

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES
FILE ID NO.: 2017-CA00014C
DATE OF REPORT: NOVEMBER 15, 2018

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2017-CA00014C

SUBJECT(S) NAME/POSITION: Stuart Davis, Former Chief Information Officer
Katrina Flory, Interim Assistant State Chief Information Officer, formerly Chief Administrator
Eric Glenn, Deputy Chief Procurement Officer, formerly Enterprise IT Contracting Administrator

AGENCY: Ohio Department of Administrative Services

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Failure to Comply with State Law and/or Regulations;
Failure to Comply with State or Departmental Rules, Procedures or Policies;
Failure to Enforce Rules or Policies;
Failure to Provide Sufficient Training for Staff and Employees.

INITIATED: April 13, 2017

DATE OF REPORT: November 15, 2018

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On April 13, 2017, the Office of the Ohio Inspector General initiated an investigation into State of Ohio IT procurement processes; specifically, the hiring of IT consultants and contractors using state term schedule contracts. The investigation was based in part, on complaints received by the Office of the Ohio Inspector General, a letter from State Representative Jack Cera articulating concerns regarding State of Ohio IT procurement practices, as well as numerous news articles published in the Columbus Dispatch.

During the course of another investigation released by the Office of the Ohio Inspector General, ROI #2017-CA00014B, investigators became aware of a no-bid contract issue involving Gartner, Inc. (Gartner) that occurred at the end of fiscal year 2017 (FY17). Gartner is a research and advisory company, that advertises it provides businesses with “insights, advice and tools to achieve your mission-critical priorities.” A review of the Ohio Department of Administrative Services (ODAS) Release and Permit system¹ found that the ODAS Office of Information Technology (ODAS OIT) had submitted a “rush” Release and Permit purchase request on June 16, 2017, two weeks before the close of the fiscal year. This purchase request was for Gartner to complete a review of the ODAS OIT procurement processes.

BACKGROUND

The Ohio Department of Administrative Services (ODAS) is responsible for providing support services to state agencies. ODAS is organized into five divisions: Collective Bargaining, Equal Opportunity, General Services, Human Resources, and the Office of Information Technology. The director of ODAS is appointed by the governor and confirmed by the Ohio Senate. ODAS is funded through the general revenue fund and fees charged to agencies for services provided.²

The ODAS OIT delivers statewide technology and telecommunication services to state government agencies, boards, and commissions as well as policy and standards development, lifecycle investment planning, and security management. The following OIT sections carry out

¹ Release and Permit system is an acquisition management tool used to track agency information technology procurement requests.

² Source: Biennial budget documents.

these responsibilities in accordance with the ODAS mission, vision, goals, and principles to provide service, support, and solutions that improve state government.

The state Chief Information Officer's Office provides the management and leadership of ODAS OIT. The state chief information officer is responsible for the strategic direction and efficient use of information technology across the state and for oversight of state IT activities. As such, this program emphasizes planning, research, communication, and collaboration between government entities for the benefit of the state of Ohio, rather than any one particular interest, and is supported by the following program areas:

- OIT Administration
- Business Office

The Investment and Governance Division (IGD) assists state agencies by providing IT policy and standards, as well as investment planning and management, IT procurement and contract management, research, and project support services. IGD consists of the following program areas:

- Enterprise IT Architecture & Policy
- Enterprise IT Contracting
- Project Success Center
- Strategic Investment Management

The Infrastructure Services Division operates the IT infrastructure for the state, which includes the hardware, software, and telecommunication. The division consists of the following program areas:

- Business Support Services
- Data Center Operations
- Enterprise Mainframe Computing and Database Services
- Enterprise Operations
- Enterprise Server Team
- Enterprise Storage Team
- Multi-Agency Radio Communication System

- Unified Network Services

Enterprise Shared Solutions coordinates strategies for the delivery of government information and services electronically. This includes oversight of the Ohio Portal, which enables constituent access to state information and services via the internet, including Ohio.gov and the Ohio Business Gateway. Enterprise Shared Solutions also partners with the Health and Human Services (HHS) Cabinet and the Governor’s Office of Health Transformation to streamline health and human services. The office consists of the following program areas:

- Enterprise Application Management
- OAKS Service Assurance
- Ohio Benefits
- Ohio Geographically Referenced Information Program

The Office of Information Security and Privacy works with internal and external agency customers to lead the creation, implementation, and management of enterprise efforts for information assurance, security, privacy, and risk management.³

Applicable policies and laws

Ohio Administrative Code §126-3-01(A)(4) states:

“Invoice” means an itemized listing showing delivery of the supplies or performance of the service described in the order and the date of the purchase or rendering of the service or an itemization of the things done, materials supplied, or labor furnished and the sum due pursuant to the contract or obligation.

Ohio Administrative Code §126-3-01(A)(5) states:

“Receipt of a proper invoice” means receipt of both (a) an invoice as defined in paragraph (A)(4) of this rule and (b) the purchased equipment, materials, goods, supplies, or services, both of which shall be free of defects, errors, discrepancies, and other

³ Source: www.das.ohio.gov

improprieties. A state agency is in receipt of a proper invoice as soon as it has such invoice and such purchased or leased item(s) or services(s).

