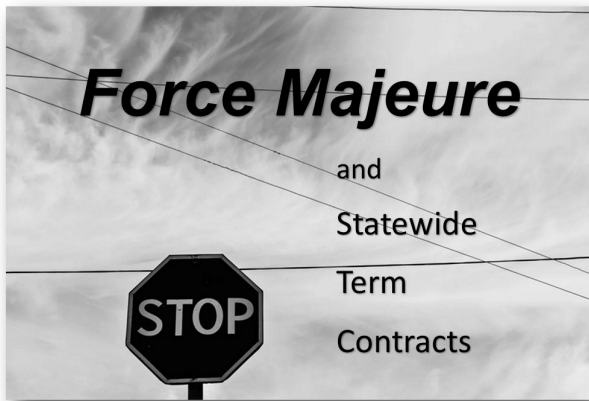


Statewide Contract News

Updates, awards, cancellations, research, extensions, etc. for Statewide Term Contracts (STCs)



You've probably received something from a contractor claiming *force majeure*. This is a contractor's reason for now refusing to work at the agreed upon price. While the definition of *force majeure* (and whether market conditions support it) are debatable, the bottom line is this: claiming *force majeure* does not give a contractor the right to unilaterally change the price terms of a contract.

When an actual *force majeure* situation exists, the only protection offered the contractor is that the State cannot terminate their contract for failure to perform when that failure is caused by circumstances beyond their control. Stated differently, when *force majeure claims* are legitimate, the contractor can be released from some or all performance requirements contained in the contract.

The markets are difficult for almost everyone right now, but entities (you) are not "required" to accept whatever revised pricing the contractor demands. If your contractor makes this claim, challenge them on it -- make them explain the situation to illustrate how it's causing them to **lose money** on your contract. Hint: a loss of profit is NOT a loss on the contract. Next, work with them as best you can within the confines of your existing contract. Ideally entities like yours can work to get them back into the black. We should never be in the business of putting people out of business.

It's important we maintain the relationships we have with our contractors while we navigate these changing and challenging times. A rash decision on our part might have a long-lasting effect on the relationship affecting our ability to work with them in the future. More often than not that's a bad situation for all parties involved. If your entity happens to receive *force majeure*, price increase, or fuel surcharge requests (see Page 3 of the March *DisPatches* about those) on state term contracts, please refer the contractor(s) to our office. Any approved adjustments will then be communicated on the applicable contract sheets.



Supply Chain Disruptions Continue

It should come as no surprise that worldwide supply chain disruptions continue to wreak havoc on our state term contracts. We're working with every contractor reaching out to us to make sure that we keep contracts in place so you don't have to go without. Each contract is different, and sometimes we have to be creative with our solutions. The best source of information is going to be this [newsletter](#) and the [contract sheet](#) associated with the contract on our website. Check those often for the contracts you are working with.



Drug & Alcohol, Background Screening Update

Premier Biotech, the primary Contractor for drug & alcohol testing and background screenings, is doing an assignment for payment on the contract. The invoices will no longer be coming from Sally Port; they will be coming directly from Premier. Our office is working with all parties, and the Comptroller General's Office, to ensure the transition goes as smoothly as possible. To that end, all the necessary vendor IDs have been temporarily linked as Premier works with each using governmental unit to transition them to the new billing. This will be completed prior to the end of the current State fiscal year. State agencies may have to issue a new purchase order as part of the transition process. Any questions about the transition should be directed to the Contractor at clientservices@applya.com.

IMPORTANT: ULSD/B5 Biodiesel Contracts (May Update)

Due to the everchanging circumstances surrounding the diesel/biodiesel market, as well as fuel availability at the terminals typically used to support our contracts, we've enacted a change to the [ULSD and B5 Diesel contracts](#).

Beginning May 20, 2022, we've executed change orders to permit the contractors to provide ULSD and B5 biodiesel at their cost plus \$.025 (two and one-half cents) per gallon rather than the usual contract rate based off a markup/markdown of the OPIS average price posted daily on our website. It's very important to note that the contractors can only charge the cost-plus rate IF NO FUEL IS AVAILABLE at the terminal typically used to provide your fuel, and they're forced to go to another terminal to fulfill your order.

No other fees or surcharges can be assessed, just the actual cost per gallon (including fees, taxes, transportation, etc.) that they paid at the terminal/rack to provide your fuel. They will provide you sufficient documentation to support their invoice at your request.

Remember, this only applies to the ULSD and B5 biodiesel contracts, all other fuel contracts are unaffected at this time -- keep your fingers crossed -- but conditions in this market change daily. Please check the appropriate [contract sheet](#) for any special instructions or changes before you order your fuel.

Reverse Auction Generates Intense Competition on E10 Gasoline

The Division of Procurement Services recently utilized the State's managed reverse auction contract, held by EasiBuy, LLC, to collect pricing for their E10 Gasoline contract which expires in June. On April 26th the reverse auction was hosted by EasiBuy with seven participating suppliers. These suppliers placed 396 bids across eight line items over the course of an hour and forty-three minutes, which amounted to 369 lead changes across all line items during the active bidding period.

