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March 11, 2022

Members of the Audit Subcommittee
of the Legislative Commission
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In September 2020, we issued an audit report on the Public Employees' Benefits Program (PEBP), Contract Management. PEBP filed its plan for corrective action in November 2020. Nevada Revised Statutes 218G.270 requires the Office of Finance, Office of the Governor, to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations.

Enclosed is the 6-month report prepared by the Office of Finance on the status of the five recommendations contained in the audit report. As of June 3, 2021, the Office of Finance indicated four recommendations were fully implemented and one recommendation was partially implemented. The partially implemented recommendation is shown below.

Recommendation		Status
Recommendation No. 3	Establish formal policies and procedures regarding the Request for Information process and compliance with State Purchasing guidelines	Partially Implemented

In February 2022, we discussed the status of the partially implemented recommendation with PEBP management and reviewed relevant documentation. Our review indicated PEBP has now fully implemented the one remaining recommendation. Therefore, we do not have any questions for agency officials.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Crossman".

Daniel L. Crossman, CPA
Legislative Auditor

DLC:smy

cc: Yvanna Cancela, Chief of Staff, Office of the Governor
Susan Brown, Director, Office of Finance, Office of the Governor
Warren Lowman, Administrator, Division of Internal Audits, Office of the Governor
Laura Rich, Chief Executive Officer, Public Employees' Benefits Program

SIX-MONTH REPORT



**STATE OF NEVADA
GOVERNOR'S FINANCE OFFICE**

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MEMORANDUM

To: Daniel L. Crossman, CPA, Legislative Auditor
Legislative Counsel Bureau

From: Susan Brown, Director
Governor's Finance Office

Date: June 3, 2021

Subject: Legislative Audit of the Public Employees' Benefits Program, Contract Management

On September 3, 2020, your office released an audit report (LA 20-15) on the Public Employees' Benefits Program (PEBP), Contract Management. PEBP subsequently filed a corrective action plan on November 30, 2020. NRS 218G.270 requires the Director of the Governor's Finance Office to report to the Legislative Auditor on measures taken by the PEBP to comply with audit findings.

There were five recommendations contained in the report. The extent of PEBP's compliance with the audit recommendations is as follows:

Recommendation 1

The PEBP Board should develop policies and procedures to ensure:

- a. Competitive procurement of contracted services once the original term of the contract ends, in compliance with state policies;*
- b. Contracts and contract amendments have supporting documentation, including proper approvals by the Board and State Purchasing Division; and*
- c. Changes to a contracts' original scope of work are competitively bid.*

Status – Fully Implemented

Agency Actions – The PEBP Board (Board) developed policies and procedures to ensure a competitive procurement of contracted services once the original term of the contract ends; contracts and contract amendments have supporting documentation, including proper approvals by the Board and State Purchasing Division; and changes to a contracts' original scope of work are competitively bid. PEBP formed a subcommittee to edit and

develop new policies and procedures to address its procurement process. Since the audit, PEBP has released and awarded eight solicitations. DIA reviewed these solicitations noting they went through the competitive procurement process in compliance with state policies, including proper approvals by the Board, State Purchasing Division, and the Board of Examiners. PEBP has also added a standing agenda item to its Board meetings to include a status update on all solicitations and contracts to inquire in depth about the solicitations and processes.

Recommendation 2

Comply with state law and agency policy concerning gifts, and include periodic training and documented attestations of Board member and employee acceptance of the policies.

Status – Fully Implemented

Agency Actions – PEBP coordinated with the Department of Human Resource Management and the Commission on Ethics to develop a policy to comply with state law and agency policy concerning gifts approved by the Board in January 2021. DIA reviewed the policy and noted periodic training and documenting attestations of Board members and employee acceptance of policies. DIA also reviewed signed attestations by all PEBP employees.

Recommendation 3

Establish formal policies and procedures regarding the Request for Information process and compliance with State Purchasing guidelines.

Status – Partially Implemented

Agency Actions – PEBP is updating its policies and procedures regarding the Request for Information process and compliance with state purchasing guidelines that will be reviewed, updated and signed off on annually. Full implementation is expected June 30, 2021.

Recommendation 4

Develop policies and procedures that require accurate information be provided to the Board and other governing bodies when seeking to amend contracts, and supporting documentation be provided.

Status – Fully Implemented

Agency Actions – The PEBP Board developed policies and procedures that require accurate information be provided to the Board and other governing bodies when seeking to amend contracts, and supporting documentation be provided. PEBP formed a subcommittee to edit and develop new policies and procedures to address its

procurement process. Since the audit, PEBP has released and awarded eight solicitations. DIA reviewed these solicitations noting they went through the competitive procurement process in compliance with state policies, including proper approvals by the Board, State Purchasing Division, and the Board of Examiners. PEBP has also added a standing agenda item to its Board meetings to include a status update on all solicitations and contracts to inquire in depth about the solicitations and processes.

Recommendation 5

Develop policies and procedures, in consultation with PEBP's Board, to ensure the use of funds and resources directly relate to the purpose of the agency and the statutory intent for the use of those resources.

Status – Fully Implemented

Agency Actions – PEBP developed policies and procedures, in consultation with its Board, to ensure the use of funds and resources directly relate to the purpose of the agency and the statutory intent for the use of those resources. PEBP formed a subcommittee to create criteria and guidelines regarding authorized and proposed expenditures brought to the Board. DIA reviewed the policy and noted criteria and guidelines regarding authorized and proposed expenditures. DIA reviewed Board minutes since the audit was issued and noted only expenses directly related to the purpose of the agency and the statutory intent were presented for approval.

