Introduction

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Introduction

Topic 1 - Overview

I.1.0 Welcome

Welcome to the State Contracting Manual, Vol. 2, issued by the Department of General Services, Procurement Division (DGS/PD), Office of Policies, Procedures and Legislation.

I.1.1 Purpose

The State Contracting Manual (SCM), Vol. 2 provides Procurement & Contracting Officers (PCO) and procurement staff (exclusive of DGS/PD procurement staff) with the requirements for obtaining and maintaining delegated purchasing authority. It is the necessary resource to ensure the application of consistent and sound business practices in State purchasing.

It is also a demonstration of DGS/PD's ongoing commitment to increasing communication with those involved in State procurement.

I.1.2 Scope of manual

The SCM, Vol. 2 contains purchasing authority requirements, including statutes, regulations, policies, procedures and best practices applicable to the acquisition of non-information technology (non-IT) goods. Also included is how departments may apply for purchasing authority, maintain compliance with the purchasing authority program and the 'how's and why's" of competitive bidding, non-competitive contracting and leveraged procurement agreements (LPA).

"Department", for the purpose of this manual and delegated purchasing authority, refers to any entity of the executive branch of California government including, but not limited to, agency, department, board, commission, office, association or institution.

I.1.3 How to approach the intent of SCM, Vol. 2

The SCM, Vol. 2 represents the minimum requirements for obtaining and maintaining purchasing authority. If a department elects to exceed any of the minimum requirements of what is documented in the SCM, Vol. 2, then the expectation is that those additional departmental requirements will be documented within the department's purchasing authority policies and procedures.

Additionally, the SCM, Vol. 2 was written from the perspective that the department's procurement office is the main repository of all documentation impacting its purchasing activities. If that is not true of your department, again, this is expected to be documented within the department's procurement policies and procedures.

I.1.4 Table of Contents

Each chapter of the SCM, Vol. 2 has a table of contents unique to the individual chapter. The information below provides the reader with an overview of the manual by chapter:

Chapter 1 - Purchasing Authority
Chapter 2 - Procurement Planning
Chapter 3 - Socioeconomic and Environmental Programs
Chapter 4 - Competitive Solicitations
Chapter 5 – Non-Competitively Bid (NCB) Contracts
Chapter 6 - Leveraged Procurement Agreements
Chapter 7 - Protest and Post Award Disputes
Chapter 8 - Purchase Documents
Chapter 9 - Disbursements, Financing and Payment Programs
Chapter 10 -Receiving, Inspection, Acceptance Testing and Acceptance or Rejection
Chapter 11 - Contract Administration
Chapter 12 - Reporting Requirements

I.1.5 Guide to SCM, Vol. 2 usage

The table provided below is a guide for interpreting the purchasing requirements presented in SCM, Vol. 2.

In reference to	Requirements	Limited Discretion	Full Discretion
Words	"Must", "shall", "mandatory" or "required"	"should"	"may", "guidelines", "recommended practices" or "examples"
Source	Statutes, regulations, state policies, DGS/PD policies	DGS/PD policies related to requirements or considered to be good business practices	Policies, procedures and guidelines presented as helpful aids
Compliance	Must be followed unless exempt by law or granted exemption by DGS/PD	Need to be followed unless the department has a good business reason for variance	Optional
Documentation	Documentation required	Brief notation in file documentation sufficient	None required
Consequence for non-compliance	Result in violation of law and/or negative impact to purchasing authority, either in reduction or termination of authority	Noncompliance may affect compliance with a requirement or the advisability of the purchase; DGS/PD may question and request documentation	None

I.1.6 Availability of the manual

The SCM, Vol. 2 and notices of any updates to the manual will be made available via electronic mail (e-mail) broadcasting to department prime contacts whose purchasing authority application has been reviewed and approved by the Purchase Authority Management Section. To subscribe to the (e-mail) broadcast bulletins submit your e-mail address at the bottom of this link.

I.1.7 Revisions to SCM, Vol. 2

The SCM, Vol. 2 will be updated as needed. Broadcast bulletins will announce each update.

I.1.8 Statutory, regulatory, policy and procedural requirements

In addition to the SCM, Vol. 2, departments granted purchasing authority are required to adhere to applicable provisions of State law, including, but not limited to:

- Public Contract Code
- Government Code
- Military and Veterans Code
- Labor Code
- Revenue and Taxation Code
- Food and Agriculture Code

Departments granted purchasing authority are also required to adhere to applicable procurement-related regulations contained in the California Code of Regulations.

The following manuals also provide procurement-related policies and procedures and should be referenced as applicable:

Manual title	Manual provides
State Administrative Manual (SAM) Click here to access SAM	Statewide management policies
Statewide Information Management Manual (SIMM) Click here to access SIMM	Instruction and guidelines, samples and model forms, and certification and transmittal letters related to IT policy.
State Telecommunications Management Manual (STMM) Click here to access STMM	Guidelines, directives, procedures and service information to assist departments with telecommunications management.
State Contracting Manual (SCM), Vol. 1 Click here to access SCM, Vol. 1	Policies, procedures and guidelines related to the state's contracting process for non-IT services including consultant service contracts and interagency agreements. Also includes information relating to public works, architectural & engineering and legal services contracting.
State Contracting Manual (SCM), Vol. 3 Click here to access SCM, Vol. 3	Policies, procedures and guidelines related to the state's contracting process for IT goods and services.

I.1.9 Additional reference material

The following DGS/PD publications are provided as reference summaries of State and federal statutes and State regulations relevant to State procurement practices:

Click here to find California Codes.

Click here to find California Code of Regulations.

Click here to access the California Acquisition Glossary.

Click here to access a List of Acronyms.

I.1.10 Resource directory

DGS/PD has compiled a resource directory providing phone numbers and Internet sites associated with procurement activities.
http://www.dgs.ca.gov/pd/AboutUs.aspx
Click here to access the Procurement Related Resources Directory.

Chapter 1

Purchasing Authority

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Chapter 1

Purchasing Authority

Overview

Introduction This chapter describes the purchasing authority requirements and the purchasing authority application (PAA) process. This chapter also provides tips to developing procurement policies and procedures.

Contents This chapter contains the following Sections:

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Section A

General Purchasing Authority Information

Overview

Introduction This section describes what is included and not included under purchasing authority, what the program requirements are, and what is necessary to obtain and maintain purchasing authority.

Contents This section contains the following topics:

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Topic 1 – Purchasing Authority Basics

1.A1.0 Authority to delegate purchasing authority

Statutory authority for purchasing non-information technology (non-IT) goods and information technology (IT) goods and services for State government resides with the Department of General Services (DGS). DGS also has statutory authority to grant purchasing authority to those departments demonstrating the capability to make purchases that adhere to State statutes, regulations, executive orders, policies, procedures, sound business practices, and cost effectiveness that are in the best interest of the State.

DGS is accountable and responsible for the purchasing authority it grants. The PAA is designed to provide DGS with the information needed to determine if a department has the expertise, experience, knowledge, and internal procurement policies and procedures to support the type(s), category(ies), and dollar thresholds of authority requested.

1.A1.1 Program oversight

The Purchasing Authority Management Section (PAMS) within DGS Procurement Division (PD) is responsible for oversight of the purchasing authority program on a statewide basis, including review and approval of PAAs requesting purchasing authority and monitoring of departments granted purchasing authority. Departments are required to make purchasing authority documentation and information available to DGS/PD upon request and may not withhold such documentation and/or information.

1.A1.2 Purchasing authority types

There are two types of purchasing authority available to State departments. The table below identifies the types of purchasing authority available and the respective Public Contract Code (PCC) sections authorizing the delegation of the authority:

If the purchasing authority is for	Then the delegation of the purchasing authority is governed by PCC section(s)	And SAM section(s)
Non-information technology (non-IT)	10308,10309, 10331 through 10333	3506
Information technology (IT)	12100 et seq.	N/A

1.A1.3 Purchasing categories or sub-categories

Once a purchasing type(s) has been selected, a department must then decide what purchasing categories or sub-categories to use in conducting their purchasing activities. A department may select one or more of the following purchasing categories or sub-categories as applicable to their selected purchasing authority type:

- Competitive solicitations (informal and formal).
- Community-Based Rehabilitation Program (CRP).
- Non-competitively bid (NCB) contract approval.
- Small Business (SB)/Disabled Veteran Business Enterprise (DBVE) Option (competitive solicitations conducted under Government Code (GC) 14838.5 with a value of $5,000.01 through $249,999.99).
- Leveraged Procurement Agreement (LPA) orders are further sub-categorized into the following:
    - California Multiple Awards Schedule (CMAS) contracts
    - Software License Program (SLP) contracts
    - Master Agreements (MA), including Western States Contracting Alliance (WSCA)
    - State Price Schedules (SPS)
    - Statewide Contracts (SC)
    - Cooperative Agreements

Note: Purchasing authority also provides departments the ability to participate in the CAL-Card Purchase Card Program. Only departments granted purchasing authority will be considered for participation in the CAL-Card Purchase Card Program.

1.A1.4 Dollar thresholds and exempt contracts

The requirements for obtaining purchasing authority for any category are commensurate with the applicable dollar threshold. Purchasing authority for contracts identified as exempt by statue or by policy will be granted at the same dollar threshold granted for competitive solicitations.

1.A1.5 Levels of competitive purchasing authority

The purchasing authority categories or sub-categories and dollar thresholds available to departments are described in Topic 2 of this section. For each category or sub-category, except competitive, departments may only apply for the dollar threshold(s) listed or may elect to not apply for a category(ies). For example, the dollar threshold for non-IT goods CMAS LPA purchasing authority sub-category is set at $100,000.00. The Department must only apply for the $100,000.00 CMAS purchasing authority, or elect “None” in this CMAS category. For competitive, the department has the following choices, as well as "None":

Competitive Purchasing Authority Level	Characteristics
Minimum	• Lowest dollar threshold of authority available. • Departments that conduct very few, small procurements should request this authority level.
Standard	• General dollar threshold of authority available. • Informal solicitations. • Departments must be granted this level of authority and have experience conducting procurement activities at this level prior to applying for authority to conduct formal procurement activities. • Prior to being granted full authority at this level, the department may be required to conduct a single competitive procurement. Refer to Topic 2 "Requesting Purchasing Authority" of this Section.
Formal	• No set dollar threshold. • Dollar threshold for formal solicitations is granted on a case-by-case basis. • Prior to being granted full authority at this level, the department will be required to conduct a single competitive procurement. Refer to Topic 2 "Requesting Purchasing Authority" in this section.

1.A1.6 Must departments have purchasing authority?

Departments without approved purchasing authority are prohibited from conducting any of the following purchasing activities:

- Non-IT goods exceeding $100.00 as stated in PCC section 10308.
- IT goods and services of any dollar value, including IT Inter-Agency Agreements (IAA).
- Using any of the purchasing categories or sub-categories referenced in this Chapter.
- Participation in the CAL-Card Purchase Card Program.

Note: Departments should review their business needs before making the decision not to apply to DGS/PD for purchasing authority.

1.A1.7 Departments with purchasing authority

Click here to access a current listing of departments with approved purchasing authority.

1.A1.8 Contact PAMS

Departments are encouraged to use the PAMS as the first point of contact to assist in answering questions or discussing concerns regarding any aspect of purchasing authority and/or any purchasing activities authorized under the program.

Questions may be electronically mailed to the PAMS at pams@dgs.ca.gov.

Topic 2 – Scope of Purchasing Authority

1.A2.0 Categories or sub-categories and dollar thresholds

The table below illustrates the purchasing authority options available to departments when considering what purchasing type(s), category(ies) or sub-categories, and dollar threshold limits are available and what will best satisfy the needs of an individual department. Dollar thresholds identified in this table as well as throughout the SCM exclude sales and use tax, finance charges, postage, and handling charges. Shipping charges are also excluded from the dollar threshold limits unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect, or FOB Destination.

***Note:** Limits unless otherwise stated in the individual LPA User guide.

Purchasing Authority Category or Sub-category	Non-IT goods: dollar thresholds	Non-IT Services: Dollar Thresholds	IT Goods and Services: Dollar Thresholds
Competitive Levels: Minimum	$4,999.99	OLS oversight Refer to SCM, Vol. 1	$4,999.99
Competitive Levels: Standard	$100,000.00	OLS oversight Refer to SCM, Vol. 1	$1,000,000.00
Competitive Levels: Formal	Over $100,000.00	OLS oversight Refer to SCM, Vol. 1	Over $1,000,000.00
Single Competitive Solicitation	As Authorized	OLS oversight Refer to SCM, Vol. 1	As Authorized
NCB Contract Approval	Equal to approved competitive level, but not to exceed $25,000.00	OLS oversight Refer to SCM, Vol. 1	Equal to approved competitive level, but not to exceed $25,000.00
SB/DVBE Option per GC section 14838.5(a)	$5,000.01 through $249,999.99	OLS oversight Refer to SCM, Vol. 1	$5,000.01 through $249,999.99
LPA Orders: CMAS	$100,000.00	$250,000.00	$500,000.00
LPA Orders: Master Agreements	$500,000.00*	$500,000.00*	$1,500,000.00*
Orders: Software License Program	N/A	N/A	$2,000,000.00*
LPA Orders: Statewide Contracts	Unlimited	N/A	Unlimited
LPA Orders: State Price Schedules	$100,000.00	N/A	$100,000.00
LPA Orders: Cooperative Agreements (e.g. WSCA, NASPO)	$500,000.00*	$500,000.00*	Unlimited

1.A2.1 Incidental services on non-IT goods

Non-IT incidental services (i.e. set-up and installation) may be acquired during the original purchase of non-IT goods but the services must be subordinate to the overall purchase and not exceed a dollar threshold of $4,999.99. If the service portion of a non-IT goods purchase exceeds $4,999.99, then the service portion must be separated from the non-IT goods purchase and executed as a contract in accordance with the SCM, Volume 1. This requirement does not apply to LPA orders for non-IT goods.

1.A2.2 Exclusions

The activities described below are outside the scope of purchasing authority as authorized by DGS/PD:

Activity	Basis for exclusion:
Non-IT goods valued at $100.00 or less	Defined in PCC section 10308, departments have statutory authority to purchase non-IT goods valued at $100.00 or less without DGS/PD oversight. **Warning:** This statute pertains only to non-IT goods. Departments without IT goods and services purchasing authority may not procure IT goods and services in any dollar amount.
Non-IT services, other than LPA orders	Personal services that are not defined as IT. Primarily labor related, rather than providing a tangible product. For assistance, refer to the State Contracting Manual (SCM), Vol. 1. **Note:** Non-IT service LPA's, i.e. CMAS or MA, are within the scope of purchasing authority authorized by DGS/PD.
Inter-Agency Agreements (IAA) for Non-IT services	Defined in GC section 11256 as an agreement between two or more state agencies. Non-IT services IAAs valued at $50,000.00 and over must be approved by DGS/Office of Legal Services (OLS). For assistance, refer to the SCM, Vol. 1. **Note:** IAA for IT goods and services and IAAs for consolidated data center services are processed under IT purchasing authority or DIA authority, respectively. Refer to 1.A2.3 of this section, and the SCM, Vol. 3, Chapter 8 for additional information. Refer to the SCM, Vol. 1 for non-IT services.
Public Works	Defined in PCC section 1101 as an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind. For assistance, refer to the SCM, Vol. 1 and/or contact DGS/OLS.
Architectural, engineering and environmental services (A & E)	Defined in GC section 4525 et seq. as professional services of private architectural, landscape architectural, engineering, environmental, land surveying or construction project management firms. For assistance, refer to the SCM, Vol. 1.

1.A2.2 Exclusions (continued)

Memberships in professional organizations for represented and non-represented employees	Memberships in professional organizations for represented employees are governed by the collective bargaining agreements. Memberships in professional organizations for non-represented employees are governed by the Department of Personnel Administration (DPA) rules. For assistance, refer to the SCM, Vol. 1 or contact the employee's department's labor relations' office.
Non-IT departmental memberships in professional organizations	Departmental memberships in professional organizations are considered a personal service. Non-IT departmental memberships valued at $50,000.00 and over must be approved by DGS/Office of Legal Services (OLS). For assistance, refer to the SCM, Vol. 1. **Note:** IT departmental memberships are included within IT purchasing authority. If an IT membership purchase exceeds a department's approved purchasing authority dollar threshold, then the acquisition must be submitted to DGS/PD Technology Acquisitions Branch (TAB). For assistance, contact TAB.
Legal services	Services rendered by an attorney must be authorized by the Attorney General's Office. For assistance, refer to the SCM, Vol. 1.
Opportunity purchases	In accordance with PCC section 10321, opportunity purchases are not within purchasing authority and are applicable only to District Agricultural Associations (DAA). **Note:** This exclusion from purchasing authority is only applicable to non-IT goods transactions.

1.A2.3 IT Interagency agreements

Executing interagency agreements (IAA) for IT goods and services is part of a department's approved IT purchasing authority and is granted at the same dollar level as IT competitive purchasing authority. Departments must submit an IT IAA to DGS/PD's Technology Acquisition Branch (TAB) for review and approval if the department does not have IT competitive purchasing authority or if an IT IAA exceeds the department's IT competitive purchasing authority dollar level.

Exception:
Routine computer processing and related IT services provided by the data center to "customer" departments are processed under the data center's authorized DIA delegation without dollar limits.

1.A2.4 Exceeding purchasing authority thresholds

Departments may not execute a solicitation, request for offer (RFO), NCB contract or exempt contract that exceeds or is expected to exceed the department's approved purchasing authority by type, category/sub-category, or dollar threshold, except in an emergency as defined in PCC sections 10340 and 12102(a) (2).

Note: An exemption may be obtained for IT Master Agreements above $1,500,000 by completing and submitting a Leveraged Procurement Agreement request for exemption. Refer to the SCM, Vol. 3, Chapter 6 for additional information.

Any transaction that exceeds or is expected to exceed a department's purchasing authority, by type, category/sub-category, or dollar threshold, must be submitted to DGS/PD on a Purchase Estimate (STD.66) for non-IT and IT goods and by memo for IT services.

Procurements for non-IT goods will be conducted by the DGS/PD Acquisitions and Contracts Section (ACS). Procurements for IT goods and services will be conducted by the DGS/PD Technology Acquisitions Branch. (TAB).

DGS/PD is also available, at a department's request, to conduct any procurement that is within the departments purchasing authority.

Note: Contact TAB for instructions on submitting IT service procurement requests.

1.A2.5 Order splitting

PCC section 10329 for non-IT goods and by policy for IT goods and services state that "no person shall willfully split a single transaction into a series of transactions for the purpose of evading the bidding requirements of this article."

Departments also may not split orders to circumvent approved purchasing authority dollar threshold limits.

1.A2.6 Emergency purchases

Departments may contract for emergencies (as defined by PCC sections 10340 and 12102(a)(2) regardless of dollar limits but must adhere to the purchasing processes applicable to the classification of the emergency (Refer to Chapter 2).

1.A2.7 CAL-Card usage

Departments granted purchasing authority may apply for and participate in the State's CAL-Card Purchase Card Program. The Department's Purchasing Authority Contact (PAC) is responsible for distributing the SCM to the department's CAL-Card Coordinator and is the responsible party for questions related to the department's purchasing program.

Warning:
CAL-Card usage does not exempt a department from following all applicable acquisition laws, regulations, executive orders, policies, procedures, and best practices. Departments are strongly reminded that CAL-Card is a payment mechanism, not a procurement method.

Note: It is State policy that only departments granted purchasing authority are qualified to participate in the CAL-Card Program.

Click http://www.dgs.ca.gov/pd/Programs/CALCard.aspx for more information regarding the CAL-Card Purchase Card Program.

Topic 3 – Purchasing Authority Requirements

1.A3.0 Requirements and responsibilities

Departments granted purchasing authority are responsible and accountable for all procurement activities conducted under their approved purchasing authority, regardless of where the procurement activity occurs.

Departments must adhere to the following purchasing authority requirements and responsibilities:

The department will	The requirement or responsibility includes
Designate a Procurement and Contracting Officer (PCO)	• Approval for the department of the department's PAA . • Accountability and direct responsibility for the department's purchasing authority. • Developing and maintaining a listing of all departmental staff with authority to execute any purchase documents. • Ensuring that all procurement and contract staff receive the appropriate training and obtain the appropriate certification. • Ensuring the department's adherence to and compliance with the SCM.

1.A3.0 Requirements and responsibilities (continued)

Designate a Procurement and Contracting Officer (PCO) (continued)	• Ensuring all departmental purchase documents, including any and all leveraged procurement agreement (LPA) orders, are available for review and providing the department's response to any audit or review findings. • Signatory for the department on all compliance reviews of the department's purchasing program. • Monitoring the department's progress in meeting and/or exceeding purchasing authority standards and continuous improvement of the department's purchasing program. • Serve as the agency officer in accordance with PCC section 10333.

1.A3.0 Requirements and responsibilities (continued)

Establish and maintain written departmental procurement policies and procedures.	• Ensuring and documenting competitive purchasing. • Complying with purchasing standards established by applicable PCC sections and approved purchasing authority. • Inspecting purchased products for compliance with specifications. • Documenting supplier delivery performance. • Complying with applicable provisions of law and with applicable regulations. • Complying with policies, procedures, and best practices as DGS/PD may require.
Establish procedures for complying with provisions of the Small Business Procurement and Contract Act (GC section14835 et seq.) and DVBE participation.	• Direction for meeting the SB and DVBE business participation goals in state procurement as established by DGS/PD in accordance with GC section 14838.
Establish policies for training personnel (Departmental and Cal-PCA training when available).	• Purchasing law, regulations, policies, procedures, and best practices. • Controlling and reviewing purchasing practices. • Auditing purchasing activities. • Purchasing authority within the department.

1.A3.0 Requirements and responsibilities (continued)

Submit procurement reports as required and on a timely basis.	• Annual purchasing authority renewal. • PAA deficiencies. • Monthly procurement activity reporting. • Quarterly report on NCB contract activity. • Purchasing program compliance review report commitments to resolve findings. • Other reports as required by statute or by DGS/PD, refer to Chapter 12.
Comply with the non-discrimination requirements of Americans with Disabilities Act (ADA).	• Ensuring that all departmental programs, activities, and services are available to all persons, including persons with disabilities. • Ensure the department's ADA Coordinator will be available to assist and respond to persons with disabilities needing a reasonable accommodation to participate in the procurement process.

1.A3.0 Requirements and responsibilities (continued)

Establish procedures for complying with the provisions of the California Prompt Payment Act, GC 927, and et seq.	• Date stamping supplier invoice upon initial receipt by department.
	• Maintaining, in the purchase file, documentation as to when goods and services are received.
	• Paying properly submitted undisputed invoices in accordance with the purchase document.
	• Submitting invoices to the SCO for payment within 30 days or paying invoices via the revolving fund process within 45 days from the later of:
	  o The date of acceptance of goods or performance of services or
	  o Receipt of an undisputed invoice.
	• Automatically authorizing and paying late payment penalties whenever an undisputed invoice is not paid within required time frames.
	• Reporting to DGS/PD all late payment penalties paid by the department each fiscal year, refer to Chapter 12.

1.A3.0 Requirements and responsibilities (continued)

Designate a department SB advocate, when the department's contracting activities exceed $100,000.00 annually. **Note:** Contracts, includes all purchasing authority related procurement activities and excluded activities.	• Identifying potential SB and DVBE subcontractors and potential subcontracting opportunities. • Making information regarding pending solicitations available to and consider offers from certified SB and DVBE business suppliers capable of meeting the state's business need. • Ensuring that payments due on purchases with SB and DVBE suppliers are promptly made as provided by GC section 927.

Maintain signed Conflict of Interest (COI) statements for every staff person involved in the procurement process.
Click here to view a sample COI statement.
Note: A department may use its own certification document such as an incompatible activity statement, ethics statement, and COI statement or use the above sample.
	• Staff involved in:
	  o Soliciting bids.
	  o Preparing procurement documents.
	  o Approving procurement documents.
	  o Receiving goods/services.
	  o Approving payment.
	  o Making the payment.
	• A reference to or inclusion of GC section 19990.
	• Ensuring the employee signs a COI at least once during his/her tenure with the department.

1.A3.0 Requirements and responsibilities (continued)

Whenever an acquisition warrants, secure, and document any approval required by: • Technology Agency • CALPIA • DGS/PD • OTech/STND • DGS/Office of Fleet Administration (OFA) • DGS/OLS • DGS/Office of Records & Information Management (CalRIM) as applicable to GC section 14755 • Any other required approvals.	• Maintaining evidence in the procurement files of appropriate approvals being obtained prior to conducting a procurement activity or contract execution, as applicable.

Topic 4 – Purchasing Authority Roles and Responsibilities

1.A4.0 Roles and responsibilities

The following table defines the roles and responsibilities of individuals involved in a department's purchasing authority activities:

If assigned as the	Your role is to
Procurement and Contracting Officer (PCO) **Important:** • To fulfill this requirement the designated PCO must be the same person for all purchasing authority held by the department. • A PCO may assign responsibility for the department's day-to-day procurement activities to a Purchasing Authority Contact (PAC) but in doing so, is not relieved of any purchasing authority accountability and responsibility. • PAMS must be notified within 30 days of any change in designation of a PCO. • Notification of changes must be made by completing and submitting Part A of the PAA. Refer to Section B of this Chapter, Topics 1 and 2. • Failure of the department to promptly notify DGS of a PCO change may result in the department not receiving notification of purchasing authority requirements for which it will be held responsible.	• Act as the single point of contact for DGS/PD on procurement matters. • Be responsible for all procurement and contracting within the department except for non-IT services, Public Works, Architectural & Engineering, and Real Estate contracts that are based on SCM, Vol. 1. • Be responsible and directly accountable for the department's purchasing authority. • Ensure all procurement and contracting activities within the department fully comply with State law, appropriations, regulations, executive orders, policies, procedures, best practices, and the SCM. • Provide the necessary resources to ensure all staff are properly qualified and trained in all aspects of the procurement process. • Review and approve the department's PAA(s) prior to submission to DGS/PD. • Serve as the department signatory on purchasing program compliance review reports. • Serve as the agency officer in accordance with PCC section 10333.

1.A4.0 Roles and responsibilities (continued)

Purchasing Authority Contact (PAC) (formerly the: Delegation Contact) **Important:** • PAMS must be notified within 30 days of any change in designation of a PAC. • Notification of changes must be made by completing and submitting Part A of the PAA. Refer to Section C of this Chapter Topics 1 and 2). • Failure of the department to promptly notify DGS of a PAC change may result in the department not receiving notification of purchasing authority requirements for which it will be held responsible. **Note:** Departments may choose not to designate a PAC. If the department does not, then the PAC role reverts to the PCO.	• Interface and communicate with DGS/PD, the PCO, and subordinate staff. • Oversee day-to-day procurement activities conducted under the purchasing authority. • Ensure that the department's policies & procedures are consistent with current law, regulations, executive orders, policies, procedures, best practices, and the SCM. • Distribute SCM and any SCM revisions to the appropriate departmental staff. • Coordinate procurement activities with the department's small business advocate, if the department is required to designate a small business advocate. • Inform the department's CAL-Card Coordinator of purchasing authority requirements, if the department participates in the State's CAL-Card Purchase Program.
Buyer (formerly the procurement and/or contracting staff)	• Perform the day-to-day purchasing and contracting activities. • Interface and communicate with the PAC. Should report to or be in a clear line of communication with the PAC. • Mentor less experienced purchasing staff. • Be knowledgeable of procurement laws, regulations, executive orders, policies, procedures, best practices, and the SCM. • Maintain the procurement file and related documentation.

1.A4.0 Roles and responsibilities (continued)

Payment Officer	• Ensure timely payment of invoices. • Ensure proper internal approvals have been secured prior to processing payment. • Adhere to GC section 927 et seq.
SB Business Advocate	• Promote SB and DVBE business contracting participation. • Assist purchasing staff in identifying potential small, micro, and DVBE businesses. • Make solicitation information available to small, micro, and DVBE businesses. • Ensure prompt payment to small businesses.
ADA Coordinator	• Assist and respond to questions or concerns regarding reasonable accommodation needs.
CAL-Card Coordinator	• Provide written CAL-Card procedures for the department. • Ensure compliance with DGS/PD and department CAL-Card procedures and contract terms. • Coordinate CAL-Card training. • Administer new account reporting and payment processes for CAL-Card. • Add, delete, and/or alter card restrictions/limits. • Review billing reports to monitor payments and disputes. • Coordinate procurement and contracting activities that use CAL-Card as the payment mechanism with the PAC.

1.A4.0 Roles and responsibilities (continued)

Receiving Staff	• Receive or acknowledge deliveries. • Inspect goods. • Complete stock received reports and ensure • notification of stock received information to both the buyer and to the Accounting office. • Inventory and control assets. • Tag assets.

1.A4.1 Department obligations

Each department accepts responsibility for its purchasing program which includes but is not limited to:

- Ensuring the necessity of products and services acquired.
- Securing appropriate funding.
- Complying with all applicable laws, regulations, executive orders, policies, procedures, and best business practices.
- Executing purchase documents that are in the state's best interests.

Responsibility for a department's purchasing program resides primarily, but not solely, with the department's executive and management staff or it's PCO. Responsibility also resides with all departmental staff involved in the procurement process.

Departments are required to ensure that personnel involved in procurement activities complete ethics training and should regularly remind personnel of the importance of maintaining professional and ethical standards when conducting state procurements.

Consequently, all personnel involved in the procurement process must have the appropriate training, experience, level of responsibility, and accountability as necessary to ensure compliance with all State laws, regulations, executive orders, and with all DGS/PD policies, procedures, and best practices.

1.A4.2 Rescission or reduction of authority

Departments are held accountable for the procurement activities conducted under any type and/or category/sub-category of an authorized purchasing authority.

DGS/PD reserves the right to rescind or reduce any purchasing authority at any time.

1.A4.3 Ethics and conflicts

Department personnel involved in procurement activities are either directly or indirectly spending public funds and are subject to public scrutiny. Consequently, DGS/PD reminds personnel involved in procurement activities to:

- Act responsibly.
- Conduct business honestly.
- Avoid wasteful and impractical purchasing practices.
- Avoid real or perceived conflicts when conducting business on the State's behalf.
- Advise departmental personnel of expected standards of ethical and moral behavior during any procurement activities involving their participation.

Click here to access the Fair Political Practices Commission's web page for additional information.

1.A4.4 Separation of duties

Departments with any type of purchasing authority must always be mindful to maintain sufficient separation of duties in order to reduce the risk of error or fraud in the department's purchasing program.

Key duties and responsibilities should be segregated to separate the responsibilities for: conducting the procurement, approving purchase documents, acknowledging and receiving goods and services, approving invoices, and preparing payments.

Note: No one person should control more than one of the key aspects of a procurement activity.

Topic 5 – Applying for Purchasing Authority

1.A5.0 Which types and category(ies) or sub-categories of authority should the department request?

It is the department's decision whether to request authority for one or both types of authority, as well as whether to request authority for all, some or none of the categories or sub-categories of authority. DGS/PD cannot make this decision for the department. The department must specify the type(s), category(ies) or sub-categories, and dollar threshold limits for which it is requesting authority. See Topic 2 of this section.

Note: Departments must submit a single PAA if applying for both non-IT and IT purchasing authority.

1.A5.1 Requesting new purchasing authority

A department must complete and submit a PAA when it is requesting new purchasing authority. The PAA review and approval processing time is approximately 60 days.

The PAA consists of 5 parts as follows:

- Part A identifies the department, the current purchasing authority numbers, the PCO, and PAC(s).
- Part B identifies that one department is requesting authority to procure for another department, identifies the other department and its PCO, and documents the agreement and understanding of the other department's PCO.
- Part C identifies the type(s), category/sub-category(ies), and dollar threshold levels of purchasing authority the department is requesting.
- Part D obtains documents necessary for DGS to evaluate the department's PAA.
- Part E obtains information necessary for DGS to evaluate the department's PAA and to verify that the department is aware of the specific purchasing authority requirements.

The PAA is designed to support DGS approval of a department's PAA and to enable a department to expand its purchasing authority program as staff develop their expertise and/or become certified under the DGS/PD Cal-PCA training certification program. The PAA also allows departments to continue to procure as previously authorized.

1.A5.2 Renewing existing purchasing authority

Effective January 1, 2010, DGS began transitioning to a new streamlined process for departments to renew their delegated purchasing authority. Departments shall submit either a PAA or a Purchasing Authority Verification Form (PAVF) to renew their delegated purchasing authority.

Departments that were selected to submit a PAA during the 2010 transition year should submit a PAVF in 2011 by the 15th day of the month which precedes their purchasing authority expiration month. Departments would then alternate between submitting the PAA and the PAVF each year.

Departments that were selected to submit a PAVF during the 2010 transition year should submit a PAA in 2011 by the 15th day of the month which precedes their purchasing authority expiration month. Departments would then alternate between submitting the PAVF and the PAA each year.

Click here to access the: PAVF.

For questions, contact PAMS.

Warning:
A department's failure to submit a renewal PAA or PAVF on a timely basis will result in a lapse of purchasing authority and, subsequently, the inability to conduct procurement activities until the department has submitted the renewal PAA or PAVF and PAMS has completed its review and approval.

1.A5.4 Requesting increased authority

Departments interested in requesting an increase in competitive purchasing authority may request an increase by:

- Completing the Purchasing Authority Increase Request Form (PAIR).
- Submitting the PAIR to the PAMS.

Once the PAIR is received by the PAMS, the department may be asked to complete the following:

- Request for One-Time Procurement to Increase Authority, Non-IT Goods
- Request for One-Time Procurement to Increase Purchasing Authority, Information Technology

Departments requesting an increase to the formal competitive dollar thresholds may be required to conduct a single competitive solicitation under PAMS oversight, including submission of specified documentation during the procurement process for PAMS concurrence. Upon successful completion of the single procurement, the department will be granted the general increase in competitive purchasing authority.

It is recommended that the department discuss such a request with PAMS prior to completing the Request. The PAMS encourages the departments to submit the PAIR with their renewal package to reduce workload for the department and for the DGS/PD.

1.A5.5 Request for One-Time Procurement format

The request to increase purchasing authority for a One Time Procurement is available in two formats. One format requests authority to procure non-IT goods valued greater than $100,000.00. The second format requests authority to procure IT goods and services greater than $1,000,000.00. The request enables DGS' approval of a department's request to expand its purchasing authority program for one purchase while staff develop their expertise and/or become certified under the DGS/PD Cal-PCA training certification program.

Click here to access:
The Request for One-Time Procurement to Increase Purchasing Authority, Non-IT Goods in Word format

The Request for One-Time Procurement to Increase Purchasing Authority, Non-IT Goods in PDF format

The Request for One-Time Procurement to Increase Purchasing Authority, IT Goods and Services in Word format

The Request for One-Time Procurement to Increase Purchasing Authority, IT Goods and Services in PDF format

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Topic 6 – Assigning Purchasing Authority Numbers

1.A6.0 What is the purpose of the purchasing authority number?

The purchasing authority number identifies the department's authority to conduct a solicitation and/or execute a purchase document for specific types, categories or sub-categories, and dollar thresholds of goods and/or services. The purchasing authority number also informs the State Controllers Office (SCO) that the department has the authority to execute purchase documents, enabling the SCO to process payments to suppliers.

1.A6.1 How does DGS/PD differentiate between the two types of purchasing authority?

Upon purchasing authority approval, PAMS will assign departments a purchasing authority (PA) number(s), identifying the type of purchasing authority activity, non-IT and/or IT, the department has been approved to conduct. The numbering format for the two types of purchasing authority is similar, while allowing for differentiation.

For both PA types, the numbering format is limited to a maximum of 12 alpha/numeric characters and hyphens as follows:

- The first character is always a "9" which denotes purchasing authority.
- The second character is normally either a *"G" for non-IT* or an *"I" for IT*, followed by a hyphen. However, purchasing authority for procurement activities conducted by a data center and associated with data center services, is identified by a "D"
- The next four characters identify the purchasing authority expiration month and year, followed by a hyphen. Purchasing authority always expires on the last day of the month.
- The next three characters identify the department by a representative acronym, followed a hyphen. This is the department that has been granted the purchasing authority.
- The remaining three characters identify whether the authority is a headquarters location or another location other than headquarters.

1.A6.2 Example #1 non-IT PA number

Purchasing Authority Number:
9G-0611-DGS-HQ1
Translation:
Department of General Services, headquarters location, non-IT purchasing authority, expires June 30, 2011.
Definition
9 = Purchasing authority
G = Non-IT purchasing authority type
06 = Purchasing authority expires June 30
11 = Purchasing authority expires 2011
DGS = Department of General Services
HQ1 = Headquarters location

1.A6.3 Example #2 IT goods and services PA number	Purchasing Authority Number 9I-0611-DGS-HQ1 **Translation:** Department of General Services, headquarters location, IT purchasing authority, expires June 30, 2011. **Definition**: 9 = Purchasing authority I = IT purchasing authority type 06 = Purchasing authority expires June 30 11 = Purchasing authority expires 2011 DGS = Department of General Services HQ1 = Headquarters location
1.A6.4 Example #3 non-IT PA number assigned to a location other than a headquarters site	Purchasing Authority Number 9G-0611-DGS-FLT **Translation:** Department of General Services, Office of Fleet Administration, non-IT purchasing authority, expires June 30, 2011. **Definition** 9 = Purchasing authority G = Non-IT purchasing authority type 06 = Purchasing authority expires June 30 11 = Purchasing authority expires 2011 DGS = Department of General Services FLT = Office of Fleet Administration
1.A6.5 Example #4 IT PA number assigned to a data center to procure for another department related to data center services	Purchasing Authority Number 9D-0611-DTS-DGS **Translation:** Department of Technology Services, IT purchasing authority, to procure for the Department of General Services related to data center services, expires June 30, 2011. **Definition** 9 = Purchasing authority D = IT purchasing authority type 06 = Purchasing authority expires June 30 11 = Purchasing authority expires 2011 DTS = Department of Technology Services DGS = Department of General Services

1.A6.6 When is the PA number used?

The PA number must be entered on every purchase document a department executes, regardless of dollar value, under approved purchasing authority. This number is in addition to any other purchasing category/sub-category contract numbers required by DGS/PD policies and procedures.

Departments authorized both types of purchasing authority (non-IT and IT) will be assigned a separate PA number for each purchasing authority type. Care must be taken to ensure the applicable PA number is entered on the purchase document in accordance with the applicable purchasing authority type.

Section B

Purchasing Authority Application

Overview

Introduction

In accordance with the PCC sections 10333 and 12100, DGS may delegate its purchasing authority to departments. DGS is accountable and responsible for the purchasing authority it delegates. The PAA is designed to provide DGS with the information it needs to determine if a department has the expertise, experience, knowledge, and internal procurement policies and procedures to support the type(s), category/sub-category(ies), and dollar threshold limits of authority requested.

This section describes how to complete the PAA. The Department should also refer to Section A of this chapter for general information regarding purchasing authority.

Contents

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Topic 1 – Part A: Department Information and Approvals

1.B1.0 Introduction

This topic describes how to complete Part A of the Purchasing Authority PAA.

1.B1.1 What is the purpose of Part A?

The purpose of Part A is to:

- Identify the department requesting the purchasing authority.
- Identify the department's current purchasing authority, if applicable.
- Identify the PCO and the PAC(s).
- Obtain the PCO and PAC commitment to adhere to the purchasing authority requirements contained in the SCM.

1.B1.2 When is Part A submitted?

Part A must be submitted when the department is:

- Requesting new purchasing authority.
- Designating a new PCO or changing any of the PCO's information.
- Designating a new PAC or changing any of the PAC's information.

1.B1.3 PAA Part A

Click here to access:
the Purchasing Authority Application, Part A in Word format
the Purchasing Authority Application, Part A in PDF format

1.B1.4 Department information

The area of Part A that identifies the department requesting purchasing authority is titled "Purchasing Authority is Requested for Procurement Activities Conducted by". This refers to the department that will be granted the purchasing authority.

"Agency" is the cabinet-level entity to which the department reports (e.g. Resources Agency, Health, and Human Services Agency). If the department reports directly to the Governor, enter "Direct Report to the Governor". If a department's executive officer is a constitutional officer, enter "Constitutional Officer".

"Department" is a department, board, commission, or office (e.g. Department of Aging, Air Resources Board, Commission on the Status of Women, Office of Emergency Services). A department reports to one of the following as identified in the previous paragraph:

- An agency
- The Governor
- A constitutional officer

"Sub-Department" is an area within a department previously granted purchasing authority that is separate from and in addition to the purchasing authority granted to the department's headquarters (e.g. veterans home, developmental center, mental hospital, district agricultural association).

Note: DGS/PD no longer grants new purchasing authority at the sub-department level. If a department has a business need for purchasing authority at the sub-department level, the department should discuss the department's business need with PAMS prior to preparing and submitting a PAA.

1.B1.5 Current purchasing authority

The area of Part A that identifies the department's current purchasing authority is titled "Current Purchasing Authority Numbers, if Applicable." Enter all of the department's current purchasing authority numbers, separating each number by a comma. The following are examples of current types of purchasing authority:

- Non-IT
- IT
- Goods base
- Goods expanded

If the department does not currently have purchasing authority, enter "None" or "N/A".

Note: DGS/PD now grants two types of purchasing authority-non-IT and IT. A separate PAA is no longer required for base vs. expanded authority. A separate PAA is also not required to apply for authority to use the LPAs. See Section A of this Chapter for more information.

1.B1.6 PCO and PAC information

The area of Part A that identifies the department's PCO and/or PAC(s) encompasses the majority of Part A. The following is an explanation of how to complete this area.

- All PCO information must be completed, including the PCO's signature. The signature must match the PCO "Name".
- If the department is designating a PAC, all PAC information must be completed for each purchasing authority type(s) requested (non-IT and/or IT), including the PAC's signature. The signature must match the PCO "Name".
- Addresses, mailing, and physical, must include the street address or P.O. Box as applicable, city, state, and zip code. A P.O. Box may not be entered for the physical address. Phone and fax numbers must include the area code.
- If the department is designating a new PCO and/or PAC or revising the PCO and/or PAC information, the appropriate box in the applicable shaded header area must be marked and the PCO and/or PAC information must be completed.

Topic 2 – Part B: Procuring for another Department

1.B2.0 Introduction

Departments must obtain DGS/PD approval to purchase on behalf of another department. Submission of Part B of the PAA is required to request DGS/PD approval.

1.B2.1 What is the purpose of Part B?

The purpose of Part B is to:

- Identify that the department requesting purchasing authority (referred to as Dept. A) will conduct procurement activities for another department (referred to as Dept. B).
- Identify Dept. B and Dept. B's PCO.
- Document Dept. B's authorization for Dept. A to conduct procurement activities for Dept. B.

Document the understanding of Dept. B's PCO that Dept. A will be granted the purchasing authority, not Dept. B.

1.B2.2 When is Part B submitted?

Part B must be submitted when:

- Dept. A is renewing existing purchasing authority to procure for Dept. B.
- Dept. A is requesting new purchasing authority to procure for Dept. B.
- Dept. B designates a new PCO or any of Dept. B's PCO information changes.

Dept. A must submit a separate Part B for each department for which it will procure. Part B must normally be submitted with Dept. A's renewal PAA. The submission of Part B during the term of Dept. A's purchasing authority for a newly identified Dept. B will be on an exception basis only.

1.B2.3 PAA Part B

Click here to access:
the Purchasing Authority Application, Part B in Word format
the Purchasing Authority Application, Part B in PDF format

1.B2.4 Authority to procure for another department

To assist primarily small departments and data center customers with their business needs, DGS/PD will consider PAAs for one department to procure for another. It is not a standard practice, nor is it intended to set a precedent, to allow one department to procure for another department. Rather, this practice may be allowed where needed by departments without procurement staff or when the procurement staff does not have the requisite procurement expertise.

1.B2.5 Requesting authority to procure for another department

Authority for one department to procure for another is not automatically granted by virtue of a department being granted purchasing authority. This authority must be requested. If approved, the authority will be granted to the procuring department for the same purchasing authority number(s), type(s), category/sub-category(ies), and dollar threshold limits for which the procuring department has been approved.

1.B2.6 Conditions for requesting authority to procure for another department

Departments may request authority to purchase for another department and may be granted such authority under the following conditions:

- Both departments must reside within the same Agency, unless the procuring department is a data center or the department for which procurement activities will be conducted does not reside organizationally within an Agency.
- If the procuring department is a data center:
  - The data center must have approved Data Center Interagency Agreement Purchasing Authority (DIA).
  - The data center must have an interagency agreement with the department to provide the department with data center services.
  - The acquisition(s) must be directly related to the data center services provided under the interagency agreement.
  - The acquisitions may be for only IT goods and services.
- If the department for which procurement activities will be conducted does not reside organizationally within an Agency, a justification must be submitted supporting the business need for the procuring department conducting procurement activities for the other department, as well as the reason(s) for not submitting the procurement activities to DGS/PD.
- If the department for which procurement activities will be conducted does not have the requisite procurement expertise to conduct its own procurement activities, the reason for the lack of staff and/or staff expertise must be explained, as well as the reason(s) for not submitting the procurement activities to DGS/PD.
- The procuring department must have current purchasing authority and a purchasing authority history that supports its ability to conduct procurement activities for another department.
- The purchasing authority will be granted to the procuring department for the same purchasing authority number(s), type(s), category/sub-category(ies), and dollar threshold limits for which the procuring department is currently authorized. The department granted purchasing authority to procure for another department is accountable and responsible for procurement activities conducted under that purchasing authority.
- Authority to procure for another department will not be granted to a department requesting new purchasing authority.

Note: The department for which procurement activities will be conducted may request purchasing authority that is separate and in addition to the authority granted to a procuring department.

1.B2.7 Dept. A and Dept. B information

The area of Part B that identifies Dept. A is titled "Purchasing Authority is Requested for Procurement Activities Conducted by". This refers to the department that is requesting and will be granted purchasing authority.

The area of Part B that identifies Dept. B is titled "Procurement Activities to be Conducted for". This refers to the department for which Dept. A will conduct procurement activities. Approval of the PAA does not grant Dept. B purchasing authority.

For both Dept. A and Dept. B, "Agency" is the cabinet-level entity to which the department reports (e.g. Resources Agency, Health, and Human Services Agency). If the department reports directly to the Governor, enter "Direct Report to the Governor". If a department's executive officer is a constitutional officer, enter "Constitutional Officer".

For both Dept. A and Dept. B, "Department" is a department, board, commission, or office (e.g. Department of Aging, Air Resources Board, Commission on the Status of Women, Office of Emergency Services). A department reports to one of the following as identified in the previous paragraph:

- An agency
- The Governor
- A constitutional officer

For Departments A and B, purchasing authority for one department to procure for another is not allowed at the sub-department level.

