

**State of Delaware  
Office of Auditor of Accounts**

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**How is Delaware Using Consultants?  
A Look Into the  
Department of Transportation.**

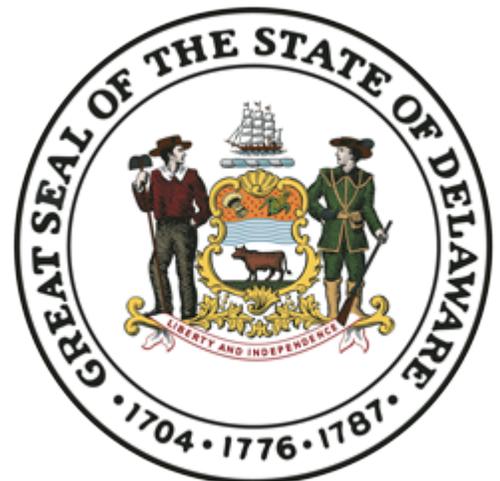
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**Fiscal Year Ended June 30, 2010**

Fieldwork End Date: October 12, 2011

Issuance Date: October 25, 2011

R. Thomas Wagner, Jr., CFE, CGFM, CICA  
Auditor of Accounts





STATE OF DELAWARE  
**OFFICE OF AUDITOR OF ACCOUNTS**

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To the Secretary of the Department of Transportation:

The attached report provides the results of our performance audit on the Department of Transportation's ability to manage and monitor the use of consultants.

My office was authorized, under 29 Del. C., c. 29, to perform post audits of all the financial transactions of all State agencies. The law requires that the audits be made in conformity with generally accepted auditing principles and practices. Such principles and practices are established by the U.S. General Accountability Office, which has issued generally accepted government auditing standards.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report can be accessed online through the Auditor of Accounts website at <http://www.auditor.delaware.gov>.

Sincerely,

R. Thomas Wagner, Jr., CFE, CGFM, CICA  
Auditor of Accounts

October 12, 2011



State of Delaware  
Office of Auditor of Accounts  
R. Thomas Wagner, Jr., CFE, CGFM, CICA

## *At a Glance*

### *Working Hard to Protect YOUR Tax Dollars*

#### **Why We Did This Review**

The Office of Auditor of Accounts (AOA) is conducting a performance audit of Statewide Consulting Contracts. This report pertains to the Department of Transportation for the State of Delaware's (DelDOT) use of consultants for the period of July 1, 2009 through June 30, 2010.

#### ***DelDOT's Professionalism***

Throughout the course of the audit, DelDOT staff were very cooperative, provided insightful information through interviews and survey responses, and showed a vested interest in the agency's success, which contributed to the effectiveness of the audit.

#### ***Background***

DelDOT's mission is to provide a safe, efficient, and environmentally-sensitive transportation network that offers a variety of convenient, cost-effective opportunities for the movement of people and goods. DelDOT utilizes consultants to supplement its in-house workforce on capital projects and to carry on its mission.

For further information on this release, please contact:

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### **How is Delaware Using Consultants? A Look into the Department of Transportation**

#### **What We Found**

- More than \$32 million of expenditures were improperly classified as consulting expenditures due to the limitations of the State's accounting system.
- DelDOT's policies and procedures are not updated to reflect improvements in current processes.
- DelDOT does not have a policy to explain the expectations and responsibilities of project managers.
- DelDOT does not have a formal process to analyze trends in budget overruns or time delays.
- We did not find evidence that ineffective monitoring of consultants caused the Indian River Inlet Bridge errors.
- DelDOT management has not communicated the availability of resources to design consultants, which could result in noncompliance with standards or mistakes.
- Project managers are not effectively documenting consultant evaluations.
- DelDOT is paying excessive overhead rates to consultants due to federal restrictions.
- One employee earns over \$100 thousand per year in the same job he held prior to retirement, and collects a State of Delaware pension.
- DelDOT lacks a time tracking mechanism to monitor productivity of the staff and the amount of time spent on each project.
- 11% of invoice payments reviewed were not paid timely and payments were made to four vendors who were delinquent on their State of Delaware taxes.
- DelDOT does not have an outside employment policy to monitor collusion with vendors or time theft.
- Various weaknesses in the State's accounting system, including the inability to record project specific information, does not allow for efficient monitoring or recording of consulting expenditures.
- There is not a formal DelDOT or Statewide process for determining whether a vendor has been federally debarred.

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## ***Objective, Scope, and Methodology***

The audit objective was to determine the State's ability to manage and monitor the use of consultants for the Fiscal Year Ended June 30, 2010 (FY 2010). During a statewide expenditure analysis performed on consulting expenditures, we identified several operational areas to evaluate at the Delaware Department of Transportation (DelDOT).

The Office of Auditor of Accounts (AOA) performed the following procedures:

- Administered a questionnaire to agency personnel to gain an understanding of their use of consultants. Survey methodology and results are located at Appendix B.
- Confirmed compliance with professional services procurement regulations as discussed in 29 Del. C. §6981 and §6982.
- Interviewed project managers and other key agency personnel.
- Validated employee and vendor social security and identification numbers, and cross-referenced to ensure employees were not vendors.
- With the assistance of Division of Revenue, confirmed whether DelDOT paid any vendors that are delinquent Delaware taxpayers.
- Confirmed that vendors were not debarred as represented in the U.S. General Services Administration, Federal Excluded Parties List System.
- Performed various data analysis techniques, such as:
  - Cross-referenced vendor mailing addresses to employee mailing addresses to identify any potential employees paid as vendors and to ensure there were no related party transactions.
  - Identified checks that were intercepted from the Office of the State Treasurer by agency personnel to be hand delivered to the vendor and obtained justification for such occurrences.
  - Determined whether there were duplicate payments based on vendor number and invoice number.
  - Identified vendors who were paid on multiple occasions during the same week for possible cost savings.
  - Researched disaggregated payments to determine if DelDOT was attempting to circumvent the Purchase Order (PO) process.
- Evaluated DelDOT's use of consultants to follow-up on recommendations from a 2007 performance audit.

Our observations, findings, and related recommendations resulting from these procedures are presented in this report.

## ***Background***

Professional services are defined in 29 Del. C. §6902 as “services, which generally require specialized education, training or knowledge and involve intellectual skills. Examples of professional services include, but are not limited to: engineering, environmental engineering, environmental monitoring, land surveying, landscape architecture, geology, architectural, archaeologists, architectural historians, historians, educational consultants, management, medical, teaching, planning, computer information management, financial, accounting, auditing, construction management and arbitration services.” The State’s definition of professional services is consistent with Webster’s Dictionary’s<sup>1</sup> definition of consultant, “a person referred to for expert or professional advice.”

Our review evaluated the processes used throughout the State to manage the use of consultants. Consultant use varies among agencies and departments based on operational needs; therefore, an evaluation was needed at an operational level.

### **DelDOT**

As one of the biggest users of consultant services in the State, DelDOT spent about \$113.6 million on consulting expenditures in FY 2010. DelDOT’s mission is to provide a safe, efficient, and environmentally-sensitive transportation network that offers a variety of convenient, cost-effective opportunities for the movement of people and goods. In addition, DelDOT is charged with enhancing the quality of life in Delaware’s communities by integrating transportation, land use, and air quality strategies; preserving and maintaining the State’s transportation infrastructure; and improving safety throughout the transportation network.

DelDOT primarily uses consulting services to supplement its in-house staff on transportation improvement projects, which allows DelDOT to effectively manage costs and provides access to a variety of expertise. DelDOT is able to minimize cost by using consultants during periods of high demand and relying on in-house staff during periods of low demand.<sup>2</sup> All divisions of DelDOT utilize consultants to some degree, but the Division of Transportation Solutions (DOTS)<sup>3</sup> is one of the primary users of consultants. DOTS spent more than \$96 million in FY 2010 to design and construct projects. As a result, AOA began the audit by focusing on the DOTS process for procuring and managing consultant services.

DOTS is also charged with the following objectives:<sup>4</sup>

- Efficiently manage the delivery of the Capital Transportation Program (CTP).
- Consistently deliver high-quality projects from concept through construction and ensure projects are completed as scheduled.
- Maximize operational efficiency of the transportation infrastructure by effectively utilizing DelTRAC technology, such as video cameras and signal system coordination.
- Continue to design and manage the rehabilitation and replacement of all bridges determined as structurally deficient according to federal rating criteria.

