Overview of Information Technology Procurement

ITS Law: Responsibilities and Authority

- www.sos.ms.gov: Education & Publications: MS Code of 1972 (Unannotated: via LexisNexis)

- ITS Statute: Title 25, Chapter 53
 - Code Sections 25-53-1 through 25-53-191

By Law, ITS must:

- Adopt rules governing the acquisition of all computer and telecom equipment and services

- Conduct and approve all IT procurements by state agencies & IHLs

By Law, ITS must:

- Execute all contracts for IT equipment and services (ITS Executive Director is "contracting agent" for all technology contracts)

- Advertise competitive specifications for all acquisitions above $50,000 total lifecycle cost and award to the "lowest and best"
  - Delegated to IHLs to issue competitive procurements without ITS involvement for lifecycle cost up to $250,000

ITS Organization
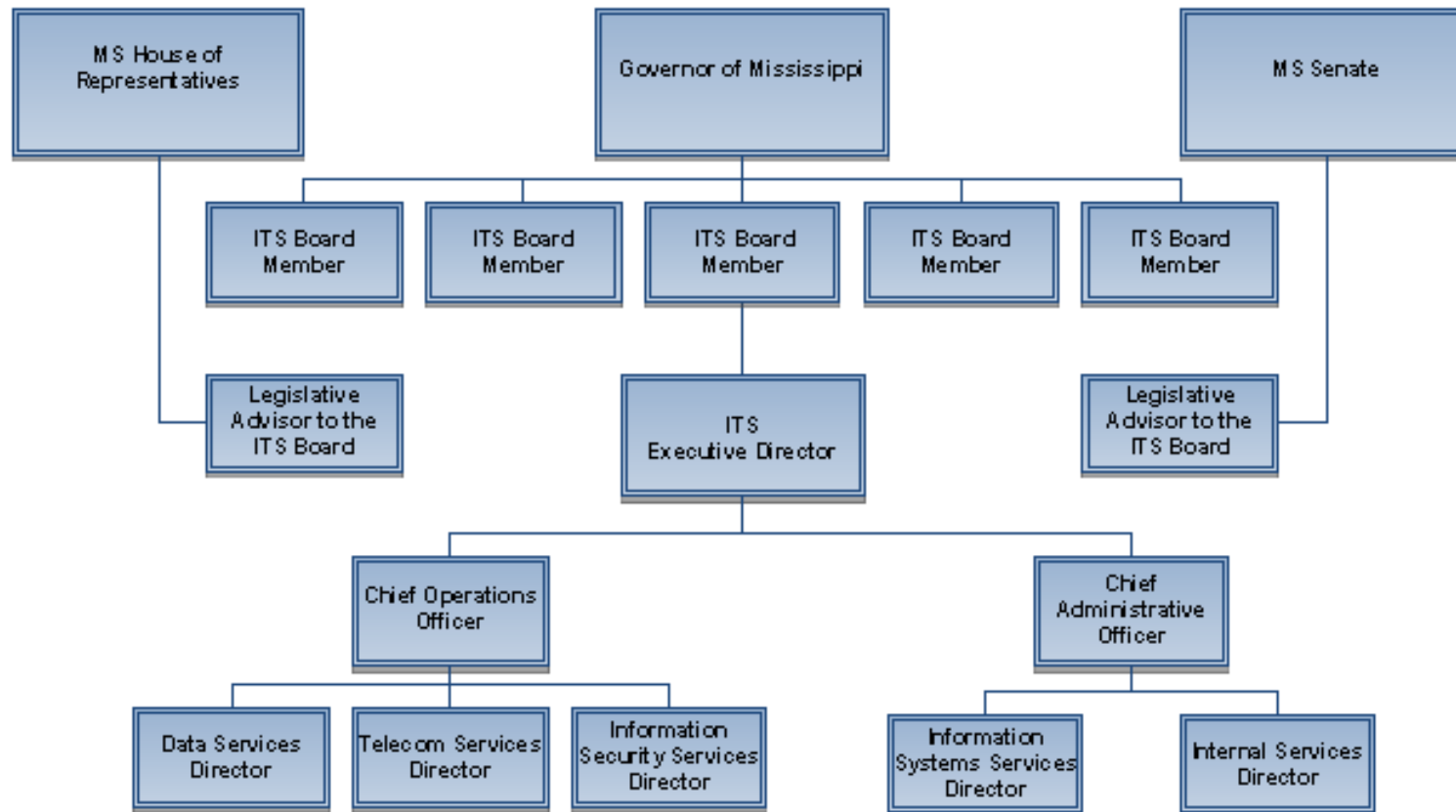
Role of ITS Board

- Hire ITS Executive Director
- Set technology direction for state government
- Monitor strategic IT projects undertaken by state agency and IHL customers
- Adopt rules and regulations for fulfilling the procurement and strategic IT oversight charges in ITS legislation
- Approve procurements, including exemptions, above the Director Approval Threshold

