



Dave Yost • Auditor of State

**DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF INFORMATION TECHNOLOGY PROCUREMENT
PUBLIC INTEREST REPORT
FRANKLIN COUNTY**

TABLE OF CONTENTS

TITLE	PAGE
Cover Letter	1
Public Interest Report.....	3
Recommendations	14
Attachment A: List of Abbreviations	23
Attachment B: DAS Response	25

THIS PAGE INTENTIONALLY LEFT BLANK



Dave Yost • Auditor of State

Robert Blair, Director
Department of Administrative Services
30 E Broad St
Columbus, OH 43215

To Mr. Blair,

We completed certain procedures related to the Department of Administrative Services (DAS) Office of Information Technology State Term Schedule (STS) procurement practices, under the authority of Ohio Revised Code Section 117.11.

Our tests were made in reference to certain applicable sections of criteria, including statutory requirements of the Ohio Revised Code (ORC) or Ohio Administrative Code (OAC); DAS internal policies and procedures; other State of Ohio policies and procedures; the U.S. General Services Administration (GSA) Multiple Award Schedules Desk Reference; and the National Association of State Procurement Officials.

This report is issued under the authority of the Auditor of State's office to conduct audits in the public interest and includes an explanation of our analysis and work performed as part of this engagement.

This engagement is not a financial or performance audit, the objectives of which would be vastly different. Therefore, it is not within the scope of this work to conduct a comprehensive and detailed examination of DAS's STS procurement process.

On April 12, 2018, we held an exit conference with representatives of DAS. On April 26, 2018, the DAS Director submitted an official response to this report and changes were made to this report as deemed appropriate. The Director's response is included as Attachment B to this report.

A handwritten signature in black ink that reads "Dave Yost".

Dave Yost
Auditor of State

May 12, 2018

THIS PAGE INTENTIONALLY LEFT BLANK

Introduction

This review was prompted by a news story in April 2017 headlined “Ohio awards millions in unbid IT contracts, sidestepping state policy, analyst’s protest.” The story reported that the Ohio Department of Administrative Services (DAS) was awarding millions of dollars for IT expenditures utilizing the State Term Schedule (STS) contract method. The article indicated that no competitive bidding was used to award these contracts. The article also indicated that several STS vendors were employing former employees of the DAS IT office and other state agencies, raising concerns about a potential ethics violation.

The Auditor of State launched an examination of the DAS award process and discovered that numerous policy safeguards to prevent possible waste and abuse do not exist and those that do exist weren’t documented well enough to ensure that they are being followed effectively.

This report analyzes the current DAS procurement process for IT products and services off of State Term Schedules and offers recommendations to strengthen internal controls, promote competitive purchasing and to ensure that policies are followed and documented.

Summary of Recommendations

Recommendations	Page in Report
<u>Internal Procedures</u> – DAS should review all procedures relating to Procurement to ensure they correctly address all requirements.	14
<u>Lack of Segregation of Duties</u> – DAS should revise internal policies to require segregation of duties. In cases where this is not possible, DAS should seek additional approval by the Controlling Board.	15
<u>Pricing Issues</u> – DAS should require vendors providing both products and services to provide separate price listings. These price listings should require companies to disclose information similar to what GSA requires on their price listing. Additionally, DAS analysts should be required to complete a more detailed review of purchases off of STS contracts	15
<u>Non-competitive procurement methods for IT services/Controlling Board approvals</u> – DAS should establish a written justification template for when an agency awards a contract without using competitive procurement methods.	17
<u>Evidence of Procedures Performed</u> – DAS analysts should retain documentation to verify that required and suggested steps have been completed in the approval process. Additionally, this documentation should be retained in a centralized procurement information system.	18
<u>Task Order Concerns</u> – DAS should implement a procedure that requires all task descriptions on a Statement of Work (SOW) for services to align with rates on the already approved STS’s Price Listing. The rates in the SOW’s should be less than or equal to those in the STS. In addition, Agencies should be trained on properly writing RFQs so that blended tasks or rates are prohibited from STS contracts.	19
<u>Evaluation of Contractors</u> – DAS should establish a contractor performance assessment process that is based on objective facts and that can be supported by program and contract management data, including performance and cost. DAS should require all State and Local vendors to provide a past performance evaluation report with references as part of the	20

	information packet to become an STS contractor.	
	<u>Extensions and Excessive STS use</u> – DAS should require that all R&P requests from STS schedules detail the projected time line for the entire life of a project. Additionally, they should establish a maximum threshold for a single project to be performed off of Term Schedules.	21
	<u>Requirement for three quotes</u> – DAS should update procedures to implement a maximum order threshold which would require additional quotes and discounts to be sought for individual purchases.	21
	<u>DAS Future Demands</u> – DAS should consider creating a formal process for anticipating future needs for supplies and services.	22

Purpose

The purposes of this review are: (1) To determine what services and products STS based contracts are intended for and if DAS is using the STS procurement method appropriately. (2) To determine how DAS STS policies compare to the federal GSA Supply Schedule Contract Program and (3) To determine if DAS policies and procedures accurately describe the STS process and (4) To determine if the STS process mitigates potential risks associated with the procurement process.

Background

Department of Administrative Services

According to its website, the Ohio Department of Administrative Services provides centralized services, specialized support and innovative solutions to state agencies, boards and commissions as well as local governments and state universities. The agency helps procure goods and services, deliver information technology and mail, recruit and train personnel, promote equal access to the state workforce, lease and manage office space, process payroll, print publications and perform a variety of other services.

To provide these services, DAS is organized into the divisions of Administrative Support, Equal Opportunity, General Services and Human Resources as well as the Office of Collective Bargaining and Office of Information Technology (OIT).

The DAS OIT delivers statewide information technology and telecommunication services to state government agencies, boards and commissions as well as policy and standards development, lifecycle investment planning and privacy and security management.¹

State Term Schedules

DAS maintains a number of optional supply and service contracts known as State Term Schedules (STS). The STS is a system for pre-approving vendors to sell supplies and services to state agencies. This pre-approval process means that state agencies are spared the time and expense of launching a separate formal competitive selection process for every product and service they need to buy. The rationale is that this saves the government money. These schedules are price solicitations that include multiple suppliers for similar types of supplies or services. State Term Schedules are based upon most favored pricing for customers who buy products and services similar to those purchased by Ohio government agencies. In some cases the STS pricing may be based upon the federal government’s Supply Schedule Contract

¹ From DAS website

Program, administered by the General Services Administration (GSA). The State of Ohio recognizes and uses this federal system, in conjunction with its own STS program. The state also uses vendors referred to as non-GSA vendors or State and Local (S&L) vendors. To track all STS contracts, DAS uses a computer software application called OMNICOM.

