

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-CA00014B
DATE OF REPORT: DECEMBER 18, 2017

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

“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2017-CA00014B

AGENCY: Ohio Department of Administrative Services

BASIS FOR INVESTIGATION: Complaints

ALLEGATIONS: Failure to Comply with State or Departmental Rules, Procedures or Policies;
Lack of Rules, Policies or Procedures within the Agency or Department;
Failure to Enforce Rules or Policies;
Failure to Exercise Adequate Oversight of Agency/Departmental Functions/Activities

INITIATED: April 13, 2017

DATE OF REPORT: December 18, 2017

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 contractors/consultants using state term schedule¹ 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. The Ohio Department of Administrative Services (ODAS), Office of Information Technology (OIT) has spent millions of dollars on IT consultants, often paying more than \$200 per hour for a single consultant. Many of these IT contracts were routinely awarded without a competitive procurement process to the same companies and individuals year after year.

In an effort to expedite the review of the state of Ohio IT procurement practices and given the magnitude of overall expenditures on IT consultants, the Office of the Ohio Inspector General determined an analysis should be conducted by a procurement expert. Ohio Revised Code §121.48 states in part, “the Inspector General may enter into contracts ... for the services of persons who are experts in a particular field and whose expertise is necessary to the successful completion of an investigation.”

On September 11, 2017, the Office of the Ohio Inspector General received Controlling Board approval to contract with procurement experts, Procurement Integrity Consulting Services, LLC. (PICS).

Procurement Integrity Consulting Services, LLC. (PICS)

PICS is a small business specializing in developing, assessing, and structuring mitigation strategies within procurement operations to ensure contracting integrity, efficiency, and compliance. PICS is owned by Sheryl Steckler and Tom Caulfield.

¹ State term schedule contracts are multiple-year term contracts awarded to several contractors for the same or comparable goods or services. Agencies may purchase any dollar amount from a state term schedule contract without the need for any further competitive process.

Steckler was formerly the inspector general for Palm Beach County and the Department of Children and Families in the state of Florida. Steckler holds a master's degree in Public Administration and a bachelor's degree in Criminology. Steckler is a certified inspector general and a certified inspector general investigator.

Caulfield was a former member of the U.S. Department of Justice National Procurement Fraud Task Force. Caulfield has degrees in Criminology and Criminal Justice. Caulfield is a certified fraud examiner, certified inspector general, and certified inspector general investigator.

On September 20, 2017, the Office of the Ohio Inspector General entered into a contract with PICS to conduct a comparative analysis of the state of Ohio IT procurement processes; specifically, the hiring of IT contractors/consultants. The Office of the Ohio Inspector General detailed the issues and provided the scope of the analysis for PICS.

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 Office of Information Technology (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 these responsibilities according to the ODAS mission, vision, goals, and principles to provide service, support, and solutions that improve state government.

² Source: Biennial budget documents.

The State Chief Information Officer's Office provides the management and leadership of the 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 Officer

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 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 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

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General entered into a contract with Procurement Integrity Consulting Services, LLC. (PICS) to review the state of Ohio IT procurement processes; specifically, to determine:

- If contract awards of non-competitive IT executive consulting services to Advocate Solutions, LLC. and Stonyhurst Consulting, LLC. were consistent with current Ohio procurement policies, and to determine if the staff augmentation contract⁴ should have been considered.
- If ODAS utilized due diligence in awarding specific IT contractors state term schedule status.
- If the utilization of the Controlling Board waiver was required for the IT contract services in the sample set.

³ Source: www.das.ohio.gov

⁴ The IT staff augmentation contract is used by the State and other public-sector organizations as the preferred method for procuring hourly time and material resources.

- If the contract records of the sample set were documented sufficiently to justify a non-competitive procurement, utilization of the waiver authority, and/or other non-traditional processes for Advocate Solutions, LLC. and Stonyhurst Consulting, LLC.
- If the contracting methods used to procure IT contracts were consistent with other common procurement processes of like services and size contracts of other federal and state government organizations.
- If the method used to procure these IT contracts ensure the most cost-effective method of contracting IT services.
- If the method used to procure these IT non-competitive contracts created any opportunities for procurement abuse and/or fraud.

The review period was April 2015 through September 2017.

On December 1, 2017, PICS submitted a detailed report on the comparative procurement analysis to the Office of the Ohio Inspector General. [\(Exhibit 1\)](#)

Based on the PICS report, the Office of the Ohio Inspector General finds that the non-competitive state term schedule procurement practices of ODAS OIT do not align with procurement processes that support fair and equitable opportunities for qualified state term schedule vendors. In addition, the lack of effective procurement integrity controls identified in the analysis threatens the fair, open, and honest market place in which businesses compete. Therefore, the Office of the Ohio Inspector General concurs with the 10 findings and 13 considerations identified in the PICS report.

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)

Based upon the considerations contained in the comparative analysis conducted by PICS, 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. 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 the Controlling Board for a 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.

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 selecting 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.

3. Establish a process which ensures clear lines of authority that promotes a separation between the ability to request contract actions and those who authorize and/or approve the requested contract actions. Separation should include:
 - Description of the original need;
 - Verification of the requirements;
 - Verification of specification;
 - Authorization for follow-on; and
 - Authorization for renewals, change orders, or contract modifications.

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 schedule, both positive and negative.

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.

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.

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.
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.
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.
10. Consider the “implied” nature of the “*Letter of Agency Interest*” and discontinue the practice.
11. Explore the value of adopting a competitive state term schedule contracting method currently utilized by other states such as Florida and North Carolina.

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.

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”).

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 Audit for consideration.



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NAME OF REPORT: Ohio Department of Administrative Services

FILE ID #: 2017-CA00014B

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
December 18, 2017

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