ITS Purview

- State Agencies
- Institutions of Higher Learning
- Other political subdivisions (e.g. cities, counties, K-12 Schools, Community Colleges), on request

ITS Rules and Regulations

- ITS website: www.its.ms.gov
- Procurement Handbook:
    - "Procurement" Channel
    - "Procurement Handbook"
    - Filed with the Secretary of State's Office

Scope of Procurement Oversight:

- All information technology (i.e. computer, telecommunications)
- Hardware, software, and **services**

Procurement oversight requirements are based on total lifecycle cost:

- Total committed costs of the project, not just the initial or up-front costs.

- Includes all costs associated with obtaining, maintaining and operating technology for its projected lifecycle:
  - Initial costs: purchase price, freight, installation, and training
  - Ongoing costs: post-warranty maintenance, support, upgrade charges, on-site vendor personnel, and any recurring usage charges.

- Handbook Reference: 005-400

IT Procurement Limits (think 'How Do I Buy IT?')

- For Non-Telecomm Projects: Same Limits as Public Purchasing (MS Code 31-7 – purview of DFA OPTFM)
  - $5,000 and below: 'just buy it' (& follow any additional policies)
  - Between $5,000.01 and $50,000: 2 competitive, written quotes (must select low quote; remember lifecycle cost definition)
  - Above $50,000: ITS must conduct a competitive procurement on your behalf**
- For Telecomm Projects: No delegation (i.e., ITS must conduct a competitive procurement on your behalf)**
- Sole source certifications above $5,000 must be handled by ITS**
- EPL purchases above the EPL per-project dollar limits must be handled by ITS**
- Emergency purchases require involvement from ITS**
- Cooperative Purchases must be handled by ITS
- Roadmap for State Agency Delegations: Procurement Handbook, 015-010
- **Roadmap for IHL Delegations: Procurement Handbook, 015-020

IT Procurement Delegations for IHLs
Why? MS Code 25-53-5 (b)

- Must Follow IT Procurement Law and ITS Policy (i.e., Procurement Handbook), regardless of delegation
- For Non-Telecomm Competitive & Sole Source Projects: Delegated to IHL CIOs <= $250,000 (remember lifecycle cost definition)
  - For Telecomm Projects: No delegation (i.e., ITS must conduct a competitive procurement on your behalf; MS Code 25-53-109 & -111 and Procurement Handbook, 011-085)
- EPL purchases above the EPL per-project dollar limits must be handled by ITS
- Cooperative Purchases must be handled by ITS
- Emergency purchases require involvement from ITS
- Roadmap for IHL Delegations: Procurement Handbook, 015-020
- Exception to ITS Purview for IHLs: WHOLLY federal funds (MS Code 25-53-25 (3))

It's technology...

What's the easiest way to purchase what I need?

Express Products Lists (EPLs)

- What's an EPL?

- How do I use it?

- Are my EPL purchases "legal?"

What is an Express Products List?

- Multi-vendor, catalog-type awards for "routine" technology items

- EPLs meet state requirements for legal public purchases (advertised & awarded)

- Customers may use EPLs free of charge, with no involvement from ITS, up to the per-project EPL limits

- Must follow EPL-specific Instructions for Use Memos (i.e., EPL Best Practices)

- Document, document, document *at the time of purchase*

What Can I Buy from EPLs?

- **See ITS website for complete list**
- **Examples:**
  - **IT Hardware EPL**
    Desktop and mobile-based computers, engineering and GIS-level workstations, desktop monitors, printers/scanners, large format printers and plotters/scanners, projectors, interactive devices such as whiteboards, servers, storage, UPS devices, racks, switches, wireless components, thin client systems, video and audio visual components and related accessories.
  - **Software EPL**
    Includes Adobe, Attachmate, Autodesk, Citrix, Corel, Computer Associates, EMC, IBM/Lotus Passport, McAfee, Novell, Open Text, Quest, SAP Business Objects, Sophos, Symantec, Trend Micro, and VMWare

I need to buy technology and it's not on an EPL. Now, how do I get started?

What kind of procurement is it?

Request Types

Types of Procurement Requests

- There are several different types of procurement requests that can be made to ITS.