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<sup>1</sup> “Consultant” Webster’s Dictionary of the English Language, Deluxe Edition. Chicago: J. G. Ferguson Publishing Company. 1992

<sup>2</sup> Utilization of In-house Staff vs. Consultants. This document was prepared by DelDOT in 2009 in response to Governor Markell's Performance Review of State Government.

<sup>3</sup> DOTS coordinates all activities required to prepare plans and construct transportation projects involving the roadway network, bridges, transportation facilities, railroad crossings, traffic control devices, and toll roads, including the quality assurance and control responsibilities for both development and construction.

<sup>4</sup> Per the FY 2010 Governor’s Recommended Budget.

- Comply with all American with Disabilities Act standards relating to curb ramps.
- Maintain a consistent testing environment to ensure all hot mix meets quality standards.
- Maintain traffic control devices statewide to ensure efficient and timely response to all incidences.

Organizationally, DOTS is subdivided into three sections: North Region, South Region, and Bridge Design. These three sections are key components in managing the CTP. DOTS also has a statewide support group that provides a variety of engineering support, such as inspections, environmental permitting, and the coordination of utility relocations.

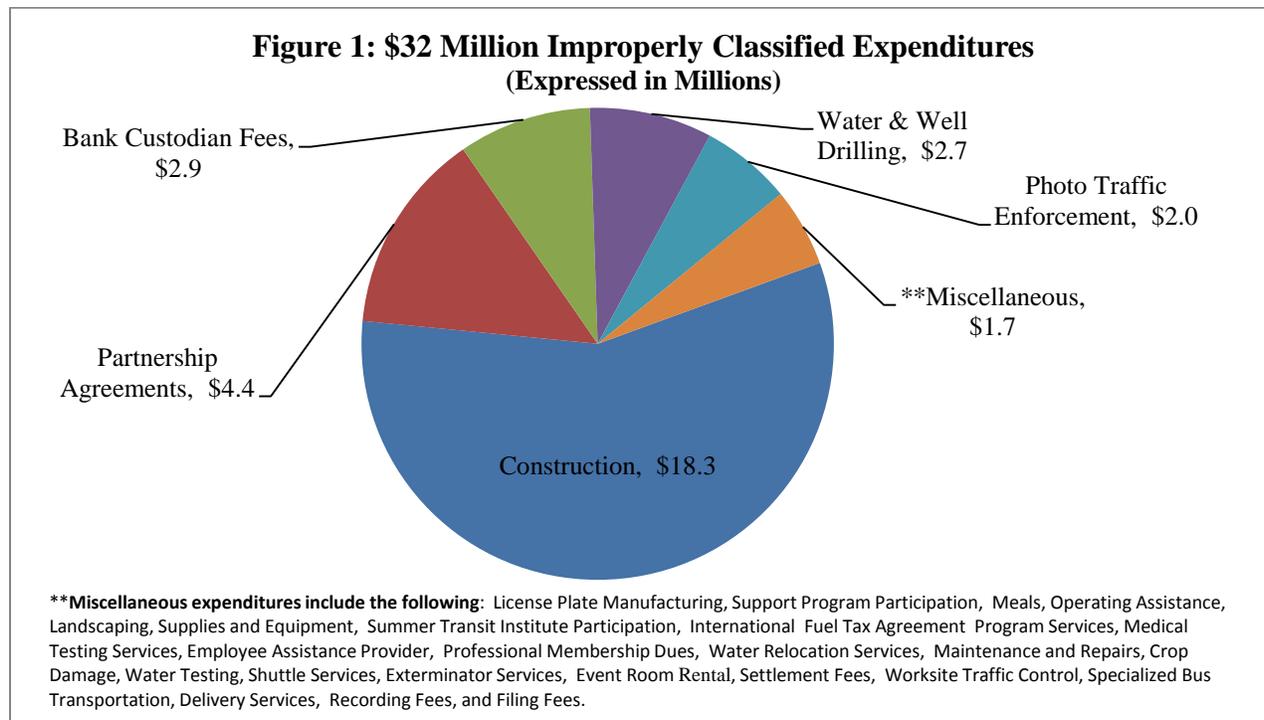
## How Effectively Does DelDOT Manage Consultants?

Of the more than \$406 million in consulting expenditures recorded statewide during FY 2010, approximately \$113.6 million, detailed in Table 1 below, were incurred by DelDOT.

Table 1: How is DelDOT Using Consultants?		
Types of Services Provided	Amount	Percentage of Total
Architects & Engineering	\$ 61,539,904	54.18%
<b>Improperly Classified Expenditures</b>	<b>32,050,418</b>	<b>28.22%</b>
Transportation Planning & Consulting	8,638,269	7.60%
Information Technology Consulting	7,623,569	6.71%
Archaeology	1,457,100	1.28%
Legal	808,907	0.71%
Accounting & Audit Services	338,749	0.30%
Appraisal Services	305,036	0.27%
Inspection Services	242,183	0.21%
Professional Training	240,139	0.21%
Environmental Consulting	185,937	0.16%
Investment Managers	93,014	0.08%
Geodetic Advisory Services	32,585	0.03%
Marketing Communications Consulting	23,529	0.02%
Interpreting Services	10,190	0.01%
Petroscan Services	428	0.00%
<b>Grand Total</b>	<b>\$ 113,589,957</b>	<b>100.00%</b>

### Statewide Finding on Expenditure Misclassification

More than \$32 million of expenditures were improperly classified, as demonstrated by Figure 1.



As reported in our November 23, 2010, Division of Facilities Management Consulting Contracts Performance Audit, we recommended the Division of Accounting and Office of Management and Budget evaluate and correct expenditure classification. For example, expenditures for pest control are incorrectly considered other professional services.<sup>R1</sup> We performed a detailed coding analysis and determined the State did not correct the miscoding in the new accounting system, First State Financials (FSF), which was implemented in July 2010. Our analysis can be viewed in Appendix A.

### **Prior-Year Findings**

During our audit, we followed up on the recommendations provided in a 2007 performance audit and found that 8 of the 11 recommendations were fully addressed by DeIDOT. The remaining findings relate to the following areas:

#### *Communication and management of the CTP*

- DeIDOT has not developed written procedures to release (de-authorize or unencumber) funds no longer needed.<sup>R2</sup>
- DeIDOT needs a process for CTP project prioritization. They established a working group to construct an automated project prioritization process; however, this group's recommendations have not yet been implemented.<sup>R3</sup>

#### *Multiple stand-alone systems*

- As they made steps to migrate to FSF, DeIDOT continued to use multiple stand-alone systems, causing a duplication of efforts.<sup>R4</sup>

### **DeIDOT's Policies and Procedures**

Because DOTS<sup>5</sup> is a primary user of consultants, we concentrated our efforts on that section of DeIDOT. We identified inconsistencies between DOTS's current practices and the processes described in DeIDOT's Professional Services Procurement Manual (DeIDOT's Manual). We also found instances where a formal policy should be created.

- DeIDOT's Manual is not being updated to reflect improvements in current processes.<sup>R5</sup> For instance, the current manual does not address controls in place to detect potential conflicts of interest.
- Project managers, rather than the initiating Director as called for in DeIDOT's Manual, are nominating the consultant selection committee members.<sup>R6</sup> Since project managers work so closely with consultants, this creates a risk of unfair or biased consultant selection.
- Survey results and interviews with key personnel indicated that policies were not in place regarding the expectations and responsibilities of project managers.<sup>R7</sup>
- DOTS does not have a formal process for analyzing trends in budget overruns or time delays. The need for these analyses is necessary given the complexity of DOTS and the large number of project managers.<sup>R8</sup>

### **DOTS's Consultant Management Process**

Given the controversy surrounding the re-construction of the Indian River Inlet Bridge, AOA evaluated whether DOTS's consultant management process may have impacted the delays in this project. DeIDOT filed a claim in the Delaware Superior Court alleging that the design consultant failed to sufficiently

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<sup>Rx</sup> Refer to the Summary of Recommendations section

<sup>5</sup> Division of Transportation Solutions.

monitor the sub-consultant, and the sub-consultant provided negligent information regarding the settlement of earthen embankments. Based on the results of our review of DOTS's consultant monitoring process, we did not find evidence that the Indian River Inlet Bridge errors were caused by ineffective monitoring of consultants. However, as discussed below, we believe there are opportunities for DOTS to strengthen their consultant management.

