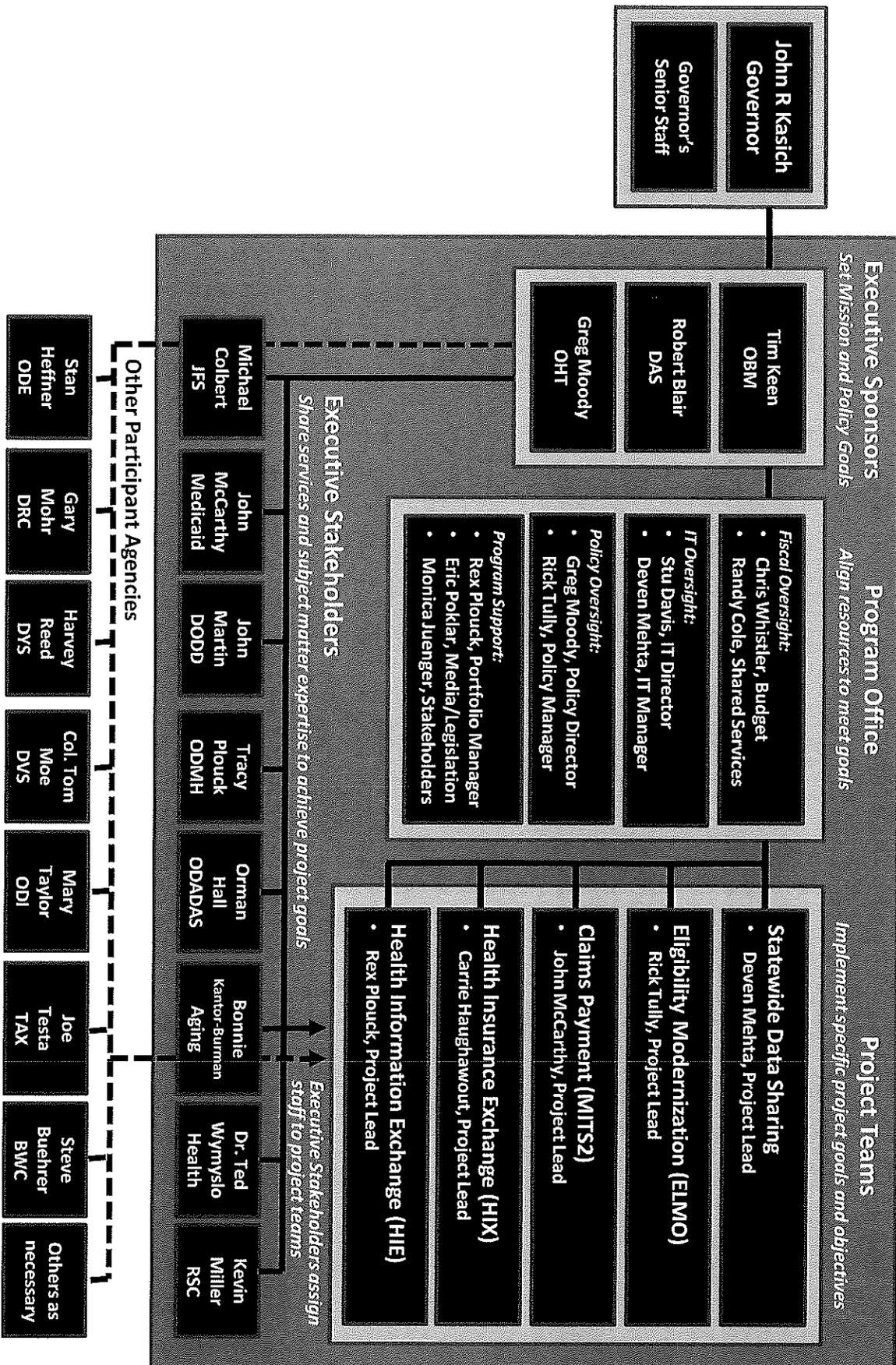


# Ohio Health and Human Services Cabinet





Department of Administrative Services

2018 FEB -5 PM 4:05

February 5, 2018

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-CA00014A. ODAS strongly believes in the need to carry out its mission with integrity and in compliance with the ethics law. The following action items detail how your office's recommendations are being implemented.

