



CIRCULAR

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY

NO.: 08-09-DPP	ORIGINATING AGENCY: DIVISION OF PURCHASE AND PROPERTY	PAGE 1 OF 4
EFFECTIVE DATE: 01-22-08	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 07-15-DPP
SUBJECT: PURCHASES FROM FEDERAL SUPPLY SCHEDULES OR SCHEDULES OF OTHER FEDERAL PROCUREMENT PROGRAMS		
ATTENTION: DIRECTORS OF ADMINISTRATION , EXECUTIVE BRANCH PROCUREMENT OFFICERS AND DIRECTORS OF AUTHORITIES		
FOR INFORMATION CONTACT: ASSISTANT DIRECTOR, CONTRACT COMPLIANCE AND ADMINISTRATION UNIT		PHONE : (609) 292-5400 E-MAIL : CCAU@treas.state.nj.us

I. PURPOSE

Pursuant to N.J.S.A. 52:34-6.1, the Director, Division of Purchase and Property (Director) "shall promulgate the Federal Supply Schedules of the Federal General Services Administration or schedules from other federal procurement programs as an alternate price guide for the purchase of goods and services for State agencies and for the other public State entities as set forth in N.J.S.A. 52:27B-56.1." The purpose of this Circular is to outline the procedures that the Director will follow to promulgate State contracts containing goods and services from federal supply schedules ("GSA Schedules") and that are open to State contracting agencies and other quasi-State entities under the statute.

In the interest of minimizing the administrative burden in the promulgation of GSA Schedules, the Division of Purchase and Property will use the existing waiver process as the contracting vehicle (although purchasing from GSA Schedules does not need to meet the statutory waiver criteria) including the waiver pre-approval process to determine that the most effective means of procurement is used, with such revisions as necessary to accommodate this new form of contracting. Note that as required by the Request for Waiver of Advertising form, a certification is required that the good or service is not available under an existing State contract, unless the requestor can demonstrate that the price offered by the GSA vendor is less than that offered by an existing State contractor(s) for equivalent goods and/or services or that use of the GSA Schedule vendor is in the best interests of the State.

Thus, this Circular is to be used in conjunction with the following Treasury Circulars affecting procurement via GSA Schedules:

- A. Requests for Waivers of Advertising
- B. Professional Services: Review, Control, Monitoring and Extensions
- C. Delegated Purchasing Authority
- D. Procurements of Information Technology (IT) Hardware, Software and Related Services
- E. Moratorium on Procurements of Information Technology (IT) Hardware and Software.

II. DEFINITIONS

The following terms and their definitions apply to this policy:

- A. "Other Public Entities" means the group defined in N.J.S.A. 52:27B-56.1, the Palisades Interstate Park Commission, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Health Care Facilities Financing Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority, or any other agency, commission, board, authority or such governmental entity established and allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.
- B. "Eligible Requesting Entity" means State agencies and the entities set forth in N.J.S.A. 52:27B-56.1.
- C. "Federal Supply Schedule" or "GSA Schedule" means contracts approved by the U.S. General Services Administration for the procurement of goods and services by federal agencies.

III. POLICY – PROCUREMENT FROM GSA SCHEDULES

The Director may authorize State contracts based upon GSA Schedules as an alternate means of procurement of goods and services by State agencies and other entities legally authorized to use State contracts. This policy is designed to provide expanded purchasing opportunities for State and other public agencies while continuing to ensure the integrity of State contracting through an ethical, competitive and transparent process, and compliance with all State laws, regulations, Legislative directives and Executive policies. Purchases by State agencies shall be based on price and product quality, not favoritism or other impermissible considerations.

The goods or services being procured must be competitively procured, as required for other waivers of advertising, unless there is a determination that no other source of supply exists or that selection of a vendor from the GSA schedules would be more advantageous to the State, as determined by the Director.

An eligible requesting entity does not have to submit an entire GSA Schedule for a particular vendor for the Director's consideration under the provisions of this Circular. The eligible requesting entity should tailor or limit the request only to the needed goods and services on the vendor's GSA Schedule.

All GSA vendors awarded State contracts must satisfy all requirements for contracting with the State and will receive State contract numbers that will be posted on the Division of Purchase and Property's website. These contracts will thereafter be available for use by all eligible requesting entities for the term of the contract without further authorization from the Division of Purchase and Property. Further, unless the GSA vendor specifically opts out of the program, the contract will automatically be available for use by the State's Cooperative Purchasing partners, including municipalities, counties, school districts, independent authorities, volunteer fire companies and rescue squads, county and state colleges, and independent institutions of higher education.

Note that the circular permits, if requirements are fulfilled, the promulgation of GSA Schedules both where there is an existing State contract for the good and/or service (with the specific exclusions noted in Section IV below) and in the absence of a State contract for the good and/or service.

