

**Subcommittee on Education**  
**Government Efficiency Task Force**  
401 Senate Office Building  
May 14, 2012  
2:00 p.m. – 4:00 p.m.

- 1) Call to Order
- 2) Roll Call
- 3) Recommendations on Higher Education
- 4) Discussion of University Procurement
- 5) Public Comment
- 6) Adjourn



# Florida Government Efficiency Task Force

*Subcommittee on Education*

*Draft Recommendations*

**Subject Matter:** Higher Education Draft Recommendations

**Subcommittee Members:** Belinda Keiser (Chair), Senator Lizbeth Benacquisto, Ann Duncan, Michael Heekin, and Eric Silagy

## DRAFT RECOMMENDATIONS

- **The Subcommittee recommends that a pilot project for year-round school in the State University System (SUS) be implemented in one of Florida's universities.** This pilot program should serve as a model for other institutions in the SUS and carefully consider the success of existing year-round school models, such as Brigham Young University Idaho Campus and Dartmouth University. These universities, among others, successfully employed unique year-round-school models to increase access, optimize degree completion and minimize operating costs.
- **The Subcommittee recommends the Board of Governors (BOG) create a "University Review Program."** This program should be similar to the K-12 system's "Sharpening the Pencil" Act. The university reviews should identify ways each university can achieve savings; improve management; and increase efficiency and effectiveness. The BOG should compile a list of best practices, including innovative strategies successfully implemented at individual universities.

### ***Blue Ribbon Task Force on State Higher Education Reform:***

On May 4, 2012, Governor Scott issued an executive order creating the Blue Ribbon Task Force on State Higher Education Reform (Blue Ribbon Task Force) to advance the State University System's Constitutional charge to operate, regulate, control, and be fully responsible for the management of the whole university system. The Blue Ribbon Task Force shall produce a report of recommendations no later than November 15, 2012. The Subcommittee supports the Governor's initiative and recommends that the Blue Ribbon Task Force review the following:

#### ***Strategies for Degree Production***

- **The Subcommittee recommends the Blue Ribbon Task Force develop strategies to increase degree production.** Example strategies include economic incentives to students for timely and expedited completion of bachelor degrees, creating more three-year degree programs, and developing a statewide degree completer program.
- **The Subcommittee recommends the Blue Ribbon Task Force review methods to incentivize the production of science, technology, engineering, and mathematics (STEM) degree graduates in the SUS and in so doing, consider the actions of HB 7135 (Chapter 2012-195, L.O.F.).** Graduates with STEM degrees have high employment rates and are drivers of economic progress for the State of Florida. Efforts, like those in HB 7135, should be encouraged and expanded.

### ***Optimum Facility Utilization***

- **The Subcommittee recommends the Blue Ribbon Task Force review and develop a comprehensive assessment tool to evaluate facility usage, including classroom utilization, to more accurately determine the need for PECO funds.** The BOG should make recommendations to the Blue Ribbon Task Force for consideration regarding maximization of facility usage and optimum facility utilization.

### ***Funding***

- **The Subcommittee recommends the Blue Ribbon Task Force investigate innovative strategies to increase funding for higher education, such as consideration of a year-round-school calendar.** This should include a review of funding mechanisms for higher education being employed by other states.
- **The Subcommittee recommends the Blue Ribbon Task Force study the issue of market rate tuition and provide recommendations to the Governor and Legislature on its implementation.** The study should include whether sufficient evidence exists for increasing tuition at certain universities above the current 15% cap. The study should analyze the possible effect on return on investment for students and the SUS as a whole. If the Blue Ribbon Task Force recommends market rate tuition, it should identify a plan to ensure flat rate tuition for First-Time-In-College (FTIC) students for their first four years and upper level transfer students for two years.
- **The Subcommittee recommends the Blue Ribbon Task Force find ways to increase transparency in state funding of Higher Education.** The Blue Ribbon Task Force should review how other states are increasing transparency in their funding and analyze the potential use for Florida.



# Florida Government Efficiency Task Force

***Subcommittee on Education***

***Background Brief***

**Subject Matter:** University Procurement

**Subcommittee Members:** Belinda Keiser (Chair), Senator Lizbeth Benacquisto, Ann Duncan, Michael Heekin, and Eric Silagy

## **ISSUE SUMMARY**

- Each university is charged with managing its own procurement and purchasing services.
- The Inter-institutional Committee on Purchasing (ICOP) is an association comprised of SUS institutions' purchasing directors. ICOP goals include increasing coordination of purchasing operations, reducing operating costs, increasing efficiencies, and leveraging quantities of scale to maximize volume discount opportunities for the purchase of shared goods and services.
- When purchasing goods and services, SUS institutions must adhere to Chapter 18 of the Board of Governors Regulations, which are aligned with Chapter 287, F.S.
- Universities are subject to annual operational audits by federal, state, and internal auditors.
- Universities are required to complete federally-mandated education and training in procurement best practices.
- The Florida State University (FSU) and the University of Florida (UF) have developed a fully integrated electronic procurement system for strategic sourcing, including an on-line catalog of purchasing options.
- SUS institutions are eligible to use competitively-bid and strategically-sourced contracts established by other purchasing groups and consortia, including Educational & Institutional Cooperative Service, Inc. (E&I), the Western States Contracting Alliance, and the U.S. Communities and Horizon Resource Group.
- By working with larger institutions, smaller state universities with specialized needs have achieved procurement savings at the regional level.
- The Department of Management Services (DMS) has organized a group of representatives from local governments, state colleges, and state universities (referred to as other eligible users or OEUs) called Florida Professionals for Public Procurement. The group's goal is greater cooperation between OEUs and the state to gain mutually beneficial cost savings in procurement.

## FULL ISSUE(S) ANALYSIS

### I. BACKGROUND

#### A. State University System

##### *Governance*

The governing body for the State University System (SUS) is the Board of Governors (BOG).<sup>1</sup> The BOG is made up of 17 members, including the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the Florida Student Association president, and 14 citizen-appointments made by the Governor and confirmed by the Florida Senate.<sup>2</sup> The BOG is the constitutionally created body required to “operate, regulate, control, and be fully responsible for the management of the whole university system.”<sup>3</sup>

Locally, each institution is governed by a Board of Trustees<sup>4</sup> comprised of 13 members (the chair of the faculty senate, the president of the institution’s student body, six members appointed by the Governor and confirmed by the Florida Senate, and five members appointed by the BOG and confirmed by the Florida Senate).<sup>5</sup> The local Boards of Trustees are responsible for governing their institutions in accordance with BOG rules and regulations.<sup>6</sup>

Each university is charged with managing its own procurement and purchasing services. Pursuant to BOG regulations, “each university Board of Trustees shall adopt regulations establishing basic criteria related to procurement, including procedures and practices to be used in acquiring commodities and contractual services”.<sup>7</sup>

#### B. University Procurement

##### *Inter-institutional Committee on Purchasing*

The Inter-institutional Committee on Purchasing (ICOP) is an association comprised of SUS institutions’ purchasing directors. ICOP goals include increasing coordination of purchasing operations, reducing operating costs, increasing efficiencies, and leveraging quantities of scale to maximize volume discount opportunities for the purchase of shared goods and services. ICOP develops policies and guidelines for establishing system-wide contracts and cooperative agreements for use by universities. The ICOP listserv is utilized to share information on advantageous contract pricing through other purchasing groups and consortia.

