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STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

PROCUREMENT INFORMATION MEMORANDUM 00-02 REV

TO: All Certified Procurement Officers

REVISION DATE: December 7, 2010

SUBJECT: Use of Federal General Service Administration Contracts

References: 74 O.S. Supp. 2005 §§ 85.5.A, 85.5.G, 1.2.3.4., 85.5. H., § 85.9E.B, 85.12.B.19.

Effective October 1, 2000, the State Purchasing Director authorized state agencies to compare pricing, terms and conditions of federally awarded contracts to acquire goods and/or services available through a Federal General Services Administration (GSA) contract on an individual requisition basis for acquisitions exceeding \$5000.00.

All GSA contracts require a “willing partner” vendor. That is, a vendor must be willing to sell at the GSA price, or lower, and accept the State of Oklahoma terms and conditions.

Prices on the GSA schedules are not always the lowest prices. GSA negotiates a “most favored customer” price after determining that the prices are “fair and reasonable.” *GSA terms and conditions may not be acceptable to the State and the vendor must be willing to accept the State of Oklahoma terms and conditions, particularly those related to Limits of Liability, choice of venue, and choice of law .*

The Chief Information Officer shall have sole and exclusive authority and responsibility for all acquisitions of information and telecommunications technology, equipment, software, products and related peripherals and services used or consumed by state agencies.” “For purchases that require review of the purchase requisition by the Information Services Division (ISD) of the Office of State Finance(OSF), and are not available on statewide contract but are available from a General Services Administration (GSA) schedule or contract, or are available from a GSA schedule or contract at a lesser price than from a state contract, state agencies may, with the approval of the Information Services Division, purchase from the vendor or vendors on the GSA schedule or contract. Such approval shall be in accordance with requirement of ISD of OSF.”

Can a state agency purchase from GSA, non-IT contracts without competitive bidding? Yes, but only with permission from the Central Purchasing Division of DCS. Approval of a requisition for an acquisition from a GSA contract is not automatic. The State Purchasing Director will determine the validity of each acquisition on an individual basis. Agencies will be notified of approval or denial.

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Mandatory Statewide Contracts and State Use preferences remain in effect.

The Vendor Complaint file for GSA contractors will be maintained in the same manner as non-GSA contractors.

It is a proven best practice that the ordering Agency should seek additional price reductions/increased discounts and/or concessions when placing an order under a GSA contract. Contractors will often "sharpen their pencils" to obtain a large Schedule contract order. GSA Schedule contractors are not required to pass on to all users a price reduction extended only to an individual customer for a specific order.

SUBMISSION TO CENTRAL PURCHASING

All applicable agencies requesting purchases from a GSA contract shall process requisitions through Central Purchasing. Agencies are required to provide Central Purchasing the following information with each requisition:

1. A cover letter, signed by the agency primary Certified Procurement Officer, to the State Purchasing Director requesting that Central Purchasing acquire goods or services from a GSA contract;
2. A completed requisition to Central Purchasing which includes the named GSA contractor, the GSA contract award number, product description including the Federal Supply Schedule (FSS) product number and GSA pricing information;
 - (i) A copy of the GSA contract with the items being requested highlighted; the terms and conditions of the GSA contract;
 - (ii) If the GSA contract is a "catalog award," a copy of the catalog page containing the requested product or service;
 - (iii) Acceptance by the proposed contractor of the Oklahoma Terms and Conditions;
3. Comparative pricing from either a statewide contract or agency derived quote.

The above conditions are required to be met by requesting agencies regardless of specific statutory authority to acquire products through a GSA contract. For those agencies with a specific authority for the use of GSA contracts, the title and section of the Oklahoma Statutes shall be included on the requisition to Central Purchasing.

SUPPLEMENTAL INFORMATION

GSA has over 8,000 contractors on the schedule program for over 4 million services and products. More information on GSA Federal Supply Schedules can be found at: [GSA Schedules Program, https://www.gsa.gov](https://www.gsa.gov). The maximum order dollar amount varies from contract to contract and is listed in every GSA Schedule contractor's pricelist and on [GSA Advantage!®](#). Within their purchasing laws, States are authorized to directly use only certain Schedule GSA contracts for products and services. Under Cooperative Purchasing, state and local government entities may purchase a variety of information technology (IT) from contracts awarded under [GSA Federal Supply Schedule 70](#), Information Technology, as well as from contracts under the [Consolidated \(formerly Corporate Contracts\) Schedule](#) containing IT special item numbers. Again, these IT or related acquisitions require the approval of the ISD of OSF.

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REQUESTING PRICE REDUCTIONS

Ordering Agencies are advised to seek further price reductions when requirements warrant. Price reductions allow ordering activities to take advantage of the flexible and dynamic pricing in the commercial marketplace. By requesting a price reduction, the ordering Agency can maximize its use of GSA Schedule contracts by taking advantage of such factors as competitive forces, technological changes, labor conditions, supply and demand, industry sales goals, and inventory reductions.

The ability to seek additional price reductions and concessions allows the State not only to leverage its combined requirements to obtain favorable prices, terms, and conditions, but also to leverage agency requirements to take advantage of quantity or spot discounts available in a fluid, commercial pricing atmosphere.

Reasons to seek price reductions include instances where the ordering Agency has determined that a supply or service is available elsewhere at a lower price. In response to the ordering agency's request for a price reduction, the contractor may offer a lower price, offer the current Schedule contract price, or decline the order.

Please note with regard to contracts for *services*, while GSA has determined that the labor hour (hourly rate) for a labor/skill category is fair and reasonable, GSA has **not** determined that the level of effort or mix of labor/skill categories proposed in response to a specific requirement represents the best value. Therefore, when buying *services* that require a statement of work, the ordering Agency must consider the level of effort and mix of labor/skill categories proposed for a particular requirement, and make a determination that the total price is reasonable and represents the best value.

