

MEMORANDUM

To: Chief Information Officers, Chief Fiscal Officers, and Agency Procurement Officers of State Agencies, Boards, and Commissions

FROM: Eric Glenn, Administrator, Enterprise IT Contracting
Kelly Sanders, Chief Procurement Officer

DATE: June 23, 2017

SUBJECT: State Term Schedule Guidance #2

This is the second of several State Term Schedule Guidance documents that DAS will issue to provide information about enhanced transparency measures and associated reporting requirements related to agencies' use of state term schedule contracts.

Initial guidance to implement enhanced transparency measures for the use of State Term Schedule (STS) contracts was issued on June 16. This initial guidance included information on the requirement to obtain at least three quotes or seek a waiver of competitive selection from the Controlling Board; how to address continuations from FY17; use of direct authority; and deadline information to be considered on the Controlling Board agenda for July 10.

The initial guidance generated questions which we will seek to clarify in this second guidance document as well as provide information about the transparency reporting requirements.

A. State Term Schedule Use

To clarify the new requirements for use of STS contracts, a document with questions and answers was developed and is provided as an attachment to this guidance. Some of the topics covered include applicability of the new requirements, how to handle purchases when fewer than three quotes are obtained, MBE set-aside credit and development of Controlling Board requests.

B. Transparency Reporting Requirements

Another new component of the STS contract use is a requirement for DAS to provide a report of each agency's use of STS contracts to Controlling Board members on a quarterly basis. To meet the new reporting requirements, an STS Contract Purchase form is under development to capture data elements that are not currently available in OAKS today, such as details on the quotes received and justification for the selection of the supplier.

Agencies will be required to complete the STS Contract Purchase form for all purchases made using STS purchase authority. The form is currently in testing and is anticipated to be available for agency use when OAKS becomes available in July. Details regarding the completion of the form, how to manage interfaced purchase orders, and information about an upcoming reporting capability for your agency to monitor completion of the form will be provided in a future communication.

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Please direct any questions about this information to Eric Glenn (for IT purchases) at Eric.Glenn@das.ohio.gov and Kelly Sanders (for non-IT purchases) at Kelly.Sanders@das.ohio.gov.

Attachment: State Term Schedule Use Frequently Asked Questions

STATE TERM SCHEDULE USE FREQUENTLY ASKED QUESTIONS June 23, 2017

APPLICABILITY

- 1. Do the new STS purchase requirements apply only to cabinet-level agencies, or do all agencies, boards, and commissions, elected officials and political subdivisions participating in cooperative purchasing need to follow the new processes?**

The new requirement applies to all state agencies, including elected officials, because there are quoting and reporting requirements stipulated in the waiver approved by the Controlling Board. Political subdivisions participating in cooperative purchasing are unaffected by the new requirements.

- 2. In addition to STS contracts, do these changes also apply to other contracts; specifically, multiple award contracts, master maintenance agreements, master license agreements, master service agreements, and master cloud service agreements?**

No, the new requirements are for State Term Schedule purchases only.

- 3. Regarding the STS schedule for office supplies (Bolinds and GBEX), will purchasing agents be required to obtain a third quote from a different vendor?**

The Office Supplies contract with Bolinds and GBEX was awarded through a competitive selection process (it is not an STS contract); therefore, the requirement for three quotes does not apply.

- 4. Does the requirement of three quotes also extend to non-STS direct purchase authority made by agencies or is the guidance strictly for STS?**

The requirement to obtain a minimum of three quotes applies to STS contract purchases only.

- 5. STS Guidance #1 states “These requirements apply to all FY 2018 purchase orders....” Does this mean that current requisitions in OAKS that budget check in FY17, but pay out in FY18 will be affected?**

The three-quote requirement applies to new purchase orders created for FY18 for STS contract purchases only. Disbursements in FY18 against FY17 purchase orders are not affected by the new requirement.

OBTAINING VS. SOLICITING QUOTES

- 1. Do quotes have to be obtained, or is soliciting them enough? Can no-bid replies and no-responses be considered in the number of quotes received?**

For purchases referencing STS contracts, a minimum of three quotes must be obtained (i.e., received) from suppliers. Simply soliciting (i.e., requesting) quotes from STS suppliers does not meet the requirements approved by Controlling Board, nor does counting no-bid and no-responses.

