Georgia®

Georgia PROCUREMENT Manual

Department of Administrative Services

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GPM-V8 August 2020

Georgia Procurement Manual

Department of Administrative Services
State Purchasing Division

200 Piedmont Avenue
Suite 1308, West Tower
Atlanta, Georgia 30334

statepurchasing.doas.georgia.gov

J. Alexander Atwood, Commissioner

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Introduction and General Overview

This chapter provides an introduction to the organization of this manual as well as an overview of the Department of Administrative Services (DOAS), the State Purchasing Division (SPD) and basic fundamentals for suppliers and procurement professionals.

Key Steps

Key information for the Introduction and General Overview chapter includes:

- How to contact SPD.
- How to navigate this manual.
- SPD's procurement authority and structure.
- Fundamentals for suppliers desiring to do business with the state of Georgia.
- Fundamentals for government procurement professionals.

I.1. Introduction to the Manual

Supplier

Welcome to the official procurement manual for the state of Georgia. The *Georgia Procurement Manual* (GPM) is the official source for all administrative rules issued by the Georgia Department of Administrative Services (DOAS) through its State Purchasing Division (SPD) to govern purchases made by certain state government entities. The GPM serves as a resource for both suppliers desiring to do business with the state of Georgia and state procurement officials in the performance of their duties. In addition to identifying procurement rules, the GPM presents a roadmap of the competitive solicitation process as well as key information concerning the electronic systems utilized by SPD to support the procurement process.Questions or comments concerning the GPM may be addressed to SPD using the contact information in Table I.1:

Table I.1 SPD Contact Information	
Mailing Address	Department of Administrative Services State Purchasing Division Attention: Policy, Training and Supplier Outreach Unit 200 Piedmont Ave., SE Suite 1308, West Tower Atlanta, GA 30334-9010
Phone Number	404-657-6000
Fax Number	404-657-8444
Email Address	processimprovement@doas.ga.gov
Web	www.doas.ga.gov

For your convenience, this manual uses several icons to identify the audience or the content of specific sections or paragraphs. Any time one of the icons identified in Table I.2 displays in front of a section or paragraph, it indicates:

Table I.2 List of Icons Used in this Document and Purpose		
Icons	Purpose	Main Audience
Supplier	Identifies the content of the section or paragraph to be important for the supplier population.	Suppliers
Procedure	Identifies the content of the section or paragraph to have procedures on how Procurement Professionals perform a task or activity	Procurement Professionals
Important	Identifies the content of the section or paragraph as important to Procurement Professionals and Suppliers as applicable.	• Procurement Professionals • Suppliers
SPD	Identifies the content of the section or paragraph to be directed towards State Purchasing Division (SPD) staff.	SPD staff

I.1.1. Purpose and Application

Supplier

The purpose of the GPM is to officially publish the administrative rules issued by SPD. The administrative rules provided in this manual govern the purchasing activities of all state government entities subject to DOAS' authority pursuant to the State Purchasing Act (Official Code of Georgia Annotated (O.C.G.A.) Section 50-5-50 et seq.), including state offices, agencies, departments, boards, commissions, institutions, and other entities of the state unless specifically exempted by statute or regulation. These state government entities are collectively referred to throughout the GPM as "*state entities*". These administrative rules are intended to support the following purposes:

- Simplify and clarify the State of Georgia law governing procurement,
- Establish consistent procurement regulations among the various state government entities,
- Provide increased public confidence in the procedures followed in public procurement,
- Ensure the fair and equitable treatment of all persons who deal with the procurement system of Georgia,
- Provide increased economy in state procurement activities and maximize to the fullest extent possible the purchasing value of public funds,
- Obtain in a cost-effective and responsive manner the materials, services, and construction required by state entities in order for those state entities to better serve Georgia's businesses and residents,
- Foster effective broad-based competition in the marketplace, and
- Provide safeguards for the maintenance, quality and integrity of the procurement system.

Important

NOTE: This manual supersedes the *Georgia Vendor Manual* and the previously published *Georgia Procurement Manual*. This manual governs all solicitations publicly posted on or after the publication date of this manual.

I.1.2. Audience

This manual is the primary source of reference for three main groups:

- Suppliers (those desiring to do business with the state),
- State Entity Procurement Professionals, and
- SPD Personnel.

I.1.3. Communication

Supplier

Suppliers, procurement professionals and the general public are welcome to contact SPD directly by using any of the contact information listed in Table I.1.SPD also encourages all interested parties to obtain key information such as staff contact information, available contracts and upcoming training classes from SPD's website. SPD may use several communication tools to distribute general information, including emails and electronic newsletters. Access SPD's communication matrix for additional information regarding distribution methods.

SPD uses Official Announcements to issue procedural and informational guidelines and instructions. Official Announcements are issued in writing and distributed electronically. These guidelines and instructions may result in revisions to the GPM. SPD Official Announcements in conjunction with the GPM govern the procurement process. Recent Official Announcements are also available online at the DOAS website.

Questions and clarifications concerning the GPM or Official Announcements should be submitted to SPD via email at processimprovement@doas.ga.gov.

I.1.4. Organization

The GPM is organized based on SPD's *Seven Stages of Procurement Methodology* with individual chapters dedicated to each of the seven stages of procurement plus an Overview chapter and an Operational chapter. The *Seven Stages of Procurement Methodology* organizes the procurement process into a series of steps from the time the state entity first identifies a needed good or service through contract award and contract administration. Review the beginning of each chapter for a preview of the chapter contents. Lastly, the GPM also contains supplemental appendices, a glossary of terms and an index to facilitate locating specific topics. The following graphic illustrates the seven stages of procurement that make up the *Seven Stages of Procurement Methodology*.

This graphic and its variations will be the primary organizational cue (visual indication to the reader) in all chapters based on this methodology and its stages. Each of these methodology-based chapters will show the variation of this graphic with the specific stage highlighted, followed by a text description of the stage.

I.1.5. Revisions to the Manual

Any revisions to the GPM will be accomplished through issuance of an Official Announcement, which will specify the effective date of the policy revisions. Periodically, SPD will publish a new version of this manual to incorporate policy revisions announced through previous Official Announcements. Unless otherwise stated, the effective date of the manual is its stated publication date. SPD will formally announce such revisions to state entities and publish a summary of recent revisions. Previous versions of the GPM will be archived and maintained in accordance with SPD's record retention policies. The most recent archived versions are accessible online. Individuals interested in accessing previous versions of this manual that are not available online may make such requests by contacting SPD at records.management@doas.ga.gov.

I.2. General Overview

This section provides a general overview of DOAS, SPD's procurement authority and the delegation of procurement authority to state entities.

I.2.1. Department of Administrative Services, State Purchasing Division

DOAS is an agency of the executive branch of state government created pursuant to the *Official Code of Georgia Annotated* (O.C.G.A.) Section 50-5-1. The State Purchasing Act establishes DOAS as the unit of state government charged with the responsibility for the establishment of contracts, leases, purchase orders or other agreements for the procurement of supplies, materials, equipment, services and construction, and for overseeing statewide contracts and other contracts serving multiple state entities.

DOAS created SPD to establish contracts and administer other procurement duties and functions identified in the State Purchasing Act, including, but not limited to:

- Establishing equitable and efficient procurement processes which maximize the benefits of competitive bidding;
- Establishing standard specifications;
- Reviewing state entity procurement activities to ensure compliance with administrative rules; and
- Providing training and other resources to promote suppliers' access to the state procurement process and the professional development of state procurement staff.

I.2.2. Georgia Law

The *Georgia Procurement Manual* provides references to applicable Georgia law governing state government purchasing. Although every effort has been made to assure the accuracy of the material presented, it is not intended or represented to be the official record of the laws and regulations of the state of Georgia. True and correct copies of Georgia's statutes are found in the Official Code of Georgia. If any information in this manual is inconsistent with the Code, the Code supersedes the manual. The Code may be viewed online by accessing the website for the Georgia General Assembly.

I.2.3. Attorney General

In addition to Georgia law, the published opinions of the Attorney General of the State of Georgia contain legal interpretations of the purchasing laws, which have the weight of the law in guiding state government purchases. SPD bases its operating policies and procedures upon the law and the opinions of the Attorney General. SPD does not attempt to render legal opinions for state entities. However, SPD will assist the state entity in obtaining legal advice with regard to state purchases from the Attorney General as needed. Any such request should be addressed in writing to the State Purchasing Division Deputy Commissioner.

I.2.4. Partnership with Executive Agencies

SPD's role with respect to state government contracting requires a partnership with several other entities of the executive branch of state government, including, but not limited to, the Department of Revenue, the Office of the Inspector General, the Office of Planning and Budget, the Secretary of State's Office, the State Accounting Office, the Department of Audits and Accounts, the University System of Georgia and the Georgia Government Transparency and Campaign Finance Commission. Table I.3 provides additional information regarding SPD's partnership with these state entities. Please note this information is not intended to be exhaustive. Additional information may be obtained by visiting each of these state entities' websites:

Table I.3 State Entities	
Department of Revenue	The Department of Revenue (DOR) provides a variety of tax services. Upon request, DOR provides certification to SPD and state entities regarding the tax status of certain suppliers interested in receiving state contracts as further described in this manual.
Office of the Inspector General	The Office of Inspector General (OIG) is a state entity dedicated to strengthening the trust between the citizens of Georgia and their public officials. OIG possesses the

Table I.3 State Entities	
	responsibility to uncover fraud, waste, abuse and corruption in the executive branch of state government. SPD is committed to assisting and working in cooperation with OIG.
Office of Planning and Budget	The Office of Planning and Budget (OPB) provides several services, including policy and budget recommendations to the Governor to assist in the State of Georgia's strategic management process. SPD and state entities work in cooperation with OPB with respect to budget management. SPD reminds all state entities to comply with any OPB directives with respect to a purchasing moratorium.
Secretary of State's Office	The Secretary of State's Office tracks annual corporate filings and grants professional licenses.
State Accounting Office	The State Accounting Office (SAO) issues statewide accounting policies and procedures. In addition to complying with SPD's administrative rules, state entities must ensure that purchasing is conducted in compliance with all applicable SAO policies.
State Auditor	It is among the duties and powers of the State Auditor to call special attention to any illegal, improper or unnecessary expenditure, and all inaccuracies, irregularities and shortages, and make specific recommendations for future avoidance. It is the responsibility of the APO/CUPO to determine that the state entity's purchase requests abide by the rulings of the State Auditor.
University System of Georgia/Department of Archives and History	The Department of Archives and History provides resources which are relevant to the state's procurement process, such as information concerning policy governing retention of state government records.
Georgia Government Transparency and Campaign Finance Commission	The Georgia Government Transparency and Campaign Finance Commission enforces the laws under its jurisdiction through discreet investigative proceedings and open hearings. Suppliers must require lobbyists to register with the Georgia Government Transparency and Campaign Finance Commission as further described in Section I.3.6 - Lobbyist Registration.