All agencies may purchase any dollar amount from an STS, provided that approved funds are available to cover the purchase, the agency has obtained at least three quotes and the purchases are in alignment with their agency's mission/goals. Note: this report only reviews OIT related STS contracts. Any reference in this report to DAS is only related to DAS's OIT department.

Purchasing from a State Term Schedule

All IT purchases from STS's that exceed \$25,000 must also have an approved Release and Permit (R&P). Release and Permits are a check and balance process completed by the DAS Procurement department. The approval of an R&P by DAS signifies that the agency has selected an appropriate purchasing mechanism, and the purchase is in alignment with the overall OIT optimization strategy. Agencies are granted a direct purchase authority for cumulative purchases with a vendor up to a limit of \$50,000.

Concerns

In 2008, then DAS Director of Administrative Services, Hugh Quill, issued a directive to DAS Office of Procurement Services (OPS) and state agencies. The directive's intention was to standardize and combine efforts throughout the state for the procurement of supplies and services and information technology needs. Among other things, the Directive requires state agencies to go through OPS when making any information technology purchases costing more than \$25,000. It also requires agencies to obtain a minimum of three quotes from STS suppliers offering similar or like items.

Executive Order 2008-12S (8) states in part, ...order the State Chief Information Officer to transition the information technology procurement functions currently performed with the Office of Technology to the Ohio Chief Procurement Officer by no later than July 25, 2008. According to DAS, two-thirds of the OIT procurement function was placed under the umbrella of OPS General Services Division on July 6, 2008. On April 18, 2014, DAS determined to move all information technology procurement functions back under OIT; at which time DAS did not request an amendment to the Executive Order requesting this transition. This means the 2008 Directive was in fact a requirement for OIT procurements. Additionally, the state of Ohio has not updated this directive since its issuance in 2008.

Methodology for Testing:

Audit work was conducted between July 2017 and February 2018. To complete this report, AOS staff worked closely with DAS staff to gather data and conduct interviews to establish current operating practices. This data and information was reviewed with staff at multiple levels within DAS to ensure accuracy and reliability. Weaknesses in the data obtained are noted within the report where relevant to specific assessments.

To complete the assessments, as defined by the scope and purpose, AOS identified criteria against which current operating practices were compared. The common sources of criteria include: statutory requirements in Ohio Revised Code (ORC) or Ohio Administrative Code (OAC); DAS internal policies and procedures; other State of Ohio policies and procedures; the U.S. General Services Administration (GSA) Multiple Award Schedules Desk Reference; the National Association of State Procurement Officials (NASPO); and government and private sector leading practices. Although AOS reviewed all sources of

criteria to ensure that their use would result in reasonable and appropriate assessments, AOS staff did not conduct the same degree of data reliability assessments as were performed on data and information obtained from DAS.

In order to test STS's, we limited our testing population to only those contracts that were new or renewed during FY16 or FY17. Based on a population of 16 and 33 each year respectively, AOS selected 10 STS OIT contracts from each year to test the controls and to determine if the controls in place adhere to internal policies and industry standards. AOS attempted to include vendors that were both newly approved and renewed during both FY16 and FY17 to test that controls are in place. However, it was determined that there were no renewed STS contracts in FY16 and AOS selected additional new contracts for testing in their place.

AOS also tested ten Release and Permits in both FY16 and FY17 to test the controls and to determine if they adhere to internal policies and procedures and industry standards. AOS's selection was based on the top 10 highest paid voucher amounts.

DAS to GSA Comparison

As part of our testing, we compared the DAS State Term Schedule process to a similarly structured program utilized by the U.S. Government Accountability Office (GAO) General Service Administration. This program, called Multiple Award Schedules, establishes long-term, government wide contracts that provide easy access to more than 25 million commercial products and services that government agencies can buy at volume discount pricing.

The following chart compares GSA requirements to DAS procedures.

	GSA <i>Source: Multiple Award Schedules Desk Reference</i>	DAS <i>Source: DAS Procurement Manual, STS vendor packet instructions; interviews with DAS analysts</i>
Awarding of Contract:		
	GSA conducts market research and electronically posts anticipated needs for products and services via a pre-solicitation notice and synopses at the Federal Business Opportunities (FBO) website.	DAS does not solicit vendors. Agencies submit a "Letter of Interest" for a vendor and vendors contact DAS directly.
	GSA evaluates individual vendor offers for several factors - technical, corporate experience, past performance, quality control, relevant project experience (service contracts only), pricing	DAS does not have a formal policy in place to evaluate vendors
	GSA completes a determination of the vendor's technical responsibility so that ordering agencies do not have to. The review focuses on a contractor's financial resources, integrity, operational controls, technical skills, production-control procedures, quality-assurance measures, property control systems, technical equipment, facilities, and past performance.	DAS has standard terms and conditions for all contracts that are only reviewed if a vendor wishes to make adjustments. In this circumstance, a Subject Matter Expert (SME) and/or legal review would be sought.

	GSA	DAS
Awarding of Contract (contd.):		
	Prior to the award of a Schedule contract, the GSA Contracting Officer negotiates fair and reasonable pricing. The prices or discounts offered to GSA are compared with the prices or discounts offered by the company to its own commercial customers.	DAS analysts are expected to review a vendors' past corporate experience prior to awarding an STS. Analysts are expected to obtain a list of past clients that vendor has contracted with. However evidence of this review is not typically retained.
	Past Performance - Ordering Activities should be evaluated based on past performance and experience	DAS does not have a formal policy in place to evaluate past performance of vendors
	Pricing - GSA compares the prices or discounts offered to the government with prices and discounts offered by the company to its own commercial customers. The vendor's discount practices are examined, evaluated, and used to identify the vendor's "Most Favored Customer" (MFC) pricing. After the price analysis is performed, negotiation strategies are developed based on historical sales data and other market research techniques (e.g. https://calc.gsa.gov)	For a GSA vendor, the analysts will compare the price listing to the GSA listing For a S&L vendor, DAS analysts are expected to compare proposed vendor prices to market prices. Per discussions with analysts, we found no evidence that price analyses were completed.
	GSA schedule contracts have a base period of five years, with the option of three five-year renewals.	STS's are limited to the life of the active GSA contract or two years for S&L based contracts. DAS does not have any policy restricting the number of contract renewals or extensions for STS contracts.
	GSA references the Federal Acquisition Regulations in regards to sole source vendors. It notes that "agency requirements shall not be written so as to require a particular brand name, product, or feature of a product, peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless ... the particular brand name, product, or feature is essential to the government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's needs"	DAS requires requesting agencies to submit an agency letter specifying a vendor they wish to enter a schedule contract with. This implies that the agencies are limiting themselves to purchasing supplies or services from a sole source. Furthermore, for the period covered in this review there was no policy addressing sole source purchases.