SAFE (State Accounting Fiscal Essentials) Policy Manual

Authorized Expenditures (8/21/2015) Pre-payment of Expenses states, in part:

Agencies have no legal authority to provide payment to supplier prior to receiving the good or service. In accordance with OAC 126-3-01, payments for goods or services should be made when the agency has received the goods or services, free of defect, and have proper invoice.

Invoices Prompt Payment (03/20/2017) states:

An agency's responsibility to make prompt payment does not begin until the agency receives the goods or service free of defect and the state receives an invoice that includes an itemized list showing delivery of the commodity or performance of the service, the date of the purchase or rendering of the service, and the sum due pursuant to the contract or obligation. An itemized list requires the breakdown of the service performed, material supplied or labor furnished.

Operating Encumbrances (07/18/2017) states, in part:

Unexpended balances of operating appropriations that an agency lawfully encumbered prior to the close of a fiscal year are available the first day of July of the following fiscal year only for the purposes of expending the encumbrance. Expenditures referencing prior year encumbrances in the subsequent fiscal year must directly relate to activities and/or commitments from that previous fiscal year. Agencies may not use a previous fiscal year purchase order for activities or obligations that occur in the following fiscal year. It is the agency's responsibility to ensure work is completed prior to fiscal year-end ...

Prior fiscal year operating encumbrances for personal services (account category 510s), maintenance (account category 520s), equipment (account category 530s), or items for resale (account category 560s) may stay open for five months from the end

of the fiscal year (July 1-November 30) for the purposes of paying the liability incurred in the prior fiscal year. OBM is required by law to cancel these prior fiscal year operating encumbrances no later than the weekend following November 30 each year.

Written Contracts (1/08/2018) states, in part:

Pursuant to Ohio Constitution Article II.22 and ORC Section 131.33, no Agency is permitted to incur an obligation exceeding its current appropriation authority. In other words, contracts cannot have obligations that extend beyond the end of the state fiscal biennium in which they become effective, because an appropriation does not exceed that timeframe. In general, any contract will need to terminate no later than June 30th of the current state fiscal biennium, though the contract may provide for renewal, subject to appropriation authority, at the discretion of the Agency.

INVESTIGATIVE SUMMARY

On June 16, 2017, ODAS submitted a “rush” Release and Permit purchase request two weeks before the end of the fiscal year and biennium. This purchase request sought to secure Gartner as the vendor to conduct a review of the ODAS OIT procurement processes. On November 6, 2017, the Office of the Ohio Inspector General requested from ODAS copies of all the deliverables provided to ODAS by Gartner, a list of all the “stakeholders” and procurement team members that were interviewed by Gartner, attendees of the three two-hour workshops conducted by Gartner, and the name of the ODAS project manager assigned to the review. On December 13, 2017, investigators received a response to the request from ODAS. After receiving subpoenaed documents from Gartner, including all deliverables provided to ODAS and all correspondence related to the project, it was discovered that ODAS had failed to provide the executive summary that was prepared as part of the procurement review.

The Office of the Ohio Inspector General reviewed the Release and Permit request, which was submitted as a “rush” purchase request on June 16, 2017, two weeks before the end of FY17. The request stated that the purchase was utilizing State Term Schedule (STS) 533904-1-1 and that Gartner was a “sole source” vendor. ODAS Office of Procurement Services procurement

manual states in part, "... Specifying one brand, no equivalent, is considered sole source, which may not be able to be competitively bid." The Agency Purchase Request (APR) stated that ODAS sought to contract with Gartner to conduct a "... procurement control analysis documenting current controls and objectives as well as necessary skills and best practices. Develop recommendations to address identified gaps and address new challenges and potential new approaches." Also attached to the Release and Permit request was an email from Gartner to ODAS dated June 20, 2017. The email stated, "This project will be a single deliverable and Gartner will invoice when work is completed and accepted by the State of Ohio." However, according to the statement of work there were multiple deliverables identified for the project.

[\(Exhibit 1\)](#)

The Release and Permit purchase request was reviewed by ODAS Acquisition Analyst Andrew Miller. In the decision comments, Miller stated:

Per SIM⁴ "This project has been reviewed by SIM Analyst. The review and recommendation comments are: This request has been validated with the project, DAS-OIT-Research and Advisory Services Support and reviewed by the SIM analyst and SIM team determined no additional OIT reviewers are required for the ALPS⁵ Enterprise project."

Per the agency this is for "purchase of Vice Pres, Sr. Director, and Director OIT/Enterprise IT contracting request for Gartner Subscription services from July 1, 2017 to June 30, 2018 for project #330037430."

This procurement is a sole-source FY17 rush purchase for Gartner services to review procurement controls. This request is being made via the Gartner STS contract and the procurement is not to exceed \$35,139.00.

⁴ Strategic Investment Management.

⁵ Application Lifecycle Planning System or Application Lifecycle and Projects System (ALPS) is a software application developed and supported by the ODAS OIT Agency IT Strategy and Investment Management. The ALPS application was instituted in 2012 to support the state of Ohio's IT strategy as it related to improving central IT planning. The ALPS application was used by agency IT administrators to develop and report to OIT an IT strategic plan for their respective agencies. In 2017, ODAS OIT discontinued using the ALPS application.

