

STATE OF OKLAHOMA OFFICE OF STATE FINANCE

DEPARTMENT OF CENTRAL SERVICES

AUDIT UNIT

REPORT RELEASED NOVEMBER 9, 2011

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AUDIT PERFORMED BY

JoRay McCoy, Chief Auditor
Megan Hannabass, Senior Auditor

AUDIT CONCLUSION

Based on our audit of the Oklahoma Department of Public Safety's procurement processes, we determined the Department of Public Safety materially complied with the following audit objective:

- Determine if the Agency's acquisition process for sole source/sole brand purchases of any amount and open market purchases above \$25,000 are in compliance with the Agency's approved internal purchasing procedures, Central Purchasing Procurement Information Memorandums, Central purchasing Rules, and the Oklahoma Central Purchasing Act.

AGENCY ACCOMPLISHMENTS

In January of 2009, the Agency was one of the first in the State to develop and launch a procurement web page (www.dps.state.ok.us/bids/) where they post all open market and sole brand invitations to bid, requests for information, requests for proposal, and requests for quotation. This makes solicitation information readily available to potential suppliers. The Agency has made great strides in attracting new vendors due to the development and utilization of this webpage and continues to make improvements to the system. In addition, the agency has increased transparency by publishing the name of the supplier that won the bid and pricing information, if applicable. As a result, DPS purchasing officials have noticed that vendors anticipate annual invitations to bid packet postings on the DPS website.

AUDIT FINDING SUMMARY

FINDING 11-585-01 The Department of Public Safety's internal purchasing procedures regarding the approval of acquisitions \$2,500 and over require eight pre-approvals, consuming a significant amount of the agency's resources, and diluting accountability.

FINDING 11-585-02 The Oklahoma Department of Public Safety does not have procedures in place to ensure they have not entered into a sole source or

The Department of Central Services', Audit Unit completed an audit of the Oklahoma Department of Public Safety, referred to as the "Agency" during the audit report. Our audit was to determine if the agency's procurement program for the period December 1, 2009 to October 15, 2010 complied with the audit objective.



This publication is issued by the Department of Central Services, as authorized by the Department of Central Services. Printed copies have not been produced. Electronic copies are available through the Oklahoma Department of Central Services website (www.ok.gov/DCS). Two printed copies were deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.

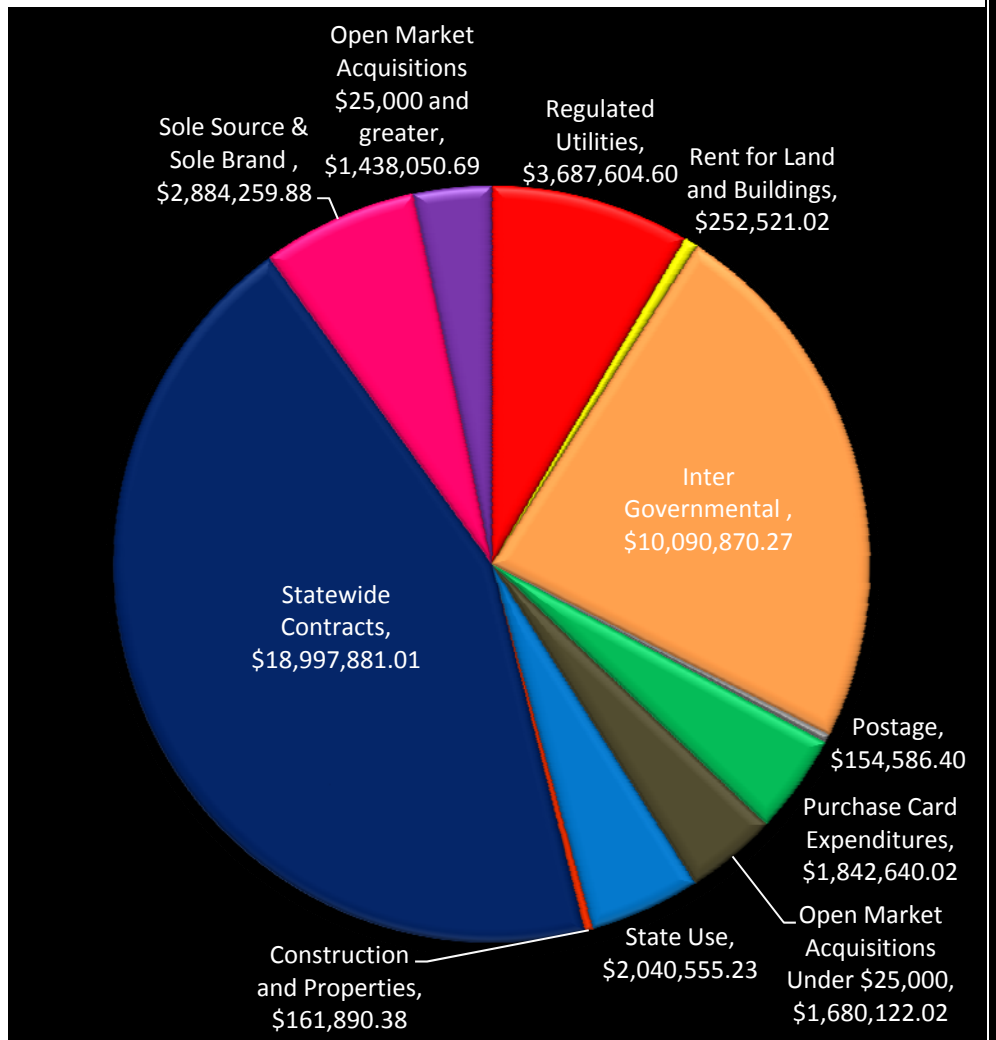
professional service contract for the services of any person who has terminated employment with the Agency within one year of the contract period.