In an effort to better manage consultants, DelDOT implemented the Design Resource Center (DRC) to assist consultants in the preparation of deliverables. Project Managers are expected to verbally communicate the existence of the DRC to the consultants at the beginning of the project. Failure to provide written notification to the vendors about the availability of the DRC could create inconsistencies among proposal preparation, design plans, and compliance with guidelines. It could also result in increased costs associated with errors and omissions.<sup>R9</sup>

Once DOTS has selected a consultant, the Project Manager must obtain a Notice to Proceed (NTP)<sup>6</sup> from DelDOT's Contract Administration section. DOTS personnel expressed concerns about the delays in obtaining NTP approval. Contract Administration personnel informed us that the NTP is based on the availability of a consultant proposal, project funding, and completion of a pre-award audit. A delay in any of these areas could cause inconsistencies in the NTP approval time frame. Although there is no established criterion, NTP issuance exceeded 30 days from the date requested for three of the ten project tasks reviewed. Further, the NTP approval time frame also seems inconsistent, as the ten project tasks reviewed had approval times ranging from 6 days to 62 days.<sup>R10</sup>

DOTS prepares evaluations for each consultant annually, during the design and construction phases, and upon completion of a project. We found that evaluations lacked written comments to explain ratings and DelDOT's Manual does not provide guidance to do so. Additionally, DOTS does not ensure that evaluations are completed by all significant contributors involved in the project management. Lastly, DOTS does not formally notify consultants of design errors found during the construction phase. These issues most likely led to the survey concerns regarding mistakes made by consultants.<sup>R11</sup>

### **Other DelDOT Operational Weaknesses**

#### ***Potential for Capital Transportation Projects Excessive Overhead Rates***

Section 174 of the *2006 Transportation Appropriations Act* removed the ability to cap or negotiate indirect cost rates on federal-aid funded architect and engineering activities.<sup>7</sup> DelDOT does not limit the overhead rate<sup>8</sup> for state-funded projects because it could cause them to be ineligible for federal funding at a later date. If DelDOT cannot limit the overhead rate, a consultant with a lavish facility will receive more taxpayer money through a higher overhead rate than a comparable consultant with a more modest facility. On the other hand, DelDOT has informed us that consultants with higher overhead may have better technology and resources available to complete a project more efficiently. Without changes from the federal government, we do not believe DelDOT is in a position to initiate changes that would ensure overhead rates are not excessive.

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<sup>6</sup> DelDOT's Contract Administration section reviews and approves the NTP, which allows the Project Managers to proceed with the design or construction of their project. A project may be broken down into multiple phases, each with its own NTP.

<sup>7</sup> Section 12.8 of the 2010 American Association of State Highway and Transportation Officials Uniform Audit and Accounting Guide.

<sup>8</sup> Overhead is made up of those items of a consultant's cost which are not assigned directly to a specific client project because they are either common to all projects (rent) or they would be far too difficult to track and allocate back to each project (paper clips). DelDOT is required to reimburse the consultant for a portion of their overhead.

***Potential Circumvention of Pension Eligibility***

DOTS has hired an employee, through the Delaware Transit Corporation (DTC), who simultaneously collects a State of Delaware pension while earning approximately \$100 thousand a year in the same job he held prior to retirement. This is prohibited by 29 Del. C. § 5502 (a) that states, “An individual shall not receive a service or disability pension under this chapter for any month during which the individual is an employee.”<sup>R12</sup>

***Time Reporting Software***

AOA received complaints from two separate individuals describing a DOTS employee who had a potential conflict of interest with a consultant. The complaints alleged that the employee scheduled all-day meetings, which were typically held at restaurants or golf clubs. AOA was unable to verify whether the employee spent an excessive amount of time with the consultant because DOTS does not have a detailed time reporting process in place. The allegations were discussed with the employee’s supervisor, who agreed to research the matter.<sup>R13</sup>

In addition, AOA received a complaint stating that another DOTS employee did not submit a leave slip for two days of absence due to an illness. Upon further review, AOA determined that the allegation was unsubstantiated; evidence shows that the employee was approved to work from home and completed work on the alleged days. The employee would have been more accountable if required to provide a detailed time report, including a description of each item worked on and the corresponding hours. If a particular item took longer than expected, the manager reviewing the employee’s time should question further.<sup>R13</sup>

***Untimely Payments to Vendors***

AOA received several complaints from interviewees and survey respondents regarding the timeliness of payments made to DelDOT vendors. Further inquiry found that most of the complaints were related to the replacement of the State’s accounting system, Delaware Financial Management System (DFMS), with FSF on July 1, 2010. For those payments tested prior to the new system, we found that 11% of the invoice payments selected for review were not paid in accordance with the *Budget and Accounting Manual*.<sup>R14</sup>

***Outside Employment Policy***

DelDOT does not have an outside employment policy,<sup>R15</sup> which would require personnel to notify and obtain approval from DelDOT prior to accepting employment with another employer. If an effective outside employment policy is not in place, the State is at risk for collusion with vendors, time theft, and poor quality products and services.

**Other Statewide Accounting Weaknesses**

***Unique Invoice Numbers***

AOA performed data analysis procedures to ensure that duplicate payments were not made for the same invoice, which would result in “double paying” a vendor. While performing these procedures, we found that DelDOT was not consistently entering the invoice number into the accounting system’s invoice number field. We found multiple transactions in which the project number or free-form text was entered in substitution of the invoice number. Best practices suggest that a unique invoice number be entered into the accounting system when processing payments, as this will later provide for a more transparent audit trail.

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<sup>9</sup> According to Chapter 7.13 of the State of Delaware *Budget and Accounting Manual*, the State will make “every effort to issue payments to vendors within 30 days of the: [p]resentation of a valid invoice on which a State agency is liable to make a payment; or [r]eceipt of goods or services if received after the invoice or bill.”

When processing payments, end-users of DFMS were not required to provide a contract identification number. Therefore, individual payments to vendors cannot be associated with the related contracts nor is there a way to determine if contract limits have been exceeded. Further, we identified payments that lacked detailed transaction descriptions to support the reason for the payment. This could lead to erroneous payment approvals and reduce the accuracy of expenditure coding and classification.<sup>R16</sup>

***Multiple Payments***

DFMS does not aggregate multiple payments; therefore, a vendor that is scheduled to have two invoices paid in a given week will receive two separate checks. Aggregation of payments over a fixed period of time, such as weekly or bi-weekly, will result in a more efficient process. It is conservatively estimated to cost the State \$50 to issue one payment. For the period tested, DelDOT processed 1,573 additional PVs, all of which could have been combined with a previous payment within the same week. AOA estimated that if DelDOT had processed PVs more efficiently, there is a potential savings of \$78,650 in taxpayers' money.<sup>R17</sup>

***Debarment of Vendors***

Currently, there is not a formal departmental or Statewide process for determining whether a vendor has been federally debarred. This process could alleviate the possibility of the State hiring a vendor where problems have previously persisted, thus making the process for hiring vendors more effective.<sup>R18</sup>

***Delinquent Taxpayers***

AOA found that DelDOT paid four vendors who were delinquent on their taxes. Of the four vendors that have judgments filed against them, one vendor has a judgment outstanding of \$41,322. A process for intercepting payments to delinquent taxpayers in the State's new accounting system is in the initial planning phase and will reduce the possibility of paying vendors with judgments filed against them.<sup>R19</sup>

In conclusion, while we found weaknesses in DelDOT's process for managing consultants, they are making steps to improve their process, as evidenced by the improvements made since the 2007 performance audit.

## ***Summary of Recommendations and Responses***

Based on the results of our review, AOA recommends the items below. DeIDOT's responses can be viewed, in their entirety, in Appendix C.

- R1 Expenditure coding should be revised to ensure that transactions are accurately classified and recorded in the State accounting system, as recommended in Appendix A.**

*DelDOT's Response:* Concur.