Miller continued, “I have reviewed, analyzed and recommend this procurement request from DAS as they have stated it addresses their business and technical needs.”

On June 20, 2017, Miller added an additional comment to the decision comments, stating, “After discussions with the agency and EITC management, this request is related to Gartner Consulting Services, which will be paid as a single deliverable not to exceed \$35,139.00, via the Gartner STS contract”

In the decision comments of the Release and Permit request, ODAS Enterprise IT Contracting Administrator Eric Glenn approved the request on June 20, 2017. Glenn stated, “... There are no other vendor options on contract for providing the neutral third-party consulting services requested.”

Investigators reviewed former ODAS Chief Information Officer Stuart Davis⁶ email box. Investigators found an email to Davis dated June 5, 2017, from Christian Fuellgraf, former managing partner of Gartner. In the email Fuellgraf stated,

Per our discussion, I have attached an approach and scope for a review of the procurement control structure. This can stay within the guidance you provided as well. If this does meet your needs, please let me know and I can follow up with detailed pricing information.

On June 8, 2017, Fuellgraf emailed Davis stating, “I will have this to you and special K by Monday morning.” On June 12, 2017, Fuellgraf emailed Davis and ODAS OIT Chief Administrator Katrina Flory⁷ the final version of the procurement controls review proposal, which included a timeline for the project. Gartner stated they anticipated a timeline of four weeks to complete the project. The email states in part:

The Gartner team will conduct a series of workshops and one-on-one and group interviews with key procurement stakeholders and the State Procurement Office staff ... Gartner will develop a final report outlining our findings, actionable and realistic

⁶ Stuart Davis retired effective September 8, 2018.

⁷ Katrina Flory was named interim Assistant State Chief Information Officer on September 10, 2018.

recommendations for improvements based on and contextualized for The State of Ohio. The final recommendations will be a strategic plan along with associated timelines for action. We will present this report to the State as an executive presentation.

On June 12, 2017, the State of Ohio Controlling Board approved a new waiver of competitive selection, including DAS0100912, effective July 1, 2017. DAS0100912 requires state agencies to obtain a minimum of three quotes or proposals when purchasing from STS contracts when submitting for approval purchasing requests of products or services. If the agency obtains fewer than three quotes or proposals, then the agency is required to seek Controlling Board approval of a waiver for “no competitive opportunity” prior to issuing a purchase order except for those items that are continuations of previously procured items.

On June 15, 2017, Fuellgraf sent an email to Flory, stating in part, “... I would like to go ahead now and plan for resources for a start on the project immediately, allowing us to wrap up the majority of the work by the last day of June.” Fuellgraf sent another email to Flory on June 15, 2017. In that email, Fuellgraf stated:

We will begin the interviews with procurement stakeholders ... We anticipate conducting 5 of the stakeholder interviews and expect each one to last one-hour ... The following week we are planning to be on site the 29th and 30th for the workshop and team skills assessment ... Individual analyst interviews will be conducted both in person and on the phone over the next two weeks with some validation and clarifications during the first week of July

On June 16, 2017, Flory sent an email with the APR attached to Annie Efthimiou, policy manager and agency procurement officer at ODAS. Flory stated in the email,

We have engaged Gartner due to the immediate need to address concerns/issues regarding procurement. Gartner has knowledge and expertise in the field of public sector IT procurement that will be valuable to identifying gaps and the development on best practice recommendations.

Efthimiou responded, “Thanks Katrina, I’m attaching to the APR and will approve.”

The purchase order for the Gartner review of ODAS OIT procurement processes was generated on June 21, 2017, in the amount of \$35,138.99. On June 22, 2017, Gartner began work on the project of reviewing the OIT procurement processes. On June 23, 2017, Flory emailed Mark Shell, manager Project Success Center (PSC) ODAS OIT, advising him that Tim Krall, former project manager ODAS OIT,⁸ would be working on the project. Flory stated that Gartner was conducting stakeholder interviews “yesterday and today” with additional research and workshops the following week. Flory added, “... it’s a pretty quick project timeline, but Tim will also be able to engage in the review and implementation of recommendations that come out of this effort ...” The two workshops were conducted on June 30, 2017.

On July 17, 2017, Davis sent an email to Fuellgraf asking when ODAS would receive some of the “draft deliverables ... per the engagement timeline.” On July 25, 2017, Fuellgraf sent an email to Davis, Flory, and Krall with a draft document attached. In the email, Fuellgraf stated he was sending the document for “our review and discussion tomorrow.” Davis’ calendar revealed a meeting scheduled for July 26, 2017, with Fuellgraf and Krall. On September 1, 2017, Davis sent Flory an email with the “draft – recommendations and roadmap” attached. Davis stated in the email, “Look through it ... has my comments ... might want to clean some of the up” Emails reviewed by investigators showed that Fuellgraf continued to work on the draft deliverables and report through the end of December 2017, when he left his employment with Gartner, a full six months after the work was to be completed.

