



CIRCULAR

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY

NO.: 11-03-DPP	ORIGINATING AGENCY: DIVISION OF PURCHASE AND PROPERTY	PAGE 1 OF 5
EFFECTIVE DATE: 09/02/10	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 08-09-DPP
SUBJECT: PURCHASES FROM FEDERAL SUPPLY SCHEDULES OR SCHEDULES OF OTHER FEDERAL PROCUREMENT PROGRAMS (GSA-PRICED CONTRACTS)		
ATTENTION: DIRECTORS OF ADMINISTRATION, EXECUTIVE BRANCH PROCUREMENT OFFICERS AND THE DIRECTORS OF AUTHORITIES		
FOR INFORMATION CONTACT: OFFICE OF THE DIRECTOR		PHONE: (609) 292-4886

This Circular sets forth the process that agencies must follow when seeking creation of a State contract predicated on a federal supply schedule. At a summary level the agency must request that the Division of Purchase and Property establish the needed contract based upon the agency's research of the needed products' and/or services' availability with one or more vendors and at a cost that is of value to the State. As with all State procurement processes, requisite pre-approvals and forms/certifications must be documented before the resulting State contract is finalized.

I. PURPOSE

Pursuant to N.J.S.A. 52:34-6.1, the Director, Division of Purchase and Property (Director) "shall promulgate the Federal Supply Schedules of the Federal General Services Administration or schedules from other federal procurement programs as an alternate price guide for the purchase of goods and services for State agencies and for the other public State entities as set forth in N.J.S.A. 52:27B-56.1." The purpose of this Circular is to outline the procedures that the Director will follow to enter into State contracts for goods and services from federal supply schedules ("GSA-Priced Contracts") and that are open to State contracting agencies and other quasi-State entities under the statute. This policy is designed to provide expanded purchasing opportunities for State and other public agencies while continuing to ensure the integrity of State contracting through an ethical, competitive and transparent process, and compliance with all State laws, regulations, Legislative directives and Executive policies.

In the interest of minimizing the previous administrative burden in entering into GSA-Priced Contracts, the Division of Purchase and Property ("Division") has streamlined the process to include only the following steps:

- Electronic pre-approval will be processed and determined within the Division. Deputy Attorney General review is not required.
- The Division will seek OIT and OMB approval if applicable under other circulars.
- The GSA-Priced Contract documentation package* will be processed and approved within the Division. Deputy Attorney General review is not required.
- The final decision to award the GSA-Priced Contract will rest with the Director of the Division of Purchase and Property.

- The GSA-Priced Contract will be made available as a term contract in MACS-E and on the Division's website.
- The GSA-Priced Contract will not be considered a waived contract.
- For purchase orders against the resulting GSA-Priced Contract, the Using Agency will be responsible to obtain any pre-approvals (by control agencies such as OIT and OMB) prior to purchase order finalization.

This Circular is to be used in conjunction with the following Treasury Circulars affecting procurement:

1. Requests for Waivers of Advertising
2. Professional Services: Review, Control, Monitoring and Extensions
3. Delegated Purchasing Authority
4. Procurements of Information Technology (IT) Hardware, Software and Related Services
5. Moratorium on Procurements of Information Technology (IT) Hardware and Software.

II. DEFINITIONS

The following terms and their definitions apply to this policy:

1. "Other Public Entities" means the group defined in N.J.S.A. 52:27B-56.1, the Palisades Interstate Park Commission, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Sports and Exposition Authority, the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Development Authority, the South Jersey Transportation Authority, the New Jersey Meadowlands Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority, or any other agency, commission, board, authority or such governmental entity established and allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.
2. "Eligible Requesting Entity" means State agencies and the entities set forth in N.J.S.A. 52:27B-56.1.
3. "Federal Supply Schedule" or "GSA Schedule" means contracts approved by the U.S. General Services Administration or other federal procurement agency for the procurement of goods and services by federal agencies.
4. "GSA-Priced Contract" means a State contract awarded by the Director to vendors who supply goods and services through GSA and other federal procurement agencies and that complies with the requirements of N.J.S.A. 52:34-6.1 and this circular.

