



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Final & Approved Minutes
Friday, October 13, 2017 Meeting of the State Contracting Standards Board
Data Analysis Work Group
Fifth Floor Office of the Executive Director
18-20 Trinity Street, Hartford, Connecticut

Members Present:

Alfred Bertoline, Chair
Bruce Buff
Donna Karnes
David L. Guay, Ex Officio

1. Call to order

Meeting called to order by Chair Bertoline at 11:20 A.M.

2. Approve the minutes of the September 8, 2017 meeting

Motion made by Bruce Buff and seconded by Donna Karnes to approve the minutes of the September 8, 2017 meeting of the State Contracting Standards Board Data Analysis Work Group. All voted in favor.

3. Progress Review

Chair Bertoline initiated discussion and walked the Work Group through proposed elements of a report document and his final observations of the data received.

1. Scope

a. Observations from review of Contract Listings for Fiscal 2016

- i. A robust competitive procurement process generally lowers cost to the State
 - The State may not be optimizing its opportunities here
 - 1. Non-bid contracts totaled \$5.667mil out of \$10.317mil total contracts or 55%
 - 2. Non-bid PSA contracts totaled 74%

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3. On POS contracts, some agencies bid all contracts, some have a mix of bid/non-bid and a few have almost all non-bid – application of bid/non-bid practices vary widely among State agencies
- ii. Shorter duration contracts (say 1 – 3 years) may enhance the competitive procurement process but in addition, will not commit the state to long-term agreements in an environment of rapid economic and technological changes
 1. Of the top 40 PSA contracts, 38 have average terms of over 10 years and two (1 for banking services and 1 for investment services) have terms of 106 and 94 years respectively
 2. Overall, disbursements on open PSA contracts in 2016 totaled \$413mil compared to the total value of contracts outstanding of \$3.231mil. Assuming current year payments are representative, open contracts would cover 7.8 years of contract expenditures. This may indicate that funds are obligated more than what is needed in the current contract to ease the path to contract extension or that open contract durations do average over seven years
 - iii. Long-term PSA contracts may inhibit knowledge transfer to State Employees which might result in higher avoidable costs to the State over time
 1. One opportunity for savings should be training since repetitive training over several years should enhance the transfer of knowledge to State employees to assume responsibility for more training
 2. Consulting and professional services contracts should be analyzed to segregate truly “infrequent and non-routine” parts of the service from the more general, recurring portions that should be performed by State employees thereby producing savings to the State
- b. Determination that further study needed
- i. Survey agencies (Exhibit A)
 1. What they are doing to reduce contracting costs?
 2. What they are doing to encourage greater competition for the work?
 3. What they are doing to minimize knowledge transfer?
 4. Suggestions to minimize outside contracting costs
 - ii. Survey Contractors (Exhibit B)
 1. What they have done and plan to do to reduce costs to the State?

- 2. What would be the effect on costs if a larger portion of work was given to them?
 - 3. What have they done and what do they plan to do to maximize knowledge transfer and training to State employees?
 - 4. Suggestions to procurement process to provide adequate control yet reduce costs to the State
- iii. Select a sample of 50 contracts
- 1. Large \$, no bid POS Contracts 10
 - 2. PSA no bid Contracts
 - a. 10 high \$ contracts covering 10 agencies 10
 - b. Random contracts covering all agencies 30
 - 3. Total contracts selected 50

2. Scope Exceptions

- a. Agencies not responding to survey requests
 - i. DOC - 14DOC0109AA
 - ii. DCF - 16DCF0011AA
 - iii. DOT - 14DOT0097AA, 14DOT0148AA
 - iv. DMAS - 16MHA1021
- b. Contractors - 6 out of 50 responded as follows:
 - i. UNITED WAY OF CONNECTICUT INC
 - ii. COLUMBUS HOUSE INC
 - iii. DATTCO INC
 - iv. AIDS CONNECTICUT INC
 - v. CENTER FOR MEDICARE ADVOCACY INC
 - vi. SECURITY SERVICES OF CONNECTICUT INC

