



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

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TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

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SUBJECT: **FREQUENTLY ASKED QUESTIONS - AGENCY**

Contents

A. EXISTING CONTRACTS	2
B. CENTRAL CONTRACTS	3
C. PROCUREMENT PATH	4
D. FORMAL PROCUREMENTS	7
E. PERFORMANCE ISSUES/CORRECTIVE ACTION	8
F. SUPPLIER DIVERSITY	9
G. GREEN PURCHASING	9



KEY INFORMATION

The purpose of this document is to address questions frequently asked by Agencies.

This guide is provided for general information purposes only. Nothing contained herein shall be construed to amend, modify, override, or nullify any state statute, regulation, rule, policy, procedure or document used in the procurement process.

Additional questions may be asked by submitting a ticket through [Request Contracting Help](#).

A. EXISTING CONTRACTS

1. How do I find what contracts have been awarded and may be available for use?

The Awarded Contract Directory can be accessed on [MyMarketplace.delaware.gov](#). This listing includes all statewide contracts for goods and services administered by the Contracting unit within Government Support Services as well as all agency specific contracts awarded through a formal solicitation.

2. What is an Award Notice?

An Award Notice is the document published on [MyMarketplace.delaware.gov](#) used to notify the agencies of a contract award. For transparency purposes and ease of use, GSS seeks to include all the pertinent details to utilizing the contract, i.e., contract requirements, contract period, successful vendor(s), prices, delivery requirements, shipping terms, billing, payment and other terms and conditions. Agencies are encouraged to provide similar levels of information, but publicly posted information may be subject to individual agency guidelines.

3. What is an Addendum?

An Addendum is used to modify an existing contract when it becomes necessary to add, delete, or change a particular item or procedure as long as the scope or original contents of the contract remain the same.

4. What is a Contract Extension?

There are two kinds of contract extensions:

- a) Mutual Extension - The term of the contract is extended by mutual agreement between Government Support Services or Agency's Contracting Unit, and the vendor. This extension would be for the basic contract period. For example, a contract is effective January 1, 2022 through December 31, 2022. It can be extended for an additional year under the same terms and conditions, provided the extension was included in the original bid Terms and Conditions.
- b) Unilateral Extension - The term of the contract is extended without the agreement of the vendor. The Government Support Services Contracting Section may extend an awarded contract for up to three (3) months due to extenuating circumstances.

Unless bound by a prior agreement, the State Agency is not obligated to extend a contract unless it makes an affirmative decision to do so (and the Vendor agrees).

Frequently Asked Questions - Agency

5. What is the contract period?

The contract period is the length of the contract from start to finish and is usually one year. However, the contract period can be for less or more time. The contract duration will be identified in the original bidding opportunity and may be extended by the terms identified in the original bid.

B. CENTRAL CONTRACTS

1. Which portion of the Delaware code/law dictates my agency is required to utilize state contracts?

Title 29 § [6911](#) Covered agencies shall exclusively use central contracts, with some exceptions. "Covered agency" means any agency except school districts, Delaware Technical & Community College, the Delaware State University and the Legislative Branch of State government.

2. Why must I use mandatory use contracts and what if I found the item cheaper?

a) Central contracts are mandatory by Del. Code § [6911 \(d\)](#), and are for multiple items, and in many instances (such as Office Supplies), the vendors are offering goods and services based on a larger scope rather than a single item. In contracts such as these, the total spend is significant although every vendor's offering provides some items that are more expensive than others. The centralization of these contracts permit the state to capitalize on the total spend picture and achieve the best value based on the total offering. GSS structures contracts of this nature to identify the "core" items that are the most significant, either in cost or volume, so that aggressive pricing may be obtained from competing vendors on these items. With central contracts in place, the state and the agency save money by not having to search for a vendor for common goods or non-professional services as the work has already been done by the central office.

Additionally, our Terms and Conditions in our contracts give the agency extra benefits i.e. warranty and or extended warranties if required, the ability to go to another vendor should the contract vendor fail to perform per the contract and be able to charge the contract vendor for the price difference. The authorization to return damaged goods or material without difficulty, and the expediting of the customer's order through local area representatives also adds value to the contract. The reasonable price and the additional terms and conditions make for a better deal for the state agencies over the long term.

b) In an effort to ensure the State is getting the best value on all of our purchases, OMB's Government Support Services offers an "[I Found It Cheaper](#)" form where you can submit real prices for real products. GSS then compares the contract value(s) to your suggestions. If the suggested offer is found cheaper, and there is a real need to procure the good or service quoted, the awarded vendor is offered an opportunity to match or beat the price. If they do not, then a waiver may be granted to use the "I Found It Cheaper" vendor for a one-time purchase of the product(s) at the identified quantities.