I.2.5. Authority and Duties of Procurement Officials

I.2.5.1. DOAS Commissioner

The DOAS Commissioner is the Chief Procurement Officer of the state and is authorized to adopt rules and regulations as may be required to carry out the procurement, management, control, and disposal of any and all supplies and services procured by the state of Georgia.

I.2.5.2. State Purchasing Division Deputy Commissioner

The State Purchasing Division Deputy Commissioner is the Commissioner's designee. The State Purchasing Division Deputy Commissioner leads SPD with the assistance of the SPD leadership team. The State Purchasing Division Deputy Commissioner executes several important procurement functions, including, but not limited to:

- Executing statewide contracts,
- Authorizing Official Announcements,
- Approving deviations from the GPM,
- Authorizing and controlling delegated purchasing authority, and
- Resolving supplier protests.

Except as expressly stated otherwise in the GPM, the State Purchasing Division Deputy Commissioner's decision is final. For additional information concerning the State Purchasing Division Deputy Commissioner and the leadership team, please visit SPD's website.

I.2.5.3. Designated Procurement Officers

The DOAS Commissioner may delegate authority to a designee or to any state entity or official as permitted by the State Purchasing Act. Each state entity is required to identify a qualified individual to serve as its official procurement officer. SPD refers to the procurement officer of a college or university as the CUPO (or *college/university procurement officer*). The procurement officers for all other state entities are referred to as the APOs (or *agency procurement officers*). To be qualified to serve as the APO/CUPO, the individual must meet the minimum requirements identified by SPD as well as any additional requirements identified by the state entity. The procurement responsibilities of the APO/CUPO are defined in Chapter 8 - Operational.

I.2.6. Assistance to Local Governments

Local political subdivisions, including counties, municipalities and school boards are authorized by state law to purchase their supplies, materials and equipment through

SPD if they so desire. Purchases pursuant to this authorization may take the form of one-time open market purchases or statewide contracts specifically open to use by local political subdivisions. All products and/or services offered by suppliers pursuant to statewide contracts may be offered to local political subdivisions as well as state entities in accordance with the terms of such statewide contracts.

I.2.7. Deviations

A deviation may be deemed necessary for circumstances in which the prescribed policies, procedures, and provisions are not totally appropriate for the development of a new technique or approach, or for specific procurement situations. The term "deviation" includes:

- The issuance and/or use of any policy, procedure, provision, or instruction of any kind at any stage of the procurement process, which is inconsistent with a policy, procedure, or provision, set forth in the GPM or provision directive governed by state entities and others subject to the State Purchasing Act; and/or
- The use of a clause or provision covering the same subject matter as a prescribed clause or provision, or the modification or omission of a prescribed clause or provision.

No protest shall lie with regards to a deviation unless the protesting party demonstrates that an apparent successful supplier received a material competitive advantage due to such deviation or that such deviation is contrary to law.

Procedure

Best Practice Procedure: A request for approval of any deviation should be made in writing by the APO or CUPO to the State Purchasing Division Deputy Commissioner (or must conform to such other processes for approving deviations as defined in the GPM). The request should explain the nature of the deviation, provide reasons why a deviation is necessary and explain why it is in the best interest of the state of Georgia to grant the deviation. The State Purchasing Division Deputy Commissioner will review the deviation and determine whether the request can be approved. The deviation request and the action taken should be documented in the contract file.

I.3. Fundamentals for Suppliers

Supplier

The subsections of this section contain key information for the supplier who desires to do business with the State.

I.3.1. Getting Started

Supplier

Accessing the GPM is a key step to understanding and successfully participating in the state procurement process. In addition to reviewing the material in this manual, SPD strongly encourages suppliers to review the informational resources provided on SPD's website, such as answers to frequently asked questions and a schedule of the current informational classes offered to suppliers. SPD's Supplier and Customer Relations unit is dedicated to providing assistance to new and existing suppliers. For additional information provided by the Supplier and Customer Relations unit, access SPD's website for Suppliers.

I.3.2. Georgia Procurement Registry

Supplier

The *Georgia Procurement Registry* (GPR) is a public listing of solicitations posted by Georgia government entities. State entities are required to publicly advertise solicitations using the GPR; however, the GPR is also utilized by other government entities such as state authorities and local government entities. The GPR includes search capabilities to allow interested suppliers or members of the public to easily navigate solicitation listings. SPD also occasionally uses the GPR to provide information notices.

I.3.3. Supplier Registration

Supplier

SPD provides a web-based registration system which enables suppliers to register with the state of Georgia through *Team Georgia Marketplace™*. Team Georgia Marketplace™ is provided by SPD and its partners and serves as an online tool to support various state purchasing functions, including registration of suppliers, advertisement of contract opportunities, electronic bidding and contracts management. Suppliers must register in this system to do business with the state and participate in any electronic solicitations hosted through Team Georgia Marketplace™. Suppliers can access key information about Team Georgia Marketplace™, including training information to facilitate the use of the

- General Information
- Training Materials

Suppliers maintaining active registrations with Team Georgia Marketplace™ may take advantage of certain premium services offered by SPD, such as automatic email notification of new contract opportunities posted by state entities. To take advantage of the automatic email notification feature, the registered supplier must select one or more item codes from the National Institute of Governmental Purchasing Commodity/Services Code (NIGP Code™) which best reflect the types of goods and/or services offered by the supplier. The selected codes operate as a filter in that only notices of procurement opportunities which contain one or more of the selected codes will be

emailed to the supplier. In the event a supplier elects not to use the automatic email notification feature, the supplier may view solicitations by accessing the GPR.

SPD and state entities may elect to utilize the contact information contained within Team Georgia Marketplace™ to send important information to suppliers. Please note that the registration system is "supplier maintained". In other words, each registered supplier is responsible for updating and maintaining key company, contact and product/service information in the system.

I.3.4. Eligibility for State Contracts

Supplier

To be eligible to receive a state contract award, a supplier must be determined to be a responsible supplier. "Responsible" means the supplier, whether a company or an individual, has appropriate legal authority to do business in the state of Georgia, a satisfactory record of integrity, appropriate financial, organizational and operational capacity and controls, and acceptable performance on previous governmental and/or private contracts, if any. Examples of non-responsible suppliers include, but are not limited to: a supplier's history of nonperformance or performance problems on other contracts (public or private); a record of financial difficulty, business instability, criminal sanctions, civil sanctions, or tax delinquency; or being debarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded by any governmental entity (federal, state or local).

Supplier

Non-responsibility will be determined by the state entity on a case-by-case basis taking into consideration the unique circumstances of the individual procurement. The supplier should anticipate and must be prepared to provide accurate and prompt responses to state entities' requests for information relevant to determining whether the supplier may be considered responsible. Any determination of non-responsibility must be documented in writing by the state entity.

I.3.5. Business Status Considerations

Supplier

It is the policy of the State of Georgia that all businesses have a fair and equal opportunity to participate in the state purchasing process. SPD works with state entities to provide all business communities with access to information and bid opportunities. SPD also provides technical assistance and training to help businesses understand how to do business with the State of Georgia. Available training includes "Supplier Orientation" sessions that provide general information on how to become a registered supplier with the State of Georgia, marketing strategies and other useful information. Additional information about getting started as a supplier can be found on SPD's website.

I.3.5.1. Minority Businesses

In an effort to assist minority-owned businesses, Georgia law permits an income tax adjustment on the state tax return of any company that subcontracts with a certified minority-owned firm to furnish goods, property or services to the State of Georgia O.C.G.A. Section 48-7-38. Suppliers should consult with their tax advisors to find out how to take advantage of these tax credits.

I.3.5.2. Small Businesses

Small business refers to a business which is independently owned and operated with either fewer than 300 employees or less than $30 million in gross receipts per year O.C.G.A Sections 50-5-121 and 50-5-122. Small businesses are provided the opportunity to Price Match or receive up to 5% of the available points in RFP or RFQC solicitations as defined in Section 3.5.1.6.

I.3.5.3. Georgia Resident Business

Georgia resident business refers to any business that regularly maintains a place from which business is physically conducted in Georgia for at least one year prior to any bid or proposal to the state or a new business that is domiciled in Georgia and which regularly maintains a place from which business is physically conducted in Georgia, provided, however, that a place from which business is conducted shall not include a post office box, a leased private mailbox, site trailer, or temporary structure O.C.G.A Sections 50-5-121 and 50-5-122. Georgia resident businesses are provided the opportunity to Price Match or receive up to 5% of the available points in RFP or RFQC solicitations as defined in Section 3.5.1.6.

I.3.5.4. Georgia Resident Small Business

Georgia Resident Small Business refers to any business that meets both criteria of Small Business and Georgia Resident Business as defined above. Georgia Resident Small businesses are provided the opportunity to Price Match or receive up to 5% of the available points in RFP or RFQC solicitations as defined in Section 3.5.1.6.

I.3.6. Lobbyist Registration

Supplier

All suppliers who employ or retain one or more lobbyists shall cause such lobbyists to register with the Georgia Government Transparency and Campaign Finance Commission (Commission) and to file the disclosures required by Article 4 of Chapter 5 of Title 21 of the O.C.G.A.. Such registration must be made no later than fifteen (15) calendar days after the lobbyist's initial contact with the state entity or the date that bids or proposals are due to be submitted by the supplier in response to the state entity's solicitation, whichever is earlier. All suppliers shall certify, as part of any response to a request for proposals or bids or other procurement method, that any lobbyist whom the supplier employs or retains has registered with the Commission and complied with the requirements of this regulation.

