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 the 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 the 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, the DGS/PD policies	the 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 the 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; the 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 the 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

The DGS/PD has compiled a resource directory providing phone numbers and Internet sites associated with procurement activities.

Click here to access the Procurement Related Resources Directory.

Click here to learn more About Us.

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 3 – Ethical Decision Making and Contract Administration	6
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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 the 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 the DGS/PD recommendations.

The 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.

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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 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

The 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.

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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 the 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, the 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 the 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

The 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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(deleted 11/13)

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
(rev 7/12)

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

Contracting for personal services, in lieu of using civil service personnel is permitted only if the standards outlined in GC section 19130 (a) or (b) are met.

GC section 19130 (a) permits contracting for personal services to achieve cost savings. Any department proposing to execute a contract based on cost savings to the state as justification for not using civil service personnel, must first notify the State Personnel Board (SPB) of its intention.

GC section 19130 (b) permits contracting for personal services when any of the requirements of GC section 19130 (b) are met.

Contracts awarded on the basis of GC section 19130 (b) are subject to review at the request of an employee organization representing state employees.

- Departments must provide the designated exclusive representative copies of personal services contacts, RFPs, IFBs, STD. 215/agreement summary or the department's equivalent that call for personal services found in the bargaining unit. The designated exclusive representatives are found in the Policy Memo - "Contracting Out Update" on DPA's website.
- When a department requests approval from the DGS for a contract let under GC 19130(b), the department shall include with its contract transmittal a written justification (STD.215 or department's equivalent form) that includes specific and detailed factual information that demonstrates how the contract meets one or more of the conditions specified in GC 19130(b) See www.spb.ca.gov.
- 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 all data and information relevant to the contract and necessary for a specific application of standards set forth in GC 19130 in the event that the SPB's review is requested. For standards of review see PCC 10337.

GC 19130(c) requires that all persons who provide services to the state under conditions that constitute an employment relationship shall, unless exempted by Article VII (Section 4) of the California Constitution, be retained under an appropriate civil service appointment. Therefore, state law and policy require that each department's contract for services with individuals be executed and administered in a manner consistent with the establishment of an independent contractor status when a civil service appointment is not intended.

Pursuant to GC section 19135, if a contract is disapproved by the SPB or its delegate, a department shall immediately discontinue that contract unless ordered otherwise by the SPB or its delegate. The department shall not circumvent or disregard the SPB's action by entering into another contract for the same or similar services or to continue the services that were the subject of the contract disapproved by the board or its delegate. A department ordered to discontinue a contract shall serve notice of the discontinuation of the contract to the vendor within 15 days from the SPB's final action unless a different notice period is specified. A copy of the notice also shall be served on the SPB and the employee organization that filed the contract challenge.

Click here to access California Law.

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 (the 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 the 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
(rev 7/12)

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)).

2.B3.14 Loss leader, excluded acquisitions
(rev 7/12)

The following acquisitions do not require loss leader language:

- 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 the DGS

No work will be initiated, no documents will be reviewed and no contracts will be approved by the 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

2.B3.16 Iran Contracting Act
(added 8/11)

Pursuant to the Iran Contracting Act of 2010 (Public Contract Code sections 2200 through 2208 are "the Act"), vendors are ineligible to bid on, submit a proposal for, enter into, or renew any contract with the state for goods or services of one million dollars ($1,000,000) or more if the vendor engages in investment activities in Iran, as defined in the Act. The Act requires that the DGS establish and periodically update a list of ineligible vendors.

Also, pursuant to the Act, financial institutions are ineligible to bid on, submit a proposal for, enter into, or renew any contract with the state for goods or services of one million dollars ($1,000,000) or more if the financial institution extends credit, as defined in the Act, to a business identified on the DGS list of ineligible vendors that will use the credit to provide goods or services in the energy sector in Iran.

Prior to submitting a bid or proposal and prior to executing any state contract or renewal for goods or services of one million dollars ($1,000,000) or more, a vendor must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California. During the bid evaluation, it is the buyer's responsibility to check the list of ineligible vendors to confirm that the bidder is not on that list. Also financial institutions must certify that they are not extending credit to an ineligible vendor as described in the Act. This certification requirement applies regardless of the procurement approach, method, or solicitation format used, including, but not limited to: Request for Proposals, Invitation for Bids, and non-competitive awards. 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 or documents to suit their business needs should work with their legal counsel to ensure compliance with the Act.

The Act provides exceptions to the certification requirement, see PCC sections 2203(c) and (d) for additional information regarding the exceptions.

(deleted 7/12)

2.B3.18 Prohibition on tax delinquents bidding (added 5/12)

Pursuant to the Public Contract Code section 10295.4, effective July 1, 2012, persons or companies identified as the largest tax delinquents by the Franchise Tax Board (FTB) or the Board of Equalization (BOE) are ineligible to enter into any contract with the state for non-IT goods or services. Any contract entered into in violation of section 10295.4 is void and unenforceable.

Prior to executing any state contract or renewal for non-IT goods or services, the contracting department must verify that the contractor is not on a prohibited list by checking both the FTB and BOE websites. This requirement applies regardless of the procurement approach, method, or solicitation format used, including, but not limited to: Request for Proposals, Invitation for Bids, and non-competitive awards. Departments that elect to develop their own processes or documents to suit their business needs should work with their legal counsel to ensure compliance with code.

Public Contract Code 10295.4 provides no exceptions to these prohibitions.