The Office of the Ohio Inspector General subpoenaed records related to the procurement review from Gartner. A review of those records revealed an email dated October 6, 2017, from Eric Glenn to Fuellgraf. The email included an attachment titled “Executive Summary 10 4 2017 v3.docx.” [\(Exhibit 2\)](#) Glenn stated in the email, “... Let’s schedule a time to discuss. I apologize for the number of times rewriting, but we still have some significant disconnects. See my comments in the attached” The attached executive summary which included Glenn’s edits, was dated October 4, 2017. The final version of the executive summary, provided to investigators by Gartner, was backdated to August 1, 2017, and included several edits requested by ODAS OIT. [\(Exhibit 3\)](#)

⁸ Timothy Krall resigned in December 9, 2017.

On September 18, 2017, Gartner submitted to ODAS an invoice in the amount of \$35,138.99, the entire amount approved for the project. On this invoice, in the description section, it stated “upon completion.” On September 25, 2017, and again on October 2, 2017, a financial analyst from the ODAS OIT business office emailed Flory asking if the invoice was approved for payment. On October 3, 2017, Flory responded, “Yes. Please move forward” The invoice was paid by ODAS OIT on October 18, 2017, even though Gartner’s work for the procurement process review had neither been completed nor accepted by ODAS OIT.

On January 8, 2018, investigators conducted an interview with Jim Kennedy, senior deputy director of the Ohio Office of Budget and Management (OBM) and Stacie Massey, state accounting manager for OBM. Massey confirmed that with professional services, agencies cannot use a previous year’s purchase order for work completed in the following fiscal year. Massey further confirmed that it is prohibited for an agency who has not received the final product to pay the corresponding invoice because the payment would be considered as a prepayment. Additionally, Massey stated that it is irregular to receive an invoice that states “upon completion” in the description, as that would indicate the project was not complete and that the invoice was a prepayment for work yet to be completed.

On February 21, 2018, investigators interviewed Christian Fuellgraf, former managing partner of Gartner. Fuellgraf stated that he could not recall whether Stu Davis had reached out to him about reviewing the ODAS OIT procurement processes, or if he (Fuellgraf) had reached out to Davis stating Gartner would be able to conduct the review. Fuellgraf told investigators that Ohio’s procurement processes were “really bad” and that Ohio is one of the “worst states to do business.” Fuellgraf stated that Gartner’s review of ODAS OIT procurement processes focused mostly on the Request for Proposal⁹ process and only “touched on state term schedule contracts.”

Fuellgraf stated that the majority of the work for the ODAS OIT procurement process review was completed by June 30, 2017, and that only “wrap ups and drafts” occurred after that date. Investigators asked Fuellgraf when he provided the final version of the report to ODAS OIT. Fuellgraf stated he could not recall, but believed it was shortly before he left employment with

⁹ Request for Proposal is an invitation for vendors to bid on the right to supply goods or services.

Gartner, “maybe November.” After further questioning by investigators, Fuellgraf admitted that the final version was not complete when he left Gartner in December 2017.

Investigators asked Fuellgraf to reconcile the differing dates on various copies of the executive summaries prepared by Gartner. Specifically, investigators asked Fuellgraf to explain why one copy of an executive summary sent to Eric Glenn on October 6, 2017, was dated for October 4, 2017, and later versions of the executive summary were dated August 1, 2017. Fuellgraf stated that the August 1, 2017, date was the date Gartner “internally closed it, shut down charge codes,” and Gartner was “just trying to wrap it up.” Later during his interview with investigators, Fuellgraf said he could not recall why the dates were changed. Fuellgraf stated, “they wanted it done in August, so I probably just dated it August.” Fuellgraf said he changed the date from October to August on his own and noted that no one had requested him to make the date changes.

On March 22, 2018, investigators interviewed Christie Thomas, ODAS OIT Enterprise IT contracting supervisor. Thomas stated that “sole source” means “... that they would be the vendor um would be the only vendor that would be able to provide that type of work.” Thomas explained that if an analyst reviewing the Release and Permit request had concerns with a “sole source” justification provided in the request, the analyst could discuss the matter with her (Thomas) and she would have a conversation with Eric Glenn to evaluate whether the “sole source” justification was acceptable. Thomas noted that a Release and Permit request that is submitted as a “rush” still receives the same level scrutiny as all other requests, it is just given priority over others.

Thomas stated that it was her understanding that Gartner was selected because of the company’s knowledge and expertise in the procurement process area. Investigators provided Thomas with a copy of the Release and Permit request for her review. Thomas stated that she did return the request to the analyst at the time it was being reviewed, but could not remember if she spoke to the analyst about the request. Investigators also asked Thomas if she knew Timothy Krall. Thomas stated that she did not know who Timothy Krall was and did not know what his involvement was with the Gartner procurement review.

On March 23, 2018, investigators conducted an interview with Eric Glenn, deputy chief procurement officer for ODAS. Glenn said that he reviews and approves agency IT purchase requests. Glenn stated that in October 2017, his job title and supervisor changed, when his department was moved from ODAS OIT to the ODAS General Services Division (GSD) and he reported to Kelly Sanders, chief procurement officer in the ODAS General Services Division. Glenn noted his job duties remained the same. Glenn added that his previous job title was Enterprise IT procurement administrator and he reported to Tom Croyle, chief technology officer of ODAS OIT.