3. Findings

- a. Summary of reasons for no bid contracts
 - i. Mandated to select contractor 36%
 - ii. No reason given 23
 - iii. Contractor unique 23
 - iv. No time 8
 - v. No bidder 5
 - vi. Blanket waiver of POS contracts 5
 - vii. Total 100%
- b. Most responses were superficial

- c. Documentation of waivers and OPM signoff was insufficient
- d. Waivers available presented minimum documentation and justification other than DPH
- e. Cost Savings suggestions:
 - i. RFPs are issued with specific criteria – Often contractors respond with good ideas that differ from RFP specs – can’t be considered under current contract standards – Need some flexibility to take advantage of cost savings
 - ii. Contractor pool may be limited by onerous State contract requirements including Indemnification, Insurance, Protection of Personal Information, and Executive Orders clauses
- f. Interesting dynamics apparent
 - i. Most large direct service providers have little competition on large Contracts and therefore end up as sole source in the procurement process
 - ii. Some agencies believe that if a contractor is on the DAS approved list of vendors that competitive bids are not required
 - iii. Smaller contractors may not respond to RFP due to some onerous requirements in State Contracting
 - iv. Newspaper ads and State websites may not be as relevant for reaching out to qualified contractors to respond to State RFPs – A new approach should be designed, tested and implemented
- g. Cost savings as a priority is not apparent
- h. Knowledge transfer to State employees has little focus
- i. I believe State Procurement is driven by selecting contractors with proven histories of delivering services in a seamless, least disruptive manner. All other criteria such as competitive bidding, reduction in costs, transfer of knowledge to employees and even proper documentation are far down the list of procurement priorities.
- j. I believe there is significant opportunity for savings but there are major cultural barriers that must be addressed, including
 - i. The tone at the top
 - ii. Guidance in how to move from a culture of “just get it done and keep the machine going” to “how does the state maximize the value from each dollar spent.” Value should be defined in terms of the highest Quality, minimal cost and uninterrupted, consistent service.
 - iii. A significant investment in Employee training at all levels
- k. I further believe that a pilot program should be designed and tested in fiscal 2017/2018 with a roll-out to the entire State in fiscal 2018/2019. Further if a 5-10% savings can be achieved in the near-term, it will continue to increase as State employees become comfortable with the process and begin applying their creativity to all procurement tasks performed on a day-to-day basis.

Good morning, all. After reviewing the responses from State Agencies (10 contracts forwarded to me from David), along with the observations we made of the first responses we received in May 2017, I believe we see some commonalities and can transmit these

observations to all interested parties and to make recommendations to improve State processes. I am hopeful that your review of the forwarded information resulted in the same conclusion. As I noted in last month's meeting, there are commonalities found by our sub-group and the audit sub-group which I believe further substantiates our findings. I believe that it is important for us to share our findings and recommendations now based on the apparent pending demise of the State Contracting Standards Board.

My observations are as follows:

The waiver process is too lax and must be tightened up to ensure seeking competitive bids is the preferred course, with exceptions granted under strict scrutiny.

- waivers were granted since the current contract was the result of the competitive bid process and the Agency didn't consider it necessary to seek competitive bid now. In some cases, the current contract was bid 5 - 10 years ago.
- some justifications for waiver point to a federal requirement as if that somehow justifies not soliciting competitive bids.
- some waivers justified not seeking competitive bids because it was too expensive to place an ad in the newspapers. More use of the internet should be encouraged.
- the current waiver process allows an agency to avoid seeking competitive bids if the cost to the State of a competitive solicitation would outweigh to benefits of such a process. This should fall under closer scrutiny and shouldn't be a subjective decision.
- the current waiver process allows an agency to avoid seeking competitive bids if the services is to be performed be a contractor having special capability, unique experience, proprietary service or patent rights. It should not be sufficient to merely state that a contractor is the only one able to do the job and/or another contractor could not be found. Closer scrutiny is necessary since this is a potential area for abuse.

