



## What is a “Responsible Bidder”? Part 2

By Michael Speakmon — Procurement Manager — Team Lead, Goods and Services

As we talked about in [Part 1](#), there is no one way to make a responsibility determination, and there is not “one thing” that will determine a contractor’s responsibility. A proper responsibility determination is a collection of favorable information on the contractor that will give the procurement officer confidence that the contractor can fully perform under the contract. Notice we didn’t say a “guarantee” that the contractor can fully perform, but merely the confidence that they can fully perform. We cannot guarantee performance, but we can do our due diligence to weed out those contractors who we believe will NOT be able to perform based on information discovered during the responsibility check.

Regulation 19-445.2125 states: “Factors to be considered in determining whether the state standards of responsibility have been met include whether a prospective contractor has:

- available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;
- a satisfactory record of performance;
- a satisfactory record of integrity;
- qualified legally to contract with the State; and
- supplied all necessary information in connection with the inquiry concerning responsibility.”

The following includes well-established methods that, when one or more are combined, can assist in making a responsibility determination prior to award of a contract.

**Prior Performance.** Prior performance is typically a very good indicator of how a contractor will perform in the future. Our vendor registration system lists all current and most previous contracts assigned to a contractor. Search those old contracts and contact the person who issued a contract and ask them to provide some statements on the contractor’s performance while it was in force.

For years as procurement officers we’ve been sharing this type of information with one another, but it wasn’t until the 2019 ACT 41 that the ability to do so was codified into law. That act added subparagraph four to 11-35-1810 which permits procurement officials to share information related to responsibility and other information related to a procurement with one another and protects procurement professionals from civil and criminal liability when doing so in their official capacity.

**Currently on Contract.** Is the contractor currently/actively performing under a contact with a governmental body in South Carolina? In accordance with the Code, contracts should be awarded only to responsive and responsible offerors. If a contract is awarded, a determination of responsibility was performed for the award of that contract. This would be a good indicator that the contractor has been deemed responsible. Here again, following up with the agency who is managing the awarded contract and verifying contractor performance is encouraged.

**State Licensure.** Certain professions and businesses require state licensure. In some cases, failure to possess the appropriate license at the time of bidding bars the bidder from performing the work. Verifying that licenses are current should be part of a responsibility determination as applicable.

**Dun & Bradstreet Risk Manager Report (DNBi).** A DNBi report can be a very useful tool. However, a DNBi report alone is typically not enough to make a determination of responsibility.

The DNBi report uses public information available through different indexes, as well as through self-reporting, for each company tracked and provides an analysis of that information to paint a financial picture for the company. Each company summary includes:

**PAYDEX® Score** – Indicator of how a company pays its bills based on trade experiences reported to D&B through its trade program. Basically, are they paying their bills on time?

**Commercial Credit Score Percentile** – Predicts the likelihood that a company will pay its bills in a severely delinquent manner (90+ days).

**Financial Stress Score** – Indication of a company having severe financial stress over the next 12 months.

**Liens** - Identifies liens that the contractor might have and the nature of the same. This is especially important when verifying federal and state taxes are paid, and no such liens are in place that would prohibit an award of a state contract.

**D&B Viability Rating** – Likelihood of a business no longer being viable in the next 12 months.

**Bankruptcy Found** – Any reported bankruptcies.

**D&B Rating** – Assesses a company's size and composite credit appraisal.

Details for each of the topics in the summary are provided in the report, but the summary is the overall “snapshot” that you are looking for.

So why is a DNBI report alone not sufficient for a determination of responsibility? Other than not taking into consideration other factors available (past performance, references, etc.), some of the data used in the DNBI report is self-reported by the company, and that information could be out of date or even incorrect.

**NOTE:** You must pay for and have an account to log in and request information from DNBI.

**Company Financials.** An evaluation of a company's financial documents is the most reliable way to determine its financial position, which is an important part of their ability to fully perform on a contract. However, most procurement managers don't have the experience or professional training necessary to accurately evaluate the financial strength of a company using such records. It's best to consult an auditor or someone from the financial division of your organization for assistance. Be very careful with a company's financial information as it is confidential and cannot be released under FOIA without permission from the contractor.

**References.** Speaking directly with individuals who've done business with the company in the past is one of the best tools you can use to determine responsibility. Ask the contractor to provide references and speak with those folks about their experiences with the contractor. Typically, a contractor is going to provide references that they think are going to give them the best report, but sometimes that fails and the reference will communicate an unvarnished opinion. It's also good to ask for a list of projects similar in size and scope. Don't hesitate to reach out to entities on that list to provide references as well.