In addition, The Agency does not have procedures in place to verify a supplier has not been suspended or debarred by the State Purchasing Director or Federal Government.

FINDING 11-585-03 The Agency does not have detailed guidelines in place to address how minor mistakes in sealed bids will be treated or procedures for resealing bids that are opened in error.

AUDIT OVERVIEW

The following chart depicts the Agency's acquisitions by category for the period December 1, 2009 to October 15, 2010.

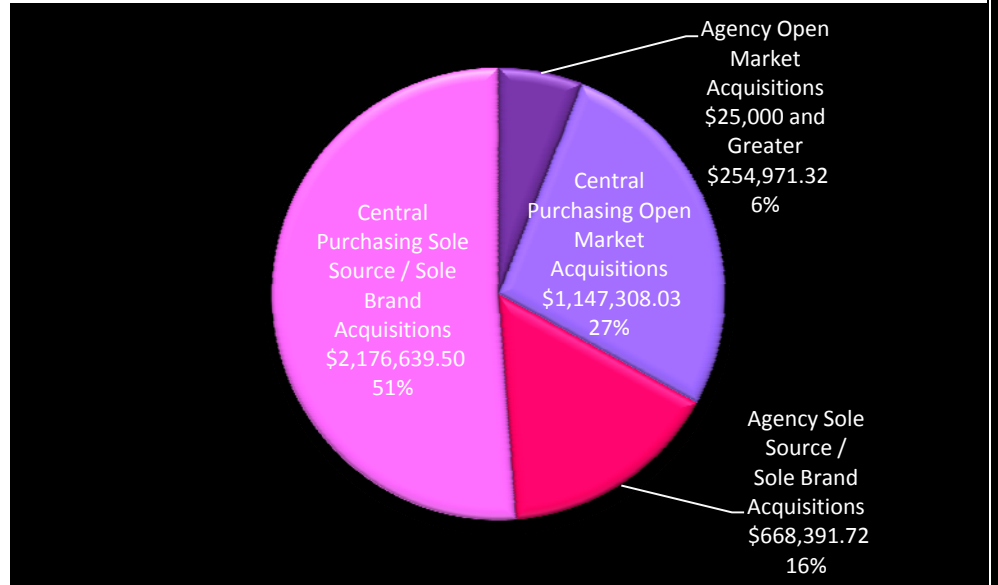


The Agency's acquisitions for the audit period totaled \$43.2 million. The Agency made open market acquisitions for \$3,118,172.71. Our audit focused on open market acquisition of \$25,000 or greater and sole source / sole brand acquisitions.