The list established by FTB can be found here: https://www.ftb.ca.gov/aboutFTB/Delinquent_Taxpayers.shtml

The list established by BOE can be found here: http://www.boe.ca.gov/cgi-bin/deliq.cgi

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 the 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.
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.
Exceeds a department's authorized NCB contract purchasing authority threshold.	• Contacting the 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 • The 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.

<u>Example of emergency:</u>
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.

<u>Example of a non-emergency</u>:
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 the 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 the 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 the DGS prior to issuing a solicitation. In some instances, the condition supporting negotiations may not be known to the 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 the 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. The 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. The DGS may identify in an addendum to the solicitation document the methodology that will be used to identify bidders to participate in negotiations.
    c. The DGS may negotiate with all responsive responsible bidders following bid/proposal evaluations.

8. Bidders will be notified in writing (i) that the 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 the 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 (rev 12/13)

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.

Note: Please refer to DGS/OFAM Management Memo 13-01, *State Fleet Asset Oversight* for a complete listing of assets that require DGS/OFAM approval.

2.C1.2 Excluded from OFAM oversight (rev 11/13)

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 (if rated below 35 mph)
- Mower (self-propelled and 24 hp or less)
- Generator
- Mobile home and/or office (only if permanently parked, if moved see footnote)
- Indoor Forklift
- Pallet jack
- Personnel hoist or lift
- Agriculture or construction equipment pulled by a vehicle
- Other fleet-related equipment as determined by the OFAM
- Trailer (2,999 lbs GVWR or less)*

***Note:** Trailer pertains to small trailers only, and not the equipment mounted on trailers, e.g. generators, welders, signs, message boards, kettle pots, outhouses, etc. Assets carried on trailers such as: motorcycles, snowmobiles, ATVs, etc., are considered fleet assets and are referenced separately.

2.C1.3 Mobile equipment purchases and repairs (rev 11/13)

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

- 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.

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) (rev 11/13)

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
Bedding, Cleaning Products, Clothing & Textiles, Gloves, Flags, Shoes, Services, Modular Buildings	Mattresses & Pillows, Bar Soap, Janitorial/Kitchen/Laundry Chemicals, Green Seal Certified Chemicals, Flags, Signs, NFPA Wildland Gear, ANSI Garments, Highway Construction & Maintenance Garments, Institutional Garments, Hospital & Medical Garments, Optical Services, Dental Services, Portable Customized Buildings
Printing & Bindery Products, Signs & Decals	Binders, Portfolios, Files, Diploma Covers, Parking Placards, Printing Services, Plaques & Name Plates, Banners, Decals & Stickers, Metal Signs, Highway Signs
Furnishings, Open Office Systems, Metal Products	Office furniture Product Lines, Computer Furniture, Office Furniture, Residential Life, Seating, Storage, Tables, Accessories
Food products	Milk, Almonds, Poultry Products, Eggs, Meat Products, Bread Products, Coffee, Juice/Beverages, Packaged Meals, Peanut Butter & Jelly, Cookies, Syrup

2.C3.1 CALPIA exemption 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 (rev 11/13)

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:

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

By Fax:
Attn: Customer Service
(916) 358-2660

Electronic:
Agencies can utilize CALPIA's online catalog purchases at www.calpia.ca.gov

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
(deleted 12/13)

2.C3.6 Payment by CAL-Card
(rev 9/11)

CALPIA purchases less than $2,500.00 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 $2,500.00 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 the DGS

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

Topic 4 – Community-based Rehabilitation Program (CRP)

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

The DGS/PD encourages departments with the 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.

2.C5.5 Bottled water requirements (rev 12/12)

Bottled drinking water may be purchased under a department's delegated purchasing authority where it has been determined that the building water supply does not meet standards set by the California Department of Public Health (CDPH) for State owned facilities or local city, county environmental management department(s) for State leased facilities, or where the DGS/Real Estate Services Division has determined that the cost of connecting a drinking fountain to the building water supply renders it impractical. Documentation from the CDPH and/or local city, county environmental management department(s), and/or DGS/RESD must be maintained in the procurement file.

Topic 6 – Purchase Requisition

2.C6.0 General Use of the Purchase Estimate (STD. 66)
(rev 7/12)

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

2.C6.1 STD. 66 Instructions
(rev 7/12)

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/OTA web site.

Click here for the Purchase Estimate (PE) (STD. 66).
Click here for the Purchase Estimate Continuation form (STD. 66a)

2.C6.2 Where to Send the STD. 66
(rev 7/12)

The completed STD. 66 should be submitted to the DGS/PD using one of the following options:

1. Attach it to an e-mail and send the PE, descriptive information, supporting documents, and specifications to IAU@dgs.ca.gov.
2. Fax the form to (916) 375-4469.
3. Mail a copy to:
   DGS/Procurement Division
   Attn: Intake and Analysis Unit, Attn: Eugene Shemereko/Mary Lam
   707 3rd Street, 2nd Floor
   West Sacramento, Ca. 95605

   Once the Purchase Estimate is received, it will be entered into the eProcurement system. Agencies can view and check status of purchase estimates/requisitions that have been entered by logging into the eProcurement system through the DGS/PD eProcurement web page.

   Note: Refer to memorandum on Fiscal Year Deadlines for Receipt of Purchase Estimates on the DGS/PD One Time Acquisition website.

2.C6.3 Amendments (rev 7/12)

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

Additional information and the Purchase Order/Estimate Change Request (STD. 96) can be found at the DGS/PD One Time Acquisitions web page under Purchase Orders**.**

Note: 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, the DGS/PD is available to assist departments with reasonable accommodation requests relative to participating in a procurement process. The 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 the 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's 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
(rev 9/14)
(rev 12/12)
(rev 9/12)

A certified SB/MB or DVBE is deemed to perform a commercially useful function when the buyer determines 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 responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

After award, the contract administrator must monitor compliance with CUF for the duration of the contract.