1.B2.8 Current purchasing authority

The area of Part B that identifies Dept. A's current purchasing authority to procure for Dept. B is titled "Current Purchasing Authority Numbers, if Applicable." Enter all of the department's current purchasing authority numbers, separating each number by a comma. If the department does not currently have purchasing authority, enter "None" or "N/A".

1.B2.9 PCO and PAC information

The first area of Part B related to PCO and PAC information is the area that identifies Dept. B's PCO and documents Dept. B's authorization for Dept. A to conduct procurement activities for Dept. B. The next area of Part B related to PCO and PAC information is the area that documents Dept. A's PCO and PAC's understanding of Dept. A's responsibilities in conducting procurement activities for Dept. B. The following is an explanation of how to complete these areas.

- All PCO information for Dept. B must be completed, including the PCO's signature. The signature must match the PCO "Name".
- The PCO information for Dept. A must be completed only if Part B is not submitted with Dept. A's purchasing authority renewal (Dept. A has already provided this information in Part A). If it is necessary to complete Dept. A's PCO information in Part B, all PCO information must be completed, including the PCO's signature. The signature must match the PCO "Name".
- The PAC information for Dept. A must be completed only if Part B is not submitted with Dept. A's purchasing authority renewal (Dept. A has already provided this information in Part A). If it is necessary to complete the Dept. A's PAC information in Part B, all PAC information must be completed for each purchasing authority type(s) requested, including the PAC's signature. The signature must match the PAC "Name".
- Addresses, mailing, and physical, must include the street address or P.O. Box as applicable, city, state, and zip code. A P.O. Box may not be entered for the physical address. Phone and fax numbers must include the area code.

If Dept. B is designating a new PCO or changing the current PCO information, Dept. A must submit a new Part B that includes the required information as stated previously. The appropriate box in the shaded header area for the Dept. B PCO must be marked.

Topic 3 – Part C: Purchasing Authority Types, Categories or Sub-Categories, and Dollar Thresholds Requested

1.B3.0 Introduction

This topic describes how to complete Part C of the PAA.

1.B3.1 What is the purpose of Part C?

The purpose of Part C is to identify the types, categories or sub-categories, and dollar thresholds of purchasing authority the department is requesting.

1.B3.2 When is Part C submitted?

Part C must be submitted when the department is:

- Renewing existing purchasing authority
- Revising existing purchasing authority
- Requesting new purchasing authority

If the department that is requesting the purchasing authority will conduct procurement activities for another department, it is not necessary to submit a separate Part C for the other department.

1.B3.3 PAA Part C

Click here to access:
the Purchasing Authority Application, Part C in Word format
the Purchasing Authority Application, Part C in PDF format

1.B3.4 Non-IT table vs. IT table

While the categories or sub-categories within each of the non-IT and IT tables are not identical, they are very similar. Therefore, the general instructions that follow are the same for both tables. If the department is requesting both types of purchasing authority, complete both tables. If the department is requesting only one type of purchasing authority, complete only the applicable table.

A primary difference between the two tables is the ability under the non-IT purchasing authority to request formal competitive solicitation authority for a specific category/sub-category(ies) of goods, rather than a general expansion of authority. If the department is requesting this type of authority, the related box under the non-IT table must be completed. The ability to request this authority for a specific category/sub-category(ies) is not available for IT purchasing authority.

1.B3.5 Which types and category(ies) or sub-categories of authority should the department request?

It is the department's decision whether to request authority for one or both types of authority, as well as whether to request authority for all, some or none of the categories or sub-categories of authority. DGS/PD cannot make this decision for the department. The department must specify the type(s), category(ies) or sub-category(ies), and dollar threshold(s) for which it is requesting authority.

1.B3.6 New or renewal PAA

The shaded header in each table provides selections for the department to identify whether the PAA is for new purchasing authority, to renew existing purchasing authority or to revise existing purchasing authority. The department must select and check one of these boxes in each table, as applicable.

1.B3.7 Available dollar thresholds

The dollar values in the "Available Dollar Thresholds" column reflect the dollar thresholds currently available to departments. This information is provided for ease of reference by the department. For each category/sub-category, except competitive, the department may apply for the dollar thresholds listed or may elect to not apply for a category/sub-category(ies). For example, the dollar threshold for non-IT goods CMAS LPA purchasing authority sub-category is set at $100,000.00. The Department must only apply for the $100,000.00 CMAS purchasing authority, or elect “None” in this CMAS sub-category. For competitive, the department has the following choices:

- Minimum, which is the lowest dollar threshold of authority available
- Introductory, which is the entry dollar threshold for IT purchasing authority. This threshold is for informal solicitations. This choice is not available for non-IT purchasing authority.
- Standard, which is the general dollar threshold of authority available, this threshold is for informal solicitations.
- Formal, which does not have a dollar threshold. The threshold for formal solicitations is considered and granted on a case-by-case basis

The requirements for obtaining purchasing authority for any category/sub-category are commensurate with the applicable dollar threshold. Purchasing authority for contracts identified as exempt by statute or by policy will be granted at the same dollar threshold granted for competitive solicitations.

1.B3.8 Current approved dollar thresholds

The dollar values entered in the "Current Approved Dollar Thresholds" column reflect the department's current authority for each category/sub-category. The department must make an entry in this column for each category/sub-category. If the department does not have current authority for a category/sub-category(ies), enter "None". Completion of this column will help to ensure that the department requests authority commensurate with its current authority or that the department requests an increase that is relative to its current authority.

1.B3.9 Dollar thresholds requested

The dollar values entered in the "Dollar Thresholds Requested" column reflect the authority for each category/sub-category for which the department is requesting authority. The department must make an entry in this column for each category/sub-category for which it is requesting authority. If the department is not requesting authority for a category/sub-category (ies), enter "None".

The department may enter only the dollar value choices identified in the column titled "Available Dollar Thresholds" or "None". Entry of any other dollar value or multiple dollar values for a specific category/sub-category will result in authority granted commensurate with the "Available Dollar Thresholds" column or as determined by review of the department's complete PAA.

Note: The department should review Section A of this Chapter prior to completing this column to gain a clear understanding of purchasing authority types, categories or sub-categories, and dollar thresholds.

1.B3.10 Request for increased purchasing authority

Departments interested in requesting an increase in competitive purchasing authority may request an increase by:

- Completing the Purchasing Authority Increase Request Form (PAIR).
- Submitting the PAIR to the PAMS.

Once the PAIR is received by the PAMS, the department may be asked to complete the following:

- Request for One-Time Procurement to Increase Authority, Non-IT Goods
- Request for One-Time Procurement to Increase Purchasing Authority, Information Technology

Departments requesting an increase to the formal competitive dollar thresholds will be required to conduct a single competitive solicitation under PAMS oversight, including submission of specified documentation during the procurement process for PAMS concurrence. Upon successful completion of the single procurement, the department will be granted the general increase in competitive purchasing authority.

It is recommended that the department discuss such a Request with PAMS prior to completing the Request.

See Topic 5 of section A for the applicable Request for One-Time Procurement.

Topic 4 – Part D: Required Attachments

1.B4.0 Introduction

This topic describes how to complete Part D of the Purchasing Authority PAA.

1.B4.1 What is the purpose of Part D?

The purpose of Part D is to obtain information necessary to evaluate the department's PAA.

1.B4.2 When is Part D submitted?

Part D must be submitted when the department is:

- Renewing existing purchasing authority.
- Requesting new purchasing authority.

1.B4.3 PAA Part D

Click here to access:
the Purchasing Authority Application, Part D in Word format
the Purchasing Authority Application, Part D in PDF format

1.B4.4 Policies and procedures

The department must submit current procurement policies and procedures relevant to the type(s), category/sub-category(ies), and dollar levels for which authority is requested. A department must submit its own procurement policies and procedures. It may not submit another department's procurement policies and procedures or a copy of this Manual to fulfill this requirement.

The department's policies and procedures must be included with the department's PAA and identified as Attachment D1.

1.B4.5 Conflict of interest statement

The department must indicate whether it uses the sample conflict of interest statement provided in Section A of this chapter or a conflict of interest statement created by the department. If the department does not use the sample conflict of interest statement provided in Section A of this chapter, the department must submit the department's conflict of interest statement with the PAA. The department's conflict of interest statement must reference or include GC section 19990.

Do not submit signed statements with the PAA. Signed statements must be retained by the department and made available upon request by DGS/PD.

If applicable, the department's conflict of interest statement must be included with the department's PAA and identified as Attachment D2.

1.B4.6 Audits

If there has been an audit(s) of the department's procurement and/or contracting program(s) since submission of the department's last PAA, provide copies of the relevant pages of the audit report(s). Relevant pages include the cover page, table of contents, and pertinent pages that relate to the department's procurement and contracting program, including audit findings and departmental responses. For findings that are not documented as resolved, attach a description of the status of actions the department has taken or plans to take to correct the findings.

Reports include, but are not limited to, those prepared by DGS Office of Audit Services, Bureau of State Audits, and departmental internal audits. A copy of the relevant pages of the audit(s) must be included with the department's PAA and identified as Attachment D3.

1.B4.7 Reporting

Review of the department's PAA includes verification of the department's transaction reporting, see Chapter 12. If the department is aware of unreported transactions, the department must submit those transactions with its PAA. A copy of the unreported transactions must be included with the department's PAA and identified as Attachment D4a.

Review of the department's PAA includes verification of the department's NCB Contract Quarterly Reporting, see Chapter 12. If the department is aware of unreported NCB Contract Quarterly Reports, the department must submit those reports with its PAA. The unreported NCB Contract Quarterly Report(s) must be included with the department's PAA and identified as Attachment D4b.

Note: Late or non-submission of NCB Contract Quarterly Reports could result in termination of the department's NCB contract purchasing authority.

Review of the department's PAA includes verification of the department's Prescription Drugs Purchased Outside of the Prescription Drug Program Quarterly Reporting, see Chapter 12. In accordance with GC section 14977.5 the following departments are required to participate in the DGS/PD prescription drug bulk purchasing program:

- Corrections and Rehabilitation
- Developmental Services
- Mental Health

Any other department may elect to participate in the prescription drug bulk purchasing program.

The unreported Prescription Drugs Purchased Outside of the Prescription Drug Program Quarterly Report(s) must be included with the department's PAA and identified as Attachment D4c.

1.B4.8 STD.65 alternate version

The department must identify whether it uses:

- The State's Purchasing Authority Purchase Order (STD.65)
- An alternate version of the STD.65 approved by DGS/PD's Forms Coordinator
- An alternate version of the STD.65 and approval to use the alternate version has not been requested from DGS/PD's Forms Coordinator

If the department uses an alternate version of the STD.65, and the department has not requested approval from DGS/PD's Forms Coordinator to use the alternate version, even if the department considers it to be an exact replica of the STD.65, the department must submit a copy of the alternate version with its PAA. The department must request new approval of its alternate version if the State's STD.65 is revised. The alternate version of the STD.65 must be included with the department's PAA and identified as Attachment D5.

Note: If the department uses DGS/PD's PIN system, the department should state that it uses the State's STD.65.

1.B4.9 DGS Bill Codes

The department must submit a list of all DGS Bill Codes (Customer Account Numbers) the department will charge against under its purchasing authority.

Note: The department must notify PAMS of any changes to this list prior to using additional bill codes under its purchasing authority. The bill code list must be included with the department's PAA and identified as Attachment D6.

Topic 5 – Part E: Required Responses

1.B5.0 Introduction

This topic describes how to complete Part E of the PAA.

1.B5.1 What is the purpose of Part E?

The purpose of Part E is to obtain information necessary to evaluate the department's PAA and to verify that the department is aware of specific purchasing authority requirements.

1.B5.2 When is Part E submitted?

Part E must be submitted when the department is:

- Renewing existing purchasing authority
- Requesting new purchasing authority

1.B5.3 PAA Part E

Click here to access:
the Purchasing Authority Application, Part E in Word format
the Purchasing Authority Application, Part E in PDF format

1.B5.4 Responses

The department must provide thorough and complete responses. The responses must be entered into Part E.

The completed Part E must be included with the department's PAA.

Topic 6 – PAA Submission

1.B6.0 When to submit

Renewal PAAs must be submitted to and received by the 15th of the month preceding the month the department's purchasing authority expires. Late submission will result in a lapse of the department's purchasing authority. PAAs for new purchasing authority may be submitted at any time. See Section A of this Chapter.

1.B6.1 Where to submit

Submit the PAA to:

By IMS:
Z-1
DGS/Procurement Division
Purchasing Authority Management Section
Attn: PAA
707 Third Street, Second Floor South MS 2-208
West Sacramento, CA 95605

By Mail:
DGS/Procurement Division
Purchasing Authority Management Section
Attn: PAA
707 Third Street, Second Floor South MS 2-208
West Sacramento, CA 95605

Hand Delivered:
DGS/Procurement Division
Purchasing Authority Management Section
Attn: PAA
707 Third Street, Second Floor South MS 2-208
West Sacramento, CA 95605

Topic 7 – Approvals

1.B7.0 Approvals

The department will be notified of approval of its PAA prior to expiration of its current purchasing authority if the PAA is submitted on time. The department will be notified of approval of a new PAA or of a PAA to renew its purchasing authority prior to the department's new effective date or renewal date. Incomplete and insufficient PAAs will be returned to the requesting department.

Approval notifications will be electronically mailed to the department's PAC(s), with a copy to the department's PCO. If the department has not designated a PAC, the approval notification will be electronically mailed to the PCO. It is Dept. A's responsibility to notify Dept. B of the approval.

DGS/PD also notifies the following entities of an PAA approval:

- State Controllers Office
- DGS Office of Audit Services
- DGS/PD, Acquisitions Branch
- DGS/PD, CAL-Card Program

Section C

Procurement Policies and Procedures

Overview

Introduction

This section is designed to assist department staff involved in developing their department purchasing authority policies and procedures manual.

Unless otherwise stated, the information and samples provided should be viewed as tools that can be used to provide broad guidance in the purchasing authority policy and procedure development process.

This section is not intended to dictate the techniques that should be used since the details of the process should suit the individual department's authority being addressed. The stakeholders affected and the format and style standards established by the department policies, procedures, and business needs.

Contents

This section contains the following topics:

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Topic 1 – Purpose of Department Procurement Policies and Procedures

1.C1.0 Statutory requirement

PCC sections 10333 and 12100 grants DGS the authority to delegate purchasing authority to departments based upon certain requirements as discussed in this manual. One critical requirement that best demonstrates a department's understanding of and its ability to manage and maintain a purchasing authority program is to establish and maintain current procurement policies and procedures in sufficient detail to support the department's approved purchasing authority for each type, category/sub-category and dollar threshold authorized by DGS.

Additionally, departments' purchasing authority policies and procedures must also provide instruction to department users on other related purchasing activities such as receiving goods and service, supplier payment, reporting contractor performance, reporting requirements, and ensuring that departments contracting personnel are free from conflict of interest.

1.C1.1 Purpose

The purpose of a department purchasing authority policy and procedure manual, hereafter, referenced as a procurement manual, is to familiarize department employees (whether a buyer or a department employee involved in an aspect of the department's purchasing activities) with department purchasing practices in a clear, common understanding of goals, benefits and policies as well as what the department expects with regard to performance and conduct. The results provide an overall description of the department's purchasing program.

This manual represents the minimum requirements for departments to obtain and maintain any type of purchasing authority. It addresses the statutes, regulations, policies, procedures, and best practices applicable to all facets of statewide purchasing authority.

Consequently, although a department may use this manual as the foundation or guide in developing their department procurement manual, it does not eliminate or substitute the requirement that the individual departments develop a procurement manual that identifies and communicates to personnel involved in department purchasing activities those policies and procedures that are specific to a department's internal processes.

1.C1.2 Policy vs procedure

A department procurement manual should include both purchasing policies and procedures. The policy section of the manual should discuss the purposes and objectives of the department's purchasing program while the procedure section establishes and describes, using considerable detail, and the internal procedures of the purchasing program.

In simple terms, policy is "what" the department does operationally, and procedures are "how" it intends to carry out that policy.

Definitions
Policy: A written statement that clearly indicates the position and values of the department on a given subject. It contains rules and tells one what to do.
Procedure: A written set of instructions that describe the approved and recommended steps for a particular act or sequence of acts. It tells one how to perform a set of tasks in relationship to the department's policies on conducting business.

Example #1:
Policy: Pursuant to Executive Orders D-37-01and D-43-01 the Department of Motor Vehicles shall aggressively pursue an annual 25 percent certified Small Business and 3 percent Disabled Veteran business Enterprise participation level in departmental purchasing activities.
Procedure: Buyers will consult the department's Small Business Advocate to assist in locating certified SB or DVBE suppliers prior to preparing any type of solicitation document.

The table below identifies common distinctions between policy and procedures:

Policies	Procedures
Widespread application	Narrow application
Changes less frequently	Prone to change
Usually expressed in broad terms	Often stated in detail
Statements of "what" and/or "why"	Statements of "how", "when", and/or sometime "who"
Answers major issue(s)	Describes in detail the process

1.C1.3 Benefits

A department procurement manual serves as a daily desktop manual to identify and instruct personnel on how to properly conduct a purchasing activity in accordance with the department's authorized purchasing authority(ies) type(s), category/sub-category(ies), and dollar thresholds from the initial request through closing of an activity.

The procedure manual may also include procedures for how the department processes purchase requests that exceed the department's purchasing authority but is within DGS/PD authority.

Example:
A procedure on how to prepare, route for signature, and submit a DGS/PD purchase estimate.

Copies of the department procurement manual should be at the desk of each buyer and made available to all participants in the procurement process.

The table below presents some of the benefits that can be realized when a department develops its own procurement manual:

A department procurement manual provides for	That benefits the department by
Codes, regulations, and requirements	• Meeting the statutory requirement that departments have written policies and procedures specific to its authorized purchasing authority(ies). • Complying with purchasing authority requirements and ensuring the consistent quality of your department's purchasing activities.

1.C1.3 Benefits (continued)

Accountability	• Providing clearly written procurement polices and procedures for both buyers and department customers that are held accountable for adherence to policies and procedures. • Identifying the players in the organization and their role in the procurement process. • Communicating your rules and expectations to participants in the procurement process as it relates to your purchasing authority.
Ease of Access	• Providing users with what is important and what isn't important in conducting a purchasing activity. • Eliminating information overflow in establishing a single source for buyers and department users to make informed decisions within the parameters of their department's authorized purchasing authority.
Advantages	• Providing further instructions beyond the SCM that specifically address department procurement business practices. • Helping to make staff more effective, efficient, and consistent in managing the challenges of the department's procurement activities. • Providing standardized processes and improve overall workflow efficiency.
Compliance reviews	• Describing what to look for when conducting quality assurance reviews and how to evaluate results for compliance. • Supporting purchasing actions that may require clarification for a compliance finding. • Providing instruction on how the official procurement file is set up. • Explaining any exception that is outside of or in addition to the SCM requirements. • Providing a resource for internal audit processes.
Training	• Instructing all levels of a department on how to conduct specific purchasing activities as it relates to a department's authorized purchasing authority(ies). • Providing necessary information for new staff.

Topic 2 – Characteristics of Good Policies and Procedures

1. C2.0 Goal

The overall goal for any policy or procedure document is for the design to be simple, concise, easy to use, and consistent. There is an unlimited amount of "important" items that could be included in a procurement manual. It is up to each department to determine what is most necessary and relevant for their individual purchasing program.

1.C2.1 Degree of Detail

The degree of detail in the procurement manual is dictated by the nature of the individual department's purchasing authority. Although SCM addresses specific policies and procedures, a department's procurement manual should be all encompassing.

Staff responsible for organizing or developing the procurement manual should obtain their department's most current purchasing authority approval document (Part A), review Section A of this chapter to determine what minimum requirements must be included in their department's procurement manual.

Note: The SCM was written from the perspective that the procurement office performs most of the purchasing activity and is the main repository of all documentation impacting its purchasing authority program. If that is not true of your department, it is expected that the department's procurement manual will address in detail any and all exceptions.

1.C2.2 Key features

Key features of the department procurement manual are:

- Title page
- Table of contents for the entire manual
- A table of contents for each section of manual
- Introduction
- Simple numbering system - chapter, section, page, etc.
- Provide for a clear distinction in policies and types of purchasing authorities if the department holds both types of purchasing authority
- Provide information on how updates to the manual will occur
- Set a standard schedule to review and update the procurement manual at a frequency that supports your business processes and coincides with preparing the department's purchasing authority renewal schedule
- Provide information on the availability of the manual
- Create a glossary of terms that may be unique to the department.

Note: Procurement terminology and definitions should be consistent with the Cal-PCA glossary

- Create an acronym list typical to the department terminology
- Include in the procurement manual any applicable forms and instructions that are used or referenced in the procurement manual.

1.C2.3 Good policies

The policy portion of a department's procurement manual should discuss the purposes and objectives of the department's purchasing authority program. The policy section of the manual can take many forms dependent upon the size of the department.

A small department could include most of the significant policies that the department's buyers and users may need within a few pages, whereas a large department may already have an established administrative manual(s) that may include procurement policies. In the latter case, the department has to determine how the applicable information will be made accessible to buyers and users.

Whatever the case may be, procurement manual developers should obtain and review their department format and style standards to ensure compliance with existing department requirements.

Click here to view a sample policy format.

1.C2.4 Good procedures

Good procedures establish and describe internal processes in sufficient detail to answer questions before they're asked. Consider the Who, What, Where, How, and Why of writing theory.

Basically, a procedure section of a procurement manual prescribes all the step-by-step processes of each procurement approach within a given purchasing authority type from the origin of a user request (requisition) to the final conclusion of a project or disposition of an item. This follows a natural sequence of events from requesting an action through any post award activities. Internal procedures not only cover the procurement approach beginning to end but also should include how to maintain ethical relationships with contractors.

A good procedure section should also include topics such as:

- Stating normal lead times for different types of purchases, purchasing authority categories or sub-categories and their respective procurement approaches, and include an emphasis that the lead times must be taken into account in planning for the receipt of goods and services
- Purchasing entities organizational structure
- Signature authorization listing, who can sign what and when
- Required approvals, both internal, and external
- Certification of availability of funds
- Approval and payment of invoices
- Receiving
- Setting up official procurement files

1.C2.5 Writing style

Write procedures at a level of detail that is appropriate for the intended users. Procedures should include detailed, step-by-step instructions for completing each purchasing activity phase, and simple enough for a new employee to understand.

The table below identifies some writing characteristics and considerations that should be taken into account when developing and writing procedures.

Writing characteristic	Considerations
Accuracy	• Is the data current, complete, correct, and relevant? • Is fact separated from opinion?
Clarity	• Documents must be easy to read and understandable. • Do not assume the reader knows something. • What is the most systematic approach to achieve the procedures objectives? • Is it assembled well? • Will personnel misunderstand or misinterpret the procedure? • What are the most common errors made or misunderstandings?
Complete	• Has assistance and input been obtained from all sources available? • Will the procedure provide enough information to ensure understanding? If not, what further information is needed?
Concise	• What specifically is required? • Be direct and to the point.. • Use active voice. • Use short sentences and simple words. • Check grammar and spelling.
Flowcharts and checklist	• Flow charts and checklists can be handy tools to help get information organized. • Assist in providing staff with a quick visual concept to the overall work flow. • Tends to provide a general overview of touch points that a document or process may pass through. • Does not replace a procedure but complements the details of the procedure.

1.C2.6 Tips for a useful manual

Preparing the department's procurement manual is probably the most time consuming portion of developing a quality purchasing authority program. The design should be determined by the department's needs and organization.

Click here to access a list of tips for developing a procurement manual.

Click here to access documentation used by PAMS in reviewing department's policies and procedures.

Chapter 2

Procurement Planning

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Chapter 2

Procurement Planning

Overview

Introduction

The purpose of this chapter is twofold. The first is to layout the foundation of the role of the buyer involved in a department's purchasing authority program. This includes a discussion on conduct, ethics and good business practices during and after the procurement process. The second is to describe the preliminary considerations and activities that ensure the success of any procurement effort. These considerations include determining the class of procurement, non-IT or IT, goods or services, identifying pre-procurement approval requirements and processes, and selecting the appropriate procurement approach for a purchase.

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Section A

Getting Started - All Things Considered

Overview

Introduction

Understanding the role of the purchasing authority buyer, knowing the rules and applying them appropriately throughout the procurement process is key to executing any procurement activity and demonstrates a department's ability to manage a quality purchasing authority program.

Simply put, purchasing authority buyers, hereafter referred to as "buyers", will be successful in their purchasing activities when they:

- Know and understand the scope of their department's approved purchasing authority,
- Know and follow the rules applicable to State purchasing,
- Correctly use the appropriate procurement approach, and
- Pay attention to details.

Contents

This chapter contains the following topics:

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Topic 1 – The Buyer's Role

2.A1.0 Fiduciary responsibility

Buyers have a fiduciary responsibility to California's citizens and taxpayers to protect the State's interest as a whole and to place the State's interest above their own interests. Additionally buyers have a fiduciary responsibility to safeguard the State's resources.

The person signing the purchase document certifies, on personal knowledge, that the order for purchasing the items specified is issued in accordance with the procedure prescribed by law governing the purchase of such items for the State of California; and that all such legal requirements have been fully complied with.

2.A1.1 Responsibility over public funds

Departmental personnel, in particular buyers, involved in procurement activities are either directly or indirectly spending public funds and subject to public scrutiny.

Consequently, departmental personnel generally and buyers specifically are reminded to:

- Act responsibly.
- Conduct business honestly.
- Avoid wasteful and impractical purchasing practices.
- Avoid real or perceived conflicts when conducting business on the State's behalf.
- Advise department customers of acceptable business practices, conflicts of interest and respected standards of ethical and moral behavior during any procurement activities involving their participation.
- Seek to maintain and continuously improve their professional knowledge, skills and abilities.

2.A1.2 Watchdog

Buyers also act as a caretaker and/or watchdog over the procurement process, ensuring the needs of their customers are met within stated laws, regulations, executive orders, policies and procedures, while maintaining impartiality, allowing for open competition, reducing waste, preventing improper activities and avoiding conflicts of interest during and after the procurement process.

Topic 2 – Gifts and Gratuities

2.A2.0 Accepting gifts and gratuities

GC Sections 19990 establishes the authority for departments to create incompatible activity statements for employees to follow. Buyers are responsible for knowing what their department's policies are regarding incompatible activities. In accordance with GC section 19990(f) and in terms of best practices, buyers and employees involved in the procurement process, whether directly or indirectly, are discouraged from participating in the following activities:

- Accepting directly or indirectly any gift, including money or equipment, meals, lodging, transportation, entertainment, service, gratuity, favor, hospitality, loan, or any other thing of value from anyone who is doing or seeking to do business with the department you represent.
- Using their position in state government to bestow any preferential benefit on anyone related to them by family, business or social relationship.
- Situations that create the appearance of questionable or unethical practices.

2.A2.1 Evaluation Teams

GC section 1090 requires that state officers and others shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. State employees and others may not participate as purchasers or members of the evaluation team at any sale or vendors at any purchase made by them in their official capacity.

2.A2.2 Consider the consequence

Buyers, after reviewing the incompatible activities policy, are encouraged to answer the following questions when dealing with suppliers who may offer gifts or gratuities:

- Will I violate a law or department policy if I accept this gift?
- What is the intent of the gift?
- Do I or my relatives or friends benefit from the gift?
- Would I mind seeing acceptance of the gift publicized in the news media?
- How will accepting this gift be interpreted by others?

2.A2.3 Avoid making a gift of public funds
(rev 3/11)

In accordance with the California State Constitution, Article 16, section 6, any gift of public funds is strictly prohibited. All expenditures must support the department's mission (function and purpose) and benefit the State to not be considered gifts of public funds.

This includes any advance payments or pre-payments made to a contractor before work has been performed or to a supplier before all products have been received. Refer to Chapter 9, for additional information.

Note: Per the Governor's memo dated 2/18/11, all state agencies and departments must to stop spending taxpayer dollars on free giveaway and gift items (such as flashlights, ashtrays, key chains, squeeze toys, pens, hats, trinkets, shirts, cups and other gift items).

2.A2.4 Accepting free or loaner equipment from suppliers

DGS/PD recommends that departments do not accept suppliers' offers of goods or services without cost or obligation to the State. If a department's decision is contrary to this recommendation, the department must execute a purchase document to document the agreement.

2.A2.5 Consider before accepting

Before accepting any suppliers' goods and services offered at no cost or obligation to the department, the department must consider the perception of the acceptance to other suppliers.

How does the department remain fair and impartial if a decision is eventually made to solicit the product?

Warning: If a department elects to accept free equipment, the purchase document must state that by accepting the equipment at no cost, the state has no further obligations or hidden costs associated with acceptance.

Section B

Formulating the Procurement Approach

Overview

Introduction

When planning a purchase activity, there are four major areas to consider. Buyers must have the ability to correctly determine:

- The estimated dollar value of the procurement.
- The class of purchase (IT vs. Non –IT and Goods vs. Services).
- What pre-procurement review and approvals are necessary either by State purchasing policies or departmental policies and procedures?
- The most appropriate procurement approach within your department's approved purchasing authority (i.e. CALPIA, competitive, LPA order).

This section provides the necessary information to begin the planning and scheduling of the procurement process.

Contents

This section contains the following topics:

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Topic 1 – Classifying the Purchase

2.B1.0 Importance of properly classifying purchases

The ability to properly classify a purchase enables the buyer to conduct the procurement by correctly:

- Applying the appropriate laws, regulations, policies, and procedures.
- Identifying whether or not the department has the applicable purchasing authority to conduct the purchase activity or requires DGS/PD assistance.
- Securing additional approvals and/or waivers as applicable.

The impact of not being able to correctly classify a purchase may result in:

- Delaying a department's program or project.
- Waste of time and effort, ultimately wasting taxpayer money.
- Loss of funding.
- Disputes, protests, and/or lawsuits.
- Illegal contracts.

2.B1.1 Purchase classification

This volume focuses on State purchasing activities for Non-IT goods. Non-IT goods are tangible or movable products with little or no information technology functionality.

Examples: Food, furniture, farm animals and office supplies.

2.B1.2 Determine the main purpose

- Classifying a purchase begins by determining the predominant factor or the major objective and/or purpose of the entire purchase. In doing so, ask yourself the following question: What is the sole or main purpose of the purchase?

2.B1.3 Example #1

Non-IT goods

A department purchases a vehicle for enforcement use. The vehicle has been fitted with an electronic mapping system and telecommunications equipment. The purchase is made under the non-IT purchasing authority after securing approvals required from the DGS Office of Fleet Administration. The features of the car are secondary to the purpose of the vehicle, which is a means of transportation.

2.B1.4 Example #2

IT goods

A department buys ten personal computer (PC) keyboards for replacement stock to issue when an existing keyboard fails. The purchase of PC keyboards is considered IT. A PC processes data electronically and the keyboard is a critical component to the operation of the PC. Consequently, the purchase is made under the IT purchasing authority. See SCM, Vol. 3 for information on IT goods.

2.B1.5 Non-IT vs. IT

There are many items that require IT technologies to function, yet they may not be considered to be IT. If the item is determined to be a non-IT good, the transaction will be treated as a "good" and be acquired under the non-IT goods purchasing authority.

2.B1.6 Distinguishing goods from services

When determining if an acquisition is for goods only, DGS/PD recommends that buyers consider the following concepts:

- Does the contract have as its sole or main purpose the acquisition of tangible items, such as equipment, parts, supplies or other merchandise?
- If the main value is a good with minimal or no non-IT or IT services, the purchase is conducted under the non-IT goods purchasing authority.
- What is the main value of the contract – the good or the service?
  - If the main value is the service, the transaction should be treated as a service contract.
  - If the service is non-IT, then the purchase is acquired in accordance with PCC section 10335, SAM section 1200, and the SCM, Vol. 1.
  - If the service is IT, then the purchase is acquired in accordance with PCC section 12100 et seq., SAM sections 4800 et seq., 5200 et seq., SCM, Vol. 3 and the Statewide Information Management Manual (SIMM)

Warning:
Non-IT services included with the purchase of non-IT goods may not exceed $4,999.99 and must be directly related to the purchase of the goods, such as set up or installation. Non-IT services such as maintenance is not allowed and must be procured separately under the SCM, Vol. 1 unless available on a leveraged procurement (LPA) contract.

2.B1.7 Examples of goods vs. services

Example:
A manager has requested new furniture for the office. The buyer needs to purchase the new furniture and acquire the services necessary to position that furniture in the office. The main value is the furniture. The request should be treated as a non-IT goods contract.

Example:
A department has developed a graphic depiction of its business process for display in the department's public lobby. A decision has been made to have a custom frame made for the display due to its unique size and amount of public visibility. This would be a non-IT service not subject to DGS/PD purchasing authority because the main purpose is the custom framing services.

2.B1.8 Need help in classifying purchases?

Buyers needing assistance in determining the classification of a purchase after reviewing the available resources (i.e. SAM, SIMM) should first consult with their department's PAC and may also contact the DGS/PD/PAMS.

Refer to the procurement related resource directory found in the Introduction of this manual or click here to access the directory on the DGS/PD web page.

Topic 2 – Procurement Planning – Where Do I Go from Here?

2.B2.0 Start planning early

Planning the purchase should begin at the earliest practicable time. The amount of time necessary for the planning process is dependent upon the dollar value, risk, complexity, and criticality of the proposed purchase. In addition, the department must classify the purchase (non-IT/IT and good/service), and make a decision on the procurement approach (competitive, non-competitive, exempt, or using one LPA programs).

2.B2.1 Initial buyer review

The buyer's first step in the planning and scheduling of a procurement effort is the initial review of a department's purchase request. Reviewing the request in terms of the following information will assist the buyer in determining any impact in relationship to the procurement planning and scheduling activities.

Does the purchase require:	If "Yes":
Departmental review and approvals	• Have the proper approval signatures been secured? • Is the request in compliance with equipment standards? • Does the request require any department technical review? • Is there documentation in sufficient detail to support and justify conducting the procurement? • Are there any program schedule requirements, special delivery instructions, time constraints, etc.?
Funding authority	• Is the procurement scheduling and planning effort limited by: ▪ Budgetary constraints? ▪ Federal funding limitations and/or restrictions? ▪ Availability of current and future year funding? ▪ Timing constraints impacted by availability of fiscal year funding?
External reviews, waivers and/or approvals	• What is required by law, regulation or policy? • Refer to section C of this chapter for details for external reviews and approvals.

2.B2.2 Seeking legal participation

Buyers should seek departmental legal participation as necessary.

Purchasing activities that benefit from the department's legal staff participation may include but are not limited to the following:

- Purchases that have a history of litigation.
- Conflict of interest issues.
- Follow-on contracting issues.

2.B2.3 Narrowing in on the procurement alternatives

To assist in determining the procurement approach that best meets the department's needs, buyers should ask themselves the following questions:

- What is the statement of work (SOW)?
- Is the acquisition an emergency purchase as defined by PCC section 10340?
- Can civil servants, as opposed to outsourcing, satisfactorily perform the services?
- Can another state agency provide the product or service through an interagency agreement or alternate contracting means?
- Does the purchase require the use of any mandatory purchasing processes such as CALPIA or use of existing telecommunications contracts?
- Is the request within the scope of the department's approved purchasing authority?
- Can you consolidate other requests for like equipment into a single purchase?
- What is the department's total need for acquiring the goods or services over the next 12-month period of time and can the acquisitions be reasonably consolidated to maximize purchasing power?
- What available purchasing approach can effectively meet the department's needs at the least cost in terms of time and resources?
- Can the functional requirements of the request be met through an LPA (i.e. CMAS, Master Agreement, Statewide Contract or State Price Schedule)?
- Are there certified small businesses, microbusinesses or certified DVBEs that can be solicited to provide the good and/or service?
- Can the department's procurement needs and purchasing goals both be met by conducting a small business (SB) and DVBE procurement based upon GC Section 14838.5 (SB/DVBE Option)?
- Is there a known supplier market and can the acquisition best be met through open competition?
- Is the request so unique that no competition exists and the needs of the customer can only be met through a non-competitively bid (NCB) contract?
- What risk factors are inherent to the purchase and what steps can be taken in advance to mitigate them?

2.B2.4 Specification development assistance

DGS/PD Engineering Services is available to assist departments in providing technical knowledge and assistance in planning efforts and specification preparation. For additional assistance, see the sample Bid Specification Checklist shown below.

Click here to access the DGS/PD Engineering Services web page.
Click here to access a sample solicitation Specification Checklist

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2.B2.5 Additional Purchase Options

Subject to categories and monetary limits listed below, departments may issue a STD 65 to secure delivery of any necessary and required items of personal property. Splitting of purchase to avoid the monetary limitation specified is not permitted. The Purchase Authority Number on the STD 65 should read: "SAM 3571.2."

These acquisitions may be purchased without monetary limits:

1. Purchases from Prison Industry Authority
2. Acquisitions from the State Department of Education, Office of Food Distribution
3. Acquisitions from the Department of General Services, Surplus Property
4. Purchases of excess personal property from the Federal Government by qualified State Agencies
5. Interagency purchases

Limit less than $10,000

1. Non-Contract Intravenous solutions
2. Cadavers and live laboratory animals
3. Prosthetic devices

Limit of $1,000
Bottled water or distilled water (see note)

Limit of $100

1. All supplies and materials except those obtainable through Leveraged Procurement Agreements.
2. All classes of material not otherwise stated (except under emergency provisions noted below)

Note: Bottled drinking water may be purchased by the agency where it has been determined that the building water supply is not fit for human consumption or where the cost of connecting a drinking fountain to the building water supply renders it impractical. Also, where the building drinking water supply in existing State occupancies is so tepid as to render it unpalatable, consideration will be given to agency requests for the purchase of water coolers. Rental expense for water coolers is not authorized except in certain field conditions where potable water is not available.

Topic 3 - Other Considerations Affecting the Planning Process

2.B3.0 Promotional materials

Prior to conducting a purchase for promotional materials, (i.e. apparel, badges, desk items, etc.) a buyer must include written justification within the procurement file supporting how the purchase meets the department's mission and business needs. Written justifications should include either a general or specific description of the type of event(s) and how the promotional material(s) will be used. Refer to section A, Topic 2 of this chapter for additional considerations and examples.

2.B3.1 Requests for reasonable accommoda-tion purchases

A purchase made in response to a request for reasonable accommodation does not preclude buyers from adhering to State procurement laws, regulations, executive orders, and policies. However, when conducting a procurement to fulfill a reasonable accommodation request, buyers must be mindful of the need to expedite the purchase, regardless of the purchase class or approach used.

2.B3.2 Installation of physical layer cable and carpet

Installation of physical layer cable (all electrical and mechanical aspects relating to the connection of a device to a transmission medium, i.e. connection of a workstation to a LAN) and carpet are considered public works. Departments may allow for a public work component only when it is incidental to the overall project requirements.

2.B3.3 Outsourcing services

Departments must give careful analysis to using contracted personnel rather than using civil service positions within state government.

The State Constitution generally requires contracting out for personal services to be limited to those services that cannot be performed by civil service employees except as provided for in Government Code 19130.

For each personal service and/or consulting service transaction, regardless of purchasing approach or category utilized (i.e. competitive, LPA, etc.), the department must prepare and retain in the procurement file a written justification that includes specific and detailed factual information that demonstrates how the purchase document meets one or more of the conditions specified in GC Section 19130.

2.B3.4 Leasing equipment

Leasing may be used when a department lacks sufficient funds for a purchase or if the department has insufficient data to project future needs.

In these cases, departments, prior to initiating any type or approach of purchasing activity as a lease, must document a lease versus purchase analysis as described in SAM section 3700 et seq. Lease vs. purchase analysis documentation must be retained within the procurement file.

Click here to access the Lease versus Purchase Analysis form. Word PDF

Click here to access a legible copy of the lease versus purchase analysis form as shown in SAM section 3700 Appendices (A-1).

Note: Use of any financing arrangement other than GS $Mart is prohibited without prior approval from Finance per Budget Letter 06-27. See Chapter 9, California's Financial Marketplace.

2.B3.5 Blanket purchases

A blanket purchase is an acquisition mechanism established for no longer than one year with one supplier where the quantities of specific products are not known. In these cases, the department has determined that a group of goods from a specified supplier is necessary to the program, but the department must be flexible when determining the instant need.

In no case may a blanket purchase exceed $4,999.99 per transaction, unless the blanket purchase is issued under an LPA contract whereby the purchase document dollar cap is limited to the LPA contract dollar threshold. The department must keep a copy of each order placed against each blanket purchase document in the procurement file. The department must document in the procurement file why it is in the State's best interest to execute a blanket purchase.

2.B3.6 Shipping charges

Departments conducting competitive solicitations shall determine shipping terms during the procurement-planning phase. The preferred shipping method is "Free on Board" (FOB) Destination Freight Pre-paid (FRT. PPD) where the supplier is responsible for freight charges and costs as well as owning the goods while in transit.

Should a department determine another method of shipping is more appropriate in meeting their needs and the weight of the purchase is 100-lbs or more then the department shall contact the Transportation Management Unit (TMU) to provide the department with the cost of freight charges from TMU's pre-established shipping contracts.

Departments are not required to contact TMU for purchases weighing less than 100-lbs.

Refer to Chapter 4 and Chapter 8 for additional information.

Click here to access the TMU web page.

2.B3.7 Term purchases

Departments granted purchasing authority to conduct competitive solicitations may establish term purchase contracts through a competitive bid process.

A term purchase establishes a purchasing mechanism for:

- A specified period of time – not to exceed 36-months.
- A specified list of products and quantities.
- Items a department acquires on a routine basis.

Buyers conducting a competitive solicitation for a term purchase must adhere to the following:

- A competitive bid must be conducted whenever the dollar amount is $5,000.00 or greater.
- The solicitation must clearly identify contract start and end dates and the contract period may not exceed a 36-month period.
- The solicitation must clearly state the aggregate amount of the contract, but in no event may it exceed a department's approved purchasing authority limit for non-IT goods, as applicable to the procurement.
- The solicitation, the resulting contract or the cumulative value of orders released against the contract may not exceed the amount of a department's approved purchasing authority for non-IT goods, as applicable to the procurement.
- The solicitation must clearly state a maximum number of units that may be purchased.

Example:

10 units will be purchased upon award, and the department reserves the right to purchase up to 10 more units during the contract term.

Note: Evaluation and award must be based upon the total quantities per line item to be purchased during the contract term. Using the above example the evaluation and award would be based upon 20 units.

- The solicitation must clearly state the delivery terms over the course of the contract term.
- The solicitation must clearly define whether or not pricing is firm over the course of the contract or if allowances will be made for price increases or decreases.
- The department must keep a running total of orders placed against each term purchase contract in the procurement file.

Note: A term purchase is not a suitable solicitation approach if a department is unable to commit to the stated quantities.

2.B3.8 Statewide Pharmaceutic -al Program

The State of California Department of General Services (DGS) implements and administers a Statewide Pharmaceutical Program, also referred to as the Prescription Drug Bulk Purchasing Program, established by Government Code §14977-14982. The California State Departments of Corrections and Rehabilitations (CDCR), Mental Health (DMH), and Developmental Services (DDS) and other state agencies under the DGS authority are mandated to participate in this program. Other state, district, county, city, municipal, or public agency governmental entities may elect to participate in this program. (However, CDCR pharmaceutical purchasing is currently subject to the direction of the Federal Court Health Care Receiver.)

The DGS works in conjunction with a Central Pharmacy Advisory Board to implement and administer a Statewide Pharmaceutical Program and implement strategies to manage escalating prescription drug prices. Representation on this Board is appointed by the entities participating in the Statewide Pharmaceutical Program.

Please review the DGS/Pharmaceutical Contracts Website at, Pharmaceutical Acquisitions, for a list of contracts supporting the Statewide Pharmaceutical Program.

2.B3.9 Non-Compliant Trash Bag Manufacturers and Wholesalers

Manufacturers and wholesalers who are non-compliant with the Plastic Trash Bag Law cannot contract with the State regardless of the product being provided in the contract (i.e. plastic trash bags, janitorial supplies or services, or any other products or services). For more details, see Chapter 3.

2.B3.10 Non-discrimination

Any employer who wishes to contract with the State for non-IT goods is subject to the provisions of GC section 12990 relating to discrimination in employment. Contractors that do not meet the provisions of GC 12990 are not eligible to contract with the State for non-IT goods. Ineligible contractors can be found in the California Regulatory Notice Register. To access the California Regulatory Notice Register, use this link.

2.B3.11 Exception to GC section 12990

The requirements of GC section 12990 do not apply to a credit card purchase of goods of two thousand five hundred dollars ($2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars ($7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

2.B3.12 Darfur Contracting Act

Pursuant to Public Contract Code sections 10475 through 10481, for acquisitions of non-IT goods or services, departments must require vendors to certify whether they are a scrutinized company. This applies regardless of the procurement approach, method, or solicitation format used including, but not limited to: Formal Bids, Informal Bids, Request for Proposals, Invitation for Bids, Non-Competitive Bids, the SB/DVBE Option, and under $5,000 fair and reasonable pricing. This sample or a similar code-compliant document should be used to satisfy the Act's certification requirements. Departments that elect to develop their own processes and/or documents to suit their business needs should work with their legal counsel to ensure compliance with the Act.

The only exception to departments obtaining this information is for contracts awarded using DGS Leveraged Procurement Agreements (LPAs).

Effective January 1, 2009, procurements for non-IT goods or services must address the requirements of this Act. The Act is intended to preclude State agencies generally from contracting with *SCRUTINIZED* companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A *SCRUTINIZED* company as defined in Public Contract Code section 10476 are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for Non-IT goods or services (Public Contract Code section 10477(a)). Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a SCRUTINIZED company in order to submit a bid or proposal to a State agency. A SCRUTINIZED company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b).

2.B3.13 State contracts for goods, loss leader

Beginning January 1, 2010 and pursuant to PCC section 10302(b)(1), every solicitation for non-IT goods shall contain the following statement:

"It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code."

The above statement shall be deemed to be part of a solicitation even if the statement is inadvertently omitted from the solicitation (PCC § 10302(b)(4)).

On and after March 31, 2010 and until December 31, 2011, if a solicitation does not contain the statement required by PCC Section 10302(b)(1), the awarding agency shall report this error to DGS within 30 days of the date the awarding agency discovers this error (PCC § 10302(b)(2)).

Refer to Chapter 12 - for loss leader language reporting requirements.

2.B3.14 Loss leader, excluded acquisitions

The following acquisitions do not require loss leader language or reporting:

- RFOs for acquisitions from Leveraged Procurement Agreements
- Acquisitions made using Fair and Reasonable pricing
- Acquisitions made using the SB/DVBE Option.

2.B3.15 Mission Critical Certification for DGS

No work will be initiated, no documents will be reviewed and no contracts will be approved by DGS that would result in the expenditure of funds unless the following written certification is received in writing and signed by the Agency's Secretary or Department's Director or their designees.

