



OHIO DEPARTMENT OF TRANSPORTATION

DIVISION OF CHIEF LEGAL COUNSEL & EQUAL OPPORTUNITY
1980 WEST BROAD STREET • COLUMBUS, OH 43223 • 614-466-3664
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

February 15, 2013

Randall J. Meyer
Inspector General
Office of the Inspector General
30 East Broad Street—Suite 2940
Columbus, OH 43215-3414

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OFFICE OF
INSPECTOR GENERAL

RE: IG File 2008-332

Dear Inspector General Meyer:

Thank you for your comprehensive investigation of the actions of several ODOT employees and employees of Ace Truck Equipment, A & A Safety, Southeastern Equipment, Rath Builders Supply, Pengwyn, Bain Enterprises, Bain Industries, Honer Construction and Ebony Construction. ODOT would like to offer the following in response to the recommendations found in your report.

RECOMMENDATION 1: Internally review the actions of all employees involved in this report to determine whether their conduct and practice warrants further administrative action or training.

RESPONSE: The agency has reviewed the actions of the employees involved and the following actions have been taken:

- ODOT District 3 Transportation Manager, Phil Shafer, has retired.
- ODOT District 5 Acting Facilities Manager, Keith Raines, resigned.
- ODOT District 7 Storekeeper, David Goffena, was removed. Mr. Goffena was reinstated without back pay as a result of an Arbitration hearing. Upon his return, Mr. Goffena was issued a 154 working day suspension.
- ODOT District 10 Equipment Manager, Thomas McNabb, was removed.
- ODOT District 11 Equipment Manager, Howard Carpenter, resigned.

As a result of this report, ODOT will be reviewing the actions of all current employees named and will take additional action as we deem appropriate.

RECOMMENDATION 2: Continue requiring the fiscal officer's review of quotes to determine the validity of quotes received; whether the required number of quotes were obtained; and the methods used to solicit, accept, and award quotes were compliant with ODOT's Quote Guidelines manual issued in October 2009 prior to approving purchases and charges for payment.

RESPONSE: Fiscal officers are required to review quotes to ensure compliance with ODOT Quote Guidelines. This process is followed by all districts.

RECOMMENDATION 3: Continue the practice of developing generic specifications to avoid soliciting competitive quotes from a specific manufacturer, their dealers, or their distributors since the manufacturers provide discounts to their dealers and distributors potentially resulting in an unfair competitive advantage.

RESPONSE: ODOT currently uses generic specifications whenever possible, however when we do use brand specific language, it is policy to add "or equivalent" to the specification. Central Office is working with the Districts to obtain specifications for items used agency wide. Additionally, we are in the process of developing a standard electronic form that will allow the uploading of standard specifications for the agency.

RECOMMENDATION 4: Revise the Quote Guidelines manual and ODOT purchasing policies and procedures to include reviews verifying the originating fax number and letterhead are for the identified vendor and that is where ODOT purchased the equipment.

RESPONSE: We are exploring the feasibility of using a reverse phone look up for each district. Additionally, we are reviewing the feasibility of moving to all electronic quoting—scan and email.

RECOMMENDATION 5: Consider revising ODOT's policies and procedures to include additional steps taken when equipment is received from one vendor but is invoiced by another vendor. Steps to consider include verifying that ODOT actually received the goods purchased; that both vendors exist; determine the extent of the relationship between the two vendors; and document why the vendor initially awarded the quote did not receive the payment or deliver the goods.

RESPONSE: We are currently verifying receipt of goods with a 2-way match to invoice. We will review procedures to verify vendor match continues.

RECOMMENDATION 6: Revise the Quote Guidelines manual and applicable ODOT policies and procedures to include the process for documenting the date and time of when vendor quotes are received via mail, facsimile, email, or hand-delivered to document the receipt order of quote responses. This will assist the purchaser and reviewer in determining who should be awarded the quote when two vendors submit the same quote amount.

RESPONSE: ODOT is in the process of revising Quote Guidelines to include date and time quotes are received. Currently, our process requires documentation of receiving the response by the deadline.

RECOMMENDATION 7: Implement a process for quotes received for a specific piece of equipment or service to document on the quote the related purchase order or requisition number. Also, for those not used, indicate the quote was not used. This will reduce the chance of a quote solicited for a certain piece of equipment or service being used for a subsequent purchase without the vendor's authorization or knowledge.

RESPONSE: Current agency guidelines allow a quote to be used more than once if the quote is within the documented time period that the quote, on its face, was still valid. This is usually one fiscal year to be used as needed. We are exploring whether to create additional documentation to ascertain whether the quote was used or not.

