

Final Report

**State of Connecticut  
State Contracting Standards Board  
Data Analysis Work Group**

**Findings and Recommendations  
Study of Competitive Bidding Practices**

January 2018

**Members**

Alfred W. Bertoline, Chairman

Bruce Buff

Donna Karnes

David L. Guay, Ex Officio

**State of Connecticut  
State Contracting Standards Board  
Data Analysis Work Group  
January 2018**

**Executive Summary  
Findings and Recommendations**

The Data Analysis Work Group reviewed the Reports to the General Assembly for Personal Service Agreements (PSA) and Purchase of Service Contracts (POS) submitted by the Office of Policy and Management for the fiscal year ended June 30, 2016, dated October 7, 2016. Data from the reports indicated that 55% of all open contracts were not subject to competitive bidding and that 73% of PSA contracts were not competitively bid. This prompted a further study of a sampling of subject contracts to determine the reasons for the high percentage of non-bid contracts.

Please note, the data reviewed does not include, for example such entities as the University of Connecticut, the Judicial Branch and Department of Administrative Services master contracts.

**Our recommendations from this analysis have the potential for the State to realize \$174 - \$264 million in cost savings annually which are summarized as follows:**

**A. Legislation should be passed mandating competitive bidding on all POS and PSA contracts**

We believe a robust competitive procurement process will lower costs to the State. Further, full and open competition using competitive procedures will save at least 8 – 12% in procurement costs annually, which when applied to open contracts for fiscal 2016 might represent annual savings in payments of \$174-260 million and \$824 million - \$1.2 billion on all open contracts outstanding as of June 30, 2016.

**B. The State Contracting Standards Board (SCSB) should be empowered to lead the development of updated procurement regulations and to implement an annual process to measure results, report on compliance and provide the leadership for continuing improvements to procurement practices based on its findings.**

**C. SCSB should develop and implement a world-class procurement staff training and certification program**

# State Contracting Standards Board

## Data Analysis Work Group

### Report to the Full Board

January 2018

Final Report

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#### Introduction

The Data Analysis Group of the State Contracting Standards Board (DAG) reviewed the following reports issued by the State of Connecticut Office of Policy and Management for the fiscal year ended June 30, 2016:

Report to the General Assembly, Personal Service Agreements (PSA), Submitted October 7, 2016

Report to the General Assembly, Purchase of Service Contracts (POS), Submitted October 7, 2016

Contract amounts for fiscal 2016 were as follows:

	Total Open Contract <u>Amount</u>	2016 <u>Payments</u>
PSA Contracts	\$ 3.231 billion	\$ .413 billion
POS Contracts	<u>7.086</u> \$10.317 billion	<u>1.761</u> \$ 2.174 billion

Non-competitively bid PSA contracts represented 73% of total PSA contracts; and although the report doesn't summarize the same data for POS contracts, a review of the detail contract listing indicated that 55% of all open contracts (PSA & POS) were not subject to competitive bidding. Further, the analysis of POS contracts indicated that some agencies bid all contracts, some agencies have a mix of bid/non-bid contracts and a few agencies have almost all non-bid contracts. Competitive bidding practices vary considerably among State agencies.

DAG initial observations from the review of this data.

1. A robust competitive procurement process generally lowers cost to the State – The State does not appear to be optimizing its opportunities to lower procurement costs with its current practices.

2. 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
  - a. 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
  - b. Overall, disbursements on open PSA contracts in 2016 totaled \$413mil compared to the total value of contracts outstanding of \$3.231billion. Assuming current year payments are representative, open contracts would cover 7.8 years of contract expenditures. This may indicate that significantly more funds are obligated on a contract than what is needed to complete the current contract. This over-obligation approach may be used to ease the path to contract extensions and thereby, limit the competitive bidding process.
  
3. Long-term PSA contracts may inhibit knowledge transfer to State Employees which may result in higher avoidable costs to the State over time.
  - a. One opportunity for savings should be to minimize outside contractors for repetitive training over several years as the proper transfer of knowledge to State employees should enable employees to assume more responsibility for training.
  - b. 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.
  - c. Routine work should not be contracted to over-qualified contractors.

