CIRCULAR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY

NO.: 13-15-DPP	ORIGINATING AGENCY: DIVISION OF PURCHASE AND PROPERTY	PAGE 1 OF 6
EFFECTIVE DATE: 2/5/13	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 12-07-DPP, dated 6/13/12
SUBJECT: PURCHASES FROM FEDERAL SUPPLY SCHEDULES OR SCHEDULES OF OTHER FEDERAL PROCUREMENT PROGRAMS		
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 updated Circular revises the forms and certifications that are required by Federal vendor(s). This Circular also requires the Agency to specify the requested contract term, including any extensions, as part of the pre-approval package. Agencies must also ensure that all vendors are on a level playing field during the competitive process.

This Circular sets forth the process that Agencies must follow when seeking creation of a State contract predicated on a federal procurement program, including but not limited to the U.S. General Services Administration ("GSA"), the Department of Veterans Affairs ("VA"), and the Defense Logistics Agency ("DLA").

At a summary level, the Agency must request that the Division of Purchase and Property ("Division") establish the contract based on the Agency's validated research of the required goods or services. As with all State procurement processes, the requisite pre-approval and approvals must be obtained, and all statutorily required forms and certifications must be completed before the resulting State contract is finalized.

I. PURPOSE

Pursuant to N.J.S.A. 52:34-6.1 and N.J.A.C. 17:12-1A.5, the Director of the 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..." The purpose of this Circular is to establish the procedure to create State contracts for goods and services based on federal pricing ("Federally-Based Contracts"). This policy is intended to provide expanded purchasing opportunities for the State and other public agencies while ensuring the integrity of State contracting through an ethical, competitive, and transparent process, in compliance with all State laws, regulations, Legislative directives, and Executive policies.

In order to minimize the administrative burden in establishing Federally-Based Contracts, the Division has streamlined the process as follows:

1. The Agency will request electronic pre-approval, to be processed and determined by the Division.
2. The Agency will seek OIT and OMB approval, if applicable under other Circulars.
3. The Agency will submit an approval package, to be processed and approved by the Division.

4. The Division will make the final decision whether to award the Federally-Based Contract. If approved, the contract will be made available in MACS-E, in eCatalog, and on the Division's website.

Greater detail for each step is provided in Section VI of this Circular.

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

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

All Circulars are available on the official State website: http://www.state.nj.us/infobank/circular/circindx.htm.

II. DEFINITIONS

The following terms and their definitions apply to this Circular:

i. "Agency" means any State agency, or any other public entity set forth in N.J.S.A. 52:27B-56.1.
ii. "Federal Supply Schedule" means any contract promulgated by General Services Administration (GSA), Veterans Affairs (VA), Defense Logistics Agency (DLA), or any other federal agency for the procurement of goods or services.
iii. "Federally-Based Contract" means a State contract awarded by the Division to a vendor that supplies goods or services through any federal procurement program, and that complies with the requirements of N.J.S.A. 52:34-6.1, N.J.A.C. 17:12-1A.5, and this Circular.

III. POLICY

By means of a pre-approval and approval process, an Agency may request that the Division establish a Federally-Based Contract. If the Division agrees to execute a contract between the State and the federally-approved vendor, and the proposed contract complies with the requirements of this Circular, then the resulting Federally-Based Contract will function and operate in the same manner as other State contracts. The contract shall have an initial term of one to five years, with no more than five one-year extensions.

An Agency seeking to purchase goods or services through a Federally-Based Contract may proceed under this Circular when it demonstrates one or more of the following:

1. The goods or services to be purchased are not available under existing State contract(s);
2. The price of the goods or services available to be purchased will be at a better price or value than under existing State contract; or
3. The available goods or services are more advantageous to the State, price and other factors considered, than the same goods or services available under existing State contract. (Under this scenario the Agency must provide a thorough and specific explanation documenting any anticipated cost savings.)

State contract information is available on the web at http://www.nj.gov/treasury/purchase/noa/contracts/noa.shtml.

Note: If the goods or services are not available under State contract and are 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. Federal Supply Schedules may be used as a resource for identifying and seeking the required three DPA quotations.