RECOMMENDATION 8: Continue requiring quotes obtained be sent to the fiscal office as required by the Quote Guidelines manual to ensure quotes are retained in accordance with ODOT's record retention schedule.

RESPONSE: This is an ongoing process that is set by the established retention schedule set by the agency. The agency has implemented a Quality Assurance Review (QAR) to monitor compliance.

RECOMMENDATION 9: Require purchasers to use the direct purchasing authority checklist, previously distributed by the Office of Accounting, for each purchase made which quotes are required to be obtained to ensure the purchase is compliant with ODOT purchasing policies and procedures.

RESPONSE: The agency has implemented this in Procure to Pay Manual Module 1.

RECOMMENDATION 10: Provide to purchasers, payment cardholders, and supervisors annual refresher trainings on current purchasing policies and procedures, revisions of those policies and procedures, and instances of noncompliance, which have occurred since the last training.

RESPONSE: Training in this area is being developed. It is the goal of the agency to utilize eLearning to train employees on the purchasing guidelines.

RECOMMENDATION 11: Conduct annual refresher trainings on fraud and ethics which include unallowable gifts and gratuities for all purchasers, approvers, and require attendees to sign an acknowledgement that they agree to comply with ODOT policies, procedures, and the Ohio Ethics law.

RESPONSE: Pursuant to Executive Order 2011-03K, all employees have annual Fraud and Ethics training conduct by ODOT's Chief Legal Counsel. Enhancements to this training will be considered.

RECOMMENDATION 12: Email purchasers and payment cardholders each time a significant instance of policy or procedural noncompliance is identified as the result of a Quality Assurance Review or the closure of a pending investigation. These emails should be a coordinated effort between the Quality Assurance Review Division, Office of Investigative Services, and the relevant office or division. The email should be sent by individuals within the identified office or division who have responsibility for maintaining and updating the policies and procedures. The emails should include generic references

to the parties, districts, and divisions involved with sufficient detail to permit the reader to identify what policies and procedures were not followed.

RESPONSE: ODOT is developing a form to deal with non-compliance issues and will publish it on its website.

RECOMMENDATION 13: Continue conducting Quality Assurance Reviews in each of the districts and divisions to ensure compliance with significant ODOT policies and procedures and relevant authoritative guidance provided in grant agreements, code of federal regulations, Ohio Revised Code and the Ohio Administrative Code. Past history has shown the increased frequency of these reviews have reduced the number of instances of ODOT employees not complying with policies and procedures.

RESPONSE: Division of Finance has developed a new QAR strategy in which Accounting QAR's will be performed on a monthly basis.

Policies and Procedures

RECOMMENDATION 14: Consider the benefits of standardizing purchasing procedures and documentation requirements for purchasers in all of the districts and divisions to follow to ensure uniform procedures are followed in order to comply with ODOT policies and procedures.

RESPONSE: All current procedures and documentation requirements are located in the Procure to Pay Manual.

RECOMMENDATION 15: Implement and distribute policies addressing the involvement of ODOT vendors in developing specifications and prohibiting those who do assist in the specification development from submitting a competitive quote on those specifications. This should be done to prevent the perception that the vendor assisting with the specifications has additional or inside knowledge about the purchase that has not been shared with other competing vendors. When assistance is needed to develop the specifications, the purchaser should consider the benefit of having a meeting with all of the vendors being solicited to permit all vendors to participate in the drafting of the specifications.

RESPONSE: We are evaluating this recommendation for further action. Additional policies may be forthcoming as a result of this review.

RECOMMENDATION 16: Implement policies and procedures prohibiting vendors from influencing ODOT purchasers on whom they solicit for quotes for a minority purchase and for ODOT employees to avoid directing vendors being solicited for a quote to a specific manufacturer or dealer to purchase the specified item.

RESPONSE: All current procedures and documentation requirements are located in the Procure to Pay Manual.

RECOMMENDATION 17: Update purchasing policies and procedures to incorporate guidance from Ohio Office of Budget and Management's Payment Card manual, the Quote Guidelines manual, and provide refresher trainings and/or emails of changes made to the policies and procedures.

RESPONSE: Pay Card Manual was updated to current OBM specifications in December, 2012. We are contemplating incorporating this information in an eLearning module.

RECOMMENDATION 18: Require purchasers, supervisors, and those with approval authority to complete an annual acknowledgement form documenting they have read and understand ODOT's purchasing policies and procedures.

RESPONSE: This would be a component of the eLearning module when developed.