DAG concluded that further study was needed to verify its initial findings and perhaps add additional insights to the procurement process. Our further analysis is described in the following “scope of analysis,” and “scope exceptions” and “findings” sections.

### Scope of Analysis

DAG selected a sample of 50 contracts, surveyed the applicable agency regarding procurement practices, summarized its findings and summarized its recommendations for improvement.

Contracts were selected as follows:

	<u>#</u>
• Large-dollar, no-bid POS contracts	10
• PSA no-bid contracts	
○ 10 high-dollar contracts covering 10 agencies	10
○ Random contracts covering all agencies	<u>30</u>
Total	50

Surveys were prepared to be completed by agencies selected to answer the following (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 maximize knowledge transfer
4. Suggestions to minimize outside contracting costs

Surveys were also prepared to be completed by the contractor of each contract selected above to answer the following (Exhibit B):

1. What they have done and plan to do to reduce costs to the State
2. What the effect would be on costs if a larger portion of work was given to them
3. What they have 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

### Scope Exceptions

- a. Agencies not responding to survey requests
  - i. DOC - Contract #14DOC0109AA
  - ii. DCF - Contract #16DCF0011AA
  - iii. DOT - Contracts #14DOT0097AA, 14DOT0148AA
  - iv. DMAS - Contract #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

### Findings

#### 1. Tone at the top

There is little clear direction from the Executive and Legislative branches of State government over important procurement practices for State employees. There are plenty of rules and regulations guiding procurement activities which are found in many State-wide and agency publications, but there is no clear overriding directive on how to maximize the value to the State of each dollar spent. Cost savings appear to be far down the priority list in qualifying a contractor for some State agencies. The culture seems to be "just get the job done and keep the operation going" and one of selecting contractors with histories of delivering services in a seamless, least disruptive manner. These criteria are admirable; but lower priority focus is apparent for competitive bidding, reduction in costs, transfer of knowledge to employees and proper documentation and justification for the contractor selected.

#### 2. Considerable cost savings are not being realized due to no-bid contracting practices.

No-bid contracts represented 55% of all open contracts and 73% of PSA contracts in fiscal 2016.

Our study sample of no-bid contracts had the following reasons for not seeking competitive bids as documented in their waiver requests:

Mandated to select contractor	31%
Contractor-unique qualifications	31
No reason given	19
Blanket waiver on POS contracts	7
No bidder	7
No time	<u>5</u>
	100%

Justification documented for “Mandated to select contractor” indicated that a third party dictated the selection such as Federal funds, legislative or court directives, etc. No supporting court orders or other documentation was submitted to support the statement. “No reason given” for not seeking competitive bids certainly raises compliance issues. “Contractor-unique qualifications” gave several differing reasons including ‘only contractor with this equipment,’ ‘our clients can choose who they are comfortable working with,’ and ‘unique skill sets,’ etc. “No time” and “no bidder” explanations had limited justification and documentation. “Blanket waiver on POS contracts” is self-explanatory.

Our review of the data revealed some interesting dynamics including;

- Most large direct-service providers have little competition on large contracts and therefore end up as single, sole source in the procurement process
- Smaller contractors may not respond to RFP due to some onerous requirements in State Contracting
- 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

### 3. The waiver process from competitive bidding may be too routine and lax

Our sample revealed that one of the major deficiencies in procurement practices is the extensive use of the established procedure for securing waivers from 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.

The following are further examples:

- Waivers were granted because the original (first) contract was the result of the competitive- bid process and the Agency didn't consider it necessary to seek

competitive bids on renewals. In some cases, the current contract was bid 5 - 10 years ago.

- Some reasons for waiver indicate that federal grants and requirements were used and therefore competitive bids were not required.
- Some waivers justified not seeking competitive bids because it was too expensive to place an ad in the newspapers. More use of the internet and new aggressive ways to reach out to contractors 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 by 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.

