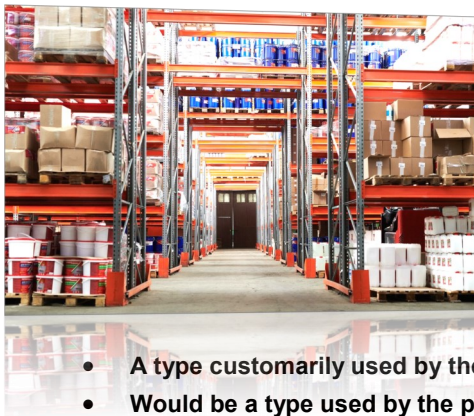


## Purchasing COTS — Commercially Available, Off-the-Shelf Products

By Jo Sullivan ([jmsullivan@mmo.sc.gov](mailto:jmsullivan@mmo.sc.gov)) & Kathy Santandreu ([ksantandreu@mmo.sc.gov](mailto:ksantandreu@mmo.sc.gov))



The latest revisions to the Consolidated Procurement Code incorporated the purchase of commercially available off-the-shelf products (aka COTS) under the category of *small purchases*. The aim is to provide a simplified process for purchasing supplies and information resources which are widely available in an established marketplace.

### Just what the heck are COTS?

Well, first, nothing to do with beds. Section 11-35-1410 defines Commercial Products as supplies (other than printing) and information resources that are:

- A type customarily used by the general public and sold, leased, or licensed to the general public
- Would be a type used by the public except for minor modifications that are customarily available or made to meet State requirements
- Combination of the two that are generally combined and sold to the public

It further defines COTS as supplies (other than printing) and information resources sold in substantial quantities in the commercial marketplace which ARE offered to the State without modification in the same form. It doesn't include products sold in bulk, agricultural items, or petroleum products.

Information Resources includes computers, ancillary equipment, peripheral equipment, databases, software (including Software as a Service or SaaS), firmware, middleware, application development software, and routine maintenance and support.

If you are buying a product and it comes with a standard warranty, installation, or training, and that is incidental to the purchase, then the product would still qualify as COTS.

As a general rule of thumb COTS would be anything you could find in a retail store. Insurance and services are excluded from COTS.

### So how do I make a COTS purchase?

Many goods available under State Term Contracts are COTS. If there is a State Term Contract for the item, then you must purchase using the State Term Contract.

Follow the small purchase procedures outlined in 11-35-1550 (2) (b) for COTS buys that are not already included on a State Term Contract and for which the total purchase is under \$100,000. The Agency must use a written request for quotes which include a purchase description. Requests must be distributed equitably among qualified suppliers unless advertised. In order to make an award you must:

- Receive at least three bona fide, responsive, and responsible quotes or
- Have advertised in SCBO with adequate notice (if three bona fide quotes cannot be obtained)

Preferences do not apply to this section per 11-35-1524 [E](5)

If you are a non-certified agency making a COTS purchase over \$50,000, send a copy of the written request for quote or copy of the SCEIS ad, all quotes received, and a draft of the statement of award to your agency's team lead at OSP. The team lead will review the information and will approve the agency to proceed with the statement of award. You can then issue the purchase order to the awarded vendor.

Higher Education and Law Enforcement agencies team lead: Sheila Willis ([swilllis@mmo.sc.gov](mailto:swilllis@mmo.sc.gov))  
Human Services and Other agencies team lead: Johanne "Jo" Sullivan ([jmsullivan@mmo.sc.gov](mailto:jmsullivan@mmo.sc.gov))





## Statewide Contract News

Uncertain who is managing a specific contract? Check the contract sheets for additional information using the following link: <https://www.procurement.sc.gov/agency/contracts>

### ***When the State Term Contracting Teams ask for input, what are they really asking for? Honestly, we want to hear it ALL!***

If the contract works well for your entity and you don't think any changes/improvements are necessary, we want to know that. If there are changes that would make the contract easier to use, we want to know that so we can incorporate those improvements. If there are additional or differing items that could be added which your organization would utilize, communicate that too and let us work with you to get that added. The fact is we rely on your input (success and improvement recommendations) to ensure the state term contracts are effective, efficient, and meet YOUR needs. So please don't assume that someone else will enlighten us... YOUR voice is important. We appreciate you and the time you take to provide this feedback. We're here to serve you and meet your needs as best we can.