*Department of Finance's and Office of Management and Budget's Response:* The Department of Finance and Office of Management and Budget informed AOA that the FSF coding crosswalk was a tool to facilitate the transition of Purchase Orders that were still open when FSF was implemented. The purpose of the crosswalk was to indicate where the new system would code these items when loaded into FSF. Therefore, the crosswalk was not intended to be used for coding after the FSF implementation and, provided FSF users do not reference the crosswalk for coding purposes, the account classification issue should be resolved in the new system. The two agencies also stated that organizations have the ability to submit requests for new accounts to the Division of Accounting at any time. This process further ensures that all accounts within the FSF system appropriately reflect the nature of the related transaction.

*Auditor's Conclusion:* AOA plans to verify proper classification of FSF account codes as we obtain statewide data for Fiscal Year Ended June 30, 2011.

- R2 DeIDOT should document their approach for de-authorizing unneeded funds.**

*DelDOT's Response:* Concur.

- R3 DeIDOT should continue their efforts to implement an effective process for CTP project prioritization.**

*DelDOT's Response:* Concur.

- R4 While we do not believe it is feasible for DeIDOT to eliminate all of its systems, they should continue to evaluate the use of multiple systems and consolidate where necessary.**

*DelDOT's Response:* Concur.

- R5 DeIDOT should update their Professional Services Procurement Manual to address any inconsistencies with their current practice.**

*DelDOT's Response:* Concur.

- R6 The selection and shortlist committees should be nominated by an individual in a more independent role than the project manager, who works with the chosen consultant on a daily basis. There should also be a systematic rotation of personnel that are qualified to serve on these committees.**

*DelDOT's Response:* DelDOT's process for using the project manager to assign selection committee members does not create a risk of unfair or biased consultant selection. Based on their experience, the project managers are in a better position than the Division Director to know the potential committee members' skill levels. A systematic rotation of committee members may not be appropriate, because not all potential committee members have the same skill sets.

*Auditor's Conclusion:* We understand DelDOT's position; however, the current process does not negate the possibility of the project manager choosing a selection committee who favors a particular vendor. We strongly suggest the implementation of our recommendation above to ensure objectivity in consultant selection.

- R7 **DelDOT should create a policy to explain the project managers' responsibilities throughout the design and construction phase of a project, including how project management software should be used and how budgets should be tracked.**

*DelDOT's Response:* Concur.

- R8 **Management should perform trend analyses on completed projects to identify project managers who are consistently over budget and consultants who consistently exceed timing deadlines, and to pinpoint inefficiencies. Management should ensure that explanations for change orders, changes in estimates, and other reasons for exceeding budget expectations are thoroughly documented to easily identify the cause for a budget overrun or time delay.**

*DelDOT's Response:* Concur.

- R9 **The availability of resources provided in the DRC should be communicated in writing at the beginning of the project. The documents in the DRC should also be updated periodically to ensure information is up to date.**

*DelDOT's Response:* Concur.

- R10 **DelDOT should identify the cause of delays in each segment of the NTP process and work toward creating a more consistent NTP approval timeframe.**

*DelDOT's Response:* Concur.

- R11 **DelDOT's policies and procedures should be revised to ensure that all significant contributors involved in the project management participate in evaluations and provide written comments explaining evaluation ratings. DOTS should consistently update the design consultant evaluations at the conclusion of the construction phase to reflect design errors or confirm there were no design errors.**

*DelDOT's Response:* It is the responsibility of the assigned project manager to include comments from any other department personnel involved with the consultant in order to perform an accurate annual, interim, or final performance report. We need one clear rating for the selection committee's consideration; a multiple response/multiple comment evaluation does not serve the needs of the selection committee.

We will remind evaluators to document any design issues that are identified during the construction phase as part of the consultant evaluation.

*Auditor's Conclusion:* The practices communicated in DeIDOT's response are not fully documented in DeIDOT's Manual. Further, DeIDOT should re-evaluate the effectiveness of their evaluation process as we found that some evaluations lacked written comments to explain ratings. Detailed evaluation comments would assist the selection committee in making a sound decision to re-hire a consultant.

- R12 **DeIDOT and DTC should eliminate the practice of employing retired State of Delaware personnel, in accordance with 29 Del. C. §5502.**

*DeIDOT's Response:* Concur.

- R13 **DeIDOT should implement a time tracking mechanism for the project management staff in order to monitor the productivity of the staff and the amount of time required for each project.**

*DeIDOT's Response:* We do not agree that the implementation of a cost accounting/time tracking system would be cost effective or beneficial. While our current practice is more project specific, the effort in tracking time in any more detail is believed to far outweigh any benefit realized from doing so.

*Auditor's Conclusion:* As mentioned in the report, the lack of time reporting is a control weakness in that all State employees should be required to substantiate that they worked the adequate number of hours to earn their compensation or took appropriate leave. Without some form of time and attendance accountability, it is difficult, and in some instances impossible, to investigate cases of time and attendance abuse. The State already has the system in place for time and attendance that would, at a minimum, require an employee to attest to the hours worked and leave taken during a pay period.

- R14 **DeIDOT should strive to improve the payment process in order to ensure that invoices are paid timely, in accordance with Chapter 7.13 of the *Budget and Accounting Manual*.**

*DeIDOT's Response:* Concur.

- R15 **DeIDOT should implement an outside employment policy, which would require personnel to notify and obtain approval from DeIDOT prior to accepting employment with another employer and allow DeIDOT to monitor that their employees are in compliance with State Merit Rule 15.2.**

*DeIDOT's Response:* Delaware law and the Merit Rules already provide sufficient guidance in connection with the potential conflict of interest issues raised by dual and/or outside employment. In addition, there would likely be legal prohibitions against requiring employees to notify and obtain approval from DeIDOT prior to accepting employment with another employer.

*Auditor's Conclusion:* DeIDOT should enforce the merit policy by approving employment with another State agency and should require disclosure of employment outside of the State to avoid conflicts of interest with vendors.

- R16 **The end-user should be required to enter the invoice number, the contract identification number, and a detailed transaction description into the State's accounting system when processing a payment.**

*DelDOT's Response:* Concur.

- <sup>R17</sup> **DelDOT should make every effort to aggregate vendor payments, if payment due dates fall within one to two weeks of each other.**

*DelDOT's Response:* Concur.

- <sup>R18</sup> **The Division of Accounting should develop a formal process to determine if vendors who conduct business with the State have been federally debarred.**

*DelDOT's Response:* Concur.

*Auditor's Conclusion:* AOA will follow-up with the Division of Accounting at a later date to determine if a formal debarment review process has been implemented.

- <sup>R19</sup> **The Department of Finance and Office of the State Treasurer should implement a process that monitors and intercepts payments to delinquent taxpayers.**

*DelDOT's Response:* No comment.

*Auditor's Conclusion:* AOA will follow-up with the Department of Finance and Office of the State Treasurer at a later date to determine if they have implemented a process to monitor and intercept payments to delinquent taxpayers.

## *Appendix A*



STATE OF DELAWARE  
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August 2, 2011

The Honorable Thomas J. Cook  
Secretary  
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Wilmington, DE 19801

The Honorable Ann S. Visalli  
Director  
Office of Management and Budget  
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Dear Secretary Cook and Ms. Visalli:

In our recently released report on Statewide Consulting Contracts utilized by the Division of Facilities Management - issued November 23, 2010, the Office of Auditor of Accounts (AOA) recommended that Delaware Financial Management System (DFMS) account coding be corrected to avoid misclassification of expenditures that are not consulting (professional services) in nature to the 5000 series that groups them as such. Our more recent work in the new First State Financials (FSF) system identified that the coding issue has not been addressed.

As a reminder, professional services are defined in 29 Del. C. § 6902 as "services, which generally require specialized education, training or knowledge and involve intellectual skills. Examples of professional services include, but are not limited to, engineering, environmental engineering, environmental monitoring, land surveying, landscape architecture, geology, architectural, archaeologists, architectural historians, historians, educational consultants, management, medical, teaching, planning, computer information management, financial, accounting, auditing, construction management and arbitration services."

We are sending the results of our detailed analysis in order to specifically identify the miscoding and suggest an improved coding schema. It is our fervent hope that this will help expedite the correction of this issue. If you have any questions or concerns, please do not hesitate to contact our office.