Annual Purchasing Limit

RECOMMENDATION 19: Consider expanding the contractor prequalification computerized process to include an annual registration process for vendors submitting quotes to conduct business with ODOT. This information should be shared with the Office of Accounting and ODOT purchasers to ensure vendors and their affiliated companies and subsidiaries are not submitting competing quotes in an effort to circumvent the \$50,000 annual purchasing limit.

RESPONSE: ODOT is taking this recommendation under advisement.

RECOMMENDATION 20: Continue the Division of Finance's current monitoring process for determining when vendors have exceeded the annual purchasing limit. When identified, the email should be sent to all purchasers notifying them that the vendor has reached the \$50,000 annual purchasing limit.

RESPONSE: ODOT will continue to publish the weekly \$50K report which identifies non-contract spend for all vendors. Purchasers will be notified immediately when vendors reach \$45K and additional purchases will require Central Office approval.

RECOMMENDATION 21: Review ODOT's internal accounting system and work with the Ohio Office of Budget and Management to determine whether the ability exists to assign vendor numbers and identify affiliated companies for merchant names reflected in the payment card system. If the ability exists, it is suggested the two agencies work together to develop a computerized report which would allow purchasers to have real-time access to total payments made using vouchers and payment cards to determine whether a vendor has reached or would exceed the annual \$50,000 annual purchasing limit.

RESPONSE: ODOT will continue to track corporate vendors to the extent possible and will reach out to OBM for additional statewide tracking.

RECOMMENDATION 22: Consider annually notifying vendors conducting business with ODOT that they are prohibited from acting on behalf of ODOT as an agent to obtain or solicit multiple quotes; their responsibilities are as an ODOT vendor per ODOT's policies, procedures, and the standard terms and condition statements; that they agree to comply with Ohio Ethics laws; and to document their understanding and agreement that the vendors are required to acknowledge electronically or using a hard copy form that they have read and understand the policies, procedures, terms, conditions, and applicable laws as it relates to them.

RESPONSE: ODOT is considering adding this as a term and condition to expressly state it.

RECOMMENDATION 23: Consider for new or infrequently used vendors that the purchaser or approver should research and document that the vendor exists, sells the specified items, and determine whether the vendor is affiliated with an existing vendor which should be considered when calculating the vendors' \$50,000 annual purchasing limit.

RESPONSE: ODOT is taking this recommendation under advisement.

RECOMMENDATION 24: Work with Ohio Shared Services and the Ohio Secretary of State to identify and remove vendors who no longer exist and correct known address errors in the vendor master file maintained by Ohio Shared Services.

RESPONSE: We are considering this recommendation. However, it does not appear to be realistic at the agency level.

RECOMMENDATION 25: Consider the benefits of entering into contracts for frequently purchased items such as truck bodies, arrow boards, and ice control equipment to minimize district or divisional downtime while completing the quote process.

RESPONSE: Many recurring items are on contract currently.

RECOMMENDATION 26: Consider creating a statewide list of vendors selling commonly used items not on contract and distributing those lists to ODOT purchasers as a starting point to identify vendors to contact for quotes. For items not included on this list, amend ODOT's policies to prohibit requesting vendors to provide other vendors for ODOT employees to solicit quotes, and instead require the ODOT purchasers to use the Internet or available industry resources to identify vendors to solicit quotes.

RESPONSE: We are taking this recommendation under advisement.

RECOMMENDATION 27: Continue requiring that a third party reviews items purchased and verifies the equipment and supplies have been entered into the Equipment Management System as received, prior to issuing payment to the vendor.

RESPONSE: We are verifying accounts payable prior to payment of an invoice.

RECOMMENDATION 28: Revise ODOT's current practice to have statements of nepotism, which are currently updated at the time of hiring, transfer or promotion, completed annually. These statements should notify ODOT of changes in potential instances of nepotism and require employees to notify ODOT management should their situation change during the year. When instances are identified, it is recommended information is shared with the appropriate divisions, such as purchasing and contracts to assist those divisions in ensuring conflicts do not occur.

RESPONSE: ODOT HR will formulate a method of having employees file annual nepotism statements and a process for distributing those statements to effected areas.

RECOMMENDATION 29: Revise the nepotism policy to include prohibitions of ODOT employees supervising or being supervised by their spouses and family members; approving matters or having matters approved by their spouses and family members; and from reviewing actions for compliance with ODOT policies by their spouses and family members.

RESPONSE: ODOT HR will update the nepotism guidelines to address these issues.

Respectfully,


Jerry Wray
Director