***NOTE: We're starting to host open WebEx forums to discuss some of our contracts during the acquisition planning process. Please watch for notices on these sessions and provide feedback. Meetings will be short, 30-minute affairs because we know your time is valuable. See the Agency Input Request for Paper Towels & Dispensers.***

*Teamwork makes the dream work and collaboration is key! Thank you!*

Are you unsure what's covered on the existing contracts? Check the contract sheets for additional information using the following link: <https://www.procurement.sc.gov/agency/contracts>

### **Market Research and Agency Input Requests for NEW State Term Contracts (STC)**

*The Office of State Procurement (OSP) is seeking input on the following recommendations for new State Term Contracts (STCs). Our goal is to put contracts in place that will meet your needs, but we need your input to ensure success.*

**Educational Consulting** — DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is researching for educational consulting. She's using an existing, and successful, SCDE contract as the basis for this one and we anticipate the new one will be substantially similar. However, that doesn't mean we would not value your input. Please contact her ASAP if you have anything you would like to discuss (we are especially looking for input from the school districts). For reference, here is a link to the existing SCDE contract: <http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400015742>

### **Market Research and Agency Input Requests for existing State Term Contracts**

**Trash Can Liners** – We've extended the current contracts through July 31, 2021. Whilst preparing the next solicitation, we discovered that utilization of this contract has been declining for several years and we want to know why. Below is a link to a Survey Monkey we're asking everyone to visit. **The more responses, the better.**

Type into your web browser: <https://www.surveymonkey.com/r/F2VPXXL>

**UPDATE:** We received 20 total responses to the survey but really could use more input. Please use the link above to provide have your say. (You may have to copy and paste the Survey Monkey URL into your browser.)



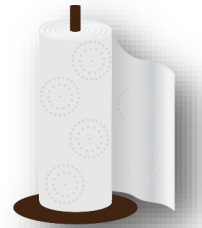
**Used Oil & Filter, Contaminated Water & Solvent Collection and Recycling Services (Expires August 1, 2021)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is continuing her research into the next version of this contract. If anyone has any input, she would certainly appreciate you reaching out to her and providing any insight you may have.

**Battle dress Uniforms (Expires 8/28/2021)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is looking for any input you may have as she continues the acquisition planning process. It's certainly not just law enforcement who uses this contract, so we need to hear from all of you. It's important that we have information on what you currently use, or what you might use in the future (whether it's on the existing contract or not) to ensure we get the items on contract that you need, not what we *think* you need.

**Executive Search Services (Expires 9/22/2021)** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) is conducting research to determine if there are adjustments that need to be made to this contract. Any input you have would be appreciated.

**ADA Buses (Expires 10/31/2021)** – Ellicia Howard ([ehoward@mmo.sc.gov](mailto:ehoward@mmo.sc.gov)) is conducting research into the next iteration of this contract. Please contact her if you have any input for us to consider.

**Paper Towels & Dispensers (Expires 1/9/2022)** — DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is beginning her research on the next iteration of this contract and would welcome any input you may have to assist us in that effort. ***She has scheduled a 30-minute WebEx meeting for the second week of April. It will be an open discussion about what we can do to make the contract work better for you. If you're interested in attending, email her no later than April 9 and she will send you a link for the meeting.***



**Medical & Surgical Supplies (Expires 2/16/2022)** — DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is beginning her research on the next iteration of this contract and would welcome any input you may have to assist us in that effort.