	GSA	DAS
Purchasing from a Contract:		
	Purchasing decisions should factor in item characteristics, past performance, warranty, ownership costs, maintenance availability, useful life, environmental and energy efficiency, technical qualifications when determining "best value"	DAS awards to lowest cost or best value vendor. Must provide documented reason for not awarding to lowest vendor.
	GSA purchasers must check to see if a contractor is debarred, suspended, or proposed for debarment prior to placing an order.	DAS completes this step during the awarding of a contract, there is no process for reviewing suspension/debarment when purchasing from a contract
	Purchasers using a GSA schedule are required to ask for price reduction for orders against term schedules that are above the Simplified Acquisition Threshold ²	DAS is expected to assist the agency in securing additional discounts for STS purchases ³ . However analysts claim it is the responsibility of the agency to seek price reductions and/or negotiate to obtain the most favorable pricing on these schedules during the ordering process.
	When an order from a GSA schedule is greater than \$500,000, GSA requires the ordering agency to submit an analysis that verifies the use of a GSA Schedule is suitable, including the specific costs savings and the agency's expertise qualifying it to place an order bids against a schedule rather than receiving bids.	DAS allows any amount to be spent off of an STS contract.
	When acquiring a service that does not rely on the Schedule contractor's commercial description to define the requirements, GSA requires a Statement of Work (SOW) that includes the task, deliverables, and specific delivery dates	DAS does not have a formal policy in place detailing when a SOW is required or what contents are to be included.
	Requests For Quotations should include the SOW and require Contractors to submit a price to provide the services as outlined in the SOW. The price must be based on the prices in the Schedule and can consider the mix of labor categories and level of effort required to perform the services described in the SOW.	DAS does not have a formal policy in place detailing contents of the Request for Quotation

² The Simplified Acquisition Threshold is a dollar amount set by the Federal Government that represents the maximum amount an expenditure can be under a term schedule.

³ As stated on Page 21 of the Procurement Handbook

	GSA	DAS
Purchasing from a Contract (contd.):		
	Firm Fixed Pricing is the preferred pricing structure for GSA based purchases. Documentation is required for any order off a GSA contract that is not Firm Fixed Pricing.	DAS does not have a formal policy for requiring Firm Fixed Price orders and allows agencies to make purchases based on Time and Material ⁴ , without justification for why it is necessary to do so.
	For a blanket purchase agreement utilizing a GSA schedule, the ordering activity must develop a Statement of Work detailing all duties covered by the agreement	DAS does not have a formal policy in place detailing contents of the SOW
	When a GSA order is Time and Material or Labor Hour based, the Schedule must include a ceiling price and a determination of findings form ⁵ must be approved.	DAS does not require additional review for Time and Material or Labor Hour based schedules. These schedules undergo the same scrutiny as product based schedules.
	A determination of reasonable pricing for services offered should be based on the following three variables: Hourly rates, Labor categories proposed to fulfill the task, Number of hours proposed for each category. The ordering agency must analyze the mix of categories, hours, and rates to determine if total price for the task is reasonable.	DAS does not have a formal policy for determining reasonableness of pricing. DAS also allows for the blending of tasks at a single rate
	GSA allows agencies to request additional pricing discounts or concessions from a Schedule contractor.	DAS also allows agencies to seek additional discounts off of STS orders. However they have allowed agencies to accept a price where the discount is applied to a price that is higher than the authorized schedule price. This results in no cost savings, or less savings than it appears.

⁴Time and Material is a standard phrase in a contract for construction, product development or any other piece of work in which the employer agrees to pay the contractor based upon the time spent by the contractor's employees and subcontractors employees to perform the work, and for materials used in the project

⁵ "Determination and Findings" means a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions. The "determination" is a conclusion or decision supported by the "findings." The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation.