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 Documenting DVBE program requirements (rev 10/11)

If DVBE participation is a requirement of the competitive solicitation then a bidder must document commitment to full DVBE participation, i.e., locate and commit to using certified DVBE firms who will perform the percent of work specified by the solicitation.

Refer to Topic 2 of this chapter for CUF requirements.

The DGS/PD's OSDS publishes DVBE Resources on its web site that lists approved DVBE trade and focus papers.

Click here to access the DVBE Resources

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 (rev 8/14)

Pursuant to the Military and Veterans Code Section 999.5, for 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, within 60 days after receiving final payment, 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.

For contracts awarded on and after July 1, 2014, awarding departments must complete portions of the Prime Contractor's DVBE Subcontracting Report prior to emailing the form to prime contractors. Click on the following link to access the DVBE Subcontracting Forms & Instructions. Refer to Chapter 12 for awarding department annual reporting requirements.

3.4.4 Substitution of Sub-contractors (rev 9/12)

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/OSDS, 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 (rev 9/12) (rev 11/13)

The California Code of Regulations (CCR), Title II section 1896.73 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 1896.73 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/OSDS.

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 the 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 1896.99.100, 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 (rev 12/11)

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 (rev 8/11)

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 DVBE Incentive Exemption List web page.

3.5.5 Incentive Percentages (rev 1/12)

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%

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 Documenting the Results

It is the responsibility of each department's PCO or his/her designee to 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 (rev 1/12)

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.

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 (rev 12/13)

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, 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 (rev 12/13)	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 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 the 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 – TACPA Competitive Solicitation Preference Program

3.9.0 TACPA preference
(rev 12/13)

Departments granted purchasing authority to conduct any type of competitive solicitation for non-IT goods are required to include the TACPA preference program attachments in solicitations valued at more than $100,000.00. The TACPA preference only applies 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 section 4534.1).

3.9.1 TACPA solicitation language
(rev 12/13)
(rev 5/11)

Departments shall include language that identifies to bidders that the TACPA preference is applicable to the competitive solicitation. Recommended solicitation language is as follows:

The TACPA preference will be granted for this procurement. Bidders wishing to take advantage of this preference will need to review the following website and submit the appropriate response with the bid: Target Area Contract Preference Act (TACPA).

3.9.2 Recommended dollar value to include language and preference forms

The 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 description (rev 12/13)

The table below provides an overview of the TACPA 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.

3.9.4 Preference procedures (rev 12/13)

The DGS/PD reviews all TACPA applications. Departments must submit the following to the DGS, Preference Unit for review:

- Copies of the TACPA (Std. 830),
- 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 (rev 12/13)

The maximum preference allowed for TACPA may not exceed $50,000.00 for any bid. In combination with any other preferences (TACPA, 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 (rev 12/13)

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 product category.

3.10.1 Department Recycled Content Product purchasing requirements (rev 12/13)

The State of California promotes the procurement of sustainable and recycled content products. Departments shall ensure that the responsibility for SABRC is shared among procurement personnel, managers, buyers, contract specialists, contractors, suppliers and all others who procure goods and services for the State.

Departments will consider RCP in conducting its purchasing activities. All departments are required to comply with the RCP requirements of the State Agency Buy Recycled Campaign contained in PCC Sections 12200-12217.

The SABRC reportable categories and requirements are located on the CalRecycle website: http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/Buying.htm

3.10.2 Recycled preference and competitive solicitations (rev 12/13)

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. SABRC compliant products as a component of these contracts shall be reported (Refer to Chapter 12 – Reporting Requirements). Contact the Department of Resources Recycling and Recovery (CalRecycle) at (916) 341-6199 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 CalRecycle's website.

3.10.4 Supplier certification (rev 12/13)

Pursuant to PCC section12205, 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.

The Post-Consumer Recycled Content Certification form can be found at: http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/Certify.htm (CalRecycle/CIWMB Form 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 contact CalRecycle at (916) 341-6199 or SABRC@CalRecycle.ca.gov

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3.10.5 Tire Recycle Preference (rev 12/13)

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 and purchases are SABRC compliant if they contain at least 50 percent recycled used tires.

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

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3.10.9 Recycled product reporting
(rev 12/13)

All departments must comply with PCC Section 12211(a), which requires State agencies to report annually to CalRecycle the results of their RCP purchases within specific categories of material types.

Refer to Chapter 12- Reporting Requirements for further information on recycled product reporting.

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 Environmentally Preferable Purchasing requirements (rev 12/13)

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.

Pursuant to Executive Order B-18-12, departments shall purchase and use environmentally preferable products when compared with competing goods that serve the same purpose, whenever applicable, perform well, and are cost-effective. When available, departments are required to purchase commodities that meet DGS Purchasing Standards on the DGS Buying Green website.

Departments are required to purchase the following commodities in accordance with current DGS statewide contract EPP specifications:

- Remanufactured toner and Ink cartridges
- Recycled paint
- SABRC-compliant printing and writing paper products
- Energy Star products

Access the DGS Buying Green Guide:
http://www.dgs.ca.gov/buyinggreen/Home/BuyersMain.aspx

3.11.3 EPP best practices

The 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 osdshelp@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: osdshelp@dgs.ca.gov

- The DGS procurement Division for non-IT goods and IT goods and services: ppo@dgs.ca.gov
- The DGS Office of Legal Services for non-IT services and public works: http://www.dgs.ca.gov/ols/AboutUs.aspx
- The 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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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 documentation for competitive solicitations (rev 7/11)

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 California State Contracts Register 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.