The registrations and disclosures required pursuant to this regulation must be considered "information voluntarily supplied" to the Commission by such suppliers under O.C.G.A. Section 21-5-6(b)(3), so that the Commission may perform its duty to accept and file such information.

The registrations and disclosures required pursuant to this regulation must be in addition to any reports required under O.C.G.A. Section 45-1-6. Compliance with this regulation must not excuse noncompliance with that Code section, and compliance with that Code section shall not excuse noncompliance with this regulation, notwithstanding that in some cases the same information may be required to be disclosed under both.

In accordance with O.C.G.A. Section 45-12-130, Section 45-12-131 and other applicable law, SPD, along with the Office of Planning and Budget, must decline to approve any contract with any supplier that has failed to comply with this regulation. If any contract is awarded but it is subsequently discovered that a supplier has made an inaccurate certification pursuant to this regulation or that one or more of the supplier's lobbyists has failed to fully comply with the requirements of this regulation, such contract shall be voidable by the state.

I.3.7. Ethical and Professional Conduct

Supplier

All suppliers and their representatives are expected to conduct their business transactions and any interactions with the State of Georgia in an ethical and professional manner.

I.3.7.1. Requirement of Good Faith

Supplier

All parties involved in the negotiation, performance, or administration of Georgia contracts must act in good faith. Each party must act with honesty and integrity and should not attempt to deceive or defraud another party.

I.3.7.2. Communication with State Staff

Supplier

Although suppliers are permitted to market goods and services directly to state entities, it is important to remember that most purchases will be made by competitive solicitation. Please ensure any such marketing efforts are not disruptive to the state entity's business operations. All suppliers should be mindful that strict communication limitations are imposed when a state entity is involved in an active solicitation. A supplier's violation of the communication limitations can lead to disqualification of the supplier and/or other disciplinary action by SPD, such as suspension or debarment. Additional information regarding the communication limitation is provided in Chapter 4 - Stage 4 - Solicitation Process of the GPM.

I.3.7.3. Visits from Sales Staff

Supplier

Suppliers should request and receive permission from the state entity prior to scheduling a visit to the state entity's premises. Suppliers are cautioned that some state government facilities are not freely open to the public and the supplier must be prepared to abide by security and safety policies governing access to buildings.

SPD encourages visits by salespersons or other supplier representatives to SPD staff members for the purpose of imparting specialized information concerning the supplier's products and services. Visitors are required to make appointments in advance. To schedule an appointment with SPD, call 404-657-6000.

I.3.7.4. Improper Sales Attempts

Supplier

All contracts are solicited and awarded on the basis of good faith. Suppliers interested in winning state contracts must actively participate in the procurement process. Suppliers must not act opportunistically by attempting to interfere with the procurement process or the lawful award of state contracts. Attempts to sell products or services to state entities outside of the procurement process through sales pressure or any other aggressive tactics are not permitted and may result in disciplinary action by SPD, including, but not limited to, terminating the supplier's registration with Team Georgia Marketplace™.

I.4. Fundamentals for Procurement Professionals

The subsections of this section identify important information for the procurement professional. Review these subsections carefully.

I.4.1. Getting Started

Using the GPM as a reference throughout the purchasing process is an essential step for the procurement professional to successfully contract for needed supplies and services. In addition to reviewing the material in the GPM, the procurement professional should regularly access SPD's website to find additional informational resources provided by SPD, such as a schedule of the current informational classes offered to state procurement professionals.

I.4.2. Delegated Purchasing Authority

The procurement professional must ensure all procurements conducted on behalf of the state entity are within the limits of the purchasing authority granted by SPD. The Chapter 8 - Operational of the GPM includes information about how to submit a request to SPD to modify a state entity's delegated purchasing authority.

I.4.3. Training and Professional Development

SPD strongly emphasizes the importance of continued education and development of professional skills. In addition to prescribing minimum skill sets and training requirements for procurement professionals through the Georgia Procurement Certification Program, SPD strongly encourages all procurement professionals to maximize opportunities for training courses hosted or recommended by SPD. SPD also encourages each individual to pursue membership, education, and/or certification opportunities provided by nationally recognized procurement organizations, such as the National Institute of Governmental Purchasing, the Institute for Supply Management™, and the National Association of Educational Procurement.

I.4.4. Ethical and Professional Conduct

All procurement professionals should strive to uphold the principles identified in the following subsections to promote efficient and ethical procurement practices.

I.4.4.1. State's Code of Ethics

DOAS subscribes to the State's Code of Ethics for Governmental Service. Among the provisions relevant to the relationship between state staff and suppliers are the following:

All persons in government should:

- Uphold the Constitution, laws and regulations of the United States and the state of Georgia and of all governments therein and should never be a party to their evasion;

- Never discriminate unfairly by dispensing special favors or privileges to anyone, whether for remuneration or not; and never accept for themselves or their families favors or benefits under circumstances which might be construed by responsible persons as influencing the performance of their governmental duties;
- Make no private promises of any kind binding upon the duties of office, since a government employee has no private work which can be binding on public duty;
- Engage in no business with the government either directly or indirectly which is inconsistent with the conscientious performance of their governmental duties;
- Never use any information divulged to them confidentially in the performance of governmental duties as a means for making private profit; and
- Expose corruption whenever discovered.

I.4.4.2. Requirement of Good Faith

All parties involved in the negotiation, performance, or administration of Georgia contracts must act in good faith. Each party must act with honesty and integrity and should not attempt to deceive or defraud another party.

I.4.4.3. Fiduciary Duty

All procurement professionals play an important role in ensuring needed goods and services are procured in an efficient and economical manner while gaining and retaining public trust and confidence. The procurement professional is responsible for developing contracts at competitive prices to avoid waste and deliver the best value to the employer and Georgia citizens.

I.4.4.4. Advancing the State's Interests

The procurement professional must strive to develop and advance positive relationships with suppliers, customers and other governmental procurement professionals while avoiding the appearance and practice of unethical conduct in such relationships. The procurement professional should avoid business relationships with personal friends and must excuse himself/herself from state procurement activities to the extent such relationships create conflicts of interests.

I.4.4.5. Avoiding Conflicts of Interest

The procurement professional should avoid any actions, relationships, or business transactions that conflict with the lawful interests of the employer or otherwise create conflicts of interests that taint the procurement process and the reputation of the state

entity and the state of Georgia. All professionals must comply with the employer's guidelines with respect to reporting outside employment.

I.4.4.6. Accepting Gifts or other Benefits from Suppliers

The procurement professional must not, at any time or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers which might influence or appear to influence purchasing decisions. The procurement professional must comply with the employer's gift policy and be mindful of the Governor's Executive Order with respect to the receipt of personal gifts, favors or gratuities. The procurement professional should also be mindful of any other applicable standards or restrictions, such as policy or directives accompanying the receipt or use of grants.

SPD

DOAS employees are reminded that DOAS has issued strict policy based on O.C.G.A. Section 50-5-78 governing the receipt of gifts, receipt of educational materials, attendance at seminars, courses, lectures, briefings or similar functions provided by suppliers, and the provision of meals and travel for such functions.

I.5. Unlawful actions

Supplier

State statutes prohibit certain activities related to state government procurement. Some of the statutes regulate the activities of state employees, while others concern suppliers. While not necessarily an exhaustive list, the paragraphs that follow will enumerate certain unlawful actions. Suppliers committing unlawful actions may be subject to civil or criminal penalties, suspension or debarment by SPD and any other action as may be proper to recover any loss or damage to the State of Georgia.

State employees committing unlawful actions may be subject to civil or criminal penalties, disciplinary action by DOAS and/or the employer up to and including termination, as well as any other action as may be proper to recover any loss or damage to the State of Georgia.

I.5.1. Trading with State Employees

Supplier

O.C.G.A. 45-10-20 et seq. describes in great detail certain improper conduct, including, but not limited to, certain public officials or employees entering into certain business transactions with the public official/employee's public employer or any other state entity.

The length of these code sections prohibits presenting the material in full within this manual; however, all suppliers and procurement professionals are expected to comply fully with these provisions.

I.5.2. Collusion

Supplier

Collusion or conspiracy in restraint of free and open competition in transactions with the State of Georgia is prohibited by Georgia law O.C.G.A. Section 16-10-22. Georgia law requires that a certification of the supplier's compliance with this law must be signed for the supplier's bid/proposal to receive consideration for contract award. The certification requirement is discussed in further detail in Chapter 3 - Stage 3 - Solicitation Preparation. When for any reason collusion or other anti-competitive practices are suspected among any suppliers, notice of relevant facts shall be submitted by SPD to the Attorney General.

I.5.3. Bribery

Supplier

An individual who gives to any person acting for or on behalf of the State of Georgia or any state entity any benefit, reward, or consideration to which he is not entitled with the purpose of influencing them in the performance of any act related to the functions of his office or employment shall be guilty of bribery. An agent of the State of Georgia may be guilty of bribery if he solicits or receives such benefit, reward or consideration O.C.G.A. Section 16-10-2.

I.5.4. Fraud in Delivery or Performance

Supplier

No supplier may take any action with the intent to willfully or fraudulently evade the specifications for the procurement of any items or willfully and fraudulently fails to deliver quantity or quality as specified through alteration or otherwise.

I.5.5. Financial Interests

As noted in Section I.4.4. - Ethical and Professional Conduct, procurement professionals must avoid conflicts of interest and comply with all applicable rules regarding the acceptance of gifts or other gratuities. In addition, the State Purchasing Act specifically prohibits either the DOAS Commissioner or any DOAS employee from being financially interested or having any personal beneficial interest either directly or indirectly in the purchase or contract for any materials, equipment, or supplies, or in any such firm, corporation, partnership, or association furnishing any such supplies, materials, or equipment to the State of Georgia or any of its state government entities O.C.G.A. Section 50-5-78.

