



## Utilization of State Term Contracts

**F**lorida's Department of Management Services (DMS), State Purchasing Office, issues and administers both State Term Contracts and State Purchasing Agreements (SPA). Before the Florida Legislature passed law allowing DMS to issue state term contracts, each agency individually bid out work as needed through various procurement methods. Today, purchases of goods and services that are continuous and common to several state agencies are consolidated under standard specifications and are developed into state term contracts." The State Purchasing Office develops policies, procedures and rules to fulfill the requirements of the law and delegates authority for purchases to other state agencies. As stated by DMS in its State Purchasing Process, "Every year these agencies and campuses purchase over \$1,200,000,000 worth of goods, services, and capital equipment. Approximately 33% of these purchases are procured through the use of the state term contracts." With purchases of this magnitude, understanding state term contracts and how they are implemented is an obvious necessity to doing business in Florida.

A "state term contract" is a term contract that is competitively procured and executed by the Department of Management Services (Department) and used by agencies and "eligible users" pursu-

ant to Section 287.056, Florida Statutes. "Term contract" means an indefinite quantity contract to furnish commodities or contractual services during a defined period. State purchasing laws allow the use of state term contracts to reduce the need for specific agencies to enter complex and time consuming bid procurements for services and commodities.

The standard procedures defined by State Purchasing apply for all state purchases whether made centrally or locally by county, municipality or other local public agencies. State Purchasing issues state term contracts that inform an agency purchasing office of participating vendors, prices, and how to order. Generally, DMS issues formal bids for state term contracts. These bids cover a broad scope of goods and services. Winners of these procurements are pre-qualified or pre-approved to enter into individual contracts with other state agencies, and "eligible users" as long as they follow necessary procedures and adhere to the provisions of the state term contract. Consequently, agencies and "eligible users" are not required to issue Invitations to Bid (ITB's), Request for Proposal (RFP's) or Invitations to Negotiate (ITN's) to procure such goods and services. They can get oral quotes or issue Requests for Quotes (RFQ's), neither of which are subject to bid protests. This saves the agencies and "eligible users" considerable time and expense. The

quotes or RFQ's are issued to vendors pre-approved on the state term contract list for the particular service. In turn, agencies issue purchase orders to the vendors to fulfill their needs from these contracts. Payment is made directly by the ordering entity.

Use of state term contracts is mandatory for state agencies, in accordance with Section 287.056, Florida Statutes which provides that, "agencies shall, and eligible users may, purchase commodities and contractual services from purchasing agreements established and state term contracts procured, pursuant to section 287.057, F.S. by the Department." An "Eligible User" is defined as any person or entity authorized by the Department pursuant to rule to purchase from state term contracts or to use the on-line procurement system. Additionally, DMS rules further define eligible users to include all governmental agencies (as defined in Section 163.3164, F.S.) which have a physical presence within the State of 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.

Likewise, Section 163.3164, F.S., identifies the government agencies that are considered eligible users, to include:

- The United States or any department, commission, agency, or other instrumentality thereof.
- This state or any department, commission, agency, or other instrumentality thereof.
- Any local government, as defined in this section, or any department, commission, agency, or other instrumentality thereof.
- Any school board or other special district, authority, or governmental entity.

According to Steve Ferst, Of Counsel to Williams, Wilson & Sexton, P.A., and former Gen-

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