Investigators asked Glenn to describe any changes that were made as a result of moving IT procurement from ODAS OIT to GSD. Glenn stated that Chief Information Officer Stu Davis was still involved in IT procurement from a governance perspective to ensure procurements comply with OIT standards. Glenn stated that final approval of procurements is the responsibility of the ODAS director or his designee. Glenn noted that, to date, his supervisor Kelly Sanders was not involved in IT procurement because she was in the process of being brought "... up to speed to take on that responsibility." Glenn stated that the ODAS OIT business office created the Release and Permit request for the Gartner procurement review at the direction of either Croyle or Davis. Glenn could not recall if he became aware of this procurement through the Release and Permit request or if someone had told him prior to the request.

Glenn stated that there was "sole source" or "single source" language used to justify Gartner's selection. Glenn continued, "... I think also because of Gartner's reputation and having a vendor management and sourcing practice ... as a, sort of an independent ... neutral third party. So ... I believe that was the rationale behind why they were selected." Glenn said that "sole source" was not "... well published in any reference document ... agencies tend to use their version of what they think 'sole source' ... is ... which may not always align with what it truly should be from a procurement standpoint." Glenn stated that his "interpretation" as to why ODAS would have claimed this procurement as "sole source" was that "it was Gartner and their reputation ... as to the work products that they provide and that they're well-known and sort of ... respected in the industry" Investigators pointed out to Glenn that reputation and being an independent third

party does not qualify Gartner as a “sole source,” and asked how that differs from some of the other major companies that provide similar services. Glenn stated,

... it’s the combination of ... not only the reputation but the independent third party, IT advisory service provider and ... vendor management and sourcing practice. So I think it’s the combination of all those things that would tend to make them not be the same as other entities.

Glenn could not explain to investigators why this purchase request was considered a “rush” that needed to be completed before the end of the fiscal year. Glenn speculated that the thought may have been the “sooner you attack, the sooner you put the recommendations in place.” Glenn admitted that ODAS OIT had not implemented any of Gartner’s recommendations, but were waiting on recommendations from the Ohio Auditor of State’s Office before making any changes.

Glenn recalled concerns raised about the hourly rates for the Gartner procurement review and time and material, versus charging a fixed price for the project, but he did not recall any issues with the timing of the procurement review. Glenn recalled the “rate of almost \$500.00 per hour” to conduct the review, a rate ODAS rejected, which was why ODAS agreed to pay a single deliverable fixed price.

Glenn told investigators that he did not believe work that was to be paid for with encumbered monies from a FY17 purchase order had to be completed by the end of FY17. Glenn noted that many state of Ohio contracts start in one fiscal year and continue into the next fiscal year. Glenn said it was his understanding that deliverables did not need to be received by the end of the fiscal year for an agency to pay for those deliverables with monies encumbered by purchase order in that fiscal year.

Glenn noted he did not know who at ODAS OIT would have accepted the final report from Gartner, but admitted the project took a long time because ODAS OIT and Gartner were working and revising the verbiage of the final report. Glenn said he assumed a final report was accepted by ODAS, but did not know when or who received the report. Glenn stated he believed Flory

provided him with a copy of the final report from Gartner. Glenn was surprised when investigators told him that Fuellgraf said the final product was not completed and accepted by ODAS OIT in December when Fuellgraf left Gartner.

Investigators asked Glenn to reconcile the differing dates on various copies of the executive summaries prepared by Gartner. Specifically, investigators asked Glenn to explain why one copy of an executive summary sent to him on October 6, 2017, was dated for October 4, 2017, and later versions of the executive summary were dated August 1, 2017. Glenn stated he did not know why the date was changed or why Gartner would change it. Glenn also said he did not know whether someone at ODAS requested the date be changed from October 4, 2017, to August 1, 2017. Glenn admitted to investigators that the ODAS OIT procurement review was not finalized on August 1, 2017.

On April 19, 2018, investigators interviewed Katrina Flory, chief administrator for ODAS OIT. Flory stated that although IT procurement had been moved from ODAS OIT to GSD, Flory believed Stu Davis was still approving Release and Permit requests for IT purchases “from an IT perspective.” Flory stated because of the investigations and newspaper articles surrounding ODAS OIT procurement, Davis wanted to evaluate the ODAS OIT procurement processes and determine what problems existed. Flory did not know how Gartner was selected as the vendor for the procurement review, but noted ODAS OIT had worked with Gartner in the past and were familiar with their level of expertise. Flory also did not know if Gartner reached out to ODAS OIT to perform the procurement review or if ODAS OIT reached out to Gartner requesting the review. Flory stated that she was responsible for completing the Agency Purchase Request (APR), but said she did not recall whether Stu Davis or Eric Glenn directed her to specify Gartner as the vendor on the APR.

Investigators asked Flory about Timothy Krall. Flory stated that Krall was an ODAS OIT project manager that was new to the project manager group and was from the LeanOhio Office. Flory stated that Gartner wanted an ODAS point-of-contact that could assist in coordinating the interviews with procurement stakeholders and the procurement team. Flory stated that Krall had “available bandwidth” and noted that Krall’s manager Mark Shell said, “Tim can do it.”

Flory said she reviewed drafts of the deliverables but was not involved in and did not receive the final deliverables. Flory said ODAS had received drafts at the end of June and into July, but she did not believe ODAS and Gartner were working on drafts in October or November.

