

II. ORDERING PROCEDURES FOR MSA SERVICE CONTRACT

This user guide is designed to help the ordering agency with the final selection of a contractor. In addition to procedures listed in this user guide, the ordering agency's internal contract procedures also must be followed.

1. The Master Service Agreement (MSA) contracts awarded as a result of the RFP will not preclude users from following established state and/or local agency policies and procedures when considering service needs. Use of the MSA is intended for situations where there is no current civil service expertise to fill the customer agencies' or local agencies' needs.

MANAGEMENT MEMO 02-19, ISSUED ON AUGUST 20, 2002, INCLUDED NEW PROCEDURES RELATED TO THE USE OF MASTER AGREEMENTS. THESE NEW PROCEDURES SUPERSEDE PREVIOUSLY ISSUED ORDERING PROCEDURES. IF AMENDMENTS TO THIS MANAGEMENT MEMO ARE ISSUED, ANY CHANGES IN THOSE AMENDMENTS WILL APPLY ALSO. PLEASE REFER TO THE MANAGEMENT MEMO FOR SPECIFIC DETAILED INFORMATION. HOWEVER, THE FOLLOWING SUMMARY INFORMATION MUST NOW BE ADHERED TO.

2. A. For Orders in Excess of \$500,000

1. Obtain approval of DGS to exceed the \$500,000 ordering limit; request must include how effective competition will be assured. Other areas that should be addressed when requesting approval would be details regarding the estimated dollar value of the project, how the needs of the state would be best served by not "formally" bidding the project to the entire open market of vendors, details regarding how the project will be managed, its timeline, and the qualifications of the staff who will run the competition for award. Additional measures may be required by DGS.
2. All qualified suppliers must be contacted. This will provide agencies an opportunity to review and evaluate various contractor proposals. After review and evaluation of proposals, the ordering agency should be able to determine which contractor offered the best value and award the contract.
3. All orders must be reported to DGS within five working days using the "Notice of Contract Award" form.

B. For Orders less than \$500,000

1. Solicit and obtain a minimum of three offers including one small business if applicable. This will provide agencies an opportunity to review and evaluate various contractor proposals. After review and evaluation of proposals, the

ordering agency should be able to determine which contractor offered the best value and award the contract. If less than three offers are received, documentation of solicitation methods must be included with contract reporting to DGS. If only one source is known (competing offers cannot be obtained), the non-competitive bid contract process must be followed.

2. All orders exceeding \$250,000 must be reported to DGS within five working days using the "Notice of Contract Award" form.
 3. Variance of model contract terms is allowed only with DGS approval.
3. General information related to the use of this MSA:
- a. Contractor must be available for an interview within five (5) working days or a mutually agreeable time from the date of notification by the ordering agency of the interview intention.
 - b. The selected contractor shall not commence work until authorization has been received from the authorized approval authority.
 - c. Contractor is contractually obligated to provide personnel to work on projects statewide.
 - d. Upon selection, the contractor's personnel must be available to start the project work within two (2) weeks of a mutually agreeable time of being accepted by the ordering agency.
 - e. Work shall be performed during normal agency workdays and hours unless a different schedule is specifically requested by the ordering agency. There shall be no increase in hourly rates for extended hours or days.
 - f. No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.
 - g. Failure to comply with any of the requirements from this section is grounds for contract termination.

A. GENERAL ORDERING INSTRUCTIONS

Any state or local agency may place orders against this MSA. A written statement of the ordering agency's scope of work, i.e., business requirements, must be available at the time

the contractors are contacted. The requirements of the project cannot change unless all of the contractors contacted are given another opportunity to respond to the revised requirements.

Each contractor contacted will be requested to submit a proposal to the ordering agency detailing the contractor's statement of work, i.e., solution to the described situation. The contractor must provide a response within the time specified in the request for a proposal from an ordering agency. Along with the proposal, the contractor will include a detailed task plan, all appropriate resumes and the contractor's total proposed charges based on the rates established and published in this user guide and in each awarded MSA contract. In addition, the contractor will submit sufficient documentation so the ordering agency can be assured that the personnel the contractor is proposing to use meet the experience requirements as expressed above.

Once the ordering agency has received all of the contractors' proposals, they will make an award to the contractor whose response to their Request For Offer (RFO) was selected, refer to Section VI, Forms for the sample RFO document.

The actual award will be made using a Master Services Agreement Order form, GSOP-206, refer to Section VI, Forms.

There shall only be one contractor per MSA order. Copies of approved MSA orders shall be sent to the Department of General Services, Procurement Division, Technology Acquisitions, along with a completed Hiring Activity Report, refer to Section VI, Forms. If an ordering agency wishes to rehire a Contractor, a new MSA order must be executed. Additionally, the Notice of Contractor Award (NCA) must be submitted for all orders issued in excess of \$250,000 (refer to Management Memo 02-19 for further information).