3. How do I know which State Contract Procurement Officer (SCPO) handles my commodity?

For each contract posted on the state's site, there is an email address listed under Contact Information for the contract officer currently assigned the contract.

Frequently Asked Questions - Agency

4. How can I receive notification of awarded contracts?

You may subscribe to the [Contracting List Serve](#) at the following link: Contract List Serve. This is for state agencies, local governments, and volunteer fire departments only.

5. How can I provide feedback to GSS, the central contracting team?

To provide GSS with feedback, please send an email to any member of the team. Please be sure to include any relevant information, such as Contract Name, Number and the nature of your feedback or comments.

6. Why is vendor spending data and reports required for state contracts?

- a) The intent of requiring vendor spend data is to provide businesses with the information that promotes partnering opportunities, supplier diversity opportunities, more competitive proposals, supply chain opportunities and greater transparency in the spending of public funds. It levels the competitive playing field so that currently non-awarded vendors are provided with the same information regarding usage as awarded vendors and can shape future proposals accordingly. Further, it is designed to assist with Freedom of Information Act requests by making information publicly available.
- b) The [Selling to the State Guide](#) presentation gives businesses tips on how to use the information the site publishes. Businesses, including minority, women, veteran, service-disabled veteran, and individuals with disabilities owned businesses, seeking opportunities with Delaware spend, may find training available [DEDA](#) and [OSD](#). Any associated courses to take advantage of this public information to promote economic opportunity and competition in the procurement of goods and services acquired through public funds.

C. PROCUREMENT PATH

1. What is below threshold purchase?

The Purchasing and Contracting Advisory Council establishes the thresholds for Materiel and Non-Professional Services, Public Works and Professional Services. These limits may be found at the [Small Purchase Procedures and Thresholds](#) page of [MyMarketplace.delaware.gov](#). Open market purchases are only permitted for those items not already under a contract managed by Government Support Services

2. Why should we bid out a job when my local vendor has what I need for a fair price?

- a) Procurement guidelines are governed by [Title 29, Chapter 69](#) of the Delaware Code, and GSS and state agencies are required to engage in an open, competitive bid process (depending on procurement thresholds).
- b) The purpose of the competitive bid process is twofold:
 - To ensure that any person or company has the opportunity to get the state's business, and also to ensure that the taxpayers get the best possible value when their money is being spent by state agencies. Bids are evaluated based on a variety of factors such as quality, ease of supply, and environmental impact, in order to determine which proposal will provide the best value to the state. The competitive bid process will establish the best price in the market at a given point in time.

Frequently Asked Questions - Agency

- The bid process also provides transparency by creating a public record to demonstrate and support contracting and purchasing decisions.

3. How do I get approval for a “sole source” purchase (i.e. no competitive bidding)?

- a) A Sole Source purchase situation arises when only one vendor can supply an item or non-professional service. Sound procurement practice requires that a sole source acquisition occur when it is the only option and not as an attempt to contract with a favored service provider or for a favored product.
- b) Title 29 § [6925](#), establishes the criteria for awarding “Sole Source” contract.

4. What is an emergency procurement?

- a) The agency head may determine an emergency condition exists by reason of extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against. An emergency condition creates an immediate and serious need for materiel and/or nonprofessional services that cannot be met through normal procurement methods for the protection of public health, safety or property.
- b) Poor planning or the pending expiration of funds does not constitute a valid justification for an emergency purchase. It is always good business practice and considered to be in the best interest of the State to make any procurement as competitive as time permits. The emergency purchase process does not apply to requests for contract extensions or amendments, which require prior written approval.
- c) Title 29 § [6907](#), establishes the emergency procedures and critical need for professional services.
- d) “An agency head may waive any or all provisions of this chapter to meet the critical needs of the agency as required by emergencies or other conditions where it is determined to be in the best interest of the agency. The agency head may determine an emergency condition exists by reason of extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against. An emergency condition creates an immediate and serious need for materiel and/or nonprofessional services that cannot be met through normal procurement methods for the protection of public health, safety or property”.
- e) “The agency head may determine a critical need exists by reason of conditions or contingencies that could not reasonably be foreseen and guarded against. A critical need creates a need for professional services that cannot be met through normal procurement methods”.
- f) A copy of each emergency or critical need determination processed shall be kept on file by the agency.

