



Council on Efficient Government

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Henry Garrigo
Executive Director

4050 Esplanade Way
Suite 380.6X
Tallahassee, FL 32399-0950
Phone: 850.414.9200
Fax: 850.922-6852

Mission:

The Council on Efficient Government reviews, evaluates and provides advice on agency outsourcing and best practices, as well as codifies lessons learned to improve government accountability. It is the Council's goal to define the process for reviewing business cases and implement standard processes for outsourcing initiatives.

September 3, 2008

Mike Ramsden, Chief
Bureau of Money Transmitter Regulation
200 East Gaines Street
Tallahassee, FL 32399-0370

Dear Mr. Ramsden,

Thank you for submitting your Agency's outsourcing-related business case, Florida Deferred Presentment Database, for the Council on Efficient Government's review.

This outsourcing business case was received by the Council on July 29, 2008, via e-mail not in accordance with the required timelines stated in Chapter 287.0574, Florida Statutes. This Statute states that a business case must be received by the Council 30 days prior to release of any procurement document(s).

After a thorough review of the business case and the Scope of Services document, the Council recommends **moving forward with this solicitation**. The Council staff offers in the attached *Advisory Report* a business case summary as well as comments and recommendations. We trust you will find this information helpful to the Department during its procurement and contracting processes.

Please contact me if you have any questions and / or concerns.

Sincerely,

Henry Garrigo, Executive Director
Council on Efficient Government

cc: Don Saxon, Commissioner
Office of Financial Regulation
200 East Gaines Street
Tallahassee, FL 32399-0370

CEG File 09-0004

Enclosure: Advisory Report

Proposed Project Title: Florida Deferred Presentment Database

In 2001, the Legislature passed the Deferred Presentment Act ("Act") creating a regulatory framework for the Deferred Presentment or Payday Lending Industry ("Industry"). Included in this act were specific requirements including no more than one such loan to a consumer statewide at any one time and mandatory "cooling off" periods between such loans so that people do not incur large amounts of debt. The Legislature also mandated that the Office of Financial Regulation ("OFR") implement a "common database with real-time access through an Internet connection" as the mechanism to achieve the objectives of the legislation by March 1, 2002.

OFR made the decision to outsource the development, implementation, training, billing and collections, and customer service support functions to a Third Party Administrator (TPA). Over the past 6 years, the Florida Deferred Presentment Database ("FLADPP") has operated with a TPA providing all of the services required to support FLADPP. This third party vendor has met all of its goals in terms of deliverables and ongoing performance metrics. The project is self funding with transaction fees covering the entire cost of the outsourcing as well as the enforcement support for OFR activities in the areas of licensing, examinations and investigations. At this time it is OFR's intention to continue this outsourcing relationship with the current or a successor vendor providing all of the required functions of FLADPP.

Cost: Projected Annual: **\$3,126,898

Projected Total: **\$15,634,491.

** Projected growth rate for FY 08-09 is stated above long term growth rate assumption based on recent increases in overall transaction volumes.

Cost Assumptions:

1. Revenue is based on current pricing of \$1 per deferred presentment transaction.
2. Year over year transaction growth rates will continue to meet or exceed 8% per annum.

Term: A five (5) year contract.

Agencies Affected:

- Deferred Presentment Customers ("Borrowers")
- Deferred Presentment Providers ("Providers")
- Office of Financial Regulation ("OFR")
- OFR Examination Staff
- DFS Division of Information Systems
- Application Software Providers for the Check Cashing/Deferred Presentment Industry
- State of Florida
- Financial Services Commission
- Department of Financial Services
- Technology Review Work Group
- Council on Efficient Government
- Legislature (Senate and House)
- Financial Service Centers of Florida
- Financial Service Centers of America
- Florida Legal Services

Analysis:

The goal of FLADPP is to provide a consistent service delivery to the industry by providing a positive customer experience to both providers who use the system and consumers who benefit from the implementation of the legislative requirements. To accomplish this task, the system must be available in excess of 99% of the time and provides immediate responses so that the system does not impede the operations of its industry stakeholders. The operation of the database call center enables minor customer issues/disputes to be handled by trained TPA staff. Such calls are answered on average within 30 seconds and resolved within minutes thereby reducing complaint calls to OFR concerning provider compliance. The use of the TPA call center to handle minor program operational issues frees OFR resources to concentrate on mission critical functions including examinations and complex customer complaints. The goal of FLADPP is to assist OFR in the execution of an overall compliance program related to the deferred presentment industry, but ultimately compliance can only be determined through the conduct of comprehensive onsite examinations of the licensed providers. The outsourcing of FLADPP supports these goals by allowing OFR's limited staffing resources to be dedicated to these examination efforts while simultaneously providing sufficient revenues to support both the employment of the TPA and the ongoing licensing and examination efforts of OFR related to Chapter 560, Florida Statutes.