Appendix A

The Honorable Thomas J. Cook  
 The Honorable Ann S. Visalli  
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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5000	01	Taxes(Real Estate/Prop)	55000	Other Professional Service	Deactivate account and recode to account 55646 - Taxes-Real Estate/Property
5000	04	Recording/Notary Fee-Hwy	55000	Other Professional Service	Deactivate account and recode to account 55633 - Permit/Certs/Trans/MisFee/Lics
5000	05	Laboratory Fees	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5003		Landscaping Fees	55003	Landscaping Fees	Deactivate account and recode to account 55500 - Building/Grounds Repair
5004		Laboratory Fees	55004	Laboratory Fees	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5007		Construction Manager	55007	Construction/Building Services	Deactivate account and create a new account under the 58000 series - Capital
5010		Medical/Related Svcs	55010	Medical Services	Deactivate account and recode to account 55313 - Medical Services & Supplies
5010	01	Hospital Payments	55010	Medical Services	Deactivate account and recode to account 55313 - Medical Services & Supplies
5010	03	Lab Work	55010	Medical Services	Deactivate account and recode to account 55313 - Medical Services & Supplies
5019		Veterinarian Fees	55019	Vet Fees	Account description should be revised to Vet Services
5022		Court Fees	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5023		Recording Fees	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5024		Registration Officers	55025	Election Workers	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5025		Election/Poll Workers	55025	Election Workers	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5026		Court Reporters	55020	Legal Services	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5026	01	Court Rptg - Individual	55020	Legal Services	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5026	02	Court Rptg - Company	55020	Legal Services	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5027		Jury Fee	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5027	01	Fee - NC County	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5027	11	Fee - Kent County	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5027	21	Fee - Sussex County	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5028		Witness Fee	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5031		Depositions/Transcripts/Etc	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5033		Personal Services	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5033	01	Sheriff Services	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5036		F/C Service of Process	55020	Legal Services	Deactivate account and create a new account for Legal Fees under the 55600 series - Other Contractual Services *
5039		Car Wash	55000	Other Professional Service	Deactivate account and recode to account 55507 - Maintenance
5045		Bank Custodians	55000	Other Professional Service	Unable to determine where account should be re-routed based on the account description; however, the account should be removed from the professional services category.

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5046		Out of Court Settlement	55020	Legal Services	Deactivate account and create a new account for Settlements under the 55600 series - Other Contractual Services *
5047		Court Settlement-Plaintiff	55020	Legal Services	Deactivate account and create a new account for Settlements under the 55600 series - Other Contractual Services *
5061		Temporary Employment Service	55061	Temporary Employment Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5061	01	Temporary Employees	55061	Temporary Employment Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5063		Inmate Education Assistance	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5064		Employee Education Assistance	55063	Educational Assistance	Deactivate account and recode to account 55371 – Tuition Reimbursements
5065		Travel Reimb. Non State Emp.	55658	Reimburse Non State Emp Travel	Deactivate account and recode to account 54106 - Non State Employee Travel
5069		Video Lottery	55069	Video Lottery	Deactivate account and create a new account for Video Lottery under the 55600 series - Other Contractual Services *
5069	01	Central System	55069	Video Lottery	Deactivate account and create a new account for Video Lottery under the 55600 series - Other Contractual Services *

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5069	02	Machine Providers	55069	Video Lottery	Deactivate account and create a new account for Video Lottery under the 55600 series - Other Contractual Services *
5069	03	Franchise Fees	55069	Video Lottery	Deactivate account and create a new account for Video Lottery under the 55600 series - Other Contractual Services *
5070		Microfilming Services	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5074		Otsde Cmptr Srv/N-State AG	55074	Environmental Services	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5077		Exterminator	55000	Other Professional Service	Deactivate account and recode to account 55507 - Maintenance
5078		Artists & Related	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5080		Harvest Crop Fees	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5081		Wages to Inmates for Svcs	55081	Wages to Inmates	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5082		Wages to Patients for Svcs	55082	Wages to Patients	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5089		Trav Exp Allow/N-St Emp	55658	Reimburse Non State Emp Travel	Deactivate account and recode to account 54106 - Non State Employee Travel

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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DFMS Object Code	DFMS Sub-Object Code	DFMS Description	FSF Chartfield Account	FSF Description	Recommendation
5090		Honorariums (Inc Trav Exp)	55090	Honorariums	Deactivate account and recode to account 55667 - Training
5092	01	Game Officials	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5092	02	Police	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5092	03	Ticket Takers	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5093		Contracted Labor	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5096	02	Televised Broadcasts	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5096	03	DTA Contracts	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5096	04	Police - Truck Enforcement	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *
5098		Slaughter Fees	55000	Other Professional Service	Deactivate account and create a new account under the 55600 series - Other Contractual Services *

\* An account series for such expenditures does not currently exist in the system. As such, "Other Contractual Services" was the most appropriate place to route the new account.

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We relied on the *DGL063C Object Code and Revenue Code Crosswalk Report* located on the FSF Extranet in order to perform this analysis. We were unable to locate a report through Document Direct that provides a breakdown of the account categories in FSF, as was previously detailed in the DFMS *F25N2005* report.

Sincerely,



Kathleen A. O'Donnell, CPA-PA, CISA, CGFM, CGAP  
Chief Administrative Auditor

## Appendix B

### Survey Methodology

AOA created a survey using an online surveying tool and published the survey to the web. Using DelDOT's Organizational Chart and through a listing created by DelDOT's Contract Administration section, AOA identified key personnel who work closely with consultants and used this information to select survey participants. In addition, AOA judgmentally selected various employees to participate in the survey. As detailed below, 143 DelDOT employees were asked to participate in the survey. We received 77 responses, which were all anonymous.

<b>Table 2: Survey Participant Selection</b>		
<b>Participant's Position</b>	<b>Method of Selection</b>	<b># of Participants Selected</b>
Administrative Management	Identified as Key Personnel	2
Administrative Specialist I	Identified as Key Personnel	2
Administrative Specialist II	Identified as Key Personnel	1
Administrative Specialist II	Judgmental	2
Administrative Specialist III	Judgmental	1
Application Support Proj. Leader	Identified as Key Personnel	2
Application Support Proj. Leader	Judgmental	1
Assistant Dir., Financial Mgt.	Identified as Key Personnel	1
Asst. Dir., North Construction	Identified as Key Personnel	1
Asst. Dir., Transportation Eng.	Identified as Key Personnel	8
Auditor	Identified as Key Personnel	1
Chief of Administration	Identified as Key Personnel	1
Chief, Community Relations	Identified as Key Personnel	1
Civil Engineer Program Mgr. I	Identified as Key Personnel	18
Civil Engineer Program Mgr. I	Judgmental	8
Civil Engineer Program Mgr. II	Identified as Key Personnel	16
Civil Engineer Program Mgr. II	Judgmental	4
Data Administrator	Identified as Key Personnel	1
DBE Highway Construct Spec.	Identified as Key Personnel	1
DBE Program Manager	Identified as Key Personnel	1
Deputy Principal Assistant	Identified as Key Personnel	1
Director of Development	Identified as Key Personnel	1
Division Director	Identified as Key Personnel	2
DOT Contract Manager	Identified as Key Personnel	1
DOT Information Systems Mgr.	Identified as Key Personnel	1
Engineer II	Identified as Key Personnel	1
Engineer II	Judgmental	2
Engineer III	Identified as Key Personnel	3

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Participant's Position	Method of Selection	# of Participants Selected
Engineer III	Judgmental	5
Engineer IV	Identified as Key Personnel	3
Engineer IV	Judgmental	1
Engineer V	Identified as Key Personnel	6
Engineering Technician III	Judgmental	3
Engineering Technician IV	Identified as Key Personnel	2
Engineering Technician IV	Judgmental	4
Engineering Technician V	Judgmental	3
Environmental Program Mgr. II	Identified as Key Personnel	1
Environmental Scientist III	Identified as Key Personnel	1
Facilities Engineer	Identified as Key Personnel	1
Fiscal Administrative Officer	Judgmental	1
GIS Consultant	Judgmental	1
Highway Equipment Contract Adm.	Identified as Key Personnel	1
Highway Equipment Manager	Identified as Key Personnel	1
Human Resources Manager I	Judgmental	1
Human Resources Specialist II	Identified as Key Personnel	1
Information Systems Manager	Identified as Key Personnel	1
Internal Auditor I	Judgmental	1
Internal Auditor III	Identified as Key Personnel	1
Internal Auditor III	Judgmental	1
Internal Auditor IV	Identified as Key Personnel	2
Internal Auditor V	Identified as Key Personnel	1
Manager of Application Support	Identified as Key Personnel	1
Manager of Expressway Maintenance	Identified as Key Personnel	1
Manager of Planning	Identified as Key Personnel	1
Maximo Consultant	Judgmental	1
Operations Support Specialist	Judgmental	1
Planner III	Identified as Key Personnel	1
Planner IV	Identified as Key Personnel	4
Planner IV	Judgmental	1
Planning Supervisor	Identified as Key Personnel	1
Roadside Environmental Admin.	Identified as Key Personnel	1
Support Services Administrator	Identified as Key Personnel	1
Telecom/Network Technologist II	Judgmental	1