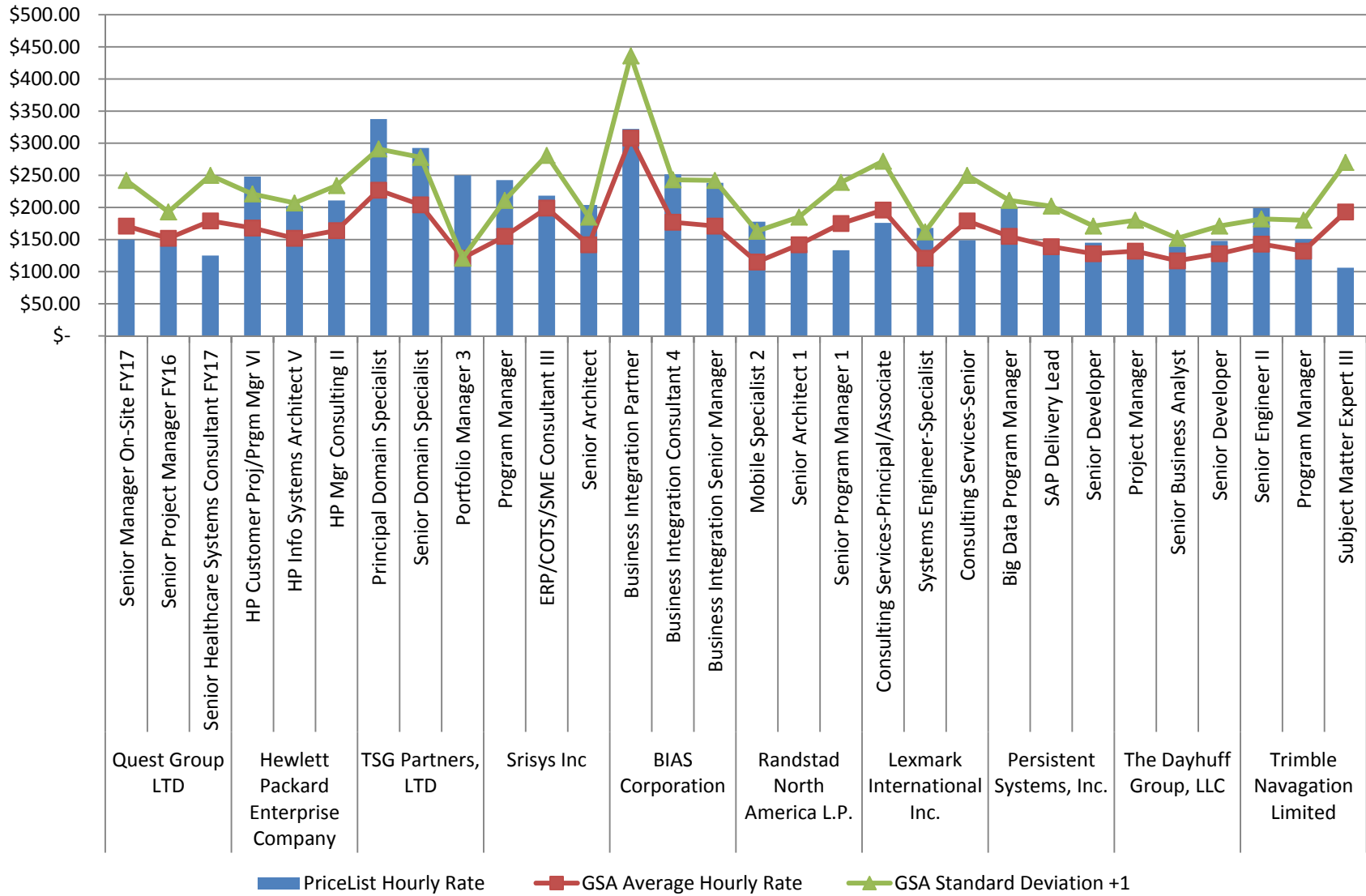
THIS PAGE INTENTIONALLY LEFT BLANK

Price List Testing

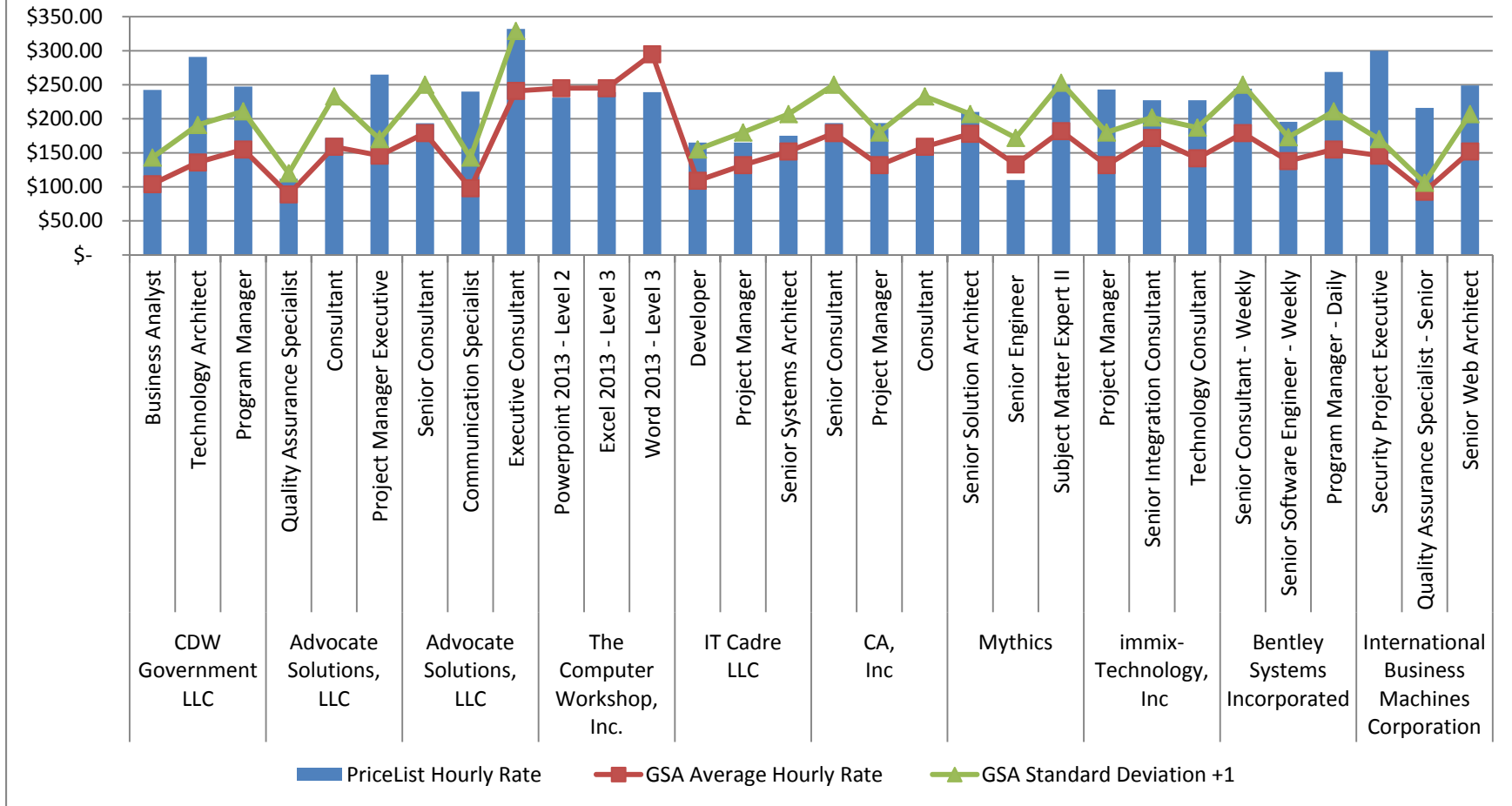
Additionally, we compared several DAS price lists to average rates for the same positions on the calc.gsa.gov website. We also compared the DAS price list to the Standard Deviation +1. We feel this gives a more comprehensive comparison as it was impossible for us to determine a specific vendor's qualifications and experience. This chart is only meant to provide an example to OIT that a market analysis can be performed. While the chart may indicate the price being charged is above the market value there are many factors that would cause the price to exceed the market value that were not available in our review. We did not have access to the education level or work experience of the individuals the companies have to provide these services. We also did not have access to the project scope which would indicate the seniority level required to perform the activity.