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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 of $50,000 or less (see info block 4.B3.3), may be conducted by phone. This solicitation method requires preparation of a

(rev 12/11)

"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 or over $50,000 in all cases 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 (rev 12/13)

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:
  - TACPA Preference program forms
  - 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 (rev 12/13)

Departments must include the TACPA business participation program requirement in competitive solicitations with an estimated dollar value of $100,000.

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 (rev 12/13)

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, 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 (rev 12/13)

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, 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 (rev 12/13)

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, 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 (rev 12/13)

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, 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 (rev 7/12)

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.

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.

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 (rev 10/11)

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. This requirement does 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. See PCC 10295.1 for details.

Another 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/her 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. It is good practice to verify that the seller's permit is active by going to the Board of Equalization website provided at the link below and print the validation page to include in the purchase file documentation.

Click here to access the Board of Equalization website.

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.

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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 $50,000.00 (rev 11/13)

Achieving competition within this dollar range is defined as receiving responsive bids (each bid must meet all specifications and requirements) from at least two responsible bidders, if the solicitation is not advertised in the California State Contracts Register (CSCR).

Although advertising in the CSCR is not required within this dollar range; it is recommended. Solicitations advertised in the CSCR may result in only one bid response. If the sole bid response is responsible and responsive then the contract may be awarded. The Buyer must document the procurement file with the justification to award to the sole bidder.

Refer to Section A, Topic 3 of this Chapter for advertising requirements.

4.C1.2 Non-IT goods transactions valued in excess of $50,000.00 (added 11/13)

Achieving competition within this dollar range requires that the solicitation be advertised in the California State Contracts Register (CSCR). Solicitations advertised in the CSCR may result in only one bid response. If the sole bid response is responsible (bid must meet all specifications and requirements) and responsive then the contract may be awarded. The Buyer must document the procurement file with the justification to award to the sole bidder.

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
(rev 7/12)
(rev 9/12)

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 specified brand or trade name 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. An LTB solicitation requires more than one supplier. If there is only one known supplier, an NCB must be used to justify the purchase. See Chapter 5 for details regarding the NCB.

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:

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Topic 2 – Determining Responsive Bid and Responsible Bidder	34
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Topic 5 – Evaluation and Award	40

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.A1.7 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 department's 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

If 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 on all forms furnished by the department and received by the closing time and date specified 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)

The State is committed to a policy of competitive procurement and contracting that promotes and provides for open and fair competition when competition is known to exist. 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 the 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 the 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 the DGS/PD for review and approval the following:
• NCB contract justification.
• Executes the applicable purchase document upon the 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 the 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 the 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 the 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, the DGS/PD will contact the department and discuss the following options:

When the purchase	Then the 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 the 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 the 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 the 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 the 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 the 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.

The 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 the 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 the DGS/PD as requested.

Information to be tracked will include at a minimum the following:

- Special Category (SCR) approval number issued by the DGS/PD.
- Purchase order number issued by the 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 the 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 the 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 the 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 the 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
(rev 6/14)

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)
- CA 1122 Public Safety Procurement Program

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.

Content
(rev 6/14)

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Section A

LPA General Usage

Overview

Introduction

The LPA program, established by the DGS/PD as set forth in PCC section 10290 et seq. enables the 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 (rev 6/14)

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
CA 1122 Public Safety Procurement Program	$100,000.00	N/A

6.A1.1 Exemptions from dollar thresholds (rev 10/11) (rev 6/14)

Exemptions to the CMAS and SPS dollar threshold limits are not allowed, regardless of the type of purchasing authority.

Exemptions to the MA maximum dollar threshold limits may be considered as described within the individual MA user instructions and by obtaining the approval of the DGS/PD.

Exemptions to the CA 1122 Public Safety Procurement Program maximum dollar threshold limits may be considered on a single transaction basis by obtaining the approval of the DGS/PD.

6.A1.2 No Protest Language for MA, 1122, CMAS RFOs (rev 6/14)

Since a Request for Offer (RFO) for MA, CMAS and CA 1122 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
(rev 12/11)
(rev 7/12)

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 the 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)
- Certification for Expenditure of Funds, signed by your Agency's Secretary or Department's Director. See Chapter 2, Section B, Topic 3, Mission Critical information for the DGS, for the required certification language.

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 the DGS/PD, it will be stamped approved and signed by the DGS/PD on the face of the purchase document. The DGS/PD will then return the purchase document to the department for issuance to the contractor. All other supporting documents will be retained by the DGS. CMAS contractors are directed not to accept these PO's for non-IT services over $50,000 without the 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 the 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 the DGS/OLS's files.

The evaluations and contractor responses on file with the agencies and the DGS/OLS are not public records; they should be maintained in a separate file.

6.A1.6 Establishing LPAs

LPAs are established by the 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/NASPO.	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/NASPO contracts use the original WSCA/NASPO 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? (rev 6/14)

LPA information can be found on the DGS/PD's LPA 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

CA 1122 Public Safety Procurement Program: Access GSA Advantage

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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 the 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/NASPO) 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.

(deleted 7/12)

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 (rev 6/14)

When using LPA categories such as MA, CMAS and the CA 1122 Public Safety Procurement Program, 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, CMAS, and CA 1122 Public Safety Procurement Program 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 (rev 10/11)

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) to meet department goals
- 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 (rev 12/11)

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 documen-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 (rev 12/11)

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.

For amendments unique to CMAS orders for non-IT services, refer to Section B, Topic 2.