##### *Procurement Regulation*

SUS institutions must adhere to the following regulations when purchasing goods and services:

- Chapter 18 of the Board of Governors Regulations provides regulations for purchasing, including competitive solicitation, notice and protest procedures, and solicitation bonding

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<sup>1</sup> Article XI, s. 7(d), Fla. Const.

<sup>2</sup> Art. IX, s. 7(d), Fla. Const.; s. 1001.71(2) and (3), F.S.

<sup>3</sup> Art. IX, s. 7(d), Fla. Const.

<sup>4</sup> Art. IX, s. 7(c), Fla. Const.; s. 1001.71(1), F.S.

<sup>5</sup> Section 1001.71(1), F.S.

<sup>6</sup> Art. IX, s. 7(c), Fla. Const.; *see also* Florida Board of Governors Regulation 1.001 (Feb. 16, 2012).

<sup>7</sup> Florida Board of Governors Regulation 18.001(1).

requirements.<sup>8</sup> University Boards of Trustees are permitted to establish a competitive solicitation threshold up to \$75,000.<sup>9</sup>

- Due to federal procurement requirements, BOG procurement regulations continue to be aligned with the procurement provisions in Chapter 287, F.S.<sup>10</sup>
- Universities are subject to annual operational audits by federal, state, and internal auditors.
- Universities are required to complete federally-mandated education and training in procurement best practices.

### *The Florida State University and University of Florida Strategic Sourcing and E-Procurement Initiative*

Although the use of strategic sourcing best practices is common throughout the SUS, the Florida State University (FSU) and the University of Florida (UF) have developed a fully integrated electronic procurement system, including an on-line catalog of purchasing options. The system contract was awarded to SciQuest, the premier provider of e-procurement software for research universities and institutions.

UF and FSU focused on six commodity areas for strategic sourcing throughout the university procurement process: IT hardware, courier, office products, scientific supplies, copiers, and maintenance, repairs, and operations. SUS institutions purchase from a contract between the Florida Distance Learning Consortium and Blackboard. Pricing is negotiated based on aggregate spend. The BOG leveraged aggregate spend and utilized the e-procurement system to purchase a system-wide contract with Microsoft.

FSU and UF teamed up to issue joint, strategically sourced invitations to negotiate (ITN) to establish e-procurement contracts for information technology equipment and scientific and medical supplies. The ITNs resulted in three joint IT contracts and ten lab supply contracts and agreements.

### *Other Buying Groups and Consortia*

Each SUS institution is a member of the National Association of Educational Procurement (NAEP). NAEP members are eligible to use dozens of competitively-bid and strategically-sourced contracts established by Educational & Institutional Cooperative Service, Inc. (E&I). E&I is a not-for-profit buying cooperative established by members of NAEP to provide goods and services to members at the best possible value.<sup>11</sup>

SUS institutions are also eligible to use competitively-bid consortium contracts established by other government groups, such as the Western States Contracting Alliance, and buying groups, such as the U.S. Communities and Horizon Resource Group.

### *Regional Procurement*

By working with larger institutions, smaller state universities with specialized needs have achieved procurement savings at the regional level. For example, the University of North Florida (UNF) implemented the SunGuard Banner ERP system in FY 2003-2004 as a result of a SUS ITN initiative chaired by UF,

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<sup>8</sup> Florida Board of Governors Regulation Chapter 18.

<sup>9</sup> Florida Board of Governors Regulation 18.001(2).

<sup>10</sup> Chapter 287, F.S.

<sup>11</sup> See <https://www.eandi.org/> (last visited 05/10/12).

FSU, UNF, the University of Central Florida (UCF), and Florida Atlantic University (FAU). UNF has achieved significant savings through its solicitation process. UNF's procurement savings was \$570,628 in 2010, \$352,059 in 2011, and \$361,293 through the third quarter of 2012. UNF's purchasing department has generated revenue over the past five years, including two signing bonuses for office supply contracts utilizing strategic sourcing with other universities and rebates from E&I contracts.

### **C. University Cooperation with State Purchasing**

The Department of Management Services (DMS) has organized a group of representatives from local governments, state colleges, and state universities (referred to as other eligible users or OEUs) called Florida Professionals for Public Procurement. The group meets monthly and has representation from the University of Florida, the University of North Florida, Polk State College, Florida Atlantic University, and Florida Gulf Coast University.

The group has several long term objectives including:

- Maximizing best in class procurement processes;
- Bringing the best value to the state and OEUs through strategic sourcing, standard contracts, and standard processes;
- Managing administrative costs through supply chain management and a shared services delivery model;
- Working with the Division of State Purchasing (the division) to create a flexible technology platform;<sup>12</sup> and
- Maximizing spend visibility.

In addition, the division also communicates with universities through the Florida Association of Public Procurement Officials (FAPPO).<sup>13</sup>

SUS institutions also utilize DMS's Vendor Bid System to post solicitations in order to increase competition and are substantial users of DMS state term contracts.

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<sup>12</sup> This would include the following recommendations made by the Subcommittee on General Government: provide a public facing catalog solution for OEUs to purchase state term contract items; convert Florida commodity codes to the National Institute of Governmental Purchasing (NIGP) codes; and increase utilization of MyFloridaMarketPlace (MFMP). See the May 2, 2012, meeting packet for the full procurement recommendations, available at <http://www.floridaefficiency.com/meetings.cfm> (last visited 5/10/12).

<sup>13</sup> See <http://www.fappo.org/> (last visited 5/10/12).