IV. FEDERAL PROCUREMENT AGENCIES

The Federal government authorizes certain agencies to conduct acquisition activities for goods and services; this Circular contains information on three of those entities: GSA, VA and DLA. State agencies may also expand product and service searches beyond these three programs.

The Agency must research GSA, VA, DLA or other federal program schedules (or a combination thereof) to identify vendors that sell the desired goods or services, and must obtain price quotes from at least three viable vendors. The Agency, with the support of the Division, will identify the vendor that offers the best value, price and other factors considered. If the Agency's due diligence reveals that fewer than three vendors offer the required goods or services, the Agency must document this fact in the pre-approval package provided to the Division. All research, vendor selection determination, and supporting documentation must be part of the pre-approval package.

The competitive process employed by the agency must: 1) be fair and provide all vendors solicited with the same opportunity to provide price quotes; and 2) provide all vendors with the same information concerning the work to be performed and the terms and the conditions of the proposed Federally-Based Contract to ensure that all vendors are on a level playing field.

Note: All Agencies must continue to comply with the Treasury Circular concerning the State's Line of Credit/Equipment Master Lease Program. If an Agency proposes a Federally-Based Contract to include 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 Federally-Based Contract which includes an operating lease for equipment.

General Services Administration: GSA offers the greatest variety of products and services that may benefit the State; the Division therefore suggests that all Agency searches of federally-based supply programs begin with GSA.

The following websites provide supply schedules and additional information:

GSA eLibrary: http://www.gsaelibrary.gsa.gov/ElibMain/home.do

GSA eLibrary Schedules List: http://www.gsaelibrary.gsa.gov/ElibMain/scheduleList.do

GSA Advantage: https://www.gsaadvantage.gov/advantage/main/home.do

Department of Veterans Affairs: VA manages nine supply schedules containing commodities, pharmaceuticals, and services, for use by VA medical centers, related facilities, specific State Veterans Homes, and other federal facilities.

The following websites provide supply schedules and additional information:

VA Store home page: http://www.va.gov/vastorenac/

VA Supply Schedules: http://www.fss.va.gov/

VA Catalog Search Tool: http://www.va.gov/nac/

VA Advantage: https://vaadvantage.gsa.gov/advantage/main/start_page.do?store=VA

Defense Logistics Agency: DLA is a U.S. Department of Defense agency that supplies the nation's military services and several civilian agencies with critical resources. In addition to other operations, DLA provides wide-ranging logistical support for emergency preparedness and humanitarian missions.

The following websites provide additional information:

DLA Web Site: http://www.dla.mil/Pages/default.aspx

DLA Search Page: http://www.dlis.dla.mil/H2/search.aspx

V. CONTRACT PROVISIONS

It is important to understand that, although they are based on federal pricing, Federally-Based Contracts are State Contracts executed between New Jersey and the selected vendor. As such, all Federally-Based Contracts must include the following provisions:

1. The price of the goods or services being procured shall be no greater than the price offered to federal agencies.
2. The State shall receive the benefit of federally mandated price reductions during the term of the contract if any are provided for in the Federal contract or by law.
3. The Federally-Based Contract shall list the specific goods or services being purchased and the price for each. No goods or services listed on any Federal Supply Schedule may be the subject of a Federally-Based Contract without the written approval of the Division.
4. The Federally-Based Contract shall have an initial term of one to five years, with no more than five one-year extensions.
5. The Federally-Based Contract may be available for local use pursuant to N.J.A.C. 17:12-2.3.
6. The Federally-Based 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 required forms and certifications, listed below and unless otherwise noted, are available on the Division's website at: http://www.state.nj.us/treasury/purchase/forms.shtml:

   - Proof of NJ Business Registration with the Division of Revenue (http://www.state.nj.us/treasury/revenue/)
   - Standard Terms and Conditions executed by the vendor
   - Standard RFP Forms (Ownership Disclosure, Disclosure of Investigations and Actions Involving Bidder, Disclosure of Investment Activities in Iran)
   - MacBride Principles form
   - Affirmative Action Supplement with Affirmative Action Employee Information Report or certificate of compliance with Affirmative Action requirements by the State or Federal government
   - Set-Off for State Tax
   - Source Disclosure Certification Form
   - Contractor Certification and Disclosure of Political Contributions (Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions)
   - A valid Public Works Contractor Registration issued by the New Jersey Department of Labor and Workforce Development, if the contract is deemed a public work pursuant to the laws of the State of New Jersey.