6.A5.1 (deleted 12/11)

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 Schedules

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 the DGS to streamline purchases by removing repetitive, resources intensive, costly, and time-consuming bid processes.

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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 on CMAS
(rev 10/11)
(rev 12/11)

Only the prime CMAS Contractor and resellers who are explicitly listed in the CMAS contract can sell the goods and/or services listed in their CMAS contract.

6.B1.3
(deleted 7/11)

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 (rev 12/11)

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
(deleted 12/11)

6.B2.7 CMAS requirement
(rev 12/11)
(rev 7/12)

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 the 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 • Certification for Expenditure of Funds, signed by your Agency's Secretary or Department's Director. See Chapter 2, info block 2.B3.15 for the required certification language. <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
(deleted 12/11)

6.B2.9 Amendments unique to non- IT services (rev 12/11)

If the original contract permitted amendments, but did not specify the changes, (e.g., quantity or time), it may be amended. Per PCC 10335(d)(1), a contract may only be amended once under this exemption. 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. For more information regarding the NCB process, refer to Chapter 5.

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 (rev 12/11)

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.
6. 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 the 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 the 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 the 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.

The 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 the 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 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
(Deleted 6/14)

6.C1.7 Purchase document
(rev 7/12)

Unless otherwise directed by individual SC user instructions, the common purchase document used to issue SC orders is the STD.65. When utilizing the SB/DVBE Off-ramp, departments shall enter the word “Off-ramp” into the LPA number box on 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 the DGS/PD a STD.66 for processing by the 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 Schedules

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 the DGS/PD for use by State departments.

Contents

This section contains the following topics:

Topic	See Page
Topic 1 – State Price Schedule Basics	35

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 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	36
Topic 2 – Achieving Best Value Using MA	38

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 the DGS review and approval before issuing an award?

MAs are available on PD's eProcurement web page 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 (rev 12/11)

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.

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
(deleted 12/11)

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 the DGS/PD to enter into cooperative purchasing agreements with other states.

Contents

This section contains the following topics:

Topic	See Page
Topic 1 – Western States Contracting Alliance (WSCA)/National Association of State Procurement Officials (NASPO) Basics	40

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/NASPO suppliers, if available, is encouraged. Refer to the user instructions of each contract.

To search for a cooperative agreement, access the WSCA/NASPO 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/ NASPO 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 WSCA/ NASPO services
(added 12/13)
(deleted 12/11)

State departments should use the WSCA contracts for courier services until such time as the negotiated rates are not competitive, and/or the contracted couriers no longer provide cost efficient, quality service statewide.

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 the DGS/PD approval prior to executing the purchase document. The following information must be documented by the department and submitted to the 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, the DGS/PD will issue an approval letter concurring with the department's request. Upon receiving approval from the DGS/PD, the department may proceed to execute the order.

Section G

CA 1122 Public Safety Procurement Program (CPSPP)

(GSA Component Only)

Overview

Introduction
(added 6/14)

Prior to utilizing this program, State departments must exhaust all procurement methods refer to 6.G3.0.

In order to use the 1122 procurement method, departments must have delegated purchasing authority under the CA 1122 Public Safety Procurement Program category. This will be indicated on the department's Purchasing Authority Approval Letter.

The CA 1122 Public Safety Procurement Program is derived from the National Defense Authorization Act (Section 1122) established in FY 1994, revised in FY 2009 and became law under Title 10 Section 381. This law allows for state and local governments to purchase equipment for counter drug (CD), homeland security (HS) and emergency response (ER) activities from specific federal sources. This program establishes sources for non-IT commodities that have been competitively assessed, negotiated, or bid by the Federal General Services Administration (GSA). The program enables State departments with delegated purchasing authority granted by DGS to purchase from Federal GSA schedules. The California Governor's Office of Emergency Services (CalOES) has been appointed by the Governor as the designated State Point of Contact (SPOC) to certify eligible State agencies. The Department of General Services (DGS) Procurement Division is responsible for developing statewide procurement policies and procedures for this program.

Contents
(added 6/14)

This section contains the following topics:

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Topic 1 – 1122 Basics	44
Topic 2 – Achieving Competition	45
Topic 3 – Procurement Procedures	47

Topic 1 – 1122 Basics – Contracting with GSA Suppliers

6.G1.0 Products (added 6/14)

The CA 1122 Public Safety Procurement Program offers primarily Federal GSA multiple award schedule pricing with suppliers that provide non-IT goods.

6.G1.1 Contract price is maximum (added 6/14)

Contract prices for products and/or services must be equal to or lower than the prices set in the base GSA contract. Departments are strongly encouraged to negotiate lower prices and seek competition.

6.G1.2 1122 GSA Suppliers (added 6/14)

Only the prime GSA 1122 contractor and resellers who are explicitly listed in the GSA contract s can sell the goods listed in their GSA 1122 contract.

6.G1.3 How to apply for 1122 delegated authority (added 6/14)

To become certified for participation in the CA 1122 Public Safety Procurement Program, a department must apply with CalOES http://www.calema.ca.gov/PublicSafetyandVictimServices/Pages/1122-Program.aspx. The requesting department submits a letter to CalOES requesting certification in CD, HS, and/or ER. Prepared letters are reviewed and if approved, a confirmation letter is sent to the department authorizing their participation in the selected activity.

The approval letter from CalOES to the state department must accompany the Purchasing Authority Application to be considered for delegated purchasing authority by DGS.