The degree of ongoing compliance with these recommendations is the responsibility of the agency.



Susan Brown, Director
Governor's Finance Office

cc: Michelle White, Chief of Staff to Governor Sisolak
Laura Rich, Executive Officer, Public Employees' Benefits Program
Warren Lowman, Administrator, Division of Internal Audits

AUDIT HIGHLIGHTS

Audit Highlights



Highlights of performance audit report on the Public Employees' Benefits Program, Contract Management issued on September 3, 2020.

Legislative Auditor report # LA20-15.

Background

The Public Employees' Benefits Program (PEBP) is a state agency that is legislatively mandated to provide group health, life, and accident insurance for state and other eligible public employees and retirees. PEBP's mission is to provide employees, retirees, and their families with access to high quality benefits at affordable prices.

PEBP currently administers various benefits and is responsible for designing and managing a quality health care program for approximately 44,000 primary participants and 27,000 covered dependents, totaling over 70,000 individuals.

PEBP enters into contracts with vendors to provide services to its participants. In fiscal year 2019, PEBP paid over \$114 million to 19 vendors under contract with the agency. Vendor payments included things like actuarial services and medical, dental, and pharmaceutical administrator services.

A 10-member board oversees PEBP's operations. Nine board members are appointed by the Governor, and the 10th member is the Director of the Department of Administration or a designee approved by the Governor. The Board appoints an Executive Officer to direct the day-to-day operations.

Purpose of Audit

The purpose of the audit was to determine if PEBP has adequate controls to ensure vendor selection and payments complied with state laws, policies, and contract terms; and expenses related to contracts, awards, and accreditations were appropriate. Our audit included a review of contract procurement and payment practices, and award and accreditation expenditures for fiscal year 2019, and prior years for some activities.

Audit Recommendations

This audit report contains four recommendations to improve PEBP's contracting practices and one recommendation to ensure the proper use of PEBP's resources.

PEBP accepted the five recommendations.

Recommendation Status

PEBP's 60-day plan for corrective action is due on December 3, 2020. In addition, the 6-month report on the status of audit recommendations is due on June 3, 2021.

Contract Management

Public Employees' Benefits Program

Summary

The Public Employees' Benefits Program's (PEBP) contracting practices changed over the past several years, focusing more on amending and extending contracts through private negotiations instead of competitive procurements. While contract amendments may be appropriate in some circumstances, for the most part, amendments should be infrequent and not utilized as a default to extend contracts and procure services worth hundreds of millions of dollars. State law creates the PEBP board giving it responsibility for ensuring contracting practices comply with laws and policies, and to help ensure the proper use of agency resources. However, PEBP's contracting practices did not always follow state laws and policies as some amendments significantly modified contracts' scopes of work and contracts were extended without proper approvals. Furthermore, some wasteful spending of agency resources occurred. Without proper contracting practices and agency oversight, there is increased risk the best interests of the State and PEBP participants will not be realized, and agency resources will not be used appropriately.

Key Findings

Between fiscal years 2015 and 2019, PEBP authorized nearly \$96 million in contract services that were not competitively bid through a Request for Proposal (RFP) process, as PEBP began to focus more on extending contracts. For 14 of 19 active service contracts in fiscal year 2019, PEBP amended these contracts to extend them beyond the original contract term, with some extended more than once. As a result, the average contract term increased from almost 5.5 years to over 8.5 years, with two contracts having 11-year terms. Under PEBP's management of the past 5 years, 23 contract extensions were performed and only 12 RFPs. State policy indicates contracts should be competitively solicited at least every 4 years. While PEBP claims a longer contract term is more desirable for some contracts, amending and extending contracts indefinitely does not help ensure the State and PEBP participants receive the best value. (page 6)

Private negotiations became a standard practice as PEBP's management extended vendor contracts for multiple years. Some negotiations took place through direct contact with vendors or by emails. For one contract, negotiations included two vendor paid trips, at the request of PEBP management, in which PEBP employees received transportation, lodging, and meals worth more than \$7,000. Following the second trip, a significant scope modification occurred and the contract was extended 2 years. The amendments and contract extension occurred despite PEBP management and staff dissatisfaction with the vendor's performance. Not only does accepting gifts violate state ethics laws and policies, but it increases the risk of fraud and that contracting decisions will not be in the best interests of the State or PEBP's participants. (page 10)

PEBP management claimed that competitive bidding for contracts was unnecessary as they performed regular market checks to determine the value of the services their current vendors were providing. However, market checks were only performed multiple years for one vendor, and showed PEBP was paying more than other plans of similar size. In addition, cost savings was used to justify several contract extensions, after vendors agreed to lower pricing in exchange for added years to their contract terms. Market checks and cost savings should not be used to supplant bidding processes since additional value and savings may be received through competition. (page 12)

PEBP's board did not provide adequate oversight of contracting practices as it approved significant modifications to contracts' scopes of work and changes to PEBP's policies and procedures that placed less emphasis on competitive procurement. In addition, 6 of 18 contract extensions took place without State Purchasing's approval or being discussed at a PEBP Board meeting; thereby, circumventing state policy and law. (page 14)

During our testing, we observed some agency expenditures were unnecessary and not an efficient use of agency resources. For instance, PEBP allocated over 620 hours and nearly \$51,000 to obtain business awards and an accreditation. It is the responsibility of PEBP's Board and management to ensure funds are spent appropriately. (page 21)