

February 16, 2018

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INSPECTOR GENERAL

Mr. Randall J. Meyer
Ohio Inspector General
Office of the Inspector General
James A. Rhodes State Office Tower
30 East Broad Street, Suite 2940
Columbus, OH 43215-3414

Dear Inspector General Meyer:

This letter is in response to the recommendations made by your office to the Ohio Department of Administrative Services (ODAS) in File ID Number: 2017-CA00014B.

ODAS strongly believes in the need to improve its policies and procedures when issues are identified. We greatly appreciate the IG's office taking the time to investigate this matter.

We made significant changes to the overall procurement process last June when we revised our State Term Schedule (STS) process by requiring three quotes on every contract whenever possible. In those instances where it is not possible, we now require the agency seeking the contract to request Controlling Board approval for a waiver in each case. Additionally, we committed to providing a quarterly report to the Controlling Board of all State Term Schedule procurements and to make the report public. As of today, we have issued two reports.

This improvement also was noted by your consultant Procurement Integrity Consulting Services, LLC, in their analysis as a procurement integrity requirement that will "better ensure the fair and equitable treatment of contractors and enhance the safeguards in the expenditure of the state's limited tax dollars."

DAS conducted presentations for state agency procurement personnel to review changes related to the June 12, 2017 Controlling Board action that requires obtaining three quotes or Controlling Board approval.

We also reorganized our procurement operations by moving IT procurement out of our Office of Information Technology and placing it under our General Services Division, creating synergy and consistency within the agency and overall procurement efforts.

As you are aware, we also are working with the Ohio Auditor of State's Office to further update our procurement policies and practices which will address many of the recommendations made in your report. We expect to receive their recommendations soon and will continue to work with the auditor's office to improve our operations.

The following action items detail how your office's recommendations are being implemented:

Recommendation 1: Reinforce, through policy, that all competitive procurements will be fair, open and transparent, and further to establish a requirement that when state term schedule contracts cannot be competitively awarded by a request for quote (RFQ) and/or by obtaining three quotes, that sufficient written justification is documented as to why the non-competitive process was selected, and to certify the accuracy and completeness of the justification. With this written justification, the procurement records will better support the appropriateness of approaching Controlling Board for waiver of competitive selection. Written justification should include, at a minimum:

- That efforts were made to find other responsive state term schedule contractors and a determination that none were found;
- How a determination was made that the anticipated cost would be fair and reasonable; and,
- A description of any other facts supporting the use of other-than-full and open competition.

Action: DAS is updating its policies and procedures to include language that all competitive procurements must be fair, open and transparent and that sufficient written justification is documented to support the selection of a vendor and the awarding of a contract.

The Office of Procurement Services also is evaluating the State Term Schedule (STS) program and looking at alternatives to reduce its usage and already has taken steps in that direction including the use of other types of competitive contracts.

Recommendation 2: Update and issue (in final form) clear, concise, and uniform contracting policies and procedures to include obtaining a minimum of three quotes and making its vendor selection based on lowest cost or best value. When selection best value, sufficient written justification must be required to explain why the vendor was selected. Written justification for best value should include, at a minimum:

- An explanation of the tradeoff criteria used for the determination, such as enhanced delivery schedule, experience in similar efforts, and/or qualifications of the personnel who will be performing the work; and,
- The reason why the price premium is advantageous for the government based upon an assessment of the evaluation factors identified in the solicitation.

Action: DAS is updating its policies and procedures to address vendor solicitation and selection justification and awaits a final report from the Auditor of State that will provide additional insight.

Recommendation 3: Establish a process which ensures clear lines of authority that promotes a separation between the ability to request contract actions and those who authorize and/or approve the requested contract actions. Separation should include:

- Description of the original need;
- Verification of the requirements;
- Verification of specification;
- Authorization for follow-on; and,

- Authorization for renewals, change orders, or contract modifications.

Action: DAS reorganized the agency to separate the IT procurement group from the Office of Information Technology. Additionally, the release and permit process has been modified to ensure that separation of duties exists for initiating a procurement, governance review and authority to approve procurement actions.

Recommendation 4: Establish a *Contractor Performance Assessment* process and reporting system that is based on objective facts and can be supported by program and contract management data. The assessment should include, in part: performance, cost, and scheduled, both positive and negative.

Action: DAS is actively pursuing an assessment and reporting system. The Request for Proposal Scope of Work for the Next Generation eProcurement Solution that is currently under evaluation includes functional requirements to capture and report on supplier performance. After implementation of the solution, guidelines and training will be developed to support better reporting of program and contract management data.

Recommendation 5: Consider establishing an independent *Competition Advocate* which is an employee specifically assigned the task of challenging barriers to the process of and promoting full and open competition. The purpose of the role reflects the belief that competition is the cornerstone of any procurement system and is a critical tool for achieving the best return on investment possible for taxpayers. Competition advocates normally hold a senior position within the organization, may perform these duties as part of their other responsibilities, and are fully empowered to perform the following:

- Promoting full and open competition and challenging barriers to it;
- Reviewing contracting operations to identify –
 1. Opportunities and actions necessary to achieve full and open competition;
 2. The conditions that unnecessarily restrict it;
- Preparing annual reports for the agency head and procurement executive; and
- Recommending goals and plans for increasing competition.