5. Can political subdivisions use state contracts? Not for profits? Volunteer fire companies?

- a) Political Subdivisions are county, city, and town governments, public schools and school districts, and other municipal entities established by the legislature. All state contracts are available for their use.

Frequently Asked Questions - Agency

- b) Title 29 § [6910](#), any organization, entity or person designated as the recipient of grant-in-aid shall be entitled to purchase material and/or nonprofessional services under any central contract... during the fiscal year for which aid is appropriated, provided that:
 - 1) The organization, entity or person received an appropriation of at least \$100,000.
 - 2) The organization, entity or person has a staff of at least 5 people.
- c) Any bona fide nonprofit organization, entity or person who is under contract with the State to provide goods and/or services shall be entitled to purchase materials and/or nonprofessional services under any central contract... during the fiscal year for which said nonprofit contract is in effect, provided that:
 - 1) The organization, entity or person is a bona fide § 501(c)(3) [26 U.S.C. § 501(c)(3)] organization under the United States Internal Revenue Code; or
 - 2) The organization, entity or person is a member in good standing of the Delaware Association of Nonprofit Agencies or a Delaware registered nonprofit corporation.

6. [Who can join cooperative purchasing organizations?](#)

Under Title 29 § 6933 and 6987, Government Support Services may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of materiel or nonprofessional services with 1 or more public procurement units either within the State or within another state in accordance with an agreement entered into between the participants.

7. [When can I procure items through the GSA schedule?](#)

GSS may enter into negotiations with various manufacturers or distributors and award contracts which will enable agencies and local governments to purchase materiel at prices approved by the General Services Administration of the United States government. Agencies must use the [GSA Process Request Form](#) to potentially purchase through the GSA schedules.

8. [How can I buy used equipment?](#)

Any agency may purchase used equipment or other materiel by negotiated purchase, rather than by competitive bidding, as provided in this chapter, if it is demonstrated to the satisfaction of the agency head that the negotiated price is reasonable for the intended use. The contracting agency shall use lifecycle costing analysis prior to demonstrating to the agency head that the negotiated price is reasonable for the intended use. "Lifecycle costing analysis" means the contracting agency's evaluation of costs associated with the cost of acquisition, the cost of energy consumption required for operation, the cost of maintenance and the cost of consumables that affect the state's overall cost of ownership of equipment or public works projects. Such evaluation is used by the contracting agency or project architect or project engineer for the development of contract specifications. Title 29 § [6902](#) and [6909A](#) (b) provide methodology for Life Cycle Costing.

9. [I want to provide vending machines or snack service in my agency. What should I do?](#)

Under the State Use Law, Title 96 § [9606](#), any agency of this State that intends to operate or continue food service in a public office building, that agency shall procure such food service from the Delaware Division for the Visually Impaired under the vending facility program.

D. FORMAL PROCUREMENTS

1. How does the bidding process work?

The Purchasing and Contracting Advisory Council established thresholds that trigger formal bidding procedures in the areas of Materiel and Non-Professional Services, Public Works, and Professional Services. State agencies are only required to use the formal bidding procedures when a purchase(s) is made in an amount that exceeds or looks to exceed the threshold limit. Refer to the [Small Purchase Procedures and Thresholds](#) page of MyMarketplace.delaware.gov for the latest limits. Bids are sought through a formal solicitation posted on the [Bid Solicitation Directory](#). Once bids are received, it is the responsibility of the soliciting agency to award the contract(s) in accordance with Title 29 §[6923](#), [6924](#), [6962](#), or [6982](#).

2. What is a User Committee (Group)? How does it function? Should I get involved?

- a) A User Committee is a group of individuals from various State Agencies, School Districts, etc. who participate in the formal solicitation process; from participating in the development of specifications for the Invitation to Bid (ITB) or Request for Proposals (RFP), evaluating proposals submitted in response to a Request for Proposal (RFP), approving award recommendations, to weighing in on extension considerations. If you would like to be a part of a User Committee, please contact Contract Officer of the particular contract.
- b) If you are currently not participating in a user group for any of our central contracts but have suggestions that might enhance our specifications and or contract, please forward your information to appropriate Contract Officer managing the contract. Your input is appreciated!

3. What is UNSPSC?

The United Nations Standard Products and Services Code® ([UNSPSC](#)) provides an open, global multi-sector standard for efficient, accurate classification of products and services. The UNSPSC offers a single global classification system that can be used for:

- a) State-wide visibility of spend analysis.
- b) Cost-effective procurement optimization.
- c) Exploitation of electronic commerce capabilities.