This audit was performed pursuant to 74 O.S. § 85.5.E. in accordance with Generally Accepted Government Auditing Standards.



We tested 100% of open market acquisitions greater than \$25,000 and all sole source / sole brand acquisitions. The population tested consisted of thirteen (13) open market acquisitions totaling \$1,402,279.35 and forty-seven (47) sole source /sole brand acquisitions totaling \$2,845,031.22. See breakout by total dollar amount below.



DETAILED FINDINGS

FINDING: 11-585-01 - ACQUISITION APPROVAL

Criteria: The Oklahoma Department of Public Safety (DPS) Internal Purchasing Procedures Section 11.3 states:

In order for requests for acquisitions costing \$2,500 and above to receive an acquisition recommendation to present to the Commissioner, such requires the approval of the DPS Legal Counsel Representative, DPS Budget Director, DPS Comptroller and the recommendation of the DPS Contract Review Committee. The DPS Commissioner or Assistant Commissioner in the absence of the Commissioner, shall then approve or authorize the acquisition, or disapprove such. It is preferred the entire DPS Contract Review Committee review and initial their recommendation and approval, but the individual’s signatures or initials are required on every request/PCF in order for the committee to make a recommendation of acquisition to the Commissioner.

An effective internal control system provides reasonable assurance for the safeguarding of assets, reliability of financial data, and compliance with applicable laws and regulations. Internal control systems should be designed and implemented to ensure that risk is mitigated while efficiency is maintained. The cost associated with a control should not exceed the resulting benefit.



Condition: We tested all agency open market purchase orders over \$25,000 and sole source/brand of any amount to ensure that the acquisitions were properly approved in accordance with the Department of Public Safety's (DPS) internal policies. Sixty items totaling \$4.2 million were tested and the following deficiencies were noted:

DPS creates a purchase order in PeopleSoft, the State's accounting system. This purchase order is created in-lieu-of a requisition. Once the acquisition has received all necessary approvals, the purchase order is "Dispatched" in the PeopleSoft system. No charges can be placed against the purchase order until it is in "Dispatched" status. The agency "Dispatched" sole source purchase order number 5859013246 for a communication tower lease in the amount of \$9,600 on June 3, 2010, prior to receiving required approvals from the DPS Comptroller, DPS Legal Counsel Representative, DPS Budget Director and DPS Commissioner. All required signatures were obtained by June 14, 2010. On average procurement control forms reviewed during our audit contained eight to eleven signatures prior to the purchase.

In addition we noted one contract file (for purchase order 5859013247) that the agency was not able to locate. This was a sole source acquisition, in the amount of \$135,630, for light bars. The agency was able to provide copies of some documentation related to the contract file; however, the agency was not able to provide the Procurement Control Form (PFC). Therefore, we were not able to determine that the acquisition was properly approved.

The two noted deficiencies represent 3% of both population dollars and items.

Cause:

The agency does not have a formal process in place to ensure that all required approvals are received prior to "dispatching" purchase orders. However, based on testwork performed it appears that this is an isolated incident.

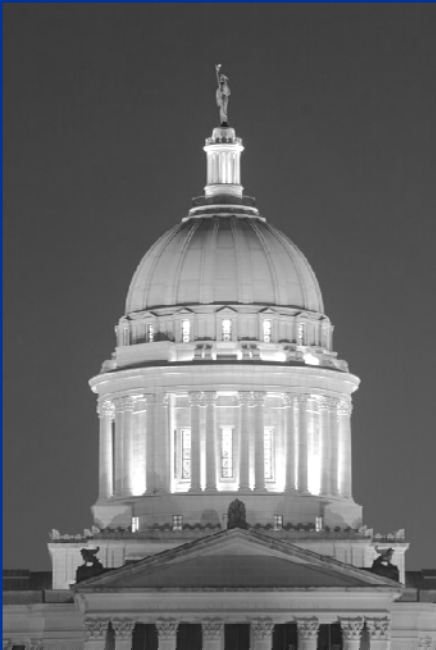
The agency misplaced the original contract file and was not able to locate the Procurement Control Form for purchase order 5859013247 elsewhere.

Effect or Potential Effect:

The lack of additional approvals had little to no effect on the final acquisition.