While reviewing the website, the staff noticed the individuals charging to these positions ranged significantly. Some individuals were priced well below the market value, while others were priced well above the market price due to the expertise they held in the area. This chart is also meant to support the recommendation that the price listing submitted to DAS for service related expenditures should require companies to disclose in the price listing the education and experience levels of the individuals providing the services. Also, readers of this chart should recognize that those companies that are GSA certified have a price listing that is approved by the Federal government; even if the price is above the market value. See "Pricing Issues" comment in the Recommendations section of this report for more details. See charts below for comparison results:

FY16



FY17



RECOMMENDATIONS

Based on our testing, AOS has the following recommendations for DAS to strengthen its processes for OIT Procurement.

- Internal Procedures
 - The current State of Ohio Procurement Handbook for Supplies and Services does not adequately describe the processes required. During walkthroughs and interviews with DAS analysts it was noted that there are several steps that are expected to occur during the creation and approval of an STS, however these steps are not clearly defined, including when reviews are required.
 - One such example is the requirement for additional reviews by a SME or a Strategic Investment Analyst. DAS analysts claim that it is their experience that guides them as to when further reviews are needed. Additionally, when these consultations are received, there is no formal process for the reviewers to document the review. The only evidence to support the review is an email and these are not consistently maintained in the STS file within the Omnicom System or within the electronic R&P file.
 - Another example is when an agency is looking to get Release and Permit Authorization; they are expected to attempt to obtain three quotes from different vendors. DAS's General Services Division has such a requirement and is also guided by the 2008 DAS Directive GS-D-12 which requires agencies to obtain a minimum of three quotes from various STS suppliers offering similar or like items. OIT does not have such documented guidance and analysts have historically accepted a statement from an agency stating that while it sought a minimum of three quotes, the quotes were never received.
 - There are also situations where different analysts may have different beliefs regarding expectations. During interviews with DAS Analysts, the Analysts state that a potential STS vendor providing services needed to also be a GSA approved vendor. However according to DAS Legal representatives the Controlling Board authority granted to DAS does not support this statement.
 - A checklist for STS contract creation was established by DAS to ensure all required vendor information has been collected and verified by the DAS analysts. However, there is no formal procedure requiring the use of this tool and during testing, AOS noted that it is not regularly used or documented and approved.
 - There are also some key controls that are recommended by GSA that the state's STS program does not address. Some of these include:
 - A formal policy to evaluate the past performance of vendors (See "*Evaluation of Contractors*" recommendation below for more details)
 - Maximum order thresholds for STS purchases
 - Procedures that specifically define the roles of those involved with the STS creation and purchasing process, i.e. Analysts, SIM, SME, Reviewers etc?
- The lack of clearly defined procedures increases the risk for errors, inconsistent application of control procedures, and misuse of government funds.
- **Recommendation** – DAS should review all procedures related to procurement to ensure they correctly address all requirements. At a minimum, these procedures should describe:

- Policies for evaluation of past vendors. These policies should take into consideration GSA's practice of considering a contractor's technical and corporate experience, past performance, quality control, relevant project experience and pricing.
- The establishment of maximum order thresholds for contracts based on term schedules to vendors. This should include the required steps and approvals if a threshold needs to be exceeded.
- Definition of each of the players' roles in the procurement process including when expert reviews are required.
- **Recommendation** – In addition to revamping internal procedures, DAS should revisit and develop more comprehensive employee and agency training. While well documented procedures are the first step to effective processes, procedures are only effective if employees are provided the opportunity to understand and be trained on them.
- Lack of Segregation of Duties
 - Sound internal policies and procedures require segregation between the individual or department requesting a Release and Permit and those individuals with the authority to approve a R&P.
 - During our initial review of several Release and Permits related to the vendors identified in the newspaper article, which were projects of the Department of Administrative Services, we noted that DAS's Chief Information Officer had final approval of the R&P on numerous occasions. During our early meetings with OIT, we informed them that the CIO should not be approving R&P's related to his own projects. Failure to segregate duties could lead to project approvals without independent review.
- **Recommendation** – DAS should revise internal policies to require segregation of duties. In cases where this is not possible, DAS should seek additional approval from the Controlling Board.
 - *AOS NOTE:* Since the release of the article, DAS has restructured its organization by putting OIT procurement under the direction of the DAS General Services Division. Doing so will allow for review and approval of any IT purchases independently of the CIO of OIT.
- Pricing Issues
 - In many of the vendor STS price listings, the description for services to be provided simply repeated the position title for the individual providing the service rather than describing the specific duties to be provided by that position. For instance, if the product name for a service was Consultant, then the description of the service being provided would simply say "Consultant." GSA requires more extensive descriptions to be disclosed on the price listing related to products and services; additionally, GSA requires separate price listings for vendors providing both products and consulting services. Specifically, GSA requires a price list for services to include not only a description of the services the consultant would be performing but also the specific consultant's education level and experience to verify their eligibility to be charged at the appropriate consultant rate.⁶
 - Oftentimes, vendors will offer additional discounts to the state when agencies are making large purchases from an STS. While not required, these discounts are expected to be in addition to the best rate offered in the STS contract. In some of the R&P's reviewed, it was noted that although the discounted rate is lower than or equal to the STS contracted

⁶ GSA Schedule 70

rate, the base rate from which the discount originates was higher than the rate approved in the STS contract. This creates the illusion of a more significant discount being obtained and inaccurate savings being received by the state.

- o Market Price Analysis to Rates offered
 - DAS does not retain any documentation of a comparison of State and Local vendor prices offered to market prices. When testing prices against GSA's calc.org website, we found several instances where DAS was paying significantly more than industry averages.
 - DAS should take advantage of GSA's already established acceptable prices for various job descriptions or establish its own set of acceptable price levels for different job descriptions.
- o When requesting to purchase a product or service from an STS, the requesting agency is encouraged to compare the offerings of multiple manufacturers or their named distributors on similar items. Agencies should request quotations and/or negotiate to obtain the most favorable pricing on these schedules.⁷ During our testing we identified the following errors.

Test Point	Test Results
Quotes received are expected to have an expiration date and the expiration date is expected to be valid	12 out of 20 R&P requests had quote(s) that were expired or did not contain an expiration date.
R&P requests should have quotes that reference the STS contract number. This ensures that prices on the quote can be compared easily to the current contract listing at procure.ohio.gov.	Nine of 20 R&P requests did not reference the STS contract number
The pricing of products and services in R&P requests should not be greater than the current STS contract price listing at procure.ohio.gov and/or Omnicon. The R&P prices should match these listings	For FY16, the pricing of eight out of 17 R&P requests exceeded the contract price listing or yielded no match on the listing.
Proposed rates on R&P requests for products and services should be reasonable compared to the GSA price listing at the gsaLibrary.gsa.gov, GSAadvantage.gov and/or Omnicon and match the listings. It is extremely important that STS contracts that are also active GSA MAS contracts contain a copy of the MAS price list to verify that the rates align with their GSA listings.	For FY16, the pricing of eight out of nine R&P requests were greater than the GSA price listing or yielded no match on the listing.