I certify that this purchase is vital and mission critical for this agency or department:

_____

Name/Title Date

Topic 4 – Statement of Work (SOW)

2.B4.0 Determining the need for a SOW

A department must include a statement of work for all services transactions and for goods transactions when appropriate. A statement of work protects the State and the contractor by identifying and documenting the details of the work to be performed.

2.B4.1 What to include in a SOW?

A statement of work is unique to each purchase document, but usually consists of some or all of the following:

- A detailed statement of the purpose, objective or goals to be undertaken by the contractor.
- The job classification or approximate skill level of the personnel to be made available by the contractor.
- An identification of all significant material to be developed by the contractor and delivered to the State.
- An identification of all significant materials to be delivered by the State to the contractor.
- An estimated time schedule for the provision of these services by the contractor.
- Completion criteria for the work to be performed.
- The name or identification of the contractor personnel to be assigned.
- The contractor's work hours required to accomplish the purpose, objective or goals.
- The contractor's billing rates per work hour (as provided in the contract documentation).
- Cost per deliverable
- Contractor's total cost.
- Product specifications
- Description of when, where product is to be delivered
- Pallet requirements
- Delivery personnel requirements

Topic 5 – Emergency Purchases

2.B5.0 Definition

An emergency as defined by PCC section 1102 is "a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

2.B5.1 Types of emergencies

An emergency is further divided into the following classifications which ultimately effects how the purchase activity will be processed:

- An emergency purchase in response to a natural disaster, i.e. fire, flood, earthquake.
- An emergency purchase not in response to a natural disaster.

2.B5.2 Required documentation

Regardless of the classification of the emergency, departments must document the procurement file and/or provide to DGS/PD, as applicable, the following information:

- A description of the emergency.
- Explanation of why the situation warranted the emergency purchase.
- Explanation of the consequences of making the purchase through normal procurement processes.
- A description of the goods and price.
- The names and quotations of suppliers contacted.

2.B5.3 Responding to a natural disaster

The following chart provides the process for executing an emergency purchase in response to a natural disaster when a response requires immediate action:

If the purchase activity	Then the buyer will proceed with the purchase
Is within a department's authorized non-competitively bid (NCB) contract purchasing authority dollar threshold	• Documenting the circumstance of the emergency purchase. • Issuing the purchase document, identifying the department's Purchasing Authority (PA) number in the PA number box on the purchase document. • Reporting the transaction on the NCB contract quarterly report.
Exceeds a department's authorized NCB contract purchasing authority threshold.	• Documenting the circumstance of the emergency purchase. • Issuing the purchase document, leaving the PA number box on the purchase document blank.

2.B5.4 Emergency purchase not in response to a natural disaster

The following chart provides the emergency purchase process in response to an emergency situation other than a natural disaster.

If the purchase activity	Then the buyer will proceed with the purchase
Is within a department's authorized NCB contract purchasing authority dollar threshold.	• Documenting the circumstance of the emergency purchase. • Documenting names and quotations of suppliers contacted. • Issuing the purchase document, identifying the department's PA number in the PA number box identified on purchase document. • Reporting the transaction on the department's NCB contract quarterly report.
Exceeds a department's authorized NCB contract purchasing authority threshold.	• Contacting DGS/PD immediately or within the next business day to provide the circumstance of the emergency at the One-Time Acquisition support number: 375-4471 • DGS/PD contact reviews the circumstance and if approved, assigns the transaction an Authorization to Exceed Monetary Limits (Form 42) number. • Documenting the circumstance of the purchase. • Recording the Form 42 number in the PA number box on the purchase document prior to issuing the purchase document.

2.B5.5 Examples of non-IT goods emergency and non-emergency purchases

PCC section 10340(a) (1) allows for emergency purchases of non-IT goods without competitive bidding when the goods and services are necessary for the immediate preservation or protection of the public health, welfare, or safety.

Example of emergency:
A mudslide, caused by a flood, occurs on a highway and the crew must make an immediate purchase for supplies to clean up the mud.

Example of a non-emergency:
A department wants to purchase three (3) used bulldozers for routine forestry maintenance at a cost of $492,000.00. The purchase saves the department an estimated $260,000.00 when prices are compared to new bulldozer prices. Although it may be in the State's best interest to purchase the used equipment, it does not meet the definition of an "emergency".

Warning: Poor planning is not an emergency.

Topic 6 – Negotiation Process Guidelines and Procedures Under Public Contract Code Section 6611

2.B6.0 Authority over Negotiations

Public Contract Code Section 6611(a) ("PCC Section 6611(a)") authorizes the Department of General Services (DGS) to use a negotiation process under certain circumstances when procuring or contracting for goods, services, information technology, and telecommunications. The DGS recommends that during the acquisition planning phase State Agencies and Departments plan accordingly and consider whether a negotiation process is appropriate for a given procurement. If so, departments should contact DGS for assistance prior to issuing a solicitation to add language to their solicitation documents indicating the requesting department's intent to utilize PCC Section 6611(a) during the solicitation process.

2.B6.1 How to Make a Request to the DGS

In order to implement negotiations pursuant to PCC Section 6611(a), State Agencies and Departments shall submit a written request to the DGS. The written request must contain the following:

- Description of the procurement
- How the procurement meets the State's needs
- Explanation of why the procurement meets one or more of the four conditions listed below under the topic *Bases for Negotiations*.

The request shall be signed by the State Agency or Department Procurement and Contracting Officer.

The request shall be addressed to the DGS as follows:

Non-IT goods
IT goods and services
Attn: Deputy Director, DGS/PD

Non-IT services
Attn: Deputy Director and Chief Counsel, DGS/OLS

2.B6.2 Bases for Negotiations (PCC section 6611(a)(1))

The DGS may initiate negotiations if the DGS determines one or more of the following conditions exist:

1. The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process (PCC section 6611(a)(1));

   Example: The State has identified a general need for a new technology; however, market research indicates the technology may have multiple, unanticipated, secondary benefits. The State would be able to further define its business needs for the technology by conducting direct negotiations with the contractors who are subject matter experts.

2. The business need or purpose of a procurement or contract is known, but a negotiation process may identify different types of solutions to fulfill the business need or purpose (PCC section 6611(a)(2));

   Example: The State may have identified specific *business problems* and *technical requirements*, but a negotiation process with prospective contractors may produce multiple potential solutions of goods, services, or a combination of both.

3. The complexity of the purpose or need suggests a bidder's costs to prepare and develop a solicitation response are extremely high (PCC section 6611(a)(3));

   Example: A complex information technology procurement where the State may have ascertained through market research that the cost for bidders to develop a proposal in response to a solicitation is extremely high and may limit the number of bidders willing to participate.

4. The business need or purpose of a procurement or contract is known, but negotiation is necessary to ensure the department is receiving the best value or the most cost-effective goods, services, information technology, and telecommunications (PCC section 6611(a)(4));

   Example: The State has an identified need to conduct procurement for a telecommunications system; however, market research has shown the technology within the industry is changing so rapidly that a traditional procurement method will not yield the best value to the State.

2.B6.3 Guidelines and Procedures

When DGS uses PCC section 6611, the following preliminary considerations, guidelines, and procedures shall apply:

1. Each solicitation document shall set forth in detail the evaluation methodology and criteria to be applied to that particular solicitation. The evaluation methodology will be specific to the type of procurement being conducted, i.e., goods, services, information technology, or telecommunications.

2. An evaluation team will evaluate all bids/proposals according to the methodology specified in the solicitation and consider all award criteria, which may include administrative and technical requirements, as well as price.

3. The DGS may elect to proceed with negotiations if one or more conditions identified in PCC §6611(a) exists. In some instances, the condition supporting negotiations may be known to DGS prior to issuing a solicitation. In some instances, the condition supporting negotiations may not be known to DGS until after a solicitation commences.

4. If the DGS elects to proceed with negotiations, a state negotiation team will be convened, which may be the same team as the evaluation team on any individual procurement.

5. Once convened, the negotiation team shall confirm the purpose and scope of the negotiations and the identity of the bidders who shall be invited to participate in the negotiation process.

6. The negotiation team shall obtain approval from the Director of DGS, or his/her designee, to proceed with negotiations.

7. The DGS shall identify which bidders shall participate in the negotiations in one of the following ways:

    a. DGS may identify in the solicitation document the methodology that will be used to identify bidders to participate in negotiations. This may include, but is not necessarily limited to, a methodology that establishes a competitive range based on bidders' rankings following bid/proposal evaluations.
    b. DGS may identify in an addendum to the solicitation document the methodology that will be used to identify bidders to participate in negotiations.
    c. DGS may negotiate with all responsive responsible bidders following bid/proposal evaluations.

8. Bidders will be notified in writing (i) that DGS is initiating negotiations pursuant to PCC section 6611(a); (ii) the general purpose and scope of the negotiations; (iii) the anticipated schedule for the negotiations; and (iv) the procedures to be followed for those negotiations. This information may be provided in a single document or separate documents.

2.B6.3 Guidelines and Procedures (continued)

9. The DGS may issue additional information and/or instructions to bidders participating in negotiations as needed.

10. As part of the negotiation process, participating bidders may be asked to submit supplemental bids/proposals. Any request for supplemental bids/proposals will be directed in writing to all bidders participating in the negotiations, and will provide details concerning the format and due date for the supplemental bids/proposals.

11. Negotiations may be completed after a single round, or may be done in several rounds as determined by the negotiation team.

12. Negotiations will be conducted orally and/or in writing. Oral negotiations may be held in person. by conference call, or by use of video or web conferencing.

13. A written record describing the procedural steps taken in the negotiation process and the basis for final contract award shall be maintained.

14. The DGS may terminate negotiations and/or the solicitation at any time.

Section C

Pre-Procurement Reviews and Approvals

Overview

Introduction

As mentioned earlier in this chapter, there are certain classes of purchases that may require review and approval before a department can proceed with a purchasing activity. This section describes those requirements and processes.

At this point, the buyer has determined the class and category of a purchase request before initiating a procurement activity. Now, the buyer needs to analyze the request to validate any pre-approval requirements.

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Topic 1 – Office of Fleet and Asset Management (OFAM)

2.C1.0 Office of Fleet and Asset Management (OFAM)

In accordance with GC section 13332.09, departments may not procure mobile equipment without first securing approval from DGS/Office of Fleet and Asset Management (OFAM). Evidence of OFAM approvals must be documented in the procurement file.

Mobile equipment is defined in the OFAM State Fleet Handbook (OFAM Handbook) as:
"Used for passenger and equipment transportation, construction or maintenance work, and is self powered or easily moved (trailer or skid mounted). This includes sedans, station wagons, suburbans, carryalls, light utility pickups, vans under ¾ ton, jeeps, trucks, boats, and trailers."

2.C1.1 Fleet assets requiring OFAM approval

The following motor vehicles and general use mobile equipment are subject to OFAM approval:

Mobile Equipment Type	Description
Motor vehicle	• A vehicle that is self-propelled and registered by the Department of Motor Vehicles (DMV) for street use.
General use mobile equipment	• Self-propelled mobile equipment • Self-propelled mobile equipment registered by the DMV for off-road use. • Vessels registered by the DMV for use on water. • Vessels documented by the U.S. Coast Guard.
Surplus mobile equipment	• Motor vehicles or general use mobile equipment that was previously owned or operated by any entity.

2.C1.2 Excluded from OFAM oversight

Departments are not required to obtain the OFAM's approval on the following fleet type assets regardless of being registered by the DMV or not:

- Golf Cart
- Mower
- Generator
- Mobile home and/or office
- Forklift
- Pallet jack
- Personnel hoist
- Trailer
- Agriculture or construction equipment pulled by a vehicle
- Other fleet-related equipment as determined by the OFAM

2.C1.3 Mobile equipment purchases and repairs

When purchasing mobile equipment, departments must submit the following to OFAM for approval prior to contract execution:

- Vehicle Acquisition Request (OFAM 160) for replacement or additional vehicles.
- A completed Purchasing Authority Purchase Order (STD. 65) or Purchase Estimate (STD.66) for replacement or additional vehicles.
- An approved Property Survey Report (STD.152) for replacement vehicles.
- A current copy on file with the OFAM of the Passenger Vehicle Usage Report (STD.276a) for the vehicle being replaced.

Note: In accordance with the OFAM Handbook, tires and batteries for mobile equipment must be purchased using the State's leveraged procurement agreements whenever possible.

Note: Mobile equipment repairs are considered non-IT services and, therefore, may not be purchased under a department's purchasing authority.

Departments may not modify and/or repair mobile equipment without OFAM approval if the modification/repair exceeds the OFAM-established dollar thresholds. When contracting for mobile equipment modifications/repairs, departments must obtain OFAM approval when the transactions are expected to exceed specific dollar thresholds as established by OFAM. In addition to obtaining advance OFAM approval, when required, for vehicle modifications/repairs, departments must also get OFAM post approval once the modifications/repairs have been completed. All repairs and/or replacement of upholstery and glass require OFAM approval.

Department's should consult the OFAM Fleet Handbook and the SCM, Vol. 1 regarding these services.

Click here to access the list of OFAM forms.

Click here to access the OFAM handbook.

2.C1.4 Where to submit vehicle acquisition packages

Departments will submit completed forms and attachments to:

Office of Fleet and Asset Management
Attention: Statewide Equipment Coordinator
1700 National Drive
Sacramento, CA 95834

Topic 2 – Surplus Property Program

2.C2.0 Utilizing existing surplus furniture

Departments shall utilize surplus furnishings whenever feasible and shall contact the DGS Surplus Property Program to determine if surplus property is available.

2.C2.1 Contact information

The DGS operates property reutilization facilities at its northern California warehouse facilities.

Departments must contact the Surplus Property Program at:
1700 National Drive
Sacramento, CA 95834
(916) 928-4630
(916) 928-0304 fax

2.C2.2 Electronic surplus property system

The DGS has implemented an automated business management system to allow online web-based submission and approval of the following documentation:

- Property Survey Reports (STD.152),
- Transfer of Location of Equipment Reports (STD.158) and
- A real time listing of current property that is available at the National Drive warehouse.

Click here to access the Surplus Property Program web page.

2.C2.3 Needs not met by surplus property

When a department's functional needs cannot be met by the Surplus Property Program, then the department must next consider if its needs can be met by the California Prison Industry Authority (CALPIA).

2.C2.4 Cost effective reuse of surplus furniture (added 5/11)

Departments that require new modular systems (MSF) furniture and conventional furniture shall contact the OFAM for reuse of surplus furniture. Departments that have been notified by the OFAM that their requirements cannot be met by the reuse of surplus shall contact CALPIA. In the event that the OFAM or CALPIA cannot meet the department's requirements, departments may then purchase new MSF and/or conventional furniture. Documentation of the contacts with OFAM and CALPIA must be kept in the procurement file. For additional information see Management Memo 11-01.

Topic 3 – California Prison Industry Authority (CALPIA)

2.C3.0 California Prison Industry Authority (CALPIA)

Pursuant to Penal Code section 2807, a department must first consider if CALPIA can fulfill the department's need prior to purchasing an item from commercial suppliers. CALPIA offerings include the following:

CALPIA Product Categories	Product Examples
Institutional products	Bedding, cleaning products, flags, signs, etc.
Office furniture and miscellaneous products	Binders, computer furniture, chairs, tables, office systems furniture, etc.
Residential life	Dressers, wardrobe, desks, etc.
Printing, metal signs and decals	Forms, brochures, license plates, stickers, etc.
Food products	Milk, meat products, coffee, etc.

2.C3.1 CALPIA waiver process

Departments may be granted a CALPIA exemption to procure goods from other sources when sufficiently justified. The table below describes the CALPIA exemption process that departments must follow:

Stage	Description
- 1	The department contacts the CALPIA sales branch at (916) 323-2419 or access and complete the Exemption Request.
2	The department completes a CALPIA exemption request and mails it to: CALPIA Sales Branch 560 East Natoma Street Folsom, CA 956340-0040 **Note:** Expedite requests may be faxed to (916) 322-1184, however, expedites must be justified and a hard copy of the exemption request with original signatures is required prior to CALPIA approval.
3	All exemption requests will be faxed back to the department. Copies of the exemption request approved by CALPIA must be retained in the procurement file as proof of exemption determination. Documentation of only the CALPIA exemption number is insufficient to comply with the exemption documentation requirement.
4	The CALPIA Sales Representative will contact the department when an exemption request is denied. The denied exemption request with original signatures will be sent to the department.

2.C3.2 Reasonable accom-modation requests

Departments must first evaluate CALPIA products (i.e. chairs, tables) prior to requesting a CALPIA exemption based upon a reasonable accommodation or medical exemption.

2.C3.3 CALPIA price lists

CALPIA State Price Schedules (SPS) are no longer in effect. CALPIA is now providing pricing through the CALPIA Price List.

Click here to access the CALPIA web site.

2.C3.4 Ordering procedures

Departments must use the Purchase Order (STD.65) or the STD.65-PINDEL to execute CALPIA purchases.

The STD.65 must detail the catalog item number, description, unit price and extended dollar amount. Calculate the total amount of the purchase document and issue the STD.65 (contractor-original and packing slip copies) to:

California Prison Industry Authority
Attn: Customer Service
560 East Natoma Street
Folsom, CA 95630-2200

Note:

- Do not include sales, use or federal excise taxes, as they do not apply.
- Payment terms are "net 45 days" or Controller Transfer
- Contact CALPIA, Customer Services for FOB point and delivery due dates.

2.C3.5 Identifying CALPIA purchases

The department must enter "PIA" in the box titled "Purchasing Authority Number" on the Purchasing Authority Purchase Order (STD.65).

2.C3.6 Payment by CAL-Card

CALPIA purchases less than $5,000.00 where departments select to use the CAL-Card as the payment method will follow the requirements as identified in SCM, Vol. 2, Chapter 9.

All CALPIA purchases valued at $5,000.00 and over that are paid using the CAL-Card payment process must be executed on the STD.65. A copy of the STD.65 is not required to be submitted to CALPIA.

2.C3.7 Copy to DGS

Refer to Chapter 8 for DGS/PD for DGS distribution requirements.

Topic 4 – Community-based Rehabilitation Program (CRP)

2.C4.0 Purchases from Community-Based Rehabilitation Programs

DGS/PD encourages departments with DGS approved purchasing authority to consider purchasing products and services from rehabilitative or sheltered workshops pursuant to Welfare and Institutions Code (WIC) section 19403. In accordance with WIC 19404, purchases using these programs are exempt from advertising requirements, conducting a competitive bid and dollar threshold limits. These transactions are also exempt from the non-competitively bid (NCB) contract requirements.

Note: Departments must document its procurement file to support that the price offered by a community rehabilitation program is fair and reasonable.

2.C4.1
(deleted 5/11)

Topic 5 – Additional Pre-Procurement Reviews and Approvals

2.C5.0 Real Estate Services Division (RESD)

The DGS/RESD has the statutory authority for the acquisition of real property. Departments, prior to acquiring space, property and/or facility design services, must contact RESD.

Click here to access the RESD web page.

2.C5.1 Department of Conservation (DOC)

PCC section 10295.5 prohibits departments from purchasing sand, gravel, aggregates or other minerals produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975, unless the Department of Conservation (DOC) has determined that the surface mining operation is eligible to sell materials to the State.

If a department purchases sand, gravel, aggregates or other minerals from a mining operation that is not on the DOC's list of approved mining operations, then the department must:

- Obtain both a retailer's certification of the supplier's identification and the Department of Conservation's listing of approved mines in effect at the time of the award and contains the originating mining operation.
- Document the procurement file that the items acquired came from an acceptable source.

Warning: Departments must obtain sufficient supplier certifications until the originating mining operation's identification can be determined.

Click here to access the Department of Conservation's listing of approved mining operations.

Click the following to access a Surface Mining and Reclamation Act certification form. Word PDF

2.C5.2 State Personal Board (SPB)

Every personal services contract must be documented to support the need to contract out work. GC section 19130 establishes standards for the use of personal services contracts.

In accordance with GC section 19131, departments proposing to execute a personal services contract pursuant to GC section 19130(a) must notify the State Personnel Board (SPB) of its intention prior to contract award.

Click here to access the SPB web site.

2.C5.3 CalRIM requirements

Prior to the purchase or rental of any file, microfilm, optical disk and/or records destruction equipment, departments will review and coordinate the purchase activity through the department's records manager or analyst in accordance with the DGS California Records and Information Management (CalRIM) manual.

Click here to access the DGS/PD CalRIM web page.

2.C5.4 NCB requirements

Refer to SCM, Vol. 2, Chapter 5.

Topic 6 – Purchase Requisition

2.C6.0 General Use of the Purchase Estimate (STD. 66)

The Purchase Estimate (STD. 66) is the standard requisition used by departments to request the DGS/PD conduct competitive and/or non-competitive informal procurements of non-IT goods.

Note: For formal procurements requests for the DGS/PD to conduct the acquisition, instead of the STD. 66 submit a memorandum to the DGS/PD/One Time Acquisitions. In some situations prior to issuance of the purchase document, DGS/PD may subsequently request a STD. 66.

2.C6.1 STD. 66 Instructions

Refer to the instructions provided on the last page of the STD. 66 to ensure complete and accurate information is provided. If you need help completing the form refer to the Purchase Estimate Preparation Check List on the DGS/PD web site.

Click here for the Purchase Estimate Preparation Check List
Click here for the Purchase Estimate (PE) (STD. 66).

2.C6.2 Where to Send the STD. 66

The completed STD. 66 should be submitted to the DGS/PD a minimum of 45 days prior to the anticipated delivery date and may be sent electronically, by hardcopy or facsimile as follows:

- Attach it to an e-mail and send it to purchaseestimate@dgs.ca.gov (Additional descriptive information and specifications may be attached.)
- Fax the form to (916) 376-6315
- Mail a copy to:
  DGS/Procurement Division
  Attn: One Time Acquisitions
  707 3rd Street, 2nd Floor
  West Sacramento, Ca. 95605

  Note: Refer to memorandum on Fiscal Year Deadlines for Receipt of Purchase Estimates on DGS-PD's website at: Statewide Contracts. The dates for submittal indicated in this memorandum supersede the minimum workdays indicated above.

2.C6.3 Amendments

The Purchase Order/Estimate Change Request (STD. 96) is used to request a change to a Purchase Estimate (STD. 66) submitted to DGS/PD or to a purchase order issued by the DGS/PD.

Click here for the Purchase Order/Estimate Change Request (STD. 96)
(Also, see Chapter 8, for further information on amending purchase documents.)

Section D

Creating the Paper Trail

Overview

Introduction

It is absolutely essential to maintain good records and information relating to the decisions made during the initial planning phase. This is the beginning of establishing the paper trail that should continue throughout the procurement process from the department request through contract conclusion and closure.

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Topic 1 – Documenting the Decisions

2.D1.0 Documenting the decisions

As previously stated, planning the purchasing activity begins as soon as the department has identified a need.

Buyers should develop a strategy of how the procurement activity will be accomplished and document the rationale of what led to the decision.

2.D1.1 Provide the basis of the decisions

Buyers shall also describe how competition will be sought, promoted and sustained throughout the course of the purchasing activity. If open competition is not the method of choice, document the basis of the decision.

2.D1.2 Degree of detail

The degree of documentation detail is determined by the cost, risk, complexity and criticality of the purchasing activity.

Example:
If the selection of the purchase approach was dictated by time constraints, then appropriate notations in the procurement file should be made.

In simple terms, buyers should maintain a diary of the events and decisions that lead up to and complete the purchase transaction, providing a timeline and history of the actions and decisions made throughout the procurement process.

2.D1.3 Take notes

Buyers should make notations of meetings held and decisions made, and create a phone log to record phone conversations impacting the procurement effort.

Consistent, high quality file documentation helps the transaction to be easily understood by a reader who is unfamiliar with it and makes documents easy to locate.

Click here to access a sample discussion note form. Word

2.D1.4 End result is a public record

Buyers should create and maintain their procurement records keeping in mind that all procurement records are public records subject to request and release to the requestor. Consequently, avoid typos, scratch outs, and personal notations not relevant to the procurement.

Chapter 3

Socioeconomic and Environmental Programs

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Chapter 3

Socioeconomic and Environmental Programs

Overview

Introduction

This chapter describes socioeconomic and environmental programs established by State law and further defined by regulations and policies to increase business opportunities to small and disabled veteran businesses and those businesses operating in economically distressed areas of the State. Also included in this chapter are the State requirements for promoting the purchase of products that are energy efficient and have other preferable environmental attributes.

Most of the purchasing authority categories provide a means of claiming contracting dollars toward compliance with the socioeconomic and environmental programs goals. Chapter 3 provides an overview of each program, identifying what the program requirements are and describes the application of applicable price preference evaluation adjustments in competitive solicitations during the evaluation process.

An overview of the Americans with Disabilities Act (ADA) policy is also included within this chapter to familiarize departments with the importance of making all procurement activities available to all persons, including persons with disabilities, and where to go for assistance.

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Topic 1 – Americans with Disabilities Act

3.1.0 Americans with Disabilities Act (ADA)

In compliance with the provisions of the ADA and State policy, departments must make every effort to ensure its programs, activities, and services are available to all persons, including persons with disabilities.

3.1.1 Provide reasonable accom-modation

Departments must provide reasonable accommodation to those persons with disabilities that have special needs requiring accommodation in order to participate in the procurement process. Departments must also be prepared to respond to those persons having questions about reasonable accommodation.

3.1.2 Department ADA coordinator

Departments should have an ADA coordinator who is available to assist buyers in responding to questions or concerns regarding reasonable accommodation as it impacts the procurement process.

3.1.3 DGS/PD assistance available

Additionally, DGS/PD is available to assist departments with reasonable accommodation requests relative to participating in a procurement process. DGS/PD can be contacted at (916) 375-4400 (main office) for assistance.

3.1.4 Contact numbers for TTY/TDD and California Relay Service

The DGS/PD TTY/TDD (telephone device for the deaf) and California Relay Service numbers are listed below:

- TTY/TDD telephone number for the Sacramento Office: (916) 376-1891.
- California Relay Service telephone numbers are:
  - Voice: 1-800-735-2922
  - TTY/TDD: 1-800-735-2929

3.1.5 Advance notice

Departments need to provide DGS/PD a minimum of 10 working days before a scheduled event (i.e., meeting, conference, workshop) or competitive bid deadline due date to ensure a request can be accommodated.

Topic 2 – Small Business and Disabled Veteran Business Enterprise Contracting Opportunities

3.2.0 Opportunity

Pursuant to the Small Business Procurement Contract Act (GC sections 14835 through 14843) and Military and Veterans Code (M&VC) section 999 et seq, all departments must offer procurement opportunities to CA certified small businesses (SB), microbusinesses (MB) and disabled veteran business enterprise (DVBE) whenever possible. Unless otherwise directed, any reference to certified small business(es) (SB) also includes certified microbusiness(es) (MB) as defined by the above referenced GC.

Consequently, departments should make every effort to seek out and include certified SB and DVBE when conducting any procurement activity within its approved purchasing authority.

3.2.1 Annual statewide participation goals

Pursuant to Executive Order S-02-06 and M&VC 999.2, each department shall have an annual statewide participation goal in state contracting of not less than 25 percent for SB and not less than 3 percent for DVBE.

These goals were established to enhance and encourage competition by creating an optimum environment that affords all businesses equal access to State contracting opportunities. Departments unable to meet the required participation goal(s) are required to submit an Improvement Plan with annual reporting(s). Refer to Chapter 12.

3.2.2 SB/DVBE advocate

In accordance with GC section 14846 and Military and Veterans Code section 999.12, State departments whose annual purchasing activities are $100,000.00 or more (regardless of purchasing type(s) or categories) shall designate a SB/DVBE advocate whose duties include but are not limited to:

- Identify potential SB and/or DVBE prime contractors or subcontractors and potential contracting opportunities.
- Mark information regarding pending solicitations available to and consider offers from certified SB and/or DVBE firms capable of meeting the state's business need.
- Ensure that payments due on purchase documents with SB suppliers are promptly made as provided by GC section 927 et seq.

Click here to access the SB and DVBE Advocate Directory.

3.2.3 Available procurement approaches to achieve goals

A number of purchasing categories, depending on a department's approved purchasing authority, including competitive solicitation, leveraged procurement agreement (LPA) contracts and the SB/DVBE option, are available to departments for use in achieving participation goals.

Refer to Chapter 6 for information on the process of claiming SB and DVBE contracting dollars under an LPA purchasing category.

3.2.4 SB/DVBE Option

GC section 14838.5 (a) and (b) enables a department to conduct a competitive solicitation valued at $5,000.01 through $249,999.99 that targets only certified SB or certified DVBEs.

Refer to Chapter 4 for information regarding the SB/DVBE Option process.

Note: Buyers conducting a competitive solicitation utilizing the SB/DVBE Option need to verify if there are mandated or sourced contracts associated to the product and or services.

3.2.5 Verifying certification status

Departments shall verify California SB and DVBE certification status prior to a contract award regardless of the procurement approach. This verification can be obtained by accessing the SB and DVBE Services certified firm inquiry database located on the DGS/PD' web page.

The database printout in support of an SB and/or DVBE certification must be maintained in the procurement file.

Click here to access the SB and DVBE Services web page..

3.2.6 Commercially useful function

In accordance with GC section 14837 and M&VC section 999, all SB and DVBE contractors, subcontractors and suppliers that bid on or participate in a state contract, regardless of whether it is a verbal or written solicitation and/or paid for using the CAL-Card as a payment method, must perform a commercially useful function (CUF). In addition, the requirement to determine CUF is not affected by the applicability of the 5 percent SB and/or the DVBE participation preference program. There is no exception to this requirement. Consequently, certified SB, MB and DVBE businesses must perform a CUF. Buyers must determine that a CUF will be performed prior to contract award.

Click here to access the DVBE and SB Program Violations and Sanctions web page.

3.2.7 Performing a Commercially useful function

A certified SB/MB or DVBE is deemed to perform a commercially useful function if the business does all of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out its obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

3.2.8 Broker/Agent Status for DVBE

The State must obtain declarations from certified DVBEs as identified below pursuant to MVC sections 999.2(b) through 999.9. The purpose is to eliminate the benefits of DVBE status from those contractors who are using their certified status and obtaining State funds, but working only as brokers or agents.

3.2.9 Definition of Broker/Agency and Equipment Broker

M&VC Section 999.2(b) provides definitions for the following terms:

- "Broker" or "agent" means any individual or entity, or combination thereof, that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more certified disabled veterans has 51 percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract
- "Equipment broker" means any broker or agent who rents equipment, directly or indirectly, to an awarding department

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3.2.10 Impacted DVBEs

Declarations are to be obtained using a Disabled Veteran Business Enterprise Declaration (STD. 843) when the State intends to transact business:

- With a certified DVBE prime or
- For equipment rental situations, with either a certified DVBE prime or a prime who is using a certified DVBE subcontractor(s)

This pertains to all types of transactions including competitive and non-competitive situations. It applies both when establishing Leveraged Procurement Agreements (LPAs) and when placing orders against LPAs. As stated above in Chapter 3.C2.0, in order to enable the State to verify that a DVBE is not an equipment broker, the DVBE's Federal Tax Information Number must be reported on the STD. 843.

Click here for form STD. 843, Disabled Veteran Business Enterprise Declaration.

3.2.11 Purchase Document Submission

When DVBEs are involved as identified above:

- Departments that submit purchase documents for PD review and approval are to provide a copy of the Std. 843(s)
- Purchase documents submitted to PD in conjunction with emergency

acquisitions must include a copy of the Std. 843(s).

3.2.12 Declaration Information

As long as all other requirements are met (such as commercially useful function), the State can still transact business with a DVBE that is determined to be a broker or agent or who declares that one or more of its DV owners or DV managers does not own at least 51% of the equipment to be rented; however, the DVBE:

- Will not receive the benefit of their certification for the respective transaction (This includes benefit, as applicable, for a DVBE incentive) and
- Participation (attributed to the DVBE that is the broker) will not count towards the awarding department's annual DVBE participation goal

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3.2.13 Notify OSDS

Notify the OSDS, Compliance Unit (375-4940), when the completed Std. 843 identifies that:

- A DVBE is a broker or agent (in Section 2 of the form)
- If rental equipment is to be provided, one or more of the DV owners or DV managers of the DVBE does not own at least 51% of the equipment to be rented (in Section 3 of the form)

Note: When notifying OSDS, provide a copy of the Std. 843. Also provide your contact information.

3.2.14 OSDS Role

The OSDS reviews and certifies DVBEs. To support the requirements of M&VC sections 999.2(b) through 999.9, the OSDS requires all DVBEs (both new applicants and those currently certified) to declare their status as a broker or agent, submit the business enterprise's federal tax returns and – for those who rent equipment to the State – to submit their personal tax returns.

DVBEs who rent equipment to the State and who fail to submit their personal tax returns to OSDS automatically attain broker or agent status and will be considered non-certified for DVBE participation goal purposes.

3.2.15 Consequences

Failure of a DVBE to submit business enterprise federal tax returns to OSDS will:

- Prohibit benefit of DVBE certification in any State contract until compliance occurs
- Result in OSDS decertification of the DVBE
- Prohibit the DVBE from participating in State contracts until the business is in compliance
- Negate DVBE annual three percent (3%) participation credit for any funds expended involving the DVBE

3.2.16 DVBE Responsibility

The law requires that a DVBE that fails to maintain certification requirements shall immediately notify departments with current contracts, and the administering department, of the situation. The notification shall identify the particular certification requirement that has not been maintained (M&VC §999.2(h)).

Topic 3 – Disabled Veteran Business Enterprise Participation Program

3.3.0 Authority

The DVBE participation program for all state contracts is established in PCC section 10115 et seq., M&VC, Section 999 et seq. and CCR, Title 2 section 1896.60 et seq.

3.3.1 Waiving the requirement

A department director or designee has the discretion to waive inclusion of DVBE participation from individual solicitations; however, the 3% annual goal still applies.

Buyers must document the procurement file whenever the DVBE requirement has been waived by the department director or designee. Refer to Topic 5 of this chapter for additional information.

3.3.2 Competitive solicitation and DVBE requirement

Departments must develop DVBE solicitation language to include in their competitive solicitations that complies with the DVBE participation program.

Unless statutorily exempt the DVBE participation requirement applies for all contracts regardless of the solicitation format (RFQ, IFB, RFP) or dollar value. Departments upon the approval of a department director or designee may exempt the DVBE requirement from a solicitation. When this occurs, the department must state in the solicitation that the DVBE requirement is waived.

Example:
"For the purpose of this solicitation, the DVBE participation requirement is waived."

3.3.3 Meeting DVBE program requirements

If the DVBE participation is a requirement of the competitive solicitation then a bidder must document at least one of the following ways to comply with the DVBE program requirements:

- Commit to full DVBE participation.
- Provide an approved Business Utilization Plan.

Refer to Topic 2 of this chapter for CUF requirements.

3.3.4 Meeting DVBE Goals

There are two methods of meeting the goals. If a bidder is a:

1. Non-DVBE: Commit to use DVBEs for not less than three percent of the dollar amount specified in the of the bid or
2. DVBE: Commit to perform not less than the percent of the dollar amount specified in the bid with its own forces or in combination with other DVBEs.

3.3.5 Additional DVBE information

Click here to access the DGS/PD DVBE Participation web page.

Topic 4 - Management of DVBE Contract Requirements

3.4.0 Compliance

The awarding agency shall establish a method of monitoring adherence to the goals. Examples of monitoring methods include:

1. Random verification of contacts made, either for federal, state or local organization contacts, or for DVBE solicitations or bid consideration.
2. Review of multiple bids submitted by the same vendor to verify independent effort and documentation. Evidence of insincere efforts may include:
    - Repeating unsuccessful contacts rather than trying a new contact.
    - Use of contacts that are out of business.
    - Business solicitations not relevant to the contract.
    - Copying of identical DVBE documentation packages.

3.4.1 Post Award Audits

Awarding agencies must investigate and report program violations as follows to the DGS/OSDS. The OSDS may suspend the violator and will forward the investigative report to the Attorney General for possible action. It is unlawful for a person or firm to:

Knowingly and with intent to defraud, fraudulently obtain or retain certification as a DVBE. Willfully and knowingly make a false statement with the intent to defraud, to influence certification of any entity as a DVBE. Willfully and knowingly obstruct an investigation regarding DVBE certification. Knowingly and with intent to defraud, obtaining or attempting to obtain public moneys to which the person is not entitled under the DVBE Participation Program.

Knowingly and with intent to defraud, fraudulently represent DVBE participation in order to obtain or retain a bid preference or state contract. Willfully and knowingly make a statement, declaration or other document, which is false as to any material matter.

Willfully and knowingly aid or assist in the preparation or presentation of a false document. Willfully and knowingly fail to file any declaration or notice required by M&VC Section 999.2.

Establish or cooperate in the establishment of, or exercise control over, a firm found to have violated the above. Violators are guilty of a misdemeanor and may also be liable for a civil penalty. Additionally, violators shall be suspended from bidding on, or participating as a contractor, subcontractor, or supplier in any state contract or project.

3.4.2 Prepare written report

Prior to reporting an alleged violation of PCC Section 10115.10 to the DGS/OSDS awarding agencies must investigate the alleged violation and must prepare a written report of their findings. The written report must also

include a recommendation for action to be taken commensurate with the awarding agency's findings and must be submitted to the DGS/OSDS within 60 days of notification to the awarding agency of the alleged violation.

For contracts with DVBE goals, agencies should include the following language to assist in verifying compliance:

"Contractor agrees to provide verification, in a form agreed to by the state, that DVBE subcontractor participation under this agreement is in compliance with the goals specified at the time of award of contract, or with any subsequent amendment."

3.4.3 Awarding department and Prime Contractor

Pursuant to the Military and Veterans Code Section 999.5, upon completion of an awarded contract for which a commitment to achieve a DVBE goal was made, an awarding department shall require the prime contractor that entered into a subcontract with a DVBE to certify to the awarding department all of the following:

1. The total amount the prime contractor received under the contract.
2. The name and address of the disabled veteran business enterprise that participated in the performance of the contract.
3. The amount each disabled veteran business enterprise received from the prime contractor.
4. That all payments under the contract have been made to the disabled veteran business enterprise. An awarding department shall keep that certification on file. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars ($2,500) and the maximum amount of twenty-five thousand dollars ($25,000). An action for a civil penalty under this subdivision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment.

3.4.4 Substitution of Sub-contractors

After award of a contract, the successful bidder/contractor must use the DVBE subcontractors and/or suppliers proposed in the bid or proposal to the State unless a substitution is requested. A prime contractor may, subject to the approval of the DGS, replace a DVBE identified by the prime contractor in its bid, with another DVBE pursuant to Military and Veterans Code Section 999.10 (a).

3.4.5 Situations allowing substitution of subcontractors

The California Code of Regulations (CCR), Title II section 1896.64(c) provides the current requirements for awarding departments to approve the substitution of a DVBE subcontractor. Departments shall follow the process set forth in 2 CCR section 1896.64(c) when a prime contractor requests the substitution of a DVBE subcontractor with the added provisions that:

- Only another DVBE subcontractor shall be considered to replace a DVBE subcontractor, and
- The awarding department shall obtain final approval to replace a DVBE subcontractor from the DGS.

3.4.6 Required language in solicitations

To ensure prime contractors honor their commitments to use DVBE subcontractors and meet the commitment levels identified in bids, departments must include language in solicitations and contracts that highlight legal requirements. The following suggested or similar language shall be incorporated into solicitations and resulting contracts:

> Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per Military and Veterans Code section 999.5 (e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the Department of General Services (DGS). Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.
>
> Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in M&VC section 999.9; Public Contract Code (PCC) section 10115.10..

3.4.7 Written request to DGS

Requests to replace a DVBE subcontractor must be documented to show that the replacement meets the criteria as specified in the CCR or the PCC. Documentation may include, but is not limited to the request, confirmation of receipt of the request, the subcontractor's objection and request for hearing and the final Statement of Decision. Requests and resulting amendments generated by the DVBE subcontractor substitution should be timely so as not to unreasonably delay the contractor's performance of the contract, resulting in potential claims against the awarding department for delay damages.

Requests are to be sent electronically to osdshelp@dgs.ca.gov. Click on the following link to access the "DVBE Substitution" Form and Instructions: DVBE Substitution Form and Instructions.

Topic 5 – DVBE Incentive and Competitive Solicitations

3.5.0 Definition of the DVBE Incentive

A DVBE incentive is a method that provides an advantage to certain bidders. The incentive is applied during the evaluation process for bids proposing participation of California certified DVBEs. The application of an incentive varies from that of a preference both in when it is incorporated into competitive solicitations and how incentive percentages are determined and calculated. Unlike preferences in which the inclusion is standardized in competitive solicitations and a standard percentage is stipulated, discretion is left to departments to determine incentive percentages for a particular transaction based upon a business strategy to achieve their annual goal.

3.5.1 Regulations

The DVBE incentive regulations are located within the California Code of Regulations (CCR), Title 2, Division 2, Chapter 3, Subchapter 10.6, sections 1896.98, 1896.99.100, and 1896.99.120 and available at the following link: DVBE Regulations.

3.5.2 Opportunity

As stated in the State Contracting Manual (SCM), Volume 2, Chapter 2, departments must offer procurement opportunities to California (CA) certified SB, MB, and DVBE, whenever possible. This includes applying a DVBE incentive during the evaluation process of a competitive solicitation that includes the CA DVBE Program Requirements package and where there are bids that propose participation of CA certified DVBE businesses..

3.5.3 Applicability

The DVBE incentive applies to all competitive solicitations whenever the solicitation includes the DVBE Program Requirement, regardless of format (RFQ, IFB, RFP or phone quotes), delivery method or dollar threshold. If a solicitation includes the DVBE Program Requirement, buyers will use the DGS provided CA DVBE Program Requirements packet whenever conducting competitive solicitations under a department's approved purchasing authority.

3.5.4 DVBE Incentive Exemption Provision

A department may elect to exempt a solicitation from the DVBE Program Requirement and/or the DVBE incentive providing it has obtained the required signed approvals and has meet specified exemption criteria detailed in the DVBE Program Requirements and DVBE Incentive Waiver (GSPD-07-04) form. Buyers must complete and document the form as directed.

Departments having met or exceeded the DVBE 3 percent goal for 2 out of the 3 previous years, may have their highest ranking executive officer or his/her designee elect to exempt contracts from the DVBE incentive. The 3 most current published DGS annual reports are used to document a department's DVBE participation goal.

Click here to access the DGS/PD/ DVBE Incentive web page.
http://www.pd.dgs.ca.gov/dvbe/dvbeincentive.htm
Click here to access the DVBE Incentive Exemption List web page.

3.5.5 Incentive Percentages

Competitive solicitations that include the DVBE participation requirement, regardless of solicitation format (RFQ, IFB, or RFP) delivery method or dollar value must identify in the solicitation the allowable incentive percentage(s) and how evaluation will occur. For awards based on low price, the allowable incentive percentage(s) identified in the solicitation cannot exceed 5% or be less than 1%. For awards based on high points, the incentive cannot exceed 5% or be less than 1% of total possible available points, not including points for socioeconomic incentives or preferences.

The following table pertains to awards based on low price. It is located in the DVBE Program Requirements packet and identifies the percentage(s) used to adjust the net bid price when calculating the DVBE incentive.

Confirmed DVBE Participation of:	DVBE Incentive:
5% and Over	5%
4% - 4.99% inclusive	4%
3% - 3.99% inclusive	3%
2% – 2.99% inclusive	2%
1% - 1.99% inclusive	1%

Should the circumstances of a particular acquisition dictate the need, the packet provides a provision to override the table with another table that either depicts:

- A different scale with varying percentages (within the acceptable range) or
- Single incentive percentage (within the acceptable range)

If the table will be superseded, elsewhere within the solicitation identify the new table and state that it overrides the table in the DVBE Program Requirements. Ensure that the incentive amount does not exceed 5% and is no less than 1% for awards based on low price. Obtain managerial approval and document the rationale for the change in the procurement file.

Note: Prior to a buyer including either of the above variances in the DVBE incentive requirements, the rationale for the change must be documented in the procurement file. The procurement file must also include signed approval for the variance by the department's Procurement and Contracting Officer (PCO) or a designee at a managerial level with sufficient knowledge of the day-to-day procurement activities of the department. If the DGS Procurement Division is conducting the procurement for the department, a copy of the rationale for the change and the appropriate signed approval must be forwarded to PD with the department's requisition.

3.5.6 Allowable Maximum for Low Price Awards

For each solicitation, awarding departments' highest ranking executive officer or his/her designee may elect to place a cap of not less than $100,000 on the incentive and/or cap of not less than $100,000 for all combined incentives and preferences. The department must document this approval in the procurement file.

3.5.7 Bidder Declaration

Written solicitations shall include the Bidder Declaration (GSPD 05-105) to allow bidders to identify if they are a DVBE and identify DVBE subcontractors, their proposed contract function and the corresponding percentage of participation.

Click here to access the Bidder Declaration Narrative.
Click here to access the Bidder Declaration, GSPD 05-105 – Written Version.

When conducting a verbal solicitation, the Bidder Declaration, GSPD 05-106 – Verbal Version and its respective instructions must be provided to the suppliers for completion and must be signed by the prime supplier.

Click here to access the Bidder Declaration, GSPD 05-106 –Verbal Version.

3.5.8 Use of the Bidder Declaration

The Bidder Declaration (GSPD-05-105 or GSPD-05-106, as applicable) will be included in the following procurement approaches:

- Non-competitive
- Competitive
- SB/DVBE Option
- LPA orders
- Government agreements, including Interagency Agreements, when the possibility of using subcontractors exists.
- Purchases exempt by statute and/or policy, when the possibility of using subcontractors exists.

3.5.9 Exceptions

The Bidder Declaration is not required for:

- Amendments that do not involve new or substitute subcontractors.
- Emergency purchases as defined by PCC section 1102 if it is ascertained that the bidder has not been listed as ineligible to transact business with the State, is not a California (CA) certified DVBE and is not using subcontractors.
- Purchases activities using Community Rehabilitation Programs or Prison Industry Authority.
- Verbal solicitations under $5,000 if it is ascertained that the bidder has not been listed as ineligible to transact business with the State, does not possess a CA DVBE certification and the bidder is not using subcontractors.

3.5.10

It is the responsibility of each department's PCO or his/her designee to

Documenting the Results

establish the appropriate protocol within his/her organization to ensure that buyers document the application of the DVBE incentive for the individual department's reporting purposes.

When a department conducts an acquisition under its delegated purchasing authority, the Procurement Summary (GSPD-300) document or a similar document developed by the individual department will be used to document the application of the DVBE incentive. When conducting a formal competitive solicitation (RFP or IFB), the Evaluation and Selection Report format or Procurement Summary (or a similar document developed by the individual department), where appropriate, will be used. When award is based upon value effective methodology (also referred to as high score), the methodology used to determine incentive points must be documented in the procurement file.