Investigators asked Flory when the final product or deliverables were received. Flory stated, “that I don’t know ... I don’t know if that was in August, cause I think the things ... the final documents are dated August. I believe that’s when it was ... but I wasn’t involved in the final deliverables.” Flory said she believed Glenn received the final deliverables from Gartner. Flory stated she and Davis were involved in reviewing the report, but Glenn was responsible for implementing the recommendations in the report. Flory noted Glenn represented ODAS and worked closely with Fuellgraf on Gartner’s review of ODAS OIT procurement processes.

Flory stated that prior to approving payment on the invoice dated September 18, 2017, she asked Glenn if the invoice could be approved for payment. Investigators noted to Flory that the invoice stated, “upon completion,” indicating that the work had not been completed at the time of invoicing. Flory responded, “ok ... I don’t know ... They usually don’t invoice until things are complete ... I don’t know why it says that. Like I said, usually we get an invoice when the work is complete.” Investigators pointed out to Flory that she approved payment on the invoice on October 3, 2017, the same day she sent an email to Fuellgraf asking for a status update on the ODAS OIT procurement review. Investigators asked Flory if the procurement review was complete on October 3, 2017, when she approved the invoice for payment. Flory stated, “Perhaps it was materially complete.” Investigators asked Flory to explain what she meant by “materially complete.” Flory responded that she meant Fuellgraf “... was putting some final touches on it and was going to get it to us.”

As noted previously, Flory stated she did not receive a final copy of the deliverables but believed Glenn had received them. Flory told investigators that she believed Glenn and Davis would be the appropriate ODAS staff members to receive the final deliverables. When investigators informed Flory that Glenn stated he had not received the final deliverables, Flory responded, “Really ... really ... I find that strange ... I’m surprised by that.” Flory stated that she had to request a copy of the final deliverables from Gartner in November 2017 to fulfill a records

request from the Office of the Ohio Inspector General. Investigators asked Flory how she knew the project had been completed when she approved the invoice for payment. Flory said she had asked Glenn if the invoice could be approved for payment. Flory pointed out to investigators during the interview that they were “running against time” because OBM requires payment of previous fiscal year invoices to be paid by November. Flory stated that she was aware that state appropriations run on a biennium, but she did not know the final deliverables had not been received. Flory said it was her understanding from the “procurement team” that the project’s deliverables could be accepted during the current fiscal year (FY18) as long as most of the work was completed in the previous fiscal year (FY17) and “... if that’s incorrect, I’ll have to go find out.” Flory admitted that the completion of Gartner’s review of the ODAS OIT procurement processes took longer than anticipated.

On August 23, 27, and 28, 2018, investigators made repeated attempts to contact ODAS OIT Chief Information Officer Stuart Davis to schedule an interview. Investigators left messages on Davis’ voicemail account on August 23 and 27, 2018. On August 28, 2018, investigators were notified that Davis left a voicemail message on the Office of the Ohio Inspector General’s main line voicemail account at 4:55 a.m., stating that he could not return investigators’ calls because his assistant was out. Investigators left a message for Davis with Flory, who had answered Davis’ telephone on August 28, 2018. Davis did not respond to that message. On August 29, 2018, investigators sent an email to Davis’ state email account requesting dates and times he would be available for an interview. On September 4, 2018, investigators received an email from private attorney Frank Reed advising that he was representing Davis and that Davis would be retiring from his position with the State of Ohio on September 7, 2018. On September 17, 2018, Reed informed investigators that Davis declined to be interviewed.

During his interview conducted on March 23, 2018, Eric Glenn stated that ODAS OIT had not implemented any of Gartner’s 47 recommendations because ODAS OIT was waiting for any additional recommendations that might be issued from an audit conducted by Auditor of State’s Office. On June 7, 2018, the Auditor of State’s Office released its findings of their ODAS OIT audit. On August 30, 2018, investigators contacted Glenn by telephone to follow-up on what he had stated during his March 23, 2018, interview. Investigators again asked Glenn if any of the

47 recommendations made by Gartner had been implemented by ODAS OIT. Glenn stated that ODAS OIT had started working towards making changes, such as “improving their checklist”; however, Glenn noted that he would need to review all of Gartner’s 47 recommendations before specifying to investigators which recommendations had been implemented. Glenn stated that he would contact investigators with an answer after he had reviewed all of Gartner’s recommendations. One week after this telephone conversation, Glenn had not contacted investigators with his response. Investigators left two messages on Glenn’s voicemail account on September 6 and 11, 2018, requesting he contact them. Glenn did not respond to the messages.

Because Glenn did not respond to voicemail messages from investigators, on September 18, 2018, investigators contacted ODAS General Services Division Interim Deputy Director and Chief Procurement Officer Kelly Sanders for a response. Sanders stated that she had recently spoken with Glenn and that he was drafting his reply which should be completed by the end of the week.

On September 21, 2018, investigators received an email from Glenn. Glenn stated that the document attached to his email was the “State of Ohio’s response to a number of recommendations made by Garter Consulting in the Procurement Controls review document ...”