I.5.6. Personal Benefit or Gain

O.C.G.A. Section 50-5-80 prohibits any person from obtaining for his or her own personal benefit, or for the benefit of any other person, any goods, services or other things of value, through a state entity in any method, including, but not limited to, purchase

orders, government contracts, credit cards, charge cards or debit cards. This code section does not apply to any official employee purchase programs for technology resources facilitated by and through GTA for state employees and public school employees of county or independent boards of education. Violating this code section is punishable by civil and criminal penalties.

I.5.7. Purchases Contrary to Procurement Rules

A purchase that is contrary to the rules and regulations established by SPD shall be void and of no effect. Any official of a state entity or institution who willfully purchases or causes to be purchased any materials, supplies or equipment contrary to the rules and regulations will be personally liable for the cost thereof. If paid for from state funds, the amount may be recovered in the name of the state. O.C.G.A. Section 50-5-79.

I.6. Public Access to Procurement Information

Procedure

Solicitations will be publicly advertised as required by the provisions of this manual. The State Purchasing Act delays the release of certain procurement records in the event the public disclosure of those records prior to the state entity's public announcements of the results of a solicitation would undermine the public purpose of obtaining the best value for the State of Georgia. Examples of this include cost estimates, proposals/bids, evaluation criteria, evaluation of suppliers, negotiation documents, offers and counteroffers and certain records revealing preparation for the procurement.

Supplier

The State Purchasing Act requires bids and proposals to be available to public inspection, upon request, within one business day of the state entity's posting of the Notice of Intent to Award (or the Notice of Award in the event the state entity does not issue the Notice of Intent to Award). Audited financial statements not otherwise publicly available but required to be submitted in the proposal, offer, or bid must not be subject to public disclosure.

The state entity is allowed to assess a reasonable charge to defray the cost of reproducing documents in accordance with O.C.G.A. Sections 50-18-70 through 50-18-77. A state employee should be present during the time of on-site inspection of documents. For all solicitations conducted by SPD, records request may be submitted to records.management@doas.ga.gov.

Stage 1 - Need Identification

This chapter describes the Need Identification stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Need Identification stage are:

- Identifying internally/externally the need for purchase or establishment of a new contract.
- Identifying exceptions to the State Purchasing Act.
- Analyzing existing contract sources by applying the Order of Precedence.
- Determining whether a sourcing event is required.
- Reviewing special approvals or restrictions applying to certain purchases.

Table 1.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-NI001 Fact-Finding Agenda	•	•
SPD-NI004 Emergency Justification Form	•	
SPD-NI006 Piggyback Request	•	
Automated Submission Process	**State Entity Use**	**SPD Use**
Statewide Contract Waiver Request	•	

1.1. Identifying the Need

Procedure

The procurement process begins with the identification of a purchasing need. For example, the APO/CUPO may receive a request directly from an end user to establish a contract for certain needed services. SPD may determine establishment of a statewide contract would best serve multiple state entities sharing a common purchasing need. Whatever the purchasing need may be, there are a few critical preliminary steps the procurement professional must complete as described below.

1.1.1. Preliminary Steps for the State Entity

First, the procurement professional must possess a general understanding of the needed good or service. SPD recommends all state entities implement a requisition process to organize the procurement professional's receipt of purchasing requests.

A *requisition* generally refers to a document that identifies a purchasing need as well as certain key information identified on the requisition form. Upon receipt of the requisition, the procurement professional will probably need to discuss the request further with the requestor. For an example of questions to use in this discussion, access generally refers to a document that identifies a purchasing need as well as certain key information identified on the requisition form. Upon receipt of the requisition, the procurement professional will probably need to discuss the request further with the requestor. For an example of questions to use in this discussion, access SPD-NI001 Fact-Finding Agenda. Next, the procurement professional will need to review the materials of this chapter to answer the following key questions, which will help the procurement professional determine what steps to take next to fulfill the purchasing need:

- Is the needed good/service exempt from the State Purchasing Act?
- Can the needed good/service be satisfied through the use of an existing contract or established and approved source of supply?
- Is special approval necessary?

The procurement professional can address each of these questions by reviewing the following subsections of this chapter. The first two questions determine whether the state entity will need to conduct a solicitation in accordance with the following chapters of this manual. Whether or not the state entity must establish a new contract to meet the purchasing need, the third question addresses whether additional approval may be necessary prior to completing the purchase.

1.1.2. Preliminary Steps for SPD

Ideas for statewide contracts may be generated by requests from one or more state entities or through SPD's independent analysis of the state's purchasing activity.

Procedure

Ideas for new statewide contracts must be presented to and approved by SPD's *Statewide Contract Review Council* (SCRC), which consists of several members of DOAS and SPD's executive team who participate in an open discussion of the merits of beginning the development of the new statewide contract.

SPD

SPD staff should begin the process by accessing form SPD-NI001 Fact-Finding Agenda.

1.2. Determining Application of this Manual: Is the Good/Service Exempt?

As noted in the Introduction and General Overview chapter, SPD has general authority over the procurement activities of state entities pursuant to the State Purchasing Act. However, there are some exceptions. The following subsections must be reviewed by the procurement professional to answer the first preliminary question–whether the needed good/service is exempt from the State Purchasing Act.

There are three major factors in determining whether a purchase is subject to the State Purchasing Act:

- Identity of the purchasing entity,
- Identity of the provider/seller, and
- What is being procured.

1.2.1. Identity of the Purchasing Entity

With respect to the identity of the purchasing entity, there are several governmental entities that possess full or partial exemptions from the State Purchasing Act.

1.2.1.1. Full Exemption

The following entities are exempt from the State Purchasing Act:

Table 1.2 Select Exemptions from the State Purchasing Act Factor 1: Identity of Purchasing Entity (Regardless of what is being procured)	
Purchasing Entity	Special Notes
Federal Government	The State Purchasing Act specifically limits SPD's authority to certain state governmental entities of the executive branch (See Section I.1.1. - Purpose and Application). Local governmental entities may, at their option, request SPD's assistance. The majority of SPD's statewide contracts expressly permit all state and local governmental entities of the state of Georgia (whether or not subject to the State Purchasing Act) to use SPD's statewide contracts.
Judicial Branch	
Legislative Branch	
Local Government	
State Authorities (unless specifically stated otherwise in the authority's applicable legislation)	
Non-governmental Entities	

Important

NOTE: The fact that a purchase may be exempt from the State Purchasing Act is not a representation that no other laws apply or that the purchase may not need to be competitively bid.

1.2.1.2. Partial Exemption

Table 1.3 contains a list of entities that are exempt from the State Purchasing Act with respect to certain purchases:

Table 1.3 Select Exemptions from the State Purchasing Act Factors 1 + 3: Identity of Purchaser and What is Being Procured	
Entity	Exempt Category
Board of Regents (BOR)	Construction/Public Works Contracts as defined by Section 1.3.6.1. - Construction or Public Works. NOTE: This exemption does not include a purchase limited to construction or building materials (i.e. a "materials only" contract). In addition, this does not preclude BOR from utilizing SPD's statewide contracts.

Table 1.3 Select Exemptions from the State Purchasing Act Factors 1 + 3: Identity of Purchaser and What is Being Procured	
Entity	Exempt Category
Department of Community Health (DCH)	Purchase of Health Insurance for State Employees and Public School Teachers under the State Health Benefit Plan.
Department of Defense (DOD)	Purchase and Issuance of Military Property.
Department of Human Services (DHS)	Contracts for the purchase of placements for children in the care or custody of the Division of Family and Children Services of the Department of Human Services as further described in O.C.A.A. Section 50-5-69(f).
DOAS Human Resource Administration (HRA) Division	Flexible Benefits for state of Georgia Employees.
Georgia Department of Transportation (GDOT)	Construction and/or Public Works Contracts as defined by Section 1.3.6.1. - Construction or Public Works. NOTE: This exemption does not include a purchase limited to construction or building materials (i.e. a "materials only" contract). In addition, this does not preclude GDOT from utilizing SPD's statewide contracts.
	Services ancillary to the construction and maintenance of a public road.
Georgia Public Telecommunications Commission (GPTC)	All purchases other than purchases of personal property (i.e. GPTC is exempt for the purchase of services).
	Construction/Public Works Contracts as defined by Section 1.3.6.1. - Construction or Public Works. NOTE: This exemption does not include a purchase limited to construction or building materials (i.e a "materials only" contract). In addition, this does not preclude GPTC from utilizing SPD's statewide contracts.
Land Grant Universities	Agricultural Purchases by certain land grant universities pursuant to the Hatch & Smith-Lever Acts.
Office of Treasury and Fiscal Services	Investments and Investment Related Services.
Public Authorities	Construction or Public Works Contracts as defined by Section 1.3.6.1 - Construction or Public Works. NOTE: This exemption does not include a purchase limited to construction or building materials (i.e. a "materials only" contract). In addition, this does not preclude these authorities from utilizing SPD's statewide contracts.

Important

NOTE: The fact that a purchase may be exempt from the State Purchasing Act is not a representation that not other laws apply or that the purchase may not need to be competitively bid.

1.2.2. Identity of the Provider/Supplier

The identity of the provider can also create an exemption to the State Purchasing Act:

Table 1.4
Select Exemptions from the State Purchasing Act
Factor 2: Identity of Provider/Supplier

Provider/Supplier	Category
Another Governmental Entity	Goods or Services NOTE: A contract between two governmental entities is an intergovernmental agreement, as further described in Section 1.2.2.1. - Intergovernmental Agreements.
Non-profit Entity	Services Only NOTE: The state entity must comply with the provisions of (O.C.G.A.) Section 50-20-1 et seq.

1.2.2.1. Intergovernmental Agreements

The Georgia Constitution authorizes state entities to enter into an intergovernmental agreement if the items to be acquired are available from that source.

An *intergovernmental agreement* is a contract between two or more government entities. Permissible government entities include state and local (county, city, etc.) government entities within the state of Georgia as well as other states of the United States of America. Intergovernmental agreements do not require approval from SPD or competitive bidding and are not subject to dollar limits.