The absence of the Procurement Control Form, in this particular case, had no effect on the integrity of the acquisition.

Recommendation: The Department of Public Safety's internal purchasing procedures regarding the approval of acquisitions \$2,500 and over require eight approvals, consuming a significant amount of the agency's resources, and diluting accountability. We recommend that DPS revise their internal purchasing procedures in order to simplify their approval process for



acquisitions \$2,500 and above in order to provide a more efficient process and heightened accountability.

We do not recommend that the agency add more layers of controls to remedy the exception noted during our audit. A reduction in layers of authorization, however, would promote individual accountability and increase purchasing efficiency. Based upon review of the agency's internal purchasing structure, we recommend the agency reduce the number of approvals and require only one or two approvals from the central office and that of the troop commander/division director prior to processing the acquisition. The purchasing rules allow the agency to delegate purchasing authority by documenting and maintaining delegated signature authority within the agency's central office for purchases made by the agency.

It should be noted that the agency has implemented procedures to maintain digital copies of all contract files. This will help to ensure that contract files are not misplaced.

Management's Response

Date: 10.17.11

Respondent: Director of Procurement

Response: Concur - "Recommendation: simplify approval process":

In discussions with Commissioner and Comptroller it was stated that a review of all agency processes is under way. It was acknowledged improvement in efficiency could probably be achieved. It was also acknowledged although that process of approval of procurement files could be improved, it is working. Addressing this issue is low priority compared to other issues that must be addressed.

Corrective Action Plan

Contact Person: Director of Procurement

Anticipated Completion Date: TBD - Commissioner's Office.

Corrective Action Planned: TBD

FINDING: 11-585-02 - CONTRACTING WITH TERMINATED EMPLOYEES / SUSPENDED AND DEBARRED VENDORS

Criteria: The Oklahoma Central Purchasing Act, 74 O.S. 85.42, Certain Contracts Prohibited - Contract Limitations, states:

Except as otherwise provided for in this section, any agency, whether or not such agency is subject to The Oklahoma Central Purchasing Act, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the



termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

The Oklahoma Administrative Code, 580:15-6-6 (f), (2), Supplier Selection, states:

The state agency shall solicit a price quote from a minimum of three suppliers, which may be from the Suppliers List in the appropriate commodity classification compiled by the Central Purchasing Division and made available to state agencies. Selection of suppliers shall be rotated. Suppliers that have been suspended or debarred by the State Purchasing Director or the Federal government shall not be solicited.

Condition: The Oklahoma Department of Public Safety does not have procedures in place to ensure they have not entered into a sole source or professional service contract for the services of any person who has terminated employment with the Agency within one year of the contract period.

In addition, The Agency does not have procedures in place to verify a supplier has not been suspended or debarred by the State Purchasing Director or Federal Government.

Cause: The Agency failed to identify the requirements.

Effect or Potential Effect: The Oklahoma Department of Public Safety could unknowingly contract with employees terminated within the last year. These individuals may have an advantage as they know current Agency employee's and may have knowledge of the Agency's internal workings that other bidders do not. In addition the Agency may be contracting with suppliers that are suspended or debarred.

Recommendation: We recommend that the Agency implement policies and procedures to ensure that all sole source and professional services contract files contain a certification signed by the vendor certifying individuals performing the contract have not been terminated by the Agency within a one (1) year period.

We also recommend that the Agency design and implement procedures to ensure that contract files include documentation that the Agency verified supplier's suspended and debarred status. In addition, we recommend the Agency consider implementing a contract file checklist to ensure all documentation is obtained.

Management's Response

Date: 10.17.11

Respondent: Director of Procurement



Response: Concur - CERTIFICATION VENDOR EMPLOYEES HAS TERMINATED OR BEEN TERMINATED BY THE AGENCY: In hopes of finding a form, I researched the DCS Forms Library & did not find anything. I asked Deputy Director of Central Purchasing-DCS, how DCS handles such. His response was: "We don't have a form for the certification you are looking for. We typically see a term embedded within a sole source or professional service contract to handle the certification one year separation from the state." Therefore we will devise such form for all sole source and professional services acquisition. Many times there is not a "formal contract" in our awards. We would love to see such a certification approved and issued by DCS and available on the forms Library.