The table below is the document that was attached to Glenn’s email:

Item	Topic	Recommendation	State Response
1	Financial Management	Develop tools and skills for compiling pricing data for comparison to vendor proposals	This is done today. The Office of Procurement Services (OPS) Enterprise Information Technology Contracting (EITC) will document the comparison approach to be adopted for future procurements. For the eProcurement evaluation process, members of the negotiations team compared pricing across eProcurement proposals received by the state of Ohio in response to the RFP to pricing received for comparable procurements awarded for comparable eProcurement projects across the states.
2	Financial Management	Develop methods, tools and templates for comparing pricing across vendors for a procurement	This is done today. OPS EITC will document its current approach for comparing pricing across vendors for a procurement.

3	Financial Management	Add tool and support for electronic submission of proposals	With the implementation of the State of Ohio's eProcurement solution suppliers will have a tool that supports electronic submission of proposals (sic).
4	Demand Management	Use Governance structures as communication points for Agency demand	Partnered with the Office of Information Technology's (OIT's) Enterprise Architecture and Policy team to issue PC survey for 4th quarter PC demand for end of fiscal year buys and will continue to leverage that structure in the future; OPS EITC also leverages Enterprise planning portfolio work for future purchases.
5	Demand Management	Reestablishment of analysts (sic) participation in the Lines of Business (LOBs) to better understand issues and plan. Analysts should be more proactive and spend time with their agency partners.	OPS EITC leverages the OIT procurement liaison (which is a new OIT role established to be an interface between agencies/OIT and OPS EITC) that participates in LOB meetings and meets regularly with its agency partners to understand issues and plan.
6	Demand Management	Engage with line of business (LOB) lead and Tech Board to better utilize existing governance structure and defined communication paths	In addition to leveraging the OIT procurement liaison in LOB meetings and the EITC meetings with agency partners, EITC staff may be invited to engage with the LOB lead or present a concept or vet an idea with the Tech Board. This existing governance (sic) and communication structure is utilized.
7	Service Management	Review and update processes, workflows and templates which will provide a foundation for repeatable work and target metrics and use this foundation for documenting Procurement across the State	OPS EITC has made updates to its checklists and templates, and uses a dashboard to track its purchase requests; OPS (EITC and non-IT procurement) is working together on common templates, terms and conditions and processes; OPS is hiring a program administrator for procurement policy development and maintenance and process, workflow and template updates; and an outcome of the implementation of the eprocurement (sic) solution will bring consistency, standardization and updates to existing processes, workflows and templates. The consistency and standardization will facilitate the establishment of repeatable processes to mature the teams comprising OPS.
8	HR Management	Identify changes, hiring and training required to meet the DAS mission *Employee services must be brought into this recommendation for more details.	Our procurement operations have been reorganized, by moving IT procurement out of the Office of Information Technology and placing it under the General Services Division, to create synergy and consistency within the agency and overall procurement efforts.
9	HR Management	Identify the specific limits preventing effective HR management and consider changes. The analysts group	OPS EITC has hired staff to address staffing levels concerns.

		should be interviewed to determine their perception of need and gaps in the current staffing level and model	
10	Performance Management	Define expected role of OIT Procurement in Performance Management and the role of the Agencies.	The State recently executed a contract for an eProcurement Solution that will allow OPS (EITC and non-IT procurement) and the agencies to more thoroughly track vendor performance and evaluation.
11	Contract Management	Maintain contract database for key language, Supplies, terms and pricing	OPS EITC uses a contract management solution called Project Information Management Solution, which contains key contract management activity data such as contracts, amendments, pricing, schedule, expiration dates, etc. The implementation of the eProcurement solution will include a more robust contract management module for including contract management activity data and a library of templates, terms and conditions, special clauses, etc.
12	Contract Management	Identify the topics where OIT Procurement and/or OIT legal has been brought in by Agencies and provide advice on these areas up-front in the contracting process	OPS EITC is currently applying lessons learned from prior procurements by revising our templates and standard boilerplate (sic) language for incorporation into our process.

On September 24 and 29, 2018, investigators contacted Glenn, noting that he had only addressed 12 of the 47 recommendations made by Gartner and requesting that he clarify whether the remaining 35 recommendations were implemented by ODAS OIT. On November 1, 2018, Glenn responded to investigators' email from September 24, 2018, regarding the 35 recommendations in question. In the email Glenn states:

Continuous improvement of procurement is an ongoing process. We have implemented those recommendations that represent quick implementations for our organization. We are currently working on several high priority initiatives to improve our procurement practices, which has extended our consideration of the remaining recommendations.

Additionally, we were dealing with multiple issues and recommendations at the same time Gartner released its report. These include:

- Modifications to Controlling Board waivers with the need for contemporaneous guidance rewrites and trainings.

- Review and recommendations by the Inspector General’s Office/Procurement Integrity Consulting Services.
- Review and recommendations by the Auditor of State’s Office.

We did not want to implement anything that was inconsistent with these subsequent and related activities and needed to wait for their completion. We are investing a great deal of time and energy on an e-procurement solution, which was recently awarded. The e-procurement solution will address a number of the recommendations ...