Important

NOTE: To be considered exempt from the competitive bidding requirements of the State Purchasing Act, the good or service must be materially provided by the other governmental entity and not passed through the governmental entity by a private third party.

1.2.3. Good/Service Procured

The purchase of certain goods/services is exempt from the State Purchasing Act (see Table 1.5). The purchase of other goods may not be exempt from the State Purchasing Act; however, the State Purchasing Act does authorize SPD to waive the competitive bidding requirements for the purchase of certain goods (see Table 1.6).

1.2.3.1. Exempt from the State Purchasing Act

Table 1.5 Select Exemptions from the State Purchasing Act Factor 3: Good/Service Procured	
Category	Special Notes
Personal Employment Services	Personal Employment Services includes only those services rendered by a person who works full-time or part-time for and under the control of the state entity and receives compensation as a salary in direct payment from the state entity.
Professional Services	Services, which are limited to those services defined by statute as a "profession" or "professional service". For example, the following services are statutorily defined as "professions" or "professional services": certified public accountancy, actuarial services, architecture, landscape architecture, interior design, licensed or accredited appraisers or licensed or accredited financial analysts providing opinions of value, chiropractic, dentistry, professional engineering, podiatry, pharmacy, veterinary medicine, registered professional nursing, harbor piloting, land surveying, law, psychology, medicine and surgery, optometry, and osteopathy. NOTE: Exemptions for these services may be extended from the individual to a company, provided however, that the work products have been reviewed and validated as compliant by an individual with the level of certification required for that profession.
School Textbooks	SPD defers to the Department of Education to define school textbooks.
Space Management for Real Estate Administration	

Important

NOTE: The fact that a purchase may be exempt from the State Purchasing Act is not a representation that no other laws apply or that the purchase may not need to be competitively bid.

1.2.3.2. Competitive Bidding Requirements Waived

These purchases are exempt from competitive bidding requirements unless otherwise ordered by SPD. In the event a mandatory statewide contract exists, the state entity must use the mandatory statewide contract unless SPD grants a written waiver. See Section 1.3.1.1. - Waivers for procedures on how to submit written waivers to SPD.

Table 1.6 Competitive Bidding Requirements Waived by SPD
Category
Emergency supplies of drugs, chemicals and sundries; dental supplies and equipment.
Livestock for Slaughter.
Perishable Articles such as Fresh Vegetables, Fresh Meat, Fish & Oysters, Butter, Eggs, Poultry & Milk.
Technical Books & Other Printed Matter on Technical Subjects.
Other Items (such as works of art) which have been specifically identified by SPD in the Exempt Good/Services by NIGP™ Code identified in Section 1.2.4. - Exempt Goods/Services by NIGP™ Code.
Technical Instruments and Supplies.

1.2.4. Exempt Goods/Services by NIGP™ Code

As an additional resource to state entities, SPD has established a list of goods/services by NIGP™ Code which are either exempt from the State Purchasing Act or represent goods for which SPD has waived the competitive bidding requirements. This list is available on SPD's website. SPD may update this list from time to time by posting a new version of the list. It is always a best practice to view the NIGP Exempt List online for up-to-date exempt NIGP Codes.

1.2.5. Federal and/or Private Grant Funds

SPD acknowledges that a state entity's receipt of federal funds or other factors may require the application of federal law. Although the applicability of federal law does not negate the requirements of the State Purchasing Act, the APO/CUPO must contact SPD for assistance in resolving any conflict between applicable federal law and the State Purchasing Act. Federal and/or private grant funds are not exempt from the State Purchasing Act. The rules of competitive bidding still apply.

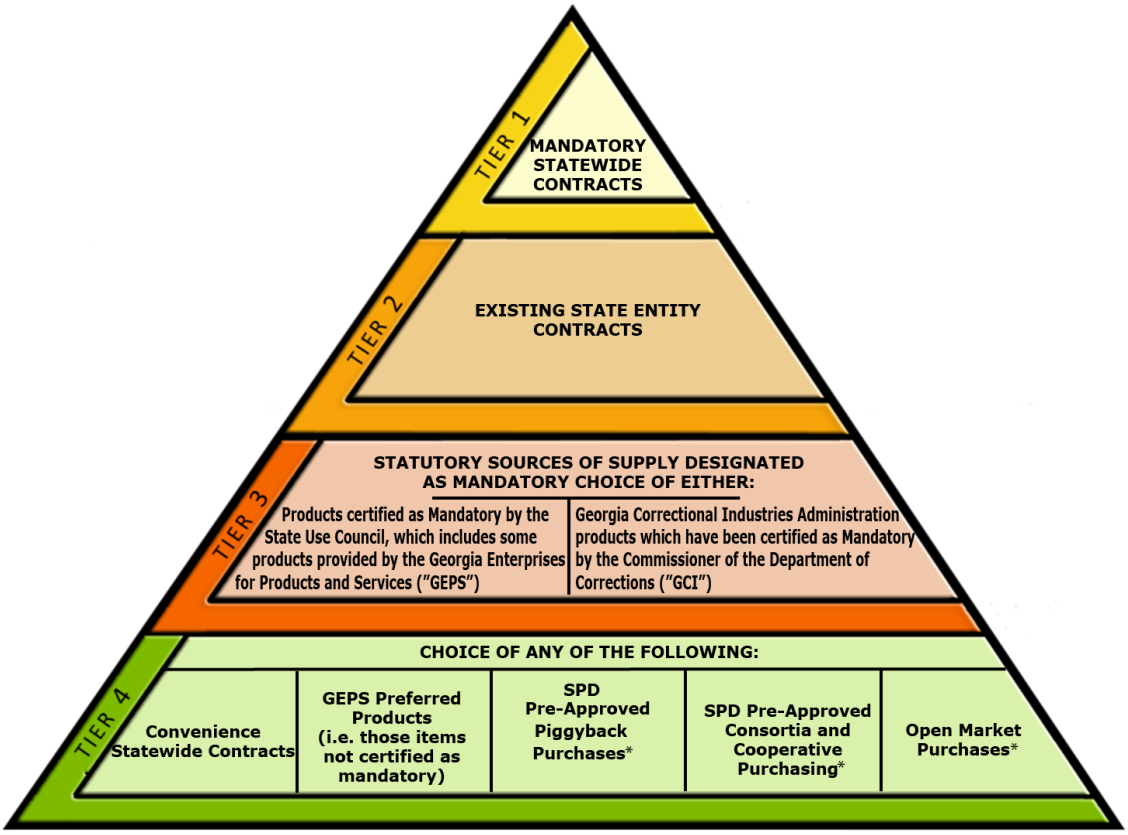
1.3. Order of Precedence

If the procurement professional determines that the needed good/service is not exempt from the State Purchasing Act or the competitive bidding requirements have not been waived, the next key question is whether a current contract exists to satisfy the purchasing need or whether the procurement professional will need to conduct a sourcing event. To answer this question, the procurement professional must follow the Order of Precedence, beginning with Tier 1 mandatory statewide contracts to Tier 2 (existing state entity contracts), Tier 3 (statutory sources), and continuing to Tier 4 (convenience statewide contracts , GEPS products, piggyback purchases, open market), as defined in Diagram 1.1.

Important

NOTE: Compliance with the order of precedence is mandatory.

Diagram 1.1



* In the event a state entity term contract is established, then the resulting contract will be considered a Tier 2 state entity contract for purposes of applying the Order of Precedence for future purchases.

1.3.1. Tier 1 - Mandatory Statewide Contracts

Statewide contracts are established by SPD for use by all state entities as appropriate. By aggregating common purchasing needs of state entities, SPD can establish the most competitive levels of pricing and services for the state as a whole. There are two types of statewide contracts:

- Mandatory statewide contracts.
- Convenience statewide contracts.

Only *mandatory statewide contracts* are included in Tier 1 of the Order of Precedence. In the event a statewide contract has been designated by SPD as mandatory, all state entities must use the mandatory statewide contract unless SPD grants a written waiver. See Section 1.3.1.1. - Waivers for instructions to request a waiver for the use of mandatory statewide contracts.

In the event there is more than one mandatory statewide contract meeting the state entity's need, the state entity may freely choose amongst the mandatory statewide contracts unless SPD specifically instructs otherwise. Purchases from mandatory statewide contracts are not limited by dollar amount or the state entity's delegated purchasing authority. Procurement professionals may view a list of current statewide contracts by accessing SPD's website.

1.3.1.1. Waivers

State entities must use mandatory statewide contracts unless SPD grants a written waiver. SPD's approval of any requests for waivers will be limited to purchases with a specified timeframe and/or dollar value. Justifiable reasons include, but are not limited to:

- The state entity's ability to pay,
- Cost,
- Delivery time, or
- Compatibility with existing state entity situations.

Procedure

Requests for waivers must be submitted online to SPD. Follow this procedure to request a waiver:

1. The online Statewide Contract Waiver Request must be completed and submitted through SPD's online tool by the APO/CUPO or another staff member with the APO/CUPO's approval.
2. SPD will respond to the request in writing within five (5) business days from the day of receipt.

3. In the event SPD grants the waiver, the waiver must be maintained as part of the state entity's procurement file. Waivers to mandatory statewide contracts do not relieve the state entities of any bidding requirements and the state entity must comply with all stipulations included within SPD's approved waiver. The waiver process is not applicable to convenience statewide contracts.

1.3.1.2. Development

SPD is authorized to establish centralized contracts such as statewide contracts that use standard specifications or performance requirements in order to decrease the overall cost of commodities and/or services to the state. APO/CUPOs are encouraged to submit their specific requests for statewide contracts to SPD on a regular and continuing basis to ensure that their most urgent needs are reflected in the current work schedules and are invited to contact SPD to discuss their consolidating and contracting ideas. SPD may form a group of individuals with technical skills or subject matter expertise with respect to the specific commodity or service area to assist in the development process of new statewide contracts.