**Bulk Deliveries of USLD and Biodiesel (Expires 3/31/2022)** — DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is beginning her research on the next iteration of this contract and would welcome any input you may have to assist us in that effort. We would especially like to know if (and how) COVID-19 negatively affected the performance on these contracts. Now that we have experienced a pandemic like this, we'll apply those lessons learned to future contracts.

**Diesel and Biodiesel Fuels Tankwagon (Expires 3/31/2022)** — DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is beginning her research on the next iteration of this contract and would welcome any input you may have to assist us in that effort. We would especially like to know if, and how, COVID-19 negatively affected the performance on these contracts. Now that we have experienced a pandemic like this, we can possibly take those lessons learned and apply them to the future contracts so we can avoid some the issues we had during COVID.

**Check Point Security Products** – The current contracts are scheduled to expire September 5, 2021 and this office is conducting research for the next procurement phase for these products. If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, or the products sold under this contract, please contact Will Butler at [wbutler@mmo.sc.gov](mailto:wbutler@mmo.sc.gov) as soon as possible.

**Information Security and Privacy Services** – The current contracts are scheduled to expire April 21, 2022 and this office is about to begin research for the next procurement phase for these services. The services provided under this contract portfolio are currently divided into 7 Lots:

**Lot 1 – Security Monitoring Analytics**

**Lot 3 – Security Infrastructure Support**

**Lot 5 – Security Assessments and Other Consulting**

**Lot 7 – Privacy Support Services**

**Lot 2 – Security Incident Response Management**

**Lot 4 – Distributed Denial of Service**

**Lot 6 – Application Security Assessment & Remediation**

If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, or the services delivered under this contract, please contact Will Butler at [wbutler@mmo.sc.gov](mailto:wbutler@mmo.sc.gov).

**FireEye Security Products & Services (5400009053)** — The current contracts are set to **expire July 1, 2021**. The OSP plans to have a replacement contract in place prior to this expiration date. If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, please contact Kristen Hutto at [khutto@mmo.sc.gov](mailto:khutto@mmo.sc.gov) by April 5, 2021.

**One Card Identification Systems (5400010904)** — The current contracts are set to **expire July 5, 2021**. The OSP plans to have a replacement contracts in place prior to this expiration date. If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, **or would like to serve on the evaluation committee**, please contact Kristen Hutto at [khutto@mmo.sc.gov](mailto:khutto@mmo.sc.gov) as soon as possible.

**Recovery Audit Services (5400011806)** — The current contracts **expire October 23, 2021**. The OSP plans to have a replacement contract in place prior to this expiration date. If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, please contact Kristen Hutto at [khutto@mmo.sc.gov](mailto:khutto@mmo.sc.gov) by April 15, 2021.

**Mobile Device Management (5400012111)** — The current contract is set to expire December 2021. If you have any input, questions, or concerns regarding how the existing contract is structured or functioning, **or would like to serve on the evaluation committee**, please contact Randy Barr, Sr. at [rbarr@mmo.sc.gov](mailto:rbarr@mmo.sc.gov) as soon as possible.

**Self-Funded Web Portal (Digital Government Services)** — The current contract **4400008796** resulting from solicitation 5400007500 expires July 15, 2021. OSP issued RFI 5400020924 and received valuable information for building RFP for Digital Government Services. OSP plans to issue the RFP by May 2021 and award round September or October. This will allow a +/- six-month period for transitioning as needed.

**Governments with existing service agreements and/or statements of work with SCI through the state term contract will need to sign a SOW extension to continue their relationship with the vendor through July 14, 2022. In such cases, SCI will provide the necessary documentation to each customer along with instructions for its completion.**

For details on this State Term Contract, please visit SFAA's Procurement Services Web Portal webpage, <https://procurement.sc.gov/files/contracts/Web%20Portal%20Update%202020421.pdf>. Additional updates will be provided as necessary.