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LESS THAN THREE QUOTES OR SUPPLIERS

1. If three STS suppliers are solicited for quotes and only one responds, or if there are not three STS suppliers available, can additional quotes be sought from suppliers outside of the STS?

Yes, agencies can fulfill the requirement to obtain a minimum of three quotes by obtaining quotes from other suppliers in addition to those that hold an STS contract. However, agencies are encouraged to exhaust all STS supplier quote options before seeking quotes from other suppliers. When obtaining quotes from other suppliers, agencies are discouraged from basing the selection solely on a supplier having an STS contract in place. In addition, agencies obtaining quotes from other suppliers must be prepared to establish the appropriate contract vehicle (e.g., personal services agreement, end user license agreement, etc.) and determine the appropriate purchase authority when a non-STS supplier is selected.

2. Are agencies required to attach the three quotes to a requisition?

While attaching quotes to the requisition is not a requirement, it is a recommended practice for easy retrieval should the agency receive questions about the selection process that led to this particular use of an STS contract.

3. Our agency has invested in certain types of equipment and wants to maintain that relationship; therefore, we will not be able to obtain three quotes. If we want to make a purchase in the amount of \$5,472 and reference the STS contract because the Terms and Conditions are already in place, would we need to seek Controlling Board approval?

Yes, if you intend to use STS as the purchase authority (referencing the STS contract on the purchase order), then you would need to seek Controlling Board approval. Alternatively, an agency can use the STS as the contract vehicle but use their direct purchase authority and not reference the STS contract on the purchase order if sufficient authority exists under the direct purchasing threshold. In this instance, DAS recommends that the agency list the STS contract ID in the PO comments field so it appears on the printed PO and the supplier will understand that the pricing, terms, and conditions of the STS will apply to the specific purchase.

4. Our agency has been using STS suppliers to maintain various databases. We have not received three or more quotes for this service in the past, which means we will need to go to Controlling Board, correct?

Correct.

5. Three quotes are received, with one supplier not being on STS. One of the STS suppliers submits the lowest quote. Can the STS contract still be referenced although not all of the responding suppliers are on the STS? Will this purchase need to go to Controlling Board?

Yes, the agency can reference the STS as the purchase authority for the purchase because the selected vendor is an STS contractor. This purchase will not require Controlling Board approval because three quotes were obtained and the purchase is referencing an STS contract. Agencies are encouraged to exhaust all STS supplier quote options before seeking quotes from other suppliers.

6. There are certain suppliers that have STS contracts that provide goods or services under the contract that are proprietary in nature. When this is the situation, agencies will be unable to solicit three bids based on this guidance and will have to seek Controlling Board approval for

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purchases above \$50,000. Is there any consideration to offering a special waiver for proprietary items covered under state term contracts?

All single-source and sole-source purchases (when an agency could not obtain three quotes) that reference an STS as the purchase authority will require Controlling Board approval prior to creation of the purchase order.

7. Will all purchases not referencing an STS and not having three bids obtained require a Controlling Board waiver (e.g., parking, memberships, subscriptions, etc.)?

No, the new requirement for obtaining a minimum of three quotes or seeking Controlling Board authority if fewer than three quotes are received applies to STS purchase authority only.

8. If a request for quote includes several different items and one of the three responding suppliers can only fulfill part of it (e.g., one out of three items), is this still considered a complete quote? Can it be counted toward the requirement that the agency obtain three quotes?

This is not a complete quote. The expectation is that the three quotes are complete, comparable (apples to apples), meets the agency's expressed needs and can demonstrate the price competitiveness of the selected supplier. In planning for procurements, it is recommended that agencies research the market of suppliers to ensure each prospective supplier's ability to provide valid quotes.

9. Will new suppliers be added to STS contracts to make it easier to obtain three quotes?

DAS will continue to evaluate requests to establish an STS contract, add additional suppliers to an existing STS contract, or determine if another procurement methodology is more appropriate. Agencies can fulfill the requirement to obtain a minimum of three quotes by obtaining quotes from other suppliers in addition to those that hold an STS contract. However, agencies are encouraged to exhaust all STS supplier quote options before seeking quotes from other suppliers.