1.3.2. Tier 2 – Existing State Entity Contracts

Existing contracts held by the state entity represent the Tier 2 of the Order of Precedence. The state entity must purchase goods/services that are available on existing contracts for that particular state entity and any deviations from such contracts must be documented and approved by the APO/CUPO. Ordinarily, a state entity would not possess a contract for the same good or service that is covered by a mandatory statewide contract. However, some state entity contracts may exist at the time SPD awards a new mandatory statewide contract. In this scenario, the state entity may continue to use the existing state entity contract; however, the state entity should also promptly notify SPD of the existing state entity contract and work with SPD to transition to the new mandatory statewide contract as appropriate and expeditiously as possible. The APO/CUPO must notify the identified SPD staff member that is listed as the main contact for the specific mandatory statewide contract as listed on the list of statewide contracts.

As another example in which the state entity may have a state entity contract at the same time a mandatory statewide contract is in effect, the state entity may have developed a new contract as a result of SPD's grant of authority in response to the state entity's written waiver request as described in Section 1.3.1.1. - Waivers. The establishment of new state entity contracts is subject to the competitive bidding requirements of the State Purchasing Act and the limits of the state entity's delegated purchasing authority.

1.3.3. Tier 3 - Statutory Sources Designated as Mandatory

Certain products and services which have been certified as mandatory in accordance with the following subsections represent Tier 3 of the Order of Precedence. Specifically, state entities are required by statute to purchase certain products and services from Georgia Correctional Industries Administration (GCI) and Georgia Enterprises for Products and Services (GEPS) where the products/services being purchased have been certified in writing as further described in Section 1.3.3.1. - Georgia Correctional Industries Administration and Section 1.3.3.2. - Georgia Enterprises for Products and Services. In the event both GCI and GEPS offer certified products/services capable of meeting the state entity's needs, the state entity has its choice of either source.

1.3.3.1. Georgia Correctional Industries Administration

In accordance with (O.C.G.A.) Section 50-5-73, the Commissioner of the Department of Corrections may certify certain products or services provided by GCI as "available and of competitive quality and price". GCI and the Commissioner of Corrections are required to report the certification criteria to SPD, including but not limited to cost, delivery schedules, and availability within fifteen days of notice of certification. Any subsequent changes to certified products or services must be reported to SPD within fifteen days of any such change. Only goods and services identified to SPD that are certified in accordance with this section are considered to be in Tier 3 of the Order of Precedence. A list of certified products/services may be viewed by accessing the GCI Certified Products and Services List. These purchases are not subject to dollar limits or the state entity's delegated purchasing authority.

Although only goods and services certified in accordance with this section are considered to be in Tier 3 of the Order of Precedence, state entities are authorized to contract with GCI for needed goods and services pursuant to an intergovernmental agreement as described in Section 1.2.2.1. - Intergovernmental Agreements.

1.3.3.2. Georgia Enterprises for Products and Services

The State Use Law set forth at (O.C.G.A.) 50-5-135 et seq. is intended to create opportunities for disabled persons employed by community-based rehabilitation programs and training centers that are certified by the State Use Council. In order to effectuate the purposes of the State Use Law, SPD and the State Use Council have agreed that, unless specifically identified as a "*preferred source*" by SPD and the State Use Council, the goods and services identified on the State Use Procurement List are mandatory sources and that state entities are required to purchase such items at the prices stated pursuant to (O.C.G.A.) Section 50-5-136(b)(2). Only goods and services identified as mandatory are considered to be in Tier 3 of the Order of Precedence. A copy of the current State Use Procurement List showing both mandatory and preferred sources provided by GEPS, which may be amended from time to time, can be found on SPD's website.

1.3.4. Tier 4 - Convenience Statewide Contracts, Preferred Products, Piggyback Purchases, Consortia or Cooperative Purchasing and Open Market Purchases

If the APO/CUPO cannot satisfy the purchasing need using Tier 1, Tier 2 or Tier 3, then the APO/CUPO may pursue any one of several options available in Tier 4 of the Order of Precedence. The options available in Tier 4 include using a convenience statewide contract, purchasing a preferred product, making an SPD-approved piggyback purchase, contracting with a consortia approved or cooperative approved supplier after satisfying the public notice requirements of Section 1.3.4.4. Consortia and Cooperative Purchasing, or making an open market purchase.

1.3.4.1. Convenience Statewide Contracts

Any statewide contract that has not been designated by SPD as a mandatory statewide contract (as further described in Tier 1 of the Order of Precedence) is a convenience statewide contract. State entities may, but are not required to, use a convenience statewide contract. However, SPD strongly encourages the use of convenience statewide contracts as they offer several benefits to the APO/CUPO in terms of saving time and ensuring compliance with procurement rules. For example, pricing and contract terms have already been finalized so the APO/CUPO is not required to spend time establishing these terms. Use of statewide contracts (both mandatory and convenience) is not limited by dollar amounts or the state entity's delegated purchasing authority. As a result, by using a convenience statewide contract, the APO/CUPO is not required to monitor spend to ensure compliance with the competitive bidding threshold as further described in Section 1.3.4.5. - Open Market Purchases or the state entity's delegated purchasing authority. Convenience statewide contracts may be viewed online.

1.3.4.2. Preferred Products

SPD and the State Use Council have agreed that certain products available through Georgia Enterprises for Products and Services are available to state entities on an optional basis. These products have been designated as "*preferred sources*" at the prices stated in the State Use Procurement List. A copy of the current State Use Procurement List showing both mandatory and preferred sources, which may be amended from time to time, can be found on SPD's website. Purchases of preferred products are not limited by dollar amounts or the state entity's delegated purchasing authority.

1.3.4.3. Piggyback Purchases

Supplier

Piggyback purchasing allows the issuing state entity and the awarded supplier agree to open up the contract for the use of other state entities. However, the supplier must offer other state entities the same prices, terms and conditions as that of the issuing state entity.

Procedure

Further, a state entity will be allowed to use another state entity's contract only with the prior written approval of the State Purchasing Division Deputy Commissioner, which may be requested by utilizing form SPD-NI006 Piggyback Request. In reviewing the request for approval of a piggyback purchase, the State Purchasing Division Deputy Commissioner will give consideration to the amount of the piggyback purchase request relative to the expected purchases on the existing state entity contract. All state entities that are given permission by the State Purchasing Division Deputy Commissioner to use another state entity's contract must carefully track their spend against the contract to ensure their purchases do not exceed the approved amount permitted on the approved Piggyback Request. This spend should include purchases made with purchase orders and/or P-card transactions.

1.3.4.4. Consortia or Cooperative Purchasing

In accordance with (O.C.G.A.) Section 50-5-51, DOAS has both the authority and duty to canvass all sources of supply to establish contracts for needed goods and services as well as enter into or authorize agreements with private non-profit organizations or other states and their political subdivisions. Pursuant to this authority, DOAS may enter into and/or authorize state entities to enter into contracts with sources of supply established pursuant to competitive bidding conducted by other governmental entities or cooperative purchasing groups. However, prior to designating a supplier approved by a consortium or purchasing cooperative as an authorized source of supply, the state entity must publicly advertise its intent to contract with the consortium-approved/ cooperative-approved supplier in accordance with the following procedures: The procurement professional must complete the steps outlined in Table 1.7 below prior to finalizing a consortium or cooperative purchase.

The consortia/cooperative procurement process does not apply to any of the following purchases:

- Purchases which are exempt from the competitive solicitation process and/or the State Purchasing Act Purchases,
- Purchases from mandatory or convenience statewide contracts,
- Purchases from existing state entity contracts,
- Purchases pursuant to Tier 3 of the Order of Precedence,
- SPD-approved "piggyback" purchases, or
- Any contract resulting from a competitive solicitation conducted in accordance with the provisions of this manual even if only one responsive and responsible bid/proposal is received.

Table 1.7 Conducting a Consortia or Cooperative Purchase	
Step 1: Conduct Market Research	To determine the appropriateness of a consortia or cooperative purchase, research must be conducted to determine if other goods or service providers exist and can satisfy procurement requirements at the same or better value.
Step 2: Prepare Consortium or Cooperative Purchase Justification	The procurement professional must complete form SPD-NI007.
Step 3: Estimate Expected Contract Value and Route to SPD as needed	The procurement professional must estimate the expected contract value to determine whether the consortium or cooperative purchase is within the state entity's delegated purchasing authority. a. In the event the state entity's delegated purchasing authority varies depending on the type of solicitation, the procurement professional should use the authority amount for the RFQ process unless the State Purchasing Division Deputy Commissioner has specified a delegated purchasing authority specific to the consortium/cooperative procurement process. b. If the value of the consortium or cooperative purchase exceeds the state entity's delegated purchasing authority, the state entity must either submit the consortium or cooperative purchase to SPD for processing or request SPD's approval to process the consortium or cooperative purchase posting by submitting to SPD a one-time request to exceed delegated purchasing authority as described in Section 2.5.2. One-Time Request to Exceed Delegated Purchasing Authority.
Step 4: Post Public Notice	The procurement professional must provide public notice of the intended consortium or cooperative purchase or contract through a posting to the GPR. The purpose of publicizing the intended consortium or cooperative purchase is to allow suppliers to challenge a cooperative or consortium purchase prior to contract award if suppliers believe and can document that they also meet the requirements of the potential cooperative or consortium purchase at the same or better value. The total posting period for a consortium or cooperative

Table 1.7 Conducting a Consortia or Cooperative Purchase	
	purchase notice is determined by the estimated contract value. If the estimated contract value is $25,000 - $249,999.99, the notice is to be posted for a minimum of five (5) business days. If the estimated contract value is $250,000 or greater, the notice is to be posted for a minimum of fifteen (15) calendar days.
Step 5: Invite Market Response	The GPR posting must include the following: • identify of non-profit or governmental entity who awarded the contract or agreement, • date the consortium contract or cooperative purchasing agreement was awarded, • name and number of the consortium contract or cooperative purchasing agreement, • explain if the consortium contract or cooperative purchasing agreement was competitively bid and if so, how it was bid, • supplier(s) to whom the consortium contract or cooperative purchasing agreement was awarded, • supplier(s) the entity will be using under the contract, • proposed State Entity Contract term (including renewals, if applicable), • a detailed description of the goods/services to be purchased including the exact quantities, • estimated or fixed dollar value of the goods/services to be awarded utilizing the consortium contract/cooperative purchasing agreement (including unit prices, if applicable, and total contract award value), • reason for utilization of the consortium contract/cooperative purchasing agreement, • the completed form SPD-NI007 Notice to Utilize Consortium Contract or Cooperative Purchasing Agreement justification, and • instructions to interested suppliers to file any challenges to the consortia/cooperative purchase in

Table 1.7 Conducting a Consortia or Cooperative Purchase	
	accordance with SPD's established process for resolving protests. The published notice serves as the state entity's Notice of Intent to Award. A sample notice is provided in Table 1.8 below. In addition, during the development of the GPR posting, the procurement professional must select appropriate NIGP Codes™ to facilitate advertisement of the intended consortia/cooperative purchase.
Step 6: Complete Protest Process	In the event a supplier is capable of providing the needed goods/services at the same or better value, the supplier must file a protest with the State Purchasing Division Deputy Commissioner prior to the close of the consortia/cooperative notice. Any such protest will be resolved by DOAS in accordance with the provisions of this manual.
Step 7: Contract Award	In the event the consortia/cooperative procurement is not successfully challenged, the state entity may proceed directly to contract award. The state entity must complete SPD-AP005 Notice of Award, indicating the contract award amount, and post it directly to the GPR.

