the Act:

- Mandates the use of performance-based measures for the procurement of any services;
- Requires regular reporting of purchases made under cooperative purchasing agreements;
- Requires review of contracts over \$100,000 including services of any kind;
- Requires state agencies to regularly submit vendor performance reports for all contracts over \$25,000; and
- Requires review of information technology products and services by the Office of Intergovernmental Services of the Department of Finance and Administration.

Arkansas Universal Assessment and Care Planning Suite

The Report discusses the Department's efforts to implement a universal assessment tool, InterRAI, developed by the University of Michigan. Although the assessment tool itself has performed well and met expectations, the software platforms developed to house the tool have not. The Department contracted first with CH Mack, and then with CoCentrix, to provide this software platform to use the universal assessment tool to manage and plan care, including by applying algorithms to assign beneficiaries to care management service tiers.

As part of a competitive bidding process, on behalf of and with the approval of DHS, OSP issued an RFQ and then awarded a contract to CH Mack. The Department concurs with the Report's finding that the CH Mack contract "did not contain specifically-defined objectives or detailed, measureable deliverables." Because the CH Mack contract was not classified as a professional or consultant services contract, the Department's use of a generic state term contract without performance-based measures was consistent with general state practice at the time. As discussed above, the General Assembly remedied this situation with the passage of Act 557.

The Report asserts that a subsequent purchase order to CH Mack for \$2.42 million was only partially exempt from review, and that the remaining amount (\$1.39 million) should have been submitted for legislative review. Under Ark. Code Ann. § 19-11-203(14)(BB), certain commodities and services related to proprietary software after an initial procurement are

Appendix D (continued)

Arkansas Department of Human Services Management Response

considered exempt commodities – including technical support, renewals, additional copies, and license upgrades. These terms are not defined in state procurement rules or state law. It is the Department’s understanding that at the time, OSP interpreted these terms as being broad enough to include minor modifications made to existing proprietary software. DHS staff sought out guidance from OSP regarding this particular purchase, and the then-state procurement director advised DHS that it was exempt, and that legislative review was not required.

While continuing to work with CH Mack, the Department entered into a sole-source procurement with CoCentrix for a pilot project to validate the interRAI assessment tool for use in behavioral health care and to provide data on which tier algorithms could be based for behavioral health. While the pilot was not “universal” in that it applied only to behavioral health, it did give the Department an opportunity to gauge the functionality and usefulness of the CoCentrix platform.

After this pilot project, and after the Department terminated its contract with CH Mack, the Department contracted with CoCentrix to develop the software platform required to house the assessment tool. This contract was not a sole-source procurement, but rather it was made through a state cooperative purchasing agreement.

The Report correctly notes that McKinsey and Company has provided services related to the Universal Assessment project. While McKinsey has done a significant amount of work for the Department in the broad area of Medicaid payment reform, the Department’s contract with McKinsey is a flat-rate contract keyed to the performance of specific deliverables. The work done by McKinsey in connection with the Universal Assessment project has been minimal in comparison with the overall scope of the McKinsey contract. However, because it is a flat-rate contract, it is not possible to itemize the monetary value of the work done by McKinsey specifically in connection with Universal Assessment.

Eligibility and Enrollment Framework

The purpose of the Eligibility and Enrollment Framework (EEF) is to replace the Department’s 25-year old legacy mainframe system for determining eligibility for SNAP and Medicaid. Aside from the limitations of the legacy system, a new system was necessary to implement new federal rules for determining Medicaid eligibility. The Department is currently working to complete implementation of EEF for three types of eligibility programs – MAGI Medicaid, Traditional Medicaid, and SNAP. It is expected that that implementation of MAGI Medicaid and SNAP will be completed in calendar year 2016, and an RFP to implement Traditional Medicaid is expected to be issued early next year. The Department intends to use this system for many years. Other work on the system may extend to as late as 2023, if the Department chooses in future years to move other eligibility programs to EEF.

The Department attempted to award the primary contract for development of the EEF through a competitive bidding process. However, the winning bidder, Noridian Administrative Services

Appendix D (continued)

Arkansas Department of Human Services Management Response

LLC, refused to agree to the performance-based measures demanded by the Department to ensure timely and adequate performance of the contract. When negotiations failed, OSP advised DHS that it could not lawfully enter into negotiations with the second-place bidder. Given this direction from OSP, and given the October 1, 2013, hard deadline imposed by federal law for the system to be ready to accept Medicaid applications, the Department determined that use of the existing state-wide cooperative purchasing agreement was the most viable approach available to retain the specific vendors needed.

The Department has acknowledged that it exercised inadequate project management for the EEF project. The Department has responded to this failure by, among other things, establishing a new Project Management Office within the Division of Medical Services, led by a PMO Director hired in April 2015 who is a state employee. The Department retained an outside vendor to provide support for the PMO in October 2014, and the vendor worked under the supervision of another employee within Medicaid until the PMO Director was hired.

Hiring EEF vendors through the state cooperative purchasing agreements did allow the Department to stand up a functioning eligibility system capable of accepting Medicaid applications in time for the October 2013 federal deadline. However, it came at the price of using time-and-material contracts lacking in performance-based accountability measures. The Department is working to transition away from these time-and-material contracts by strengthening existing statements of work and by developing competitively-bid requests for proposal for release later this year.

Arkansas Health Care Payment Improvement Initiative (AHCPII)

Beginning in July 2011, the Department contracted with McKinsey and Company to support the Department's efforts to reform and improve how Medicaid pays for health care. The Department later obtained a major federal grant to finance these efforts, and the bulk of the funds paid to McKinsey have been federal or private funds, not state general revenue.

Before choosing McKinsey, the Department, in consultation with the Department of Health and leaders from private insurance carriers, reviewed the capabilities of other possible vendors. State procurement rules permit sole-source procurements for commodities or services "which, by virtue of the performance specification, are available from a single source." R1:19-11-232(a). In making this determination for professional and consultant services, the factors to be considered include the exclusive capabilities of the provider; the uniqueness of the service provided; and whether responsible or responsive competition exists for the service. R1:19-11-232(e). DHS staff did review multiple vendors but determined that only McKinsey possessed the requisite qualifications, experience, and resources needed to meet the performance level required by the Department.

The Department did seek emergency review of this sole-source contract, because prompt action was necessary to secure a private grant of \$1.5 million towards the costs of these

Appendix D (continued)

Arkansas Department of Human Services Management Response

payment improvement efforts. In so doing, the Department lessened the amount of state general revenue needed for the efforts. Emergency review is permissible under state procurement rules when the use of "other methods would endanger ... state property" R1:19-11-233(d). State general revenue is "state property." Therefore, the Department contends that emergency review is permissible for the purpose of saving state general revenue, as was the case here. Both OSP and the Legislative Council approved the emergency review.

The Report also implies concern with the fact that the former Medicaid director Andy Allison left the Department's employment in June 2014, and later went to work for McKinsey. Mr. Allison did not start work with the Department until November 2011, after the Department had already contracted with McKinsey. DHS staff members have reviewed invoices, e-mails, and other documentation and have found nothing to show or suggest that Mr. Allison has had any involvement with McKinsey's work for DHS since his departure.

