

LFN 2009-20

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Local Finance Notice

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Emergency Responder Equipment Purchase Program: Homeland Security Grant Procurement Options

This Notice updates Local Finance Notice 2005-14 and describes procurement options available to local units that have received grants from the federal government which are administered by the State's Office of Homeland Security and Preparedness for purchase of homeland security equipment and supplies. These local units include all county governments as well as municipalities who receive federal grants directly from OHSP and/or through their respective counties (for convenience, hereafter, all collectively referred to as "counties").

When using these procedures, good internal control practices and State law require that all purchase orders or contracts include a reference to the basis of the procurement. Each of the procurement models described below includes a standard for referencing the basis of the procurement. Ensuring that each purchase order or contract has its basis of award properly referenced at the time it is awarded will avoid audit and follow-up difficulties later in the process.

While this process provides alternatives to public bidding, all other requirements of bid and non-bid contracts apply, including vendor filing of Business Registration Certificate, encumbering and issuance of purchase orders, submission of vouchers, etc. Governing body resolutions awarding contracts are required when contracts exceed the bid threshold, unless made part of the "Streamlined Grant Procedure" authorized in [Local Finance Notice 2004-21](#).

Procurement Options

Buy under an existing State contract, such as:

- [Police & Homeland Security equipment \(T0106\)](#)
- [Scientific Equipment/Instruments, Components, Accessories & Operating Supplies contract \(T-0115\)](#)
- [Training Service Provider for Homeland Security/Law Enforcement/Public Safety \(T-2676\)](#)
- [Hospital Surgical Supplies, Dressings & Related Items \(T-0119\)](#)

A list of [contracts by subject matter](#) is on the Purchase Bureau website. Counties are encouraged to use State contracts as their first option wherever possible and practical. The contract reference for state contracts is 1-NJCP, and the description section of the purchase order must include the State contract number.

2. Classic advertising for receipt of bids and award to the lowest responsible bidder or other procedure authorized (i.e., bid exception, registered cooperative purchasing program, etc.) under the Local Public Contracts Law.
 - The contract reference requires the contracting unit's bid or resolution number, or the Division of Local Government Services' co-op purchasing system identifier to appear on the contract or purchase order.
3. A county may buy under any other county's existing contract, under the same terms and conditions, and with the approval of the initiating county, vendor, and Director of Local Government Services. **This authority only applies to these homeland security grants.** Approval of the Director is automatically granted when these purchases are otherwise made in compliance with this section. Counties are encouraged to share information on available contracts or needs via the Local Procurement Discussion Forum in GovConnect. The availability and pricing of State contracts for the items being purchased should also be checked before using this process.

The county freeholder board that initially awarded the bid must approve the use of a contract by other counties. This can be a generic resolution relating only to permitting other counties to use a specific contract(s); it does not have to be done on a case-by-case basis, and a single resolution can list more than one bid. The resolution should reference the bid award by title and resolution or contract number, as appropriate.

- Users should construct a contract reference number referring to this Local Finance Notice, and the initiating county's name and the resolution number authorizing the use of the contract as follows:

LFN 2005-14: *Name_of_County-Bid/Resolution#.*

4. Buy from a federal General Services Administration or other federal contractor as authorized and described in [Local Finance Notice 2004-21](#). **This authority only applies to these homeland security grants, it is not a general grant of authority to use GSA contracts for other purposes.**

Sound procurement practices should limit the use of GSA or other federal contracts to the following homeland security grant situations:

- a. The contracting agent concludes that bidding is not practicable in order to meet acquisition timing or other criteria appropriate to the circumstances.
- b. The desired items are not available through a state contract or other in-state procurement process (i.e., cooperative purchasing contract, bidding, etc.).

When using one of these contracts, refer to the federally assigned contract number the vendor received for a contract.

- Reference the contract number as follows:

LFN 2004-21/*Vendor_Contract_#*

The first step in using GSA contracts is to obtain federal pricing by navigating the [GSA website](#). The site may be challenging, but holds a wealth of information. Use the dropdown headings to find products and navigate to the appropriate pages. Please be aware that non-federal agencies cannot use website features that allow direct purchasing from GSA or vendor.

The following are other important considerations in using GSA contracts.