Table 1.8 shows a sample consortia/cooperative procurement notice:

Table 1.8 Consortia/Cooperative Procurement Sample Notice
[Insert State Entity Name] is providing public notice of its intent to award a contract to [Insert Name of Consortia/Cooperative] to provide [Insert Description of Goods/Services]. [Insert Name of Consortia/Cooperative] has been identified as the supplier for this purchase for the reasons stated in the attached Consortia/Cooperative Justification Form. Any supplier capable of providing the identified goods/services at the same or better value may challenge this determination by filing a written protest with the Deputy Commissioner of the State Purchasing Division (SPD) in accordance with the protest procedures outlined in Section 6.5. Step 4 – Supplier Participates in Protest Process. The protest must be received prior to the closing date and time identified herein.

1.3.4.5. Open Market Purchases

In Tier 4 of the Order of Precedence, the APO/CUPO may elect to go to the open market to identify a source of supply for the needed good or service. If the APO/CUPO determines an open market purchase is the appropriate purchasing method under Tier 4 of the Order of Precedence, the APO/CUPO must purchase the item through the use of competitive bidding procedures as further described in chapters 2 through 7 of this manual unless the needed good/service can be purchased for less than $25,000 in which case the good/service may be purchased without competitive bidding pursuant to OCGA 50-5-69*. Although competition is not required for purchases under $25,000, SPD recommends the comparison of products and prices from at least three suppliers, including any applicable convenience statewide contracts, prior to ordering.

Otherwise, all purchases made by a state entity should be based on competitive bidding whenever possible. The state entity may not split reasonably foreseeable or related purchases into two or more transactions for the purpose of circumventing the requirement that any purchase of $25,000 or more be based on competitive bidding.

* Purchases made without competitive sealed bidding, even if allowable under the Purchasing Act, are not eligible for the conflict of interest safe harbors provided in OCGA 45-10-20 et seq. when transacting business with a business in which a state employee or state official has a "substantial interest". A state entity can only purchase from a business in which a public official has a substantial interest by seeking competitive sealed bids as set forth in OCGA 45-10-20 et seq. or by purchasing from statewide contracts which have been established by competitive sealed bidding.

Table 1.9
Examples – Reasonable Foreseeable Purchases

If	Then
A state entity has a history of making regular monthly purchases for office supplies of $8,000 - $9,000 each month.	The state entity may use an existing convenience statewide contract for supplies or must establish its own agency contract for office supplies via competitive bidding because its historical spend makes it reasonably foreseeable that the recurring quarterly cost will be more than $25,000.
A state entity purchases office supplies for $8,500 on July 10. IT DOES NOT KNOW when it will next purchase office supplies as its history of purchasing office supplies is IRREGULAR AND AD HOC – in the past, the state entity has purchased $8,000 - 9,000 in office supplies once in six months or $8,000 each month for three consecutive	The state entity does not have to seek competitive bids to purchase the office supplies on July 10, September 15, October 30, November 20, and March 1.

Table 1.9 Examples – Reasonable Foreseeable Purchases	
If	Then
months. On September 15, the state entity purchases $8,000 in office supplies. On October 30, the state entity purchases $8,500 in office supplies. On November 20, the state entity purchases $9,000 in office supplies. On March 1, the state entity purchases $8,500 in office supplies. KNOW when it will next purchase office supplies as its history of purchasing office supplies is IRREGULAR AND AD HOC – in the past, the state entity has purchased $8,000 - 9,000 in office supplies once in six months or $8,000 each month for three consecutive months. On September 15, the state entity purchases $8,000 in office supplies. On October 30, the state entity purchases $8,500 in office supplies. On November 20, the state entity purchases $9,000 in office supplies. On March 1, the state entity purchases $8,500 in office supplies.	
A state entity has 10 a/c units that are all past their normal life span and plans to replace all of the a/c unit compressors at various points in time during the fiscal year. Each of the a/c compressors will cost $4,000.	The state entity must seek competitive bids for the replacement of the a/c compressors as a group because the state entity PLANS to spend $40,000 – well above the $25,000 statutory competitive bid requirement.
A state entity has 10 a/c units which are all past their normal life span but does not have the funds to replace the a/c units – SO THE STATE ENTITY DOES NOT KNOW WHEN OR IF IT CAN REPLACE THE A/C UNITS. The compressor fails in one of the a/c units on July 10 and the state entity finds money to pur-	The state entity does not have to seek competitive bids for the a/c compressors.

Table 1.9 Examples – Reasonable Foreseeable Purchases	
If	Then
chase an a/c compressor for $8,500. On August, 15, another a/c unit compressor dies and so the state entity again finds money to purchase an a/c compressor for $8,500 in August. On September 1, another a/c unit compressor dies and so the state entity again finds money to purchase an a/c compressor for $8,500 in September.	

1.3.5. Emergency Purchases

In accordance with (O.C.G.A.) Section 50-5-71, SPD has granted the authority to state entities to purchase urgently needed items arising from unforeseen causes, including, but not limited to, extreme weather conditions or official declared emergencies.

Emergency purchases are an exception to the Order of Precedence. An emergency procurement is handled outside of the normal competitive process for purchases greater than $24,999.99 because of the urgency of the circumstances, such as the immediate welfare of the general public. Therefore, SPD approval is not required in advance of the emergency purchase. 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 of Georgia to make any procurement as competitive as time permits. The state entity is authorized to handle the emergency purchase whether or not the dollar amount of the emergency purchase falls within the state entity's delegated purchasing authority.

1.3.5.1. Utilizing a Purchase Order or P-Card for Emergency Purchases

Use of a *Purchase Order (PO)* or the state of Georgia's official purchasing card (P-Card) is discussed further in Chapter 8 - Operational. The APO/CUPO may use either a PO or the P-Card to make the emergency purchase.

If a *Purchase Order (PO)* is used to make the emergency purchase, the PO should be issued with the phrase "Emergency Purchase" included. With respect to using the P-Card, SPD's Statewide Purchasing Card Policy allows emergency purchases to be paid utilizing the P-Card provided the state entity complies with specific requirements regarding after-the-fact requests for approval and documentation of such transactions.

The Statewide Purchasing Card Policy allows exceptions to normal policies regarding individual transaction amounts and/or monthly cycle limits and to allow for the

purchase of necessary items which are normally prohibited (employee meals, for example) as needed to quickly and responsibly meet the needs of the public in an emergency situation. Program Administrators and/or Coordinators are permitted to make the necessary changes to cardholders' accounts to facilitate these purchases in accordance with policy. Following the emergency, upon return to normal business operations, adherence to standard policy must resume and Program Administrators and/or Coordinators are responsible for returning affected cardholders' accounts to their original status as they existed prior to the emergency.

Access the Statewide Purchasing Card Policy for guidance regarding required procedures and documentation to support emergency purchases.

1.3.5.2. Notifying SPD of Emergency Purchases

Procedure In the event of an emergency purchase, the APO/CUPO must provide SPD with written notice and justification by completing form SPD-NI004 Emergency Justification Form.

Procedure For non-Team Georgia Marketplace™ users: the completed form must be forwarded by the APO/CUPO via email to processimprovement@doas.ga.gov within five business days of the emergency purchase. A copy of the PO and all pertinent documentation relating to the purchase transaction should be forwarded to processimprovement@doas.ga.gov as soon as possible but no later than five business days following the state entity's final payment or receipt and acceptance of the goods/services, whichever occurs last.

Procedure For Team Georgia Marketplace™ users: the completed Emergency Justification Form must be attached at the header level of the PO in the system as well as other pertinent documentation relating to the emergency purchase.

Procedure There are additional requirements in the event a P-Card is used as noted in the Statewide Purchasing Card Policy. In the event of an emergency purchase, the APO/CUPO is required to provide notice and justification to SPD whether or not the dollar value of the emergency purchase falls within the state entity's delegated purchasing authority.

1.3.6. Special Approvals or Restrictions

Whether the state entity is using an existing source of supply, such as a mandatory statewide contract, or establishing a new source of supply, the state entity should be aware of certain special approvals or restrictions which govern certain types of purchases. The following subsections discuss these special approvals or restrictions in further detail.

1.3.6.1. Construction or Public Works

For the purposes of this manual, "construction" or "public works" contract includes contracts for design, engineering, construction, alteration, modification, demolition, maintenance and repair of fixed assets, as well as consultant contracts relative to such activities. Public works contracts also include all public contracts that are covered by the statutory requirements for a payment or performance bond. As a general rule, if the contract is to be performed on public property and involves a fixed asset, the contract is a public works contract. For purposes of Table 1.3 Select Exemptions from the State Purchasing Act, public works contracts also include contracts for landscape maintenance and cleaning services. For additional information regarding the definition of public works contracts, please access Attorney General's Informal Advice Letter of April 25, 2017.