Click here to access the Participation Worksheet revised 12/05/07.
Click here to access the Participation Worksheet Instructions revised 12/2007.

If PD is conducting the procurement, it will indicate in the purchase order(s) sent to customer agencies if the application of the DVBE incentive resulted in an award. Buyers who receive this information from PD will process the information according to the reporting protocol established by their department's PCO.

3.5.11 When Is the Incentive Calculated for Low Cost?

If included in the solicitation, the bidder must be compliant with the DVBE program requirements and responsive to all other requirements, including a commercially useful function being performed by the DVBE(s). The incentive is only given to those who are responsive and propose DVBE participation in the resulting purchase document. When award is based on low price, the small business preference is applied first followed by the recycle preference. The DVBE incentive is calculated next with other preferences subsequently applied. However, application of the DVBE incentive cannot displace award to a #1 ranked small business. The calculation is made against the net bid price.

Note: The net bid price is the value of the bid excluding sales and use tax, finance charges, postage and handling charges. Shipping charges are also excluded from the net cost unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect or FOB Destination. The net bid price includes any evaluation corrections and applicable discounts

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3.5.12 How Is The Incentive Calculated?

The following steps are taken to calculate the incentive. Since the percentage of participation can vary between bidders, and thus the incentive percentage can vary, the "calculated incentive amount" will need to be determined for each incentive percentage (see below).

Step	Calculation Action
1	Identify the bidder with the #1 ranked net bid price (the lowest Responsive bid).
2	Based upon the evaluated DVBE participation percentage, determine the corresponding percentage of DVBE incentive for the bidder.
3	Multiply the #1 ranked net bid price by the DVBE incentive percentage to determine the "calculated incentive amount" for the bidder. Compare the "calculated incentive amount" to the incentive maximum (specified percentage or identified cap if any), and use the lower figure as the incentive amount.
4	Subtract the incentive amount from the net bid price of the bidder. If a preference calculation was performed, be sure that the allowable cumulative adjustment is not exceeded.
5	Repeat Steps (as needed) for each qualified bidder.

3.5.13 Low Price Awards

For purposes of the examples, bidders listed with a certified status are deemed eligible for the preference or incentive. DVBE = bidder is eligible for the DVBE incentive; SB = prime is a small business; MB = prime is a microbusiness; SB/NVSA = prime is a small business nonprofit veteran service agency; NS = non-small business prime claiming preference due to qualifying subcontractors.

Example – Incentive Calculation				
Bidder:	**A**	**B**	**C**	**D**
Responsive & responsible	Yes	Yes	Yes	No
Eligible preference	None	SB	MB*	MB
Eligible DVBE incentive	None	3%	5%	None
Net bid price	$8100	$8150	$8300	$8000
Rank	1*	2	3	N/A
Preference amount		$ 405	$ 405	N/A
Subtotal		$7745	$7895	
Rank	3	1*	2	N/A
Incentive percentage		3%	5%	
Incentive amount		$ 243	$ 405	
Evaluated bid price	$8100	$7502	$7490	---
Final rank	3	2	1	N/A

Results:
*Following application of the SB preference the lowest responsive, responsible bidder is a certified small business (Bidder B). However both Bidder B and Bidder C are eligible to receive the DVBE incentive and since Bidder C is also a responsive and responsible SB, the incentive calculation is performed.

Incentive Calculation:

Step	Action
1	Identify the net bid price of the #1 ranked bidder (Bidder A at $8100).
2	Calculate the 5% SB preference for both Bidder B and Bidder C: $8100 X .05 = $405
3	Determine the corresponding percentage of DVBE incentive for the bidder; Bidder B has 3% DVBE participation so the incentive is 3%.
4	Determine the "calculated DVBE incentive amount" for Bidder B by multiplying the #1 ranked bid amount by the incentive amount. ($8100 X .03 = $243). Compare it to the DVBE incentive maximum, if applicable, and use the lower figure.
5	Subtract the SB preference amount and the DVBE incentive amount from the net bid price of Bidder B: $8150 - $405 - $243 = $7502.
6	Repeat steps for Bidder C. Determine the "calculated DVBE incentive amount by multiplying the #1 ranked bid amount by the incentive amount. ($8100 X .05 = 405). Subtract the SB preference amount and the DVBE incentive amount from the net bid of Bidder C: $8300 - $405 - $405 = $7490.

Award: The award is to Bidder C.

Note: CA Code of Regulations 1896.6 and 1896.8 indicate that the small business preference is not applied when the number one ranked bidder is a small business. This is not correct when there is an applicable DVBE incentive, in which case a small business preference would be given to the number one ranked bidder, as well as all other eligible bidders, to determine the appropriate winner. The regulations are being revised to clarify this.

Topic 6 – Small Business Preference and Competitive Solicitations

3.6.0 Preference amount

Departments granted competitive purchasing authority shall offer a 5 percent preference to California (CA) certified small businesses when conducting a competitive solicitation. The SB preference applies for competitive solicitations regardless of the solicitation format (RFQ, IFB, RFP) or dollar value with few exceptions.

Exception: The SB preference is not applicable when the solicitation is being conducted using the "SB/DVBE Option" procurement approach or if the acquisition is less than $5,000.00 and price has been documented to be fair and reasonable.

3.6.1 Applying the preference

1. If SB preference is claimed, it shall be 5% of the net bid price of the lowest responsible bidder meeting specifications. Also see Topic 2 of this chapter for CUF requirements.
   Note: The net bid price is the value of the bid excluding sales and use tax, finance charges, postage and handling charges. Shipping charges are also excluded from the net cost unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect or FOB Destination. The net bid price includes any evaluation corrections and applicable discounts.
2. Subtract this amount from all qualifying bids
3. If no other preferences or the DVBE incentive are applicable, re-rank bids to determine which bidder has the low responsive bid. Award is made to the #1 ranked bid. **Note:** Applying the SB preference formula is for evaluation purposes only and does not change the actual bids offered by any suppliers.
4. Document the procurement file in sufficient detail to support the award. Documenting the file includes recording the SB preference calculations.
   Example:
   Supplier A – Bidder does not qualify for the SB preference: Multiplied the low net bid price by preference factor ($12,500 x .05 = $625)
   Supplier B – Certified SB: Subtracted the preference adjustment from the net bid price ($13,000 - $625 = $12,375)

Results: Since $12,375 is less than $12,500 the award was made to the certified SB (assuming all other conditions of the solicitation were met).

3.6.3 Maximum preference allowed

For awards based on low price, the maximum bid preference allowed individually may not exceed $50,000 for any bid, and the combined cost of preferences granted may not exceed $100,000.00 total. In combination with any other preferences (TACPA, EZA, LAMBRA, SB, non-SB subcontracting participation, recycled, etc), the maximum limit of the combined preferences is 15% of the bid amount and, in no case, more than $100,000.00 per bid, whichever is less.

3.6.4 Tie between suppliers

In the event of a precise tie between the bid of a certified SB and the bid of a certified DVBE that is also a SB, the award shall go to the DVBE that is also a SB. (Reference GC section 14838 (f).Note: Only the recycle preference* can preclude award to a small business that is either ranked #1 or moves into the #1 rank following application of the small business preference. However, one small business can displace another small business for award as a result of application of other preferences and/or the DVBE incentive.

*The recycle preference when award is based on low cost is limited to $50,000 if its application would preclude award to a small business.

3.6.5 SB reporting

Refer to Chapter 12 - Reporting Requirements for SB participation reporting requirements.

Topic 7 – Non-Small Business, Subcontractor Preference and Competitive Solicitation

3.7.0 Preference amount

Departments granted competitive purchasing authority shall offer a 5 percent preference to non-small business(es) (non-SB) that commits 25 percent of its net bid price to CA certified SB subcontractor participation per GC section 14838(b). Application of the preference for which a non-SB bidder may be eligible shall not result in the denial of the award to a SB or MB bidder, per GC section 14838(f).

Exception: The non-SB preference is not applicable when the solicitation is being conducted using the "SB/DVBE Option" procurement approach or if the acquisition is less than $5,000.00 and price has been documented to be fair and reasonable. See Topic 2 of this chapter.

3.7.1 Documenting the commitment

A non-SB supplier claiming 25 percent CA certified SB subcontractor participation must include in a bid response the following information in support of the subcontracting claim:

- Subcontractor name(s)
- Subcontractor address(es)
- Subcontractor phone number(s)
- A description of the work to be performed and/or products supplied and,
- The dollar amount or percentage of the net bid price (as specified in the solicitation) per subcontractor.

Note: Each listed CA certified SB must perform a "commercially useful function" in performance of the contract as defined in GC section 14837(d)(4).

3.7.2 Required solicitation language

Buyers must include non-SB preference language in all written solicitations, except those solicitations conducted as a "SB/DVBE Option" procurement approach or if the acquisition is less than $5,000.00 and price has been documented to be fair and reasonable

When applying the non-SB preference to a solicitation that is not written, the same concepts as required for a written solicitation must be applied and the appropriate documentation must be retained in the procurement file.

Click here to access the required non-SB solicitation language.

3.7.3 Award based on low price

The following is an example of applying the non-SB preference to determine the successful bidder when award is based on low price.

Bidder	Net Bid Price	Bid After Applying SB Preference	Status of Bidder
A	$19,870	$18,894	Non-SB subcontractor preference (commits to 25% certified SB participation)
B	$19,975	$19,975	Does not claim to be SB and does not claim non-SB subcontractor participation.
C	$19,520	$19,520	Does not claim to be SB and does not claim non-SB subcontractor participation.

1. Calculate 5% of the net bid price of the lowest responsible and responsive bid. In this example Bidder C is the lowest responsive bid. Bidder C: Multiply net bid price by the preference factor ($19,520 x .05 = $976). $976 is the preference value to be applied for evaluation purposes to non-SB and SB.
2. Subtract the preference value from the bid amount of Bidder A claiming non-SB subcontractor preference.
   Note: Applying the SB preference formula is for evaluation purposes only and does not change the actual bids offered by any suppliers.
3. Apply the results of No. 2 above as follows:
   Bidder A (non-SB claiming subcontractor preference): Subtract preference value amount from the net bid price of Bidder A. ($19,870 - $976 = $18,894)
   Results: Since $18,894 is less than $19,520 the award is made to Bidder A.

Document the procurement file in sufficient detail to support the award. This includes recording the non-SB preference calculations.
Note: In the case above, if Bidder C was a SB, a preference would not be calculated since a SB that is already ranked #1 cannot be displaced for award due to application of the SB preference.

3.7.5 Ties between suppliers claiming preferences

In the event of a precise tie between a certified SB bid and a non-SB subcontracting with CA certified SB, the award will be made to the certified SB.

In the event of a precise tie between a certified SB bid and a certified DVBE/SB bid, the award will be made to the certified DVBE/SB.

3.7.6 Maximum preference allowed for low price awards	For awards based on low price, the maximum preference allowed to a non-SB business claiming SB subcontracting may not exceed $50,000.00 for any bid. Combined bid preferences (SB, TACPA, LAMBRA, EZA and/or recycled) may not exceed 15% or $100,000.00 whichever is less.
3.7.7 Small Business reporting	Refer to Chapter 12 - Reporting Requirements for SB participation reporting requirements.

Topic 8 – Small Business Nonprofit Veteran Service Agencies and Competitive Solicitations

3.8.0 Preference amount

Departments granted competitive purchasing authority shall offer a 5 percent SB preference to nonprofit veteran service agencies (NVSA) that have been CA certified as a small business nonprofit veteran service agency (SB/NVSA) when conducting a competitive solicitation.

3.8.1 Eligibility

Nonprofit veteran service agencies (NVSA) suppliers will be designated as SB/NVSA certified and identified on the OSDS website. A SB/NVSA must already possess a valid CA certification prior to submitting a response to a competitive solicitation.

3.8.2 Verifying certification status

As with other certifications, buyers shall verify California SB/NVSA certification status by accessing the SB and DVBE Services certified firm inquiry database located on the DGS/PD web page.

The database printout in support of the SB/NVSA must be maintained in the procurement file.

Click here to access the SB and DVBE Services web page.

3.8.3 Applying the preference for awards based on low price

The application of the SB preference is only allowed when an NVSA is acting as the prime bidder. To apply the preference:

1. If the NVSA is claiming an SB preference, it shall be 5% of the lowest responsible bidder meeting specifications.

Note: "Net bid price of the lowest bid price" is the value of the offer excluding sales and use tax, finance charges, postage and handling charges. Shipping charges are also excluded from the net cost unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect or FOB Destination. The net bid price includes any evaluation corrections and applicable discounts.

2. Subtract this amount from all qualifying bids.
3. If no other preferences or the NVSA are applicable, re-rank bids to determine which bidder has the low responsive bid.
   Note: Applying the SB preference formula is for evaluation purposes only and does not change the actual bids offered by any suppliers.

Documenting the file includes recording the SB preference calculations.

Example:
Bidder A – Business that does not quality for SB preference: Multiplied low net bid price by the preference factor.

($12,500 x .05 = $625)

Bidder B – Certified SB: Subtract $625 from the net bid price.
($13,000 - $625 = $12,375)

Results: Since $12,375 is less than $12,500 the award is made to the certified SB (assuming all other conditions of the solicitation were met).

3.8.4 SB/DVBE Option

Buyers may solicit CA certified SB/NVSA when conducting a SB/DVBE Option solicitation in accordance with GC section 14838.5 (a).

3.8.5 Notification of ineligibility

A SB/NVSA is required to provide social security and unemployment and disability benefits for its employees. In the event that the SB/NVSA ceases to be compliant with these requirements, any existing contract awarded as a result of the application of the SB preference must be terminated and the SB/NVSA will be ineligible to contract with the state for two (2) years.

Notification of ineligibility will be disseminated to departments through DGS/PD broadcast bulletins and the information posted to the OSDS website.

Click here to access the DVBE and Small Business Program Violations and Sanctions web page.

3.8.6 Reporting requirements

Contract awards to SB/NVSAs shall be included with the count of SB participation as part of the annual reporting requirements.

Refer to Chapter 12, Topic 4 for SB reporting requirements.

Topic 9 – Competitive Solicitation Preference Programs – TACPA/EZA/LAMBRA

3.9.0 TACPA, EZA and LAMBRA preferences

Departments granted purchasing authority to conduct any type of competitive solicitation for non-IT goods are required to include the following preference program attachments in solicitations valued at more than $100,000.00:

- Target Area Contract Preference Act (TACPA)
- Enterprise Zone Act (EZA)
- Local Agency Military Base Recover Act (LAMBRA)

The TACPA, EZA, and LAMBRA preferences only apply to California based firms that demonstrate and certify under penalty of perjury that at least 50% of the total labor hours for manufactured goods or 90% of the total labor hours for services will be performed in distressed areas.

Bidders may also apply for an additional work force preference of one to four percent if the bidder agrees to hire certain identified persons equal to a percentage of its work force during the contract performance period. (See GC sections 4534.1, 7084(c), and 7118(c).)

3.9.1 TACPA/EZA/ LAMBRA solicitation language (rev 5/11)

Departments shall include language that identifies to bidders that the TACPA, EZA, and LAMBRA preferences are applicable to the competitive solicitation. Recommended solicitation language is as follows:

The following preferences will be granted for this procurement. Bidders wishing to take advantage of these preferences will need to review the following websites and submit the appropriate response with the bid:

- Target Area Contract Preference Act (TACPA)
  http://www.documents.dgs.ca.gov/pd/poliproc/tacpapage.pdf
- Enterprise Zone Act (EZA)
  http://www.documents.dgs.ca.gov/pd/poliproc/ezapage.pdfLocal Agency
- Military Base Recovery Act (LAMBRA)
  http://www.documents.dgs.ca.gov/pd/poliproc/lambrapage.pdf

3.9.2 Recommended dollar value to include language and preference forms

DGS/PD strongly recommends that departments include the solicitation language and preference forms in all competitive solicitations valued at $85,000.00 and greater. If the low responsive bid received from a responsible supplier is more than $100,000.00, and the department did not include the preference requirements in the solicitation, the department must cancel and re-issue the solicitation.

3.9.3 Program descriptions

The table below provides an overview of each preference program:

Preference program	Program description
Target Area Contract Preference Act (TACPA) Click here to access the TACPA preference request (STD.830). Click here to obtain information on Census Track and Block Group Number.	• Pursuant to GC sections 4530 – 4535.3 • Encourages and facilitates job maintenance and job development in distressed and declining areas found in California cities and towns.
Enterprise Zone Act (EZA) Click here to access the EZA preference request (STD.831). Click here to access the California Association of Enterprise Zones	• Pursuant to GC sections 7070 - 7089 • Targets economically distressed areas throughout California. • Provides tax incentives to businesses and allows private sector market forces to revive the local economy. • Enterprise zones are located throughout California.
Local Agency Military Base Recovery Area Act (LAMBRA) Click here to access the LAMBRA preference request (STD.832). Click here to access the California Association of Enterprise Zones	• Pursuant to GC sections 7105 - 7118 • Promotes employment and economic development at designated military bases in the state. • Developed to attract reinvestment and re-employ workers.

3.9.4 Preference procedures

The DGS, Procurement Division reviews all TACPA, EZA, and LAMBRA applications. Departments must submit the following to the DGS, Preference Unit for review:

- Copies of the TACPA (Std. 830), and/or EZA (Std. 831), and/or LAMBRA (Std. 832) application(s)
- Bidder's Summary (DGS/PD 525)
- Manufacturer's Summary (DGS/PD 526)
- Copy of Solicitation
- Delivery Schedule (if applicable)

Preference requests are reviewed and generally processed within 5 working days. Applications that do not have the Bidder's Summary and Manufacturer's Summary forms attached are rejected.

If the contract analyst awards the contract to a vendor as a result of a preference, the contract analyst must notify the Preference Unit. The Preference Unit monitors the contract for compliance. Non-compliant contract performance has the following consequences:

(A) The contractor will pay to the state any difference between the contract amount and what the State's cost would have been if the contract had been properly awarded;
(B) In addition to the amount specified in (A), the contractor will be assessed a penalty in an amount of not more than 10 percent of the total value of the contract; and
(C) The contractor will be ineligible to directly or indirectly transact any business with the State for a period of not less than six months and not more than 36 months.

Note: Prior to the imposition of any sanction under this chapter, the contractor or vendor shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

3.9.5 Maximum preference allowed

The maximum preference allowed individually (TACPA, EZA, or LAMBRA) may not exceed $50,000.00 for any bid. In combination with any other preferences (TACPA, EZA, LAMBRA, SB, non-SB subcontracting participation, recycled, etc), the maximum limit of the combined preferences is 15 percent of the bid amount and, in no case, shall be more than $100,000.00 per bid.

3.9.6 Preference program contact

Click here to access the Dispute Resolution and Preference Program web page.

3.9.7 Sample participation worksheet

Click here to access the Participation Worksheet revised 12/05/07.
Click here to access the Participation Worksheet Instructions revised 12/2007.

Departments are reminded that the use of this form at their optional. The form is being provided only as an example of how a department can collect participation data.

Topic 10 – State Agency Buy Recycled Campaign (SABRC) Program

3.10.0 Utilizing recycled content products

Public Contract Code (PCC) section 12203 requires departments to utilize recycled content products (RCP). A minimum of 50 percent of funds expended in each of the targeted categories must be products meeting the requirements of an RCP. The required post-consumer recycled content varies by SABRC category.

3.10.1 Consider recycled content products

Departments granted any type of purchasing authority and purchasing categories will consider post-consumer recycled products in conducting its purchasing activities. Additional information is located on the CalRecycle's website: http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/Buying.htm

3.10.2 Recycled preference and competitive solicitations

Pursuant to PCC section 12203 (d), to the maximum extent economically feasible in performance of the contract work, each department shall require the businesses with whom it contracts to use recycled content products. Contact the Department of Resources Recycling and Recovery (CalRecycle) at (916) 341-6199 or 341-6524 or SABRC@CalRecycle.ca.gov for information on qualifying SABRC reusable and recycled content products.

3.10.3 Non-Compliant Trash Bag Manufacturers and Wholesalers

Pursuant to Public Resources Code section 42297 (c) (1) and (2), any plastic trash bag supplier, manufacturer or wholesaler, or any of its divisions, subsidiaries, or successors, is ineligible for any State contract or subcontract or renewal, extension or modification of any State contract, if it is not in compliance with the certification requirements of the law. To be compliant, manufacturers must meet either one of the following options:

- Ensure that its plastic trash bags contain a quantity of recycled plastic post consumer material (RPPCM) equal to at least 10 percent of the weight of the regulated bags.
- Ensure that at least 30 percent of the weight of material used in all of its plastic products intended for sale in California is RPPCM.
- Ensure that its plastic trash bag when labeled as biodegradable or compostable meets ASTM D6400 standard for Compostable Plastics.

Manufacturers and wholesalers who are non-compliant with the Plastic Trash Bag Law cannot contract with the State regardless of the product being provided in the contract (i.e. plastic trash bags, janitorial supplies or services, or any other products or services). Additional information, including a listing of compliant and noncompliant trash bag manufacturers and wholesalers is available on the CalRecycle's website at: http://www.calrecycle.ca.gov/buyrecycled/TrashBags/ComplyList.

3.10.4 Supplier certification

Pursuant to PCC section 12205, all purchases of products in the targeted categories must include a written certification by the business/supplier, under penalty of perjury as to the recycled content percentage. The supplier may certify that the product or material contains zero recycled content.

Click here to access the Post-Consumer Recycled-Content Certification form (CIWMB 74). This certification can be waived if the post-consumer recycled content can be verified by other written means such as product label, packaging, catalog, manufacturer/vendor website, product advertisement.

For additional information regarding the State Agency Buy Recycled Campaign refer to the CalRecycle website at: http://www.calrecycle.ca.gov/buyrecycled/StateAgency/

3.10.5 Tire Recycle Preference

Per Public Resources Code (PRC) section 42890 et seq., a 5 percent (5%) recycle preference is available for recycled tire products (also known as tire-derived products). Recycled tire products are reportable for SABRC.

3.10.6 Tire preference evaluation

When evaluating bids, application of the tire recycle preference is only applicable if both virgin products and recycled content products (RCP) are acceptable for a line item and the products bid are similar. Should only recycled content products be bid, then the preference is not calculated.

Should a solicitation include a mix of line items containing both qualified and non-qualified tire-derived RCPs, the preference shall only apply to qualified line items. If line item awards are made, the preference shall be applied, to the extent possible, so as to maximize award to bidders proposing recycled tire products (PRC section 42892).

Note: Virgin products refer to products not qualified as a recycled content product.

3.10.7 Tire Preference calculation

The following pertains to the recycled tire product preference for awards based on low price. Only responsive bids from responsible bidders are eligible for the preference.

1. The recycle preference is calculated subsequent to price adjustment for the small business preference and prior to application of the DVBE incentive.
2. The 5 percent preference is calculated against the net bid price of the lowest responsive bid proposing a virgin product and subtracted from eligible bids proposing recycle content products.
3. The preference amount cannot exceed $100,000.
4. The preference cannot exceed $50,000 if its application would preclude award to a small business.
5. Should a bidder be eligible for a recycle preference in addition to another preference(s) and/or the DVBE incentive, the cumulative adjustment is the lower of 15 percent or $100,000.

3.10.8 Example of Utilizing recycled content products	A department is purchasing $20,000 of printing and writing papers for their copy machines. At least $10,000 of the paper must have 30% recycled content by weight. The other $10,000 may be any mix of recycled or non-recycled products. Additional information is located on the CalRecycle's website: http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/Buying.htm
3.10.9 Recycled product reporting	Refer to Chapter 12- Reporting Requirements for recycled product reporting requirements.

Topic 11 – Environmentally Preferable Purchasing (aka: Sustainability or Buying Green)

3.11.0 Definition

"Environmentally preferable purchasing" as defined in PCC section 12400 means the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose.

This comparison shall take into consideration, to the extent feasible, raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, product performance, durability, safety, the needs of the purchaser, and cost.

3.11.1 Policy

State Departments are to consider the health and environmental impacts of goods and services in all their procurements and acquisitions and, comply with the Environmentally Preferable Purchasing (EPP) Act as mandated by PCC sections 12400-12404.

3.11.2 Department Requirements

The State of California promotes the procurement of sustainable products that are designed to reduce adverse impacts to the environment and human health. Departments shall consider all health and environmental factors as early as possible in their acquisition planning and decision-making processes and shall ensure that the responsibility for EPP is shared among procurement personnel, managers, buyers, contract specialists and all others who procure goods and services for the state.

3.11.3 EPP Best Practices

DGS EPP Buying Green Guide provides best practices, guidelines and specifications including third party certification requirements and procedures for the comparison of the overall values of goods or services. Departments should use the EPP Buying Green Guide to assist procurement staff in making environmentally preferable purchases.

Click here to access the California Environmentally Preferable Purchasing Web page for the EPP Buying Green Guide.

Topic 12 – Infrastructure-Related Bond Act of 2006

3.12.0 Opportunity

In 2006, the People of California enacted the infrastructure-related bond acts of 2006 (I-Bonds) authorizing the issuance of $42.7 billion in bonds for five distinct infrastructure programs: transportation (proposition 1B), housing (proposition 1C), education (proposition 1D), flood control (proposition 1E), and natural resources (proposition 84). Collectively, these bonds fund more than 60 programs within the state and are the first stage of the twenty-year California Strategic Growth Plan.

In keeping with the State's commitment to SB, MB, and DVBE, Assembly Bill 761 was signed into law (added GC section 14838.1) ensuring that SB, MB, and DVBE are given an opportunity to participate in, and be a successful part of the State's infrastructure construction.

3.12.1 Contract Requirements

In conformity to GC section 14838.1, each state department awarding contracts directly to contractors with proceeds of the I-Bonds shall do all of the following:

- Establish a twenty-five percent SB participation goal in all I-Bond financed contracts awarded directly from the department to the contractor.
- Advertise all opportunities to bid on I-Bond funded contracts in the California State Contracts Register (CSCR). Contract announcements Opportunities* published in the CSCR must use the following numbering convention:
    - For Proposition 1B: if your department is using funds from the *Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006*, begin your contract opportunity number with **Bond06-1B HWY** followed by your department's unique identifying number. For example: Bond06-1B HWY-08-316604
    - For Proposition 1C: if your department is using funds from the *Housing and Emergency Shelter Trust Fund Act of 2006*, begin your contract opportunity number with **Bond06-1C HOUSE** followed by your department's unique identifying number. For example: Bond06-1C HOUSE-08-316604
    - For Proposition 1D: if your department is using funds from the *Kindergarten-University Public Education Facilities Bond Act of 2006*, begin your contract opportunity number with **Bond06-1D EDU** followed by your department's unique identifying number. For example: Bond06-1D EDU-C0837010
    - For Proposition 1E: if your department is using funds from the *Disaster Preparedness and Flood Prevention Bond Act of 2006*, begin your contract opportunity number with **Bond06-1E DIS** followed by your department's unique identifying number. For example: Bond06-1E DIS-08-316604
    - For Proposition 84: if your department is using funds from the *Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006*, begin your contract opportunity number with **Bond06-84 WATER** followed by your department's unique identifying number. For example: Bond06-84 WATER-10088675
- Include in the advertisement an Internet link to information for prospective bidders, including at minimum, general bidding procedures and proper

procedures for preparing a bid for I-Bond funded contracts.

***Note:** The CSCR uses "contract number" rather than "opportunity number."

3.12.2 Participation Reporting

State departments must report the SB, MB, and DVBE participation in their I-Bond funded contracts beginning with fiscal year 2008-2009. Each department, on or before August 1, 2009, and annually thereafter, will complete and submit a STD 810A Infrastructure Bond Acts of 2006 Activity Report. Report coordinators may contact the DGS reports coordinator at osdchelp@dgs.ca.gov for assistance.

3.12.3 SB Advocate

There is no additional requirement to GC section 14846, for departments contracting directly with the proceeds of I-Bond funding to designate a SB advocate. In accordance with section 14846, departments must assure that payments due on a contract with a SB are made promptly as provided for in GC Section 927 et seq.

3.12.4 SB Preference

I-Bond funded contracts shall offer a five percent preference to SBs when evaluating bids. For more information on the application of the SB preference, see Chapter 3 of this Manual..

3.12.5 SB and DVBE Requirements

For requirements and definitions of California-Certified SB, MB, and DVBE, see Section 3 of this volume, or visit OSDS Website.

3.12.6 SB/DVBE Option

The SB/DVBE option, GC section 14838.5 and 14838.7, shall not be allowed for I-Bond funded projects directly contracted by a state department.

3.12.7 NCB Contracts

The use of non-competitive bid contracting with I-Bond financing as defined in PCC sections 10301 and 12102 shall not be allowed for I-Bond funded projects directly contracted by a state department.

3.12.8 LPA Contracts

The use of leveraged procurement agreements including master agreements, California Multiple Award Schedules, statewide contracts, the Software Licensing Program, or the State Price Schedules shall not be allowed for I-Bond funded projects directly contracted by a state department.

3.12.9 Further Assistance

For further assistance with I-Bond funded contracting, please contact:

- Your department's budgeting or capital outlay office to determine whether you department received funding form the infrastructure-Related Bond Acts of 2006.
- The Office of Small Business and Disabled Veteran Services for general assistance at 916-375-4940, or via email: osdchelp@dgs.ca.gov

- DGS procurement Division for non-IT goods and IT goods and services: ppo@dgs.ca.gov
- DGS Office of Legal Services for non-IT services and public works: http://www.ols.dgs.ca.gov/Contactus/default.htm
- DGS Real Estate Services Division (RESD): DCalvo@dgs.ca.gov.

Chapter 4

Competitive Solicitations

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Chapter 4

Competitive Solicitations

Overview

Introduction

This chapter describes the requirements relative to conducting competitive solicitations under a department's approved purchasing authority for non-IT goods.

Discussion points include supplier treatment, advertising requirements, procurement methodologies, and developing solicitations. Also included are descriptions of evaluation and selection methods and use of the SB/DVBE Option for acquiring non-IT goods.

Chapter 4 only addresses those solicitation methods for competitive bids and does not include achieving best value with LPA purchasing authority. Refer to Chapter 6 – Leveraged Procurement Agreements for purchasing authority requirements for using LPA.

This chapter also does not address non-IT service competitive solicitations, goods or IT services solicitations. Refer to the SCM, Vol. 1 for acquisitions of non-IT services outside of the LPA framework. Refer to SCM, Vol. 3 for acquisitions of IT goods and IT services.

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Section A

The Basics of Competition

Overview

Introduction

Competition is one of the basic tenets in State procurement and contracting. The acquired products cause the nature of effective competition to vary. Depending upon decisions made during the planning phase, the procurement may be informal or formal, and the selected competition method may be a phone call or a written solicitation document, distributed by fax, electronic mail or regular mail, depending on the procurement value. Unless otherwise provided by law, procurement activities must be conducted in an open and fair environment that promotes competition among prospective suppliers.

The competitive solicitation approaches described in this chapter are applicable to acquisitions of non-IT goods. Buyers are reminded to refer to the SCM, Vol. 1 for policies and procedures for conducting competitive non-IT services contracting solicitations and SCM Vol. 3 for IT goods and services.

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This section contains the following topics:

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Topic 1 – General Requirements

4.A1.0 Procurement standards

Departments granted purchasing authority to conduct competitive procurements for non-IT goods will do so in a manner that promotes open, fair and equal competition among prospective suppliers.

4.A1.1 Supplier treatment

Buyers conducting competitive procurements shall provide qualified suppliers with a fair opportunity to participate in the competitive solicitation process, stimulating competition in a manner conducive to sound State fiscal practices emphasizing the elimination of favoritism, fraud, and corruption in awarding contracts.

4.A1.2 Per transaction thresholds

Competitive procurements conducted under purchasing authority for non-IT goods may not exceed the dollar thresholds as authorized by DGS/PD to the individual department. Dollar thresholds exclude sales and use tax, finance charges, postage and handling.

Shipping charges are included in the dollar threshold limits in the evaluation when the freight terms are FOB Origin, Freight Collect or FOB Destination, Freight Prepaid/Add.

When a transaction exceeds or expected to exceed a department's approved authority threshold, the department must prepare and submit a Purchase Estimate (STD.66) to DGS/PD for processing.

Refer to Chapter 1 – Purchasing Authority to review purchasing authority scope.

4.A1.3 Maintaining confidentiality is paramount

During the development of a competitive solicitation, information as to the development of the solicitation is confidential. Prior to the public opening of bids, any bids received are to remain confidential. During the evaluation of bids received in response to a competitive solicitation and prior to contract award information relating to bid evaluation is confidential.

Pursuant to Public Contract Code sections 10304 and 10305, bids received in response to a competitive solicitation are publicly opened at the time noted in the solicitation and are available for immediate inspection upon bid opening.

Although a rejected bid may have pages marked "Confidential" or "Proprietary", the bid is a public record subject to release in response to a public records request. In order to prevent the release of bid documents that are marked "confidential" or "proprietary," the bidder must obtain a court order enjoining the state from release of the document.

Any disclosure of confidential information by the bidder during the procurement process is a basis for rejecting the bidder's proposal and finding the bidder ineligible. Any disclosure of confidential information by a State employee during the procurement process is a basis for disciplinary action, including dismissal from State employment, as provided by Government Code (GC) section 19570 et seq. Total confidentiality during the procurement process is vital to preserve the integrity of the process. It cannot be over emphasized.

Click here to access a sample confidentiality policy. Word PDF

Click here to access a sample confidentiality statement. Word PDF

4.A1.4 Who should sign confidentiality statements

Competitive solicitations can involve a team, internal and/or external to the department in addition to the buyer, in the solicitation development, evaluation, and selection process, as well as other personnel on a "need to know" basis. All of these personnel must sign confidentiality statements. It is required that the signed statements must be retained within the procurement file.

A confidentiality statement should include statements that the person signing the confidentiality statement:

- Certifies that he/she has no personal or financial interest and no present or past employment or activity which would be incompatible with my participation in any activity related to the planning or procurement processes for the project or procurement
- Agrees that no gift, benefit, gratuity or consideration will be accepted, or a personal or financial interest in a party who is bidding/proposing, or associated with a bidder/proposer initiated on a project or procurement
- Certifies that all information concerning the planning, processes, development or procedures of the project or procurement will be kept confidential and secure
- Certifies that no copy or disclosure of information will be made to any other party who has not signed a copy of this confidentiality agreement
- Understands that the information to be kept confidential includes, but is not limited to, specifications, administrative requirements, and terms and conditions, and includes concepts and discussions as well as written or electronic materials
- Understands that if he/she leaves the project or procurement before it ends, that all project or procurement information must still be kept confidential
- Agrees that any instructions provided by the project or procurement relating to the confidentiality of Project information will be followed
- Fully understand that any unauthorized disclosure makes may be a basis for civil or criminal penalties and/or disciplinary action (including dismissal for State employees)
- Agrees to immediately advise the buyer in the event that he/she either learns or has reason to believe that any person who has access to confidential project or procurement information has or intends to disclose that information in violation of this agreement

The person signing the confidentiality statement should also provide the following information:

- Date
- Signature
- Printed Name
- Title
- Organization
- Telephone Number
- Fax Number

Click here for Sample Confidentiality Statement

4.A1.5 Confidentiality of data made available to the contractor

Contracts and bid documents may include a version of the following paragraph customized as appropriate to the situation.

All financial, statistical, personal, technical, and other information relating to the State's operations, which are designated confidential by the State and made available to the contractor in order to carry out this contract, shall be protected by the contractor from unauthorized use and disclosure by the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure will be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the contractor's data and information are deemed by the State to be appropriate, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information that is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the contractor outside the scope of this Contract, or is rightfully obtained from third parties.

4.A1.6 Supplier recrimination will not be tolerated

Departments shall not condone recriminations against suppliers who request information regarding a bid response or who request information regarding specifications required in any contract.

4.A1.7 File document-tation for competitive solicitations

Click here to access the recommended file documentation list for non-IT goods competitive solicitations.

Click here to access the file documentation list for transactions under $5,000.00.

Topic 2 – Developing Supplier Resources

4.A2.0 Mailing lists

Departments should establish mailing lists using a variety of means to locate potential suppliers. Departments should vary the use of suppliers they select competition to broaden their supplier base as well as solicit certified SB's and certified DVBEs whenever possible. Resources available to departments to identify and/or establish mail lists are:

- Phone books
- Internet search
- Local trade unions
- Chamber of commerce
- Industry listings
- LPA databases
- Certified SB and DVBE firms database
- Recommendations from customers

4.A2.1 Request for Interest

A Request for Interest (RFI) may be used to separate those suppliers who intend to participate in an upcoming solicitation from those who have no interest in participating. RFIs are typically used when there is an excessively large pool of interested suppliers.

4.A2.2 RFI components

The RFI should:

- Be short, concise and to the point,
- Include the solicitation number and title,
- Include a general description of the equipment or services to be solicited,
- Include estimated quantities, features, general time frames, any pertinent geographic information, buyer's name and telephone number, etc.
- Not provide or ask for any cost information as such information could create an unfair bidding environment,
- Provide space for interested bidders to provide contact name, address, telephone number and submittal date, and
- Include where and how to submit the response to the RFI.

4.A2.3 Purpose of RFI

The RFI establishes the mailing list for buyers to use when distributing a solicitation. Buyers should provide a copy of the solicitation to all responding suppliers. The RFI and the bidders list must be retained in the procurement file.

4.A2.4 Request for Information

A Request for Information may also be used to "survey" the marketplace to understand what products or services may be available and to approximate the dollars that may be needed for procurement.

Topic 3 – Advertising Requirements

4.A3.0 California State Contracts Register

The California State Contracts Register (CSCR) was established to maximize competition through advertising State purchasing and contracting opportunities. See GC 14825 et seq.
Click here to access the https://www.bidsync.com/ web page.

4.A3.1 When advertising is required

Departments must advertise solicitations in the CSCR. A copy of the published advertisement must be included within the procurement file. The table below describes the requirements for advertisements.

If the purchase is classified:	And the dollar threshold is valued	Then advertising is
Non-IT goods	$5,000.00 - $50,000.00	Recommended
Non-IT goods	In excess of $50,000.00	Required

4.A3.2 Publish date versus solicitation release date

Solicitations shall not be released prior to publication in the CSCR and must be released after or simultaneously with the contract advertisement publication.

4.A3.3 Publish date versus bid or proposal due date

Bid opportunities must be advertised for at least 10 working days prior to the bid opening date per GC 14827.2. Agencies shall not release an Invitation for Bid (IFB) prior to publication in the CSCR.

4.A3.4 SB/DVBE Option

GC section 14838.5(a) eliminates the advertising requirement for transactions valued from $5,000.01 to $249,999.99 awarded to a certified SB or a certified DVBE when conducting a SB/DVBE Option solicitation.

Refer to Section B, Topic 5 of this chapter for additional information.

4.A3.5 Contract advertising exemption

Departments can be granted an exemption from advertising in the CSCR if a Contract Advertising Exemption Request (STD.821) is submitted to the DGS/PD for review and approval. This form is used for two purposes:

- When a competitive solicitation is requested to be exempted from advertising or,
- When a competitive solicitation is neither feasible nor possible.

Click here to access the STD.821.

4.A3.6 Additional exemptions by statute or policy

There are types and/or categories of purchases that may be awarded without advertising or competitive bidding because of being exempt by statute or policy. Transactions that are exempt from advertising or competitive bidding either by statute or policy do not require an NCB contract justification and/or a STD.821. A statement must be documented in the procurement file to identify the basis of the exemption.

Refer to Chapter 5, Topic 6 for examples of documenting an exempted transaction.

For a list of these types and/or categories of purchases, refer to Chapter 5 of this manual.

Section B

The Solicitation

Overview

Introduction

The solicitation documents the procurement process and includes the solicitation and contract requirements. It is the guiding document to insure suppliers submit responsive bids and that the procurement is successful.

Contents

This section contains the following topics:

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Topic 1 – Solicitation Approaches

4.B1.0 Informal vs. formal

Solicitations are purchase documents used to request quotes, bids, or proposals from suppliers and characterized as either informal or formal. Informal solicitations are generally straightforward or uncomplicated and usually of lower dollar value and may be conducted using Request for Quotations (RFQ) or Invitation for Bids (IFB), depending on the degree of specific language needed. Formal solicitations are more complicated, higher in risk and usually of higher dollar value and are conducted using the IFB, depending on the degree of specific language needed. The following provides the dollar thresholds for distinguishing between informal and formal non-IT goods solicitations.

The following table provides the dollar thresholds for distinguishing between informal and formal solicitations.

Procurement Type	Informal Solicitation	Formal Solicitation
Non-IT goods	$100,000.00 and less	More than $100,000.00

4.B1.1 Phone quotes

Informal solicitations may be conducted by phone. This solicitation method requires preparation of a “script” or narrative of the quote requirements so that each bidder is equally informed and quotes may be evaluated fairly. The

"script" must include referring bidders to the PD web page to read the current bidder instructions and applicable general provisions associated with the purchase. The quotes received over the phone are documented using the recommended Bid/Quote Worksheet. Both the script and the bid/quote worksheet must be retained in the procurement file.

Note: Phone quotes would not be an acceptable method for conducting solicitations if the service portion (set-up, installation, etc.) of the purchase exceeds $4,999.99 for non-IT goods because of the advertising requirements.

Click here to access the Bid/Quote Worksheet. Word PDF

4.B1.2 Written solicitation (rev 6/11)

Buyers may conduct informal solicitations using written solicitation formats. Any solicitations advertised in the CSCR must be written. See Section A, Topic 3 of this chapter for advertising requirements.

Note: All formal solicitations must be written and posted on the CSCR.

Written solicitations may be distributed by fax, mail, electronically or by other means such as a supplier picking up the solicitation in person. It is recommended that whatever delivery method is used, the activity be documented in the procurement file.

See examples of the Request for Quotation (RFQ) and Invitation for Bid (IFB) found in this chapter. Also, refer to Section A, Topic 1 of this chapter for file documentation requirements.

4.B1.3 Negotiations

The Department of General Services (DGS) can use a negotiation process under certain circumstances when procuring or contracting for goods, services, information technology, and telecommunications. See Chapter 2, Topic 6 for more information regarding negotiation.

4.B1.4 Supplier signatures

For any written solicitation, supplier quote and/or bid responses regardless of dollar value, solicitation format or delivery method (i.e., fax, electronically, mailed or delivered in person) must include the signature of an authorized supplier representative of the bidder.

"Faxed" signatures are acceptable for solicitation as allowed by the pertinent delivery method. Faxing would not apply in a formal value-effective solicitation response that requires separate volumes for administrative/technical and cost (which must be separately sealed until the administrative and technical requirements are evaluated).

Exception: Supplier signatures are not required if the solicitation is conducted as a phone quote, although the buyer must document the supplier representative name providing the quote.

Topic 2 – Developing the Competitive Solicitation

4.B2.0 Solicitations should be clear and concise

All solicitations regardless of format (phone quote, RFQ or IFB) must clearly state the needs or business requirements of the department in order for a supplier to weigh the risks and price the purchase.

Concise, logical wording in precise terms, stating the supplier's obligations as well as those of the department should be used. Use clear, simple English as much as possible.

The words "shall" and "must" identify mandatory (essential) requirements within a solicitation. The words "should" and "may" identify optional requirements sometimes referred to as desirable requirements.

4.B2.1 Avoid writing restrictive requirements

Departments may not include requirements in solicitations that restrict the bidding to a single supplier. Buyers can avoid restrictive requirements by:

- Including only essential requirements
- Avoiding restrictive or impractical requirements such as those that are nonessential or obsolete
- Carefully checking delivery requirements to ensure the turnaround time from supplier's receipt of order to delivery is not too restrictive or limiting.
- Defining requirements to promote and encourage bidders to bid standard items or standard service where possible.
- Not specifying a particular brand name, product or a feature of a product that is peculiar to one manufacturer, except for reference purposes
- Not dictating detailed design solutions prematurely.
- Allowing sufficient time from the solicitation mail date to the bid due date or first key action date to provide suppliers time to review and consider the requirements, prepare a response, and mail the response back.

4.B2.2 Common elements of written solicitations

All written solicitations must contain the following elements:

- The date and time suppliers' responses are due.
- Space for the signature of an authorized supplier representative that can bind the company contractually
- Information on how the bid responses are to be submitted. (i.e., sealed envelope with the solicitation number and due date and time on the outside of the sealed package)
- Any attachments which are included and are required to be returned by bidders such as:
  - Preference program forms (i.e., TACPA/EZA/LAMBRA)
  - DVBE participation program forms
  - Post Consumer Content Form
- Administrative requirements, as applicable
- Technical requirements, as applicable
- Cost forms or clear indication of cost placement in the solicitation
- Evaluation information (basis for award)

The IFB model referenced in Section B, Topic 4 of this Chapter may be modified and used to suit departments' needs.

4.B2.3 Faxing bid responses (rev 5/11)

The following paragraph must be included in all written competitive solicitations when a department allows suppliers to fax their bids:

"Facsimile machine bids will be considered only if they are sent to (office fax number) for solicitations originating from the (department office location). Bids sent to any other (department unit name) fax number will not be considered. To be considered, all pages of the faxed bid that are received prior to the bid opening time specified in the bid will be considered "the complete bid". Please be advised that there is a heavy demand placed on the fax machine receiving bids and the State assumes no responsibility if a supplier cannot transmit their bid via fax, if the entire bid is not received prior to the bid opening time."

4.B2.4 Preference programs

Departments must include the following business participation programs requirements in competitive solicitations with an estimated dollar value of $100,000:

- TACPA
- EZA
- LAMBRA

It is strongly recommended that the solicitation language and preference forms be included in all competitive solicitations valued at $85,000 and greater. If the low responsive bid received from a responsible supplier is $100,000, and the preference requirements were not included in the solicitation, the solicitation must be canceled and re-issued.

Refer to Chapter 3, Topic 7 for further information.

4.B2.5 DVBE Participation

Departments are reminded to develop DVBE language to include in their solicitations that complies with the DVBE participation program. Refer to Chapter 3, for further information.

Departments upon the approval of a department director or designee may waive the DVBE requirement from any individual competitive solicitation. When this occurs, the department must note within the solicitation that the DVBE requirement is being waived. Click here for the DVBE Waiver

Note: Whenever the DVBE participation requirement is not included in a solicitation, the buyer must provide documentation within the procurement file to support that the department director or designee has authorized the exemption. This requirement is not applicable if the SB/DVBE Option procurement approach is used.

4.B2.6 Small business participation

Departments are reminded to make every effort to seek out and include certified small businesses in procurement efforts and to include the 5% small business preference and non-SB subcontractor preference in all solicitations, except when soliciting CA certified SBs and DVBEs under the SB/DVBE Option. Refer to Chapter 3, Topic 2 for additional information and Topic 4 for information on how to apply these preferences in evaluations.