Additionally, as I noted in our previous sub-group meeting, some State Agencies (e.g. DDS) have policies and processes which seem to conflict with containing cost expenditure. This should be discussed, since the solution is a difficult one to find.

2. Draft Response: Data Analysis Subcommittee of the State Contracting Standards Board
3. The State Contracting Board's review of responses to our questionnaire of State Agency procurement practices indicated several deficiencies in State Agency contracting. The most significant of these deficiencies concerns the extensive use of the established procedure for securing waivers from securing competitive bids/proposals. Waivers are reviewed and approved based on insufficient justifications (not enough time to secure competition, no one else can provide the specific service, no apparent benefit to securing competition, etc.), and not enough critical review of these waiver requests is performed.

4. It is extremely important that State Agencies understand the importance of securing competition from suppliers/contractors to achieve the lowest total cost to the State. Competition is the cornerstone of the Federal acquisition system, and should be such with the State of Connecticut. The benefits of competition in acquiring goods and services in the private sector are well established; competitive contracts can save money, improve contractor performance and promote accountability for results. Accordingly, in 1984 the Competition in Contracting Act (CICA) was passed, requiring U.S. Federal Government agencies to arrange “full and open competition using competitive procedures” in their procurement activities. As part of this act, each procuring agency is required to establish a “competition advocate” within its organization to review and challenge any procurement that limits competition.
5. The U.S. General Accounting office has found that when federal agencies open their contracts to competition, they normally realize savings. For example, the Department of State awarded a noncompetitive contract for installation and maintenance of technical security equipment at U.S. embassies in 2003. In response to a GAO recommendation, this contract was competitively bid in 2007 resulting in a cost saving of \$218 million. In another case the GAO found in 2006 that the Army had awarded noncompetitive contracts for security guards, but realized savings of 25% when the contracts were subsequently bid competitively.
6. In 2015, a study was conducted by Matias Busso of the Inter-American Development Bank and Sebastian Guliani of the Economics Department of the University of Maryland on the Effect of Competition on Prices and Quality. The study found a significant and very robust reduction in prices because of the increase in competition. Management consultants hired by private sector companies typically estimates that cost reductions of between 8 and 12 percent can be realized by seeking competition for goods and services. It is a basic tenet of commerce that the market price for a service or good cannot be known until there is competition.
7. Considering overwhelming justification for securing competition as much as possible for the procurement of goods and services, State Agencies should integrate this thinking into procurement routines and increase their efforts to seek competition for contracts supporting their missions and objectives.
8. It doesn't appear requests for waiver are reviewed with sufficient scrutiny. Basic questions are not asked to challenge the Department requesting the waiver. This appears to be a common thread across Departments we have audited.
9. It doesn't appear that there is any Departmental initiative to pursue cost savings. They refer to "workshops" and generalized reviews to achieve cost savings for which they didn't provide details.
10. Regarding the transfer of knowledge, DMAS considers their contractors as partners in providing services, and maintaining open lines of communication apparently keeps the Department current from their perspective - but not to the degree to enable the Department to provide these services currently provided by contractors.

4. Recommendations

Total procurement costs for fiscal year 2016 (\$ in millions)

	GF Payments	Fed. Payments	Other	Total
PSA contracts	\$ 143	\$ 76	\$194	\$ 413
POS contracts	<u>1,393</u>	<u>361</u>	<u>6</u>	<u>1,760</u>
Total	\$1,536	\$437	\$200	\$2,173

Changes to the procurement process including an enhanced competitive bidding process may save the State 8 – 12% per year representing potential savings of \$174 – 260 million for 2016 and \$825 – 1,237 million for all the open contracts as of 6/30/16.

4. Other Business

No other business raised.

5. Adjournment

Motion made by Bruce Buff and seconded by David Guay to adjourn. All voted in favor and the meeting was adjourned at 11:50 A.M.

Respectfully submitted: David L. Guay