**Recommendation #1:****Review the conduct of ODAS employees to determine if administrative action is warranted.**

Action:

The Department of Administrative Services reviewed the actions of CIO Davis outlined in your report and believes he exercised poor judgment in this matter by failing to take every effort to avoid even the appearance of impropriety. Further, he failed to model good decision-making for the employees at DAS. As a result of this review, CIO Davis has been reprimanded and a letter to that effect has been placed in his personnel file.

**Recommendation #2:****Consider providing ODAS employees with additional ethics training.**

Action:

Since the issuance of your report, CIO Davis completed individual ethics counseling. Further, the Department of Administrative Services is working with the Ohio Ethics Commission and by the end of the fiscal year will provide additional ethics training to our staff with particular attention to conferences and vendor relations you identified in your report.

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.

*Service, Support, Solutions for Ohio Government**The State of Ohio is an equal opportunity employer.*

Office of the Director | 30 East Broad Street, Suite 4040 | Columbus, Ohio 43215  
(614) 466-6511 | (614) 644-8151-FAX | [www.das.ohio.gov](http://www.das.ohio.gov)

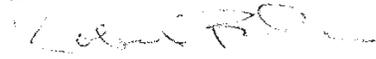
John R. Kasich, Governor  
Robert Blair, Director

# Exhibit 2

Page 2 of 2

February 5, 2018  
Page 2

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Blair".

Robert Blair, Director



Department of Administrative Services

February 16, 2018

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

2018 FEB 16 PM 1:51

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:

*Service, Support, Solutions for Ohio Government*

*The State of Ohio is an equal opportunity employer.*

Office of the Director | 30 East Broad Street, Suite 4040 | Columbus, Ohio 43215  
 (614) 466-6511 | (614) 644-8151-FAX | [www.das.ohio.gov](http://www.das.ohio.gov)

John R. Kasich, Governor  
 Robert Blair, Director

February 16, 2018

**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,

February 16, 2018

- 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

February 16, 2018

- 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 cursive script that reads "Robert Blair".

Robert Blair, Director



December 28, 2018

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

OFFICE OF  
INSPECTOR GENERAL  
2018 DEC 28 PM 3:19

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-CA00014C. ODAS appreciates the input received from the Ohio Inspector General's Office in this and past reports.

Several years ago, ODAS began the process of updating our procurement policy for state agencies, last issued in 2008. This extensive effort included the guidance and feedback of state agency purchasing officers, chief financial officers and legal counsels. During this time, we also received input from the Inspector General, the Ohio Controlling Board and the Auditor of State. As a result of our efforts, complemented by the additional input, the following improvements have been made to our enterprise procurement policies and oversight structure:

- An enhanced procurement policy (State of Ohio Administrative Policy, Procurement PM-01) was issued on December 28, 2018, and effective February 1, 2019, to guide state agencies as they navigate the procurement process. The new policy incorporates prior guidance memos as well as a first-ever definitions section, including definitions of "sole source" and "single source."
- ODAS will offer in-person and webinar training on the new procurement policy in January and ongoing through an online course being developed. All Agency Procurement Officers (APOs) and Chief Fiscal Officers (CFOs) will be responsible for ensuring that current employees with any role in procurement processes participate in training and that future staff review the policy and view the online course.
- To implement the state term schedule agreement reached with the Controlling Board for state fiscal years 2018-2019, ODAS issued six procurement guidance memos in 2017 regarding the use of State Term Schedule (STS) contracts. Among other things, this guidance clarified that state agencies must obtain (not just solicit) a minimum of three quotes or proposals from STS vendors and clarified that a "no response" or "no bid" does not constitute receipt of a valid quote or proposal. The guidance was consolidated into the newly issued procurement policy and Procurement Manual.
- The agreement with the Controlling Board also provides that ODAS must provide quarterly transparency reports to the members of the Controlling Board showing details of state agency purchases against STS contracts. These reports are also posted on the state procurement website at [procure.ohio.gov](http://procure.ohio.gov).