Should occurrences of outstanding performance, or problems, be encountered, AGENCY MSA CONTRACT PERFORMANCE REPORT, refer to Section VI, Forms, shall be completed and forwarded to the contract administrator listed for this MSA. The ordering agencies shall have the option of reviewing any such submitted Performance Reports, and/or Contractor evaluations per State Administration Manual, Section 1283, during the evaluation of Contractor's offer. Scoring for the award of work orders may be based upon the information contained in these reports.

MSA orders can be placed and approved by the ordering agency under the guidelines of this MSA. However, if an ordering agency is found to be in violation of this MSA's ordering procedures, they may be subject to revocation of their ability to use this MSA.

B. ORDER PLACEMENT

Agencies may place an order anytime during the effective periods of this MSA. All MSA contracts are effective from December 19, 2001 to December 18, 2005. No new orders can be issued to MSA contractors after December 18, 2006. Agencies that have pre-existing orders active with MSA contractors and in place as of December 18, 2005 can continue to December 18, 2006.

Existing MSA costs, terms and conditions will remain unchanged and in effect during this term.

C. ORDER INITIATION GUIDELINES

Prior to initiating an order, ordering agencies must follow and obtain all approvals for “the project” prior to using this MSA. All State of California Management Memo(s), Governor’s Executive Order(s), etc. must be followed as part of using this MSA. Use of this MSA does not waive the Dept. of Finance approval requirements in accordance with the policies and procedures, as defined in Volumes I and II of the State Information Management Manual (SIMM).

A signed certification of compliance with state information technology policies is required for all information technology procurements that cost \$10,000 or more and are in support of a development effort. Development is defined in SAM Section 4819.2 as “Activities or costs associated with the analysis, design, programming, staff training, data conversion, acquisition and implementation of new information technology activities.” Procurements of hardware, software and services (including interagency agreements) are included in this requirement.

A certification is not required for:

1. Procurements for less than \$10,000;
2. Procurements limited only to maintenance services;
3. Procurements in support of previously approved efforts. See SAM Section 4819.40;
4. Procurement of services to conduct a feasibility study, provided the services are limited to supporting or conducting the feasibility study and/or preparing the feasibility study report (SAM Sections 4927 and 4928); or
5. Procurements of/for excluded activities as described in SAM Section 4819.32.

The certification must be completed by the ordering agency that will directly utilize the procured goods or services, and the original signed certification must be included with the transmittal or the procurement package to the procurement agency or authority. The required format for the certification is provided in SAM Section 4832.

The ordering agency will be required to send either a copy of the appropriate “approval document” (i.e.: Department of Finance, etc.) or reference the approved project # on the MSA order form when sending copies of an order to DGS/PD/Technology Acquisitions for reporting and billing purposes.

Agencies are responsible for following their own internal policies and guidelines for procurements when using this MSA.

D. CONTRACTOR’S REPOSE TO RFO

The responses submitted by contractors must include the following:

- a. Procedures/Methods to accomplish the ordering agency’s project in a Statement of Work;
- b. Detailed budget;
- c. Resumes and classifications of contractor’s staff assigned and working on the project including the same information for subcontractors;
- d. DVBE participation information, if required by ordering agency;
- e. TACPA, LAMBRA, and EZA documents, if required by ordering agency;
- f. Copy of current certification as a small business, if required by ordering agency;
- g. Proof of Professional Errors and Omissions Insurance, if required by ordering agency;
- h. Performance bond, if required by ordering agency.

Note: The budget should list the number of hours, hourly rate, and total for each person named to be working on the project.

If the project covers more than one service category/subcategory and the contractor has different contracted hourly rates for them, the budget must list the number of hours that the contractor’s personnel will work in each category/subcategory. It also must list the different rates for each category/subcategory in the project’s budget.

Expenses such as training materials, printing, etc. should be listed as separate line items from the consulting budget—they must relate to the project’s statement of work. NOTE: sales tax applies to products and not services supplied under this MSA. Contact the State Board of Equalization toll free at 800/400-7115 for general tax questions and information.

E. FINAL SELECTION OF CONTRACTOR

The ordering agency should form a team to review the submitted responses. If the ordering agency is using “best proposal” to select the contractor, the criteria used should be quantifiable. The examples of selection criteria are experience, staffing, and availability

to complete the project within the requested timeframe and total cost of project. Each response must be evaluated on the same basis. Refer to Section VI, Forms for the MSA Contractor Evaluation and Selection Form.

If the ordering agency is using “lowest cost” to select the contractor, the MSA service order is awarded to the contractor that submitted the lowest cost quote.

The selection process can include conference call interviews or face-to-face interviews as well as a review of the contractor’s written response to the RFO. After the selection is made, simply notify the contractors of your selection. Ordering agencies must document such selection and keep all pertinent documents in their contract order file.