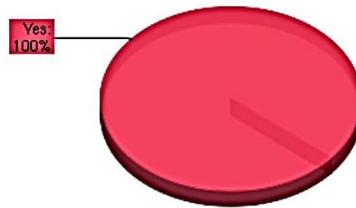
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Online Surveys, Data Collection and Integration  
www.SurveyGizmo.com

### Summary Report - Multiple Choice Only

Survey: Statewide Consulting Contracts - Department of Transportation



To your knowledge, does your agency utilize the work of consultants (i.e. engineers, inspectors, environmental specialists, etc.)?

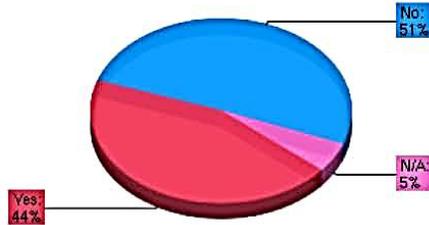
Value	Count	Percent %	Statistics	
Yes	77	100%	Total Responses	77



Do you feel that consultants are fairly selected?

Value	Count	Percent %	Statistics	
Yes	68	88.3%	Total Responses	77
No	5	6.5%		
N/A	4	5.2%		

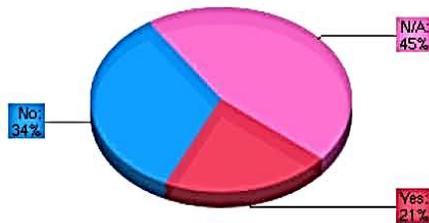
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**Do you believe that consultants are hired in your agency instead of filling vacancies? For example, an engineer from a staffing firm might be used rather than hiring an engineer through the State.**

Value	Count	Percent %
Yes	34	44.2%
No	39	50.6%
N/A	4	5.2%

Statistics	
Total Responses	77

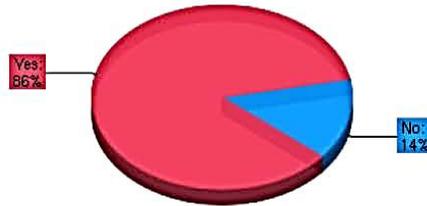


**In your opinion, is the practice of hiring consultants to fill vacancies working well for your agency?**

Value	Count	Percent %
Yes	16	20.8%
No	26	33.8%
N/A	35	45.5%

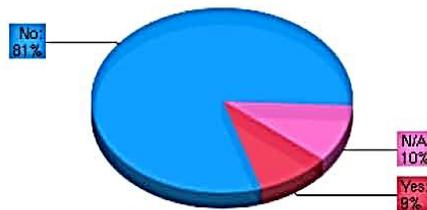
Statistics	
Total Responses	77

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**In a typical workweek, do you spend time working with consultants (i.e. assisting, reviewing their work, monitoring, etc.)?**

Value	Count	Percent %	Statistics	
Yes	66	85.7%	Total Responses	77
No	11	14.3%		



**In your opinion, is the amount of time spent working with consultants excessive?**

Value	Count	Percent %	Statistics	
Yes	7	9.1%	Total Responses	77
No	62	80.5%		
N/A	8	10.4%		

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**Do you feel that resources (i.e. deliverables, technical advice, etc.) provided by consultants are effectively utilized by your agency?**

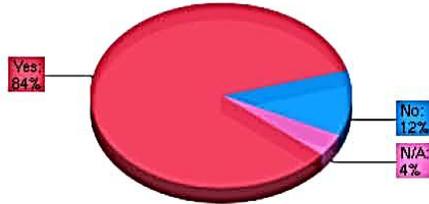
Value	Count	Percent %	Statistics	
Yes	64	83.1%	Total Responses	77
No	11	14.3%		
N/A	2	2.6%		



**Are you aware of any related parties or conflicts of interest (for example a close relative or friend who is associated with the consulting organization) with regards to your agency and the hiring of consultants?**

Value	Count	Percent %	Statistics	
Yes	10	13%	Total Responses	77
No	64	83.1%		
N/A	3	3.9%		

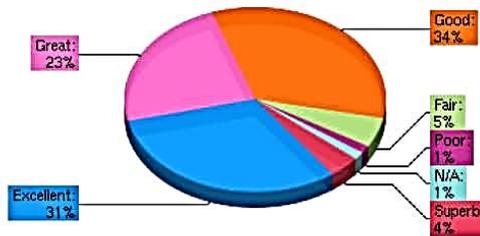
### Appendix B



**Based on your previous work with consultants, are you satisfied with the level of service and the quality of work received?**

Value	Count	Percent %
Yes	65	84.4%
No	9	11.7%
N/A	3	3.9%

Statistics	
Total Responses	77

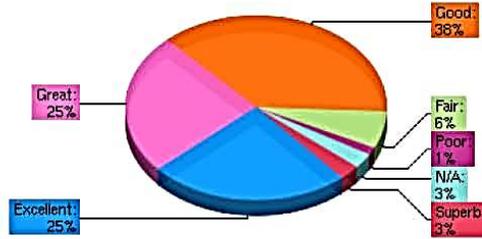


**How would you rate the level of service provided by consultants at your agency?**

Value	Count	Percent %
Superb	3	3.9%
Excellent	24	31.2%
Great	18	23.4%
Good	26	33.8%
Fair	4	5.2%
Poor	1	1.3%
N/A	1	1.3%

Statistics	
Total Responses	77

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**How would you rate the quality of work provided by consultants at your agency?**

Value	Count	Percent %
Superb	2	2.6%
Excellent	19	24.7%
Great	19	24.7%
Good	29	37.7%
Fair	5	6.5%
Poor	1	1.3%
N/A	2	2.6%

Statistics	
Total Responses	77

Survey respondents were also asked to answer open-ended questions; however, they were not included above due to the sensitive nature of the responses. The questions not listed were:

- If you feel that consultants are not selected fairly, please explain.
- In a typical workweek, do you spend time working with consultants (i.e. assisting, reviewing their work, monitoring, etc.)?
- If you feel that resources are not effectively utilized by your agency, please explain.
- If you feel that time spent working with consultants is excessive, please explain.
- If you are aware of any related parties or conflicts of interest, please explain.
- Do you have any suggestions on how your agency could more effectively and efficiently utilize consultants?
- If you are dissatisfied with the work of consultants, please explain.
- If you would be willing to speak with AOA staff regarding the follow-up on your responses to this survey, please provide a method of contact (for example, a telephone number or private email address) and a time that would be best to reach you.

*Appendix C*



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

SHAILEN P. BHATT  
SECRETARY

October 12, 2011

Mr. R. Thomas Wagner, Jr., CFE, CGFM, CICA  
Auditor of Accounts  
Office of Auditor of Accounts  
401 Federal Street, Suite 1  
Dover, Delaware 19901

Dear Mr. Wagner:

Thank you for the opportunity to respond to your summary of recommendations relating to the use of consultants in the Department of Transportation. Attached please find our written response to each recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Bhatt'.

Shailen P. Bhatt



## Appendix C

### DelDOT's Response to Consulting Contracts Performance Audit Summary of Recommendations

DelDOT uses consultants to supplement in-house staff for various reasons. Consultants are used as a valuable management tool that offers flexibility and access to cost-effective expertise. The use of consultants offers flexibility to obtain levels of expertise that are not practical to maintain in DelDOT staff, due to the non-recurring need for such expertise and the cost to develop the specialized skill. Although engineering consultants comprise the largest amount of expenditures shown in this audit report, the report's total includes all professional services expenditures, which consist of ADA services (such as providing aids for public meetings), Audit and Financial consultants, employee professional certifications, Information Technology consultants, Legal services, and other expenditures in addition to engineering consultants.