EasiBuy is thrilled to have the opportunity to work with the State on contracts as they did with the E10 Gasoline STC and is eager to assist other agencies in driving savings, transparency, and efficiency.

If there are any questions about EasiBuy and the reverse auction process, please contact state of SC account manager Robbie Murray by phone or email: C: 330-422-9216 E: rmurray@EasiBuy.com.

Career Ready Assessments (TBD) – Michael Speakmon (mspeakmon@mmo.sc.gov) continues to work with DEW and SCDE



to modify the scope before republishing the next solicitation.

NASPO Small Package Delivery Services (May Update)

Our office has still not received positive communication from UPS regarding the status of our intent to participate. We reached out for an update in May and were told a new department was reviewing our request, but they have not responded to us yet. As we've reported before, we started this conversation in November 2021 and, at this point, we're not confident we'll be able to come to an agreement. UPS has added a total of only eight states (one more than last month) to their master agreement since the inception of the contract.

As a reminder, the contract with FedEx is currently active and available for use. It is a requirement for all governmental bodies, as defined by 11-35-310(18), to use established statewide term contracts when they exist. Failure to use an established statewide term contract may have a negative impact on the governmental body's procurement activities.

STC Marketing Services – Ellicia Howard (ehoward@mmo.sc.gov) is working the Department of Administration to review the responses that were received to the questions we submitted to them. They are using those responses to provide a revised scope that will ultimately be a little broader than we originally intended, which is a good thing. We anticipate publishing a solicitation prior to the next newsletter publication.

Thales Data Protection Products -- The contract page for Thales Data Protection Products has been updated to reflect approved software categories.

Market Research and Agency Input Requests for NEW State Term Contracts (STCs)

The Office of State Procurement (OSP) is seeking input on the following recommendations for new State Term Contracts (STC). If you have any information you can share, please contact the appropriate procurement manager. Our goal is to put contracts in place that will meet your needs, but we need your input to ensure success.

Temporary Medical Personnel – Portia Davis (pdavis@mmo.sc.gov) is creating a RFI for temporary medical personnel. The intent is to construct a STC that will provide temporary medical personnel through a locum tenens provider for a variety of positions. She's currently working with EMD but would be happy to have additional input from those agencies which could take advantage of this type of contract. Please contact her directly with any input she might be able to use so we can ensure we're capturing everyone's needs. She'll combine that with what she already has and publish the RFI in the next few weeks.



Market Research and Agency Input Requests for existing State Term Contracts

Existing Goods & Services STCs which need your input

Off Road ULSD (Expires 4/2/2023) -- Ellicia Howard (ehoward@mmo.sc.gov) is beginning her research into the next iteration of this contract. We've not seen a disruption to this market yet, but there may be some challenges ahead. Please contact Ellicia directly with your input and/or let her know of any challenges you are experiencing.

Body Armor (Expires 5/6/2023) – Ellicia Howard (ehoward@mmo.sc.gov) is just beginning her market research phase of the new body armor contract. This is a market that is continuously changing, so she would appreciate the input of the law enforcement community -- especially if there is a need that isn't covered by the current contract.

Science Education Supplies (Expires 5/28/2023) – Portia Davis (pdavis@mmo.sc.gov) is beginning the market research phase and desperately needs user input. As always, we want to make sure we are putting something in place that's a benefit to the users of this contract. Is it working well? Tell us. If you wish it was inclusive of something you could use, we want to know that too. Help us help you get what you need.

Grounds Equipment (Phase I & II) (Expires 5/31/2023) – Ellicia Howard (ehoward@mmo.sc.gov) (Phase I) and Portia Davis (pdavis@mmosc.gov) (Phase II) are just beginning their research into these contracts. Typically, these contracts have

not been difficult to manage, but we still want to know if you have experienced any unexplained issues during the contract term. Are there brands of equipment you would like to see that aren't on there? Is there a category of equipment that isn't on there that you think would be a good addition? Please contact Portia and/or Ellicia as soon as possible with your entity's feedback.

Existing Information Technology STCs that need your (and/or your IT Department's) input

Market research is concluding for the following contracts. If you have any last-minute information you would like to share, please reach out to the respective Procurement Manager over that contract as quickly as possible.

New Toner Cartridges – Will Butler (wbutler@mmo.sc.gov) wants your input on toner cartridges! Please contact Will with information about what brands your organization currently purchases using these contracts and if there are any additional products we should consider that aren't currently included on the contracts:

- HP
- Xerox
- Lexmark
- Ricoh
- Dell
- Kyocera



Last month, we received notification from US Ink & Toner (the current contract holder for Xerox toner cartridges) that they have gone out of business. As a result, for the time being, you will be unable to purchase Xerox toner through a statewide contract. We reported this in last month's newsletter but wanted to provide a reminder this month as well.