# Florida Government Efficiency Task Force

***Subcommittee on General Government***

***Recommendation Analysis***

**Subject Matter:** Recommendation Regarding State Procurement

**Subcommittee Members:** Pat Neal (Chair), Senator Mike Bennett, Ann Duncan, Frances Rice, and Larry Cretul

## **RECOMMENDATION SUMMARY**

On April 11, 2011, the Subcommittee on General Government voted to approve the following recommendations regarding state procurement:

- ***Increased utilization of state term contracts:***
  - Review all statutory barriers and remove those unnecessary for full utilization of state term contracts.
  - Create a process that gives the Department of Management Services (DMS) an approval role for non-state term contract purchases by agencies.
- ***Increased utilization of MyFloridaMarketPlace:***
  - Review the 1% usage fee for MyFloridaMarketPlace (MFMP) and adjust to allow for the greatest utilization by state agencies and other eligible users.
  - Measure full cycle utilization of MFMP through DMS.
  - Provide a public facing catalog solution for other eligible users of MFMP.
  - Convert Florida commodity codes to the National Institute of Governmental Purchasing (NIGP) codes.
- ***Increased effectiveness of MyFloridaMarketPlace:***
  - Implement a data analytics solution for MFMP.
  - Automate electronic posting of solicitations created in Sourcing to the Vendor Bid System (VBS).
  - Automate the workflow between the Ariba Buyer and Ariba Sourcing modules of MFMP.
  - Provide a public portal for contract information.
- ***Strategic sourcing:***
  - Utilize the increased visibility and volume in spend achieved via increased use of state term contracts and MFMP to strategically procure commodities and services.
  - Create an incentive model that utilizes savings achieved by agencies to encourage participation in strategic sourcing.
- ***Consultants' Competitive Negotiation Act (CCNA):***
  - Allow agencies to utilize the "Best Value" process for all professional services within architecture, professional engineering, landscape architecture, or registered surveying and mapping. This process would allow price to be a factor of up to 50% when ranking the top three most qualified firms.

## FULL ISSUE(S) ANALYSIS

### A. BACKGROUND

#### Department of Management Services

The Department of Management Services (DMS) provides administrative and support services to other state agencies and to state employees. DMS's areas of responsibility include, but are not limited to:

- Employee benefits (retirement and insurance);
- Human resource management;
- Business operations (real estate development and management, state purchasing, and specialized services);
- Telecommunications; and
- Agency administration.<sup>1</sup>

#### State Procurement of and Contracts for Personal Property and Services

Under ch. 287, F.S., the Division of State Purchasing in DMS is responsible for developing and administering standardized procurement policies, procedures, and practices to be used by state agencies in acquiring commodities, contractual services, and information technology. A variety of procurement methods are available for use by the agencies depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. To guide the procedures for the procurement method to be used, the type of review required, and the method for the award of any contract, the following purchasing categories with threshold amounts have been established:

- Category one: \$20,000
- Category two: \$35,000
- Category three: \$65,000
- Category four: \$195,000
- Category five: \$325,000<sup>2</sup>

DMS prescribes methods of securing competitive sealed bids, proposals, and replies.<sup>3</sup> The competitive solicitation process must be used for procurement of commodities or contractual services in excess of the category two threshold amount and include any of the following solicitation methods: invitations to bid, requests of proposals, and invitations to negotiate. Many services procured by state agencies are exempt from competitive solicitation requirements regardless of whether the purchase exceeds the applicable cost threshold, including artistic services, auditing services, and legal services.<sup>4</sup> Agencies currently must seek approval from DMS to use an alternate contract source to purchase commodities or services from term contracts or requirements contracts competitively established by other governmental entities. In approving the alternate contract source, DMS determines if the contract source is cost-effective and in the best interest of the State.<sup>5</sup>

All agreements in excess of the category two threshold must be evidenced by a written agreement and include provisions for the required minimum level of service to be performed by the contractor, criteria for evaluating the successful completion of each deliverable, and financial consequences for nonperformance. There must also be a provision dividing the contract into quantifiable, measurable, and verifiable units of deliverables that

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<sup>1</sup> See the Department of Management Services website, <http://www.dms.myflorida.com/> (last visited 04/18/2012).

<sup>2</sup> Section 287.017, F.S.

<sup>3</sup> Rules 60A-1.041 & 60A-1.002, F.A.C.

<sup>4</sup> Section 287.057(3)(f), F.S.

<sup>5</sup> Rule 60A-1.047, F.A.C.

must be received and accepted in writing by the contract manager before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and criteria for evaluating the successful completion of each deliverable.<sup>6</sup>

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid," which are used when an agency determines that standard services or goods will meet its needs, wide competition is available, and vendors' experience will not greatly influence the agency's results;
- "Requests for proposals," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors with the ability to provide the required goods or services exist; and
- "Invitations to negotiate," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, and customized services, by an agency dealing with a limited number of vendors.<sup>7</sup>

Chapter 287, F.S. also establishes a process by which a person may file an action protesting a decision or intended decision pertaining to contracts administered by DMS, a water management district, or certain other agencies.<sup>8</sup>

## State Term Contracts

Agencies also purchase commodities and contractual services utilizing agreements called "state term contracts" procured by DMS.<sup>9</sup> A state term contract is an agreement that leverages the state's volume and buying power to procure the best price for services and commodities. DMS negotiates state term contracts when it is in the best interest of the state to purchase mass quantities of a specific commodity or service. DMS is also responsible for compiling statistical procurement data concerning the method of procurement, terms, usage, and disposition of commodities and contractual services by agencies. This data is available in the Florida Accounting Information Resource Subsystem (FLAIR) and the state's MyFloridaMarketPlace (MFMP) centralized e-procurement system.<sup>10</sup>

The advantage of state term contracts is that the procurement process allows the state to leverage increased volume and buying power to provide commodities and services at lower cost to state agencies and other eligible users (OEU's).<sup>11</sup> The more state agencies and OEU's utilize state term contracts, the more leverage DMS has in negotiating a better price. In FY 2011, the Division tracked the following state term contracts:

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<sup>6</sup> Section 287.058(1), F.S.

<sup>7</sup> See ss. 287.012(6) and 287.057(1), (3), F.S.

<sup>8</sup> See s. 287.042(2)(c), F.S.

<sup>9</sup> See ss. 287.042(2)(a) and 287.056, F.S.

<sup>10</sup> Department of Management Services Operational Audit, Report No. 2011-075, January 2011 (copy on file with Government Efficiency Task Force staff).

