

MMO Business Practices

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What does the Procurement Services Division do?

- Solicit, evaluate and award contracts
- Issue procurement audit reports
- Transfer skills and knowledge through training
- Dispute resolution
- Establish procedures
- Advertise procurements
- Provide building code enforcement approvals
- Provide procurement and building code certifications
- Issue certificates of occupancy

MMO Organizational Structure

- Secretary to the Board /
Division Director
 - Materials Management Officer
 - Audit and Certification
 - Business Operations & Strategic Planning Division (Program Support)
 - Office of the State Engineer
 - Information Technology Management Office & State Procurement Office



Types of MMO Contracts

- Statewide Term Contracts
- Multi-Agency Contracts
- Contracts above agency certification
- Multi-state Cooperative Procurements

STATEWIDE TERM CONTRACTS

- Established by ITMO or SPO for specified period
- Required use by state agencies and those governed by the Code.

Who may use our contracts?

- State Legislature
- Any governmental entity created by an act of the State Legislature
- Political Subdivisions
- Any governmental entity created by an act of a political subdivision's legislative body (examples: ordinances passed by city or county councils)
- School Districts

The definitions contained in 11-35-310 establish both the definition and application:

11-35-310(35) - Term Contract

(35) "Term contract" means contracts established by the chief procurement officer for specific supplies, services, or information technology for a specified time and for which it is **mandatory that all governmental bodies procure their requirements during its term.** As provided in the solicitation, if a public procurement unit is offered the same supplies, services, or information technology at a price that is at least ten percent less than the term contract price, it may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. The solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price. If the vendor holding the term contract meets the lower price, then the governmental body shall purchase from the contract vendor. All decisions to purchase from the vendor offering the lower price must be documented by the procurement officer in sufficient detail to satisfy the requirements of an external audit. A term contract may be a multi-term contract as provided in Section 11-35-2030.

11-35-310(18) - Governmental Body

(18) "Governmental Body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, agency, government corporation, or other establishment or official of the executive or judicial branch. Governmental body excludes the General Assembly or its respective branches or its committees, Legislative Council, the Office of Legislative Printing, Information and Technology Systems, and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts or any entity created by act of the General Assembly for the purpose of erecting monuments or memorials or commissioning art that is being procured exclusively by private funds.

Who must use?

- State Agencies and State Institutions of Higher Learning
 - Includes Colleges & Universities and Technical Colleges
- Exceptions:
 - Product or service doesn't meet agency need.
 - Competitor offers at a price 10% or more below state contract vendor.

STATEWIDE TERM CONTRACTS – Exceptions (continued)

- 10% price rule in effect:
 - receive offer by competitor to sell at 10% less than the term contract price
 - Solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price
 - offer contract holder opportunity to match discounted price
 - if contract holder meets lower price, must purchase from contract vendor

STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012)

- Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the attached form. [07-7B227-1]

**Purchase Order Attachment
Acceptance of Offers 10% Below Statewide Term Contract Price**

Instructions: If an agency purchases any item available on the Term Contract identified below from a business (an Alternate Vendor) other than the Term Contract Contractor and the total price of the purchase order exceeds \$500, then the procurement officer making the purchase must attach this form to the purchase order issued to the Alternate Vendor. The agency procurement officer must complete the following four blanks: the number and description of the applicable Term Contract, the number of the agency's Purchase Order, and the name of Term Contract Contractor that you offered an opportunity to match.

Term Contract Solicitation No.	Term Contract Description
Term Contract Contractor	Purchase Order No.

Agreement

By signing this document, Alternate Vendor is entering into a contract with the agency named above regarding the items referenced on Purchase Order identified above. Regarding the items acquired with the Purchase Order, Alternate Vendor agrees to be bound by all the terms and conditions of the Term Contract Solicitation identified above. Alternate Vendor has received and read a copy of the Term Contract Solicitation identified above. The Purchase Order may be used to elect only those options expressly allowed in the Term Contract Solicitation. Possible options might include quantity, item, delivery date, and payment method. Any contract resulting from this Purchase Order is limited to the documents identified in the clause entitled Contract Documents & Order of Precedence.