Verification of Vendor's Suspended and Debarred Status. - Deputy Director also stated: "The debarment status can be researched through the vendor verification link on our web page. There are a couple of links provided on that page that should be of help."

We shall pursue this route.

DPS Procurement always assumed the "Not open for ordering" block in PeopleSoft was the method of determining Debarred or Suspended Vendors. In a perfect world such integration of information will cross all agency boundaries.

Corrective Action Plan

Contact Person: Director of Procurement

Anticipated Completion Date:

#1 3rd quarter of FY12 for creation, approval and implementation of certification if vendor is a terminated agency employee.

#2 Effective immediately DCS website will be accessed and links researched for suitable verification in file.

Corrective Action Planned: see above

FINDING: 11-585-03 - SEALED BIDS

Criteria: The National Association of State Procurement Officials publication, State and Local Government Procurement: a Practical Guide, 2008. Lexington, states:

Despite instructions contained in the IFB, a bidder will occasionally submit a sealed without proper identification and the bid clerk will open it inadvertently. That person ought to reseal the bid, and mark it "opened in error." It will retain its status as a sealed bid. (Page 103)

After bids are opened, but before award, a procurement officer



may waive a mistake, or permit a bidder to correct it, only if it is minor and the true intent of the bid is obvious from the bid document itself. In those cases, the bid must substantially comply with the IFB and the correction must not improve the bidder's competitive position. "Substantial compliance" refers to deviations or errors that are not material and do not invalidate the legitimacy of the bid. The term "material" generally means that the mistake theoretically relates directly to the price, quality or quantity. (Page 105)

Condition: DPS posted a sealed bid solicitation for ammunition (purchase order 5859013949), on September 3, 2010. The bid open date was September 22, 2010.

Bidder 1: DPS received the completed bid package from Bidder 1, on September 16, 2010. Bidder 1 did not properly label their envelope and it was opened by the Agency. DPS then notified Bidder 1, that their bid was considered "non-responsive" because the envelope was not correctly marked and DPS required that a new bid response package be resubmitted prior to the close date for consideration. Bidder 1 resubmitted their bid, which was received September 22, 2010. The total amount of the bid was \$54,974.10.

Bidder 2: DPS received Bidder 2's bid response on September 22, 2010. The response was properly labeled and DPS opened it with the other sealed bids that were received. Upon opening the DPS realized that the bidder did not include a price sheet containing the per unit price for each round of ammunition and labeled the bid "non-responsive". The bidder was not given the opportunity to submit a detailed price sheet. The total amount of the bid was \$42,384.10.

This bidder also sent a letter requesting a copy of the bid tabulation sheet prior to the opening of the bids.

Bidder 3: Bidder 3's bid response was received on September 22, 2010. The response was properly labeled and DPS opened it with the other sealed bids that were received. The total amount of the bid was \$42,726.54. Bidder 3 was awarded the bid. However, DPS did not have enough funding available and had to reduce the quantity 163,500 rounds to 155,500 rounds. The contract was in the amount of \$40,484.34, the purchase order was created on October 13, 2010.

Two of the three bids were labeled non-response do to non-material errors.

Cause: The Agency does not have detailed guidelines in place to address how minor mistakes in sealed bids will be treated or procedures for resealing bids that are opened in error.

FOR THE PERIOD DECEMBER 1, 2009 TO OCTOBER 15, 2010



Effect or Potential Effect: The Agency is labeling bid responses as “non-responsive” do to minor errors and in-turn could be eliminating opportunities to contract with vendors that would better serve the Agency.

Recommendation: We recommend that the agency develop policies and procedures regarding “minor mistakes” and determine what guidelines will be applied in handling such occurrences. These polices should include, but are not limited to:

- Bid resealing procedures
- Defining minor mistakes
- Defining material mistakes
- Determining a timeframe for requesting and accepting revisions and/or additional documentation after sealed bids are opened
- Define the term nonresponsive

In addition, we also recommend the contracting officers do not open or have access to incoming mail. Therefore, if a sealed bid is opened by mistake it can be resealed and properly labeled so that the contracting officer does not have any knowledge of the bid response until the bid open date.