Though OFR conducted a thorough evaluation of alternatives there is no acceptable alternative other than to execute the project as planned by continuing to outsource FLADPP. If this project were to be handled by the agency OFR would incur substantial up front information technology costs in excess of \$2.2M for the initial system development costs and an additional \$2M – \$3.1M annually for staffing costs, infrastructure maintenance, support, software licensing and equipment replacement. There is a significant risk that DFS-DIS will not have sufficient internal resources to develop, implement, and maintain another large scale information system that is not mission critical. According to OFR, though it is likely that hosting FLADPP on internal hardware is possible, the likelihood that operations and maintenance would have to be contracted to a third party in order for the system to be fully operational would be high. This risk alone may be sufficiently high as to endanger the service delivery altogether and could potentially have a negative effect on industry expectations that have been established over the first six years of the program. There is also a substantial risk that a \$3M budget request for upfront development cost would not be successful based upon current budget forecasts.

Project Strengths

OFR has worked closely with Council staff throughout the business case development and submittal process. OFR has conducted a thorough business case analysis, and there are a number of advantages to the continued outsourcing of this program reflected in the business case including:

- OFR's ability to remain focused 100% on its core mission critical functions.
- The ability of a TPA to focus on meeting the needs of consumers and the industry.
- The ability to leverage other call center staff to meet peak time demands of the program without the need to add or remove operators as volume fluctuates up and down.
- OFR does not have to put development capital into the project. The outsourcing of this project reduces the risks and associated costs that might result should any outside risk factors materialize and threaten the development investment made by the state.

- The ability of a TPA to increase system capacity and performance without direct instructions or reimbursement from the state, but rather as mechanism to remain compliant with the terms of the contract has proven to be a tremendous advantage. TPA revenues increase with volume allowing it to be flexible and responsive to the short term needs of the program.
- The TPA's singular focus on achieving or exceeding the performance goals allows the TPA to avoid the constant prioritizing of projects that can distract state agencies.
- The agency provided sound estimated costs for current and future fiscal years
- The agency provided a cost benefit analysis demonstrating a strong return on investment (ROI) analysis of \$760,000 in savings to the agency by choosing to outsource.
- The agency provided a risk assessment of key factors that could adversely affect the project and the agency.
- The agency provided a risk management plan that adequately assessed the project risks and included mechanisms in the Invitation to Negotiate such as:
 - A disaster recovery plan to mitigate risks and loss of data;
 - A transition plan for intellectual property rights in advent of a failure to cure;
 - Extensive Service Level Agreements with the Provider;
 - Performance metrics that properly evaluate contract performance;
 - Mandatory third party financial audits to insure accountability; and
 - Performance Bond Requirements to ensure compliance.

Potential Area of Concern:

The risk of default or breaches of contract are possibilities. Data could be lost and operations would be affected until a solution could be implemented. This solution could include the development of the system in house or the contracting with a new TPA for the development and administration of the FLADPP database.

- Currently OFR does require a performance bond that works to offset a portion of the financial impact of such an occurrence, but the required performance bond amount does not eliminate the operational risks associated with such an event.
- The risk that operations would suffer significant downtime would be further offset by the requirement of the current ITN that all program source code must be escrowed in favor of OFR should a breach of contract or event of default occur.
- The overall costs to OFR for the development of a functional system would be reduced significantly as would the project timelines for getting the systems online.

Recommendations:

The Council recommends **moving forward with this solicitation**. The work product submitted is one of the best business cases CEG has received to date and we would like to commend the OFR project team on their outstanding work. The Council looks forward to working with your agency on future outsourcing initiatives. If we can be of any further assistance, please do not hesitate to contact us at (850) 414-9200.

Thank you.