- **Recommendation** – DAS should require vendors providing both products and services to provide separate price listings. These price listings should require companies to disclose information similar to what GSA requires on its price listing. Doing so would allow DAS, state agencies and other reviewers to perform effective market analysis related to the products or services being solicited from the STS vendors. In addition, when purchasing off of an STS contract, the market analysis performed by the agency purchasing from the STS vendors should

⁷ DAS Procurement Handbook page 21

be submitted as part of the Request and Permit request. DAS should analyze the market analysis to assist in determining if the agencies are receiving the best value for the service or product they are requesting.

- **Recommendation** – Analysts should be required to complete a more detailed review of purchases off of STS contracts. These reviews should include comparing the approved STS rate to the base rate offered prior to any discounts.
- **Recommendation** – Steps in the STS creation and purchasing processes that are currently *encouraged* should be required. These optional steps are suggested with the intention of strengthening the internal controls and providing a more secure purchasing environment.
- Non-competitive procurement methods for IT services/Controlling Board approvals
 - The first step in obtaining an STS contract is the requirement for an agency letter. The agency letter identifies an interest from an agency to obtain contracted goods or services from a vendor. Requiring an agency to express interest for a vendor to be an STS contractor prior to any sort of competitive selection method could create a sole source purchasing environment. Even in a case where a vendor has previous experience with the State, alternative competitive solicitations still should be sought as there could still be cost savings or negotiation advantages from obtaining other quotations.
 - NASPO defines a Sole Source Procurement as “any contract entered into without a competitive process, based on a justification that only one known source exists or that only one single supplier can fulfill the requirements. Although states generally do not permit non-competitive procurements by statute, exceptions are allowed where competition is not feasible.”⁸
 - NASPO also suggests that the following steps could be used in reducing sole source procurements:
 - Provide a standard template for a sole source written justification. This justification would include:
 - Descriptions of the unique features of the product or service to be provided that prohibit competition.
 - Documented research conducted to verify the vendor as the only known source
 - Known compatibility issues
 - Timing issues
 - Centralize review and approval of all sole source requests
 - Allows an unbiased collaborative decision in awarding sole source procurements
 - Consider publishing all sole source requests for public notice
 - This allows other potential vendors to view and indicate interest in the proposed sole source procurement.
 - This could allow for competitive procurement
 - This would verify that in fact only one procurement source is available.
 - During our testing, two of two sole source vendor R&P requests did not include Controlling Board approval or other justification for why a sole source purchase was necessary. Additionally, DAS has not adequately trained agencies to understand when a

⁸ http://www.naspo.org/solesourceprocurement/7-Question_Sole_Source_Procurement_briefing_paper-1-13-15.pdf

sole source STS purchase is appropriate. A competitive selection process may allow the state to negotiate and save taxpayer dollars.

- The State of Ohio has established a Controlling Board. This board consists of a president appointed by the governor, and legislators appointed by the House and Senate. One responsibility of the board is to review and approve contracts established by an agency outside its direct purchase authority. When an agency has determined that only one vendor is able to complete a request, this is considered a sole source request. Agencies should provide analysts with written justification for why multiple quotes were not received.
- **Recommendation** – DAS should establish a written justification template for instances in which an agency awards a contract without using competitive procurement methods. The template should include the unique features and requirements including, but not limited to, research justifying how the vendor was determined to be the only known source, the agencies history with the vendor, and timing issues that prohibit competitive bidding.
- **Recommendation** – The Controlling Board should be required to review all state agency purchases that are deemed sole source. This oversight would enhance awareness of those making purchases.
- **Recommendation** – DAS should provide training to agency representatives responsible for making purchases to explain and reinforce when a purchase is justifiably sole source. Additionally this training should include an explanation of how to write a request for proposal in such a way that allows for competitive selection process.
- Evidence of Procedures Performed
 - During our inquiry with OIT representatives we were informed on several occasions that a procedure was performed but there was no evidence to support this claim. In order to monitor whether or not policies and procedures are being followed and functioning as intended, those performing the procedures must maintain documentation demonstrating that employees, such as analysts and directors, performed the required steps.
 - The following are examples identified in our testing of STS and R&P's where documentation was not available to demonstrate that the policies and procedures were in place and operating effectively. During testing, we looked to see if email correspondence was saved, or if evidence of a website review was completed based on saving a copy of the webpage as a PDF and uploading the document into Omnicom.

STS		
	DAS has created a checklist for analysts to use to ensure that all required documentation and steps have been taken in the creation of a new STS.	12 of 20 STS's tested did not use the checklist or maintain a copy of it in Omnicom.
	New STS applications are required to have an agency letter attached that indicates an agency is interested in the product.	12 of 16 new STS requests did not have an agency letter attached.
	When a new STS is requested, DAS analysts are expected to reach out to other agencies to determine if there is a statewide need for a product or service	20 out of 20 STS requests tested had no evidence of a review of state-wide need.
	Analysts are required to review the GSA price listing for GSA based STS's to ensure the rates on the STS match with the rates on the GSA price listing.	Two of 11 GSA based STS files included no evidence that the GSA price list was reviewed.

	Analysts are required to ensure that the prices offered by S & L vendors are the lowest prices that the vendors would offer to their best customers. This is typically done by a Certification of Amended STS Price Letter.	During testing, one of 11 did not include the required vendor certification letter.
	Analysts are required to ensure that the ORC 9.24 Findings for Recovery Database has been reviewed to verify there are no FFR's against a vendor applying for an STS.	11 of 20 STS packets did not include evidence of this review.
	Analysts are required to check to see if a vendor is suspended, debarred or under review at the time of STS approval	17 out of 20 STS packets did not include evidence of this review.
R&P		
	Analysts should check to see if a vendor is suspended or debarred or under review at the time of R&P approval	20 of 20 R&P's did not have evidence of this review.