6.G1.4 Purchasing authority dollar thresholds (added 6/14)

No 1122 order (aka STD. 65/Purchase Order/Contract) may be executed by a department that exceeds the department's 1122 purchasing authority dollar threshold or 1122 maximum dollar threshold. Exemption requests shall be considered by the DGS/PD on a case by case basis. Refer to Section A, Topic 1 of this chapter for dollar thresholds.

Dollar thresholds 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.

Topic 2 – Achieving Competition

6.G2.0 Making a valid attempt in seeking offers
(added 6/14)

Departments must make a valid attempt to secure offers from viable contractors who are able to supply the goods. A lack of sufficient 1122 contractors or the use of restrictive requirements to select a single vendor will not meet the intent for obtaining offers.

6.G2.1 Minimum RFO requirements
(added 6/14)

Refer to Section A, Topic 3 of this chapter for RFO requirements.

6.G2.2 Contacting suppliers
(added 6/14)

Departments shall solicit offers from a minimum of 3 suppliers.

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.

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.G2.3 Documenting the results
(added 6/14)

Departments must document all suppliers that were contacted, provide a recap of their offers and record how the selection was made, including criteria for determining “best value”.

The form must be retained in the procurement file.

If the complete GSA 1122 contract is not maintained in the procurement file, buyers shall document, within the procurement file, where the complete contract is located.

6.G2.4 Only one source known (added 6/14)

If a department knows of only one source 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.

6.G2.5 Purchases less than $5,000.00 (added 6/14)

1122 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.

The ordering department must execute the State of California - General Services Procurement Division, Purchasing Authority Purchase Order (STD. 65).

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.G2.6 Purchases $5,000.00 - $100,000.00 (added 6/14)

The ordering department must solicit a minimum of 3 written offers as described in 6.G3.0

The department must ensure the State's current Terms and Conditions are agreed upon and accepted by the supplier and their acceptance must be documented in the procurement file.

Document responses; refer to Section A, Topic 4 of this chapter.

The ordering department must execute the State of California - General Services Procurement Division, Purchasing Authority Purchase Order (STD. 65).

Topic 3 – Procurement Procedure

6.G3.0 Procurement procedure for transactions greater than $5,000.00 (added 6/14)

1. Department determines the need.
2. Department must exhaust the following procurement methods in the following order:
    - Surplus Property
    - Prison Industry Authority
    - Mandatory LPAs
    - California Certified Small Business/Disabled Business Enterprise (either using fair and reasonable or the SB/DVBE Option).
3. Department researches available goods on GSA Advantage (http://www.gsaelibrary.gsa.gov)
4. Department develops the Request for Offer (RFO) with the state's current terms and conditions attached to be agreed upon by the supplier when they submit their bid/quote/offer. The RFO must request the supplier provide *Retail Price* along with their offer.
5. Department receives and evaluates the offer, then awards the contract.
6. The department that has been granted the delegated purchasing authority must complete the STD. 65 which includes:
    - Contracting directly with the awarded supplier (GSA contractor)
    - Identify "1122 -GSA" as the Leveraged Procurement Agreement Number
    - Marking the "A-1" and "GSPD" boxes
    - Marking "Leveraged" as the procurement method
    - Ensuring both signature blocks, "Authorizing Signature" and the "Certified Correct" (certifying the availability of funds) are completed.
7. The front of the STD. 65 must include the following language: "This order is placed pursuant to the CA 1122 Public Safety Procurement Program, in support of counter-drug, homeland security, or emergency response activities, under the authority of CalOES, the State Point of Contact (SPOC) for the State of California." Following this statement on the front of the STD. 65, there must be a line for the SPOC's signature, to approve the purchase (refer to 6.G3.1 below for a sample).
8. The Department sends the following to CalOES for approval:
    - Completed and signed STD. 65
    - The cost sheet from the awardee that lists the retail price and the current bid/quote/offer
    - The supplier's profile print out from GSA Advantage 1122
9. Upon receipt, CalOES reviews and approves/signs the STD. 65 on the designated line labeled for the SPOC.

6.G3.0 Procurement procedure for transactions greater than $5,000.00 (continued)
(added 6/14)

10. CalOES places the order on behalf of the requesting department by sending the approved STD. 65 to the supplier. CalOES simultaneously notifies the department their request has been approved and submitted.
11. The goods are shipped directly to the requesting department. Once the good(s) are received, the department follows the Acceptance and Testing period outlined in the state's current terms and conditions or as specified in the SOW. Upon acceptance, the department completes a Stock Received Report (STD.106) or department equivalent. Refer to Chapter 10, Topic 2 for additional information.
12. After good(s) are received the department will issue payment directly to the contractor.

6.G3.1
Sample PO
(added 6/14)

STATE OF CALIFORNIA - GENERAL SERVICES PROCUREMENT DIVISION

PURCHASING AUTHORITY PURCHASE ORDER

STD. 65 (REV. 7/2003)

CONTRACT REGISTRATION NUMBER	AGENCY ORDER NUMBER	AMENDMENT NO.
SUPPLIER: The numbers identified above MUST be shown on Invoice & Packing Slip.	DATE	PAGE OF PAGE

SHIP TO	BILL TO	
State Department with Purchasing Authority	State Department with Purchasing Authority	AGENCY BILLING CODE PURCHASING AUTHORITY NUMBER LEVERAGED PROCUREMENT AGREEMENT NO.