Most of our using entities' Xerox toner purchasing needs will fall within the threshold for small purchase procedures. Please consult this handy chart to determine whether one of these source selection methods are appropriate for your purchasing needs (and yes, Xerox toner cartridges are COTS products).

Palo Alto Networks Products & Services -- Contact Will Butler at wbutler@mmo.sc.gov if:

- You're currently using this contract. We need to know if you're pleased with the contract and the products offered.
- You have an existing or future need should additional products become available. Contact Will identifying things your agency would like to see added. But do it quickly. Time is short.

State Term Contracts that will NOT be renewed or resolicited

Nothing new to report.

Currently Published Solicitations

Asbestos Testing (5400020988) – Michael Speakmon(mspeakmon@mmo.sc.gov) received additional offers for the asbestos testing fixed price bid. He is evaluating those offers and will publish the updated intent to award when complete.

Asphalt Emulsion (5400023241) – DeAna Reed-Sharpe (drsharpe@mmo.sc.gov) published Amendment #1 on May 17, 2022, with a bid opening date of June 2, 2022. We do not anticipate an extension to that date, or a break in between contracts.

Fire Fighting Foam (5400023709) – Portia Davis (pdavis@mmo.sc.gov) posted Amendment #1 to this solicitation on May 20, 2022, with a bid opening date of June 6, 2020.

NetApp Storage Area Network (SAN) Products – This solicitation was published on May 16, 2022 and is scheduled to open on June 16, 2022. We anticipate an award date prior to the expiration of the current contracts on 6/30/2022. Please contact Will Butler at wbutler@mmo.sc.gov if you have any questions.

Print Management Program (5400022842) – This solicitation opened on March 25, 2022. We are still in the evaluation phase and anticipate an award date of early/mid-June. If you have any questions or concerns, please contact Randy Barr, Sr. at rbarr@mmo.sc.gov

Varonis Products & Services (5400023328) – This solicitation was published May 16, 2022 and is scheduled to open on June 09, 2022. We anticipate an award late June/early July 2022. If you have any questions or concerns, please contact Randy Barr, Sr. at rbarr@mmo.sc.gov

NetApp Storage Area Network (SAN) Products – This solicitation was published on May 16, 2022 and is scheduled to open on June 16, 2022. We anticipate an award date prior to the expiration of the current contracts on 6/30/2022. Please contact Will Butler at wbutler@mmo.sc.gov if you have any questions.

One Card Identification Systems (5400022908) -- This solicitation opened March 15, 2022 and is currently in the evaluation phase with an anticipated award date of June 17, 2022. Please contact Kristen Hutto at khutto@mmo.sc.gov with questions or concerns.

HPE Networking Hardware & Services (5400023232) -- This solicitation was published April 19, 2022 and is scheduled to open May 31, 2022 with awards effective the day after the current awards (issued pursuant to solicitation 5400012590) expire. Please contact Kristen Hutto at khutto@mmo.sc.gov with questions or concerns.

Managed Services Provider (MSP) (5400022555) -- Carol Norfleet (cnorfleet@mmo.sc.gov) published this solicitation on 3/18/2022. This contract is for a Managed Services Provider for the IT Temporary Staff Augmentation Contract and the Small Software Applications Development Contract. Proposals were due 4/13/2022. This solicitation is still in the evaluation phase.

Newly Awarded State Term Contracts (STC)

School Buses (5400022827) – DeAna Reed-Sharpe (drsharpe@mmo.sc.gov) published the awards for school buses on May 3, 2022. No protest was received, and the contract became effective on May 13, 2022. These contracts had staggered start dates so be sure to check the contract sheet for the contract start and end dates.



MREs and Self-Heating Meals (5400022576) – Portia Davis (pdavis@mmo.sc.gov) posted the awards for these contracts on May 5, 2022. No protest was received, and the contracts became effective on May 18, 2022, with a start date of July 30, 2022.

LIDAR and RADAR Speed Detection Equipment (5400023146) – Portia Davis (pdavis@mmo.sc.gov) posted the award for this solicitation on April 29, 2022, as scheduled. No protest was received, and the contracts became effective on May 12, 2022, with a start date of May 25, 2022.

STC Digital Fingerprinting Services & SLED Concealed Weapon Permit System (5400021691) -- The protest of the contract awarded pursuant to this solicitation was granted by the Chief Procurement Officer and was appealed to the Procurement Review Panel. The Panel reversed the CPO's decision and reinstated the award to Idemia. Updated contract information can be found here: <https://procurement.sc.gov/contracts/search?v=11816-9918-0-0>. Contact Kristen Hutto at khutto@mmo.sc.gov with questions.

Cooperative Contracts Updates

Fire Truck and Apparatus (May Update) – We have added an additional PA with Spartan Fire. If you have any questions, please contact Portia Davis at pdavis@mmo.sc.gov. A link to the contract sheet is here: <https://procurement.sc.gov/contracts/search?v=16827-9919-0-0>