4.B2.7 Samples

The practice of obtaining samples from suppliers prior to contract award is not recommended, unless it is a requirement of the solicitation process. If items are needed for review prior to award for demonstration or pre-purchase testing, the solicitation must so state and be noted with the information that the State is not obligated for the cost of the items or for their return. Extreme caution should be taken to ensure that the solicitation response does not contain terms or conditions that would result in the automatic purchase of the item(s) being tested.

4.B2.8 Clarifications or changes to a solicitation (Addenda)

Clarifications or changes to a solicitation must be transmitted to all participating bidders by an addendum. An addendum documents all changes or revisions to the solicitation and shall include at a minimum the following information:

Addendum number, (must be numbered consecutively), solicitation title and solicitation number

Indication of where the revision or change is occurring in the solicitation. This may include deleting and inserting changed solicitation pages.

Revised or unchanged quote/bid opening date

A solicitation may be modified prior to quote/bid response due date. The addendum may be accomplished verbally (for phone quotes only), or written to coincide with the original solicitation format.

Example:

If a solicitation is conducted by phone then the modification may also be conducted by phone. The addenda information must be documented as part of a phone script and must become part of the procurement file.

Example**:**

An addendum to a written solicitation cannot be conducted by phone. If the solicitation is released in written format then any addenda to the solicitation must be in writing.

Note: An addendum to a solicitation shall be issued within a reasonable time before the bid opening date to allow prospective bidders sufficient time to prepare their bids. If, in the buyer's judgment, the addendum is significant and bidders will need more time to submit a responsive bid, then the date and time for the bid opening must be extended in the addendum.

Topic 3 – Request for Quotation Specific to Non-IT Solicitations

4.B3.0 Request for Quotation (RFQ)

The most common written solicitation format used for conducting informal competitive solicitations is the Request for Quotation (RFQ). The RFQ is a straightforward procurement format identifying by item and quantity what is needed by item, quantity, and price.

4.B3.1 Solicitation format

Click here to access the RFQ for Goods solicitation format. Word PDF

4.B3.2 Required language

The following solicitation language must be considered and addressed as applicable in a buyer's solicitation using the RFQ format:

- Identify Bidder Instructions and applicable General Provisions for the solicitation
- Refer to Section B, Topic 2 of this chapter identifying requirements of faxing bid responses.
- Include language addressing the socioeconomic and environmental programs as applicable (SB, DVBE, TACPA/EZA/LAMBRA, etc). Refer to Chapter 3.

4.B3.3 Elements of the solicitation

Click here to access the Elements of a Competitive Solicitation for non-IT Goods.

4.B3.4 Documenting the results

The buyer must document quotes received by using the recommended Bid/Quote Worksheet or using a document containing similar information. The bid/quote worksheet or similar document must be retained in the procurement file.

Click here to access the Bid/Quote Worksheet. Word PDF

Refer to information block 4.A1.7 of this chapter to access the competitive solicitation file documentation recommendations.

4.B3.5 Contract award

Contract award resulting from the RFQ process will be to the responsible bidder that submits a responsive bid that is the lowest cost after application of any preference requirements (SB, TACPA/EZA/LAMBRA, recycle, etc) incentive (DVBE) or discounts, if applicable.

Topic 4 – Invitation for Bid Specification to Non-IT Solicitations

4.B4.0 Invitation for Bid (IFB)

The Invitation for Bid (IFB) is a written procurement method used to solicit bid responses for non-IT goods exceeding $100,000.00.

4.B4.1 Solicitation format

For non-IT goods procurements exceeding $100,000.00, the use of the IFB format is required. Refer to sample IFB document in the link below.
Click here to access the suggested IFB format for non-IT goods. Word PDF

4.B4.2 Required language

The following solicitation language must be considered and addressed as applicable in a buyer's solicitation using the IFB format:

- Identifying Bidder Instructions and applicable General Provisions for the solicitation Refer to Section B, Topic 5 of this chapter
- Identifying requirements of faxing bid responses. Refer to Section B, Topic 2 of this chapter.
- Including language addressing the socioeconomic and environmental programs as applicable (SB, DVBE, recycled, TACPA/EZA/LAMBRA, etc). Refer to Chapter 3.

4.B4.3 Documenting the results

Transactions exceeding $100,000.00, the evaluation and selection may be documented using the Procurement Summary form or the department may develop its own format as long as the pertinent facts are included. This document must provide a chronology of the events that occurred during the solicitation process such as:

- Date of advertisement
- Names of bidders responding
- Date solicitation released

Click here to access a Procurement Summary Document. Word PDF

Refer to information block 4.A1.5 of this chapter to access the competitive solicitation file documentation recommendations.

4.B4.4 Contract award

Contract award resulting from this IFB process will be to the responsible bidder that submits a responsive bid that is the lowest cost after application of any preference (SB, TACPA/EZA/LAMBRA, recycle, etc) or incentive, if applicable.

Topic 5 – SB/DVBE Option

4.B5.0 SB/DVBE Option

GC section 14838.5 (a) and (b) allows departments to solicit CA certified SB and DVBE suppliers and award purchase documents valued from $5,000.01 to $249,999.99, provided the department has obtained responsive bids from at least two responsible bidders.

4.B5.1 Making use of the option

A department must have approved purchasing authority for non-IT goods to use the SB/DVBE Option.

Note: Buyers are reminded that supplier participation is limited to only CA certified SB or DVBE suppliers. This procurement approach does not provide for the inclusion of non-SB suppliers claiming SB subcontractor participation.

4.B5.2 Requirements

Departments conducting solicitations using this procurement category must verify that participants are certified either SB or DVBE. This verification must be documented in the procurement file. Refer to Topic 2 and Topic 3 of Chapter 3 for additional information.

4.B5.3 Solicitation requirements

Departments granted SB/DVBE Option purchasing authority for non-IT goods are authorized to conduct SB/DVBE Option competitive solicitations under GC section 14838.5 (a) and (b) as follows:

- Create the solicitation as described in this chapter.
- Release the solicitation package only to certified SB or DVBE businesses.
- SB or DVBE certification status must be verified through the OSDS Internet site.
- Contract award may be made upon receipt of responsive price quotations from at least two (2) responsible certified SB or DVBE businesses and award must be made based upon the solicitation format used.
- The procurement file must be documented to support the contract award and the action taken, including copies of SB or DVBE business certification as printed from the OSDS search database.

Topic 6 – Bidder Instructions and Required Contract Language

4.B6.0 Bidder Instructions

The State's Bidder Instructions (GSPD-451) must be included or incorporated by reference in all competitive solicitations (written or verbal) for non-IT goods

The Bidder Instructions describe to potential bidders how to provide a responsive bid to the department.

Click here to access the State's Bidder Instructions (GSPD-451).

4.B6.1 General Provisions

The State's General Provisions (GSPD-401 non-IT commodities) shall be used or incorporated by reference in all competitive solicitations and purchase documents for non-IT goods (written or verbal) valued in excess of $4,999.99. A department may supplement the General Provisions with additional provisions tailored to a specific solicitation. There are to be absolutely no changes made to the General Provisions without prior approval of DGS/PD.

Click here to access the State's General Provisions (GSPD-401 non-IT commodities).

4.B6.2 Required clauses for transactions less than $5,000 and supplier's written acceptance

DGS/PD recommends that departments use the State's General Provisions on transactions valued less than $5,000.00.

If departments elect not to include and/or reference the General Provisions, then departments are required to obtain written confirmation, prior to award, that the supplier will abide by the following required contract provisions:

- Americans with Disabilities Act (ADA)
- Non-Discrimination and Statement of Compliance
- Drug-Free Workplace Certification
- Forced, Convict, & Indentured Labor
- National Labor Relations Board Certification
- Darfur certification
- Sweat free workshop
- Expatriate PCC10286

The procurement file must include this documentation.

4.B6.3 Obtaining seller's permit

A copy of the seller's permit or certification of registration is required to be obtained on any tangible personal property purchase regardless of the dollar value and regardless of whether or not a buyer has included either by reference to the PD web page or by attaching hard copies of the State's Bidder Instructions (Article 8.d) and General Provisions (Article 53-GSPD 401non-IT) to a solicitation. An exception to this requirement is identified in PCC 10295.1 where a department director or his designee makes a written finding that the purchase is necessary to meet a compelling state interest. A "compelling state interest" includes, but is not limited to, the following:

- Ensuring the provision of essential services
- Ensuring the public health, safety, and welfare
- Responding to an emergency, as defined in PCC section 1102

Note: In order to support a purchase based upon this exception, the director's or his designee's written finding must be included in a department's procurement file documentation.

Seller's permits or certification of registration or a department's written exception to this requirement must be retained in the procurement file.

Section C

Rules for Achieving Competition

Overview

Introduction

This section describes the dollar thresholds and the rules to be used by departments to determine whether competition has been achieved. Also described within this section is how to determine fair and reasonable pricing.

Contents

This section contains the following topics:

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Topic 1 – Dollar Thresholds

4.C1.0 Transactions under $5,000.00

Competition is always the preferred method of acquisition. However, departments may acquire non-IT goods valued less than $5,000.00 if fair and reasonable pricing can be established without receiving alternate quotes. Examples of fair and reasonable pricing methods include:

- Price Comparison
- Verifying established catalog/market pricing
- Prices set by law or regulation
- Historical comparison
- Cost/benefit analysis

Departments that elect to accept only one offer under this dollar threshold must include documentation in the procurement file that supports fair and reasonable pricing.

Click here to access the file documentation list for transactions under $5,000.00.

4.C1.1 Non-IT goods transactions valued from $5,000.00 to $100,000.00

Achieving competition within this dollar range is defined as receiving responsive bids from at least two responsible bidders, if the solicitation is not advertised. Advertised solicitations may result in only one bid response. If the sole bid response is responsible and responsive then the contract may be awarded.

Refer to Section A, Topic 3 of this Chapter for advertising requirements.

Topic 2 – How to Determine Fair and Reasonable Pricing

4.C2.0 Techniques

In accordance with GC section 14838.5(c) if the estimated value of a transaction is under $5,000.00, buyers shall obtain at least two price quotations from responsible suppliers whenever there is reason to believe a response from a single source is not a fair and reasonable price.

Provided below are five techniques that a buyer may use to determine whether or not a supplier's price can be determined to be fair and reasonable:

Technique	Description
Price comparison	A buyer has obtained and documented quotes or offers within the last 12 to 18 month period from other responsible suppliers, which provides evidence that a price obtained is deemed fair and reasonable.
Catalog or market pricing	The price offered is supported by an established and verifiable catalog or market pricing media issued by a responsible supplier and/or through an established reputable forum. In addition, the pricing structure provided is one that a prudent buyer would accept as a reasonable representation of existing market value.
Controlled pricing	The price offered is set by law or regulation; competitively bid master or statewide contracts, etc.
Historical pricing	A buyer is able to demonstrate that other transactions occurring in the past (within a 12 – 18 month period) exist that shows that historical prices for similar acquisitions have yielded no material change in cost. **Note**: The definition of "material" for this technique is deemed greater than a 15% increased difference between current and historical pricing.
Cost/benefit analysis	A buyer can demonstrate that their level of experience in the procurement field provides a sufficient knowledge base, which clearly indicates that the acquisition cost is so low. The cost to the state of verifying the pricing fairness would most likely be more than any potential benefit that could be reasonably gained from searching the marketplace for lower price comparable acquisitions.

4.C2.1 Compare identical situations

When evaluating fair and reasonable pricing using price comparisons, catalog/market price and/or historical pricing, buyers must base the comparisons on identical situations or those with small variations which do not affect pricing.

4.C2.2 File document-tation

The procurement file must contain sufficient documentation to support the technique used to determine the pricing received is fair and reasonable.

Click here to access the file documentation list for transactions under $5,000.00

Topic 3 – Limit to Brand or Trade Name (LTB)

4.C3.0 LTB contracting

LTB contracts are limited by statute in accordance with PCC Sections 10301,10302, also for non-IT goods, to the following conditions:

- Emergencies, where immediate acquisition is necessary to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
- Proposed acquisition of goods which are the only goods that meet the State's need.

4.C3.1 Emergency purchases

Refer to Chapter 2 – Emergency Purchases detailing the process for executing emergency purchases.

4.C3.2 $25,000.00 LTB contract purchasing authority dollar threshold

A department's LTB contract purchasing authority dollar threshold will be authorized a maximum not to exceed $25,000.00 per transaction excluding sales and use tax, finance charges, postage and handling. Shipping charges are also excluded from the dollar threshold limits unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect, or FOB Destination.

4.C3.3 Acquisitions requiring LTB

An LTB Statement is required for all competitive solicitations (formal and informal) and the SB/DVBE Option when a department believes that an article of a specified brand or trade name is the only article that will properly meet their need.

4.C3.4 LTB contract process

Departments must follow the LTB process when executing a transaction that limits competitive bidding to a specified brand or trade name. The following chart describes the LTB Contract Statement process for non-IT goods.

Stage	Who	Does What
1	Department	Determines a need to acquire a specified brand or trade name product. Completes an LTB Statement (GSPD-08-001) form and secures the appropriate approval signature.

<table>
<tr><td>2</td><td>Department</td><td>Creates the purchase package as follows:
<table>
<tr><th>If the purchase is</th><th>Then the department</th></tr>
<tr><td>Within the department's LTB contract purchasing authority dollar threshold and the department's competitive purchasing authority.</td><td>• Retains the approved LTB Statement within the procurement file.
• Conducts a competitive solicitation restricting to brand name or trade name
• Executes the purchase document (STD.65)</td></tr>
<tr><td>Exceeds the department's LTB contract purchasing authority dollar threshold but is within the department's competitive purchasing authority.</td><td>Submit the LTB Statement to DGS/PD for review and approval. Since this purchase is within the department's approved purchasing authority, once the LTB Statement is approved, the DGS/PD will send it back to the department to conduct the procurement.</td></tr>
<tr><td>Exceeds both the department's $25,000 LTB contract purchasing authority dollar threshold and the department's competitive purchasing authority.</td><td>Submits to DGS/PD for review, approval, and processing, the following:
• LTB Statement.
• Purchase Estimate (STD. 66)</td></tr>
<tr><td>Requested by a department without non-IT goods purchasing authority.</td><td>Submits the following to DGS/PD for review, approval, and processing:
• LTB Statement.
• Purchase Estimate (STD.66)</td></tr>
</table></td></tr>
</table>

LTB contract process

<table>
<tr><th>Stage</th><th>Who</th><th>Does What</th></tr>
<tr><td>3</td><td>DGS/PD</td><td>Processes the transaction as follows:
<table>
<tr><th>If the purchase</th><th>Then DGS/PD will</th></tr>
<tr><td>Exceeds the department's LTB contract purchasing authority dollar threshold but is within the department's competitive purchasing authority.</td><td>• Review and approve or deny the LTB Statement.
• If approved, return LTB Statement to the department for processing.
Or
• If denied, return LTB Statement to the department advising them to conduct a competitive solicitation not restricting the solicitation to a brand or trade name.</td></tr>
<tr><td>Exceeds both the department's LTB contract purchasing authority dollar threshold and the department's approved competitive purchasing authority.</td><td>• Review and approve or deny the LTB Statement and Purchase Estimate (STD.66).
• If approved, conduct the appropriate procurement method and execute a purchase document on behalf of the department.
Or
• If denied, conduct a competitive solicitation not restrictive to trade name or brand and execute a purchase document on behalf of the department or cancel the request if directed by the department.</td></tr>
<tr><td>Requested by a department without non-IT goods purchasing authority.</td><td>• Review and approve or deny the LTB Statement and Purchase Estimate (STD.66).
• If approved, conduct the appropriate procurement method and execute a purchase document on behalf of the department.
Or
• If denied, conduct a competitive solicitation not restrictive to trade name or brand and execute a purchase document on behalf of the department or cancel the request if directed by the department.</td></tr>
</table></td></tr>
<tr><td>4</td><td>Department or DGS/PD</td><td>• Executes purchase document upon DGS/PD approval.
• If the LTB Statement is denied, the department may not limit the competitive bidding to the specified brand or trade name. The department will need to conduct a competitive solicitation.</td></tr>
</table>

4.C3.5 LTB contract Statement

The LTB Contract Statement is used for the purchase of goods of a particular brand or trade name or other specifications which have the effect of limiting bidding to one supplier where a department has determined that for a specific category of goods there are unique performance factors necessary to achieve a department's program objectives.

4.C3.6 LTB Statement document

Departments must use the Limit to Brand (LTB) Statement (GSPD-08-001) when submitting an LTB request. No substitute format will be accepted.

Click here to access the LTB Contract Statement: Word PDF

4.C3.7 Signature authority

Buyers executing LTB contract statements must secure their department director or designee's signature, regardless of whether or not the justification is submitted to DGS/PD for approval. The department director may delegate review and approval authority to his/her deputy directors and/or the Procurement and Contracting Officer subject to DGS approval.

The DGS/PD will maintain a file of the names and titles of designees.

Note: All signatures must be originals.

4.C3.8 File document-tation list recom-mended

Click here to access the file documentation list for LTB contracts. Use of this documentation list is highly recommended.

Section D

Supplier Selection

Overview

Introduction

This section describes the requirements for evaluation and selection processes, ensuring impartiality and comprehensive evaluation of responses as warranted by the complexity of the transaction.

Contents

This section contains the following topics:

Topic	See Page
Topic 1 – Supplier Selection Basics	32
Topic 2 – Determining Responsive Bid and Responsible Bidder	34
Topic 3 – Ineligible Businesses	37
Topic 4 – Material Deviations	39
Topic 5 – Evaluation and Award	41

Topic 1 – Supplier Selection Basics

4.D1.0 An evaluator's responsibility

Evaluators are expected to:

- Be unbiased and to evaluate all bids fairly.
- Be State employees
- Withdraw from participating in an evaluation if the evaluator has a disqualifying interest.

Example:
Evaluator's spouse is an employee of the bidder.

4.D1.1 Bid/quote evaluations for phone quotes and RFQs

Buyers should use the Bid/Quote Worksheet to document the bids received resulting from informal phone quotes and RFQs. The worksheet provides a means to easily compile and evaluate the bids received and assists in final selection. This worksheet must be retained in the procurement file.

Click here to access the Bid/Quote Worksheet. Word PDF

4.D1.2 IFB evaluation documentation

Buyers using the IFB format for non-IT good solicitations exceeding $100,000.00 must use the evaluation and selection process for contract award as outlined in the Evaluation and Selection Report template. This document will also provide a chronology of the events that occurred during the solicitation process such as:

- Date of advertisement,
- Names of bidders responding,
- Date solicitation released, etc, and
- Analysis of all deviations discovered during bid evaluation.

Click here to access the Evaluation and Selection Report template.
Word PDF

4.D1.3 Evaluation criteria revisions

Evaluation criteria may not be changed once bids have been submitted.

4.D1.4 Fair and reasonable evaluation

Fair and reasonable evaluations must be conducted and documented in the procurement file for all transactions under $5,000.00 whenever a buyer does not obtain two (2) price quotes from responsible suppliers regardless of:

- Purchasing authority type
- Procurement approach or
- Method of payment (direct charge, Cal-Card, revolving fund, etc.)

Refer to Section C, Topic 2 of this chapter for the technique available to assist a buyer in determining fair and reasonable pricing.

Refer to information block 4.A1.5 of this chapter to access the competitive solicitation file documentation recommendations.

4.D1.5 Public record

Bids are public documents available to anyone for review after public bid opening. During evaluation, all evaluation information is confidential. Where the solicitation process requires posting a Notice of Intent to Award, the procurement file documents are public and available for anyone to review prior to the award of the contract. Refer to Public Records Act, GC 6250 for exemptions from disclosure. See also VCGC bid protest regulations.

4.D1.6 Bid response/ award availability

Where notices of intent to award are not used, departments shall make available to any requestor, bid response/award information after award is complete. This information is to be retained in the procurement file and is subject to public inspection.

Topic 2 – Determining Responsive Bid and Responsible Bidder

4.D2.0 Responsive and responsible definition

Responsive Bid: A bid is considered responsive if it indicates compliance without material deviation from the requirements of the solicitation and the terms and conditions of the proposed contract.
Responsible Bidder: A bidder is responsible if they possess the experience, facilities, reputation, financial resources and are fully capable of performing the contract.

4.D2.1 Determining effective competition

Competition requires the act of seeking responses from qualified suppliers consistent with the size and nature of the procurement. To determine that "competition" has been effective, responsive bids must be received from at least two responsible bidders, unless the solicitation is advertised.

Note: A response of "no bid" or "no response" is not considered as receiving a bid.

4.D2.2 No responsive bids received from responsible bidders

When competition results in no responsive bids from responsible bidders, the buyer has two options

Option 1 The solicitation may be cancelled and re-bid, modifying any possible restrictive requirements. The buyer should also consider methods to broaden the number of potential suppliers.

OR

Option 2 If, in the opinion of the buyer, a second solicitation would not result in a different outcome, the buyer may cancel the solicitation and proceed with an NCB, following the requirements identified in Chapter 5 of this manual. To determine which supplier should be selected as the source, the proposed supplier's bid must be substantially technically compliant/responsive with the specifications and the supplier must be deemed responsible.

4.D2.3 Multiple bids received, only one responsive bid from responsible bidder

When competition results in only one responsive bid from a responsible bidder even though multiple bids were received, a buyer may declare that competition has been achieved under the following conditions after carefully considering all factors of the situation (risk, urgency, and impact to their program):

Non-participation due to the State's socio-economic requirements. The buyer must document the procurement file with the reasons why only one responsive bid was received. The buyer will likely have to request this information from bidders who initially responded to the solicitation announcement.

Non-participation due to the State's statutory requirements. If non-participation was due to the State's statutory requirements, such as DVBE, Small Business, etc., this information shall be incorporated into the documentation. The file must also be documented with the evaluation of other bidders who were determined to be non-responsive or not responsible. Then, after carefully documenting the rationale, the buyer may proceed with the award.

4.D2.4 Non-participation due to concerns with bid specifications

If non-participation occurs due to concerns with the bid specifications, the buyer must consider three options:

Option 1: If the specification(s) in question are not unnecessarily restrictive, the buyer may proceed with award after documenting the file with the rationale used for determination.

OR

Option 2: If the specification(s) in question is determined to be unnecessarily restrictive to one supplier's product, the solicitation may be canceled and a new solicitation developed modifying the specification(s) as necessary to facilitate fair competition.

OR

Option 3: If the specification(s) and or requirement(s) in question is determined to be unique to one supplier's product and the department determines that only that product meets the departments needs, the buyer must document the file that this solicitation has been determined to be an NCB and may proceed with the award, following the procedures outlined in Chapter 5.

4.D2.5 Award to other than low bidder

If a buyer determines that the low bidder will not be awarded the contract and the solicitation is being conducted as a non-IT informal solicitation, (valued less than $100,000.00), the buyer will document the procurement file in sufficient detail to justify the determination of the lowest bidder being non-compliant then award the purchase to the next lowest bidder.

For non-IT goods formal procurement evaluations (those valued more than $100,000.00) when the low bidder will not be awarded the contract, documentation explaining why the department recommends rejecting the lower bid must be forwarded to DGS/PD for concurrence prior to contract award. Departments may not make the award without DGS/PD concurrence. Departments must contact the PAMS to facilitate determination of award.

Note: This does not apply if any bidder submits a lower bid that is compliant, but will not receive the award because another bidder (i.e. small business) has a lower bid after application of a preference.

Topic 3 – Ineligible Businesses

4.D3.0 Authority

Public Resources Code (PRC) section 42290 et seq. is collectively referred to as the "Recycled Content Plastic Trash Bag Law." The law requires that plastic trash bag manufacturers and wholesalers certify their compliance with the law.

4.D3.1 Ineligible Businesses

Those businesses (and any of its divisions, subsidiaries, or successors) found to not be in compliance are deemed to be ineligible for:

- Award of any State contract or subcontract
- Renewal, extension, or modification of an existing contract or subcontract

4.D3.2 CalRecycle Website

A listing of compliant and noncompliant trash bag manufacturers and wholesalers is available on the CalRecycle website at: http://www.calrecycle.ca.gov/BuyRecycled/TrashBags/ComplyList/.

4.D3.3 Check for Ineligible Businesses

The State cannot solicit offers from, award contracts to, or renew, extend, or modify a current contract or subcontract with a business identified as noncompliant. Check the CalRecycle website for both primes and subcontractors (as applicable):

- When creating mail lists or prior to soliciting bids or requesting offers
- During the evaluation of competitive bids or assessment of offers
- Prior to creation of amendments or other purchase documents.

4.D3.4 Document the File

f a supplier or bid is rejected due to ineligibility, the file must be documented identifying the reason with a printout of the CalRecycle web list included in the file.

4.D3.5 GC 12990 and non-discrimination

Any employer who wishes to contract with the State for non-IT goods is subject to the provisions of GC Section12990 relating to discrimination in employment. Contractors that do not meet the provisions of GC 12990 are not eligible to contract with the State for non-IT goods. Ineligible contractors are found in the California Regulatory Notice Register. To access the California Regulatory Notice Register, use this link.

4.D3.6 Credit card purchases

The requirements of GC Section 12990 do not apply to a credit card purchase of goods of two thousand five hundred dollars ($2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars ($7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

Topic 4 – Material Deviations

4.D4.0 Wording indicating a requirement or condition

The State has established certain requirements with respect to bid language. The use of "shall," "must," or "will" (except to indicate simple futurity) in solicitations, indicates a mandatory requirement or condition from which a deviation may not be waived by the State. A deviation from a requirement is material if the deficient response is not in substantial accord with the solicitation requirements, provides an advantage to one bidder over other bidders or has a potentially significant effect on the delivery, quantity or quality of items bid, amount paid to the supplier or on the cost to the State. Material deviations cannot be waived.

4.D4.1 Wording indicating desirable attributes and conditions

The words "should" or "may" in solicitations indicate desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, a desirable attribute or feature, will not cause rejection of the bid.

4.D4.2 State options

The State may reject any or all bids and may waive any immaterial deviation or defect in a bid. The State's waiver of any immaterial deviation or defect shall in no way modify the solicitation documents or excuse the bidder from full compliance with the solicitation specifications if awarded the contract.

4.D4.3 Determining respon-siveness

Departments should evaluate bid responses by first determining that each response is clearly responsive to the bid requirements. If a response does not appear to be responsive, the following questions will assist in the determination of the materiality of the requirement:

- Is the response in substantial accord with the requirement? If “no”, the deviation may be material.
- Does the response provide the bidder an advantage over other bidders? If “yes”, the deviation may be material.
- Does the response have a potential significant effect on the delivery, quantity, or quality of the items bid? If “yes”, the deviation may be material.
- Does the response have a potentially significant effect on the amount paid to the supplier or cost to the state? If “yes”, the deviation may be material.

4.D4.4 Waiving mandatory requirements is prohibited

Material deviations of mandatory requirements cannot be waived and the bid must be rejected. All such deviations must be thoroughly documented in the procurement file to support the rejection.

4.D4.5 Examples of deviation types

Immaterial Deviation:
A bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders or, in other words if the variance is inconsequential.

Example:
A bidder referenced the wrong page in their supporting technical literature. The bidder directed the evaluator to page 4 and the correct page should have been page 5.

Material Deviation:
A deviation in the bid response that so substantial that it affects the amount of the bid, or provides an advantage or benefit not allowed other bidders. A deviation so substantial that it affects the cost, quantity or quality of the product or services to be provided to the State.

Example:
The solicitation required a telephone system that would serve 500 users and the bidder only offered a system that would serve 250 users.

Click here to access a Deviation Worksheet. Word PDF

Topic 5 – Evaluation and Award

4.D5.0 Bid submissions

Generally, bid submissions will be handled as follows:

- Bids will be hand delivered or sent by mail unless the solicitation stated another method, i.e. fax.
- Bids are due by the close of the business day, which is considered 5:00 pm PST on the date indicated unless otherwise stated in the solicitation.
- When the sealed bids are required, each bid must be separately sealed inside an envelope, signed, received by the closing time and date specified, and on all forms furnished by the department to be considered for award.
- Departmental buyers are advised to create a bidder response list by recording date and time. Bids are submitted along with the bidder's company name, the bidder's contact person submitting the bid response and the amount quoted.
- Bids must be kept in a secured area and remain confidential until bid opening.
- Bids submitted after the closing time and date will be considered non-responsive.

4.D5.1 Submission of fax bids

Departments that receive and accept faxed bids must adhere to the following:

- Faxed bids will only be accepted when:
  - The solicitation specifically states they will be allowed;
  - Received on the fax machine at the phone number specified in the solicitation document; and,
  - Completely received prior to the bid opening time indicated on the solicitation.
- The internal clock of the receiving fax machine will be the time by which the official time of receipt will be determined.
- Faxed bids will be determined to be complete only when they:
  - Contain all information necessary to evaluate the bid and
  - Meet all requirements of the solicitation
- Any solicitation that requires a sealed cost submission cannot be faxed.

4.D5.2 Supplier faxes at his own risk

The State does not assume responsibility for a bidder's inability to fully transmit their faxed bid. The bidder assumes full responsibility for timely transmission and receipt by the bid submission deadline. Inability to transmit a bid because of usage and/or possible mechanical problems of the receiving fax machine (which are unpredictable) will not relieve a bidder of this responsibility. This caution should be included in the solicitation whenever faxed bids are allowed.

4.D5.3 Procurement summary document

The evaluation process and resulting source selection decision must be documented for every procurement effort and referenced as a procurement summary. The purpose of the procurement summary is to create a single document that provides the history of the particular procurement transactions explaining the significant facts, events and decisions leading up to the contract award.

Procurement summaries should be written clearly, concisely and convincingly to support the soundness of the purchasing decision.

Procurement summary information includes but is not limited to:

- Documenting the offered prices
- Determining that the selected supplier is responsible and the bid is responsive.
- Attaching the Bid/Quote Worksheet or the Evaluation and Selection Report

The buyer must evaluate solicitation responses in accordance with the evaluation methodology established in the solicitation.

Use of the Procurement Summary Document as established by DGS/PD is not required however, if this form or a similar form of this document is not used, then the procurement file must include the Bid/Quote Worksheet or the Evaluation and Selection Report to document how and why the award was made. Refer to Topic 1, Section D of this chapter for the Evaluation and Selection Report template.

Click here to access a Procurement Summary Document. Word PDF

4.D5.4 Intent to award

For non-IT goods formal solicitations (those exceeding $100,000.00) departments are required, upon receiving a written request from a bidder or when the lowest bid is rejected, to notify the bidder of the proposed award 24 hours prior to award of the contract.

Click here to access a sample Letter of Intent to Award. Word PDF

4.D5.5 Tie bids

Agencies should put a tiebreaker in the solicitation document indicating how the contract award will be made in the event of a tie. Examples of permissible tiebreakers are a coin toss or other similar objective method. Such event must be observed by witnesses and the affected bidders should be invited.

Note: In the event of a precise tie between suppliers claiming the incentive, the bid of an SB and the bid of a DVBE that is also a SB, the award shall go to the DVBE that is also an SB. (Reference Chapter 3 and GC section 14838 (f) and 2 CCR section 1896.8(f)).

Note: Recycled tire product contracts will be awarded to the bidder whose product has the greatest percentage of recycled tire content if the fitness, quality, and price are equal. (PRC section 42894) "Recycled tire product" means a product with not less than 50 percent of its total content derived from recycled used tires. (PRC section 42890.)

Chapter 5

Non-Competitively Bid (NCB) Contracts

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Chapter 5

Non-Competitively Bid (NCB) Contracts

Overview

Introduction
(rev 5/11)

An important principle of state purchasing is to promote and provide for open and fair competition when seeking to execute a contract or amendment without competition. This section describes the process departments must follow when executing a transaction where no known competition exists, i.e., a NCB transaction. Also described is the purchasing authority necessary before executing an NCB contract, the requirements that shall be followed at the various dollar thresholds, the necessary forms, and what is involved when a department has a significant number of repeat NCB contracts for a particular category of goods or services. When executing a transaction that limits competitive bidding to a specified brand or trade name (LTB) and more than one supplier is available, departments are required to follow the LTB process in Chapter 4, info block 4.C3.0.et seq.

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Topic 1- Non-Competitively Bid (NCB) Contracts and Purchasing Authority

5.1.0 NCB contracting

NCB contracts are limited by statute in accordance with PCC section 10301 and 10302 for goods to the following conditions:

- Emergencies, where immediate acquisition is necessary for the protection of the public health, welfare, or safety or;
- Proposed acquisition of goods and services are the only goods and services that meet the State's need.

5.1.1 NCB contract purchasing authority

If a department elects to only apply for non-IT goods purchasing authority, then NCB authority will be granted only for non-IT goods and Leveraged Procurement Agreement (LPA) non-IT goods and non-IT services.

5.1.2 NCB contract approval threshold of $25,000.00 maximum

A department's NCB contract approval threshold will typically be authorized a maximum dollar threshold not to exceed $25,000.00 per transaction excluding sales and use tax, finance charges, postage, and handling. However, the NCB contract approval threshold will not exceed the department's approved competitive purchasing authority dollar threshold.

Departments without approved purchasing authority for non-IT goods must submit the required NCB request forms and purchase documents to the DGS/PD for processing.

NCB contract request forms and purchase documents for purchases exceeding the department's approved NCB contract purchasing authority must be submitted to the DGS/PD for review and approval.

Shipping charges are also excluded from the dollar threshold limits unless the shipping charge is included in the evaluation such as Free On Board (FOB) Origin, Freight Collect, or FOB Destination.

Note: See Chapter 1 for the requirements of applying for IT purchasing authority.

5.1.3 NCB contract justification methods

There are two methods for justifying NCB contracts as follows:

- NCB contract justifications executed on an individual basis.
- Special Category NCB Request (SCR), where a department determines that a significant number of repeat NCB contracts for a particular category of goods and/or services will occur during a specified period of time.

Refer to Topic 4 of this chapter for additional details regarding SCR.

5.1.4 NCB justification documents

Departments must use the following forms when submitting NCB contract justification documents. No substitute format will be accepted.

Click here to access the NCB Contract Justification Word PDF

5.1.5 Less than $5,000

Departments with Purchasing authority may solicit a bid from a single source for transactions less than $5,000 when pricing is determined to be fair and reasonable. In this case, no NCB justification is required if fair and reasonable pricing is established and documented. Examples of fair and reasonable pricing methods are described in Chapter 4. Documentation to support fair and reasonable pricing must be retained in the procurement file.

5.1.6 Signature authority

Buyers must secure the proper signature approvals on the NCB Contract Justification. The NCB Contract Justification requires the specified signatures(s) regardless of whether or not the justification is submitted to DGS/PD for approval. All signatures must be originals.

- **Signature Instructions for Agencies with an Agency Secretary**
  The NCB Contract Justification form requires approval by Agency Secretary or Agency Undersecretary and the department director or designee. The Agency Secretary may designate one person, in addition to Agency Undersecretary, to sign on his/her behalf, of cabinet officer level (e.g., Assistant Undersecretary, Deputy Secretary, etc., the actual title is dependent upon the Agency's organizational structure). The department director may delegate review and approval authority to his/her deputy directors and/or the Procurement and Contracting Officer. The director's designee shall send ratification notification to their director upon the designee's approval of the NCB transaction. The typed name and signature must match for both signatures.

- **Signature Instructions for Agencies that do not have an Agency Secretary**
  This form requires approval by the highest ranking executive officer or designee. The highest ranking officer may designate one person to sign on his/her behalf subject to DGS approval. The highest ranking officer may delegate review and approval authority to his/her deputy directors and/or the Procurement and Contracting Officer. The designee shall send ratification notification to their highest ranking executive officer upon their approval of the NCB. The typed name and signature must match.

The DGS/PD will maintain a file of the names and titles of designees.

5.1.7 File documen-tation

Click here to access the file documentation list for NCB contracts.

5.1.8
(deleted 6/11)

Topic 2 – NCB Contract Justification Process

5.2.0 NCB contract process

The following chart describes the non-IT goods NCB contract justification process. This process is also applicable to NCB purchases processed as an LPA and when executing amendments to purchase documents.

<table>
<tr><th>Stage</th><th>Who</th><th>Does What</th></tr>
<tr><td>1</td><td>Department</td><td>Determines a need to acquire a product from a supplier who is the only known source. Completes an NCB contract justification, securing approval signature(s).</td></tr>
<tr><td>2</td><td>Department</td><td>Creates the purchase package for non-IT goods as follows:
<table>
<tr><th>If the purchase is</th><th>Then the department</th></tr>
<tr><td>Within the department's non-IT goods purchasing authority for NCB contract approval threshold.</td><td>• Retains the approved NCB contract justification within the procurement file.
• Executes the applicable purchase document</td></tr>
<tr><td>Exceeds the department's non-IT goods NCB contract approval threshold <u>but is within the department's approval limits for the purchasing authority type and category.</u></td><td>• Submits to DGS/PD for review and approval the following:
• NCB contract justification.
• Executes the applicable purchase document upon DGS/PD approval of the NCB contract justification.</td></tr>
<tr><td>Exceeds both the department's non-IT goods NCB contract approval threshold and the approval limits for the non-IT goods purchasing authority type and category.</td><td>Submits to DGS/PD for review and approval the following:
• NCB contract justification.
• Purchase Estimate (STD.66).</td></tr>
<tr><td>Requested by a department without purchasing authority.</td><td>Submits to DGS/PD for review and approval the following:
• NCB contract justification.
• Purchase Estimate (STD.66).</td></tr>
</table></td></tr>
</table>

5.2.0 NCB contract process (continued)

<table>
<tr><th>Stage</th><th>Who</th><th>Does What</th></tr>
<tr><td>3</td><td>DGS/PD</td><td>Processes the transaction as follows:
<table>
<tr><th>If the purchase</th><th>Then DGS/PD will</th></tr>
<tr><td>Exceeds the department's NCB contract approval threshold <u>but is within the department's approval limits for the purchasing authority type and category.</u></td><td>• Review and approve NCB contract justification.
• Return approved NCB to department for purchase document execution.</td></tr>
<tr><td>Exceeds both the department's NCB contract approval threshold and purchasing authority.</td><td>• Review and approve the NCB justification.
• Conducts the appropriate procurement method.
• Process and execute a purchase document on behalf of the department.</td></tr>
<tr><td>Requested by a department without any type of purchasing authority.</td><td>• Review and approve the NCB justification.
• Conducts the appropriate procurement method.
• Process and execute a purchase order on behalf of the department.</td></tr>
</table></td></tr>
</table>

5.2.1 NCB denied

If the NCB contract justification is denied, DGS/PD will contact the department and discuss the following options:

When the purchase	Then DGS/PD will
Exceeds the department's NCB purchasing authority <u>but is within the department's approved competitive purchasing authority threshold.</u>	• Advise the department to conduct a competitive solicitation or, • Cancel the request.
Is requested by a department without any type of purchasing authority.	• Conduct a competitive solicitation to acquire the same or equivalent product or, • Cancel the request.

5.2.2 LPA transactions and NCB

As a general rule LPAs would not require NCBs. Departments granted LPA purchasing authority must adhere to the NCB contract approval process if only one supplier is known to sell the products and/or services needed and offers cannot be obtained within the LPA contracts available.

Exception: The NCB contract justification process is not required if an individual LPA user instructions state that the contract is exempt from obtaining 3-offers or if the value of the transaction is under $5,000.00 and fair and reasonable pricing has been established and documented.

Buyers are reminded to always refer to individual LPA user instructions and all LPA supplements prior to initiating any LPA purchase. Refer to Chapter 6 and Topic 2 of this chapter for further information.

5.2.3 Known suppliers outside LPAs

Departments must conduct a competitive solicitation if suppliers are known outside of CMAS contractors or Master Agreement (MA) contracts that can meet the department's requirements.

If only one LPA source is known (competing offers cannot be obtained), the NCB contract approval process must be followed.

5.2.4 Review LPA user instructions

Departments must carefully review individual LPA user instructions to determine if the LPA is exempt from competitive bidding.

Topic 3 – Purchase Document Amendments and the NCB Contract Justification

5.3.0 When NCB process is applicable

If the original transaction, either competitive or LPA, did not evaluate option(s) for changes, then the amendment must comply with the NCB process. This includes amendments for increases and decreases to quantity, dollar amount and time.

5.3.1 When an amendment does not require an NCB

Amendments to existing purchase documents are not subject to the NCB contract requirements if the following occurred:

- Competitively bid contracts:
  - Which included option(s) for changes (e.g., quantity or time) may be amended consistent with the terms of the original contract providing for such amendment(s) if such options were evaluated during the solicitation process.
  - LPAs for non-IT goods or non-IT services: Original orders, which include options for changes (e.g., quantity or time), that were evaluated and considered in the selection for award during the Request for Offer (RFO) process, may be amended consistent with the terms of the original order, provided that the original order allowed for amendments.
- Competitive contracts and LPA orders amended for incidental omissions such as:
  Transposition of numbers from the solicitation bid response or Request for Offer (RFO) response to the purchase document, or for inadvertent failures to include such things as contact names or for mistyped addresses. This does not apply to changes in quantity or time.

5.3.2 Amendment requirements based on cumulative dollar value

The requirements for amending existing purchase documents are based on the cumulative dollar value of the purchase after including the amendment.

Example:
A $200,000.00 contract plus a $60,000.00 amendment shall be considered a $260,000.00 contract. The processing of an amendment through the NCB approval cycle is based upon the amended total value of the contract.

5.3.3 Original transaction valued less $5,000.00

The NCB process must be followed if an amendment will cause the original transaction amount to exceed $5,000.00 and above and the original transaction was awarded using fair and reasonable methodology. This also applies to LPAs unless otherwise instructed by individual user instructions.

Topic 4 – Special Category NCB Contract Request (SCR)

5.4.0 Special Category NCB Contract Request definition

A Special Category NCB Contract Request (SCR) represents categories of contracts for the purchase of goods or services necessary to achieve a department's program objectives in a timely manner, where DGS has determined in advance and in writing, that for a specific type of category of goods or services there is no viable competition, or that due to critical time requirements such competition cannot be completed by the exercise of reasonable efforts prior to the time such goods or services are required.

All SCRs must use the Special Category NCB Request form.

Click here to access the SCR. Word PDF

Refer to Topic 1 of this chapter for approval signature requirements.

5.4.1 Individual SCR for each category

An SCR must be completed and approved for each category of non-IT goods, being requested and submitted to DGS/PD for consideration and approval.

Note: The SCR form is not to be used for emergencies, nor is it to be used to aggregate requests on behalf of other departments.

5.4.2 SCR dollar threshold and duration

All SCRs have a maximum authorized dollar limit and a maximum "window of approval" not to exceed three (3) calendar years from the date of DGS/PD approval unless renewed by submission of a new SCR 30 days prior to expiration. The expiration date is identified in the box labeled "For DGS Use Only" on the SCR form.

5.4.3 SCR reference number assigned

Each approved SCR will be assigned an SCR reference number by DGS/PD. This SCR number must be recorded on any purchase order executed under the SCR approval. This is in addition to the department's approved purchasing authority number.

5.4.4 Executing the purchase

Departments with purchasing authority may proceed with execution of purchase documents in accordance with an approved SCR.

DGS/PD must execute all approved SCR purchase documents for departments without purchasing authority and for transactions exceeding a department's purchasing authority. In these instances, the requesting department will submit purchase requests on a Purchase Estimate (STD.66) for non-IT goods and by submitting a memo to DGS/PD.

Note: Unless otherwise required by a department's internal process, transactions placed against an approved SCR do not require approval signature on the purchase document by the Department's Director and Agency Secretary or immediate next ranking official since these signatures are obtained during the initial SCR approval process.

5.4.5 Tracking purchases

Departments must track all SCR purchase documents executed under an approved SCR authority, including transactions processed on a purchase estimate by the DGS, and provide reports to DGS/PD as requested.

Information to be tracked will include at a minimum the following:

- Special Category (SCR) approval number issued by DGS/PD.
- Purchase order number issued by DGS, (GSOP-1) and/or agency order number (STD.65, PINDEL.65 or any version of PINDEL.65 generated from the PIN system, etc.).
- Dates of transactions.
- Dollar amounts of transactions.
- Supplier names.

5.4.6 SCR usage oversight

Purchase documents executed under an approved SCR may be reviewed during the department's purchasing authority renewal process.

Topic 5 – Purchases Exempt from the NCB Contract Process

5.5.0 Purchases exempt by statute

Purchases may be awarded without advertising or competitive bidding as a result of being exempt by statute.

Purchases that exceed a department's purchasing authority, or for departments without any type of purchasing authority, must be submitted to DGS/PD for review, approval, and execution. The following purchases may be awarded without advertising or competitive bidding and without seeking NCB approval subject to the restrictions noted:

- Emergency contracts, which are necessary for the immediate preservation of life or state property, are exempt from the Non-Competitive Bid Contract (NCB) justification process. Contracts issued as a result of an emergency may be entered into immediately. However, such contracts are subject to otherwise applicable statutory approval requirements and the reporting requirements.
- Goods and services for which the state has entered into an LPA. Note: This is limited to those LPAs which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered.

5.5.1 Purchases exempt by DGS policy

There are purchases that may be awarded without advertising or competitive bidding and without an NCB, as a result of being exempt by policy. Although exempt by statute or policy, the purchasing authority dollar thresholds still apply. For purchases that exceed a department's purchasing authority or for departments without any type of purchasing authority purchase requests must be submitted to the DGS/PD for review, approval, and execution of the purchase.

Purchases that exceed departments purchasing authority or departments without any type of purchasing authority must submit these purchases to DGS for review, approval, and execution. The following purchases may be awarded without advertising or competitive bidding subject to the restrictions noted:

- Proprietary subscriptions, proprietary publications, and/or technical manuals (manuals, law books, technical manuals, technical services related to publications, etc.) regardless of media format, up to $250,000.00.
- Contracts with business entities operating Community Based Rehabilitation Programs (CRP), which meet the criteria established by Welfare and Institutions Code Section 19404. Note: Exception does not apply to contracts justified pursuant to GC section 19130(a).
- Amendments to existing purchase documents under the same terms and the same or lower rates, where a protest or other legal action delays the award of a new contract. These amendments should only last during the period the protest or legal action is pending and a new purchase document can be executed, but in no case shall this exemption extend beyond six (6) months for a particular amendment.

5.5.2 Supporting statement

Procurement files should include a statement indicating the basis for exemption from advertising or competitive bidding either by policy or statute. Documentation must be provided in sufficient detail to support how the exemption is authorized.

<u>Example #1</u>
"This purchase is exempt from advertising and/or competitive bidding based on DGS policy as identified in SCM Volume 2, item 5.5.1.

<u>Example #2</u>
"This purchase is exempt from advertising and/or competitive bidding based upon the use LPA # ____.

5.5.3 Cost reason-ableness

Purchases although exempt by statute or policy, must still be reasonable in cost and justification. It is recommended that procurement files include documentation to support fair and reasonable pricing.