- Each has a corresponding form:

  - Competitive Procurement

    - Variation: Cooperative Purchase

  - Sole Source

  - Revision to Previous Procurement Request

  - Exemption

  - Emergency

  - Planned Purchase

All forms can be found on the ITS Website

PROCUREMENT REQUEST FORMS:

Competitive Procurement

- » Word Format
- » PDF Format

Cooperative Purchasing Supplement

- » (See IT Procurement Handbook Section 011-070)
- » Word Format
- » PDF Format

Emergency Purchase

- » Word Format
- » PDF Format

Exemption Request

- » Word Format
- » PDF Format

Revision to Previous Procurement Request

- » Word Format
- » PDF Format

Sole Source Request

- » Word Format
- » PDF Format

Planned Purchase Request (Only available to agencies with current approved technology plans)

- » Word Format
- » PDF Format

Online Procurement Request System

Suggestions on Requests to ITS
(when lifecycle cost is above $250,000)

- Fill in what you know but don't agonize over every blank; your ITS Procurement Project Manager will work with you to obtain additional information, if needed

- Send it in sooner rather than later (see info on turnaround time later in the presentation)

- For online system, remember to click "Submit to ITS"

Competitive Procurement
(without ITS involvement up to $250,000)

- When lifecycle cost is above $50,000
- Must be advertised (Be consistent; Advertise to increase competition <u>and</u> follow the law)
  - Newspaper: "in one or more daily newspapers having a general circulation in the state not less than fourteen (14) days prior to receiving sealed bids"
  - State MAGIC Bid Board (meets MDA requirement)
  - University Web Site
- ITS typically uses either:
  - Project-specific RFP OR
  - General RFP and Letter of Configuration (LOC) process
  - Occasionally use "bid"
- Individual RFPs typically involve more complex projects and require more time; may be the only way to procure unique products or services
- At a minimum, post:
  - RFP
  - Answers to Vendor Questions, if applicable
  - Clarifications to Specifications, if needed
  - Register of Proposals
  - Award Notification (or No Award Notification)

Can I use GSA or a contract established by another state to purchase technology?

Cooperative Purchasing Agreements

- Regardless of lifecycle cost, submit Cooperative Purchase Request to ITS (not DFA) – no delegation

- ITS Handbook: Section 011-070
  - Must be "in the best interest of the government entity"

- ITS seeks DFA approval to use the specific Cooperative Purchasing Agreement (if approval not already granted), completes the procurement in accordance with the specific Cooperatives rules, & negotiates agreement(s) on behalf of customer

- Cooperative Examples: GSA Schedule 70, MiCTA, WSCA, NASACT, NCPA and Educational and Institutional Cooperative

Revision to Previous Procurement Request

- When to request a revision:
  - When previous ITS approval is out-of-date or doesn't cover current needs
  - Examples:
    - CP-1 has expired/will expire soon
    - Vendor Name or Address Change
    - Need additional products and/or services

I can just "sole source" it, right, and not have to do a procurement?

Sole Source Procurement
(without ITS involvement up to $250,000)

- When lifecycle cost is between $5,000 and $250,000
  - Periodic re-certification required; Lifecycle cost tied to each re-certification
- Vetted by IHL CIO's Office
- Must be advertised (Be consistent; Advertise for validation/transparency <u>and</u> to follow the law)
  - Newspaper: "in one or more daily newspapers having a general circulation in the state not less than fourteen (14) days prior to receiving sealed bids"
  - State MAGIC Bid Board
  - University Web Site
- At a minimum, post:
  - Notice of Intent to Certify Sole Source
  - Register of Objections
  - Award Notification (or No Award Notification)
- Purchase Reviewed by IHL CIO's Office (documentation, description, price, source)

MS Sole Source Requirements
(MS Code 31-7-13 (m) (viii))

- The product or services being purchased must perform a function for which no other product or source of services exists,
- The purchaser must be able to show specific business objectives that can be met only through the unique product or services, AND
- The product or services must be available only from the manufacturer and NOT through resellers who could submit competitive pricing for the product or services.

Additional requirements for sole source acquisition of IT services by ITS Policy to be consistent with Legislative Session 2015 HB825 & SB2400:

- An explanation about why the amount to be expended is reasonable, and
- An explanation regarding the efforts by the purchaser to obtain the best possible price.

Typical Sole Source Advertisement Schedule:

1st Advertisement in Clarion-Ledger <u>AND</u>
Notice of Intent Document Posted: Tuesday

2nd Advertisement: 1 week later

Objections Due from Interested Parties: 2 weeks after 1st Ad/Posting

Post Register of Objections: 2 weeks after 1st Ad/Posting

Post Notification of (No) Award: As soon as 2 weeks and
                                                 1 day after 1st Ad/Posting

Exemption Request
(to request no ITS involvement for Competitive Procurements above $250,000)

- Exemption from ITS involvement; NOT an exemption from IT Procurement Law
- Exemption procedure allows IHLs to request exemption <u>from ITS involvement</u> for specific IT competitive procurement projects (i.e., RFPs or IFBs)
- **The exemption should be approved by ITS before an advertisement is issued for the procurement.**

Emergency Procurement

- Regardless of lifecycle cost, submit Emergency Procurement to ITS (not DFA) – no delegation
- ITS uses Public Purchasing section of MS Code (31-7-13) to administer emergency IT procurements
- Some emergency purchases require pre-approval; others do not
  - Does your emergency "threaten health or safety of any person or the preservation or protection of property"?
    - If so, ITS pre-approval is not required. FYI filing only.
    - If not, ITS involvement & pre-approval is required.