#### 4. Other findings

- Training – State employee training in procurement practices appears to be insufficient. Procurement procedures are extremely complex, and compliance with the rules, regulations and agency requirements takes initial training and on-going education. We noted that employees assigned procurement responsibilities often had little formal training and too often learned from the person who performed the function before them. This process of education of our procurement personnel heightens the risk that improper practices continue to be passed on to the next person assigned to the task and exposure to non-compliance continues to grow.
- Knowledge transfer – Knowledge transfer from contractor to State employee seems to have little focus in the State's contracting practices. Of the top 40 PSA contracts, 38 have an average term of over 10 years and two (1 for banking services and 1 for investment services) have terms of 106 and 94 years respectively. If original contracts are let because the State does not have the required expertise, it would seem that over time the needed expertise and skills enhancement would be acquired by State employees to diminish the need to continue hiring outside contractors for the continuing scope of services. As a further example, DMAS considers their contractors as partners in providing services, and maintaining open lines of communication apparently keeps the Agency current from their perspective – but not to the degree to enable the agency to provide these services currently provided by contractors. Why should the State continue to pay a contractor to train its junior people over time at the State's cost when the contractor should be training State employees to gain that expertise?
- Contractor suggestions – Contractors had the following suggestions regarding how to improve the procurement process:
  - RFPs are issued with specific criteria – Often contractors would like to respond with good ideas that differ from RFP specifications however, such suggestions can't be considered under current contract standards.

The regulations need some flexibility to take advantage of efficiencies and potential cost savings.

- The Contractor pool may be limited by onerous State contract requirements including Indemnification, Insurance, Protection of Personal Information, and Executive Orders clauses.
- The Contractor Advisory Panel has not been populated with members which limits the benefits from the free-flow of comments and suggestions from contractors on the State Procurement practices.

## Recommendations

### A. Legislation should be passed mandating competitive bidding on all POS and PSA contracts

Legislative and Executive branches adopt a standard vision for all State Procurement requiring Quality, Service and Value. Quality and Service should be determined by the contracting agency, but value should follow the Federal government standards which require “full and open competition using competitive procedures” in their procurement activities. As part of this program, each procuring agency is required to establish a “competition advocate” within its organization to review and challenge any procurement that limits competition. Such changes to the procurement process will save the State at least 8-12% per year, representing potential savings of \$174-260 million for 2016 and \$825 million – 1.2 billion for all the open contracts outstanding as of June 30, 2016.

### B. The State Contracting Standards Board should be empowered to lead the development of updated procurement regulations and implement a process to measure results, report on compliance and provide leadership for continuing improvements to procurement practices based on its findings

The State Contracting Standards Board should direct the redrafting of procurement standards, regulations and procedures to implement the changes required by the new procurement vision. The new standards should address training (direct and on-line) and certification of procurement personnel, enhanced waiver procedures and requirements, knowledge transfer requirements for agencies and contractors, flexibility to take advantage of contractor ideas during the RFP process, perhaps a two-tier procurement process that would take into consideration less onerous contract requirements for lower risk, smaller contracts to encourage more small contractors to participate and a new reach-out program to find alternative ways to communicate contracting opportunities with product and service providers.

### C. Develop and implement a world-class procurement staff training and certification program

- The State Contracting Standards Board should direct and supervise the development of a world-class procurement training and certification program for State procurement employees and design and implement a program to evaluate the effectiveness of the State’s procurement process on an annual basis.



**State Contracting Standards Board  
Data Analysis Sub-Group  
Agency Data Response Form**

Agency:

Commissioner:

Contract #

Contractor:

Description of Services:

Term:

Initial term or number of times renewed?

Review of Waiver:

Reason for waiver

Was documentation for waiver adequate

Was waiver approved by OPM

What is agency doing to reduce contract costs

Was it evident in contract documentation

What is agency doing to maximize knowledge transfer to employees

Was it evident in contract documentation

Changes that would reduce costs of procurement

How is agency encouraging competition in procurement

What examples support this point

Data Analysis Sub-group Reviewer

Name

Date reviewed

Additional follow-up required

Conclusions

**State Contracting Standards Board  
Data Analysis Sub-Group  
Contractor Data Response Form**

Contract #

Contractor:

Description of Services:

Term:

Initial term or number of times renewed?

How many contracts with the State

Agency:

Commissioner:

What is being done to reduce costs to the State

If more contracts were awarded, how would that effect your costs

What is being done to transfer knowledge to State employees

Examples given

Suggested changes to procurement processes to reduce your costs

Data Analysis Sub-group Reviewer

Name

Date reviewed

Additional follow-up required

Conclusions