When asking for references, ALWAYS ask for someone who worked directly on the contract on a day-to-day basis. Some contractors will give the State's CPO as a reference for example (because they think it makes them look better to know people in high places) and typically someone at that level won't know anything about the contract because they never worked with it.

**The Internet.** This one almost goes without saying, but there is a great deal of information about a company available on the internet. For example, you can do a search on the company's name and look for any news articles about the company and see if they can provide any information that is helpful in your determination. Also, you can search the company's name along with the word “debar” and see if anything comes up. If they're debarred in another state, that should show up in the search results.

**SAM.gov.** The System for Award Management (SAM) is an official website of the U.S. government and is the database for contractors who are excluded (debarred) from doing business with the Federal Government. There is no cost to use SAM and you can use the site to register to do business with the U.S. government, update your entity's registration, check the status of a registration, or search for entity registration and exclusion records.

There are several ways to search on SAM.gov including a word search and using the company's DUNS (D&B) number among other methods. Exclusion from contracting with the Federal Government does not necessarily make the contractor for your contract non-responsible, but it can be a factor. If you're using federal funds, the requirement of the federal grant is that you check SAM and not award if the contractor is debarred. It's important to know of any requirements or limitations

resulting from funding sources and to follow the appropriate procedures for the same.

**South Carolina Secretary of State (SoS) Website.** Search the company name on the SoS website (<https://businessfilings.sc.gov/businessfiling>) by selecting “Existing Business” and entering the company name. The results will indicate if the company is in good standing with the State, meaning they do not owe any back taxes to the State or there is not some other lien against them. Awarding to a business that is not in good standing with the State should not occur, but you can notify the contractor of what you discovered and give them the opportunity to rectify the situation. Contractors not incorporated in South Carolina are not required to register with the SoS. Failure of a contractor to do so is NOT reason to determine them non-responsible.

**Other States SoS Websites.** Not all companies we contract with are incorporated in South Carolina. For contractors who are not registered with the South Carolina SoS, you can check the SoS website of the state in which they’re incorporated to see if they’re in good standing with that state. Another tip is to check the SoS websites of our border states because there’s a strong possibility that the contractor is trying to do business with South Carolina is doing business with them as well. Note: some states charge a fee to view this type of information. In those cases, it’s up to your organization to determine if the expense is necessary.

### Documenting responsibility

The Code and Regulations are silent on documenting responsibility. Section 11-35-1810(2) and Regulation 19-445.2125(E) establishes that a written determination of non-responsibility is required, but there is nothing that speaks to documenting a responsible contractor. However, the best practice would be to document the responsibility determination on all contract awards and make that part of the solicitation file. The two most important reasons to do this are in case of an award protest or in substandard performance during the contract term. In either case, the CPO, legal counsel, or management will likely want to see what actions were taken to determine responsibility at the time of the award. If this documentation is already within the file, it’s easier to supply and defend.



## Statewide Contract News

**Microscopes** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) is conducting research for a new STC microscope and accessories STC. We’ve already received a substantial amount of input from Clemson University (big shout out to Mike Nebesky). We’re seeking additional input from other higher education institutions and medical facilities. Please contact Michael if you have suggestions.



**Mattresses** – The Office of State Procurement welcomes new statewide term contract ideas. We recently received a suggestion that there may be a need for one on mattresses. We would love to hear from agencies and schools who may benefit. We’d also appreciate any specifications/requirements you may have. Please email your thoughts to DeAna Reed-Sharpe at [drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov) at your earliest convenience. Thank you!

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

**Check Point Security Products** – The current contracts are scheduled to expire September 5, 2021 and this office continues to conduct research into 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. The new solicitation is tentatively scheduled to be published in June.

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

Lot 1 – Security Monitoring Analytics	Lot 2 – Security Incident Response Management
Lot 3 – Security Infrastructure Support	Lot 4 – Distributed Denial of Service
Lot 5 – Security Assessments and Other Consulting	Lot 6 – Application Security Assessment and Remediation
Lot 7 – Privacy Support Services	

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

**Digital Fingerprinting & Concealed Weapons Permit System (5400008064)** -- The current contracts **expire December 14, 2021**. The OSP plans to have a replacement contract in place prior to this expiration date. A meeting for Authorized User feedback is tentatively scheduled for **June 7, 2021 from 10-12**. If your agency (1) is an Authorized User of Digital Fingerprinting Services; (2) has personnel interested in providing feedback for the new solicitation, and (3) has not been contacted, please email Kristen Hutto at [khutto@mmo.sc.gov](mailto:khutto@mmo.sc.gov) as soon as possible.