"What I want to buy is on an EPL, but will cost more than the per-project dollar limit of the EPL. Any way to get there?"

If the needed purchase is
over the per-project dollar limit of the EPL:

- IHLs may exceed the per-project dollar limit by using the Planned Procurement Process – no delegation; requires ITS approval

- Requirements:

  (1) The project must be thoroughly documented in the IHL's current technology plan on file with ITS; and

  (2) The equipment or software needed must appear on a current EPL.

Planned Purchases

- Planned Purchases are initiated by a Planned Purchase Request form

- Approval is in the form of a letter from the ITS Executive Director and a CP-1 Procurement document

- Planned Purchases with a lifecycle cost above $1,000,000 require ITS Board approval

- For planning assistance, contact ITS and ask to speak with an IT Planner

I sent my procurement request to ITS.

Now what happens?

Procurement Process

Project Initiation

- Project Logged in at ITS
  - Email message acknowledging receipt
- Project Assigned to ITS Procurement Project Manager
  - Phone call or email from PM
- Project Kickoff Meeting with customer, if large/complex project
- Determine/verify procurement approach/strategy
- For larger procurement projects, develop and send customer a project workplan, with cost estimates and timeframes

Project Timeframes after project has been assigned

- Letters of Configuration using General RFP Vendor Pools:
  - List of equipment/software products: 4-6 weeks
  - Hardware with basic services; staff augmentation (body shop): 4 – 8 weeks
  - Deliverable-based services: 6 – 10 weeks
- RFP: 3 – 8 months
- Deadlines for Project Submission: Procurement Handbook 009-070
- Board Meeting Schedule

  http://www.its.ms.gov/About/Pages/Board-Meetings.aspx

The Open and Competitive Procurement Process

- Statutory Requirements:
  - Insure maximum competition
  - All acquisitions must be based upon open and competitive specifications

Proposal Evaluation & Scoring

- "Lowest and Best:" i.e. cost + qualitative factors
  - Unlike 2 quotes where low quote wins
- "Best" is determined by compliance of vendor's proposal with the RFP or LOC specifications
- Consensus Scoring: ITS + customer team determine rating (more representative of the true score than a numerical average)

We have an award!
What now?

Time to Negotiate
a Contract!

Project Contracts

You may not need a contract

- ITS may have a Master Agreement or the underlying RFP & proposal may be enough
- For equipment with no services, the P.O. may suffice

Upon request, ITS may delegate contract negotiation/ execution to the IHL

Project Contracts

- If a contract is needed, ITS will:
  - prepare a draft to be included in the RFP or LOC
  - check with you on optional terms, pre- and post-competition
  - lead the negotiations with the vendor
- ITS uses attorney(s) assigned full-time to ITS from the Mississippi Attorney General's Office.

Project Contracts

- ITS Executive Director as Contracting Agent
  - Signs all technology contracts "on behalf of"
  - Customer signature is at customer's option
  - Has the authority to limit a vendor's liability when deemed to afford the State reasonable protection – no delegation
- Customer signs acceptance of contract:
  - ITS Executive Director, as Contracting Agent, must be party to amendments, change orders, terminations, or other contract actions
  - Agency responsible for contractual obligations (financial and other)
  - Agency responsible for day-to-day management of project and business decisions

Legal Considerations

- Post-Procurement Reviews: 021-040
  - Business meeting conducted by ITS at a vendor's request
  - Vendors receive summary information from proposals submitted including costs and scoring
  - Conducted by IHL for delegated projects
- Public Records Policy and Procedures: 019-010
- Protest Policy and Procedure: 019-020
  - Must first be heard by the ITS Executive Director, regardless of delegation
- Proposal Confidentiality Procedure: 019-050

How do I know when my project has been completed?

- Final step: CP-1 Approval Document issued. You will receive CP-1 via email.

- A CP-1 is issued for ALL ITS-approved procurements, including competitive, sole source, exemptions, planned purchases, emergencies, and revisions to previous spending authority

- CP-1 will indicate a contract, if applicable, is FULLY EXECUTED

Contact ITS

- **Procurement Help Desk**
  (601) 432-8166
  isshelp@its.ms.gov

- **ITS Website**
  http://www.its.ms.gov

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