8. Provisions for Federally-Based Contracts Form Letter - This Form, which details the above requirements, must be executed and signed by each Federal vendor prior to award. This Form may be found at: http://www.state.nj.us/treasury/purchase/forms.shtml.

9. The Agency must submit all required documents with the approval package. Incomplete approval packages will be returned to the Agency and will not be processed by the Division. Division approval will result in the assignment of a State contract number for the term of the contract.

10. Insurance Certificates: In accordance with Section 4.2 of the State of New Jersey Standard Terms and Conditions, the contractor shall provide the State with current certificates of insurance for all coverages required by the terms of this contract, naming the State as an Additional Insured.

VI. APPROVAL PROCESS

The following steps shall be taken in order to establish a Federally-Based Contract:

1. Pre-Approval Request

   The Agency must electronically submit an email pre-approval request to the Central Intake Unit at central.intake@treas.state.nj.us. The email subject line shall read "Federally-Based Contract Pre-Approval Request" and the request must:

   a) Specify the good(s) and/or service(s) proposed to be purchased, and the price(s) for each;
   b) Specify the length of the contract term, including any extensions. Refer to Section III of this Circular.
   c) Include the Federal Supply Schedule and proposed vendor;
   d) Identify the Agency contact, including telephone number and email address; and
   e) Demonstrate at least one of the following:
      i. The proposed goods or services to be purchased are not available under existing State contract;
      ii. The goods or services proposed to be purchased will be at a better price or value than under existing State contract; or
      iii. The purchase of these goods or services through a Federally Priced Contract will be more advantageous to the State, price and other factors considered, than the purchase of the same goods or services through an existing State contract. (Under this scenario the Agency must provide a thorough and specific explanation documenting any anticipated cost savings.)

2. Pre-Approval Response

   After the Division receives a pre-approval request, the request will be reviewed. Provided the criteria listed in Step 1 above are met, the pre-approval will be granted and the Agency will receive an email confirmation. The Division may include with its confirmation a request for specific additional information to be submitted by the Agency with its approval package.

3. Submission of the Approval Package

   After receiving pre-approval, the Agency shall electronically submit a contract approval package to the Central Intake Unit at central.intake@treas.state.nj.us that includes:

   a) A completed Procurement Request Form (formerly the Central Intake Form)
   b) A copy of the pre-approval, including the pre-approval package with validated research (all items submitted in Section 1 & 2 above);
   c) All statutorily required forms/certifications (as set forth in Section V.7. of this Circular);
   d) The "Provisions for Federally-Based Contracts" form letter signed by the Federal vendor(s) as set forth in Section V.8 of this Circular.
   e) Any additional information requested by the Division.

Incomplete approval packages shall be returned to the Agency and will not be processed by the Division.

4. Approval of the Federally-Based Contract

   If the Division approves the proposed contract, the Division shall assign a unique contract number, and shall include the contract in MACS-E, in eCatalog, and on the web with its list of available State contracts.

VII. EXCEPTIONS TO FEDERALLY-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 Federally-Based Contract. These special procurement programs are:

1. The State Distribution and Support Services Center (DSS);
2. The Bureau of State Use Industries (DEPTCOR);
3. Central Non-Profit Agency set-aside contracts;
4. Partial or complete small business set-aside contracts issued pursuant to N.J.A.C. 17:13-4.1 to 4.4;
5. Energy Savings Services contracts as set forth in N.J.S.A. 52:34-25.

Federally-Based Contracts shall also comply with statutes and Executive Order to purchase energy-efficient and/or environmentally preferable products or services, including, but not limited to products bearing the U.S. Environmental Protection Agency's "Energy Star" label, pursuant to N.J.S.A. 52:34-6.4; compact fluorescent light bulbs, pursuant to N.J.S.A. 52:34-6.5; recycled paper products, pursuant to E.O. 91 (Florio); environmentally preferable cleaning products, pursuant to E.O. 76 (Codey). If an Agency seeks to purchase goods or services subject to these requirements through a Federally-Based Contract, the Agency shall explain to the satisfaction of the Division how the request meets the requirements of the relevant statute or Executive Order.

Jignasa Desai-McCleary
Director