III. POLICY

Eligible requesting entities may request the Director to award a GSA-Priced Contract. Eligible requesting entities may not contract with a GSA Schedule vendor without the Director's approval. The Director's approval must be sought by means of the GSA-Priced Contract pre-approval and approval process. If the Director consents to forming a contract between the State and the GSA vendor, and the proposed GSA-Priced Contract complies with the requirements of this Circular, then the resulting GSA-Priced Contract will function and operate in the same manner as other publicly bid State contracts.

An agency seeking to purchase goods or services through a GSA-Priced Contract shall only proceed under this circular when the agency can demonstrate one of the following:

1. the goods or services available to be purchased through a GSA-Priced Contract are not available under existing State contract(s);
2. the price of the goods or services available to be purchased through a GSA-Priced Contract will be at a better price or value than under the existing State contract(s); or
3. the goods or services available through the GSA-Priced Contract are more advantageous to the State, price and other factors considered, than the same goods or services that are available under the existing State contract. A specific explanation of how the goods or services available through the GSA-Priced Contract are more advantageous must be provided. Information about State contracts is available on the web at <http://www.nj.gov/treasury/purchase/noa/contracts/noa.shtml>.

Note: If the product or service is not available under State contract and is within the agency's Delegated Purchase Authorization (DPA), then the agency must follow the process for DPA purchases, as set forth in the DPA Circular available on the web at www.state.nj.us/infobank/circular/circindx.htm.

The location of the Federal Supply Schedules of the Federal General Services Administration (GSA) and schedules from other federal procurement programs are available from two web-based sources.

<http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

<http://www.gsaelibrary.gsa.gov/ElibMain/scheduleList.do>

To "shop" GSA as used in context within this document, means that an agency researches the GSA schedules to identify the vendors that sell the product and/or service in which the agency is interested in purchasing. The agency must then identify at least three (3) viable GSA vendors offering the product or service if available, and obtain price quotes from these three vendors. If the agency's due diligence to "shop" GSA reveals that only one or two vendors are available to offer the required goods or services, then the agency must document this fact in the request package forwarded to the Division of Purchase and Property. Then the agency must determine the vendor offering the best value, price and other factors taken into consideration. This research, determination, and supporting explanation must be documented as part of the GSA-Priced Contract package.

Note: If a GSA vendor offers a product or service that is available from a single source of supply or is proprietary in nature, then the agency must document, to the Director's satisfaction, that the vendor is the sole source of supply for the product or service. Similarly, if a GSA vendor offers a product or service that supports requirements that are feature-dependent, then the eligible requesting entity must justify why the feature is required as part of the GSA approval package sent to the Division of Purchase and Property.

All agencies must continue to comply with the Treasury Circular concerning the State's Line of Credit/Equipment Master Lease Program. If an agency is proposing a GSA-Priced Contract that includes financing for equipment, the above analysis on price and other factors must include consideration of the terms available to the State through the Line of Credit/Equipment Master Lease Program. Approval through the Department of the Treasury's Division of Administration relative to the State's program for Line of Credit is required. The Division of Purchase and Property and the Office of Management and Budget must also approve any GSA-Priced Contract which includes an operating lease for equipment.

The GSA-Priced Contract shall include the following provisions:

1. The price under the GSA-Priced Contract shall be no greater than the price offered to federal agencies.

2. The GSA-Priced Contract shall include a provision to require that the vendor give the State the federally mandated price reductions during the term of the contract if any are provided for in the GSA contract or by law.
3. The GSA-Priced Contract shall have a list of the specific products or services being purchased and the prices for each. All of the goods or services listed on a GSA or other federal supply schedule cannot be the subject of a single GSA-Priced Contract without the specific, written approval of the Director.
4. The GSA-Priced Contract shall have a term of no more than two (2) years or shall terminate or expire whenever the federal contract terminates or expires, whichever is earlier. The GSA-Priced Contract shall not be subject to extension. The vendor shall be required to notify the State within seven (7) business days if the federal contract is terminated for any reason.
5. The GSA-Priced Contract shall be available for use by other public entities pursuant to N.J.A.C. 17:12-1A.4.
6. The GSA-Priced Contract shall incorporate the State's Standard Terms and Conditions.
7. The vendor must satisfy all the procurement requirements for State contracting, i.e., submitting the statutorily required forms and certifications. The statutorily required forms and certifications, listed below and unless otherwise noted, are available on the Division's website at www.state.nj.us/treasury/purchase/forms.htm:
 - Proof of NJ Business Registration with the Division of Revenue (www.state.nj.us/treasury/revenue)
 - Standard Terms and Conditions (for waived contracts) executed by the vendor
 - Ownership Disclosure form
 - Affirmative Action compliance or certificate of compliance with Affirmative Action requirements by the State or federal government
 - MacBride Principles Certification
 - Source Disclosure Certification under N.J.S.A. 52:34-13.2
 - Contractor Certification and Disclosure of Political Contributions under N.J.S.A. 19:44-20.13 et seq.
 - Vendor Certification under Public Law 2005, Chapter 71.