IV. EXCLUDED OR PROTECTED STATE CONTRACT VENDORS

Because the Director must grant priority status to overriding legislative mandates or executive policies, any goods or services available under State contracts awarded under the following special procurement programs will not be considered for GSA Schedule contracting:

- Partial or complete small business set-aside contracts;
- DEPTCOR contracts;

- Central Non-Profit Agency set-aside contracts; and
- Other contracts designed to implement specific legislative or executive mandates, including by way of example, but not limitation, contracts for the purchase of environmentally preferable and energy efficient products.

For State contracts based on brands, only those brands under State contract will be considered for a GSA contract pursuant to this Circular. GSA procedures may not be used to circumvent brand restrictions in existing State contracts.

V. REQUESTS TO PURCHASE GOODS AND SERVICES UNDER GSA SCHEDULES

Eligible requesting entities may request the Director to award State contracts to vendors who supply goods and services through GSA using the Waiver of Advertising process. No eligible requesting entity may contract with a GSA Schedule vendor without the Director's approval. For State contracts with GSA vendors, no further authorization from the Division of Purchase and Property is required during the term of the contract.

Mandatory Requirements for State Contracting

As under the normal waiver process, the eligible requesting entity must satisfy all the procurement requirements for State contracting. The forms set forth below can be found on the Division's web site at: <http://www.state.nj.us/treasury/purchase/forms.htm>. The requirements are as follows:

- Proof of New Jersey Business Registration with the Division of Revenue
- Proof of New Jersey Registration for foreign (out of State) corporations
- Standard Terms and Conditions (for waived contracts) executed by the vendor
- Ownership Disclosure form
- Affirmative Action Compliance or Certificate of Compliance with Affirmative Action requirements by the State or federal government
- MacBride Principles Certification
- Source Disclosure Certification under N.J.S.A. 52:34-13.2
- Contractor Certification and Disclosure of Political Contributions under N.J.S.A. 19:44-20.13 et seq.
- Vendor Certification under P.L. 2005, c. 71.

The eligible requesting entity shall assemble the documents, filled out and signed by the vendor where required, and submit them with the waiver package. The GSA vendor(s) shall have a term contract with the State for a period up to two (2) years, during which time it shall, to the extent possible, hold its pricing firm. The State must receive the benefits of all price reductions during the term of the State contract based on the GSA Schedule.

VI. METHOD OF OPERATION

Agencies must first review the State's existing contracts to ascertain if a needed product or service is available. Information about State contracts is available on the Department of the Treasury, Division of Purchase and Property's website at www.nj.gov/treasury/purchase/contracts.htm. If an existing State contract provides the needed product or service, the agency must execute its purchase through the State contract, unless GSA offers better value.

When an existing State contract does not provide the needed product or service, the agency must evaluate the approximate cost of the needed product or service. In this case, and if the product or service is within the agency's Delegated Purchase Authorization (DPA), then the agency must follow the process for DPA purchases as set forth in Circular 06-16-DPP (available on the web at <http://www.nj.gov/infobank/circular/cir0616x.pdf>). Alternatively, when a needed product or service is not part of an existing State contract and the cost is anticipated to be beyond the agency's DPA, the agency may then turn to GSA if procurement through an advertised bid process is not feasible.

To "shop" GSA as used in context within this document, means that an agency researches the GSA schedules to identify the vendors that sell the product and/or service in which the agency is interested in

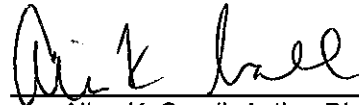
purchasing. The agency must then identify at least three (3) viable GSA vendors offering the product or service, and obtain price quotes from these three vendors. Then the agency must determine the vendor offering the best value, price and other factors taken into consideration. This determination and supporting explanation must be documented as required by the Waiver of Advertising form.

Note: If a GSA vendor offers a product or service that is available from a single source of supply or is proprietary in nature, then the agency must document, to the satisfaction of the Attorney General, that the vendor is the sole source of supply for the product or service.

Similarly, if a GSA vendor offers a product or service that supports requirements that are feature-dependent, then the eligible requesting entity must justify why the feature is required as part of the GSA waiver package sent to the Division of Purchase and Property.

The agency's GSA waiver package must include all required approvals, i.e., technical approval from the Office of Information Technology for all technology initiatives; Office of Management and Budget approval for consulting services in excess of \$1,000,000. Incomplete GSA waiver packages will be returned to the agency and will not be processed or "held" by the Division of Purchase and Property. Division of Purchase and Property approval will result in the assignment of a New Jersey State GSA contract number for a period up to two (2) years to the selected GSA vendor. The contract will only apply to the specific product or service for the subject procurement.

The Division of Purchase and Property will make New Jersey State contract awards to GSA vendors available on its website for use by other State agencies and other public entities.



Alice K. Small, Acting Director
Division of Purchase and Property