GSA has determined that the prices for *services* contained in the contractor's price list applicable to this Schedule are fair and reasonable. However, the ordering office using this contract is responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered and for making a determination that the total firm-fixed price or ceiling price is fair and reasonable.

(a) The agency's description of its needs must be free from ambiguity and state the agency's needs accurately. When ordering services or products, ordering Agencies shall:

(1) Prepare a Request (Request for Quote or Request for Proposal)

(i) A statement of work (a performance-based statement of work or specification is preferred) that outlines, at a minimum, the work to be performed, location of work, period of performance, delivery schedule, applicable standards, acceptance criteria, and any special requirements (i.e., security clearances, travel, special knowledge, etc.) should be prepared. In some cases the work statement may also define how the work is to be accomplished. Many work statements are complex in that, because they require the use of special equipment or outputs, they must provide data in specific formats for future processing.

Performance Based Specification - Performance specification (also known as a functional specification) is a method used to considerable extent, partly because it places the responsibility for a satisfactory result on the vendor. A performance specification (for either products or services) is results and use oriented, leaving the vendor with decisions on how to make the most suitable product/service. Some areas to consider are measurement criteria, speeds, compatibility with existing equipment, ease of operation, reliability, etc. A performance specification identifies the requirements in such terms as capacity, function or

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operation, outcomes or results. As such, the end user will be primarily more interested in the service or function that the item will perform. Normally, the details of design, fabrication, manufacture and internal structure rest with the vendor. The end user is interested primarily in function and performance.

(ii) The requisition should include the statement of work and request the contractors to submit either a firm-fixed price or a ceiling price to provide the services outlined in the statement of work. A firm-fixed price order shall be requested, unless the ordering agency makes a determination that it is not possible at the time of placing the order to estimate accurately the extent or duration of the work or to anticipate cost with any reasonable degree of confidence. When such a determination is made, a labor hour or time-and-materials quote may be requested. The firm-fixed price shall be based on the prices in the schedule contract and shall consider the mix of labor categories and level of effort required to perform the services described in the statement of work. The firm-fixed price order will also include any travel costs or other direct charges related to performance of the services ordered. A ceiling price must be established for labor-hour and time-and-materials orders.

(iii) The request may ask the contractors, if necessary or appropriate, to submit a project plan for performing the task, and information on the contractor's experience and/or past performance performing similar tasks.

(iv) The requisition shall include the basis for determining whether the contractors are technically qualified and provide an explanation regarding the intended use of any experience and/or past performance information in determining technical qualification of responses.

(2) Transmit the Request to GSA Contractors

Based upon an initial evaluation of catalogs and price lists, the ordering agency should identify the contractors that appear to offer the best value (considering the scope of services offered, pricing and other factors such as contractors' locations, as appropriate) and transmit the request as follows:

(i) The request shall be provided to at least three (3) contractors if the proposed order is estimated to exceed the \$10,000 purchase threshold, two (2) if \$5,000-\$9,999.

(ii) Ordering Agencies should strive to minimize the contractors' costs associated with responding to requests for quotes for specific orders. Requests should be tailored to the minimum level necessary for adequate evaluation and selection for order placement.

(3) Evaluate Responses and Select the Contractor to Receive the Order

After responses have been evaluated against the factors identified in the request, the requisition should indicate the GSA schedule contractor that represents the best value to the State.

Public Health Emergencies

State, local, territorial, and tribal governments may access the Federal Supply Schedules as authorized users for goods and services when expending Federal grant funds in response to Public Health Emergencies (PHEs) declared by the Secretary of Health and Human Services under Section 319 of the Public Health Services Act, codified at 42 U.S.C. § 247d.

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Ordering Information in response to PHEs:

Eligible ordering agencies are responsible for ensuring compliance with all rules, regulations, and requirements stipulated in the grant funding, by the granting agency, as well as any applicable state and local procurement regulations.

State, local, territorial, and tribal governments are encouraged, but not mandated to use the use GSA's Schedule Ordering Procedures—i.e., [Federal Acquisition Regulation Subpart 8.4 Federal Supply Schedules](#) to ensure the benefit of receiving the best value from GSA Schedule contractors.

State, local, territorial, and tribal governments, may include terms and conditions required by statute, ordinance, regulation, or order to the extent that these terms and conditions do not conflict with the terms and conditions of the GSA Schedule contract.

Participation in this program is voluntary for both government entities and for Schedule contractors. Eligible ordering entities have full discretion to decide if they wish to make a GSA Schedule purchase, subject to any limitations that may be established under state and local laws and procedures. Schedule contractors have the option of deciding whether they will accept orders placed by state and local government buyers. A Schedule contractor will retain the right to decline orders received from state and local government entities on a case-by-case basis. Schedule contractors may decline an order, for any reason, within a five-day period after receipt of the order; however, credit card orders must be declined within 24 hours (GSAR 552.232-79).

Order Language:

The following language should be included on all task or delivery orders placed by state, local, territorial, and tribal governments purchasing with grant funds in support of Public Health Emergencies (PHE) declared by the Secretary of Health and Human Services under 319 of the Public Health Services Act, 42 U.S.C. § 247d:

This order is placed under Federal Supply Schedule number _____ pursuant to GSA policy that authorizes state, local, territorial, and tribal government entities, as authorized users for purchasing goods and services, when expending Federal grant funds in response to Public Health Emergencies (PHEs) declared by the Secretary of Health and Human Services under Section 319 of the Public Health Services Act, codified at 42 U.S.C. § 247d.

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