NAME OF ALTERNATE VENDOR (full legal name of business entering this contract)	TAXPAYER IDENTIFICATION NO. (See "Taxpayer Identification Number" provision)
AUTHORIZED SIGNATURE (person authorized to enter binding contract on behalf of Alternate Vendor)	TITLE (business title of person signing)
PRINTED NAME (printed name of person signing above)	DATE SIGNED

Certification of Compliance

I certify as follows: (1) every item acquired with the Purchase Order is priced at least ten percent less than the Term Contract price for the same item; (2) the Term Contract Contractor identified above declined to meet the prices stated on the Purchase Order after being offered a reasonable opportunity to meet the price stated on the Purchase Order; and, (3) this purchase complies with Section 11-35-310(35), which is reprinted below.

AUTHORIZED SIGNATURE (procurement officer authorized to issue purchase order and sign certification)	TITLE (business title of person signing)
PRINTED NAME (printed name of person signing above)	DATE SIGNED

Section 11-35-310(35) of the South Carolina Code of Laws reads as follows: "'Term contract' means contracts established by the chief procurement officer for specific supplies, services, or information technology for a specified time and for which it is mandatory that all governmental bodies procure their requirements during its term. As provided in the solicitation, if a public procurement unit is offered the same supplies, services, or information technology at a price that is at least ten percent less than the term contract price, it may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. The solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price. If the vendor holding the term contract meets the lower price, then the governmental body shall purchase from the contract vendor. All decisions to purchase from the vendor offering the lower price must be documented by the procurement officer in sufficient detail to satisfy the requirements of an external audit. A term contract may be a multi term contract as provided in Section 11-35-2030."

----- PURCHASE ORDER ATTACHMENT (NOV 2012) -----

How do you use them?

- Visit the Procurement Services website www.procurement.sc.gov
- Go to Statewide Contract listings
- Select Information Technology or Supplies & Services
- Open the contract of interest as a Microsoft Word document, look for the item, contractor, and contract number. Then issue your purchase order referencing the contract number.

MMO SOURCE SELECTION METHODS

- IFB - Invitation for Bids
- RFP - Request for Proposals
- Best Value Bid
- Fixed Price Bid
- Competitive Online Bidding
(Reverse Auction)

Processing your requisition through MMO

- What do we need from you, the customer?
- eRequisitions (Agencies not “Live” in SCEIS)
- Or, a “Shopping Cart” (SCEIS)
- Solicitation Request Form (optional but extremely helpful)
- Elements of the Uniform Solicitation Format
- Written Determinations or Justifications, if applicable

Requisitions

How do I get started?

- Go to the section on the Procurement Services Homepage entitled, “Submit Requisition.”
- Select whether you are a SCEIS or non-SCEIS user.

<http://procurement.sc.gov/PS/agency/PS-agency-submit-req.phtm>

Solicitation Request Form

What is it?

- A fill-in form.
- A living document. It has been in use since June 2006.
- A tool to ensure that you transmit complete information and documentation with your eRequisition to MMO.
- A checklist of elements to consider whether processing a procurement in-house or via MMO.
- While this form is no longer a requirement, it is still encouraged for the reasons above.

Solicitation Request Form

- How do I transmit the form:
 - Email to requisitions@mmo.sc.gov
- OR
 - Attach your “Shopping Cart” in SCEIS

Written Determinations

- Justification Forms Submittal – forms should be used where applicable.
 - Brand Name Justification Form
 - Extended Term Request
 - Determination Prior to Use of Multi-Term Contract

NOTE: Generally, use of Term Contracts in volatile markets is discouraged. Frequent or material price changes may be grounds to successfully challenge the use of a term contract.

Written Determinations

- Multi-Term Contract:
 - Fundamental questions:
 - Does any single term exceed one year, and
 - Why is it necessary?
 - A multi-term contract is appropriate when
 - it is in the best interest of the State to obtain uninterrupted services for a period in excess of one year,
 - where the performance of such services involves high start up costs, or
 - when a changeover of service contracts involves high phase in/phase out costs during a transition period.

Written Determinations

- A multi-term contract is also appropriate when
 - special production of definite quantities of supplies for more than one year is necessary to best meet state needs but funds are available only for the initial fiscal period. (Special production refers to production for contract performance when it requires alteration in the contractor's facilities or operations involving high start up costs.)