TO SUPPLIER ADDRESS (Type or Print Legibly): GSA Supplier

INFORMATION TECHNOLOGY PROJECT IDENTIFICATION NUMBER

AGENCY OR BUYER INFORMATION: AGENCY TRACKING/REQUISITION NUMBER (Optional); AGENCY NAME; CONTACT NAME; CONTACT E-MAIL ADDRESS; CONTACT PHONE NUMBER; CONTACT FAX NUMBER

SUPPLIER CONTACT NAME | SUPPLIER PHONE NUMBER | SUPPLIER FAX NUMBER | SUPPLIER E-MAIL ADDRESS

PAYMENT TERMS | CERTIFICATION NUMBER | ☐ Certified Small Business ☐ Certified Microbusiness | EXPIRATION DATE | ☐ Certified DVBE | EXPIRATION DATE

REQUIRED DELIVERY DATE | SHIPPING INSTRUCTIONS | ☐ F.O.B. Destination FRT. PPD | ☐ F.O.B. Destination FRT. PPD/ACD Freight not to exceed cost stated on P.O. | ☐ F.O.B. ORIGIN | CITY OF ORIGIN | STATE | ZIP CODE

ITEM NUMBER	QUANTITY	UNIT	COMMODITY CODE or PRODUCT CODE or SERVICES ID NUMBER	RECYCLED PRODUCT	PRODUCT OR SERVICES DESCRIPTION	UNIT PRICE	EXTENSION TOTAL

This order is placed pursuant to the CA 1122 Public Safety Procurement Program, in support of counter-drug, homeland security, or emergency response activities, under the authority of CalOES, the State Point of Contact (SPOC) for the State of California.

*Authorized SPOC Signature*_____

TERMS AND CONDITIONS

A-1 ☐ General Provisions are incorporated herein by reference to:
☐ Form GSPD - 401Non-IT Commodities (revision date _____) OR ☐ Form GSPD - 401IT (revision date _____)
☐ ATTACHED OR ☐ Published at website: www.dgs.ca.gov/dgs

A-2 ☐ This order is issued under a Department of General Services (DGS) Leveraged Procurement Agreement (LPA). Terms and Conditions set forth in that agreement (LPA number referenced in the block titled Leveraged Procurement Agreement No.) are incorporated herein by reference as if set forth in full text.

B ☐ Agency Special Provisions are attached and titled_____.

C ☐ Any other attachments, such as specifications, Statement of Work, or Information Technology Model Language Modules, are identified in the product or services description area or on continuation pages.

PROCUREMENT METHOD ☐ COMPETITIVE: Solicitation Number (if applicable) _____

☐ LEVERAGED ☐ DVBE / SMALL BUSINESS [GC 14838.5(a)] ☐ NON-COMPETITIVELY BID ☐ EXEMPT

* NOTE: If there are variable charges for Installation, Shipping or Freight, or Other Non-Taxable Services, detail per line item and enter total here.

TAXABLE SUBTOTAL	
TAX RATE / SALES TAX	
* INSTALLATION	
* SHIPPING/ FREIGHT	
* OTHER NON-TAXABLE	
GRAND TOTAL	

PROGRAM / CATEGORY (Code and Title) | FUND TITLE | VERIFIED NO STATE SURPLUS AVAILABLE ☐ YES ☐ NO | PAID BY CAL-CARD ☐ YES ☐ NO

ITEM | CHAPTER | STATUTE | FISCAL YEAR | OBJECT OF EXPENDITURE (CODE AND TITLE) | ☐ O.E. ☐ EQ.

CERTIFICATION AND APPROVAL OF EXECUTIVE OFFICER

I HEREBY CERTIFY, on personal knowledge, that this order for purchasing the items specified above 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.

AUTHORIZING NAME (Print or Type) | TITLE

AUTHORIZING SIGNATURE #

UNENCUMBERED REMAINDER AFTER POSTING THIS ORDER TO ALLOTMENT EXPENDITURE LEDGER	
ADJUSTMENT INCREASING ENCUMBRANCES	
ADJUSTMENT DECREASING ENCUMBRANCES	

CERTIFIED CORRECT (SIGNATURE) #

DISTRIBUTION: Copy 1 - Supplier; Copy 2 - DGS Procurement; Copy 3 - Packing Slip; Copies 4–6 - Agency Procurement File

6.G3.2 Reporting requirements (added 6/14)

The ordering department must register transactions valued over $5,000 in the State Contract and Procurement Registration System. Copies of the STD. 65 for orders less than $5,000 are sent to the DGS Intake and Analysis Unit. Refer to Chapter 8, Topic 1 for more information.

*DGS has waived their administrative fees for all 1122 transactions.

Chapter 7

Protest and Post Award Disputes

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Chapter 7 2

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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 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.

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.

The 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

To view the Bidder Instructions, click the Standard Contracts and Solicitation Documents ribbon 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
(rev 12/14)

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: Renata Rasberry, Manager, Dispute Resolution • PH: 916/375-4623 • FAX: 916/376-6226 • E-mail: PDProtest@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.

To view the General Provisions, click on the Standard Contracts and Solicitation Documents ribbon 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 the 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
(rev 5/15)

The SCPRS, an Internet-based application, was developed as a contract tracking system to provide a centralized database on state contracting and purchasing transactions. Beginning in Summer 2015, the SCPRS system transitions from BidSync to FI$Cal.

8.1.1 Registering purchases (rev 5/15)

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.

The system enables departments to record transactions valued at $5,000 and less. Individual departments may elect to do so in an effort to meet internal tracking needs. Additionally, recording transactions in SCPRS eliminates the requirement to send hard copies of the purchase documents to DGS/PD.

Effective January 2016, any State Department, including those that are deferred or exempt from FI$Cal, shall register all transactions in the FI$Cal SCPRS system, regardless of dollar value and procurement method. Exempt and deferred departments will have the option to either enter their procurements manually **or** upload their transactions using the upload tool.