Management's Response

Date: October 17, 2011

Respondent: Director of Procurement

Response: **Partially Concur** - Would concur review of processes may be in order. This review will include guidance from DCS Central Purchasing and how such situations are handled by them.

From our perspective, DPS contends that there must be a line where the process is over.

To delay awards to give vendors who did not follow instructions or failed to include required documents or information, just adds another layer to an already cumbersome and involved process.

As stated in my preliminary response (see below), the individual evaluation of specific circumstance after the bid is open is subjective. We are still of the opinion that DPS exposes itself to protests, criticism and the need to defend its position on individual cases. To quote from my original response to you on Sept 1: “ From our perspective with any case such as this if a vendor submits a bid without identifying as such, when opened and discovered we put the bid back into the envelope and notify the vendor by email that the bid package is being returned and if time permits they are welcome to resubmit. We will do that for any bidder. We declare any bid as non responsive if instructions are not followed and discovered at bid opening. We think that eliminates the chance for inconsistency of the treatment of a vendor. In the instance of bidder 2, forgetting the spec sheet with individual pricing per item disqualified them and we would treat any vendor that overlooked an integral part of the bid response the same. I am going to have to



contemplate how we would structure guidelines for requesting additional information from a bidder after a bid opening. What I want to avoid is opening it up for interpretation by CPO or vendors and keep the guidelines consistently rigid pertaining to bid openings and reasons for award. “

Agree in theory that Contacting Officers should not have access to or open incoming mail. At the time of the ITBs referenced, Procurement had no administrative help. The staff consisted of only CPOs. At this time we have a part time admin person whose responsibilities are to open all mail. As long as we have the funds to keep this person, mail opening by CPOs is not an issue.

Corrective Action Plan

Contact Person: Director of Procurement

Anticipated Completion Date: 3rd quarter of FY12

Corrective Action Planned: The initial step will be to confer with Central Purchasing Contract Manager and Deputy State Purchasing Director at DCS. Will determine their opinion, DCS procedures for bid openings, investigate processes by other states and draw conclusions and recommendations for DCS review and approval.



APPENDIX

METHODOLOGY

- Interviews were conducted with the Agency's staff members.
- Internal controls over the procurement program were documented and evaluated. Procurement transactions were examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

EXECUTIVE SUMMARY

Organization

Mission Statement - Working to provide a safe, secure environment for the public through courteous, quality and professional services.

History and Function - The Oklahoma Department of Public Safety is a multi-service safety and law enforcement organization, created by state statute to administer to the protection and needs of Oklahoma citizens including both their personal well-being and their vehicular safety.

Personnel - 1,404 classified, 39 unclassified, 48 temporary, merit (per Oklahoma Agencies, Boards, and Commissions, as of September 1, 2010)

Key Staff

(During the Audit Period)

Commissioner of Public Safety

Michael C. Thompson (appointed January 10, 2011)

Kevin L. Ward, Commissioner of Public Safety (preceding January 10, 2011)

Assistant Commissioner

Ricky G. Adams (beginning March 1, 2011)

Larry Alexander (preceding February 28, 2011)

Comptroller

Stephanie Vinson

Director Of Procurement

George P. Selvidge

DIRECTOR'S TRANSMITTAL LETTER



John W. Morrison
Administrator

Preston L. Doerflinger
Director and Secretary of Finance and Revenue

Mary Fallin
Governor

**STATE OF OKLAHOMA
OFFICE OF STATE FINANCE
DEPARTMENT OF CENTRAL SERVICES**

November 9, 2011

TO COMMISSIONER MICHAEL C. THOMPSON OF OKLAHOMA DEPARTMENT OF PUBLIC SAFETY

With this letter, we transmit the risk-based purchasing compliance audit report for the Oklahoma Department of Public Safety for the audit period December 1, 2009 to October 15, 2010.

We performed our audit in accordance with professional auditing standards to ensure that programs and contracts administered by the Department of Central Services are conducted in accordance with laws and regulations and used in an ethical, effective and efficient manner while limiting exposure to fraud, waste, mismanagement, or abuse.

The accompanying report presents our findings and recommendations, as well as management's responses and corrective action plans. This report is available to the public on the Department of Central Services website, www.dcs.ok.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "JW Morrison".

John W. Morrison
Interim Administrator of the Department of Central Services