Topic 6 – Procurement Approach for Exempt and NCB Contract Activities

5.6.0 Obtaining pricing

Buyers conducting non-IT goods purchasing activities for transactions that are exempt from competitive bidding or advertising or that are NCB contract purchases shall obtain a written offer and acceptance of the state's terms and conditions when transacting business with the only known supplier.

5.6.1 Creating a solicitation

The written offer and acceptance may be obtained by having the supplier respond to a solicitation document that is only provided to the one supplier. The Request For Quotation (RFQ) format as provided in Chapter 4, Section B, Topic 3. A buyer also has the option to develop their own solicitation document that contains the following elements:

- Date and time the response is due
- Details of the purchase, including quantities, description, support coverage, coverage dates, etc.
- Fill-in space or a cost sheet for the supplier to provide pricing
- Request for the signature of the authorized supplier representative that can bind the company contractually
- Reference or hardcopy the applicable state General Provisions and any additional contract modules (specific to non-IT goods and service) or special provisions applicable to the department

Buyers, when conducting business with the only known supplier, must provide the supplier with an opportunity to review and accept the State's terms and conditions prior to the State executing a purchase document. This practice avoids the possibility of a dispute with suppliers once the purchase document is executed.

5.6.2 Supplier contracts and forms

Contract forms, license agreements or ordering documents provided by suppliers should not be signed by state employees. These most often contain terms and conditions inconsistent with the State's contract terms and conditions and can result in conflict.

Buyers shall seek department legal advice and may contact PAMS at PAMS@dgs.ca.gov for assistance.

Chapter 6

Leveraged Procurement Agreements

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Chapter 6

Leveraged Procurement Agreements

Overview

Introduction

This chapter describes the various types of the State's leveraged procurement agreements (LPA) that provide for non-IT goods and services, and how to use them. The categories of LPAs include:

- California Multiple Award Schedules (CMAS)
- Statewide Contracts (SC) (see also SCM, Vol. 3 Chapter 6 for IT goods and services)
- State Price Schedules (SPS) (see also SCM, Vol. 3 Chapter 6 for IT goods and services)
- Master Agreements (MA) (see also SCM, Vol. 3 Chapter 6 for IT goods and services
- Cooperative Agreements - Western States Contracting Alliance (WSCA)/National Association of State Procurement Officials (NASPO)

Departments must have approved purchasing authority for the applicable category (e.g. non-IT goods) in order to place orders against that category. All departments with competitive purchasing authority at any dollar level also have LPA purchasing authority for the purchasing authority type identified.

Unless identified as a mandatory contract, the use of LPAs is optional, although departments are encouraged to take advantage of the benefits of these pre-established contracts.

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Section A

LPA General Usage

Overview

Introduction

The LPA program, established by DGS/PD as set forth in PCC section 10290 et seq. enables DGS/PD to streamline State purchases by removing repetitive, resource intensive, costly, and time consuming bid processes by departments.

LPA contracts commonly include “user guides” or “ordering instructions” that are unique to a particular LPA program and/or contract. These instructions, for the purposes of this chapter and throughout SCM Vol. 2 will be commonly referred to as “user instructions”. Buyers, in addition to reading this chapter, should always refer to the user instructions for the specific each LPA contract being utilized.

Buyers must also be aware of the importance of reading this chapter in its entirety as the chapter was created to consolidate like processes throughout the various LPA contracts into the beginning section of the chapter.

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Topic 1 – Purchasing Authority and the LPA Process

6.A1.0 Categories and dollar thresholds

The table below illustrates the LPA categories and the dollar thresholds available to departments when considering LPA purchasing authority. Dollar thresholds identified in this table exclude sales and use taxes, finance charges, postage, handling, and shipping charges unless otherwise identified within the individual LPA user instructions.

Leveraged Procurement Agreement	**Non-IT Dollar Thresholds**	
Category	**Goods**	**Services**
California Multiple Award Schedule (CMAS)	$100,000.00	$250,000.00
Statewide Contracts (SC)	Unlimited	N/A
State Price Schedule (SPS)	$100,000.00	N/A
Master Agreements (Unless otherwise noted in user instructions)	$500,000.00	$500,000.00
Cooperative Agreements (WSCA/NASPO unless otherwise noted in user instructions)	$500,000.00	$500,000.00

6.A1.1 Exemptions from dollar thresholds

Exemptions to the CMAS and SPS dollar threshold limits are not allowed, regardless of the type of purchasing authority.

Exemptions to the MA dollar threshold limits may be considered as described within the individual MA user instructions and by obtaining the approval of DGS/PD.

6.A1.2 No Protest Language for MA and CMAS RFOs

Since a Request for Offer (RFO) for MA and CMAS are not considered competitive solicitations, departments must not include protest language.

6.A1.3 Review process for MA non-IT services exceeding $50,000.00

LPA orders for non-IT services exceeding $50,000.00 must be reviewed and approved by the DGS before issuing a purchase document to the supplier. Agencies should provide a cover document requesting approval which identifies the agency contact and phone number. If the transaction is being processed based upon a non-IT services MA, the buyer must adhere to the routing information provided within the individual MA user instructions regarding OLS review and approval.

6.A1.4 Review process for CMAS non-IT services exceeding $50,000

The following requirements are specific to non-IT services CMAS transactions.

Prior to executing a CMAS purchase order for non-IT services over $50,000, submit the documents listed below to DGS/PD for review and approval. Agencies should provide a cover document requesting approval which identifies the agency contact and phone number.

- Summary Agreement (STD.215)
- Completed purchase document and applicable attachments (STD.65)
- Copy of RFO
- Listing of CMAS contractors contacted
- Copies of all supplier responses to RFO
- Complete copy of awarded supplier's CMAS contract
- Assessment and selection documents (document assessing costs and best value criteria, assessment showing the response meets the RFO requirements up to and including how the selection was determined)

Send or deliver package to:

DGS/Procurement Division (IMS Z-1)
CMAS Unit – PO Approval
707 Third Street, Second Floor MS 2-202
West Sacramento, CA 95605

Once the purchase document is approved by DGS/PD, it will be stamped approved and signed by DGS/PD on the face of the purchase document. DGS/PD will then return the purchase document to the department for issuance to the contractor. All other supporting documents will be retained by DGS. CMAS contractors are directed not to accept these PO's for non-IT services over $50,000 without DGS/PD/CMAS approval.

6.A1.5 Contractor evaluations

Pursuant to PCC Sections10367 and 10369, each contractor providing consultant services of $5,000 or more shall be advised in writing on the standard contract that the performance will be evaluated.

- One Contract/Contractor Evaluation, form STD 4, must be prepared within 60 days of the completion of the contract.
- The agency shall document the performance of the contractor in doing the work or in delivering the services for which the contract was awarded.
- The evaluations shall remain on file by the agency for a period of 36 months. If the contractor did not satisfactorily perform the work or service specified in the contract, the agency conducting the evaluation shall place one copy of the evaluation form in a separate agency contract file and send one copy of the form to the DGS/OLS within five working days of the completion of the evaluation. (SCM Volume 1, section 3.02.5)
- On filing an unsatisfactory evaluation with DGS/OLS, the state agency shall notify and send a copy of the evaluation to the contractor within 15 days. The contractor shall have 30 days to prepare a statement defending his or her performance under the contract and to send it to the agency and the department. The contractor's statement shall be filed with the evaluation in the agency's separate contract file and in DGS/OLS's files.

The evaluations and contractor responses on file with the agencies and DGS/OLS are not public records; they should be maintained in a separate file.

6.A1.6 Establishing LPAs

LPAs are established by DGS/PD as follows:

If the LPA is	Established by
SC Contract number leads with a "1" "8" **Note:** SC numbers leading with an "8" are restricted to CALPIA use only. See MA below WSCA.	Statewide competitive bid for • Specified goods • Specified period of time • Price analyzed • Awarded to single supplier or multiple suppliers • Some require mandatory use • Exempt from requirement to obtain 3 offers • All certified SB or DVBE purchases made through the SC are reported monthly by the contract holder and are credited to the purchasing department.
SPS Contract number leads with a "2"	Non-Competitively Bid agreement for • Orders for goods at a fixed price • Specified period of time • Tend to be proprietary supplies and parts
CMAS Contract number leads with a: "4" for non-IT goods or services The contract number for non-IT services will start with a "4" and include a "03" in the third field: Example: 4-XX-03-XXXX	Competitively assessed, negotiated or bid • Contractor offers products and/or services and prices from an existing competitively assessed, cost compared, multiple award contract. • Primarily based on Federal General Services Administration multiple award schedule-based • California terms and conditions are incorporated into the contract
MA Contract number leads with a: "5" for services "6" for rentals **Note:** The State's WSCA contracts use the original WSCA contract number or "7.".	Statewide competitively bid (generally) with award to all responsive bidders • Products • Services • Rental of equipment

6.A1.7 Where to find LPA information?

LPA information can be found on DGS/PD's website.

LPA Programs have their own web pages where information about specific contracts can be accessed as follows:

CMAS: Access CMAS contracts.

MA: Access Master Agreements including Master service agreements, Master Purchase Agreements, and Master Rental Agreements.

SPS: Access State Price Schedules

6.A1.8 What do LPAs offer?

LPAs offer services that have been competitively assessed, negotiated or bid, and are structured to comply with California procurement codes, policies, and guidelines providing for maximum contractual protection.

Architectural, engineering, and environmental services, legal services, and public work activities are not available on LPAs.

6.A1.9 How departments use LPAs

Departments using LPAs must:

- Obtain a complete copy of the LPA contract to be used from the contractor.
- Read through the specific LPA contract and corresponding user instructions to understand the parameters for using a particular LPA including limitations and/or restrictions (if any), contracting process, requirements, how to secure pricing, and how to ultimately execute the proper purchase document to complete a transaction.

6.A1.10 Applicable codes, policies and procedures

The use of LPA contracts does not exempt departments from adhering to all applicable laws, regulations, codes, and policies relative to State contracting and procurement requirements. This includes but is not limited to departments conducting and executing all applicable planning activities, pre-procurement approvals, Government Code section 19130 civil service considerations, contract approvals, prompt payment requirements, and receiving activities as established by this manual.

6.A1.11 Admini-strative fees

Administrative fees - Refer to Chapter 9. LPA administrative fees, if applicable, are identified within the DGS State Price book and/or described within the LPA user instructions.

Click here to access the DGS State Price book.

6.A1.12 Reporting requirements

LPA reporting requirements are described within the specific LPA contracts and corresponding user instructions

Refer to Chapter 12, for the minimum LPA reporting requirements.

Topic 2 – LPA Basics

6.A2.0 Be smart, shop smart

LPA contract prices for products and services vary from category to category. Some LPA prices are maximums and negotiating for lower prices is recommended. Others are fixed price and negotiation is not allowed. Some LPAs require the department to prepare and distribute a Request for Offer (RFO) using an authorized supplier pool identified within the individual contract. An RFO is a document sent to LPA contractors which contains requirements for a specific transaction and requests a specific response or offer.

Because of these variables, buyers are required to confirm that the products, services, and prices are included in the contract and that the prices in the department's order are at or below contract rates. This is accomplished by obtaining a complete copy of the LPA contract before executing any purchase documents. The contract's user instructions describe the tasks necessary to compete for the order.

6.A2.1 Why do departments need a copy of the LPA contract?

Departments must obtain a copy of the LPA contract to be used in order to:

- Validate the contractor is authorized to sell specific products and/or services.
- Determine warranties, guarantees, maintenance provisions, product return policies, bond requirements, travel costs, etc.
- Determine if products and services are available on the contract.
- Determine which products and/or services are specifically excluded.
- Determine if prices quoted are at or below contract rates.
- Determine if additional approvals, forms, filings, etc. are required.
- Substantiate the contractor is CA certified as a SB or a DVBE (if applicable).
- Substantiate the contractor has a valid contractor's license (if applicable).
- Obtain contractor's signed Payee Data Record (STD.204). Substantiate the contractor has a valid seller's permit if applicable.

6.A2.2 Standard purchase document

Most LPA orders are executed using a STD.65. Some MSA and MRA user instructions advise departments to execute orders using a STD.213 Standard Agreement (non-IT services) or provide departments with an option of executing orders using a STD.65 or a Master Service Agreement (GSOP-206) or Master Agreement Form (GSOP-191-2). Buyers must read the user instructions for the individual contract to determine the appropriate purchase document to be utilized.

6.A2.3 LPA contract provisions

Departments may add requirements but not delete any LPA terms and conditions without prior written approval from DGS/PD.

6.A2.4 SB and DVBE consideration

When placing orders against LPA contracts departments must consider offers from certified SB and/or certified DVBE, when available. Most LPA processes provide departments with a means to claim contracting dollars toward their department's SB or DVBE goals.

6.A2.5 SB and DVBE sub-contracting participation tracking

Departments are able to claim subcontracting dollars towards departmental SB or DVBE goals whenever an LPA contractor subcontracts a commercially useful function to a certified SB or DVBE. The LPA contractor will provide the ordering department with the name of the certified SB or certified DVBE used and the dollar amount the ordering department can apply towards its SB or DVBE goal.

6.A2.6 SB and DVBE verification

Departments will perform inquiries through Office of SB and DVBE Services (OSDS) database to verify SB and DVBE certification status of all LPA contractors prior to issuing the order. The certification data (SB and DVBE reference number, status, term, business type, etc.) provided from an inquiry, when applicable, must be maintained within the procurement file.
http://www.dgs.ca.gov/pd/Programs/OSDS.aspx
Click here to access the SB and DVBE services web page.

6.A2.7 CAL-Card use

Departments may pay for goods and services with a CAL-Card as long as the contractor accepts a VISA card. Departments are reminded that the CAL-Card is a payment mechanism, not a procurement approach. Consequently, an LPA order must be executed on a purchase document regardless of dollar amount when accepting CAL-Card payments. Refer to Chapter 9.

6.A2.8 Mixing LPAs

Departments may not mix offers from different types of LPAs (non-IT and IT) or bids to execute a single order. LPA categories (CMAS, MA, SC, WSCA) cannot be combined to obtain offers and select a supplier.

Example:
A department has a need to acquire 10 copiers. The department has LPA non-IT purchasing authority for CMAS and MA. Offers cannot be obtained from both CMAS contractors and the MA contractors to meet the department's need and the requirement to obtain offers.

6.A2.9 Disputes

If a supplier dispute occurs, the department shall first attempt to resolve complaints or disputes informally. If the dispute cannot be resolved by the department, the dispute may be elevated to the DGS/PD contract administrator as identified in the individual LPA contract or to the DGS/PD Dispute Resolution Office.

6.A2.10 Protest Language	LPAs are not considered competitive solicitations, therefore departments shall not include protest language.
6.A2.11 Service Contract Information Technology Certification (added 6/11)	Per GC 11546.4, departments using LPAs must complete a Service Contract Information Technology Certification (SCIT) for all proposed service contracts and service contract amendments if the service is procured using a non-IT service contract. All non-IT services procured through LPAs are subject to this requirement. For additional information, see: Service Contract Information Technology (SCIT) Certification ITPL 11-02 (doc)

Topic 3 – Achieving Best Value Using LPAs

6.A3.0 Seeking multiple offers

Departments shall seek multiple offers whenever multiple suppliers are known to exist unless otherwise directed by individual contract user instructions, policies and/or statutes or identified as an "exempt" contract. "Multiple offer" is defined to be a minimum of three (3) offers, including one California certified SB and/or DVBE (if available).

Refer to the individual LPA topics within this chapter for additional instructions.

6.A3.1 Choose your words carefully

When using LPA categories such as MA and CMAS, departments shall be sensitive to avoid using words that imply competitive bids. When conducting a supplier comparison or obtaining offers avoid using the words "bid", "quote", "solicitation" and/or "evaluation" , but, rather, clarify that there will be a comparison of offers to determine best value. When obtaining offers using a written document refer to the document as a RFO. Buyers must also not include competitive solicitation language regarding small business preference, protest language, intents to award, evaluation criteria or advertising requirements.

Warning: Since MA and CMAS RFOs are not considered competitive solicitations, departments must not use the two-envelope evaluation process or include protest language.

6.A3.2 Best value

Most LPAs require departments to select a supplier based upon a "value effective" concept, or as commonly referred to within the LPA processes as "best value", when there are multiple providers of products and services. "Best value" relates to requirements and supplier selection criterion or other factors for a particular transaction that are established by a department to ensure that its business needs and goals are effectively met and that the state obtains the best value. For the purposes of this chapter, best value will refer to the concept of making value-effective acquisitions.

Departments must know what is important to their program, document those needs and requirements, and then canvas suppliers, either utilizing a pre-qualified supplier group as in MAs or searching CMAS contractors who possess the products or skills. Canvassing may take the form of a written RFO outlining the requirements. The best value criteria must be included in the procurement file.

LPAs that have been identified as "exempt" from obtaining multiple offers are, unless otherwise directed by the individual user instructions, not required to document best value.

6.A3.3 Possible criteria

Best value can be determined using any one or all of the following criteria as applicable to the department's effort:

- The price of the product or service
- The operational cost that the state would incur if the offer is accepted
- The quality of the product or service, or its technical competency
- The reliability of delivery and implementation schedules
- SB/DVBE participation as prime or subcontractor (advertising and DVBE forms not required for LPAs)
- Warranties, guarantees, and return policy
- The supplier financial stability
- The consistency of the proposed solution with the state's planning documents and announced strategic program direction
- The quality and effectiveness of business solution and approach
- The industry and program experience of the supplier
- The prior record of supplier's performance
- Supplier expertise with engagements of similar scope and complexity
- The extent and quality of the proposed participation and acceptance by all user groups
- Proven development and methodologies and tools
- Innovative use of current technologies and quality results

Note: Regardless of other criteria being used to accept an offer, price must always be used as best value criteria.

6.A3.4 Contract award using best value

To determine supplier selection using best value, the following minimum steps are required. Departments shall:

- Define business requirements (for example, in a Statement of Work for services) for inclusion in the RFO.
- Obtain a copy of the LPA contract from each contractor contacted.
- Review the contracts in context with the department's requirements and contractor offers.
- Compare contracts and offers with those from other contractors.
- Award to the supplier with documented "best value" that meets requirements.

Include the supplier selection rationale and the related documentation that supports the selection in the procurement file.

6.A3.5 Conduct a supplier comparison

Unless otherwise directed by the individual LPA user instructions or when using a contract exempted from obtaining multiple offers, departments are required to obtain a minimum of three (3) suppliers who can provide the requested non-IT goods and non-IT services.

This supplier comparison can be in the form of a verbal or written RFO, identifying the department's needs and requesting contractors to offer their best price and/or proposal to meet the department's requirements. An RFO process may be conducted by phone, fax, email, or by other means such as a supplier picking up the RFO in person. Buyers shall refer to applicable user instructions to confirm any special requirements regarding the supplier comparison format.

Click here to access a Request for Offer template. Word PDF

Departments must document all LPA contractors that were contacted, provide a recap of their offers, and record how the selection was made, including criteria for determining "best value".

6.A3.6 Less than 3 offers

Unless otherwise directed by either the LPA user instructions or the LPA being used is exempted from obtaining 3-offers, departments must document the procurement file in sufficient detail to support the supplier selection as follows:

If a department contacts 3 sources and receives	Then the department shall document the procurement file with the reasons why
1-offer	The other two (2) suppliers did not respond.
2-offers	The third supplier did not respond.

6.A3.7 Contacting more than 3-suppliers

Departments that contact more than 3 suppliers and obtain more than 3 offers shall document their files with all responses, determine best value and then proceed with the purchase document execution.

6.A3.8 Only one source known

The LPA user guide will determine the number of quotes that have to be solicited. If a department knows of only one source within a LPA type and category (CMAS, MA, SLP, etc.), that meets its needs (i.e. multiple offers cannot be obtained) the department shall:

- Conduct a competitive solicitation, if suppliers are known to exist outside of the LPA programs or
- Execute the response as an NCB contract if no other sources are known outside of the LPA program being used. Refer to Chapter 5 for NCB processing requirements or
- Execute the response as a transaction that is exempt from obtaining multiple offers by either statute or policy and document the procurement file in sufficient detail to support the basis of the exemption. (Examples: authorized dealer letter, proof of copyrighted material, officially licensed good or patented product)

Refer to Chapter 5, for information on purchases exempt from obtaining multiple offers either by statute or policy.

Topic 4 – Documenting the Results of a LPA Offer

6.A4.0 Documenting the results

Departments must document all LPA suppliers that were contacted, provide a recap of their offers and record how the selection was made, including criteria for determining “best value”.

Departments have the option to use the Best Value Determination Worksheet provided here, create their own, or if using an MA LPA defer to the requirements of the user instructions.

The worksheet provided facilitates easy compilation of offers received and supplier selection rationale. Regardless of the format used the form must be retained in the procurement file.

To access the Best Value Determination Worksheet, used to document the offers received click Word or PDF.

6.A4.1 LPA file document-tation

Click here to access the LPA file documentation requirements.

6.A4.2 Location of the entire contract

If the complete LPA is not maintained in the procurement file, buyers shall document, within the procurement file, where the complete contract is located.

Topic 5 – Amending an LPA Purchase Document

6.A5.0 Amendments for non-IT goods and services

Original orders, which include options for changes (e.g., quantity or time), that were evaluated and considered in the selection for award during the RFO process, may be amended consistent with the terms of the original order, provided that the original order allowed for amendments. If the original order did not evaluate options, then amendments are not allowed unless an NCB is approved for those amendments.

Amendments may be executed without NCB approval for incidental omissions such as:

- Transposition of numbers from the RFO response to the purchase document or
- Inadvertent failures to include such things as contact names or for mistyped addresses.
- This does not apply to changes in quantity or time.

Amendments must also be executed for contractor name changes that have been authorized in the LPA contract.

6.A5.1 Amendments unique to non-IT services

For information regarding amendments unique to non-IT services, refer to SCM, Vol. 1.

6.A5.2 Original transaction valued less than $5,000.00

Unless otherwise directed by LPA user instructions, the NCB process must be followed if an amendment will cause the original transaction amount to exceed $4,999.99 and the original transaction was awarded using fair and reasonable methodology. Refer to Chapter 5.

Section B

California Multiple Award Schedule

Overview

Introduction

The California Multiple Award Schedules (CMAS) program was established in May 1994 and incorporated in PCC sections 10290 et seq. and 12101.5. CMAS contracts are established for non-IT products and services that have been competitively assessed, negotiated, or bid primarily, but not exclusively, by the Federal General Services Administration (GSA). See SCM, Vol. 3 covering CMAS contracts for IT goods and services. The program enables State departments under the purchasing authority (GSA) granted by DGS to streamline purchases by removing repetitive, resources intensive, costly, and time-consuming bid processes.

Contents

This section contains the following topics:

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Topic 2 – Achieving Best Value Using CMAS	24
Topic 3 – Not Specifically Priced Items (NSP)	28
Topic 4 – Executing CMAS Purchase Documents	30

Topic 1 – CMAS Basics

6.B1.0 Products and services

The CMAS program offers primarily Federal GSA multiple award schedule pricing with California terms and conditions with suppliers that provide non-IT goods and services, and IT goods and services. See SCM, Vol. 3, Chapter 6 for information on CMAS IT good and services.

6.B1.1 Contract price is maximum

Contract prices for products and/or services must be equal to or lower than the prices set in the base contract. Departments are strongly encouraged to negotiate lower prices and seek competition.

6.B1.2 Who can sell

Only the prime CMAS Contractor and resellers who are explicitly listed in the contract can sell the goods and/or services listed in their CMAS contract.

6.B1.3 Resource guides

The DGS/CMAS program has developed a resource guide that provides departments with CMAS information and guidelines regarding services.

Click here to access the CMAS Service Guide.

6.B1.4 Purchasing authority dollar thresholds

CMAS dollar thresholds are maximums. No CMAS order may be executed by a department that exceeds the department's CMAS purchasing authority dollar threshold or CMAS maximum dollar threshold, whichever is less.

Refer to Section A, Topic 1 of this chapter describing the maximum dollar threshold per LPA purchasing category.

Topic 2 – Achieving Best Value Using CMAS

6.B2.0 Making a valid attempt in seeking offers

Departments must make a valid attempt to secure offers from viable contractors who are able to supply the goods and/or provide the services. Neither a lack of sufficient CMAS contractors nor the use of restrictive requirements meets the intent for obtaining offers.

6.B2.1 Minimum RFO requirements

Click here to access a Request for Offer template. Word PDF

Refer to Section A, Topic 3 of this chapter for RFO requirements.

6.B2.2 Documenting the results

Refer to Section A, Topic 3, of this chapter for file documentation requirements.

6.B2.3 Contacting more than 3-suppliers

Refer to Section A, Topic 3 of this chapter for when contacting more than three suppliers.

6.B2.4 Only one source known

Refer to Section A, Topic 3 of this chapter for the process to follow when only one source is known.

6.B2.5 Purchases less than $5,000.00

CMAS orders valued less than $5,000.00 may be executed without obtaining multiple offers if fair and reasonable pricing has been established and documented. Examples of fair and reasonable pricing methods are described in SCM, Vol. 2, Chapter 4, Section C, Topic 2.

Documentation to support fair and reasonable pricing must be retained in the procurement file.

Click here to access file documentation for orders less than $5,000.00

6.B2.6 Requirements for Transactions Valued over $250,000

Approval by the Department's Agency Secretary and Department Director or immediate next ranking official must be secured on the purchase document and must be original signatures. The location on the purchase document for the signatures is up to each individual ordering entity.

6.B2.7 CMAS requirements

This table illustrates the requirements of a buyer conducting and executing a CMAS order with a value of $5,000 or greater.

CMAS order is for	And dollar amount is	The buyer must
Non-IT goods	$5,000.00- $100,000.00	• Obtain 3 offers, 1 from SB or DVBE if available. • Document responses – refer to Section A, Topic 4. • Execute Purchase Document.
Non-IT services	$5,000.00 - $50,000.00	• Obtain 3 offers, 1 from SB or DVBE if available. • Document responses, refer to Section A, Topic 4. • Execute purchase document.

	$50,000.01-$250,000.00	• Obtain 3 offers, 1 from SB or DVBE if available. • Document responses –refer to Section A, Topic 4. Submit to DGS/PD for review and approval: • Completed Purchase document (STD. 65) with all attachments. o Labor category titles on PO must match CMAS contract o Prices must be equal to or lower than CMAS contract o All required fields must be completed o Must have all required signatures • Summary Agreement – STD.215 o All required fields must be completed o Must have all required signatures • Copy of RFO o Must include Statement of Work o Must include clearly defined deliverables and any other requirements • Listing of all CMAS contractors contacted on this RFO, with one SB or DVBE if available • Copies of all supplier responses to the RFO o If only one offer is received, must include reasons why two other suppliers did not respond with an offer o If two offers received, must include reason why one other supplier did not respond with an offer • Complete copy of awarded supplier's CMAS contract o Ensure that contract is still valid o Must include approved labor categories and/or services from base GSA contract • Copy of assessment and selection documents o Include evaluation methodology used o Include copies of all completed evaluation documents o Include reason for selecting proposed contractor <u>Hand Deliver or mail to:</u> DGS/Procurement Division IMS: Z-1 Attn: CMAS Unit-PO Approval 707 Third Street, Second Floor South MS 2-202 West Sacramento, CA 95605

6.B2.8 Requirements for Transactions Valued over $250,000

For information regarding amendments unique to non-IT services, refer to SCM, Vol. 1.

6.B2.9 Amendments unique to non- IT services	If the original contract permitted amendments, but did not specify the changes, (e.g., quantity or time), it may be amended. This only applies to the first amendment. The time shall not exceed one year, or add not more than 30% of the original order value and may not exceed $250,000.00. If the original contract did not have language permitting amendments, the NCB process must be followed. Refer to SCM, Vol. 3, Chapter 6.

Topic 3 - Not Specifically Priced Items (NSP)

6.B3.0 Open market, incidental, and non-contract items

The only time that open market/incidental, non-contract items, may be included in a CMAS purchase order is when they fall under the parameters of the Not Specifically Priced (NSP) Items provision.

If the NSP provision is not included in the CMAS contract, or the products and/or services required do not qualify under the NSP parameters, the products and/or services must be procured separate from CMAS.

6.B3.1 Subordinate and peripheral

The Not Specifically Priced (NSP) Items provision enables the agency to include in the purchase order non-contract products and services that are subordinate and peripheral to the other purchase order items, as follows:

- An order containing NSP items may be executed only if it results in the best value alternative to meet department needs.
- Any product or service already specifically priced and identified in the contract may not be identified as an NSP item in an order.
- All NSP items included in an order executed against a CMAS contract are subject to all the terms and conditions set forth in the contract.

6.B3.2 Dollar limits

Maximum Dollar Limitation:
Purchase orders $250,000 or less: Total dollar value of all NSP items must not exceed $5,000.
Purchase orders exceeding $250,000: Total dollar value of all NSP items must not exceed 5% of the total cost of the purchase order, or $25,000, whichever is lower.

6.B3.3 NSP not available

Not all contracts include the NSP provision. The NSP provision is included at the option of the contractor and the CMAS Unit. Review your CMAS contract for the NSP provision.

The NSP provision is not included in contracts that are only for services.

Department orders for NSP items only are prohibited.

6.B3.4 Manufacturer authorization required

Departments must substantiate (through manufacturer authorizations) that the contractor is an authorized provider of the products and product-related services (maintenance, repair) that are offered under the NSP provision.

6.B3.5 Clearly identify NSP

The NSP items must be separately listed and clearly identified on the order.

6.B3.6 Items specifically excluded

The following NSP items ARE SPECIFICALLY EXCLUDED from any order issued under the contract:

1. Items that are not intended for use in direct support of the CMAS priced items identified in the same purchase order. An NSP item must be subordinate to the specifically priced item that the NSP item is supporting.
2. Supply type items, except for the minimum amount necessary to provide initial support to the priced CMAS items included in the same purchase order.
3. Any other items or class of items that are specifically excluded from the scope of the CMAS contract.
4. Public Works components that are NOT incidental to the overall project requirements. See CMAS Agency Packet, Section 16, Public Works Projects.
5. Products or services the Contractor is NOT factory authorized or otherwise certified or trained to provide.

Follow-on consultant services.

Topic 4 – Executing CMAS Purchase Orders (STD.65)

6.B4.0 Recording the CMAS number on the purchase document

The CMAS contract number must be identified on each CMAS order executed. This is in addition to the Purchasing Authority Number assigned by DGS/PD.

Refer to Chapter 8 – Purchase Documents.

6.B4.1 Multiple contracts on one purchase document

Departments wishing to include multiple CMAS contracts on a single order must adhere to the following:

- All contracts must be for the same CMAS contractor.
- The purchase order must be for one contractor location.
- Type the word "CMAS" in the space usually reserved for the contract number. On the STD.65, this is at the top of the form. The word "CMAS" signifies that the purchase order contains items from multiple CMAS contracts. The purchasing department may only use one DGS bill code.
- For each individual contract (as differentiated by alpha suffix), the department must identify and group together the contract number with the line items and subtotal per contract number (do not include tax in the subtotal), and sequentially identify each individual contract as Sub #1, Sub #2, Sub #3, etc. This facilitates accurate billing of administrative fees by the Procurement Division.
- The total of all items on the purchase order must not exceed the CMAS order limit identified in the CMAS contract.
- Do not combine items from both non-IT goods and IT CMAS contracts. Non-IT commodity contracts begin with the number "4" and IT contracts begin with the number "3." The purchase order limits are different for these two types of contracts. See SCM, Vol. 3 for more information on IT contracts.

Section C

Statewide Contracts (SC)

Overview

Introduction
(rev 6/11)

Statewide Contracts (SCs) are competitively bid and awarded contracts established by DGS/Procurement Division to take advantage of lower costs passed on by suppliers bidding on large quantities of goods repetitively used by multiple state departments. These contracts have unlimited dollar thresholds unless otherwise noted in the specific contract user instructions.

DGS/PD has successfully integrated sourcing into its regular operations for non-IT goods. Therefore all LPAs previously referred to as California Strategically Sourced (CSSI) Contracts are now called SCs.

Contents

This section contains the following topics:

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Topic 1 – SC Basics

6.C1.0 SC limitations

SC's do not have dollar limits or limitations unless otherwise noted in the specific contract and/or user instructions.

6.C1.1 Contract price is maximum

Contract pricing identified within SC is the maximum allowed.

6.C1.2 When to use SC

SC's are established to reduce the need for individual departments to conduct repetitive bids for like products. The use of most SCs is mandatory, while the use of other SCs is non-mandatory. The buyers must verify the mandatory or non-mandatory status by reviewing the user instructions of each contract.

6.C1.3 Using Statewide Contracts
(rev 6/11)

The following must be verified prior to executing a SC order:

- Departments must have non-IT purchasing authority;
- Is the contract mandatory or non-mandatory?
- Does the order require any CALPIA waivers?
- Does the order require additional review and approval prior to issuing the order (i.e., Fleet etc.)?
- Obtaining multiple offers is not required since these SCs are established as a result of competition.
- Each SC provides a set of user instructions unique to each contract. This includes instructions to departments for obtaining DGS written approval for any exemption to conduct a purchase outside of an authorized SC.
- Purchasing authority numbers and SC numbers must be identified on the purchase document in the appropriate location.
- Procurement files must be documented in sufficient detail to support the purchase transaction in the same fashion as any other LPA purchase activity.
- Purchasing dollar thresholds although unlimited, must remain within the department's approved purchasing authority dollar threshold for SCs.
- That all certified SB or DVBE purchases made through the SCs will be reported monthly by the contract holder and be credited to the purchasing department.

Contracts are available on PD's eProcurement web page at http://www.eprocure.dgs.ca.gov/default.htm or by contacting the PD contract manager for the specific contracts.

6.C1.4 SB/DVBE Off-ramp policy for mandatory SC
(added 6/11)

Statewide mandatory contracts awarded by the DGS for non-IT goods may have a Small Business/DVBE Off-ramp, meaning State departments will be permitted to purchase equivalent products at the same or lower price from other sources that are certified small businesses or DVBEs. To determine whether a particular mandatory contract has a Small Business/DVBE Off-ramp, consult the user instructions for that contract or use this link.

6.C1.5 SB/DVBE Off-ramp usage rules (added 6/11)

In order to utilize the SB/DVBE Off-ramp, departments must document in the procurement file that the non-IT goods being purchased are

1) Equivalent to the non-IT goods available from the SC including product description, functional requirements, and manufacturer warranties as provided in the SC; and

2) Equal to or less expensive than the pricing offered from the SC for the same products based on the total order value before taxes.

Additional rules for the SB/DVBE Off-ramp are:

- Departments must have the appropriate non-IT purchasing authority granted by the DGS/PD in order to utilize the SB/DVBE Off-ramp as identified by the statewide contract (see the Approved Purchasing Authority link);
- Transactions must be less than $250,000 excluding sales and use tax, finance charges, postage, and handling charges;
    - For purchases greater than $0 and less than $5,000, departments must document in the procurement file that the price is less than or equal to the pricing on the statewide mandatory contract unless otherwise stated in the user instructions;
    - For purchases of $5,000 and up to $249,999.99 departments must obtain price quotations from two or more certified SBs or two or more DVBEs (must be the same certification type) unless otherwise stated in the user instructions;
- SB/DVBE Off-ramp purchases must be made from a supplier with a current California SB or DVBE certification.

If these rules cannot be applied, departments may not use the SB/DVBE Off-ramp provision to buy outside of the mandatory statewide contract. The purchase must be made through the mandatory statewide contract.

6.C1.6 SB/DVBE Off-ramp reporting requirements (added 6/11)

Departments are required to report all purchases made using the SB/DVBE Off-ramp as indicated in the user instructions of each contract.

6.C1.7 Purchase document

Unless otherwise directed by individual SC user instructions, the common purchase document used to issue SC orders is the STD.65. Refer to Section A of this chapter and Chapter 8 for additional information on purchase documents.

6.C1.8 Body armor purchases

Departments shall purchase body armor (stab resistant and/or bullet proof vests) from the mandatory SC. If the products do not meet the department's requirements, then the department must submit to DGS/PD a STD.66 for processing by DGS/PD.

6.C1.9 Statewide Pharma-ceutical Program

The State of California Department of General Services (DGS) implements and administers a Statewide Pharmaceutical Program established by Government Code §14977-14982. The California State Departments of Corrections and Rehabilitations (CDCR), Mental Health (DMH), and Developmental Services (DDS) are mandated to participate in this program. Other state, district, county, city, municipal, or public agency governmental entities may elect to participate in this program.

The DGS works in conjunction with a Central Pharmacy Advisory Board to implement and administer a Statewide Pharmaceutical Program and implement strategies to manage escalating prescription drug prices. Representation on this Board is appointed by the entities participating in the Statewide Pharmaceutical Program.

Please review the DGS Website at, http://www.dgs.ca.gov/pd/Programs/Leveraged/pharma.aspx, for a list of contracts supporting the Statewide Pharmaceutical Program.

6.C1.10 SC availability

Click here for access to SC.

Section D

State Price Schedule

Overview

Introduction

State Price Schedules (SPS) are non-competitively bid agreements for goods at a fixed price for a specified period of time. These agreements are established by DGS/PD for use by State departments.

Contents

This section contains the following topics:

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Topic 1 – State Price Schedules Basics

6.D1.0 State Price Schedules

State Price Schedules (SPS) are non-competitively bid agreements for goods at a fixed price for a specified period of time. SPS agreements are established for unique and unusual items that preclude competitive bidding.

Departments are limited to a $100,000.00 threshold on non-mandatory SPS orders.

6.D1.1 How do departments use SPS?

Departments must verify the following, prior to executing an SPS order:

- Is execution of the order authorized under the department's purchasing authority?
- Are there comparable products available from outside sources where there is a need to obtain a CALPIA waiver?
- Is the purchase for special adaptive equipment where pricing is required from other providers?
- Are there any pre-approval requirements?

SPS agreements are available on PD's eProcurement web page at http://www.eprocure.dgs.ca.gov/default.htm or by contacting the PD contract manager for the specific SPS.

Section E

Master Agreements

Overview

Introduction

Master Agreements (MA) are one of the State's main procurement vehicles for leveraging its buying power. As stated in SAM section 5291 departments shall use master agreements whenever the functional requirements for which the contract was awarded are substantially the same as the departments' requirements.

Contents

This section contains the following topics:

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Topic 1 – Master Agreement Basics

6.E1.0 Review the MA

Departments must review the MA in its entirety (contract, supplements, and user instructions) to determine what requirements are applicable to the department's business need. Most often, an MA will require the department to seek offers from authorized suppliers to determine and obtain best value. There are MAs that have been designated "exempt" either by statute or policy from obtaining multiple offers. Buyers should reference the MA user instructions for guidelines. Refer to Chapter 5, Topic 6 for suggested statements.

Orders issued against an MA use either the STD.65 for non-IT goods or the STD.213 for non-IT services, as identified within the individual master agreement user instructions.

6.E1.1 How do departments use the MA

Departments must verify the following, prior to executing an MA order:

- Is execution of the order authorized under the department's purchasing authority?
- Does execution of the order require prior approval or any other approvals identified within the individual contract user instructions?
- Does use of the MA require additional requests for offers from other authorized providers identified within the contract?
- Does the estimated dollar threshold require prior DGS review and approval before issuing an award?

MA are available on PD's eProcurement web page at http://www.eprocure.dgs.ca.gov/default.htm or by contacting the PD contract manager for the specific contract.

6.E1.2 User instructions

Individual MA contracts provide user instructions unique to each agreement. User instructions include information such as whether or not the MA requires the buyer to obtain multiple offers whether "best value" and reports that may be required.

6.E1.3 Dollar threshold limitations

Departments may not execute a non-IT services MA transaction in excess of $500,000.00. Additionally, departments executing a non-IT services transaction of $50,000 or more from a non-IT MA must obtain the DGS/Office of Legal Services (OLS) review and approval prior to executing the purchase document. Refer to the individual non-IT services MA user instructions for further requirements regarding the OLS review and approval process. (See SCM Vol. 1)

Topic 2 – Achieving Best Value Using MA

6.E2.0 Valid attempt in seeking offers

Departments must make a valid attempt to secure offers from viable contractors who are able to supply the goods and/or provide services. Neither a lack of sufficient MA nor the use of restrictive requirements meets the intent for obtaining offers.

6.E2.1 Minimum RFO requirements

Departments granted purchasing authority to use MA shall obtain a minimum of three (3) offers including one SB and/or DVBE when available, unless otherwise instructed by the individual MA user instructions and document the responses.

Click here to access a Request for Offer template. Word PDF

Note: Buyers must read the User Instructions of an individual MA to verify whether or not the MA contains a specific format prior to using the above RFO template.

6.E2.2 Documenting the results

Buyers shall document responses in accordance with individual MA user instructions that may provide an evaluation format. Otherwise, buyers have the option to use the Best Value Determination Worksheet or use their own form to document the results of a MA offer.

Click here to access a Best Value Determination Worksheet. Word PDF

Regardless of the format used, the following must be documented in sufficient detail to support the supplier selection:

If a department contacts 3 sources and receives	Then the department shall document reasons why
1-offer	The other two (2) suppliers did not respond.
2-offers	The third supplier did not respond.

6.E2.3 Contacting more than 3-suppliers

Refer to Section A, Topic 3 of this chapter for the process to follow when only once source is known.

6.E2.4 Only one source known

If a department knows of only one source, where multiple MA offers cannot be obtained, the department shall either,

- Conduct a competitive solicitation, if suppliers are known that are not MA authorized or
- Process the response as an NCB contract, if no other sources are known outside of the MA. Refer to Chapter 5.

6.E2.5 Purchases less than $5,000.00	MA transactions valued less than $5,000.00 may be executed without obtaining offers if fair and reasonable pricing has been established and documented. Examples of fair and reasonable pricing methods are described in SCM Chapter 4, Section C, Topic 2. Documentation to support fair and reasonable pricing must be retained in the procurement file. Click here to access file documentation for orders less than $5,000.00.
6.E2.6 Requirements for Transactions Valued over $250,000	Approval by the Department's Agency Secretary and Department Director or immediate next ranking official must be secured on the purchase document and must be original signatures. The location on the purchase document for the signatures is up to each individual ordering entity.
6.E2.7 Amendments specific to non-IT services	For information regarding amendments unique to non-IT services, refer to SCM, Vol. 1.

Section F

Cooperative Agreements

Overview

Introduction

PCC sections 10298 – 10299 allow DGS/PD to enter into cooperative purchasing agreements with other states.

Contents

This section contains the following topics:

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Topic 1 – Western States Contracting Alliance (WSCA)/National Association of State Procurement Officials (NASPO) Basics

6.F3.0 WSCA/ NASPO

The WSCA/NASPO establishes cooperative multi-state contracts where participating states may join together to achieve cost-effective and efficient acquisition of quality products and services.

6.F3.1 How do departments use WSCA/NASPO?

Departments executing orders using the WSCA/NASPO program are not required to obtain three offers or document best value, but conducting price comparisons among the WSCA suppliers, if available, is encouraged. Refer to the user instructions of each contract.

Click here to search for a cooperative agreement access the California Multi-State Cooperative Agreements website and obtain supplier contact names and numbers.

Departments must:

- Obtain a complete copy of the WSCA/NASPO agreement (WSCA/NASPO base contract, CA participating addendum, CA terms and conditions and ordering instructions)
- Define the project scope to determine which goods and services are needed
- Check the electronic catalog and print a copy of an e-quote supporting the order
- Execute the order using the STD.65, unless otherwise directed within the specific WSCA/NASPO user instructions.
- Retain all documentation in the procurement file.

6.F3.2 WSCA/ NASPO Pricing

The basis for WSCA/NASPO pricing varies. Some are fixed for the duration of the contract, while some have cost of living adjustments and others are discounted from the manufacturer's suggested retail price. For an explanation of the pricing for a specific WSCA/NASPO contract, refer to the user guide for that contract. Pricing referenced in the user guide establishes the maximum, but not necessarily the minimum, price that can be charged. For large orders, users are encouraged to negotiate discounts if possible.

6.F3.3 WSCA contract numbers

Many of the WSCA/NASPO contracts use the contract number from the lead state. However, contracts established beginning in 2008 use the number "7" at the start of the contracts.

6.F3.4 Requirements for Transactions Valued over $250,000

Approval by the Department's Agency Secretary and Department Director or immediate next ranking official must be secured on the purchase document and must be original signatures. The location on the purchase document for the signatures is up to each individual ordering entity.

6.F3.5 Amendments

Unless otherwise instructed by the user instructions, WSCA/NASPO orders that require changes can be amended without submitting NCB contract justification documentation. Any amendment should contain the same degree of detail for changes that the original order contained. Refer to Chapter 8, Topic 7 for additional information on amending purchase documents.

6.F3.6 Orders over $500,000.00

Departments executing WSCA/NASPO orders over $500,000.00 for non-IT goods must obtain DGS/PD approval prior to executing the purchase document. The following information must be documented by the department and submitted to DGS/PD:

- Identify the need for the goods and/or services and the dollar value of the impending purchase document.
- Explain how the department has determined that issuance of a purchase document to this particular contractor makes good business sense and how best value for the department has been achieved.

Upon review and approval of the documentation submitted, DGS/PD will issue an approval letter concurring with the department's request. Upon receiving approval from DGS/PD, the department may proceed to execute the order.

Chapter 7

Protest and Post Award Disputes

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Chapter 7

Protest and Post Award Disputes

Overview

Introduction

This chapter describes what buyers may be faced with if a bidder protests the contract award for non-IT goods solicitations. Refer to the SCM, Vol. 1, for protests and post-award disputes for non-IT services that are non-LPA, and SCM, Vol. 3 for protest and post award disputes of IT solicitations.

Also included in this chapter is a discussion regarding bidder disputes once a contract has been executed.

Contents

This chapter contains the following topics:

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Topic 2 – Protests of Proposed Awards	4
Topic 3 – Alternative Protest Process	6
Topic 4 – Post-Award Disputes	7

Topic 1 – Protest Basics

7.1.0 Definition

A protest is a challenge brought by a bidder during the competitive solicitation process asserting that the protestant should have been selected for award. Bidder

7.1.1 Protest statutes

Applicable protest statutes and regulations regarding challenges and protests are contained within the following:

- Protest of proposed award for non-IT contracts (PCC section 10306).
- Victim Compensation and Government Claims Board (VCGCB)– Board Hearing Regulations, CCR, Title 2, Division 2, Chapter 1 sections 870.1 – 874.1

7.1.2 Authority over protests

The VCGCB must review and render a final decision for protests of proposed awards that are not withdrawn.

DGS/PD does not delegate its authority to manage protests. Therefore, whenever a department is notified of a protest, the department shall contact the DGS/PD Dispute Resolution (DR) immediately (the same day or within 24 hours).