Written Determinations (cont.)

- **Justification for Competitive Sealed Proposal** (Proposals Only) Ref. Code Section 11-35-1530, (1)
- **Justification for Competitive Fixed Price Bidding** (if applicable) Ref. Code Section 11-35-1525, (1)
- **Justification for Competitive Best Value Bidding** (if applicable) Ref. Code Section 11-35-1528, (1)
- **Request for Trade-In Sales** (when trade-in is part of the procurement)

Written Determinations

- Source Selection Method:
 - Fundamental questions:
 - Why can't the requirement be solicited as a Competitive Sealed Bid?
 - Why is the recommended source selection method the most advantageous to the State?

**JUSTIFICATION FOR
COMPETITIVE SEALED PROPOSAL**

Based upon the following justification, the proposed procurement action described below is being procured pursuant to the authority of Section 11-35-1530(1) of the South Carolina Consolidated Procurement Code.

Midlands Technical College is seeking the services of a qualified Offeror to furnish all financial resources, management, labor, equipment, goods and supplies necessary to manage and professionally operate an academic bookstore and provide the highest caliber of services to the College. It is essential that the Bookstores be managed with maximum sensitivity to the needs and concerns of the students, faculty, staff and other college supporters. The College's overall goal in the RFP process is to allow a Contractor to provide bookstore management services to ensure that the highest level of financial effectiveness, service, and satisfaction is being provided to the College and that can produce exceptional customer service and provide a positive return on investment. The experience and knowledge of the Offerors will be a major consideration in determining which response to the RFP will best fit the needs of the College.

The College believes that low bid will not create the high level of customer service the students, faculty and staff are accustomed to experiencing in the College's bookstores or allow for evaluation criteria. The College also did not consider the low bid method because the Contractor's customer service and their ability to have merchandise available for students is significantly more important than acquiring the low bid vendor.

The FPB process is not considered because of the single entity bookstore operations therefore, multiple vendors cannot accomplish the College's intent.

The Best Value Bid was not considered for this procurement because the Contractor's management and marketing approach, internal systems, used book program, management structure, staffing, oversight automation, implementation and transition plan, and policies outweighs revenue and cost. It is the College's expectation to acquire a vendor that produces both, excellent customer service and a reasonable return to the College. Customer service is important to the College to maintain its reputation in the service area, therefore the College is seeking qualified bidders that can produce the high-level customer service and able to respond to the needs of faculty and staff efficiently and quickly.

DATE

GOVERNMENTAL BODY

SIGNATURE

APPROVED

TITLE

Distribution: Original retained in governmental body contract file.

Specifications Development

QUALIFIED PRODUCTS LIST (QPL)

- Useful tool to maximize competition
- Allows agency to review & qualify multiple manufacturer's products
- Requests product samples for review, test and evaluation prior to issuing a solicitation
- Publishes list of acceptable products within specification and/or product description
- Notice of QPL development should be advertised in SCBO. A meeting with the vendor community may be helpful.

Key Point: For long term success, the agency must provide a reasonable & consistent process for qualifying products on an ongoing basis!

ADVERTISING – South Carolina Business Opportunities (SCBO)

- Procurements valued >\$10,000
(unless exempt)
- SCBO published daily
- No Cost to Advertisers
- Free Online

ADVERTISING - SCBO

(Continued)

- MMO standard advertising length:
 - 21 days for bid openings
 - 30 days RFP closings
 - 7-10 days for Pre-Opening/Closing requirements such as Pre-Bid Conferences or Site Visits

SOLICITATION EVALUATIONS

Bids:

Determine the lowest responsive and responsible bidder.

Proposals:

Determine the ranking (highest to lowest) of responsive and responsible offerors.

RESPONSIVENESS

- Vendor responses are determined to be responsive if their submittal conforms in all materials respects to the requirements of the solicitation.
- Solicitation requirements are developed by the Procurement Manager to provide a valid comparison of submittals.
- Non-responsive determinations are documented with a “Memorandum for Record”

RESPONSIBILITY

- The capability of the vendor in all respects to fully perform the contract requirements:
 - capacity to meet the contract terms
 - satisfactory record of performance for similar contracts
 - satisfactory record of integrity
 - qualified legally to contract with the State
- Issuance of an “Award Statement” signifies a responsible determination
- A completed “Justification for Determination of Nonresponsibility” is required to document a nonresponsible finding.