<sup>11</sup> Section 287.012(11), F.S., provides that "Eligible user" means any person or entity authorized by the department pursuant to rule to purchase from state term contracts or to use the online procurement system." Rule 60A-1.005, F.A.C., provides that the following entities are eligible users: Governmental entities as defined in section 163.3164, F.S., (a county, city, school board, or special district,

- PCs, laptops, and monitors;<sup>12</sup>
- Information Technology (IT) network infrastructure;<sup>13</sup>
- Medical and dental supplies;<sup>14</sup>
- Office and classroom supplies;<sup>15</sup>
- Uniforms;<sup>16</sup> and
- Office and educational consumables.<sup>17</sup>

DMS identified \$41.6 million in annualized savings over FY 2011, which equates to 19% savings compared to the estimated spend under the pre-state term contract price.<sup>18</sup>

Category	Estimated Annual Spend (Before Sourcing)	Actual Identified Annual Savings \$	Actual Identified Annual Savings %	Impacted FY 11 Spend	Actual FY 11 Spend	Actual FY 11 Savings
<b>PCs, Laptops and Monitors</b>	\$174,861,114	\$56,834,099	33%	\$88,944,688.47	\$60,035,496	\$28,909,172.47
<b>IT Hardware: Network Infrastructure</b>	\$133,857,238	\$15,661,312	12%	\$91,204,979.65	\$80,533,987	\$10,670,922.65
<b>Medical/Dental Supplies</b>	\$8,466,927	\$2,024,192	24%	\$1,569,471.19	\$1,194,257.00	\$375,214.19
<b>Office and Classroom Supplies</b>	\$45,717,154	\$3,116,256	7%	\$4,915,976.74	\$4,580,885.00	\$335,091.74
<b>Uniforms</b>	\$2,285,981	\$325,461	14%	\$718,246.76	\$615,988.00	\$102,258.76
<b>Office and Education Consumables</b>	\$40,463,264	\$1,627,757	4%	\$31,235,860.42	\$29,986,426.00	\$1,249,434.42
<b>Totals</b>	<b>\$405,651,678</b>	<b>\$79,589,077</b>	<b>19.6%</b>	<b>\$218,589,203.23</b>	<b>\$176,947,039</b>	<b>\$41,642,164.23</b>

Despite the demonstrated success that DMS has attained in reducing costs for services and commodities through state term contracts, there is a large amount of unaddressed state spend that is not volume purchased through these contracts.<sup>19</sup> Many state agencies have not taken full advantage of the state term contracts provided by DMS, so volume purchasing opportunities are missed. DMS estimates that \$1 to \$1.7 billion<sup>20</sup> was

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which have a physical presence in Florida) and any independent, nonprofit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools.

<sup>12</sup> 250-040-08-1.

<sup>13</sup> 250-000-09-1.

<sup>14</sup> 475-000-11-1.

<sup>15</sup> 618-001-07-ACS.

<sup>16</sup> 200-050-05-1.

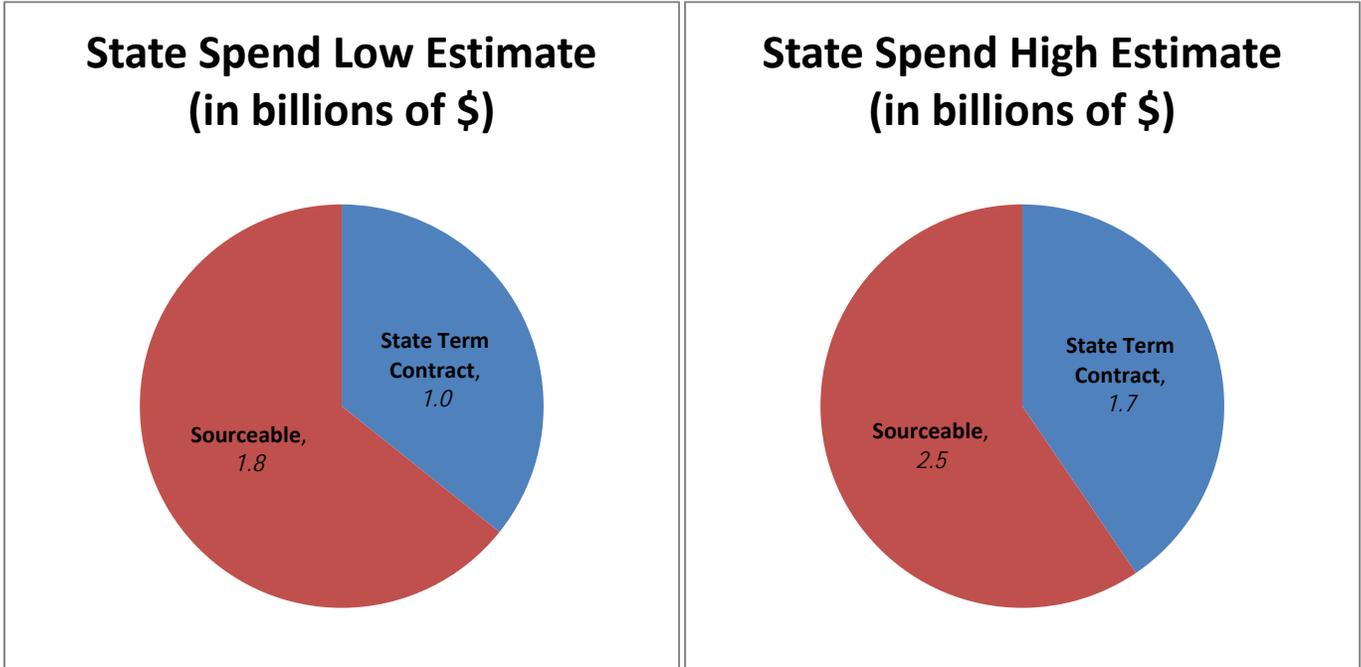
<sup>17</sup> 618-000-11-1.

<sup>18</sup> Report provided by DMS at request of the Government Efficiency Task Force General Government Subcommittee Chairman (copy on file with Government Efficiency Task Force staff).

<sup>19</sup> Florida Senate, *State Contract Management System*, February 2011.

<sup>20</sup> DMS was able to track \$1 billion of state term contract spend through MFMP and estimates that an additional \$700 million was purchased on state term contracts outside of MFMP through FLAIR for a total estimate of \$1 to \$1.7 billion in total agency spend.

purchased by state agencies through a state term contract last fiscal year with the opportunity to source<sup>21</sup> an additional \$1.8 to \$2.5 billion of state agency spend. This potential sourceable spend does not include OEUs, or commodities or services exempted pursuant to s. 287.057(3)(f), F.S.



If DMS was able to strategically source the additional \$1.8 to \$2.5 billion in sourceable spend through multiple state term contracts and achieve a savings between 6-10%, the result would be in the range of \$108-\$180 million<sup>22</sup> to \$150-\$250 million<sup>23</sup> per year.

## Change and Efficiency

### Increase Use of State Term Contracts

The Subcommittee on General Government identified two primary reasons for under-utilization of state term contracts:

1. Lack of enforcement capability of DMS for state term contracts; and
2. Statutory barriers in the form of exceptions of use.