4. How long does it take to get a professional services contract award? Public works contract? Services contract? Commodity contract?

The advertisements shall be published for a minimum of two (2) consecutive weeks for all solicitations, other than emergency procurements. 29 Del. C. § [6923](#) (b).

Preparation prior to bidding could take weeks, but may take three to six months, to develop specifications, obtain budget and/or oversight approvals, generate the bidding documents and then post for bidding. Agencies are encouraged to plan ahead for their needs, and if in doubt, contact [Contracting](#) for some direction or assistance.

Frequently Asked Questions - Agency

Award selection, after proposals are received and the bid is opened, is dependent on the type of bid (ITB, RFP or Pro Services RFP) solicited.

E. PERFORMANCE ISSUES/CORRECTIVE ACTION

1. What actions are taken when a vendor is not performing under the terms and conditions of the contract?

- a) Delaware does not have a debarment policy, except in public works contracts. Past performance of a bidder may be considered in the evaluation of a bidder's response to a solicitation. Prior unsatisfactory performance on a State contract by a bidder may be included in the evaluation criteria to determine if a bidder is responsible.
- b) Title 29 § [6962](#) (d)(14) Any contractor who fails to perform a public works contract or complete a public works project..., may be suspended or debarred.
- c) For statewide contracts managed by Government Support Services a [Corrective Action Report](#) (CAR) may be used to escalate contract issues that you have been unsuccessful in resolving with the vendor directly within a reasonable time. The Form should be submitted to the appropriate contract officer, to include as much detail as possible.
- d) If the vendor's performance does not improve, the contract may be terminated, subject to the contract's terms.

2. In the event a vendor is not abiding by the contract terms, depending on the severity of the offense, what is the length of time for process of removal of the vendor? Can a vendor be debarred? Reinstated?

- a) The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. The specific Terms and Conditions are in the solicitation for the contract.
- b) When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue. Failure to comply with the contract terms and conditions may result in the contract being cancelled and re- solicited.
- c) For Public Works, 29 Del. C. §[6963](#) (d) (14), The Director, OMB may suspend a contractor from bidding on any project funded, in whole or in part, with public funds for up to 1 year for a first offense, up to 3 years for a second offense and permanently debar the contractor for a third offense.
- d) In addition, during the pre-qualification process, the contractor or subcontractor that has been suspended or debarred by any government agency may be denied pre-qualification.

3. My order was received damaged – what do I do?

Call the vendor immediately. Save the carton, all packing material, freight bill and packing slip, ask for an inspection by the shipper of the goods.

Frequently Asked Questions - Agency

4. What should I do if I do not receive an item that was purchased on a purchase order?

First, contact the supplier to confirm if the item has shipped. If it has, get the tracking number from the supplier. Check the tracking number on the shipping carrier's website to see where the item is.

F. SUPPLIER DIVERSITY

1. How does supplier diversity help?

According to the Institute of Supply Management, supplier diversity helps in the following areas:

- a) Create a supply base that better mirrors the community
- b) Support the economics of the community.
- c) Create jobs in the minority and women community.
- d) Create a more competitive supply base.
- e) Provide better business solutions, products and services.
- f) Retain diverse employees and attract quality employee candidates.

2. What is the Governor's Supplier Diversity Council?

[Executive Order #49](#) has reconstituted the Supplier Diversity Council. The purpose of the council as defined in the executive order is as follows; Advocate for the State of Delaware's supplier diversity initiatives; Offer training and information on the tools necessary for successfully doing business with the State of Delaware; Help maximize supplier diversity among the state agencies, and help increase contracting opportunities for qualified minority, and women owned businesses; Develop criteria for evaluation of supplier diversity initiatives pursuant to the Executive Order; Identify potential impediments if any, concerning supplier diversity with State government, and develop strategies to eliminate these impediments; Provide advice and recommendation to the Governor concerning supplier diversity strategies.

3. What is my agency's supplier diversity plan?

Please note each Agency is vetting their respective Supplier Diversity Plans and will be posting the plans as approved. However, if you have any questions regarding each plan, you can contact the Agency Minority and Women Business Liaison. Refer to the list of [Agency Supplier Diversity plans](#) and to access a list of agency contacts.

G. GREEN PURCHASING

1. What contracts have environmentally preferred products or services?

Refer to the [Environmental Impact](#) site for a list of related environmental resources, including a listing of contracts that may have Environmentally Preferred Purchasing policy ([EPP](#)) products or services.