Engineering consultants are used to supplement in-house staff during peak times. This is a best value approach to delivering the capital program, as it allows DelDOT to release the contracted staff during slow times. DelDOT's current staff of non-management engineers consists of 40 senior level engineers and 23 junior level engineers. The average experience level of the junior level engineers is 3.4 years. An engineering graduate does not enter the workforce with all the knowledge, skills, and abilities needed to design or inspect projects independently. These skills are learned on the job by actually performing them under the direction and supervision of more experienced engineers. The experience level of DelDOT's engineers leads to a need for consultant engineers to supplement staff. State DOTs across the country have a long history of being used as a training ground for graduate engineers, who come to work for a few years, develop their design skills, and then market themselves to consulting engineering firms where they earn higher salaries. DelDOT has successfully worked to obtain classification for engineers within the selective market adjustment category, which enables some compensation improvements over the standard merit pay grades, to assist with recruiting and retaining engineers.

DelDOT's consultant usage varies according to the size of the annual capital program and the specific nature of the work underway each year. The \$113.6 million spent on consultants in Fiscal Year 2010 was 16.97% of DelDOT's total expenditures of \$669.4 million. In Fiscal Year 2009, consultant expenditures were \$101.5 million, 15.16% of total expenditures of \$669.4 million. Fiscal Year 2008's consultant expenditures of \$83.3 million comprised 13.34% of DelDOT's total expenditures of \$624.5 million in the same year. In Fiscal Year 2007, when DelDOT's total expenditures were \$553.4 million, consultant expenditures of \$91 million comprised 16.44% of the total.

DelDOT's responses to the specific recommendations provided by the Office of Auditor of Accounts follow.

- R1 Expenditure coding should be revised to ensure that transactions are accurately classified and recorded in the State accounting system, as recommended in Appendix A.**

## Appendix C

DelDOT Response:

Concur: As noted on page 5 of the audit report, the Office of Auditor of Accounts has identified this as an issue to be addressed by the Division of Accounting (within the Department of Finance) and by the Office of Management and Budget, as this is a statewide issue.

**R2 DelDOT should work toward a systematic approach for de-authorizing unneeded funds.**

DelDOT Response:

Concur: DelDOT reviews unneeded project funds on an annual basis in preparation for Bond Bill submissions. It is at that time funds are de-authorized. Periodically throughout the year, DelDOT management encourages each Division to release any unneeded or unencumbered funds as soon as possible. We commit to reviewing our processes and formally creating a standard policy and procedure.

**R3 DelDOT should continue their efforts to implement an effective process for CTP project prioritization.**

DelDOT Response:

Concur: In an effort to both improve the current CTP process and make it more transparent, DelDOT will continue our evaluation of the CTP creation and prioritization process in order to determine and implement process improvement in this area.

**R4 While we do not believe it is feasible for DelDOT to eliminate all of its systems, they should continue to evaluate the use of multiple systems and consolidate where necessary.**

DelDOT Response:

Concur: With the implementation of the new First State Financials statewide accounting system in July 2010, DelDOT's BACIS financial system, which was used to track expenditures at the appropriate level for federal reporting, was eliminated. We will continue to evaluate our needs for financial reporting and consolidate to the greatest extent possible.

**R5 DelDOT should update their Professional Services Procurement Manual to address any inconsistencies in their current practice.**

DelDOT Response:

Concur: DelDOT recognizes that the manual does not reflect all improved practices and is in the process of updating applicable sections of the Professional Services Procurement Manual.

**R6 The selection and shortlist committees should be nominated by an individual in a more independent role than the project manager, who works with the chosen**

## *Appendix C*

**consultant on a daily basis. There should also be a systematic rotation of personnel that are qualified to serve on these committees.**

DelDOT Response:

Respectfully disagree: DelDOT's process of using the Project Manager to assign selection committee members does not create a risk of unfair or biased consultant selection. Based on their experience, the Project Managers are in a better position than the Division Director to know the potential committee members' skill levels. It is imperative that the selection committee members have the appropriate knowledge, experience, and technical skills associated with the types of work that may be performed as part of the consultant agreement to ensure that the firms submitting proposals truly are capable of providing the level and quality of service that is expected. The Project Manager is the one person who is most familiar with the types of work that may be assigned to an agreement; therefore, it is appropriate for that person to make the initial recommendations of who should serve on the committees. A systematic rotation of committee members may not be appropriate, because not all potential committee members have the same skill sets.

DelDOT follows a professional services selection process similar to that of the Federal Highway Administration. The following steps ensure a fair and unbiased selection process for professional services agreements:

- Consultant selection involves two committees, the Shortlist Committee and the Selection Committee. Members of one committee cannot serve on the other for the same selection.
- The initiating Division Director approves the Shortlist and Selection Committee members recommended by the Project Manager.
- DelDOT's Contract Administration group ensures the receipt of Director approval for committee members.
- DelDOT's Consultant Control Coordinator, a member of the Contract Administration group, manages the selection process, coordinating all activities from advertisement through selection. He/she serves as the non-voting Chairman of both the Shortlist and Selection Committees and monitors all activities related to those committees. The Consultant Control Coordinator ensures consistent and equitable criteria for use by the Shortlist and Selection Committees in evaluation and selection of consultants. The Consultant Control Coordinator explains confidentiality and conflict of interest and reviews any issues with committee members.
- The Shortlist Committee is responsible for evaluating proposals received in response to a Request for Consultant Services, resulting in a recommended reduced-candidates listing, or shortlist. Review of a firm's qualifications includes consideration of the project team's qualifications and experience, the firm's resources and capabilities, understanding of the project, ability to meet milestone and completion dates, and commitment to attaining DBE goals, among other criteria.

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- The Selection Committee is responsible for evaluating the proposals and oral presentations of the firms that are shortlisted, resulting in identifying the consultant(s) for selection. Selection committee members rate the firms using the rating criteria established based on the nature and scope of the Department's needs. Each Selection Committee member individually rates each firm and submits the rating to the Consultant Control Coordinator. Upon receipt of the ratings by the Consultant Control Coordinator, they are compiled and tabulated, using pre-established weighted values and a composite scoring work sheet. The Consultant Control Coordinator then reviews each committee member's voting pattern for ratings that suggest bias or an attempt to improperly sway the results of the committee. The scores are ranked from highest to lowest to determine each consultant's position, and the selection is forwarded for the Division Director's concurrence.

**R7 DelDOT should create a policy to explain the project managers' responsibilities throughout the design and construction phase of a project, including how project management software should be used and how budgets should be tracked.**

DelDOT Response:

Concur: There are multiple documents (Plan Development Process document, Plan Revision Guidelines, QA/QC Plan) that identify the responsibilities of a Project Manager in design management. These documents are all currently housed on the Design Resource Center (DRC) site. There are limited references to management of consultant design budgets in those documents. DelDOT will modify those documents to include this information.

**R8 Management should perform trend analyses on completed projects to identify project managers who are consistently over budget, consultants who consistently exceed timing deadlines, and pinpoint inefficiencies. Management should ensure that explanations for change orders, changes in estimates, and other reasons for exceeding budget expectations are thoroughly documented to easily identify the cause for a budget overrun or time delay.**

DelDOT Response:

Concur: Tracking of addendums (changes to plans prior to contract award) is currently performed, as well as tracking on-time design completion. These reports can be expanded to include project manager information to perform the recommended analyses.

Within the past year, DOTS implemented a new coding system for construction change orders that will allow for the identification of trends for certain pay items that routinely significantly exceed or fall short of the engineer's estimate. A second level of review will be required to review in detail the cause of the over- or under-run. The trends may identify changes that are required in our Standard Specifications (method of measurement or payment), Standard Details, Special Provisions, or estimating processes. Now that a year has passed, we will begin to create reports to identify these trends. Construction change orders are already documented in a fairly rigorous manner.