**Barracuda Network Security Products (5400011873)** -- The current contract expires October 23, 2021 and this office is conducting market research. 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 Randy Barr, Sr. at [rbarr@mmo.sc.gov](mailto:rbarr@mmo.sc.gov) or 803-896-5232 as soon as possible.

**Mobile Device Management (5400012111)** -- The current contract is set to expire December 2021. We remain in the solicitation development phase now and are rewriting the scope of work. 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.

**Trash Can Liners** – Here’s a friendly reminder that this contract has been reassigned to Portia Davis ([pdavis@mmo.sc.gov](mailto:pdavis@mmo.sc.gov)). We’re continuing to revise the scope/market basket to include some of the recommendations we received in the Survey Monkey survey DisPatcheS readers contributed to (thanks!). If you have any last-minute information you would like to share, please reach out as quickly as possible. We anticipate publishing early in June.

**Battle dress Uniforms (Expires 8/28/2021)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is finalizing her research on the BDU contract and we’ve received some very good feedback about how we can improve this one. Thank you to those who reached out following the last email request. We appreciate your insight. She is not quite ready to publish yet, so if you have something you think will be beneficial please contact her ASAP.

**Executive Search Services (Expires 9/22/2021)** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) has finished the research phase on this one and has drafted the scope for the next iteration. We’ve decided to change the format from an RFP to a FPB in the hopes of attracting a larger pool of vendors to be on contract. OSP is meeting with State HR in hopes to finalize the scope and publish soon.

**ADA Buses (Expires 10/31/2021)** – This requirement has been transferred to Portia Davis ([pdavis@mmo.sc.gov](mailto:pdavis@mmo.sc.gov)). She has finalized the business analysis to support soliciting for these buses again and we’re reviewing the specifications now. However, if you have something you think we should need to know please contact Portia soon. We anticipate publishing the solicitation in June 2021.

**Paper Towels & Dispensers (Expires 1/9/2022)** -- DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) continues to gather feedback from using agencies that we hope will help us improve this contract and ensure it is meeting your needs. As she continues conducting market research and building her business analysis, please continue to provide input on how the contract is working for you and if there are any gaps in coverage that would benefit your agency.

**Medical & Surgical Supplies (Expires 2/16/2022)** -- This contract has been reassigned to Portia Davis ([pdavis@mmo.sc.gov](mailto:pdavis@mmo.sc.gov)). She is continuing to work with DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) to transfer responsibility of the contract and to share what research has already been conducted. While this is in progress, we’re still looking for anything that may be helpful, especially if you had any problems using the contract or if you think there are items that need to be incorporated in the new one.

**Bulk Deliveries of USLD and Biodiesel (Expires 3/31/2022)** -- DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is continuing her research on the next iteration of this contract and has already received some valuable input, but we would welcome any additional information you may have to assist us. We'd 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.

**Diesel and Biodiesel Fuels – Tankwagon (Expires 3/31/2022)** -- DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) is continuing her research on the next iteration of this contract and would welcome any input you may have. 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 of the issues we had during COVID.

NOTE: Something we continue to look at with our bulk fuel contracts is how to incorporate an emergency response aspect so we can better control pricing during a declared emergency. We're looking for anything we can get to help develop the scope for this new portion of the contract, so all input is welcome. Contact DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) or Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) directly with any information you have to offer. We'll also be reaching out to some agencies directly for input and conversation.

**MAY 2021 UPDATE:** We're aware of some of the delivery issues for fuel that occurred due to the pipeline shutdown. While we know that all the contracted providers were having difficulty providing fuel during the shortage, we would like to know if there were any specific instances that you encountered that we need may to address in the future. For example, we learned that one of the contractors does not have the ability to conduct long hauls to get fuel to the area. That is something we'll want to consider in the next iteration. Are there any other concerns about your experiences beyond the struggle to receive fuel?

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

**Digital Print & Quick Copy Services** -- The OSP plans to sunset NASPO Value Point Contract PB2454 due to low usage after it expires on July 30.