*The State of Ohio is an equal opportunity employer.*

Department of Administrative Services  
Page | 2

- ODAS is completing the transition of enterprise IT procurement from the Office of Information Technology (OIT) under the direction of the state Chief Information Officer (CIO) to the General Services Division (GSD), Office of Procurement Services (OPS) under the direction of the state Chief Procurement Officer (CPO).
- We are in the process of completing the consolidation of the previously decentralized ODAS business offices into one physical location and reporting structure within the agency's Office of Finance. The consolidation of the agency's OIT business office concludes this effort and ensures alignment of procedures as well as strengthens checks and balances on agency purchasing decisions.
- Our IT "release and permit" process was modified to ensure that separation of duties exists for initiating a procurement, governance review and authority to approve procurement actions.
- ODAS has just completed the first phase release of an enterprise eProcurement solution to integrate with the existing state accounting system (OAKS). When fully deployed, this cloud-based solution will enhance open, fair and good-faith competition. The first phase involves 12 early-adopter agencies and provides an eMarketplace catalog environment for certain commonly purchased supplies for use with state payment cards in accordance with policies. The multi-year deployment will occur through 2021 in phased releases for order-to-pay functionality and then solicitation, contract management and data analytics functionality.

Many of these improvements predate your report of November 15, 2018 but are nevertheless relevant to the issues it raises. The following responses detail how ODAS is implementing your recommendations:

#### **Recommendation No. 1:**

Review the conduct of the ODAS employees named in this report and consider whether administrative action is warranted.

#### **Response:**

We have met with the employees involved and verified their thorough understanding of the existing policy as well as performance expectations. We have also confirmed that these employees were following instructions from management at that time. Newly implemented statewide and internal agency policies and organizational structures will prevent this same action and result from occurring in the future. We have determined that administrative action is not warranted.

#### **Recommendation No. 2:**

Review ODAS internal controls to address identified weaknesses and consider adopting policy and/or procedural changes to ensure payments for goods and services are made when ODAS has both received the goods and services, free of defect, and has been supplied a proper invoice as defined in Ohio Administrative Code § 126-3-01.

Department of Administrative Services  
Page | 3

**Response:**

The purchasing process that took place in this circumstance cannot occur again due to the clarity of the new policy and the consolidation of business functions within the Office of Finance. The same decision, made today, would be processed through a different structure of reviews in the Office of Finance. In addition, with clarity given to the definition of "sole source vendor," this purchase would now be clearly identified as not qualifying for a "sole source" purchase.

Furthermore, although the physical consolidation is not yet complete, the Office of Finance has already begun internal training, establishing separation of duties and implementing other processes that will validate that payments for goods and services are made by ODAS only when received, free of defect, and upon receipt of a proper invoice as defined in administrative code.

**Recommendation No. 3:**

Define "sole source vendor" in ODAS' purchasing policies and procedures, specifying the appropriate use of the term's designation and recognizing the mere preference for a vendor, product or service is not sufficient basis for "sole source."

**Response:**

The new State of Ohio Administrative Policy, Procurement PM-01, issued on December 28, 2018, includes a first-ever section of definitions. The definitions are included in Appendix A of the policy and provides a definition of "sole-source procurement," among others.

**"Sole-source procurement.** A procurement from one selected supplier that can be substantiated because a requirement involves a supply or service provided by only one supplier or contractor having exclusive rights (e.g., rights to data, patent or copyrights, proprietary interests, intellectual property or secret processes) to provide the supply or service. A sole-source procurement differs from a single-source procurement because the supply or service is unique."

**"Single-source procurement.** A procurement from one selected supplier, even though there are other suppliers that may provide similar supplies or services. A single-source procurement decision must be justified based on strategic factors, such as continuity of services, standardization, specialized capabilities, warranty, etc., even though other competitive sources may be available. The mere preference for a supplier, product or service is not a sufficient basis for a single-source procurement. Also see sole-source procurement."

**Recommendation No. 4:**

Consider providing ODAS employees with additional procurement and fiscal training.