Note: Refer to the SCM, Vol. 1, regarding protests of non-IT services solicitations that are not an LPA transaction, and SCM, Vol. 3 for IT goods and services. When conducting LPA's Request for Offer's (RFO), buyers must not include competitive solicitation language regarding small business preference, protest language, intents to award, evaluation criteria or advertising requirements.

Warning:
Master Agreements (MA) and California Multiple Award Schedules (CMAS), since MA and CMAS RFOs are not considered competitive solicitations, departments must not include protest language.

7.1.3 Ability to Award During Protest

No further action (i.e. award) may occur until a protest is withdrawn or the VCGCB renders a decision regarding the protest.

7.1.4 Dispute Resolution Section

DR facilitates and mediates resolution of protests against proposed awards of non-IT goods and contract disputes.

Click here to access the DR web page.

7.1.5 Protest provisions in standard solicitation language

The DGS/PD solicitation language provides bidders with the method for clarifying requirements and protesting a competitive solicitation. This language is found in the Bidder instructions:

- Article # 12-Specification Concerns
- Article # 21--Protests

Click the Bidder Instructions under Standard Contracts and Solicitation Documents on the Resources web page.

7.1.6 Solicitation identifies key action dates

The competitive solicitation will provide key action dates that will notify bidders of the last day to file a protest of the proposed contract award for non-IT goods valued over $25,000.00.

Topic 2 - Protests of Proposed Award

7.2.0 Defining protests of proposed award

A protest of proposed award is a challenge conducted under PCC 10306 by a participating bidder against the proposed contract award of a non-IT goods contract.

7.2.1 Who may file a protest of proposed award and when

Per Public Contract Code Section 10306, prior to award, any bidder who has submitted a bid may file a protest with the department against the awarding of the contract or purchase order on the grounds that he or she is the lowest responsible bidder meeting specifications. When a contract or purchase order is not to be awarded to the lowest bidder, the bidder must be notified 24 hours prior to awarding the contract or purchase order. If protested, the award shall not be made until either the protest has been withdrawn or the VCGCB has made a final decision as to the action to be taken relative to the protest. The 24 hour periods exclude Saturdays, Sundays and legal holidays.

7.2.2 Handling a protest of proposed award

The table below describes the process that shall be followed when a protest has been filed.

Step	Description
1	The bidder notifies the buyer identified in the solicitation in writing of an objection to the selection of the intended award.
2	The buyer immediately upon having knowledge of or having received a written protest notifies DR by phone, fax or electronic mail: Shirley Ramudo, Manager, Dispute Resolution • PH: 916/375-4623 • FAX: 916/375-4611 • E-mail: Shirley.Ramudo@dgs.ca.gov
3	The buyer stops any further action of the proposed contract award until resolution of the protest of proposed award has occurred.
4	The buyer provides DR with copies of all documents meeting the regulatory definition of the solicitation file including, though not limited to, the solicitation and all addenda, the evaluation and selection analysis, the bidder recap, the recommendation for award, and any other documentation or information used to determine the proposed award. DR works with the buyer to validate documents to be submitted to the VCGCB.

Step	Description
5	DR staff prepares and transmits all required formal documentation to meet regulatory notification and submission of the protest to the VCGCB.
6	Within ten calendar days after filing the intent to protest, the bidder/protestant, in their detailed statement of protest, must provide relevant facts and evidence to support their claim. The detailed statement should include citations to pertinent laws, rules, regulations or procedures on which the protest is based.
7	The DR, buyer and legal counsel ensure that the State's response is drafted to represent the facts and legal standing of the State's decision to defend its proposed award. The DR ensures that all deadlines and milestones are met.
8	The DR, buyer and legal counsel review the protestant's rebuttal to prepare for a potential hearing or next steps.
9	The VCGCB reviews all submitted documentation and will determine notification and hearing dates to be scheduled as necessary. The hearing officer prepares his/her proposed decision which is decided by the three-member board, resulting in a final administrative decision regarding the protest.
10	The DR responds to all inquiries from the VCGCB.

For additional information regarding VCGCB regulations see CCR Title 2, Division 2, Chapter 1, sections 870.1 – 874.1.

Topic 3 - Alternative Protest Process

7.3.0 Alternative Protest Process	The Alternative Protest Process (APP) was implemented in 1998 in accordance with PCC section 12125, et seq., to decrease the number of frivolous protests occurring in information technology procurements.
7.3.1 Procurements eligible for participation	Pursuant to PCC section 12125, et. seq., any non-IT goods competitive solicitation may include the alternative protest procedure.
7.3.2 Contact the DR	Departments interested in information regarding the APP shall contact the DGS/PD Dispute Resolution Manager, who acts as the APP Protest Coordinator. For additional information see OAH arbitration regulations – CCR Title 1 section 1400 et seq.

Topic 4 - Post Award Disputes

7.4.0 Definition

A post award dispute is a disagreement or conflict between a bidder/contractor and a department after a purchase document has been executed. Most often, contract disputes arise due to contract performance issues on the part of either the contractor or the State.

7.4.1 Occurrences

Disputes can occur in any purchasing authority type or in any purchasing category. It makes no difference whether the purchase document was the result of a competitive solicitation, LPA order or an NCB contract.

Disputes may also result from not having a clear understanding of the State's General Provisions or Terms and Conditions or a Statement of Work that is not clearly defined.

7.4.2 Buyers' responsibility

Buyers are responsible for managing contract performance by monitoring compliance with contract requirements and communicating to department contract administrators the importance of communicating and documenting all performance issues.

Refer to Chapter 11 – Contract Administration

7.4.3 Dispute provisions

The DGS/PD general provisions provide bidders with the process for disputing after an award has been executed. This language is found in the General Provisions – Non-IT Commodities (GSPD-401), Article #38-Disputes.

Click the general provisions under Standard Contracts and Solicitation Documents on the Resources web page.

7.4.4 Deal in good faith

Departments and bidders/contractors encountering a dispute should deal with one another in good faith and attempt to resolve potential disputes informally.

Whenever a dispute occurs, buyers will strive to resolve conflicts quickly and fairly, as disputes are disruptive and expensive to all parties involved.

Note: As stated within the DGS/PD General Provisions for non-IT commodities the contractor agrees to continue performance of the contract pending final resolution of the dispute. Failure to do so is considered a material breach of the contract.

7.4.5 Steps in resolving disputes

Disputes, regardless of magnitude, shall always be documented in the procurement file. When informal discussions and negotiations fail to render a satisfactory resolution for all parties, buyers shall follow the process identified below.

Step	Action
1	Buyer documents all conflicts or disagreements that affect contract performance.
2	Discussions shall occur with all principles (bidder, buyer, contract administrator, project manager, etc.) involved in the conflict.
3	Review dispute language contained within the General Provisions and any additional contract provisions that may impact the dispute.
4	Strive to reach an agreement that is acceptable to all participants.
5	Prepare written summaries of the major points of the dispute, see 7.4.3.
6	The State cannot gift public funds and must ensure that any monies or settlements are reasonable, legal, and justifiable.
7	Involve department management and/or department legal counsel as appropriate.
8	If the dispute resolution requires clarification or change to the purchase document, prepare an amendment to document the action and process expeditiously. If unsuccessful, the bidder must submit a written demand for final decision to the department director or designee. The written demand must present all facts of the dispute and be signed by a company officer.
9	The department director or designee renders a final decision in a timely manner not to exceed 90 days from receiving the bidder's demand.
10	If the bidder is not satisfied with the department's final decision, then the bidder may appeal the decision to DGS/PD DR for resolution.

Chapter 8

Purchase Documents

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Chapter 8

Purchase Documents

Overview

Introduction

This chapter describes the different purchase documents executed under a department's purchasing authority. The competitive and non-competitive purchase of non-IT goods and non-IT LPA orders will most often be executed on the Purchasing Authority Purchase Order (STD.65). Non-IT services may be executed using a standard agreement (STD.213) if issued against a master service agreement (MSA). Buyers must read the user instructions provided by the individual master agreement to determine the appropriate purchase document to be utilized.

Also included in this chapter are policies and procedures regarding the State Contract and Procurement Registration System (SCPRS) over $5,000.00.

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This chapter contains the following topics:

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Topic 1 – State Contract and Procurement Registration System (SCPRS)

8.1.0 Purpose of SCPRS

The SCPRS, an Internet-based application, was developed as a contract tracking system to provide a centralized database on state contracting and purchasing transactions.

8.1.1 Registering purchases valued over $5,000.00

Any and all purchase documents valued over $5,000 shall be registered in the SCPRS, regardless of the contract type. This includes, but is not limited to grants, subvention contracts, and exempt contracts. Departments are encouraged to also enter information for lower dollar-value transactions.

Note: The system does not prevent departments from recording transactions valued at $5,000 and less. Individual departments may elect to do so in an effort to meet internal tracking needs.

8.1.2 Recording the SCPRS number

The registration number assigned by the SCPRS must be entered on all purchase documents prior to issuing the order to the supplier.

Most purchase documents have been revised to accommodate the SCPRS number commonly located in the top right side of the forms. If a purchase document has not been revised to include the SCPRS box, the buyer must manually record the SCPRS number in the top right side of the form.

8.1.3 Registering responsibilities

Responsibility for entering the SPCRS registration number information is as follows:

If the transaction	Then SPCRS registration is the responsibility of the
Is within the department's approved purchasing authority	• Department will: – Record the assigned registration number onto all the purchase document copies prior to releasing the supplier. – Retain a copy of the purchase document with the recorded registration number in the procurement file.
Requires DGS review and approval	• Requesting department will: – Record the assigned registration number onto all the purchase document copies ONLY AFTER obtaining the required DGS approval and prior to releasing the supplier – Retaining a copy of the purchase document with the recorded registration number in the procurement file.
Is purchased by DGS on behalf of a department	• DGS/PD will – Record the assigned registration number onto all the purchase document copies.

8.1.4 Consequence of not reporting

A department failing to record transactions in the SCPRS registration system will be considered non-compliant with purchasing authority requirements, which may adversely impact the department's purchasing authority. This requirement will be subject to DGS audits.

8.1.5 Amendments must be registered

Purchase document amendments must be recorded in the SCPRS.

If an original transaction was valued at $5,000.00 or less and an amendment results in increasing the transaction to over $5,000.00, both the original transaction and the amendment must be entered in SCPRS.

8.1.6 SCPRS Internet site and phone number

Click here to access the SCPRS through the eProcurement web page. If you have questions or require assistance, contact the eProcurement Help Desk, eProcure@dgs.ca.gov or (916) 375-2000.

Topic 2 – Common Practices for Creating Purchase Documents

8.2.0 Standard forms

The two standard purchase documents available to departments under the purchasing authority program are:

Click here to access the (STD. 65/STD.65a Purchase Order), available on the DGS/OSP standard forms web page

Click here to access the STD.213, for LPA transactions executed using a master agreement for non-IT services see 8.2.1

8.2.1 LPA purchase documents

The majority of the LPA contracting processes require the use of the STD.65, although there may be some options or exceptions. Departments with LPA purchasing authority need to review all user instructions to ensure that the proper purchase document is used when executing purchases against an LPA.

Examples:

Click here to access the Standard Agreement (STD.213) used for non- IT services MA.

Click here to access the Master Agreement Order Form (GSOP 191-2) used for the Master Rental Agreement for IT equipment.

8.2.2 Purchasing Information Network (PIN) users

Departments executing the PIN version of the STD.65 (STD.65-PINDEL) should be aware that the STD.65-PINDEL currently does not have an area to record the SCPRS number. The SCPRS number must be hand recorded on the executed order. Refer to Topic 1 of this chapter for information on SPCRS.

Note: DGS/PD recommends that departments refer to the instructions located on the last page of the STD.65 for completing the STD.65-PINDEL purchase documents issued from PIN.

8.2.3 Signatures

Only authorized personnel who are delegated signature authority by department management may sign purchase documents on behalf of the State. Original signatures are required on purchase documents. Stamped or electronic signatures are not allowed.

Signatures must be secured from the department's accounting office verifying the availability and encumbrance of funds and the departmental personnel authorized to sign the purchase document as supported by the department's documented signature authorization list.

8.2.4 Handwritten changes are discouraged

Handwritten notations and/or corrections are not generally acceptable methods to make changes to purchase documents. All corrections and changes must be formalized by an amendment to the purchase document.

8.2.5 STD. 96 not valid for purchasing authority use

The Purchase Order/Estimate Change Request (STD.96) may only be used by a department to request a change to a Purchase Estimate (STD.66) which has been submitted to DGS/PD or to a purchase order issued by DGS/PD.

The STD.96 may not be used to create an amendment to a STD.65 under a department's purchasing authority.

8.2.6 Executing purchase documents

Departments are reminded that a purchase is not fully executed, regardless of the type of purchase document used, until all the necessary approvals and signatures have been obtained and secured on the purchase document as applicable to the purchase. Refer to Chapter 10 and Chapter 11 for additional information.

8.2.7 Receiving goods and services

Purchase documents regardless of whether they are for products or services must be properly executed and fully approved prior to the department receiving any products and/or having any services performed by a contractor. Refer to Chapter 10 and Chapter 11 for additional information.

Topic 3 – Purchasing Authority Purchase Order (STD.65)

8.3.0 Alternate STD. 65/65a formats

Departments must use the STD. 65/65a as provided by DGS/PD and available from DGS/OSP or any STD.65-PINDEL issued from PIN.
If a department creates an alternate version of the State's STD.65 as made available by DGS/PD, it must submit the alternate version to DGS/PD for review and approval prior to executing any orders using the alternate format. DGS/PD will approve only one alternate format to be used by a department at any given time.

Note: This review and approval process is required even if the document is re-created as an exact replica of the STD. 65/65a.

8.3.1 Approval process for alternate format

Departments proposing to use an alternate format for the STD.65 must submit a request through the DGS/PD Forms Coordinator as follows:

Step	Action
1	Prepare a request memo identifying the change(s) to the STD.65/65a and state why the change(s) is/are necessary.
2	Prepare and attach to the memo a "mock up" of the proposed STD.65/65a identifying all requested changes.
3	Secure approval by the department's Procurement and Contracting Officer (PCO) on file at DGS/PD or Purchasing Authority Contact (PAC) with an indication that the PCO concurs with the request.
4	Route the request to the attention of: Forms Coordinator DGS Procurement Division 707 Third Street, Second Floor South West Sacramento, CA 95605
5	The DGS/PD Forms Coordinator will review the proposed changes and will determine whether or not the changes are acceptable.
6	A letter will be prepared by the DGS/PD Forms Coordinator approving or disapproving the changes, which will be forwarded to the requesting department's PCO. A copy of the DGS/PD response will be provided to the Purchasing Authority Management Section (PAMS).

8.3.2 Common purchase order format

Departments granted multiple purchasing authorities and/or conducting purchasing activities in multiple units or locations shall use a common purchase order document. A department may concurrently use the STD. 65/65a as provided by DGS/PD, any of the STD.65-PINDEL formats as issued from PIN, and an alternate format approved by DGS/PD.

8.3.3 Grace period to comply with State revised STD. 65/65a

Departments will have a 90-day grace period to comply with the required use of any future revisions to the DGS/PD STD.65/65a. This 90-day period includes obtaining re-approval of a revised alternate format that includes new revisions to the State's STD.65.

A department may request an extension to begin using a STD.65/65a revision by justifying the extraordinary circumstances requiring the extension, identifying how the department will implement the changes reflected in the revision during the extension period, and providing an estimated timeframe within which the department will begin using the revised version.

8.3.4 Unique numbering

To avoid duplicate billings by DGS/PD and/or incorrect supplier invoicing, and to facilitate tracking and DGS/PD oversight, the department's agency order number must be unique from transaction to transaction and from year to year.

Example

03-001, 03-002, 03-003

The first two digits represent the fiscal year of the purchase order issue date. The department may determine the number of digits following the fiscal year, but the total number of characters in the sequence may not exceed 12. This maximum number of characters does not include the amendment number.

Amendments must be identified using the original agency order number and an amendment number. The amendment number must be numeric and may not exceed 2 digits.

Example

03-001, Amendment No. 01
03-001, Amendment No. 02
03-001, Amendment No. 03

Note: The amendment number must be entered in the "Amendment No." box on the STD.65.

8.3.5 STD.65 Instructions

Buyers must refer to the instructions provided on the last page of the STD.65 entitled "Instructions for completing the Purchasing Authority Purchase Order" to insure complete and accurate information is provided.

8.3.6 CAL-Card transactions

If payment is made by CAL-Card, then the "Payment by CAL-Card" box on the STD.65 must be checked as "Yes". This will assist departments in avoiding paying for the purchase twice.

Note: LPAs, in particular CMAS contracts, stipulate whether the Contractor accepts the CAL-Card as a payment method.

8.3.7 Where to send the STD. 65

Departments must distribute the completed STD. 65 as indicated on the bottom of the form (contractor-original and packing slip copies, Procurement Division copy, and agency copy).

Submit the Procurement Division copy upon issuance or no later than monthly in accordance with the reporting requirements as indicated on the STD.65 or as described in Chapter 12 to the following address:

By IMS to:
Z-1
DGS/Procurement Division
Attn: Data Entry Unit – Second Floor
707 Third Street, Second Floor, South MS 2-205
West Sacramento, CA 95605

By Mail to:
Department of General Services
Procurement Division
Data Entry Unit - Second Floor, South MS 2-205
P.O. Box 989052
West Sacramento, CA 95798-9052

Hand-Delivered to:
DGS/Procurement Division
Data Entry Unit
707 Third Street, Second Floor South MS 2-205
West Sacramento, CA 95605

Topic 4 – Items Requiring Special Attention When Executing STD.65s

8.4.0 Bill to address

The "Bill to" address shown on the STD.65 identifies for the supplier where related invoices must be submitted for payment. Most often, the address will be the department's accounting office. This address is particularly critical in determining whether or not a supplier's misdirected invoice is eligible for prompt payment penalties.

8.4.1 Ship to address

The "Ship to" address located on the STD.65 identifies the physical location of where the products being purchased are to be delivered. Information must include the name of the department and address.

8.4.2 Ground transportation

All shipments will be made by ground transportation unless otherwise specified on the STD.65.

8.4.3 Procurement method

General instructions for completing the "Procurement Method" on the STD.65 form are described on the last page of the STD.65 as made available via the OSP standard form data base. The following transactions are examples of:

Transactions based on Fair and Reasonable Pricing:
Buyers will check the "Competitive" box and record "Fair and Reasonable" or "F and R" on the line provided to the right of the box.

Transactions based on NCB and issued as an LPA
Buyers will check both the "Leveraged" and "Non-competitively Bid" boxes on transactions that are supported by NCB contract justifications but reference LPA terms and conditions.

Transactions based on an Exempted LPA
Buyers will check both the "Leveraged" and "Exempt" boxes on transactions that are LPAs and are identified as "exempt".

Example:
Cal-Net, and WSCA are LPA contracts that are exempt from obtaining multiple offers so both boxes on the STD.65 would be checked.

8.4.4 CALPIA orders

The department must enter "PIA" in the box titled "Purchasing Authority Number" on the purchase order (STD.65).

It is also not necessary for buyers to check any information located within the Terms and Conditions block of the STD.65 as this information is not applicable to a CALPIA purchase.

Refer to Chapter 2 for additional information.

8.4.5 Avoid price bundling	Buyers will include product and service line item descriptions and prices and not a bundled configuration with a total price.

Topic 5 – Transportation Management Unit (TMU)

8.5.0 Transportation Management Unit (TMU)

The TMU was established in accordance with the provisions of GC section 14920 et seq. Departments shall contact TMU at (916) 376-1888 to determine the cost and routing of freight whenever the weight of the purchase is 100-lbs or more and F.O.B. Destination, Freight Prepaid is not used. The TMU also reviews and approves freight invoices in accordance with SAM section 3851, 3852 and 8422.1. Refer to Chapter 9 for additional information.

Click here to access the TMU web page.

8.5.1 Free on Board (F.O.B.)

The shipping term Free on Board (F.O.B.) identifies the location where title to the goods changes from the seller (supplier) to the buyer (department).

When goods are purchased F.O.B. Destination, Freight Prepaid or F.O.B. Destination, Freight Prepaid/Add, title to the goods remains with the supplier until delivered by the carrier to the consignee in original or acceptable condition. If loss or damage occurs in transit, the seller is obligated to replace the goods or otherwise compensate the consignee (State).

Most State purchases will be acquired using the term F.O.B. Destination, Freight Prepaid. LPA purchase documents, unless otherwise specified within the individual LPA user guide, will also identify F.O.B. Destination, Freight Prepaid as the shipping term.

8.5.2 Contact TMU

Departments shall contact TMU prior to using the following shipping methods:

- F.O.B. Destination, Freight Prepaid/Add – Shipping charge is assessed from the originating shipping point to the point of delivery. Upon verification with the TMU, the purchase document must reflect "freight not to exceed cost per supplier quote stated on PO."
- F.O.B. Origin, Freight Collect – TMU will determine the cost and routing of freight. Departments must provide TMU with the following information:
  - City, State and Zip Code of origin and destination
  - Description of goods being shipped
  - Estimated shipping weight
  - Special handling requirements
  - National Motor Freight Classification (NMFC) – up to 7 digits

Example:
A department located in Sacramento identifies FOB Origin: Los Angeles for the shipment of chairs. This translates to the state being charged the cost of shipping from Los Angeles to Sacramento.

Topic 6 – Amending a Purchase Document

8.6.0 When are amendments necessary?

Amendments to original purchase documents are necessary when there is any change or modification to the original document as issued to the supplier. Examples of when amendments are required include:

- A change in shipping terms
- A change in supplier's name
- An increase or decrease of unit pricing/extended pricing/ overall costs
- An addition or cancellation of an item or multiple items
- A change in the description, specifications or substitution of any product

Note: If the purchase is the result of a competitive solicitation, amendments to modify scope (including but not limited to quantity, pricing or products) typically are not allowed. The unit price may not be increased unless specifically allowed in the original solicitation and evaluated for award. Departments must follow the instructions provided in Chapter 5 – Non-Competitively Bid (NCB) Contracts.

8.6.1 Using the proper form to effect a change

Departments may use only the following purchase documents to effect a contract change amendment, no matter how minor the change or amendment:

- Purchasing Authority Purchase Order (STD. 65/65a) or approved revised version
- Purchase Order (STD. 65-PINDEL or any version issued by PIN)
- Purchase Order Change (STD. 96) <u>ONLY</u> for changes to purchase estimates submitted by a department and/or purchase orders executed by DGS/PD for the department.

Warning: Verbal notifications between buyers and suppliers cannot be used to modify a contract. Contract changes/amendments must be formally executed (written, signed, approved) to modify a contract.

8.6.2 Identifying amendments

Amendments must be identified using the original purchase document number and an amendment number. The amendment number must be numeric and may not exceed 2 digits. The following are common ways of identifying purchase document amendments:

<u>Example</u>
03-001, Amendment No. 01
03-001, Amendment # 1
03-001, Amd # 1
03-001, #1

Note: Dependent upon the purchase document, a designated block may be available for the amendment number. In those instances, the word "Amendment" in any fashion is not necessary.

8.6.3 Recording amendment numbers on the STD.65

The amendment number must be entered in the "Amendment No." box on the STD.65.

8.6.4 Recording amendment numbers on the STD.213

The current version of the STD.213 does not include a separate box for the amendment number.

Consequently, both the agreement number and the amendment number must be recorded within the Agreement Number box located in the upper right corner of the document. A department should select a method of recording the amendment and continue using the same identification scheme throughout the life of the contract.

8.6.5 How detailed is an amendment?

Amendments should contain the same degree of detail for changes that the original transaction contained (i.e. increase or decrease in quantity, corrected model number, revised delivery date, change in delivery location, changes to contract language, etc.).

Buyers shall identify what is being deleted and/or added and the impact of the action to the overall transaction.

8.6.6 General guidelines for amendments

Departments are advised to adhere to the following general guidelines regarding amendments:

- An amendment must be within the original scope of the purchase document solicitation; if it is not, it must be treated as a non-competitively bid transaction. Changes to quantity, pricing, products, etc. are scope changes.
- An amendment must be processed using the correct format and procedures as described in this manual. Do not use letters or verbal notifications.
- An amendment must be issued in advance of contractor performance; this includes receiving any goods or services prior to an authorized amendment. Consequently, an amendment must be processed in a timely manner.
- An amendment that results in exceeding a department's purchasing authority dollar threshold for any given transaction must be submitted to DGS for review, approval, and execution. (Refer to Chapter 5 – Non-Competitively Bid (NCB) Contracts for additional information regarding amendments).
- An amendment to <u>extend</u> a contract term:
  - Must be processed, approved and issued <u>prior</u> to the contract expiration date. If it is not, there is nothing to extend as the contract has expired.
  - Retains the original contract start date and will only change the end date.
    <u>Example</u>:
    Original term: 07/01/10 – 10/31/10
    Extended term: 07/01/10 – 12/31/10

8.6.7 STD.65 increases/decreases

If the total amount of the purchase document is being altered, show the original amount, the amount of the change, and the new total within the face of the STD.65. Enter only the revised amount (either plus or minus) in the "Grand Amount" box. Lack of clarity in executing amendments may result in duplicate DGS administrative fee charges.

Example:

Original:	$2,000.00	STD. 65 Total Amount Box shows
Amd #1:	+100.00	$100.00
Adjusted Total:	$2,100.00	

8.6.8 Amending a Statement of Work

Departments requiring an amendment to a purchase document that includes a Statement of Work (SOW) should apply the following:

- Each page of the SOW's document header should identify the Agency Order number, amendment number, supplier name, and the date of the amendment.
- The items of work covered by the amendment should be clearly written as part of the purchase document:
  Example:
  "Attachment X, Statement of Work dated (Original document issue date) is hereby deleted and replaced with Attachment X, Statement of Work dated (Amendment Date)."
- Paragraphs being amended should be clearly identified.
  Example:
  Paragraph X is hereby amended to read: "The total amount of this purchase document is …"
- Paragraphs being deleted should be clearly identified:
  Example:

"Paragraph X is hereby deleted and replaced by Paragraph X dated (Amendment date). All other terms and conditions of Agency Order XX-XX remain unchanged and in effect."

8.6.9 Canceling a purchase document

Canceling an executed purchase document, regardless of contract form, (i.e. STD.65) requires issuing an amendment, with an amendment number.

The text on the purchase document must state what action is being taken by the amendment and address the expenditures as applicable to the action taken. If expenditures are being disencumbered as the result of the cancellation process then negative values would be shown on the purchase document.

Amendment distribution is no different for a purchase document cancellation than a typical amendment. A copy of the executed purchase document is sent to DGS/PD.

A statement to the effect that the transaction is cancelled in its entirety should also be included.

Example

Amendment #X cancels Purchase Order #XXXX in its entirety effective 08/05/10.

Chapter 9

Disbursements, Financing and Payment Programs

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Chapter 9

Disbursements, Financing and Payment Programs

Overview

Introduction

This chapter describes the policies, processes, and programs applicable to invoice submittals and payments, state financing, prompt payment, and the CAL-Card Purchase Card Program.

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This chapter contains the following topics:

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Section A

Disbursements

Overview

Introduction

This section describes payment practices including when payment should be released, what is required prior to invoice payments, and what are acceptable and unacceptable payment practices.

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Topic 1 – Payment Fundamentals

9.A1.0 Basic requirements

Payment shall not be processed or released to any supplier for non-IT goods without having in its possession all of the following:

- A properly authorized purchase document.
- Documentation verifying the goods were satisfactorily received and/or performed.
- An accurate and correct supplier invoice.

9.A1.1 Required payment date

Supplier payments are made in accordance with the provisions of the California Prompt Payment Act, GC section 927 et. seq. The Act requires departments (unless expressly exempted by statute) to pay properly submitted, undisputed invoices not more than 45 days after the receipt of an undisputed invoice.

Click here to access the Prompt Payment Program.

9.A1.2 Breakdown of payment approval process time

Thirty (30) of the 45 calendar days allowed to pay invoices are allocated to the department's payment approval process. The remaining 15 calendar days are allocated to the State Controller's Office (SCO) claim audit and warrant generation process.

However, if the department elects to pay the invoice using the revolving fund process in order to take advantage of discounts or to avoid accruing late payment penalties, then the department can use the entire 45 day period themselves.

9.A1.3 Administrative fee/billing

DGS/PD charges each department an administrative fee for use of most purchasing authority transactions (competitive bids, LPAs, NCB, etc.) based on the value of each purchase document.

In most cases, DGS/PD may bill a department directly or rely on the contractor to collect the fee. Individual LPA contracts will describe any administrative fees associated with using the contract and how the fee will be collected.

9.A1.4 DGS Price Book

DGS/PD publishes a price book and directory of services that provides a listing of the services provided and prices charged by DGS.

Click here to access the DGS Price Book and Directory of Services.

9.A1.5 Assessing taxes

The State does not pay federal taxes on purchases, only state sales tax and/or use tax. Taxes are assessed based upon where the products are physically received.

DGS/PD recommends that departments obtain a copy of the latest California Sales and Use Tax rate chart by county. This chart can be found on the Board of Equalization's web page.

Click here to access the Board of Equalization web page.

9.A1.6 Maintenance sales tax

For information regarding maintenance sales tax, refer to Regulation 1502 of the Sales and Use Tax Regulations of the Business Taxes Law Guide, or contact the Board of Equalization.

9.A1.7 CAL-Card usage

Refer to Section B, of this Chapter for information regarding the State's CAL-Card Purchase Card Program.

Buyers are reminded that when using the CAL-card as a payment method for purchases that all sales and use tax laws, rules, and policies are applicable. Refer to the above information blocks 9.A1.5 – 9.A1.6.

Topic 2 – Advance Payments

9.A2.0 Advance payments prohibited

The California Constitution, Article XVI, section 3 and section 6, prohibits gifts/donations of public funds. An advance payment or pre-payment is considered a gift of public funds since the State has received no benefit and the subsequent receipt of goods/services cannot be guaranteed.

Consequently, departments shall not pay for services in advance of service performance or goods received. The only exceptions are noted in GC section 11019 and 11256.

9.A2.1 Subscriptions and software support

Subscriptions, magazines, and periodicals can be paid upon receipt of an undisputed invoice.

Topic 3 – Progress Payments

9.A3.0 When progress payments are allowed

Pursuant to PCC section 10314 (non-IT goods), progress payments are allowable for work performed and costs incurred at the contractor's shop or plant if the purchase transaction is unique to State business, not suitable for public sale and in the State's best interest. In these instances, not less than 10 percent of the contract price is required to be withheld until final delivery and acceptance of the goods and/or services, and the contractor is required to provide a faithful performance bond, acceptable to the department, in a sum of not less than one-half of the total amount payable under the contract.

9.A3.1 Consideration of progress payments

Buyers, in the course of the procurement planning activities, should carefully evaluate whether progress payments are warranted and whether the contract administrator has the expertise to properly monitor contract activities before entering into purchases that include progress payments.

9.A3.2 Recom-mendations regarding progress payments

Recommended policy for departments is as follows:

- Discourage progress payments whenever possible.
- Do not allow progress payments on purchase documents with a term of less than three months.
- If progress payments are to be made, they should be made not more frequently than monthly in arrears or at clearly identifiable stages of progress, based upon written progress reports submitted with the contractor's invoices.
- Progress payments shall not be made in advance of services rendered.
- Purchase documents shall require a withholding of at least ten percent (10%) of each progress payment pending satisfactory completion of the purchase transaction or a separate and distinct task.
- Establish a procedure to indicate the amount to be withheld on invoices.
- Include a procedure in the purchase document for the contractor to request release of the amount withheld.
- A written Statement of Work or Scope of Work should be developed to clearly define the tasks that when completed constitute a completed project.

Topic 4 – Payee Data Record (STD.204)

9.A4.0 Payee Data Record (STD.204)

A completed Payee Data Record (STD.204) must be obtained from a supplier prior to executing a purchase document whenever a department engages in an activity leading to a payment to an entity other than a government entity. In accordance with SAM section 8112.3 and 8422.190 the completed STD.204 must be provided to the department's accounting office or business services unit as determined by department policy and must be attached to the purchase document.

9.A4.1 LPA contracts and STD.204

Leveraged Procurement Agreement (LPA) contracts such as CMAS require the supplier to complete a STD.204 as part of the completed contract that is available from the Contractor. It is the buyer's responsibility when obtaining a copy of a supplier's LPA contract to ensure a completed STD.204 is included. If not, then the buyer must obtain a completed STD.204 from the supplier.

9.A4.2 STD.204 on file prior to any payments

Regardless of the procurement approach (competitive, NCB, LPA, etc.) or payment method (invoice payment, advance payment or progress payment, etc.) the department's accounting office must obtain a completed STD.204 prior to releasing any payments.

9.A4.3 Compliance requirement

Buyers should include a copy of the completed STD.204 in each procurement file. If a department's policy states that the accounting office will retain the official copy of the completed STD.204, then the department's purchasing policies and procedures must include how their procurement files will substantiate that the STD.204 has been obtained and where the document is located. If a department elects not to include a copy of the STD.204 within each procurement file then a statement must be included within each procurement file identifying that a completed STD.204 has been obtained and where it can be located.

9.A4.4 Payee Data Record

Click here to access the Payee Data Record (STD.204).

Topic 5 – Payment of Invoices

9.A5.0 Accurate invoice

Departments shall remind suppliers of the importance of submitting accurate and correct invoices to ensure timely payment for goods received. Departments must not pay for anything that is not in the purchase document (pallets, shipping, travel costs, etc.)

9.A5.1 Components of an accurate invoice

An accurate invoice provides the following:

- Agency Order Number (STD.65) or Contract Number (STD.213)
- Identifies in detail the goods acquired, quantities, unit price, extension, description, etc.
- Sales tax and/or use tax as a separate line item from goods
- Identifies services (non-IT) provided, service period, unit price (i.e. hourly, monthly), and quantity applicable to the service
- Accurate billing address as stated on the purchase order or contract
- Supplier invoice number
- Supplier invoice date
- Company name and remittance address
- Payment terms offered

9.A5.2 The clock starts ticking

A properly submitted invoice is:

- Submitted to the department address as identified in the purchase document as "billed to" or "invoice submitted to" for payment.
- Provides all the necessary information as identified in the previous information block.
- Undisputed, see info Chapter 10.

To accurately measure and track payment timeliness, all invoices must be:

- Date stamped or receipt date designated in ink on the front of the invoice (to accommodate photocopying) when first received at the "billed to" departmental location as identified in the purchase document.
- Promptly forwarded to the department's accounting office if the invoice is received elsewhere in the department and the purchase document states the "bill to" address is the accounting office. It is recommended that the invoice be date stamped upon first arrival in the department, even if received at other than the "bill to" address on the purchase document.

9.A5.3 Invoice Dispute Notification (STD.209)

Departments having a conflict or dispute with a submitted invoice shall immediately notify the supplier by phone and follow up in writing via an Invoice Dispute Notification (STD.209) within 15 working days. Buyers and contract administrators must consult with their department's accounting office or other unit as determined by department policy and procedures to develop a plan of action for settling the dispute in a timely manner.

Click here to access the Invoice Dispute Notification (STD.209).

9.A5.4 Discounts

Departments are encouraged to take advantage of prompt payment discounts on invoices when offered by suppliers. CCR, Title II, Section 1895.8 states discounts involving discount periods of less than 20 days shall not be included in the calculation of low bid. Cash discounts can only be taken when the department is able to pay within the number of days specified by the supplier.

Example
5% in 20 days
(This will be shown in the "Payment Terms" block on the STD.65)

Note: Cash discounts offered by bidders for prompt payment of invoices are not to be considered in evaluating bids and offers to determine the purchase order award.

9.A5.5 Maintain a clear separation of duties

Departments should have departmental policies and procedures in place to ensure a clear separation of duties. Buyers should not be involved in receiving goods, approving invoices or making payments for goods or services that they procured.

Topic 6 – Additional Payment and Invoice Considerations

9.A6.0 Travel provisions

All travel and per diem expenses must be in relation to official state business, within contract parameters and incorporated into the department's executed purchase document. Travel and per diem rates paid to contractors shall be set in accordance with the rates of the Department of Personnel Administration (DPA) for comparable classes or verification supplied that such rates are not available to the contractor.

It is important that the department and contractor discuss necessary travel requirements prior to executing the purchase document because the detail and cost (only as allowed for in the contract) must be included in the department purchase document to be payable.

Buyers must verify that all travel and per diem expenses are authorized within LPA contract provisions.

Payments for travel and expenses of $25.00 or more must be supported by receipts.

9.A6.1 TMU audit stamp

In accordance with SAM section 3851, 3852, and 8422.1, all freight bills must be audited by the TMU prior to being scheduled for SCO payment. If a freight bill doesn't bear TMU's audit stamp, the invoice will be removed from the claim schedule by SCO and returned to the department.

TMU's freight bill approval is not required for the following items:

- The amount of the freight bill is $500.00 or less.
- Freight services performed under a contract pursuant to the requirements of SAM Section 1200 et seq., specifying the exact rates to be applied for the services.

9.A6.2 Training vouchers

It is acceptable to contract for training vouchers in advance of the training being performed "IF" the Contractor does not invoice and the department does not pay for the training services in advance.

9.A6.3 Purchase document and invoice name must match

The supplier name as shown on the purchase document and/or CAL-Card Statement of Account the invoice must match or the State Controller's Office (SCO) will not approve payment. Do not process invoices if the supplier name varies between these documents.

9.A6.4 Non-LPA supplier name discrepancy

Departments encountering a discrepancy in a supplier name between purchase document and invoice shall dispute the invoice until such time as one of the following occurs:

- The invoice is corrected to match the purchase document.
- An amendment to the purchase document to change the supplier name is executed. This may, dependent upon the nature of the name change, require an Assignment Acknowledgement or a Contract Novation document to be incorporated within the amendment documentation.

9.A6.5 Contact PAMS

Departments may contact PAMS for assistance in determining the proper documentation to effect a name change.

9.A6.6 LPA supplier name discrepancies

Departments encountering a discrepancy in supplier names when conducting LPA purchases shall immediately contact DGS/PD to verify whether or not the contractor has processed the appropriate documentation to effect the change in name.

Click here to access the Procurement Related Resources Directory found in the Introduction of the SCM, Vol. 2.

Invoices shall be disputed until such time as the LPA contract has been updated with the name change via a DGS/PD issued supplement or amendment to the contract and the department has in its possession an executed amendment to the purchase document.

9.A6.7 Documentation

Documentation to support a name change (LPA supplement/amendment) must be retained in the procurement file regardless of purchasing authority type or category used.

Section B

Finance and Payment Programs

Overview

Introduction

This section describes the different financing and payment programs available to departments with purchasing authority. Included in this section is a detailed description of the processes that shall be followed when executing these purchases and using CAL-Card as the method of payment.

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Topic 1 – California's Electronic Financial Marketplace

9.B1.0 State of California's Financial Marketplace

All departments are permitted to enter into either installment purchase agreements (commonly referred to in the industry as "lease purchases") or financed leases as described in the Uniform Commercial Code, Section 2A (commonly referred to as "operating leases"), via DGS/PD's financial marketplaces – "GS $Mart®" or "Lease $Mart®."

Click here to access the State Financial Marketplace (SFM).

9.B1.1 LPAs qualify to participate

Unless otherwise stated within individual agreements, LPA contracts may qualify for financing and leasing via the financial marketplace. See SAM Chapter 3400 for additional information.

9.B1.2 SFM compliance certification form

Departments will be required to complete a SFM Certification of Compliance form when contemplating financing a transaction using the California Financial Marketplace program. The completed form must be sent to DOF for their approval before the SFM will proceed with the financing process.

Click here to access the State Financial Marketplace (SFM) for additional information regarding this certification.

9.B1.3 Use of Financing Arrangements Other than GS $Mart.

Use of any financing arrangement other than GS $Mart, even utilizing baseline budget resources, is prohibited without prior approval from Finance. A department proposing such financing must request approval in writing and must provide an analysis to support the basis for selection of the financing to Finance support unit. A proposed financing arrangement other than GS $Mart will be subjected to a rigorous evaluation that must demonstrate that it will provide the state with better terms than GS $Mart and will provide comparable financial security regarding such issues as tax exempt qualifications, financial health of the lender, and the financing's effects on the state's credit rating.

9.B1.4 Tangible Assets

Purchased tangible assets that may be financed through GS $Mart® include:

- Vehicles
- Copy machines
- Laboratory equipment
- Medical equipment
- Furniture (including modular)
- Select services included with the procurement of assets (e.g., warranty, installation, and training)
- Telephone systems
- Most energy efficiency and sustainability equipment and systems (see "Capital Outlay" below)

"Tangible assets" that may not be financed through GS $Mart® include:

- Consultant and other services
- Capital outlay projects:
    - Capital outlay projects are those that alter the purpose or capacity of real property. Projects that keep real property functioning at its designed level service, or improve the efficiency of its operating systems—such as repair projects and most energy efficiency projects—are not capital outlay. Note, however, that some energy efficiency projects (e.g., photovoltaic) can involve significant facility engineering issues that make them capital outlay in nature or could be limited by covenants on debt-financed buildings. Such projects must receive prior approval by the DOF before securing financing.

9.B1.5 Contact financial marketplace managers

The State Financial Marketplace team managers must conduct all leasing and financing solicitations. Departments considering financing options shall contact the State Financial Marketplace managers for assistance.

Click here to access the State Financial Marketplace (SFM) manager.

Topic 2 – California Prompt Payment Program

9.B2.0 California Prompt Payment Act and compliance	Departments are expected to adhere to the provisions of the California Prompt Payment Act. Departments granted any types of purchasing authority are required to establish procedures in compliance with the provisions of the California Prompt Payment Act, GC 927, et seq. Click here to access the Prompt Payment Program.
9.B2.1 Late payment penalty report	Refer to Chapter 12 – Reporting Requirements.

Topic 3 - CAL-Card Purchase Card Program

9.B3.0 CAL-Card usage and purchasing authority

Only departments granted purchasing authority (includes eligible LPAs as allowed by individual contract agreements) may apply to participate in the State's CAL-Card Purchase Card Program (CCPCP).

Note: Non-IT services outside of an LPA procurement approach are subject to the contracting requirements of the SCM, Vol. 1.

9.B3.1 Payment mechanism only

The CAL-Card is a payment mechanism, not a procurement approach and, therefore, does not relieve departments from adhering to all procurement laws, regulations, policies, procedures, and best practices, including those discussed in the SCM, Vol. 1 and Vol. 2. This includes but is not limited to the application of all sales and use tax laws, rules and policies as applicable to the purchase. Refer to the above information blocks 9.A1.5 – 9.A1.6.

9.B3.2 Dollar threshold for CAL-Card use

The CAL-Card is a payment mechanism for the acquisition of goods or services up to the delegate purchasing limits authorized for the department and individual cardholder.

9.B3.3 Dollar limit increases

The CAL-Card is a payment mechanism for the purchase of goods and services up to the delegated purchasing limits authorized for the department. Increases to cardholder limits are done by the Agency's Program Administrator (or Alternate) through U.S. Bank. However, these limits may not exceed the delegated purchasing authority threshold for the procurement approach used.

9.B3.4 Eligibility

A department will no longer be eligible for the CCPCP if any of the following occurs:

- The department does not renew its purchasing authority or
- The department allows its purchasing authority to lapse or
- Purchasing authority is revoked by DGS/PD.

All privileges will be cancelled until the department has an approved purchasing authority.

9.B3.5 Splitting purchases

Departments will not split purchases to circumvent a cardholder's daily or monthly purchase limits. Also, cardholders will not split transactions to avoid competitive bidding limits or purchasing authority limits.

9.B3.6 Account suspension

Participating departments that maintain delinquent balances of 60 days or greater are subject to account suspension by the bankcard issuer. Each department shall work to eliminate potential late payment penalties and receive the full benefit of the prompt payment rebate revenue program.

9.B3.7 Limitations

CAL-Card limitations are as follows:

Stage	Description
1	CAL-Card must be used for state purchasing only. CAL-Card use for personal activities will not be tolerated.
2	CAL-Card cannot be used for state travel-related expenses. This includes travel-related per diem expense, normally reimbursed to state employees on a travel expense claim. Travel is defined as airline tickets, ground transportation, vehicles rentals, restaurants, meals, lodging and gasoline for rental cars or personal cars used for official business.
3	CAL-Card can only be used by the assigned cardholder.
4	Only the department-designated Cardholder and Approving Official can approve CAL-Card charges and payments. Backup approval authority for the Cardholder, Approving Official, and/or the Agency Program Administrator must be designated within the department procedures.
5	CAL-Card cannot be used to pay for past-due invoices.
6	CAL-Card cannot be used to pay late payment penalties.
7	Individual departments may establish additional prohibited transactions within their CAL-Card programs.
8	Using the CAL-Card for an LPA order does not relieve the department from executing a STD.65 or other contract document as allowed by the LPA. Contact the CAL-Card Program at (916) 375-4579 for additional information

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Topic 4 – CAL-Card Program Participation Requirements

9.B4.0 Request to Participate (RTP) form

Departments granted purchasing authority that is interested in participating in the CAL-Card Program are required to complete a Request to Participate (RTP) to U.S. Bank.

Click here to access the RTP form.

9.B4.1 Addendum to CAL-Card MSA

In addition to the RTP, departments are required to execute an addendum to the CAL-Card MSA by signing a formatted Standard Agreement (STD.213) in accordance with the terms and conditions of the CAL-Card MSA. Two copies of the STD. 213 should be sent to U.S. Bank and request that one fully executed STD. 213 is returned to the agency for the contract file. Once the requesting department and U.S. Bank sign the STD.213, the formal implementation process is initiated.

Click here to access the CAL-Card Standard Agreement.

For additional information contact the DGS CAL-Card contract administrator at: 916-375-4579.

9.B4.2 Staffing requirements

Departments that have met the initial CAL-Card participation requirements must also designate the following staff assignments to perform program administration responsibilities.

If you are the	Your administration responsibilities include:
CAL-Card Program Administrator or Alternate	• Overseeing the department's CAL-Card program. • Administrator for new and existing accounts. • Maintaining records of all account set ups and/or updates. • Maintaining audit file records for verification. • Monitoring system reports. • Providing program procedures and training and taking appropriate action related to account maintenance and payment process. • Coordinating CAL-Card procurement activities with the department's purchasing authority contact(s). • Monitor past due reports.

9.B4.2 Staffing requirements (continued)

If you are the	Your administration responsibilities include:
CAL-Card Approver	• Budget expenditure approval. • Complying with all state and departmental procurement policies and procedures. • Reviewing and approving cardholder statements, and maintaining familiarity with the duties and authorities of the authorized cardholders. • Timely submission of the certified Cardholder Statement of Account (CSA) to the billing office for payment.
Accounting/Billing Office Contact	• Receiving and reconciling CSA to the corresponding monthly invoices. • Ensuring timely payment of the CAL-Card program invoices. • Monitoring invoice payments and past due reports through completion. • Reporting inconsistencies to the CAL-Card Agency Program Coordinator.
Cardholder	• Authorizing the purchase with the assigned purchase card. • Ensuring that all transactions comply with purchasing authority requirements. • Reconciling the CSA with the transaction receipts and supporting documentation. • Reviewing and approving the CSA. • Responsible for filing a CSQI (dispute form) for billing issues unresolved with merchant. • Monitor disputes through resolution and closure.