GENERAL QUESTIONS

1. Our agency currently requires two verbal quotes for all purchases under \$500.00, including STS requests, but the new STS guidance does not specify a dollar threshold for requiring three bids. Are three quotes required for all STS purchases, no matter the dollar amount?

Yes, the new STS requirements for obtaining a minimum of three quotes or seeking Controlling Board authority if fewer than three quotes are received applies, regardless of the value of the STS purchase.

2. Since quotes from contract and non-contract suppliers can be requested, what happens when a non-contract supplier returns a lower quote?

If a non-contract vendor quote is the lowest quote or provides the best value to the state (based on predetermined quote selection criteria), the agency should proceed with the purchase taking into consideration the need for a written contract, release and permit requirements, and Controlling Board approval if the value of the purchase or cumulative spend with the supplier exceeds the \$50,000 threshold.

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PAYMENT CARD PURCHASES

1. *Can payment cards be used to make STS purchases? Or will Controlling Board approval and a purchase order be needed?*

Payment cards can still be used to make STS purchases, but the three-quote requirement still applies. After the purchase is made, an STS Contract Purchase form, but not a purchase order, will need to be completed and captured in OAKS for reporting purposes. Agencies can also elect to use their direct purchase authority and not reference the STS contract. In these cases, the STS Contract Purchase form will not need to be completed.

MBE SET-ASIDE

1. *Page 49 of the Procurement Manual states that two certified MBEs must be identified and engaged for a solicitation to obtain set aside credit (even if one does not respond) for a non-MBE3 contract. How would this new policy affect that statement?*

An agency can still receive set-aside credit for STS purchases; however, the new STS requirements for obtaining three quotes or seeking Controlling Board authority must be taken into consideration if fewer than three quotes are received, regardless of the value of the STS purchase. Currently, there are no exceptions for MBE set-aside STS purchases.

STS CONTRACT PURCHASE FORM

1. *What is the expected turnaround time for approval of the STS Contract Purchase Form after submission? Will an authorization number be issued by DAS upon approval of the STS Contract Purchase Form? Will agencies need to reference that number when entering a requisition?*

There will not be a formal approval process for the STS Contract Purchase form; therefore, DAS will not be issuing authorization numbers for or otherwise reviewing or approving the individual completed forms. Agencies will be responsible for ensuring accurate and timely completion of the form to meet the quarterly reporting requirement to Controlling Board members as stipulated in the approved FY18-19 Controlling Board waiver request. An exception report is under development to assist agencies and DAS with monitoring completion of the STS Contract Purchase form. Additional information will be provided in future guidance.

OIT PROCUREMENTS

1. *Can more detailed information be provided, especially with regard to the OIT procurement process? IT staff often feel bound to procure off of certain OIT contracts. Any clarification would be appreciated.*

The Frequently Asked Questions (FAQs) are regarding the new STS requirements approved by the Controlling Board for the upcoming biennium FY18-FY19. Please follow up with your agency's OIT Enterprise IT Contracting representative for detailed information regarding the OIT procurement process.

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RELEASE AND PERMIT

1. Does this new policy affect blanket release and permits issued by DAS?

The new STS requirements for obtaining a minimum of three quotes or seeking Controlling Board authority if fewer than three quotes are received applies regardless of the expense account code referenced and the value of the STS purchase. This would include agency use of blanket release and permits issued by DAS.

CONTROLLING BOARD REQUESTS

1. Are there any blanket requests that can be made of controlling board or will these be a by purchase order scenario?

Yes, an agency may combine multiple waivers for a single project on one Controlling Board request. The required questions should be answered for each supplier and each vendor should be listed under the supplier information on the request.

An agency can also submit a request with a not to exceed amount if the exact amount unknown (e.g., lab supplies, reagents, EDI transactions, processed pharmacy claims, etc.), monitor the spend, and then seek additional Controlling Board authority, if necessary.

2. When preparing a Controlling Board request for approval to use an STS contract without obtaining three quotes, does the agency need to include a copy of the STS contract as an attachment to the Controlling Board request?

The agency should cite the specific STS contract number in the Controlling Board request narrative, but it does not need to attach the STS contract itself to the request. All STS contracts – including any amendments and price lists – are publicly available at www.procure.ohio.gov.