CONTRACT AWARD

- Statement of Award
 - Used when award is greater than \$50,000 but less than \$100,000
- Intent to Award
 - Used when award is greater than or equal to \$100,000
- Negotiation:
 - Bids - may negotiate within the original scope with the lowest responsive & responsible bidder
 - Proposals - may negotiate starting with the highest ranked responsive & responsible offeror (use same scope with all offerors)

Protests

- Protest Opportunities
 - Solicitation or amendment
 - 15 days from date of posting (document at issue)
 - Award
 - 10 days from date of posting
- Agency participation
 - Representation at hearing
 - Procurement representative
 - Legal counsel (recommended)
 - Witnesses
 - Original requester
 - Evaluators (if RFP)
 - Submittals/Exhibits
 - items not included in procurement file (6 copies)

Protests (continued)

- MMO participation (if MMO processed the solicitation)
 - Representation at hearing
 - State Procurement Officer (SPO), her designated rep., or legal counsel
 - Procurement Manager responsible for the procurement
 - Submittals/Exhibits
 - 6 copies of selected items from procurement or contract file
- Protestant participation
 - Representation at hearing
 - Author of protest letter
 - Legal counsel, if desired
 - Witnesses
 - Submittals/Exhibits
 - 6 copies of items you wish to submit into the record

CONTRACT ADMINISTRATION

- Contractor Performance Reports can be found in Attachment #3 of the Contract Administration Guidelines on the Procurement Services Website) under “Resources & Forms,” then, “Procurement Forms.”

NOTE: The MMO Contract Administration Course is based on the guideline document.

TRADE INS

- Unit Price <\$5,000
 - approval authority - agency
 - value applied to purchase or lease of like item(s)
- Unit Price >\$5000 & <\$100,000
 - approval authority - Surplus Property Officer, housed within a separate division of the Budget & Control Board
 - SPMO, or designee, determines whether property shall be traded in and value applied to purchase or lease of new like items or classified as surplus and sold per 11-35-3820

NOTE: In all three cases, the approval authority determines if value is to be applied to purchase of new item or sell as surplus

TRADE INS

- Unit Price >\$100,000
 - approval authority - Surplus Property Officer or designee
 - SPMO, or designee, determines reasonableness and documents the trade-in
- Agencies submit quarterly reports of trade-in activity to Audit & Certification
 - NOTE: There is a helpful tool in SCEIS that will track this for you.

INTER-AGENCY AGREEMENT

- Agencies negotiate terms
- Proposed agreement approved by ITMO or SPO

NOTE: Agencies conduct market research to verify that the agreement results in cost savings to the State. The research is submitted with the proposed agreement to ITMO or SPO for approval. Use MMO #136 form on the web.

RATIFICATION OF UNAUTHORIZED PROCUREMENTS

Reference Regulation 19-45.2015:

- Ratify or affirm
- Terminate and award reasonable termination costs

Made by:

- CPO
- Head of Purchasing Agency
- Designee of either officer

RATIFICATION OF UNAUTHORIZED PROCUREMENTS

Ratification includes a written record of:

- The facts and circumstances
- Corrective action taken
- Action taken against responsible party(s)
- Determination that price is fair and reasonable

AUDITING

Certification:

- §11-35-1210
- Baseline authority per Code is \$50,000

Increasing Certification:

- Agency requests increases
- MMO audits periodically for
 - adherence to Code
 - responsiveness to user needs
 - obtaining best prices for value received
- MMO recommends acceptance or denies request based on audit results
- Requests for higher certification must go to full Budget & Control Board for review.

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS

Documents:

- Specified # days to:
 - indicate whether or not will respond
 - prepare and supply response
- Timeline differs if during protest period.
- Can charge for cost to provide response

Meetings:

- Requires posting notice in advance
- Open session
- Executive session
- Record / Minutes

END OF PRESENTATION

QUESTIONS?

Visit us on the web at

www.procurement.sc.gov

This link gives you access to all offices within the Division.