### *Approval of Non-Use of State Term Contracts*

Section 287.042(2)(a), F.S., provides that DMS has the duty:

To establish purchasing agreements and procure state term contracts for commodities and contractual services, pursuant to s. 287.057, under which *state agencies shall*, and eligible users may, make purchases pursuant to s. 287.056.<sup>24</sup>

<sup>21</sup> “Opportunity to source” refers to agency spend to which a strategic sourcing methodology could be applied (i.e. a state term contract could be negotiated to procure the service or commodity).

<sup>22</sup> This range is based on a 6% or 10% savings on the additional \$1.8 billion of potential sourceable spend.

<sup>23</sup> This range is based on a 6% or 10% savings on the additional \$2.5 billion of potential sourceable spend.

<sup>24</sup> Emphasis added.

Additionally, s. 287.056, F.S., provides that:

*Agencies shall, and eligible users may, purchase commodities and contractual service from purchasing agreements established and state term contracts procured, pursuant to s. 287.057, by the department.*<sup>25</sup>

While state agencies are required to utilize state term contracts pursuant to statute,<sup>26</sup> DMS lacks an enforcement mechanism. Pursuant to rule 60A-1.044, F.A.C., an agency that chooses to purchase outside a state term contract need only document why the state term contract does not meet its needs. Since DMS does not have a part in the approval process for non-state term purchases, the Department does not receive feedback for improvement of state term contracts, which leads to ineffective contract negotiation and spend analysis.

#### **Recommendation:**

**The Subcommittee recommends creating a process that gives the Department of Management Services (DMS) an approval role for non-state term contract purchases by agencies.** Currently, while an agency may be mandated by statute to purchase from a state term contract, there is no approval or enforcement mechanism. DMS should have an approval role for agency purchases when the purchase can be made on a state term contract and the agency wants to purchase elsewhere. This would aid DMS in collecting data regarding the effectiveness of the state term contract and also enforce utilization of the state term contract when appropriate. This recommendation would aid DMS in strategically sourcing the estimated \$1.8-\$2.5 billion in potential sourceable spend to achieve an estimated savings between 6-10%. This would equate to a savings of **\$108-\$180 million**<sup>27</sup> to **\$150-\$250 million**<sup>28</sup> per year.<sup>29</sup>

#### *Statutory Barriers to Use of State Term Contracts*

There are several statutory barriers to use of state term contracts. Section 287.057(3)(f), F.S., lists exceptions to the competitive solicitation requirements, including:

- Artistic services;
- Academic program reviews;
- Lectures by individuals;
- Legal services;
- Health services;
- Services provided to persons with mental or physical disabilities by not-for-profit corporations;
- Medicaid services delivered to an eligible Medicaid recipient;
- Family placement services;
- Prevention services related to mental health;
- Training and education services;
- Contracts entered pursuant to s. 337.11, F.S.; and
- Services or commodities provided by governmental agencies.

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<sup>25</sup> Emphasis added.

<sup>26</sup> See s. 287.042(2)(a), and 287.056(1), F.S.

<sup>27</sup> This range is based on a 6% or 10% savings on the additional \$1.8 billion of potential sourceable spend.

<sup>28</sup> This range is based on a 6% or 10% savings on the additional \$2.5 billion of potential sourceable spend.

<sup>29</sup> Sourcing and management of the added state term contracts may require additional staff.

For example, in FY 2010-11 \$315 million, or 24% of the \$1.27 billion, in substance abuse and mental health contracts were procured under the health services exemption.<sup>30</sup> This spend may be sourceable, but due to the statutory authority, the purchase is exempt. Additionally, the combined spend for all exempt procurements is \$8.4 billion annually.<sup>31</sup>

## **Recommendation:**

### **The Subcommittee recommends removing statutory barriers to full utilization of state term contracts.**

All exceptions to the competitive procurement process should be reviewed and those that are unnecessary should be repealed. By removing exemptions, there will be an increase in competition and ensure the best value for the State of Florida.

## **MyFloridaMarketPlace**

MyFloridaMarketPlace (MFMP) was established to create a procure-to-pay system for commodities and services. The system aids DMS in utilizing a strategic sourcing methodology for state purchasing.<sup>32</sup> MFMP's purpose is to increase visibility and analysis into statewide spend, which allows the state to consolidate purchases across state entities. The strategic sourcing model used by the Division of State Purchasing (the Division) seeks to maximize usage of MFMP by state agencies and other eligible users (OEU's) to:

- Increase total spend under management;
- Increase spend visibility; and
- Leverage the increased visibility and volume of spend to develop better procurements.

This visibility allows the Division to target deeper discounts through negotiations with suppliers, resulting in stronger contracts. The state as a whole, including local governments, realizes reduced costs of procured products and services from these contracts. MFMP currently provides catalog availability only to agencies in the State of Florida. Currently, less than 50 percent of State of Florida spend is under management. Industry best practice is to achieve spend management of more than 80 percent, which has been achieved by other states.<sup>33</sup>

Utilization of MFMP by agencies provides the following benefits to the state:

1. Supply base management, which reduces procurement costs;
2. Supplier portal/network access, which creates greater competition;
3. Spend analysis, which provides a better understanding of state purchases;
4. Strategic sourcing, which leverages more dollars in order to achieve better pricing;
5. Contract lifecycle management, which reduces transition costs and provides greater visibility of spend; and
6. Procure-to-Pay availability, which reduces transaction costs.

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<sup>30</sup> OPPAGA *Substance Abuse and Mental Health Contracting*, September 28, 2011, p. 4 (copy on file with Government Efficiency Task Force staff). The Subcommittee on Health and Human Services is addressing the specific issue of substance abuse and mental health services procurement.

<sup>31</sup> Analysis of the State Contract Management System database and agency data. Includes all exempt purchases, not just exemptions pursuant to s. 287.057(3)(f), F.S.

<sup>32</sup> Section 287.057(22), F.S., directs DMS to develop a program for online procurement of commodities and contractual services, which developed into MyFloridaMarketPlace.

<sup>33</sup> North Highland, *Business Case Of The eProcurement Solutions*, p.10 (copy on file with Government Efficiency Task Force staff).

In order for the state of Florida to achieve the greatest procurement efficiency and savings, state agencies need to utilize MFMP to its fullest capability. With greater use, the state agencies will achieve:

- Tighter control and better visibility of their purchases;
- Better control of encumbered funds;
- Significant reduction in invoicing and payment costs; and
- Easier detail and accessibility of spend data for audit purposes.