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 to the supplier. – Retain a copy of the purchase document with the recorded registration number in the procurement file.
Requires the 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 to the supplier – Retain a copy of the purchase document with the recorded registration number in the procurement file.
Is purchased by the DGS on behalf of a department	• The 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 the DGS audits.

8.1.5 Amendments must be registered (rev 5/15)

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. Having been entered into SCPRS, hard copies do not need to be submitted to DGS.

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: The 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 the DGS/PD or to a purchase order issued by the 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 Contract Award Report (added 9/12)

Within 10 working days of an award, and using the Contract Award Report form (STD16) to transmit the information, a department must report the award of each contract over $5,000 to the Department of Fair Employment and Housing (DFEH), including contracts with the University of California, California State Universities and California Community Colleges. Information required is specified in 2 CCR (California Code of Regulations) Section 8117.5. (This requirement does not apply to contracts with other California State departments or with the federal government.). Use an STD. 16 for reporting purposes. Retain a copy of the completed form in the department's procurement file. See Chapter 12 for additional information on this reporting requirement

8.2.8 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 the DGS/PD and available from the 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 the DGS/PD, it must submit the alternate version to the DGS/PD for review and approval prior to executing any orders using the alternate format. The 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 the 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 the DGS/PD, any of the STD.65-PINDEL formats as issued from PIN, and an alternate format approved by the 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 the DGS/PD and/or incorrect supplier invoicing, and to facilitate tracking and the 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
(rev 5/15)

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).

NOTE: If the transaction was entered in SCPRS, you are not required to send a hard copy to DGS.

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 the 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 (rev 3/13)

On the STD. 213 A, the agreement number and the amendment number must be recorded within the respective boxes located in the upper right corner of the document.

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 the DGS for review, approval, and execution. (Refer to Chapter 5 – Non-Competitively Bid (NCB) Contracts for additional information regarding amendments).
- An amendment to extend a contract term:
  - Must be processed, approved and issued prior 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.
    Example:
    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 the 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 the 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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This section contains the following topics:

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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

The 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, the 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 The DGS Price Book

The DGS/PD publishes a price book and directory of services that provides a listing of the services provided and prices charged by the 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.

The 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 the 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 the 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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This section contains the following topics:

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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 the 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 the State Financial Marketplace Manager for 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 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 the 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 via the CAL-Card Program Page under the "Participation Information" ribbon.

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 via the CAL-Card Program Page under the "Participation Information" ribbon.

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

The 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.

Contents

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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	The 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: The 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

The 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

The 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

The 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 12

Reporting Requirements

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Chapter 12

Reporting Requirements

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:

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Section B: Additional Acquisition Reporting Requirements	12

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
Topic 1 – Purchasing Authority Activity Reporting	4
Topic 2 – Data Center Interagency Agreement Quarterly Report	6

Topic 1 – Purchasing Authority Activity Reporting

12.A1.0 Reporting
(rev 5/15)

Departments must report to the 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 the 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 the 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.

NOTE: Departments opting to register all transactions (including those less than $5,000) in SCPRS do not need to submit a copy of each executed purchase document to the DGS/PD. Effective January 2016, any State Department, including those that are deferred or exempt from FI$Cal, shall register all transactions in the FI$Cal SCPRS system, regardless of dollar value and procurement method.

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
(rev 5/15)

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 Department of Technology are not to submit copies of the standard agreement to the DGS/PD. It is the responsibility of the data center to report these transactions in accordance with the data centers delegation granted by the DGS/PD.

12.A1.3 Where to submit
(rev 5/15)

Departments will submit transactions executed under their purchasing authority that have not been registered in SCPRS:

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 the DGS/PD. Refer to Section A, Topic 2 of this chapter

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12.A1.5 Non-reportable transactions
(rev 9/11)

The following procurement activities are not under the DGS/PD-approved purchasing authority and should not be reported:

- Non-IT services 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 $2,500 executed without issuing a purchase document.
- Transactions for non-It goods under $100 not executed as an LPA order.

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

(deleted 12/13)

(deleted 7/12)

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

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Topic 1 – Annual Contracting Activity Report (STD. 810)

12.B1.0 Consolidated Annual Report
(rev 12/12)

The 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, Sexual Orientation (ERGSO)

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 GC 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
(rev 7/12)

PCC section 10111(e)(7) requires departments to report contracting activity using the SB/DVBE Option and the DVBE Incentive.

12.B1.6 STD. 810E Ethnicity, Race and Gender, Sexual Orientation (ERGSO)
(rev 12/12)

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. Effective January 1, 2013, AB 1960 (Dickinson), PCC 10111 (f), requires inclusion in the report on contracting activity voluntarily submitted information regarding the level of participation of lesbian, gay, bisexual, or transgender owned businesses in specified contracts, as provided.

12.B1.7 Due Dates
(rev 12/12)

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, Sexual Orientation (ERGSO)	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://leginfo.legislature.ca.gov/faces/codes.xhtml.

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 and reporting (rev 9/12)

Title 2 California Code of Regulations (2 CCR) Section 8117.5 requires contract award reporting within 10 working days. Click here to access the Contract Award Report form STD.16 .

The completed Contract Award Report, STD16, must be electronically submitted within 10 days of contract award to the following e-mail address: complianceprograms@dfeh.ca.gov.

Do not send paper copies of the STD16 to the DFEH. Retain a copy of the completed form in the department's procurement file.

(deleted 9/12)

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 12/13)
(rev 7/12)
(rev 6/11)

Click here to access the calendar of reports