If you have any questions or concerns, please contact Randy Barr, Sr. at [rbarr@mmo.sc.gov](mailto:rbarr@mmo.sc.gov) or 803-896-5232.

## State Term Contracts which will NOT be renewed or resolicited

**Mobile Device Protection Plan (4400021752)** — Staymobile, one of the Vendors on our MDPP contract has opted not to renew their contract with the State effective July 5, 2021. However, our other vendor Safeware (4400021751) remains on contract and can meet your needs.

## Currently Published Solicitations:

**Small Software App Development (5400020845)** — The bid opening for this STC contract is scheduled for April 6, 2021. Please contact Will Butler at [wbutler@mmo.sc.gov](mailto:wbutler@mmo.sc.gov) with any questions or concerns.

**STC for Thales Data Protection Products (5400020753)** — Will Butler posted the award for this new STC. The Thales product line replaces the former SafeNet Encryption line following a series of corporate mergers, acquisitions and reshuffles. Please contact Will Butler at [wbutler@mmo.sc.gov](mailto:wbutler@mmo.sc.gov) with any questions or concerns.

**Audio Visual Products and Services (5400020902)** — Carol Norfleet ([cnorfleet@mmo.sc.gov](mailto:cnorfleet@mmo.sc.gov)) published this FPB on March 5, 2021. Offers are due on April 7, 2021 with announcement of initial awards on April 14, 2021.

**Purchase Card Program (Pcard) (5400020074)** — Ellicia Howard ([ehoward@mmo.sc.gov](mailto:ehoward@mmo.sc.gov)) published the RFP for the next Pcard program contract. It came out very early in order to permit time for offer consideration and negotiations. The current



contract does not expire until September 30, 2021 and the new contract will not begin until October 1, 2021.

**Fiberglass & Aluminum Hull Boats (5400020486)** – Michael Speakmon (mspeakmon@mmo.sc.gov) published this solicitation on February 3, 2021. The bid opening is scheduled for March 19, 2021, with the anticipated date of award posting on April 16, 2021. **UPDATE:** Before the bid opening date, DNR requested to add two additional boats to the contract. An amendment postponed the bid opening to give us time to develop the specifications. Once we have those finalized, we will publish another amendment with new dates.

**Airport Vegetation Management (5400020917)** – Ellicia Howard (ehoward@mmo.sc.gov) published the solicitation and conducted the pre-bid meeting. The bid opening date is scheduled for April 22, 2021, with the awards to be posted on May 6, 2021. We don't anticipate a break in services between the old and new contracts.

**Large Truck/Cargo Van Rental (5400020965)** – Michael Speakmon (mspeakmon@mmo.sc.gov) published this on February 23, 2021 with the bid opening scheduled for April 8, 2021 and the award posting date of April 16, 2021. This contract will replace the Box Truck portion of the vehicle rental contract which was extended in November. It will be terminated once the new contract is in place. *The new contract will provide a much larger pool of vehicle classes and will include other vehicles not currently covered under any of the existing vehicle rental contracts.*

**Asbestos/Lead Paint/Mold Collection & Testing (5400020988)** – This is a new STC that Michael Speakmon (mspeakmon@mmo.sc.gov) is processing. We determined this would be a good fit after processing an RFI and getting favorable input from the vendor community. It is a Fixed Price Bid contract for the collection and testing of asbestos, lead, and mold samples and has a provision for air monitoring during abatement. The bid opening is April 26, 2021 with the awards scheduled for posting on May 7, 2021.

**Concrete Culver Pipe (5400021150)** – Michael Speakmon (mspeakmon@mmo.sc.gov) published this solicitation March 24, 2021. The bid opening is scheduled for May 7, 2021 and the awards for May 28, 2021.