The eligible requesting entity must submit these documents with the GSA-Priced Contract approval package, if the Director's approval to proceed was received pursuant to the GSA Priced Contract pre-approval request. Incomplete GSA-Priced Contract approval packages will be returned to the agency and will not be processed or "held" by the Division of Purchase and Property. Division of Purchase and Property approval will result in the assignment of a New Jersey State GSA contract number for the term of the contract.

IV. GSA-PRICED CONTRACT APPROVAL PROCESS

1. GSA-Priced Contract Pre-Approval. An agency shall submit a request for a GSA-Priced Contract pre-approval that:
 - (a) specifically identifies the goods and/or services proposed to be purchased through a GSA-Priced Contract;
 - (b) identifies the federal supply schedule and vendor sought to be used;
 - (c) demonstrates one of the following:
 - (1) the goods or services proposed to be purchased through a GSA-Priced Contract are not available under existing State contract(s);
 - (2) the price of the goods or services proposed to be purchased through a GSA-Priced Contract will be at a better price or value than under the existing State contract(s); or

- (3) that the goods or services proposed to be purchased through the GSA-Price Contract are more advantageous to the State, price and other factors considered, than the same goods or services that are available under the existing State contract. A specific explanation of how the goods or services available through the GSA-Priced Contract are more advantageous must be provided.
- (d) identifies the agency contact, including telephone number and email address.

Pre-approval may be requested by an email sent to purchase.bureau@treas.state.nj.us, with a subject line stating "GSA-Priced Contract Pre-Approval Request".

2. GSA-Priced Contract Approval Package. Once the agency has received pre-approval, the agency shall submit a GSA-Priced Contract documentation package that consists of:
- (a) a copy of the pre-approval,
 - (b) a proposed contract that meets the requirements of Section III of this Circular,
 - (c) all statutorily required forms as set forth in Section III.7
 - (d) any additional information requested by the Division of Purchase and Property as part of the pre-approval or approval process.

Incomplete GSA-Priced Contract documentation packages shall be returned to the agency and will not be processed or "held" by the Division of Purchase and Property.

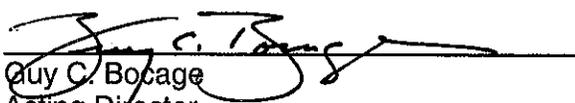
3. GSA-Priced Contract Approval. If the proposed GSA-Priced Contract is approved, the Division shall assign a unique GSA-Priced Contract number for the term of the contract and shall include it on the web with its list of available State contracts.

V. EXCEPTIONS TO GSA-BASED CONTRACTS

Because the Director must grant priority to overriding legislative mandates, if any goods or services are available under the following special procurement programs, an agency may not purchase the same goods or services through a GSA-Priced Contract. These special procurement programs are:

- DEPTCOR contracts;
- Central Non-Profit Agency set-aside contracts;
- Partial or complete small business set-aside contracts issued pursuant to N.J.A.C. 17:13-4.1 to 4.4; or
- Energy Savings Services contracts as set forth in N.J.S.A. 52:34-25.

Whenever the State is statutorily required to purchase energy-efficient and/or environmentally preferable products or services, such as products bearing the U.S. Environmental Protection Agency's "Energy Star" label, pursuant to N.J.S.A. 52:34-6.4, or compact fluorescent light bulbs, pursuant to N.J.S.A. 52:34-6.5, that requirement shall be imposed on all GSA-Priced Contracts as well. If an agency is seeking to purchase goods or services subject to these requirements through a GSA-Priced Contract, the agency shall explain to the satisfaction of the Division of Purchase and Property how the statutory requirement is met.


Guy C. Botage
Acting Director