Topic 5 – Executing Purchases Valued $2,500.00 and Over Using CAL-Card as the Payment Method

9.B5.0 CAL-Card transactions $2,500 and over	All purchases valued at $2,500.00 and over that are paid using the CAL-Card payment process must be executed using standard purchase documents as identified in Chapter 8 – Purchase Documents as applicable to the department's purchasing authority type and category used.
9.B5.1 Purchase document attachments	Any terms and conditions, model language, and/or attachments (i.e. statement of work, specifications, etc.) applicable to the transaction must be attached to or incorporated by reference into the purchase document. **Note:** Purchases executed on a STD.65 have a designated block to check to identify that payment will be made with the CAL-Card.

Topic 6 – Executing Purchases Valued Less than $2,500.00 and Using CAL-Card as a Payment Method

9.B6.0 General

For purchases valued at less than $2,500.00 and not acquired through an LPA, departments are not required to execute a purchase document. When purchases to an individual supplier have reached $7,500 within a calendar year a STD. 65 must be issued for the next purchase.

9.B6.1 LPA purchase documents

All LPA purchases must be executed on a STD.65 or other purchase document as referenced in the individual user instructions and must include all required documentation applicable to the purchase.

9.B6.2 Supporting Documentation

For those transactions that don't require a purchase document to be created, the following, as applicable, must be documented and retained in support of the transaction or attached to the CSA and the invoice documentation:

- Documentation to support fair and reasonable pricing for the purchase transaction.
- Responsive bids from at least two responsive suppliers.
- An approved NCB contract justification.
- An itemized detailed original invoice/receipt.
- Stock received information including the date received and by whom.
- Other documentation to support the transaction.

9.B6.3 Evaluate each Transaction

DGS/PD recommends that departments evaluate each non-LPA transaction under $2,500 to determine whether it would be in the State's best interest to execute a purchase document.

Chapter 10

Receiving, Inspection, Acceptance Testing and Acceptance or Rejection

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Chapter 10

Receiving, Inspection, Acceptance Testing and Acceptance or Rejection

Overview

Introduction

This chapter describes the processes of receiving, inspecting, accepting and/or rejecting non-IT goods acquired through the purchasing authority procurement process.

Also included in this chapter is a discussion of asset management and the process of determining whether or not a service deliverable is acceptable.

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Topic 1 – General Process for Taking Possession of Goods Purchased

10.1.0 Receiving process

Each department determines whether or not the goods received are acceptable and conform to all of the terms and conditions of the purchase document. The entire receiving process consists of:

Term	Definition	Example
Receiving	The act of taking possession of goods in order to stage them for inspection or place them into inventory. **Caution**: Placing goods into inventory without inspection may waive future inspection rights and remedies.	A worker on the receiving dock who signs for goods provides the acknowledgement that the goods were delivered, not that they were “accepted”.

Inspecting	The act of examining goods that have been delivered to determine conformance to what was ordered via the purchase document. In some cases, the acquisition may require specialized skills or expertise in examining the goods to determine conformance.	The U. S. State Department of Agriculture or the California Department of Agriculture inspects fresh produce and provides a certification of inspection to the purchasing institution.
Acceptance Testing	The act of testing what is purchased, either all items delivered, or the first item delivered or by random sampling of some or all items delivered. Testing determines that the goods, purchased are in conformance to the contract requirements as stated in the solicitation and purchase documents, the supplier's and/or manufacturers published technical specification and that the goods perform to a satisfactory level.	A department has purchased a non-network printer. The solicitation document identified a 30-day acceptance-testing period, during which the printer would be required to run error-free from the first day of installation.
Acceptance	The legal act of documenting that the goods and/or services conform to the requirements of the purchase document terms and conditions.	Completing an inspection or performance test, the department provides the supplier a notification letter confirming that the inspection/test has occurred, the equipment passed the inspection/test and the department accepts the product.

10.1.1 Eliminate the risk of error

Departments should maintain sufficient separation of duties in order to reduce the risk of error or fraud in their purchasing program. No one person should control all key aspects of an entire transaction or event. Refer to Chapter 1, Purchasing Authority, Topic 4.

10.1.2 Packaging and shipping standards

The DGS/PD General Provisions (GSPD-401 Commodities) describes to suppliers how goods will be packaged and shipped to a State facility. Any special packaging and shipping requirements and/or instructions over and above the standard provisions must be documented in detail within the bid solicitation and the purchase document.

10.1.3 Shipping multiple containers

The General Provisions instructs a supplier shipping multiple containers to identify the shipments as follows:

- Identify the number of the container and the total number of containers in the shipment; and
- Identify the number of the container in which the packing slip has been enclosed.

10.1.4 Timely release of purchasing documents	Buyers must promptly release fully executed and properly approved purchase documents to appropriate personnel involved in post-award activities such as receiving shipments, accepting goods or authorizing payments. These personnel should have a current, complete and accurate purchase document (including technical specifications) to compare shipments received to what was ordered.
10.1.5 Substitution of goods	Notify the buyer when the products do not match the purchase documents. Product substitutions, over shipments or under shipments must not be accepted without being properly documented. A purchase document amendment must be executed. Refer to Chapter 8 – Purchase Document, Topic 7 for information on processing a purchase document amendment.
10.1.6 Resolving disputes when state pays shipping	DGS/PD Transportation Management Unit (TMU) shall be contacted at (916) 376-1888 if a department encounters disputes with freight carriers or if filing lost, over, short or damaged shipment claims against shipping agents when the state pays for shipping. Refer to SAM section 3861 for additional information.
10.1.7 Follow-up on open orders	Department's policies and procedures shall provide a means for buyers and receiving staff to follow up on purchases of goods ordered and not yet received.

Topic 2 – Receiving Goods

10.2.0 Questions to consider when receiving goods

In accordance with SAM section 3861, receiving staff should always consider the following questions before taking receipt of any shipment:

- Includes a packing slip identifying a Purchase Order
- Is it for this department?
- Is it damaged?
- Is the piece count correct?

In addition, the following questions should also be considered when receiving goods on behalf of the department:

- Is delivery significantly late, unsatisfactory or incomplete?
- Does the item comply with the specifications and packaging requirements as defined by the contract, General Provisions or any special provisions of the order?
- Does the delivery require further inspection by another more qualified person?
- Have all the terms listed on the purchase document been met and properly documented?

10.2.1 Standard receiving package

A standard receiving package should, at a minimum, contain the following documentation, and be distributed to both the accounting and purchasing offices for payment and procurement file documentation:

- The invoice or packing slip
- The receiving copy of the purchase document
- A completed Stock Received Report (STD.106)

Note: If the freight terms required the consignee to pay the shipping costs (FOB Origin), the bill of lading/delivery receipt verifying shipping costs must be included as part of the receiving documentation.

10.2.2 Packing slip

Packing slips must be included in all shipments received by a department. At a minimum and in accordance with the standard State's General Provisions, the supplier must provide the following information on the packing slip to ensure departmental receiving staff can verify products being acknowledged as received:

- Purchase document number as issued by the department
- Item number
- Quantity and unit of measure
- Product part number
- Description of the goods shipped
- Backorder quantities if any

10.2.3 Receiving stock

In accordance with SAM section 8422.20, departmental receiving staff must prepare a Stock Received Report (STD.106) or may use an approved purchase document to record receiving information at the time goods are received. When a copy of the purchase document is used as a stock received report, the person checking the goods will write in the date received, the quantity received, and note any defect in condition of the goods. The original stock received report or the purchase document must be forwarded to the accounting office and a copy provided to the buyer to file in the procurement file on the day the goods are received.

The STD 106 will be stamped or similarly designated as "complete" when the order is completely filled. Completely filled is determined by carefully checking the quantity, description, and condition of the goods.

Click here to access the STD 106.

10.2.4 STD.106 signature authority

The staff responsible for inspecting and accepting the goods should sign either the STD 106 or the approved purchase document. If the STD 106 signatory is not the person who physically inspected and took possession of the goods, then whoever does sign the STD 106 must take precautionary measures to assure that the goods were actually received, inspected, and accepted before signing.

10.2.5 Receiving partial deliveries

If a department elects to accept partial deliveries, a photocopy of the approved purchase document may be used as a stock received report. When using the purchase document as a stock received report, the receiving staff inspecting and accepting the goods will write the:

- Date received
- Quantity received
- Note any defect in condition.

This process is followed for each partial shipment received through completion. The last stock received report for an order must be stamped or designated as "Complete" when the order is completely filled.

Note: DGS/PD recommends that receiving staff notify the buyer whenever a purchase is received as a partial delivery if the purchase transaction did not state whether or not partial deliveries are acceptable. Partial delivery documentation should be provided to the buyer on a timely basis to allow for any necessary communications between the buyer and the supplier to occur.

10.2.6 Receiving goods at field locations

Departments allowing goods to be delivered at locations other than headquarters site shall develop policies and procedures to inform pre-determined field staff of their responsibilities.

Staff assigned receiving duties in outlying locations will be responsible for preparing/compiling and providing documentation of the following:

- Correct shipper's bill of lading and delivery receipt
- Unit count noted on the bill of lading/shipping receipt matches the units actually delivered.
- When damage is evident, determine if the supplier or the carrier caused it.
- Document the following information and route to the headquarters contact person:
  - Contact name and phone number of person receiving goods.
  - Purchase Order number.
  - Documentation of what was actually delivered and inspected to verify compliance with the purchase document (including technical specifications), with clear notation and explanation of any discrepancies or partial shipments.
  - Signature of receiving employee.
  - Perform a timely inspection of received goods and report any issues according to departmental policies and procedures directly to the purchasing authority staff.

Note: Buyers are advised to provide receiving staff in field locations with purchase documents in a timely manner and review any special instructions directed by department policies and procedures to assist in accurately and efficiently receiving goods.

10.2.7 Need for complete receiving/ Inspection/ Acceptance documentation

The receiving package inspection and acceptance documentation initiates the payment process, as accounting staff uses this documentation to reconcile against the purchase document and supplier invoice. This documentation also provides the material necessary for the buyer to perform any post-award activities, including closing out the purchase or conducting follow up activities with the supplier regarding outstanding or incorrect deliveries.

Failure to provide all required documentation and follow all related policies and procedures ultimately delays supplier payments unnecessarily and could result in the department paying late payment penalties.

10.2.8 Recom-mendations

DGS/PD recommends receiving personnel to:

- Keep purchase documents on file until suppliers have met all obligations and deliveries. This is particularly important when accepting any partial deliveries or staggered deliveries over a period of time or in future fiscal years.
- Report immediately to the buyer identified on the purchase document any problems or questions in delivery, receipt, or discrepancies in equipment received inspected and accepted.

10.2.9 File documentation	Click here to access a post award file documentation listing.

Topic 3 – Inspection of Goods

10.3.0 Inspection, acceptance and rejection standards

The State has standard inspection, acceptance and rejection requirements as described in the General Provisions for non-IT (Article #17entitled "Inspection, Acceptance and Rejection") to ensure these activities are conducted in accordance with State requirements.

10.3.1 Inspecting a shipment

Departmental receiving and/or designated staff (dependent upon the goods received and whether or not staff with specialized expertise is necessary), should, upon acknowledging delivery of an order, conduct an inspection for the following minimum conditions:

- Verify that what was ordered conforms to purchase document documentation (Statement of Work, specifications, attachments, etc.), including the product description, model, brand, and product numbers.
- Verify the quantity ordered against the quantity shipped or delivered.
- Inspect for damage or breakage.
- Check for operability/functionality.
- Confirm instructions regarding special handling or packaging were followed.
- Verify that the unit of measurement count is correct (e.g. if the unit of measurement on the purchase document is one dozen, count 12 in the unit package).
- Verify that delivery documentation (packing slip, certifications, etc.) is acceptable.
- Verify that packaging integrity is preserved (no leakages, damages, etc.).
- Verify that perishable items are in good condition and expiration dates have not been exceeded.

10.3.2 Conduct timely inspections

Inspections should be completed within a reasonable amount of time or as specified in the purchase document. If a department knows that the inspection will not be immediate, then the purchase document must provide when the inspection will occur and how it will be accomplished.

10.3.3 Partnering inspections

Departments determining that an authorized person(s) other than a State employee will inspect the goods on the state's behalf (this may occur in shipments to multiple field locations and where set-up and/or installation services are required) will describe in the documentation what activities will be performed. Upon notification by the supplier that the final "turn-key" product installation has been completed as specified in the purchase documents, the State will then determine the final acceptance of the goods.

10.3.4 Installation checklist

Documentation may include a standard installation checklist for the supplier to complete and provide to a state representative upon completion of the tasks.

10.3.5 Documenting the results

Departments are advised to document all inspection results and provide the results to the department procurement office for filing within the procurement file.

The document should, at a minimum, identify what action was performed, who was in attendance, both department and supplier personnel by name and title, when and where the inspection occurred, and the inspection results.

Documentation shall be retained within the procurement file.

Topic 4 – Acceptance Testing and Acceptance

10.4.0 Acceptance testing	Departments that require additional acceptance criteria over and above what is stated within the State's General Provisions (GSPD-401 Commodities) must describe the acceptance criteria in the solicitation and purchase document.
10.4.1 Documenting the criteria	An acceptance testing period may occur over a period of time and that span of time must be documented within the competitive solicitation or leveraged procurement agreement request for offer to describe how the performance will be measured and how acceptance of the good or service will be defined and accomplished. The acceptance requirement must also be carried through the purchasing process into the executed purchase document.
10.4.2 Acknowledging successful acceptance testing	Departments shall acknowledge acceptance of goods by issuing a written notice of successful acceptance to the supplier and providing copies of the acceptance letter as determined by internal policies and procedures. A copy of the acceptance letter must be retained in the procurement file.

Topic 5 – Rejecting Non-Conforming Goods

10.5.0 Process for rejection of goods

The following process should be followed if the goods are not in conformance with any requirements of the purchase document (including technical specifications):

Stage	Description
1	The person rejecting the goods must immediately communicate the problem(s) and rejection in writing to the buyer.
2	The buyer is responsible for notifying the supplier within a reasonable time after delivery or tender under UCC 2-602, making arrangements to hold the rejected goods somewhere protected from damage, and taking reasonable care of rejected goods until the supplier can take possession of the goods and remove them from the site.
3	The buyer is responsible for providing a notice of rejection letter to the supplier describing the defect(s) that renders the delivery as non-conforming to the purchase document, what the delivery and inspection criterion was, and how the delivered product does not conform.
4	The buyer can accept any unit of measure (e.g., lot, case, and pallet) and reject the rest (UCC 2-601). Example: A department executed a purchase document for 50 cases of bond paper, but the supplier shipped 150 cases of bond paper. The receiving staff may either reject the entire shipment or accept the 50 cases of bond paper in accordance with the provisions of the purchase document. The remaining 100 cases of paper will be rejected and returned to the supplier.
5	If the supplier, within a reasonable time period or as stated in the purchase documents, does not remove rejected goods, the department buyer may: • Ship products back to the supplier at the supplier's expense. • Store the rejected goods with reimbursement required from the supplier for any incurred costs.

10.5.1 Timely supplier notification

Departments are required to contact the supplier in a timely fashion or as specified in the purchase documents, when rejecting goods that are over-shipments, defective, or for any other non-conformance to the purchase document.

10.5.2 Returned Stock Report (STD. 108)

In accordance with SAM section 8422.20 departments will prepare a STD.108 when returning goods to a supplier. This documentation shall also be provided to the buyer to follow up with the supplier as necessary. The STD.108 shall also be retained in the procurement file.

Click here to access the Returned Stock Report (STD.108).

10.5.3 Suppliers' return authorization	Suppliers may require buyers to obtain a return authorization before shipping goods back to the supplier. Buyers should contact the supplier prior to returning goods to confirm and follow any return authorization processes as required by the supplier.

Topic 6 – Supplier Performance

10.6.0 Documenting performance	Departments, upon confirming that goods received and inspected are either in conformance with the terms of the purchase document or are to be rejected, shall document the results of the delivery and inspection.
10.6.1 Supplier Performance Report (SPR)	The SPR may be used by the receiving staff to report on the quality and timeliness of a contractor's delivery. Its purpose is to capture and track performance histories, preparing correction or cure notice(s), or use in future supplier development and subsequent source selection activities conducted by the department. Click here to access the Supplier Performance Report.
10.6.2 Access to information	The purchasing staff should determine how completed SPRs are to be filed, either in a centrally located area providing all buyers access to the information or retaining the documents within the procurement files.

Topic 7 – Asset Management

10.7.0 Securing assets

DGS/PD recommends that departments implement policies and procedures applicable to securing and safeguarding assets, regardless of how an asset was acquired.

10.7.1 Physical control over assets

DGS/PD also advises departments to limit access to received goods to authorized staff and provide sufficient security controls to goods considered vulnerable to loss or unauthorized use. Inventory should be periodically counted and compared to control records.

10.7.2 Identification and tagging

In accordance with SAM section 8651, all State property must be tagged after acquisition. This includes property whether or not it meets all of the State's capitalization requirements. Refer to SAM section 8602 for capitalization definitions.

The purpose of tagging assets is to designate the assets as belonging to the State.

Refer to SAM section 8651 and/or individual department policies for tagging requirements.

10.7.3 Property control

In accordance with SAM section 8650, departments shall record the following information when property is acquired:

- Date acquired
- Property description
- Property identification number
- Cost or other basis of valuation
- Owner fund
- Rate of depreciation (or depreciation schedule), if applicable

Further, departments will keep track of state property using an automated system.

10.7.4 Surveyed property

In accordance with SAM section 3520, prior to disposal of any state-owned personal property other than vehicles or mobile equipment, departments must receive approval from the DGS/Office of Fleet and Asset Management, Surplus Property Section.

A Property Survey Report (STD.152) must be submitted for approval prior to disposition. Disposition includes sale, trade-in, discarding, recycling, donating to local school districts, or turning the property over to Property Reutilization. If not reusable, all Information Technology must be recycled. Refer to the Procurement Division web site for the Master Services Agreement for Universal Waste for local e-Waste recyclers.

Refer to the DGS/OFAM/ Surplus Property web site to register for online submission of the Property Survey Report (STD. 152)

10.7.5 Lost, stolen, or destroyed property

Departments are required to prepare a STD.152, in accordance with SAM section 8643, to adjust property records whenever equipment is lost, missing, stolen or destroyed. Although Departments prepare the STD. 152 for lost, missing, stolen or destroyed property, it is not submitted to the DGS for approval but maintained by the Department with the documents described in the Report.

The report contains:

- A description of the events
- Precautions to be taken to prevent repeat situations
- A statement that the California Highway Patrol has been notified in accordance with GC section 14613.7
- Copy of the STD. 152

In accordance with SAM section 8643 and 20080, losses of state property due to fraud or embezzlement must be reported to DOF, Office of State Audits and Evaluations and the Bureau of State Audits.

10.7.6 Replacing lost, stolen, or destroyed property

Departments should ensure that the appropriate documentation is provided to the buyer to support the purchase of replacement equipment as a result of being lost, stolen, or destroyed.

Topic 8 – Receiving Service Deliverables

10.8.0 Accepting or rejecting services

Buyers, in preparing purchase documents for services, must develop a clear, concise, and detailed description of the services to be performed. An individual or individuals must be assigned to monitor supplier performance. Any deviations or unacceptable performance levels shall be documented and provided to the buyer to assist in problem resolution.

Staff accepting written deliverables must provide the supplier with written documentation accepting the deliverable.

Refer to Chapter 11 – Contract Administration for information pertaining to monitoring.

10.8.1 Maintenance services

Departments acquiring equipment maintenance services should develop a uniform method for recording data relating to the repair or maintenance of equipment, which includes essential data pertaining to incidents of repair or maintenance.

10.8.2 Tracking maintenance services

The following essential data is required in resolving disputes between the supplier and the department with respect to performance:

- The time the maintenance provider was notified by the State,
- The time the maintenance provider personnel arrived to repair the malfunction,
- The time the component and/or system was returned to service,
- A description of the malfunction or incident; and
- Signature of the maintenance provider and a representative of the State.

A maintenance form should be prepared whenever a system or component is inoperative and left open until the repair is completed.

10.8.3 Creating history

Developing a process for tracking maintenance levels creates a performance history that assists contract administrators in reviewing contract performance and provides necessary information to determine when a system or component needs replacement (end of useful life).

Chapter 11

Contract Administration

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Chapter 11

Contract Administration

Overview

Introduction

Contract administration concentrates on the relationship between the department and the supplier from contract award to contract closeout ensuring the supplier delivers the product and/or service in conformance with the purchase document requirements. The contract administrator must completely understand all aspects of the purchase document. This chapter describes the DGS/PD requirements and recommended practices associated with contract administration activities.

Contents

This chapter contains the following topics:

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Topic 1 – Contract Administration Principles	2
Topic 2 – The Do's and Don'ts of Contract Administration	5
Topic 3 – Ethical Decision Making and Contract Administration	6
Topic 4 – Record Retention and Contract Administration	7

Topic 1 - Contract Administration Principles

11.1.0 What's in a name?

Personnel assigned to perform supplier performance and contract administration activities are often referred to as a "contract manager" or "contract administrator." This chapter will refer to the person assigned to perform all contract administrative functions as a contract administrator.

11.1.1 Buyers remain involved

Although contract administration assignments may be determined by departmental policies and procedures or the magnitude or complexity of the contract, it is critical that the buyer remains involved in the post award contract activities, including acting as the department's contract manager or as a liaison between the contracting parties and DGS/PD as warranted.

11.1.2 Expectations of the contract administrator

Regardless of the title used, the person assigned contract administration functions must be made aware of the expectations and requirements of the position. A contract administrator must:

- Have sufficient knowledge of contracting principles as it relates to their responsibilities in administering the contract.
- Communicate with both the buyer and supplier on contractual issues.
- Maintain records or logs to turn over to the procurement office at the completion of the contract.

11.1.3 Establish the fundamentals

Once a purchase document has been executed, the contract administration responsibilities should be reviewed with the person assigned to the role. Any additional contract administration activities specific to the transaction should also be reviewed.

11.1.4 Communication is key

A key factor in successful contract administration is communication. It is essential for contract administrators to understand the provisions of the purchase document, have the ability to communicate contract obligations to all parties involved, and maintain control over the contract performance.

11.1.5 Post award orientations

Buyers, prior to turning over contract administration functions, determine whether or not a post-award orientation with assigned contract administrators, project managers, and suppliers is warranted to achieve a clear and mutual understanding of all contract requirements and to identify and resolve potential problems prior to any contract performance.

11.1.6 Post award orientation activities

Post-award orientations should include the following activities:

- Providing a complete copy of the authorized purchase document with all attachments to the involved parties.
- Identifying the key department and supplier personnel contacts and their responsibilities and authority.
- Reviewing any internal policies and procedures with all parties.
- Reviewing any contract reporting requirements with the contract administrator and/or the supplier.
- Reviewing the contract payment process, including review time, and processing time requirements to avoid payment penalties.
- Reviewing any acceptance criteria and review process as required by the contract.
- Reviewing the process for requesting an amendment/addendum/supplement/change.
- Reviewing the communication process for resolving disputes or any other contract issue.
- Reviewing documentation requirements for the purchase document audit files and retention.
- Review and document supplier performance.

11.1.7 Consider departments' processes

In addition to information contained in the SCM, departments are encouraged to develop contract administration policies and procedures that are unique to their department's business needs or processes.

Topic 2 – The Do's and Don'ts of Contract Administration

11.2.0 Contract administration do's

Effective contract administration activities include:

- Notifying the contractor to begin work.
- Monitoring contract activities for compliance with:
  - Work progress to ensure services are performed according to the quality, quantity, objectives, timeframes, and manner specified within the contract.
  - SB and DVBE contractors and/or subcontractors to ensure attainment of approved contract participation goals.
  - Review progress reports, status reports, and timesheets as required.
- Approving the final product/services by submitting a written document accepting the deliverables.
- Providing any documentation to the department's procurement office.
- Monitoring expenditures, ensuring funding availability when contract extends over multiple years.
- Verifying accuracy of invoices and approving invoices for payment.
- Requesting amendments/addendums/supplements/changes and/or contract renewals in a timely fashion as determined by departmental policies and complexity of the request (often three – six months in advance).
- Verifying all work is completed and accepted by the department prior to the contract expiration date.
- Performing contract close out activities:
  - Completing Contractor Evaluation Report (STD. 4) for consulting services or in accordance with department policies and procedures.
  - Notifying responsible parties when funds can be disencumbered.
- Reporting any contract disputes immediately to the department procurement office.
- Keeping an accurate auditable paper trail of contract administration.

11.2.1 Contract administration don'ts

Contract administrators are <u>not authorized</u> to:

- Instruct the contractor to start work before the contract is fully executed.
- Change the scope of the contract without doing so through the formal purchase document amendment process.
- Direct the contractor to perform work that is not specifically described in and funded by the contract.
- Extend the time period of the contract without execution of an approved amendments/addendums/supplements/changes.
- Allow the contractor to incur any additional costs over the limit set by the contract.
- Sign a contract as the department's authorized signator unless authorized in writing.
- Sign any contractor's contract form.

Topic 3 - Ethical Decision Making and Contract Administration

11.3.0 Work behaviors and awareness

Staff, other than buyers, that perform contract administration functions, not only need to understand how to administer a contract but are also expected to adhere to and conduct business by maintaining the same ethical standards as if they were a buyer.

11.3.1 Review contract principles

Buyers that are turning over the contract administration functions to a person unfamiliar with the procurement process should review with that person the principles of conduct governing the acquisition process and its impact to the role of the contract administrator.

Contract administrators must:

- Conduct themselves in a professional manner, refraining from mixing outside friendships with business, not engaging in incompatible activities, conflicts of interest, or unethical behavior.
- Accurately account for expenditures and property received.
- Be aware that perceptions can override reality.
- Involve the department's procurement and legal staff when questions arise regarding acceptable or unacceptable behavior when dealing with suppliers.

11.3.2 Ethics review

Buyers and contract administrators are advised to review their department's statement of incompatible activities, SAM section 3504 on ethics and prohibited practices, and refer to Chapter 2 – Procurement Planning, Section A, Topic 2 of this manual.

Complete Form 700, Conflict of Interest Form, and department's Statement of Incompatible Activities.

Additional information on ethics may also be found at www.fppc.ca.gov.

Topic 4 – Record Retention and Contract Administration

11.4.0 Good record keeping

Departments are responsible for maintaining records in sufficient detail to allow anyone to review documentation and understand how the procurement was requested, conducted, awarded, and administered.

Buyers shall provide contract administrators with the necessary instructions to maintain good record keeping activities and ensure the records are turned over to the procurement office at the completion of the contract term. The records maintained by the contract administrator are incorporated into the procurement file and retained for compliance and/or auditing purposes.

11.4.1 Setting up a contract file

Contract administration responsibilities may also include establishing the department's procurement file dependent upon the department policies and procedures as to who performs the contract administration duties.

Consequently, contract administrators should organize documentation according to department procurement processes in addition to DGS/PD recommendations.

DGS/PD recommends creating files by:

- Developing a user-friendly filing system. File by purchase document number or supplier name.
- Establishing a separate hard copy file for each purchase document administered.
- Developing a log sheet for a diary of activities. This may include dates and times of discussion and subject matter discussed.
- Developing spreadsheets for tracking expenditures, invoices, and/or timekeeping for the life of the transaction.
- Creating file dividers for:
  - Original purchase document and all amendments/addendums/supplements/changes
  - Work Authorizations
  - Deliverables
  - Correspondence – acceptance letters, termination notices, etc.
  - Invoices

Note: The above information is specific to post award contract administration. Department purchasing authority transaction files will include all of the above as well as file documentation as referenced in Chapters 4, 5, and 6 dependent upon the specific purchasing category.

11.4.2 Record retention requirements

The Attorney General's Office has directed that in view of the need for purchase order and contract purchase files for antitrust litigation, such records should be retained for seven years from the end of the fiscal year in which encumbrance is liquidated. Destroy after the required seven years or when audited by the Bureau of State Audits or the Department of General Services, whichever comes first.

Since there are various sources that dictate records retention requirements (e.g. statute, policy, pending litigation, etc.) and the retention varies depending on document type and can vary by department, depending on their internal retention schedule, there is not a one size fits all retention rule. When in doubt, departments should retain for the longest period applicable.

Chapter 12

Reporting Requirements

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Chapter 12

Procurement Planning

Overview

Introduction The purpose of this chapter is to describe the reporting requirements related to Purchasing Authority and additional acquisition reporting requirements.

Contents This chapter contains the following sections:

Section	See Page
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Section B: Additional Acquisition Reporting Requirements	15

Section A

Purchasing Authority Reports

Overview

This section consists of the reporting requirements specific to a department's purchasing authority program. Reports for non-IT goods and IT goods and services are listed here.

Contents This section contains the following topics:

Topic	See Page
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Topic 3 – Prescription Drugs Purchased Outside of the Prescription Drugs Bulk Purchasing Program Quarterly Report	8
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Topic 1 – Purchasing Authority Activity Reporting

12.A1.0 Reporting

Departments must report to DGS/PD all transactions including amended and cancelled transactions executed under its purchasing authority. The categories of authority for transactions that must be reported are identified in Chapter 1 - Purchasing Authority and may include but are not limited to:

- Purchasing Authority Purchase Orders (STD.65)
- Standard Agreements for IT Goods and Services Only (STD.213) with a completed Agreement Summary (STD.215) as the cover document.

Some transactions are reported directly to DGS/PD upon execution and, therefore, departments should not report those transactions as directed in this section. Submission of these transactions as directed in this section will result in duplication of DGS administrative fee charges to the department. These transactions include:

- Transactions entered directly into the Procurement Information Network (PIN).
- Transactions executed electronically as allowed by the individual LPA, if the LPA specifically states that hard copy reporting is not required.

12.A1.1 Due Dates

Departments must submit a copy of each executed purchase document, regardless of the form used, no less frequently than monthly, by the tenth of the month following the reporting period. Departments may submit transactions more often than monthly if the department so chooses.

12.A1.2 How to report

Departments must ensure that submitted transactions are:

- Batched separately by type of purchasing authority, non-IT and IT
- Batched separately by category of transaction
- Clear, legible, and complete in every detail

Note:
Customer departments that have entered into standard agreements for consolidated data center services with the Technology Agency/OTech are not to submit copies of the standard agreement to DGS/PD. It is the responsibility of the data center to report these transactions in accordance with the data centers delegation granted by DGS/PD.

12.A1.3 Where to submit

Departments will submit transactions executed under their purchasing authority:

By IMS to:
Z-1
DGS/Procurement Division
Attn: Data Entry Unit - Second Floor
707 Third Street, Second Floor South MS 2-205
West Sacramento, CA 95605

By Mail to:
Department of General Services
Procurement Division
Data Entry Unit - Second Floor South MS 2-205
P.O. Box 989052
West Sacramento, CA 95798-9052

Hand-Delivered to:
DGS/Procurement Division
Data Entry Unit
707 Third Street, Second Floor South MS 2-205
West Sacramento, CA 95605

12.A1.4 Summary Report

The option of using the Summary Report is no longer available. If a department is currently using the Summary Report and discontinuation of its use will adversely impact the department, the department should contact the PAMS to discuss an extension of time for its use.

Exception:
Consolidated Data Centers that conduct activities under Data Center Agreement Purchasing Authority (DIA) will continue to report their transactions using the summary report unique to the data center purchasing authority granted by DGS/PD. Refer to Section A, Topic 2 of this chapter

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12.A1.5 Non-reportable transactions

The following procurement activities are not under DGS/PD-approved purchasing authority and should not be reported:

- Non-IT services that were not executed as an LPA order.
- Individual memberships.
- Organizational memberships in non-IT organizations.
- Opportunity purchases executed by District Agricultural Associations (DAA).
- CAL-Card transactions for non-LPA purchases valued less than $5,000 that was executed without issuing a purchase document.

Transactions executed using a Sub-Purchase Order (STD.40A), including those executed using a STD.65 when the STD.65 is used in lieu of the STD.40A.

Topic 2 - Data Center Interagency Agreement Quarterly Report

IT Only

12.A2.0 Data center inter-agency quarterly report

The Office of Technology Services that conducts state data center activities under a DIA purchasing authority must submit the Data Center Interagency Agreement Quarterly Report on a quarterly basis by fiscal year, by the tenth of the month following the reporting period as follows:

Click here to access:
the DIA Quarterly Report in Word format
the DIA Quarterly Report in PDF format

12.A2.1 Due dates

DIA quarterly reporting periods and the related submission dates are as follows:

Reporting Period	Report is due no later than
July 1st through September 30th	October 10th
October 1st through December 31st	January 10th
January 1st through March 31st	April 10th
April 1st through June 30th	July 10th

Note:
When the report submission due date falls on a weekend or on a state-recognized holiday, reports will be due on the first next working day following the weekend or holiday.

12.A2.2 Where to submit

The consolidated data center must submit a DIA quarterly report regardless of whether or not the department executed reportable transactions. Reports must be complete and legible and must be submitted as follows:

By IMS to:
Z-1
DGS/Procurement Division
Purchasing Authority Management Section
Attn: DIA Quarterly Report
707 Third Street Second Floor South MS 2-208
West Sacramento, CA 95605

By Mail to:
DGS/Procurement Division
Purchasing Authority Management Section, Second Floor South MS 2-208
Attn: DIA Quarterly Report
P.O. Box 989052
West Sacramento, CA 95798-9052

Hand-Delivered to:
DGS/Procurement Division
Purchasing Authority Management Section
Attn: DIA Quarterly Report
707 Third Street, Second Floor South MS 2-208
West Sacramento, CA 95605

Topic 3 - Prescription Drugs Purchased Outside of the Prescription Drug Bulk Purchasing Program Quarterly Report

12.A3.0 Prescription drug bulk purchasing requirement

The Prescription Drug Bulk Purchasing Program is established by GC 14977-14982. The contracts included in the Prescription Drug Bulk Purchasing Program are all pharmaceutical leveraged procurement agreements (LPAs) executed by DGS/PD for use by State entities.

In accordance with GC section 14977.5 the following departments are required to participate in the DGS/PD Prescription Drug Bulk Purchasing Program also known as the Statewide Pharmaceutical Program:

1. State Department of Mental Health
2. Department of Developmental Services
3. Department of Corrections and Rehabilitation (CDCR, please see note), and other State agencies under DGS authority.

Any state, district, county, city, municipal, or public agency governmental entities may elect to participate in the Prescription Drug Bulk Purchasing Program.

Note: The CDCR, under the direction of the Federal Receiver and the agent for pharmaceutical purchases, Maxor National Pharmacy Services, Inc. (MAXOR), may or may not make purchases of products on DGS' contracts. The Receiver and MAXOR will provide direction and instruction to the CDCR procurement personnel on pharmaceutical-medical related purchases.

12.A3.1 Mandatory reporting requirement

Those State entities mandated to participate in the Prescription Drug Bulk Purchasing Program are required to report any pharmaceutical transaction not executed through the State's pharmaceutical LPAs, which currently includes the following four contracts:

- Pharmaceutical Wholesaler
- Reverse Distribution
- Influenza
- Pharmacy Benefit Manager (PBM)

These contracts can be found on the following website:
http://www.dgs.ca.gov/pd/Programs/Leveraged/pharma.aspx

Some LPAs, such as 1-05-65-32 and 1-06-65-32 establishing pricing on drugs, note an "order of precedence" in the terms of the contract, which results in several purchasing options, all of which are a part of the Prescription Drug Bulk Purchasing Program. Medical/surgical supply items should not be included in the quarterly report. The information being reported will assist the DGS/PD in assuring that the drug needs of the participating departments are continually being met.

12.A3.2 Due dates

Quarterly reporting periods and the related submission dates for the Prescription Drugs Purchased Outside of the Prescription Drug Bulk Purchasing Program reports are as follows:

Reporting Period	Report is due no later than
July 1st through September 30th	October 10th
October 1st through December 31st	January 10th
January 1st through March 31st	April 10th
April 1st through June 30th	July 10th

Note:
When the report submission due date falls on a weekend or on a state-recognized holiday, reports will be due on the first next working day following the weekend or holiday.

12.A3.3 Reporting no activity

Participating departments are required to submit a quarterly report on prescription drug purchases made outside of the bulk purchasing program even though there has not been any activity during a given reporting period.

When there has been no activity in the given reporting period, participating departments check the appropriate box located in the upper right hand corner of the quarterly report under "Reporting Period" identifying: **"No applicable transactions processed during this reporting period."**

12.A3.4 How, when and where to report

Departments must submit a Prescription Drugs Purchased Outside of the Prescription Drug Bulk Purchasing Program Quarterly Report, by the tenth of the month, following the reporting period, and by fiscal year quarters. The Word and PDF versions of the quarterly report from are linked below. The definitions of the two terms in the quarterly report, mail address and delivery address are shown below.

Drug name: Generic or trade name

NDC: National Drug Code issued by the U.S. Food and Drug Administration (FDA)

Click below to access the Quarterly Report form in PDF format or Word format. Reports must be complete and legible.

The Prescription Drugs Purchased Outside of the Prescription Drug Bulk Purchasing Program Quarterly Report in Word Format

The Prescription Drugs Purchased Outside of the Prescription Drug Bulk Purchasing Program Quarterly Report in PDF Format

By Interagency Mail Service (IMS) to:
Z-1
DGS/Procurement Division
Purchasing Authority Management Section
Attn: Prescription Drug Quarterly Reporting
707 Third Street, Second Floor South 2, MS 2-208
West Sacramento, CA 95605

By Mail to:
DGS/Procurement Division
Purchasing Authority Management Section, Second Floor South 2, MS 2-208
Attn: Prescription Drug Quarterly Reporting
P.O. Box 989052
West Sacramento, CA 95798-9052

Hand-Delivered to:
DGS/Procurement Division
Purchasing Authority Management Section
Attn: Prescription Drug Quarterly Reporting
707 Third Street, Second Floor South 2, MS 2-208
West Sacramento, CA 95798-9052

Topic 4 - Loss Leader Reporting

12.A4.0 Omission and annual reporting requirement

Departments are required to report each occurrence of omission of the solicitation language to DGS within 30 days of discovery (even if the "loss leader" language is inadvertently omitted from the solicitation) as well as a cumulative list of contracts that do not contain "loss leader" language by June 30, 2011 and June 30, 2012. Use the following link to access the Loss Leader Report Form and Instructions.

This form must be used to report to the Purchasing Authority Management Section both individual omissions within 30 days of discovery, as well as the cumulative list of contracts at the end of fiscal years 2011 and 2012. Individual reports must be emailed with "Loss Leader" referenced in the subject line and the cumulative report must be scanned and emailed with the authorized signature to this email address: pams@dgs.ca.gov .

12.A4.1 Due dates

Annual reports must be submitted as follows:

Reporting Period	Report is due no later than
March 31, 2010 through June 30, 2011	July 10, 2011
July 1, 2011 through December 31, 2011	July 10, 2012

Note:
When the report submission due date falls on a weekend or on a state-recognized holiday, reports will be due on the first next working day following the weekend or holiday.

12.A4.2 Do not report no activity

Participating departments are not required to submit an annual report if there have been no omissions discovered during the reporting period.

12.A5.0
(deleted 6/11)

Section B

Additional Acquisition Reporting Requirements

Overview

The section provides a review of reporting requirements for the Annual Contracting Activity Report. Reports for non-IT goods and IT goods and services are listed here.

Contents This section contains the following topics:

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Topic 2 – Late Payment Penalty Report	18
Topic 3 – Contract Award Report	19
Topic 4 – Report of Independent Contractor(s)	20
Topic 5 – State Agency Recycled Campaign Procurement Report	21
Topic 6 – Topic 6 – Calendar of Reports	22

Topic 1 – Annual Contracting Activity Report (STD. 810)

12.B1.0 Consolidated Annual Report

DGS/PD-The office of Small Business and DVBE Services is the centralized point to consolidate the following contracting activity reports:

- Contracting Activity
- Infrastructure Bond
- Consulting Services
- SB/DVBE Option and DVBE Incentive
- Ethnicity, Race and Gender (ERG)

The report provides fiscal statistical information on each department's Small Business/Microbusiness (SB/MB) and Disabled Veteran Business Enterprise contracting activities to the legislature. Click on the following link to access all reporting forms and instructions.

12.B1.1 Contracting Activity Report

Per Chapter 3, departments are required to place a fair share of State purchasing and contracts with SB/MB and DVBEs. PCC section 10111 and Military and Veterans Code sections 999 et seq. require departments to report these activities.

12.B1.2 Improvement plan outline

When a department does not meet the required state contracting participation for SB/MB (at least 25%) or DVBE (at least 3%) an Improvement Plan must be developed and submitted with the Contracting Activity Report (STD. 810).

12.B1.3 STD. 810A Infrastructure Bond Activity

Pursuant to GG 14838.1 and the Infrastructure Bond Acts of 2006, this report provides statistical data on SB/MB and DVBE participation using the Infrastructure Bond funding.

12.B1.4 STD. 810C Consulting Services

PCC section 10111 requires departments to report all consulting services contracts that have been entered into, amended or completed during each fiscal year.

12.B1.5 STD. 810S SB/DVBE Option and DVBE Incentive

PCC section 10111(e)(7) requires departments to report contracting activity using the SB/MB Option and the DVBE Incentive.

12.B1.6 STD. 810E Ethnicity, Race and Gender (ERG)

PCC section 10111 requires department to report voluntarily submitted information by business owners by race, ethnicity and gender. This report captures the level of participation for goods, services and construction contracts.

12.B1.7 Due Dates

Report	Reporting Period	Due Date
Annual Report • STD. 810 Contracting Activity • STD. 810A Infrastructure Bond • STD. 810C Consulting Services • STD. 810S SB/DVBE Option and DVBE Incentive • STD. 810E Ethnicity, Race and Gender	July 1st – June 30th	August 1st

Click here to access the STD 810 reports' instructions and forms web page.

To learn more about the above PCC and GC codes, please visit; http://www.leginfo.ca.gov/calaw.html.

12.B1.8 Where to Submit

Departments will submit these reports to the DGS Report Coordinator as follows:

By IMS:
DGS/Procurement Division
Office of Small Business and DVBE Services
Attn: Reports Coordinator
707 Third Street, First Floor, Room 400, IMS Z-1, MS 210
West Sacramento, CA 95605

By Mail to:
DGS/Procurement Division
Office of Small Business and DVBE Services
Attn: Reports Coordinator
707 Third Street, First Floor, Room 400, MS 210
West Sacramento, CA 95605

Hand Delivered to:
DGS/Procurement Division
Office of Small Business and DVBE Services
Attn: Reports Coordinator
707 Third Street, First Fl, Room 400
West Sacramento, CA 95605

Topic 2 - Late Payment Penalty Report

12.B2.0 Report Requirements

The Prompt Payment Act, GC section 927 et seq. requires departments to submit a late payment penalty report to the DGS Director. This report provides information on late payment penalties paid during the fiscal year.

Click here to access the Prompt Payment Program form.

12.B2.1 How to report

The Late Payment Penalty Report is due by September 30th as follows:

By IMS to:
DGS/Procurement Division

Office of Small Business and DVBE Services
707 Third Street, First Floor Room 400, IMS Z-1, MS 210
West Sacramento, CA 95605

By Mail to:
DGS/Procurement Division
Office of Small Business and DVBE Services
707 Third Street, First Floor Room 400 MS 210
West Sacramento, CA 95605

Hand Delivered to:
DGS/Procurement Division
Office of Small Business and DVBE Services
Attn: Late Payment Coordinator
707 Third Street, First Floor Room 400
West Sacramento, CA 95605

Click here learn more about the Prompt Payment Programs.

Topic 3 - Contract Award Report

12.B3.0 Requirement

In accordance with the CCR Title 2, Division 4, Chapter 5, section 8117.5, all departments will notify the Department of Fair Employment and Housing (DFEH) of any contract award in excess of $5,000.00. This requirement shall be met by completing a Contract Award Report (STD.16) for all non-IT and IT goods and services purchase documents issued under any purchasing category (competitive, NCB, LPA, etc.).

Click here to access the STD.16.

12.B3.1 How to report

Each completed report will be mailed within 10 days of contract award as follows:
Office of Compliance
Department of Fair Employment and Housing
2218 Kausen Drive
Elk Grove, CA 95758

A copy of the completed form will be retained in the department's procurement file.

Topic 4 – Report of Independent Contractor(s)

12.B4.0 Reporting on independent contractors

California's Unemployment Insurance Code section 1088.8 requires businesses and government entities to report specified information to the Employment Development Department (EDD) on independent contractors. The information gathered as a result of this report assists EDD in locating parents delinquent in child support obligations.

Click here to access the Report of Independent Contractors (DE 542).

12 B4.1 How to report

Departments must report to EDD within twenty (20) days of either making payments totaling $600 or more OR entering into a contract for $600 or more with an independent contractor in any calendar year, whichever occurs first. Reports must be submitted online to EDD or mailed to:

Employment Development Department
P.O. Box 997350 MIC 96
Sacramento, CA 95899-7350

12.B4.2 Questions

Departments with questions regarding independent contractor determinations should contact either their department's human resources section or EDD for assistance. Departments should also review GC section 19130(c) for compliance.

12.B4.3 Additional information

Click here for additional information located on EDD's web page.

Topic 5 - State Agency Buy Recycled Campaign (SABRC) Procurement Report

12.B5.0 Report requirements

Departments are required by PCC sections 12200-12217 to report purchases annually to the Department of Resources Recycling and Recovery (CalRecycle) identifying total dollar amounts of all products purchased in each of the 11 reportable categories and the total amount spent on recycled-content products (RCP) in each reportable category.

12.B5.1 Due date

Reports are due to CalRecycle as follows:

Reporting Entity	Report Due Date
District Agricultural Associations (DAA)	March 1st for the previous calendar year
Departments	October 31st for the previous fiscal year

12.B5.2 How to report

SABRC reporting shall be completed electronically using CalRecycle's SABRC Annual Reporting (SAR) system. To access click on SAR (system requires a secure Webpass account). New SABRC Coordinators should contact CalRecycle's SABRC team at: SABRC@CalRecycle.ca.gov

12.B5.3 Reporting tools

CalRecycle provides additional information, guidance and tools to assist departments in reporting recycled content product expenditures:

- SABRC Reporting Guidance
- SABRC Reporting Tools

Topic 6 - Calendar of Reports

12.B6.0 Calendar of reports
(rev 6/11)

Click here to access the calendar of reports.