## Newly Awarded State Term Contracts (STCs)

**Extreme & Aerohive Networks (5400020963)** – This new statewide contract is scheduled to be awarded March 25, 2021 and will be effective from March 26, 2021 through March 25, 2026. This contract replaces the current NASPO contract and Aerohive Products, which was acquired by Extreme. If you have any questions or concerns, please contact Randy Barr, Sr. at rbarr@mmo.sc.gov as soon as possible.

**Reverse Auction Services (5400020717)** – The award for this statewide contract is scheduled to be effective April 2, 2021 and the new contract term will begin on April 29, 2021. If you have any questions or concerns, please contact Kristen Hutto at khutto@mmo.sc.gov as soon as possible. Watch next month's edition of *DisPatches* for additional details.

**Tasers (5400020940)** – Michael Speakmon (mspeakmon@mmo.sc.gov) posted the award for this new state term contract on March 3, 2021. The contract is effective and available for immediate use.

**Tires (5400020758)** – Ellicia Howard (ehoward@mmo.sc.gov) posted the awards for these contracts on March 15, 2021. The new contracts are available to you now.

**Semi-Automatic Weapons (5400020770)** – Michael Speakmon (mspeakmon@mmo.sc.gov) posted the awards for these contracts on March 12, 2021. The new contracts will be available for use on April 20, 2021. The contract sheet on our website will be updated at that time. **NOTE:** *We did not receive a responsive offer for Lot 6, Hornady Ammunition. Michael will issue a new solicitation to receive offers and award for this lot before the old contract expires.*

**Educational Supplies (5400020781)** – DeAna Reed-Sharpe (drsharpe@mmo.sc.gov) posted the initial awards for this Fixed Price Bid contract on March 26, 2021. The contracts will be effective and available for use on April 7, 2021.

## Currently Advertised Cooperative Contracts

Nothing new to report.





## Frequently asked questions: Number 1

### How does the South Carolina Procurement Code define and differentiate between a *business day* and a *day*?

**"Business day"** means a day that is neither a Saturday, Sunday, nor a state or federal holiday.  
**§ 11-35-310**

**"Days"** means calendar days. In computing any period of time prescribed or allowed by this code or the ensuing regulations, or by any order of the Procurement Review Panel, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period computed is to be included, unless it is a Saturday, Sunday, or a state or federal holiday, in which event the period runs to the end of the next day which is neither a Saturday, Sunday, nor such holiday.  
**§ 11-35-310**

In a few places the undefined terms "work-day," "work day," or "working day" or their plural forms appear in the Code. These terms should be treated as meaning a business day.

All days run from midnight to midnight.

Some examples of how days and business days play a role in the Code?

#### **Competitive sealed bidding**

A prospective bidder who is aggrieved in connection with a solicitation or any amendment to it shall protest in writing to the CPO within **fifteen days** of the date of issuance. **§ 11-35-4210**

Public notice of an intended award of a contract must contain a statement of the right to protest and must be posted at least **seven business days** before entering into a contract. **§ 11-35-1520**

If a change to the posting date for an award or intent to award is necessary, notice of the revised posting date must be given by posting for **three business days**. **§ 11-35-1520**

Any bidder who is aggrieved in connection with the intended award shall notify the CPO in writing of its intent to protest within **seven business days**. **§ 11-35-4210**

A Bidder having timely submitted an intent to protest may protest to the CPO within **fifteen days** of award or intent to award or intent to award whichever is earlier. **§ 11-35-4210**

#### **Sole Source procurement; public notice**

Public notice of an intended award of a contract must contain a statement of the right to protest and must be posted at least **five business days** before entering into a contract. **§ 11-35-1560**

Any bidder who is aggrieved in connection with the intended award shall notify the CPO in writing of its intent to protest within **five business days**. **§ 11-35-1560**

A Bidder having timely submitted an intent to protest may protest to the CPO within **fifteen days** of award or intent to award whichever is earlier. **§ 11-35-4210**

#### **Bid Security**

A bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating must be given **one working day** from bid opening to cure the deficiencies. **§ 11-35-3030**