*State Agency Utilization of MFMP*

Currently, MFMP is not fully utilized by all agencies across state government. Measuring agency utilization is best captured in terms of the percent of addressable spend that is captured in agency MFMP Purchase Order (PO) dollars. Currently, DMS State Purchasing identified \$3.8 billion of addressable spend in Fiscal Year 2011 (FY11). This was derived from FLAIR payments to vendors, categorized by accounting object code

The expected total MFMP PO dollars at full agency utilization totals an estimated \$3.6 billion. Currently, there are state agencies that are exempted from both competitive solicitation and utilization of MFMP. According to DMS, exempt agencies account for an additional estimated \$100 million in addressable spend, while Purchasing card (P-card) transactions account for an additional estimated \$123 million in addressable spend. Additionally, approximately \$1.7 billion of the \$3.6 billion (47 percent) went through MFMP POs in FY11. Lastly, 32 vendors account for more than 65 percent of PO dollars not entered in MFMP. To better understand current state agency utilization trends, the Subcommittee has broken down agency MFMP PO utilization below into three categories:

1. State agencies with high utilization;
2. State agencies with medium utilization;
3. State agencies with low utilization.

The chart below shows the agencies organized by MFMP utilization.

State Agencies with High MFMP Utilization (75% or More PO Adoption)	State Agencies with Medium MFMP Utilization (75-30% PO Adoption)	State Agencies with Low MFMP Utilization (Less than 30% PO Adoption)
The Agency for Work Force Innovation <sup>34</sup>	Department of Health	State Courts System
Department of Highway Safety and Motor Vehicles	Department of Corrections	Department of Revenue
Division of Administrative Hearings	Department of State	Department of Juvenile Justice
Department of Veteran Affairs	Department of Elder Affairs	Department of Transportation
Florida Fish and Wildlife Conservation Commission	Attorney General and Legal Affairs	Department of Environmental Protection
Department of Financial Services	Executive Office of the Governor	Department of Military Affairs
Florida Department of Law Enforcement	Department of Community Affairs <sup>35</sup>	Agency for Health Care Administration
Florida Department of Business and Professional Regulation	Florida Parole Commission	Department of Citrus
Department of Management Services	Florida School for the Deaf and Blind	Florida Lottery
Agency for Persons with Disabilities		Department of Education
<i>Note: As of March 2012, the Department of Children and Families has 100 percent fully integrated MFMP utilization throughout the agency.</i>		

<sup>34</sup> Transitioned to Department of Economic Opportunity in 2011.

<sup>35</sup> Transitioned to Department of Economic Opportunity in 2011.

## Change and Efficiency

### Increase Usage of MyFloridaMarketPlace

#### *1% Transaction Fee*

One of the main identified factors for under utilization involved the 1% fee currently charged to vendors who utilize MFMP. Section 287.057(22)(c), F.S., provides that: "The department may impose and shall collect all fees for the use of the online procurement systems." The statute provides DMS flexibility in setting the fees for usage of MFMP. The current 1% is established via rule 60A-1.031, F.A.C., with a list of exceptions to the 1% fee provided in rule 60A-1.032, F.A.C.

#### **Recommendation:**

**The Subcommittee recommends that the 1% usage fee for MyFloridaMarketPlace (MFMP) be reviewed and adjusted to allow for the greatest utilization by state agencies and other eligible users.** Users of MFMP are charged a 1% usage fee. The fee and funding structure of MFMP should be reviewed and changed to allow for the greatest utilization.<sup>36</sup> If increased utilization was able to generate a 1% savings on only 50% of the possible spend that could utilize MFMP, to the savings would total **\$9.5 million** dollars.<sup>37</sup>

#### *Full Cycle Utilization*

As demonstrated in the below graph, agencies do not fully utilize MFMP. Many agencies will order (create a PO) within the system, but will not utilize the e-Invoicing system; instead the agency will utilize FLAIR. Utilizing FLAIR creates additional soft and hard costs<sup>38</sup> involved in the invoicing process. Two separate reports estimate a savings of \$10-\$15 per transaction if the order were to be processed via the e-Invoicing in MFMP rather than through FLAIR.<sup>39</sup> DMS has estimated a cost savings of \$10.9 to \$11.9 million per year if 80% of addressable spend were to utilize the e-Invoicing system with MFMP.

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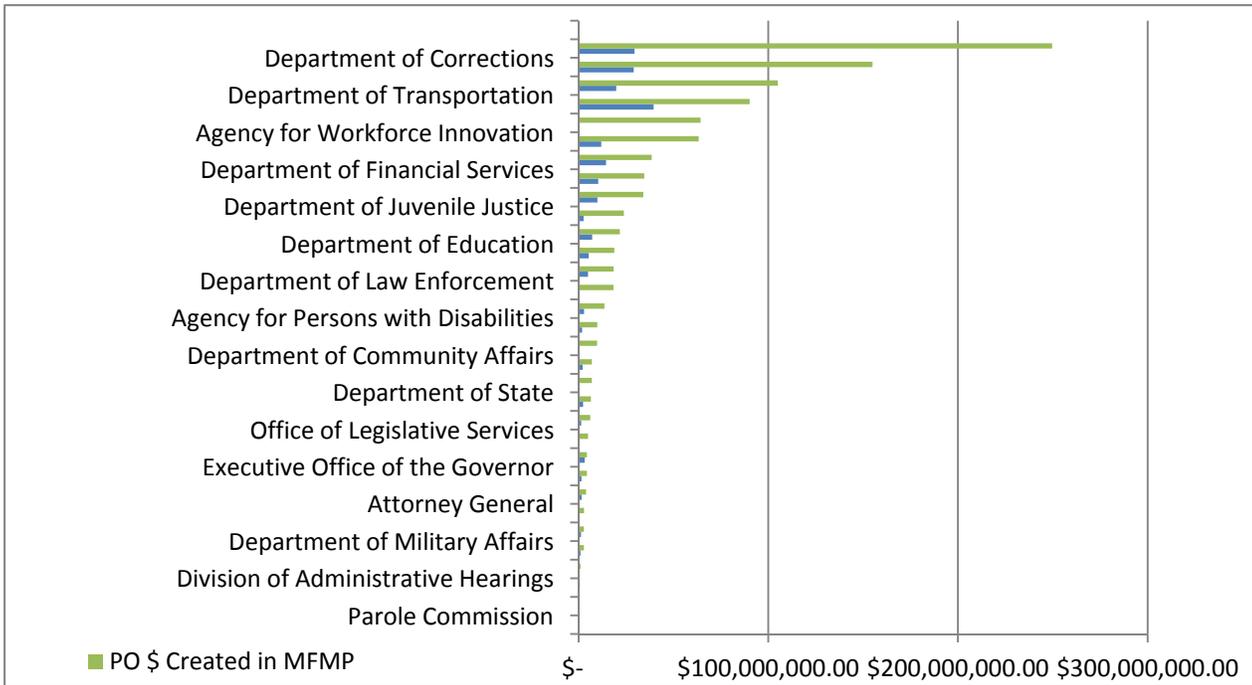
<sup>36</sup> DMS provided several high level concepts of a revised fee, including reducing the fee, an e-transaction incentive model, and two hybrid models (on file with Government Efficiency Task Force staff).