CONCLUSION

On June 16, 2017, ODAS submitted a “rush” purchase request two weeks before the end of the fiscal year and biennium to secure Gartner, Inc. to conduct a review of ODAS OIT procurement processes. Given the scope of the project, the amount of work required for completion, and the extremely limited time-frame in which to complete the work, it was highly unlikely Gartner’s review of ODAS OIT procurement processes could be completed two weeks prior to fiscal year-end and conform to existing State of Ohio fiscal and accounting requirements. The initial project interviews did not begin until June 22, 2017, just eight days before the end of the fiscal year and biennium. Further, the project workshops were not even conducted until June 30, 2017, the last day of FY17. This left no time to write, edit, and finalize the deliverables identified in the statement of work. Gartner specifically stated in the statement of work that they “anticipate a timeline of 4 weeks to complete this engagement.” It is unclear why ODAS OIT engaged in such a rushed procurement; especially, considering the existing state fiscal and accounting requirements, the public scrutiny over ODAS OIT procurement practices, and the soon-to-take effect ODAS STS guidance that required three quotes or Controlling Board approval for purchases referencing state term schedule contracts.

On June 12, 2017, the Controlling Board approved new waivers, including DAS0100912, effective July 1, 2017. DAS0100912 requires state agencies when referencing an STS contract, to obtain a minimum of three quotes or proposals on purchases of goods or services. If the agency obtains fewer than three quotes or proposals, then the agency must seek Controlling Board approval of a waiver for “no competitive opportunity” prior to issuing a purchase order except for those items that are continuations of previously procured items.

On June 16, 2017, ODAS sent out a memorandum titled “State Term Schedule Guidance #1” which requires agencies to obtain three quotes when making a purchase that references a state term schedule contract or obtain Controlling Board waiver of competitive selection effective for all fiscal year 2018 purchases. This was the same day that ODAS OIT submitted the “rush” Release and Permit purchasing request for Gartner’s review of ODAS OIT procurement processes.

The ODAS Release and Permit request for Gartner’s procurement review described Gartner as a “sole source” vendor, but there was no documentation in the Release and Permit system to support or explain how or why Gartner was determined by ODAS to be the only vendor who was able to conduct the review. The only information found by investigators related to “sole source” in the Release and Permit request was a decision comment entered by Eric Glenn stating, “there are no other vendor options on contract for providing the neutral third-party consulting services requested.” The Release and Permit request did include an email from Gartner stating this was a single deliverable and would be invoiced upon completion and acceptance by ODAS.

Based on both a review of the services provided by Gartner and firsthand knowledge that other businesses provide like and similar services, the Office of the Ohio Inspector General found that Gartner did not meet the criteria for a “sole source vendor.” The Office of the Ohio Inspector General determined ODAS OIT used the “sole source” designation as a mechanism to rush and advance the procurement through the process.

The investigation found that on October 6, 2017, Glenn emailed a draft of the executive summary with Glenn’s edits to Christian Fuellgraf, former managing partner at Gartner. The date on that executive summary was October 4, 2017. However, the executive summary provided to the Office of the Ohio Inspector General by both ODAS and Gartner had a date of August 1, 2017. During the interviews with both ODAS employees and Fuellgraf, no one could explain why the date was changed from October 4, 2017, to August 1, 2017. When asked by investigators about the date change on the executive summary, Fuellgraf stated, “they wanted it done in August, so I probably just dated it August.” Glenn confirmed that the procurement review was not complete on August 1, 2017.

The investigation found that on October 3, 2017, ODAS Chief Administrator Katrina Flory approved payment of the invoice which was submitted by Gartner on September 18, 2017, and the invoice was paid by ODAS OIT on October 18, 2017. This payment for the Gartner procurement review was made prior to receiving the final deliverables, in violation of Ohio Administrative Code §126-3-01 and the SAFE Policy Manual, specifically “Authorized Expenditures Pre-payment of Expenses,” “Invoices Prompt Payment,” “Operating Encumbrances,” and “Written Contracts.” During an interview conducted on March 23, 2018, Glenn stated that he did not know who at ODAS OIT would have accepted the final deliverables from Gartner and believed that Flory provided him with a copy. During an interview conducted with Flory on April 19, 2018, Flory stated she believed that ODAS OIT received the final deliverables in August 2017, because “the final documents are dated August.” Flory stated that Glenn and Davis were the responsible parties for accepting the final deliverables from Gartner. Flory said she did not receive the final deliverables and believed it was received by Glenn. Davis, through his attorney Frank Reed, declined to be interviewed as part of this investigation. During an interview with Christian Fuellgraf on February 21, 2018, Fuellgraf stated that the final deliverables were not complete when he left Gartner at the end of December 2017.

The investigation determined there was a lack of knowledge and understanding of state fiscal rules, policies, and the Ohio Administrative Code by ODAS Deputy Chief Procurement Officer Eric Glenn and Chief Administrator Katrina Flory. As top administrative staff of the ODAS OIT who are involved with purchasing and approval of IT-related procurements, these individuals are responsible for knowing and understanding these rules and policies.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Administrative Services to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Administrative Services should:

- 1) Review the conduct of the ODAS employees named in this report and consider whether administrative action is warranted.
- 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.
- 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 a sufficient basis for “sole source.”
- 4) Consider providing ODAS employees with additional procurement and fiscal training.

REFERRALS

This report of investigation will be provided to the Ohio Auditor of State’s Office and the Ohio Office of Budget and Management – Office of Internal Audits for review and consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Administrative Services

FILE ID #: 2017-CA00014C

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
November 15, 2018

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