- Without proper documentation of these steps, there is no evidence they occurred. Furthermore, this could result in the state being charged a higher rate for a product or service than the rate the vendor is charging to the Federal government or other comparable state/local consumers. This could also result in the state entering into a contract with an entity that has a finding for recovery where the entity owes money to another state agency.
- **Recommendation** – DAS analysts should retain documentation to verify that required and suggested steps have been completed in the review and approval process.
- **Recommendation** – All documentation and evidence should be retained in a centralized procurement information system in order to allow for efficient reviews by supervisory personnel.
- Task Order Concerns
 - Blending tasks is a method where one person provides multiple classifications of services at a combined rate rather than having multiple individuals providing the services. For example, an agency might solicit a company to contract one individual to provide the following services; Senior Consultant, Consultant and Programmer. On a term schedule, these services could have rates of \$200/hour, \$175/hour, and \$120/hour respectively.
 - On a term schedule, the vendor providing the blended task should provide a price listing that creates an additional position that specifies the required tasks and price for this blended task orders; it is inappropriate for a vendor to simply give an average or charge at the highest priced task.
 - Blending task orders and blending rates are acceptable procurement methods; however, as noted in the GSA's MAS desk reference, term schedules should be used for "fixed price" purchases. While there may be exceptions, such as purchases utilizing time and material or labor as the bases for the purchases, these exceptions should require agencies to justify why there is a need to deviate from the fixed price.
 - When following up with a DAS Project Manager, it was disclosed that it wasn't unusual for an RFQ to blend tasks. When doing so, DAS allowed the vendor to charge the rate of the highest service being included in the blended task.
 - GSA has created various procurement solutions to address an agency with more customized pricing needs. These include the online STARS II Pricing tool which offers a fully comprehensive rate including services and overhead, or the GSA Alliant

Governmentwide Acquisition Contracts program that provides flexible access to customized IT solutions.

- Because the intention of STS contracts is for “fixed price” purchases it is inappropriate to utilize STS contracts to procure blended tasks or orders.
- During our review of the public records request originally submitted by the newspaper, we noted R&P requests where task descriptions and rates requested in the Scope of Activities did not align with the STS price listing. For instance, the scope of Activity for R&P #25508 listed the title of the individual performing the work as a technical lead, but was charging at the rate of a consultant, which was significantly higher than that of a technical lead. Furthermore, the vendor price listing associated with this purchase did not list a technical lead as an authorized task to be purchased off of this schedule⁹. Also, the documentation maintained did not allow for us to review these purchases and determine exactly what services each consultant provided and for what duration of time.
- **Recommendation** – DAS should implement a procedure that requires all task descriptions on a SOW for services to align with rates on the already approved STS’s Price Listing. The rates in the SOW’s should be less than or equal to those in the STS. Agencies should be trained on properly writing RFQs so that blended tasks or rates are not allowed to be solicited from STS contracts.
- **Recommendation** – If there is a demand for such items as blended tasks or blended rates, DAS should consider creating another procurement vehicle similar to those that have been created by GSA to address this need. The analyst approving an R&P should review the scope of activities submitted and determine if activities being identified match up to the price listing. If the activities don’t match up, then the R&P should be denied.
- Evaluation of Contractors
 - GSA has a process where all vendor requests for a GSA schedule must go through a vendor evaluation. This evaluation considers many factors including technical experience, corporate experience, past performance, quality control, relevant project experience and pricing.
 - STS Terms and Conditions authorize the state to audit the contractor’s records and other materials that relate to the deliverables and to the pricing representations that the contractor has made to acquire a contract. However DAS only audits a contractor if a complaint has been filed.
 - There were instances during testing where evidence of a complaint was included in Omnicom, but no follow up documentation existed to indicate a resolution of that complaint. For instance, an e-mail indicated that a company had not remitted revenue share fees for a certain period, but no documentation that this was investigated or resolved was found in OMNICOM.
 - *AOS NOTE:* DAS has implemented other controls to ensure all revenue share payments are received. Part of the STS renewal process is to ensure the vendor is up to date on all revenue share payments.
 - **Recommendation** – DAS should establish a contractor performance assessment process that is based on objective facts and that can be supported by program and contract management data, including performance and cost. DAS should require all State

⁹ This company has multiple State Term Schedules with DAS. The most closely aligned task based on the description was a “Project Manager Principle.” This task should be billed at a rate of \$161/hr. As a Consultant, the rate billed was \$172. The Project Manager Principle task was on a different STS with the vendor, however this was not the STS referenced in the R&P.

and Local vendors to provide a past performance evaluation report with references as part of the information packet to become an STS contractor. This would be similar to the GSA MAS approval process described above.

- Extensions and Excessive STS use.
 - Currently, DAS does not have any maximum order threshold for projects completed off of STS's. Presently, projects are extended year after year and the overall price of the project is unknown due to multiple R&P's and different STS renewals. This creates an opportunity for vendors to complete large statewide projects without ever having to compete for them
 - Even in cases where a vendor has prior knowledge and experience with state agencies, it is still best practice to solicit other vendors that can provide equivalent services. Other vendors could offer better rates for comparable services. Soliciting other vendors could also encourage the current vendor to reduce their pricing in order to retain the state's business.
- **Recommendation** – DAS should require that all R&P requests from STS schedules detail the projected time line for the entire life of a project. This detail should include all possible stages of the project, an expected completion date, and most importantly the overall cost of the entire project.
- **Recommendation** – DAS should establish a maximum threshold for a single project to be performed off of Term Schedules. This should include a provision to watch for project splitting in which an agency or vendor attempts to circumvent the limitation by separating a single project into multiple requests. If a project will exceed this threshold, it should be competitively bid.
- Requirement for three quotes
 - Current expectations based on the 2008 Directive for STS purchases for both products and services are that an agency must receive three quotations prior to purchasing off of a schedule. While the purpose of this is to assist agencies in obtaining the lowest cost or best value for all purchases; the overall intention of STS contracts is that the price negotiation and bidding has already taken place on behalf of state agencies. Within the STS contract language, there is a requirement stating that if a vendor offers a lower price to another customer, the vendor must also report that lower price to DAS.
 - Requiring an agency to obtain three quotes for all purchases off of STS contracts could result in delays in purchases and in turn costs the taxpayers more to make already negotiated purchases.
 - This expectation is more restrictive than the Federal GSA guidelines. Federal GSA requirements have three levels of purchases based on the purchase price, each level with more restrictive purchasing requirements.¹⁰
 - For orders in the lowest pricing tier, GSA allows agencies to place orders directly with the contractors without soliciting quotations.
 - For the middle tier, agencies are expected to solicit three quotes but are not required to obtain all three quotes.
 - For the top tier, agencies are required to solicit and obtain three quotes.
- **Recommendation** – DAS should update procedures to implement a maximum order threshold which would require additional quotes and discounts to be sought for individual purchases. This

¹⁰ MAS Desk Reference page 27-28

allows smaller routine purchases an opportunity to reduce the purchasing time while providing assurance that large purchases are being completed responsibly.