<sup>37</sup> This is calculated by taking 1% of the 50% of the 1.9 billion in potential MFMP spend (1% of \$950 million), which equates to \$9.5 million.

<sup>38</sup> Soft costs refer to the labor involved in processing the order, while hard costs refer to the printing and sending of the invoice.

<sup>39</sup> These reports were done by Forrester and Accenture (copy on file with Government Efficiency Task Force staff).

## MFMP Invoice Payment dollars against MFMP POs



### Recommendation:

**The Subcommittee recommends that DMS measure full cycle utilization.** There are significant savings to be realized by not printing and mailing out invoices to customers. The hard costs alone (postage, paper, custom envelopes) are significant enough to justify adoption, but there are also significant soft costs in labor savings. Agencies should utilize MFMP for invoicing. This recommendation would result in savings of **\$10.9 to \$11.9 million** per year if implemented.<sup>40</sup>

### *MFMP Enhancements*

DMS's objective is to establish the following guiding principles to ensure that MFMP is fully as a best-in class<sup>41</sup> e-Procurement solution:

- Maximize spend visibility;
- Maximize usage by both agencies and other governmental entities;
- Bring best value to the state through strategic sourcing, standard contracts, and processes;
- Manage administrative costs through self-service and a shared services delivery model; and
- Create a flexible technology platform that is easy to use and maintain.

There are several enhancements available to the MFMP system which can further improve the realized efficiencies, produce greater savings from economies of scale, support open government requirements, better leverage OEU spend to Florida's collective benefit, further ease implementation of a unified statewide procurement process, embrace national and best-in-class standards, and embrace new cloud technology.

<sup>40</sup> The savings estimate is based on DMS calculations based on two reports by Accenture and Forrester.

<sup>41</sup> Gartner, *Understanding Your Top Procurement Processes*, May 11, 2011 (Copy on file with Government Efficiency Task Force staff).

## Recommendations:

**The Subcommittee recommends implementing a data analytics solution.** MFMP should be modified to assist the state in gaining greater spend visibility for goods and/or services than is currently available. The goal should be data normalization at a minimum standard of 80 percent of the available dataset covering:

- a. Suppliers – including but not limited to:
  - i. Utilizing an external database to demonstrate parent-child relationships
  - ii. Federal employer identification number (FEIN) validation
  - iii. Physical location detail
- b. Commodity code– Including but not limited to:
  - i. Transition to National Institute of Governmental Purchasing commodity codes
  - ii. Validate commodity code spend against vendor business class
- c. Supplier business status validation from a vendor-supplied database covering:
  - i. Minority
  - ii. Veteran
  - iii. Small Business

The services should provide information that will support the shared services initiatives the state is currently undertaking and should provide greater visibility in expenditures made by state agencies. This enhancement provides the necessary data to support a strategic sourcing process for the State of Florida. The ability to access disparate data sources and normalize spend creates a benchmarking opportunity that allows agencies and other users to evaluate procurement performance.

**The Subcommittee recommends automating electronic posting of solicitations created in Sourcing to the Vendor Bid System (VBS).** DMS developed and manages the VBS, to which approximately 1,000 solicitations are posted each year. DMS also uses the Ariba Sourcing application to post solicitations and receive responses. One of DMS's goals is to roll-out the Ariba Sourcing application to all agencies. Currently all agencies use VBS and are required to manually post information in the system. DMS should create a solution to facilitate the automated posting of solicitation information in VBS from Ariba Sourcing to avoid manually entering data in both systems. This enhancement will reduce the duplication of efforts by state agencies as the Ariba Sourcing module is rolled out to other agencies in Florida.

**The Subcommittee recommends that DMS automate the workflow between the Ariba Buyer and Ariba Sourcing modules.** Buyers must manually create a requisition within MFMP Buyer when an electronic quote or sourcing event is awarded in the Sourcing tool. DMS should create a solution to automate the creation of requisitions in Buyer for electronic quotes awarded in Sourcing.

**The Subcommittee recommends providing a public portal for contract information.** DMS maintains all statewide agreement documents and contract information on the DMS website, as well as in the MFMP application. A best-in-class solution will provide a tool to maintain contract information within MFMP complemented by a public portal for contract information, in order to prevent the duplication of data in multiple locations. This enhancement would replace the DMS state term contract website and would be available to other agencies in a shared solutions model to support transparency in Florida.

### *Other Eligible Users (OEU)*

OEU account for a significant amount of the sourceable spend on state term contracts. The more OEU utilize state term contracts and MFMP, the more DMS is able to negotiate better prices due to increase in volume of spend. MFMP does not currently utilize a public facing catalog for OEU. The public facing catalog would be

similar to the platform on amazon.com or other on-line stores. The catalog would significantly increase the ease of ordering from MFMP for OEUs.<sup>42</sup>

MFMP also utilizes Florida commodity codes. These codes are unique to the state and do not correspond with the majority of industry codes. Most OEUs use National Institute of Governmental Purchasing (NIGP) codes. The difference in coding makes it difficult for OEUs to navigate and locate the commodities they wish to purchase through MFMP and post solicitations on VBS once it becomes available to OEUs.

### **Recommendations:**

**The Subcommittee recommends providing a public facing catalog solution.** DMS establishes catalogs for all state term contracts in MFMP Buyer from which customers purchase. Current catalog types include line items, punch-outs (an interface between a supplier's online ordering portal and Buyer), and ordering instructions (general instructions to buyers on how to purchase). DMS is working to create a solution to make the MFMP catalog component available to other eligible users (OEUs), (e.g., cities, counties, universities, etc.). This enhancement will also allow users to create a shopping cart of various items for print view reference and will accept P-card payment functionality. This addition will support the goal of increasing spend visibility by capturing purchases from OEUs and making them reportable in MFMP analysis. This enhancement will better drive spend to state term contracts. Leveraging purchases across the entire State of Florida is a key component of strategic sourcing and will deliver better value to all Florida taxpayers.