Action: DAS is currently reviewing the duties and responsibilities of the federal Advocates for Competition and evaluating how to incorporate these activities into the Department of Administrative Services.

Additionally, the Request for Proposal Scope of Work for the Next Generation eProcurement Solution that is currently under evaluation includes metrics that will allow us to measure our efforts to enhance open, fair and good-faith competition. Further, the resulting contract will also include a requirement that the contractor will assist the state in supporting and measuring the following key performance indicators outlined in the RFP:

- Increase the percentage of participation in competitive offerings by spend category

- Improve survey results from businesses regarding doing business with the state
- Increase the percentage of spend competitively sourced via the eProcurement solution

Recommendation 6: Consolidate all the recently issued State Term Schedule Guidance (1-5) into a single guidance reducing a misinterpretation by either an agency employee or affected contractors.

Action: The State Term Schedule (STS) Guidance memos are being consolidated into DAS policies and procedures pursuant to the Controlling Board action on June 12, 2017, that required obtaining three quotes or Controlling Board approval and quarterly reports for procurements made using STS contracts. Further, DAS provided presentations to state agency procurement personnel to review the changes to help ensure understanding of the new requirements that went into effect July 1, 2017.

Recommendation 7: Ensure the new three-quote requirement is not limited to state term schedule awards FY 2018 and 2019, but becomes an ODAS policy, appropriately annotated in the ODAS procurement handbook, for all awards under state term schedule authority in the future. ODAS should also consider expanding the three-quote requirement to not only apply to state term schedule but any “other/optional” non-compete type contracts.

Action: The three-quote requirement for State Term Schedule purchases is being incorporated into DAS policies and procedures and will not be limited to FY 2018 and 2019. The policy also will include guidance on soliciting quotes for other optional contract types.

Recommendation 8: When an agency is going to award a contract without providing for full and open competition, there should be sufficient justification for the action in writing; certification for the accuracy and completeness of the justification; and the agency should obtain the approval of appropriate individuals. The requirement for clear written justification ensures sufficient documentation in the procurement files to support the decision to solicit Controlling Board waiver of competitive procurement. Written justification should include, at a minimum:

- That efforts were made to find other responsive contractors and a determination that none were found;
- How a determination was made that the anticipated cost would be fair and reasonable; and
- A description of any other facts supporting the use of other-than-full and open competition.

Action: DAS is updating its policies and procedures to include language that all competitive procurements must be fair, open and transparent and that sufficient written justification is documented to support the selection of a vendor and awarding of a contract.

Recommendation 9: The new Guidance (#1 through #4) issued between June and August 2017, addresses the state term schedule three-quote requirement, but needs to be revised to also address the “Other/Optional” non-compete type contracts.

February 16, 2018

Action: The three-quote requirement for State Term Schedule purchases is being incorporated into DAS policies and procedures and will not be limited to FY 2018 and 2019. The policy also will include guidance on soliciting quotes for other optional contract types. Additionally, we are working with the Ohio Auditor of State's Office on ways to strengthen our processes.

Recommendation 10: Consider the "implied" nature of the "*Letter of Agency Interest*" and discontinue the practice.

Action: DAS is reviewing the "*Letter of Agency Interest*" practice to find ways to promote a fair and open process. DAS currently is consulting with other states to benchmark their practices and gain an understanding of how to improve our process. Additionally, we are working with the Ohio Auditor of State's Office on ways to strengthen this process.

Recommendation 11: Explore the value of adopting a competitive state term schedule contracting method currently utilized by other states such as Florida and North Carolina.

Action: DAS is currently working with these states to gain an understanding of their state term contracting methods.

Recommendation 12: Prior to negotiating future state term schedule contracts or renewing current ones, consider establishing a reasonable range of labor rates (i.e., fee structure) of equivalent positions across all labor categories. The range of labor rates should be based on the discounted labor rates which have been offered in the last two years.

Action: DAS currently is evaluating approaches used by the federal government as well as other states to establish a reasonable range of labor rates of equivalent positions across all labor categories.

Recommendation 13: Determine the viability of developing a *Procurement Integrity Assurance Initiative* designed to assist management in mitigating the risk to procurement fraud and/or abuse and preserving organizational integrity. The initiative should encompass a series of policies and procedures to prevent, detect, and respond to fraud, with an emphasis on prevention, as well as environmental factors (i.e., "Tone at the Top" and "Commitment to Procurement Integrity").

Action: DAS is exploring development of a Procurement Integrity Assurance Initiative to assist management in mitigating the risk of procurement fraud and/or abuse and preserving organizational integrity. Additionally, we reached out to the U.S. Government Accountability Office, Center of Excellence to help us improve our procurement operations. Their mission is to foster effective accountability and help improve government performance and transparency, in addition to ensuring the sound use of public funds.

We appreciate the opportunity to detail the actions that ODAS has undertaken in response to your recommendations. Should you have any questions regarding our response, or need any additional information, please do not hesitate to contact me.

February 16, 2018

Respectfully,

A handwritten signature in black ink that reads "Robert Blair" followed by a stylized flourish or initial.

Robert Blair, Director