**Response:**

Statewide Agency Procurement Officers (APOs) and Chief Fiscal Officers (CFOs), including procurement and fiscal staff at ODAS, will be invited to attend an in-person training session that will provide an overview of the new policy with a focus on new requirements. This training will also

Department of Administrative Services  
Page | 4

be offered via webinar for those who cannot attend in person to ensure that as many employees as possible can participate.

The live session will be recorded and posted on the statewide procurement website, [procure.ohio.gov](http://procure.ohio.gov), to be used as a reference guide after training.

Finally, ODAS is developing an online education course that will be available on an ongoing basis to all levels of employees involved in the procurement process. APOs and CFOs will be directed to ensure all current and future staff review the procurement policy and watch the online course.

ODAS appreciates the importance of establishing policies and overseeing the implementation of procurement activities in compliance with Ohio laws, rules, policies and procedures. We understand our role in modeling compliance among all state agencies. While the episode detailed in your report may have fallen short of our own and others' expectations, we have improved in many ways to prevent such shortcomings in the future.

We appreciate the opportunity to convey the improvements we have implemented as well as those still in progress while also detailing the actions undertaken specifically 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.

Respectfully,



Robert Blair  
Director

OFFICE OF  
INSPECTOR GENERAL

2019 FEB 11 PM 3:16

February 11, 2019

Mr. Randall J. Meyer  
Ohio Inspector General  
30 East Broad Street, Suite 2940  
Columbus, OH 43215-3414

Dear Inspector General Meyer:

This letter responds to the recommendations made by your office to the Ohio Department of Administrative Services (DAS) in File ID Number: 2018-CA00013. DAS appreciates the input received from the Ohio Inspector General's Office in this and past reports.

The following responses detail how your recommendations have been implemented.

**Recommendation No. 1:**

Review the conduct of Stonyhurst Consulting LLC; Cindy Afkhami; Steve Zielenski; and Peter Quinn to determine if any action is warranted including debarment pursuant to R.C. 125.25 for their engagement in collusive activities to restrain competition for open CORE project positions and exerting influences on the award of a contract for these open positions.

**Action:**

DAS commenced debarment proceedings against Stonyhurst Consulting LLC; Cindy Afkhami; Steve Zielenski; and Peter Quinn.

**Recommendation No. 2:**

As recommended in Office of the Inspector General Report of Investigation 2017-CA00014B released on December 18, 2017, DAS should consider establishing and implementing a statewide "contractor assessment process that is based on objective facts which can be supported by program and contract management data. The assessment should include, in part, performance, cost, and schedule, both positive and negative." This will allow the state agencies to ensure state funds are expended in an effective and efficient manner.

**Action:**

DAS is actively pursuing an assessment and reporting system. After a competitive selection, we recently awarded a contract for the Next Generation eProcurement Solution. This includes functional requirements to capture and report on supplier performance. We are currently in design sessions with the vendor regarding assessment tools. After implementation of the

*The State of Ohio is an equal opportunity employer.*

February 11, 2019

Page 2

solution, guidelines and training will be developed to support better reporting of program and contract management data.

We appreciate the opportunity to detail the actions that DAS 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.

Sincerely,



Matthew M. Damschroder  
Director



Department of  
Administrative Services

Milke DeWine, Governor  
Jon Husted, Lt. Governor

Matt Damschroder, Director

OFFICE OF  
INSPECTOR GENERAL

2019 NOV 15 PM 4: 26

November 15, 2019

Mr. Randall J. Meyer  
Ohio Inspector General  
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 (DAS) in File ID Number: 2018-CA00011. ODAS appreciates the input received from the Ohio Inspector General's Office in this and past reports.

TSG Partners, LTD received its Minority Business Enterprise (MBE) certification on May 30, 2014. In the years since, our Equal Opportunity Division (EOD) has implemented a more rigorous definition of the one-year requirement. That definition includes requiring an applicant to demonstrate that the business is operational through such things as contracts, payments from customers, documentation of business expenses, equipment necessary to perform the work, and more. In addition, EOD has added more rigor to the applicant review in order to better assess ownership, control of the business, relationships with other businesses, technical expertise, and the totality of the circumstances of the business structure and operation.