- **Recommendation** – DAS and the state should eliminate the requirement for three quotes for all STS purchases. DAS should review its procedures and create a tiered pricing model similar to GSA's to maximize ordering efficiencies and minimize excess costs.

- DAS Future Demands
 - **Recommendation** – DAS should consider creating a formal process for anticipating future needs for supplies and services. The state has an IT committee that meets regularly. This committee should make recommendations to OIT as to the direction of future needs for state agencies and in accordance with DAS's IT optimization plan.

Overall Recommendation:

DAS should work with a procurement expert to enhance procurement policies statewide. Current practices are in place with the intention of creating a quality centralized location for all IT procurement needs to save state resources. However the lack of formalized procedures and inconsistencies in processes is retarding efforts to increase the efficiency, economy and effectiveness of DAS purchasing. DAS should consider utilizing the established GSA policies, practices and other resources available to enhance and improve the already existing procurement policies as a benchmark for expectations.

The Department of Administrative Services has responded to issues discussed in this Report. A copy of their response is included with this report as Attachment B.

Attachment A

List of Abbreviations

Below are abbreviations that appear in this report.

Acronym	Stands for	Description
CB	Controlling Board	Provides legislative oversight for certain capital and operating expenditures, and has approval authority over various other state fiscal activities.
DAS	Department of Administrative Services	The administrative organization with legal authority to provide oversight and leadership for most state procurement activities.
GAO	Government Accountability Office	The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress. Often called the "congressional watchdog," GAO investigates how the federal government spends taxpayer dollars.
GSA	Federal General Services Administration	GSA provides centralized procurement for the federal government, offering billions of dollars' worth of products, services, and facilities that federal agencies need to serve the public. GSA's acquisition solutions supply federal purchasers with cost-effective high-quality products and services from commercial vendors.
MAS	Multiple Award Schedule	GSA establishes long-term government wide contracts with commercial companies to provide access to millions of commercial products and services at volume discount pricing.
NASPO	National Association of State Procurement Officials	A national association created to help states achieve success as public procurement leaders in their states through promotion of best practices, education, professional development, research, and innovative procurement strategies.
OAC	Ohio Administrative Code	The rules adopted by the agencies of the state of Ohio
OIT	Office of Information Technology	The DAS Office of Information Technology (OIT) delivers statewide information technology and telecommunication services to state government agencies, boards and commissions as well as policy and standards development, lifecycle investment planning and privacy and security management.
OMNICOM	OMNICOM	Legacy system used to store data relating to contract management, including State Term Contracts.
ORC	Ohio Revised Code	The general laws of the state of Ohio.
RFP	Request for Proposal	A process used to solicit Competitive Sealed Proposals from vendors for more complex goods and services such as information technology systems and services, medical equipment, etc. Also refers to all documents used for soliciting Competitive Sealed Proposals.

R&P	Release and Permit	Issued by the Department of Administrative Services to state agencies when purchasing limits exceed the agency's direct purchase authority and when it has been determined that the product or service cannot be procured by DAS through the competitive selection process.
SME	Subject Matter Expert	Person with bona fide expert knowledge about what it takes to do a particular job.
SOW	Statement of Work	Detailed description of the specific services or tasks a contractor is required to perform under a contract. SOW is usually incorporated in a contract, indirectly by reference or directly as an attachment.
STS	State Term Schedule	An alternative procurement method to purchase supplies and services, with contracts negotiated between the Department of Administrative Services and vendors for use by all state agencies and political subdivisions. State Term Schedules require the vendor to provide the state with either the manufacturer's Federal GSA pricing or their best commercial pricing. Strict guidelines govern the states' authority to accept and negotiate product, prices, terms and conditions from qualifying companies.
S&L	State and Local Government	Governmental jurisdictions below the federal level such as state, counties, and municipalities.

April 26, 2018

The Honorable Dave Yost
Auditor of State
88 E. Broad Street, 5th Floor
Columbus, OH 43215

Dear Auditor of State Yost:

Thank you for your recent review of the Office of Information Technology (OIT) and its procurement practices related to State Term Schedule (STS) contracts and recommendations for improving policies and procedures. Please know that we take our duty to carry out this work very seriously, and we are committed to maintaining the high level of ethics that has always been important to us. For that reason, we are appreciative of this review and validation that this office operated in the ethical manner citizens expect of us.

We have aggressively worked over the past year to improve the STS process by implementing the following:

- Requiring three quotes on every contract whenever possible. In those instances where it is not possible including sole source purchases, we now require the agency seeking the contract to request Controlling Board approval for a waiver.
- Increasing transparency by providing a quarterly report to the Controlling Board of all STS procurements and made the report public. As of today, we have issued two reports.
- Reorganizing our procurement operations by moving IT procurement out of our Office of Information Technology and placing it under our General Services Division's Office of Procurement Services, creating synergy and consistency within the agency and overall procurement efforts. As you noted in your report, this allows segregation of duties.
- Conducting training for state agency procurement personnel to review changes related to the June 12, 2017, Controlling Board action that requires obtaining three quotes or Controlling Board approval. We will provide ongoing trainings to help educate state procurement personnel.
- Reaching out to the U.S. Government Accountability Office, Center of Excellence to help us improve our procurement operations. Their mission is to foster effective accountability and help improve government performance and transparency, in addition to ensuring the sound use of public funds.
- Working with other states to determine best practices to continue improving contracting methods.
- The Next Generation eProcurement Solution RFP is under evaluation, and this new system will allow us to:
 - Move away from STS contacting
 - Enhance open, fair and good-faith competition
 - More thoroughly track vendor performance and evaluation
- Revising the STS *Letter of Agency Interest* to make clear:
 - It does not mandate a prospective supplier receives an STS contract with the State of Ohio
 - It does not guarantee a supplier will be awarded any state business
 - All STS procurements must be competed according to applicable state requirements

We are reviewing your recommendations, as well as suggestions from the Ohio Inspector General's office, as we continue to improve our procurement policies and processes.

Sincerely,



Robert Blair
Director

The State of Ohio is an equal opportunity employer.

This page intentionally left blank.



Dave Yost • Auditor of State

OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES

FRANKLIN COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

CERTIFIED
JUNE 7, 2018