**The Subcommittee recommends converting Florida commodity codes to the National Institute of Governmental Purchasing (NIGP) codes.** The State of Florida currently leverages custom commodity codes. These commodity codes are maintained by the Division of State Purchasing (the division) and are associated to a default object code (defined by DFS). DMS is interested in moving away from Florida customized commodity codes to a set of standard industry codes. Most OEUs utilize NIGP codes. If they are adopted as the State of Florida standard, it will be easier for the OEUs to utilize MFMP and VBS.

### **Strategic Sourcing**

The ultimate goal of the Subcommittee recommendations is to aid DMS in its mission to strategically source commodities and services, for both the state and OEUs, in order to achieve the best price. Increased utilization of state term contracts will immediately realize savings by negotiating a better price for agency purchases and will also allow DMS to continually negotiate better state term contracts through the increase in the volume of spend. Increased use of MFMP allows DMS to track spending and in turn negotiate new state term contracts or identify new avenues for savings.

### **Recommendations:**

**The Subcommittee recommends utilizing the increased visibility and volume in spend achieved via increased use of state term contracts and MFMP to strategically procure commodities and services.** If utilization of state term contracts and utilization of MFMP are increased, the state will achieve greater spend visibility and purchasing leverage. DMS should utilize these processes to strategically procure and achieve greater savings.

**The Subcommittee recommends creating an incentive model that utilizes savings achieved by agencies to encourage participation in strategic sourcing.** In order to encourage agency compliance with the utilization of state term contracts and MFMP, the state should adopt an incentive model that awards an agency for cost savings through strategic procurement. The state should set realistic goals for savings achievement and reward agencies for achieving those goals, not just for participating.

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<sup>42</sup> OEU spend is not currently tracked through MFMP. Vendors self report the sales in order to reconcile the 1% fee with the state. It is estimated that the amount reported by vendors is lower than the actual amount. See rule 60A-1.031, F.A.C.

## Consultants' Competitive Negotiation Act

The Consultants' Competitive Negotiation Act (CCNA) was passed in 1973.<sup>43</sup> The Act is largely based on the Federal Brooks Act, which was passed in 1972.<sup>44</sup> CCNA provides that all professional services within architecture, professional engineering, landscape architecture, or registered surveying and mapping,<sup>45</sup> be contracted according to qualifications-based selection (QBS). CCNA applies to all projects above \$325,000 and all studies above \$35,000<sup>46</sup> bid out by the state, a state agency, a municipality, a political subdivision, a school district, or a school board.<sup>47</sup>

QBS follows these phases:

### **Phase One:**

1. The agency publicly announces the project or study.<sup>48</sup>
2. The agency evaluates current statements of qualifications and performance currently on file, together with those that are submitted by other firms and conducts discussions with no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.<sup>49</sup>
3. The agency then selects in order of preference no fewer than three firms deemed to be the most qualified.<sup>50</sup>
4. The agency may consider the following factors in determining whether a firm is qualified: ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected firm workload; and the volume of work previously awarded to each firm by the agency.<sup>51</sup>
5. The agency may not consider compensation during this phase.<sup>52</sup>

### **Phase Two:**

1. The agency negotiates with the most qualified firm regarding compensation.<sup>53</sup>
2. If the agency cannot come to an agreement with the most qualified firm, then negotiations with that firm must be formally terminated.<sup>54</sup>
3. The agency may then begin negotiations with the second most qualified firm.<sup>55</sup>
4. If the agency cannot come to an agreement with the second most qualified firm, then negotiations with that firm must be formally terminated.<sup>56</sup>
5. The agency may then begin negotiations with the third most qualified firm.<sup>57</sup>
6. If the agency cannot come to an agreement with the third most qualified firm, then negotiations with that firm must be formally terminated.<sup>58</sup>

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<sup>43</sup> See s. 287.055, F.S.

<sup>44</sup> See Public Law 92-582.

<sup>45</sup> Section 287.055(2)(a), F.S.

<sup>46</sup> See s. 287.055(3)(a)(1), F.S., which cites to s. 287.017, F.S. Section 287.017(5), F.S., provides that a category 5 project is defined as a project over \$325,000 and s. 287.017(2), F.S. provides that a category 2 is a study over \$35,000.

<sup>47</sup> Section 287.055(2)(b), F.S.

<sup>48</sup> Section 287.055(3)(a)(1), F.S.

<sup>49</sup> Section 287.055(4)(a), F.S.

<sup>50</sup> Section 287.055(4)(b), F.S.

<sup>51</sup> Id.

<sup>52</sup> Section 287.055(4)(c), F.S.

<sup>53</sup> Section 287.055(5)(a), F.S. "Compensation which the agency determines is fair, competitive, and reasonable."

<sup>54</sup> Section 287.055(5)(b), F.S.

<sup>55</sup> Id.

<sup>56</sup> Id.

<sup>57</sup> Id.

7. If the agency cannot negotiate a satisfactory contract with any of the three most qualified firms, the agency can negotiate with additional firms selected in order of their competence and qualifications.<sup>59</sup>
8. Once negotiations with a firm are terminated, the agency may not resume negotiations with that firm for the project.

**Recommendation:**

**The Subcommittee recommends that state agencies utilize the “Best Value” process.**<sup>60</sup> The best value process is defined as:

The selection of a firm or firms whose proposal provides the greatest overall benefit to an agency in accordance with the requirements of a formal solicitation.

The best value process allows agencies to:

1. Solicit proposals and include a written scope of work for the project to the competing firms.
2. Rank all firms based on qualifications and establish a “short list.”<sup>61</sup>
3. Rank “short listed” firms on qualifications and price.<sup>62</sup>

Price would be allowed to be solicited from the top three most qualified firms only and would be factored in to the evaluation at no more than 50%. Since unqualified firms would not make the original short list, only the most qualified firms would have an opportunity to be awarded the contract. This would address the concerns raised about health and human safety in the procurement process.

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<sup>58</sup> Section 287.055(5)(b), F.S.

<sup>59</sup> Section 287.055(5)(c), F.S.

<sup>60</sup> The process was presented by Mr. Steve Carnell at the November 2, 2011, meeting of the Government Efficiency Task Force. See <http://www.floridaefficiency.com/2011meetings.cfm> (last visited 5/7/12). The Subcommittee on General Government also discussed CCNA and the best value process at the April 11, 2012 and May 2, 2012 meetings and adopted the best value process as a recommendation. For the full recommendation analysis see <http://www.floridaefficiency.com/UserContent/docs/File/2011GETFallRecommendations.pdf> (last visited 5/7/12).

<sup>61</sup> The first two steps are the same as the current CCNA process and would remain the same under best value.

<sup>62</sup> The third step is a deviation from CCNA and would allow price to be a component of ranking the short list.