Understanding the need for continuous improvement, we are also taking the following actions in response to your recommendations:

**Recommendation No. 1:**

Review the conduct of TSG Partners, LTD and Kyle Schriml to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

**Response:**

We have reviewed the conduct of TSG, LTD and Kyle Schriml and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to TSG Partners, LTD and Kyle Schriml from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

Office of the Director  
30 East Broad Street, 40th Floor  
Columbus, Ohio 43215

614-466-6511  
das.ohio.gov

The State of Ohio is an equal opportunity employer.

November 15, 2019  
Page 2

**Recommendation No. 2:**

Review the conduct of Advocate Consulting Group and Mark Schriml to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

**Response:**

We have reviewed the conduct of Advocate Consulting Group and Mark Schriml and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to Advocate Solutions, LLC, the successor to Advocate Consulting Group and Mark Schriml from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

**Recommendation No. 3:**

Review the conduct of Advocate Solutions to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

**Response:**

We have reviewed the conduct of Advocate Solutions, LLC and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to Advocate Solutions, LLC from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

**Recommendation No. 4:**

Implement a rule change to add Commercially Useful Function criteria to the MBE certification requirements contained in the Ohio Administrative Code §123:2-15. This language is already applicable to state EDGE (Encouraging Diversity, Growth and Equity program) certification through Ohio Administrative Code §123:2-16-15.

**Response:**

We agree that the Commercially Useful Function Criteria would help strengthen Ohio's MBE program and are currently in the early stages of pursuing changes. This change would allow DAS to ensure the MBE is authentically operating the management, workforce, equipment, materials, and performance of the business and is serving a necessary and useful role in the contracted transactions/services. This requirement will help to prevent MBE-certified companies from acting as a "pass-through" or "front company." DAS will continue its practice of watching for red flags that may indicate a "pass-through" or "front company" scheme and will take authorized review and penalty actions accordingly.

November 15, 2019  
Page 3

**Recommendation No. 5:**

Implement a more thorough review process of applications for MBE certification, including on-site reviews and strong affiliated business reviews, to remove the potential of pass-through businesses receiving MBE certification.

**Response:**

In addition to our already enhanced requirements and reviews, DAS will seek to require that MBE-recertification requests include documents that are currently only required at the time of initial application. In addition to the currently required affirmation of the business' continued operation and program compliance, the additional documents would include:

- Most recent annual income statement, profit and loss statement, balance sheet, and cash flow statement
- Three years of business and personal federal tax returns (for each owner)
- Personal net worth statements for the 51-percent owner(s) and spouse(s)

DAS will also seek to require that MBE-certified businesses fully reapply, not just request recertification, every cumulative six-years to verify continued program compliance and eligibility. This six-year reapplication will require submission of a full application and required supporting documentation. EOD will also conduct the deeper review of the business as well as conduct a site visit, which is also conducted at the time of initial application.

Further, DAS is considering the addition of State contract language stating that vendors may incur a financial penalty for intentional abuse of MBE laws or program rules. Vendors would also be required to make up in the future any shortfall in their proposed versus actual minority firm participation in a contract.

**Recommendation No. 6:**

Strongly consider a review of the EOD staffing and budget to assist EOD with the collection, assessment, and enforcement of the MBE program requirements and restrictions. EOD staff will continue to be strained with additional responsibilities from other EOD business enterprise initiatives.

**Response:**

DAS continues to explore alternative funding methods and will revisit this recommendation as a part of the next biennial budget process for FY 2022 – 2023.

November 15, 2019  
Page 4

DAS appreciates the importance of overseeing the MBE set-aside program in compliance with Ohio laws, rules, policies, and procedures. We continue to strive to preserve the efficiency and integrity of the program for our certified participants as well as the State agencies contracting through this set-aside program.

We appreciate this opportunity to share some of our upcoming proposals for improving the certification and accountability requirements of the program. Should you have any questions regarding our response, or need any additional information, please do not hesitate to contact me.

Respectfully,



Matthew M. Damschroder  
Director