**STC Avaya Network Hardware & Software** -- The OSP plans to sunset this contract due to Avaya Network Products being acquired by Extreme. You may purchase any Avaya products through our STC Extreme Contract: <https://www.procurement.sc.gov/files/contracts/extreme%20contract%20sheet%204%2020%202021.pdf>

If you have any questions regarding these non-renewals and contract changes, you may contact Randy Barr, Sr. at [rbarr@mmo.sc.gov](mailto:rbarr@mmo.sc.gov) or 803-896-5232

## Currently Published Solicitations

**Digital Government Services (Formerly: Self-Funded Web Portal)** -- The current contract **4400008796** resulting from solicitation 5400007500 **expires July 15, 2021**. Solicitation **5400021069** has been created and has been published at <https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400021069> with an award date tentatively scheduled for December 2021. This will allow a six-month period for transitioning.

***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%20020421.pdf>. Additional updates will be provided as necessary. If you have any questions or concerns, please contact Kimber Craig, at [kcraig@mmo.sc.gov](mailto:kcraig@mmo.sc.gov).

**STC Citrix NetScaler – (5400021392)** -- OSP published this solicitation on May 6, 2021 with bid opening on June 11, 2021. We anticipate an award date of June 21, 2021.

**One Card Identification Systems (5400020982)** – This solicitation was published on April 9, 2021 and is currently scheduled to be awarded prior to the current contracts' July 5, 2021 expiration date. If you have any questions or concerns, **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.

**Purchase Card Program (Pcard) (5400020074)** -- The bid opening occurred as scheduled for May 5, 2021. Ellicia Howard ([ehoward@mmo.sc.gov](mailto:ehoward@mmo.sc.gov)) charged the evaluation panel and they are in the process of evaluating at the time this is published.

**Concrete Culver Pipe (5400021150)** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) is evaluating the offers received for this solicitation and is on track to publish the awards as scheduled on May 28, 2021.

**Used Oil & Filter, Contaminated Water & Solvent Collection and Recycling Services (5400021004)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) published this solicitation on April 5, 2021 and conducted the pre-bid meeting on April 20. We have addressed all the questions received and published Amendment #1 with no change to the bid opening date and time. <http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400021004>

**Educational Consulting (5400020964)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) conducted the pre-bid meeting for this new state term contract on May 11, 2021. We are currently evaluating the questions we received, and we anticipate by the time of publication the amendment should be posted. <https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400020964>

**High Density Polyethylene Pipe (HDPE) (5400021217)** – DeAna Reed-Sharpe ([drsharpe@mmo.sc.gov](mailto:drsharpe@mmo.sc.gov)) published the solicitation on April 14, 2021, and conducted the pre-bid meeting for this new state term contract on April 27, 2021. No questions were received so no amendment was published. The bid opening date remains May 28, 2021 and the intent to award is scheduled to be published on June 18, 2021. <https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400021217>

## **Newly Awarded State Term Contracts (STC)**

**Small Software App Development (5400020845)** – Initial awards for this state term contract were posted on April 30 and became effective on May 17. Please contact Will Butler at [wbutler@mmo.sc.gov](mailto:wbutler@mmo.sc.gov) with any questions or concerns.

**FireEye Security Products & Services (5400021433)** -- This re-solicitation was published on May 12, 2021 and was awarded on May 21, 2021. The contract is scheduled to go into effect on June 3, 2021. If you have questions or concerns, please contact Kristen Hutto at [khutto@mmo.sc.gov](mailto:khutto@mmo.sc.gov) <https://webprod.cio.sc.gov/SCContractWeb/contractDetail.do?solicitNumber=5400021433&contractNumber=4400026256>

**STC Juniper (5400021202)** – This contract (4400026217) was awarded on May 19, 2021 and will be effective June 01, 2021 to May 31, 2026. 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.

**Reverse Auction Services (5400020717)** – In response to a protest, the award for this statewide contract has been suspended pending administrative review.

**Airport Vegetation Management (5400020917)** – Ellicia Howard ([ehoward@mmo.sc.gov](mailto:ehoward@mmo.sc.gov)) posted the award for this contract on April 30, 2021. No protest was received so the contract became effective on May 13, 2021, with a start date of June 1, 2021.

**Asbestos/Lead Paint/Mold Collection & Testing (5400020988)** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) posted the awards on May 7, 2021. No protests were received so the contracts became effective and active on May 20, 2021. This is a fixed price bid, so the solicitation remains open for additional offers as dictated in the schedule appearing in Section VI of the document.

**Fiberglass & Aluminum Hull Boats (5400021309)** – Michael Speakmon ([mspeakmon@mmo.sc.gov](mailto:mspeakmon@mmo.sc.gov)) published the awards for this solicitation on May 13, 2021. No protests were received, and the contracts became effective on May 25, 2021 with a start date of July 1, 2021.

## **Currently Advertised Cooperative Contracts**

Nothing new to report.