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- R9 The availability of resources provided in the Design Resource Center (DRC) should be communicated in writing at the beginning of the project. The documents in the DRC should also be updated periodically to ensure information is up to date.**

DelDOT Response:

Concur: The Design Resource Center (DRC) is a widely known resource available to design personnel within the department, as well as in the consultant community. At this point in time, our records indicate that there are over 250 subscribers outside the department that subscribe to the site's automatic updating feature, which sends a notification that something new has been posted to the site. The site averages over 3,000 Internet "hits" per month. The DRC is regularly updated with new or revised information. DelDOT commits to ensuring that all updates to the DRC are timely and up-to-date.

- R10 DelDOT should identify the cause of delays in each segment of the NTP process and work toward creating a more consistent NTP approval timeframe.**

DelDOT Response:

Concur: The Notice to Proceed (NTP) is issued upon the availability of: a proper consultant proposal (including detailed support for expected costs), project funding, and completion of pre-award auditing of each consultant and sub-consultant associated with the task. The complexity of a project is not a factor in the issuance of an NTP, and consistency in issuing NTPs is not an appropriate measure for this process. However, DelDOT will examine the NTP process and look for areas that adversely impact the approval timeframe.

- R11 DelDOT's policies and procedures should be revised to ensure that all significant contributors involved in the project management participate in evaluations and provide written comments explaining evaluation ratings. DOTS should consistently update the design consultant evaluations at the conclusion of the construction phase to reflect design errors or confirm there were no errors.**

DelDOT Response:

Respectfully Disagree: Each DOTS consultant agreement is assigned one primary project manager to oversee the consultant's performance on all assigned tasks. It is the responsibility of the assigned project manager to include comments from any other department personnel involved with the consultant in order to perform an accurate annual, interim, or final performance report. This allows one key department individual to communicate with consultant management regarding any performance or other issues. The primary project manager is the most knowledgeable department representative to interact with the consultant for performance reporting. Since there is the possibility of multiple managers overseeing tasks that are part of the same agreement, DelDOT believes that providing one consolidated response for the overall agreement is more beneficial to both the consultant who receives the report and those who use the information as part of a future selection process than providing multiple and potentially conflicting responses.

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The consolidated response allows an “averaging” of the comments, so that a single positive or negative comment does not skew the overall performance evaluation. The function of the evaluation process is to provide guidance to selection committees when entertaining proposals from consultants for future work. We need one clear rating for the committee’s consideration; a multiple response/multiple comment evaluation does not serve the needs of the selection committee.

The performance report procedure encourages the project manager to provide comments to explain ratings, especially for above or below average ratings. The report is designed to highlight above or below average performance. The performance report is one tool available to the department to document consultant performance; however, it is the day to day communication between the department and the consultant that remains the most critical factor in the department’s use of consultants.

Consultant evaluations are performed on an annual basis until the overall agreement expires. A consultant who is performing design support functions for construction projects during a given year is evaluated on that performance as part of the annual evaluation. We will remind evaluators to document any design issues that are identified during the construction phase as part of the consultant evaluation.

**R12 DelDOT and DTC should eliminate the practice of employing retired State of Delaware personnel, in accordance with 29 Del. C. §5502.**

DelDOT Response:

Concur: The rehiring of the specific employee referenced within the Audit Report was an anomaly and was the only such occurrence within the Department. The situation has been resolved. The employee is no longer employed by the Department, and measures have been taken to prevent it from happening again.

**R13 DelDOT should implement a time tracking mechanism for the project management staff in order to monitor the productivity of the staff and the amount of time required for each project.**

DelDOT Response:

Respectfully Disagree: The recommendation to implement a time tracking mechanism is based on two separate anonymously reported incidents of time abuse by employees. Both incidents were investigated by DelDOT management and were found to be unsubstantiated. DelDOT does not agree that the implementation of a cost accounting/time tracking system would be cost effective or beneficial to the department. DOTS staff who work on capital projects, including engineers from a Program Manager I level and below, currently charge their time to specific projects in our project tracking software. While our current practice is more project specific, the effort in tracking time in any more details (i.e. smaller increments of time) is believed to far outweigh any benefit realized from doing so.

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- R14 DelDOT should strive to improve the payment process in order to ensure that invoices are paid timely, in accordance with Chapter 7.13 of the *Budget and Accounting Manual*.**

DelDOT Response:

Concur: DelDOT makes every effort to issue payments to vendors within 30 days of the presentation of a valid invoice, as required in the *Budget and Accounting Manual*. We also acknowledge that there are times when this is not possible. For example, the accounting system is unavailable during fiscal year-end processing for three to four weeks each year. This unavailability makes it impossible to process payments within the 30 day window, and the year-end close process is outside DelDOT's control. As the fiscal year nears an end, DelDOT advises our vendors of the impending close process and encourages them to expedite their invoices in June, in order to mitigate the possibility of delayed payments. The State's new accounting system, implemented in FY2011, has improved the timeliness of payment processing. DelDOT will continue to strive to improve our payment process.

- R15 DelDOT should implement an outside employment policy, which would require personnel to notify and obtain approval from DelDOT prior to accepting employment with another employer and allow DelDOT to monitor that their employees are in compliance with State Merit Rule 15.2.**

DelDOT Response:

Respectfully Disagree: Delaware law and the Merit Rules already provide sufficient guidance in connection with the potential conflict of interest issues raised by dual and/or outside employment. Under 29 Del. C. §5805(a)(1), no state employee may participate in the review or disposition of any matter before the State in which the employee may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer, or official is associated by employment or appointment.

In addition, there would likely be legal prohibitions against requiring employees to notify and obtain approval from DelDOT prior to accepting employment with another employer. For example, under Merit Rule 4.3, employees covered by FLSA are entitled to accept additional employment in another State agency, provided they receive prior written consent from both agencies. From a policy perspective, even if it were legally possible to enact such requirements, requiring employees to obtain approval from DelDOT before accepting another job would likely do little to enhance the Department's ability to attract and maintain the best possible employees.

- R16 The end-user should be required to enter the invoice number, the contract identification number, and a detailed transaction description into the State's accounting system when processing a payment.**

DelDOT Response:

Concur: DelDOT agrees with the recommendation and has already begun working on its implementation. We recognize that many of our customers, such as construction

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vendors, do not use an invoice number on their pay estimates (invoices); payments on construction contracts are coded in a manner to permit their cross-reference to work items in the contract. DelDOT has developed an internal standard to use the project number and the estimate number as the invoice number for those payments. With the implementation of FSF, the DelDOT Finance office communicated a standard to all fiscal personnel, since the invoice number field is a required field in FSF. This unique number uses the agreement number and task number for consultant agreements.

**R17 DelDOT should make every effort to aggregate vendor payments, if payment due dates fall within one to two weeks of each other.**

DelDOT Response:

Concur: The new statewide accounting system aggregates vendor payments on a daily basis, and DelDOT advises our fiscal personnel to aggregate payments where possible.

The suggestion to aggregate payments is a minor cost saving when compared with the cost of holding, reviewing, and processing vendor invoices manually. Additionally, DelDOT believes that holding invoices for aggregation could lead to unacceptable delays in vendor payments, which is cited in Recommendation 14. DelDOT makes every effort to pay our vendors electronically, which eliminates the cost of check creation and distribution.

**R18 The Division of Accounting should develop a formal process to determine if vendors who conduct business with the State have been federally debarred.**

DelDOT Response:

Concur: It should be noted that DelDOT, prior to award, does verify consultants selected for contracts have not been debarred. Since this recommendation references the Division of Accounting, DelDOT has no further comment.

**R19 The Department of Finance and Office of the State Treasurer should implement a process that monitors and intercepts payments to delinquent taxpayers.**

DelDOT Response:

Since this recommendation references the Department of Finance and the Office of the State Treasurer, DelDOT has no comment.

## ***Distribution of Report***

This report is a matter of public record and its distribution is not limited. This report, as required by statute, was provided to the Office of the Governor, Department of Finance, Office of Management and Budget, Office of the Controller General, and Office of the Attorney General.

Copies of this report have been distributed to the following public officials:

### *Required Recipients*

The Honorable Jack A. Markell  
Governor  
State of Delaware

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Controller General  
Office of the Controller General

The Honorable Thomas J. Cook  
Secretary  
Department of Finance

The Honorable Joseph R. Biden, III  
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The Honorable Ann S. Visalli  
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Mr. Kristopher Knight  
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Division of Accounting

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Treasurer  
Office of the State Treasurer