- a. GSA vendors are not obligated to provide non-federal agencies their federal pricing or services; the vendor must choose to extend pricing and any related services to counties. If a vendor is hesitant to provide federal GSA pricing, county procurement officials can make it clear the basis for the county's selection is a state law permitting it to waive bidding and accept federal pricing as the basis for a contract award. Such an action does not legally invoke any federal contract obligations or extend any rights to the county. Therefore, purchasing agents should ensure that the vendor will voluntarily extend those GSA terms and conditions to their purchase.
 - b. GSA prices are considered "ceiling" prices – that the price the county pays cannot exceed the GSA listed price for the item. Counties may be able (and are encouraged) to negotiate lower than posted prices based on market conditions, quantity, or other variables in the procurement process.
 - c. Counties are generally limited to buying only those items listed as GSA items. If the item needed by a county is available from a GSA vendor and is not in the vendor's GSA contract, but is similar or consistent with other items in the vendor's contract, the county may make the purchase from the GSA vendor, subject to the following requirements (which should be certified as part of the purchase order documentation):
 - The item is consistent with the nature of the other goods available under the vendor's GSA contract.
 - The item or an equivalent is not available on another GSA contract or from another GSA vendor.
 - By awarding the contract, the contracting agent is satisfied that the price is competitive with the market and is similar to other items offered under the contract.
5. Buy from any vendor participating in the U.S. Defense Logistic Agency Prime Vendor Program. This program uses the federal agency as a "buying agent" for the county and provides access to a wide range of goods. The program is described in [Local Finance Notice 2004-6](#) and additional information on the program is [on the EREPP website](#). Where procurement under a Waiver is requested, Counties must follow NJ State Treasury Circular No: 08-08-DPP "Requests for Waivers of Advertising" and submit a Waiver Request with a completed PB-129 form to the NJ Division of Purchase and Property.

The same principles that apply to using GSA or other federal contracts apply here, and limits use of Prime Vendor programs to circumstances where:

- The contracting agent concludes that bidding is not practicable in order to meet acquisition timing or other criteria appropriate to the circumstances.
- The desired items are not available through a state contract or other in-state procurement process (i.e., cooperative purchasing contract, bidding, etc.).
 - For prime vendor contracts, use the reference:

LFN 2004-6/Name_of_Prime_Vendor

6. Buy under a purchasing agreement made between the State Director of the Division of Purchase and Property and any other state or other state's political subdivision. These contracts are on the State Contract website as "M" contracts. They include the following:
- [M0002](#) Grainger Industrial/MRO Supplies And Equipment
 - [M0003](#) Software License, Maintenance, Support And Related Services
 - [M0065](#) Autozone -Automotive Parts And Accessories For Light Duty Vehicles
 - [M0483](#) WSCA Computer Hardware Contract

- [M7000](#) Data Communications and Networking Equipment and Services

If a county becomes aware of goods available from a non-New Jersey government agency that are not available at competitive pricing under any other contracting model, it should provide the information to their OHSP Grant and Program Management Bureau liaison, who will then provide the information to State procurement officials for a determination. Reference information will be provided, as need dictates.

7. Please refer questions on any of these matters to the Division at lpcl@dca.state.nj.us or 609-292-7842 and/or contact Jim Ballard OHS&P Procurement Specialist, NJ Department of the Treasury, Division of Purchase and Property at james.ballard@treas.state.nj.us or 609-292-3019 with procedural questions related to Homeland Security procurement.

Finally, please review [Local Finance Notice 2004-21](#) for details of the streamlines grant contract and award resolution procedure.

Approved: Susan Jacobucci, Director

Page #	Text	Link
1	Local Finance Notice 2004-21.	http://www.state.nj.us/dca/lgs/lfns/04lfns/2004-21.doc
2	Local Finance Notice 2004-21	http://www.state.nj.us/dca/lgs/lfns/04lfns/2004-21.doc
2	GSA website	http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_OVERVIEW&contentId=10594
3	Local Finance Notice 2004-6	http://www.state.nj.us/dca/lgs/lfns/04lfns/2004_6.doc
3	on the EREPP website	http://www.state.nj.us/dca/lgs/lpcl/index.shtml#EmergResponder