As discussed in Section 1.2. - Determining Application of this Manual: Is the Good/Service Exempt? of this manual, some state entities are exempt from the State Purchasing Act with respect to construction and/or public works contracts. However, all other state entities should be aware that SPD has entered into a partnership, through an intergovernmental agreement, with the Georgia State Financing and Investment Commission (GSFIC) to assist state entities with the procurement of construction or public works contracts. The terms of SPD and GSFIC's partnership may be accessed at SPD's website.

Any solicitation for a construction or public works contract which is estimated to exceed the state entity's existing delegated purchasing authority must be conducted by GSFIC. For those solicitations for construction or public works contracts which are within the state entity's existing delegated purchasing authority, the state entity may still elect to use GSFIC's services, which is highly recommended due to GSFIC's construction and public works expertise and resources. Colleges and universities should defer to BOR's guidance with respect to use of GSFIC's services. State entities may contact GSFIC directly using the information in Table 1.10:

Table 1.10 GSFIC Contact Information	
Website Address	http://gsfic.georgia.gov
Phone Number	GSFIC Procurement Services Office 404-463-5600

1.3.6.2. Information Technology Products and Services

In accordance with (O.C.G.A.) Section 50-25-1 et seq., the Georgia Technology Authority (GTA) has the authority and duty to oversee and manage the state of Georgia's information technology infrastructure and establish policies, standards and guidelines for information technology. State entities are reminded that certain technology procurements require prior review by and approval of GTA. For additional information, visit GTA's website.

1.3.6.3. Purchasing Beef

In accordance with (O.C.G.A.) Section 50-5-81, state entities are prohibited from purchasing any beef other than beef raised and produced within the United States when the purchase is to be made with governmental funds. The restriction does not apply to canned meat which is not available from a source within the United States and which is not processed in the United States. Any person who violates the cited Code section is guilty of a misdemeanor.

1.3.6.4. Surplus Property

DOAS' Surplus Property Division is authorized and has the duty to dispose of state entities' surplus property. Surplus Property Division may authorize the transfer of surplus property from one state entity to another, sell the surplus property to the highest bidder, authorize the trade in of such surplus property on the purchase of new equipment or, where Surplus Property Division determines the surplus property has no value, order the destruction or disposal of such surplus property. The APO/CUPO must coordinate with the Surplus Property Division prior to selling, transferring or otherwise disposing of surplus property. State entities interested in acquiring existing surplus property should contact the Surplus Property Division to determine the availability of the surplus property. If the item is available, the APO/CUPO should comply with the specific instructions provided by the Surplus Property Division. For additional information, contact the Surplus Property Division using the contact information in Table 1.11:

Table 1.11 Surplus Property Division Contact Information	
Website Address	http://surplusproperty.doas.ga.gov
Email Address	surplusproperty@doas.ga.gov
Phone Number	404-657-8544

1.3.6.5. Trade-in of Used Equipment

As noted in the previous section, DOAS' Surplus Property Division is authorized and has the duty to dispose of state entities' surplus property. In the event the APO/CUPO desires to trade-in used equipment in the procurement of similar new equipment, the APO/CUPO must request prior written approval from Surplus Property Division. Upon receipt of such approval, the state entity may include the trade-in of used equipment in the procurement of new equipment. The APO/CUPO should follow normal procurement procedures. To assist the Surplus Property Division in its determination of whether the proposed trade-in should be approved, the APO/CUPO should list the

used equipment and provide detailed information of the equipment, including but not limited to make, model, age, condition, serial number and location. The equipment may be offered for public inspection during the procurement process. It is recommended that the equipment to be traded in be listed separately to allow the state entity the option of accepting the trade-in value offered by the supplier or not.

1.3.6.6. Vehicle Purchases

DOAS' Fleet Management Division centralizes state government's motor vehicle fleet management functions. Through policies and procedures the program provides guidance on vehicle purchases, assignment, usage, maintenance, operation, and disposal. Centralization of the state of Georgia's fleet management functions ensures efficient and cost-effective operation of the state's motor vehicle fleet, minimizing the life-cycle costs associated with vehicle ownership. Fleet Management Division provides motor vehicle services for state and local governments.

Procedure

No state entity may purchase a motor vehicle without prior written approval of Fleet Management Division. This prior written approval is required even if the APO/CUPO is utilizing an existing statewide or state entity contract to acquire the motor vehicle. Contact Fleet Management Division directly using the information in Table 1.12:

Table 1.12 Vehicle Purchase Contact Information	
Website Address	http://doas.ga.gov/fleet-management
Email Address	• FMS@doas.ga.gov • Ed.Finnegan@doas.ga.gov
Phone Number	404-651-7263

Stage 2 - Pre-Solicitation

This chapter describes the Pre-Solicitation stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Pre-Solicitation stage are:

- Identifying scope, stakeholders and critical business requirements.
- Conducting market analysis to identify available goods, services and suppliers.
- Estimating expected contract award value or purchases for the fiscal year.
- Addressing market and budget constraints.
- Identifying the best solicitation method.
- Addressing delegated purchasing authority.
- Planning the solicitation.

Table 2.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-PS001 Category Workplan Template		•
SPD-PS004a Supplier Market Analysis Guideline		•
SPD-PS004b Category Profile Spend Analysis Template		•
SPD-PS007 SWC Review Council Template		•
SPD-PS010 SWC RFX Project Plan		•
SPD-PS013 State Entity eRFI Template	•	•
SPD-PS014 State Entity RFI Template	•	
SPD-PS015 eRequisition Submission Form	•	
SPD-PS015a eRequisition Submission Form – Instructions	•	
SPD-PS016 Purchase Requisition Form	•	

Table 2.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-PS019 Sole-Brand Justification Form	•	
SPD-PS019a Sole-Brand Instructions	•	
SPD-PS021 Fast Track RFP Request for Approval	•	
SPD-PS023 State Entity RFX Project Plan	•	

2.1. Introduction to the Pre-Solicitation Stage

By proceeding to Chapter 2 - Stage 2 - Pre-Solicitation, the procurement professional has determined a solicitation will be conducted to acquire the needed goods/services. The type of solicitation will be determined in this stage. If the state entity is not certain whether a solicitation is required, the procurement professional must first review Chapter 1 - Stage 1 - Need Identification and apply its methodology. A state entity may elect to conduct a competitive solicitation even when doing so is not required. For example, the state entity may elect to conduct a competitive solicitation even though the identified goods or services are exempt from competitive bidding pursuant to the State Purchasing Act.

Procedure

The *Pre-Solicitation Stage* addresses several steps which must be completed by the procurement professional before preparing the solicitation. These major pre-solicitation steps are discussed in detail in this chapter and include:

Table 2.2 Pre-Solicitation Stage Steps	
Step 1	Analyzing the purchasing need
Step 2	Addressing certain market and budget constraints, such as sole-source claims
Step 3	Selecting the best solicitation method
Step 4	Addressing delegated purchasing authority
Step 5	Planning the solicitation

2.2. Step 1 - Analyzing the Purchasing Need

Procedure

The procurement professional generally begins with a high-level understanding of the needed goods or services. A general high-level understanding of the needed goods or services may be sufficient to address the key questions in Chapter 1 - Stage 1 - Need Identification. However, once the procurement professional determines a competitive solicitation must be conducted and proceeds to Chapter 2 - Stage 2 - Pre-Solicitation, he/she must now further analyze the purchasing need. There are several tasks essential to this analysis, including identifying the stakeholders, identifying critical business requirements, and conducting market analysis.

2.2.1. Identify Scope of Need and Corresponding Stakeholders

To begin the process of analyzing the purchasing need, it is critical to both understand the scope of the need as well as identify stakeholders (i.e., individuals that are subject matter experts who have an interest in the needed goods or services). Correctly identifying the scope of the need and corresponding stakeholders is essential to ensure the solicitation process will result in a contract which matches the needs of the state entity.

The *scope of the need* refers to the factors defining the range or span of the purchase. For example, is this a reoccurring need such as ongoing janitorial services which are needed on a frequent or continuous basis? As another example, is this a good that is only needed by one individual within the state entity or a good that is needed by several program areas? The procurement professional must work to identify the scope of the need by consulting with identified stakeholders as well as reviewing the state entity's historical purchases or usage of the identified goods or services.

SPD

SPD's analysis of the scope of need for statewide contracts may include analysis of historical purchases or usage by all state entities as well as local government entities. Reviewing historical purchases or usage will assist the procurement professional in identifying stakeholders. The procurement professional may also ask the individual making the purchasing request to identify any similar program areas or co-workers likely to share an identical or similar need for the requested goods or services. SPD procurement professionals should identify stakeholders for potential statewide contracts by consulting with interested state entities and by using form SPD-PS004b Category Profile Spend Analysis Template.

For purposes of this chapter, stakeholders will assist in the identification of critical business requirements. However, stakeholders will also assist in developing the solicitation and serving as evaluators and/or negotiators during the solicitation process. Likewise, the procurement professional will use data gathered during analysis of the scope of need to develop the solicitation and evaluation requirements as further discussed in Chapter 3 - Stage 3 - Solicitation Preparation.

2.2.2. Identify Critical Business Requirements

After identifying the stakeholders, the procurement professional must facilitate open dialogue with the identified stakeholders to define the critical business requirements. Critical business requirements are those essential functions which must be met by the provided goods or services. The procurement professional must encourage discussion and ask sufficient and pertinent questions to ensure the sourcing team (the procurement professional and all other staff assisting with the solicitation process) fully understands the critical business requirements. Some sample questions are provided in Table 2.3:

Table 2.3 Key Questions
Who/what area is impacted by this procurement?
What are the key functions the needed goods/services must meet?
What factors will impact this purchase?
What is the expected/approved budget?
When are the goods/services needed?
Where will goods be delivered and/or services performed?
Why are the goods/services needed?
How must services be provided?
Are there key approvals which are necessary and who must provide this approval?
Are there specific quality or quantity needs to consider?

Identifying the critical business requirements will improve the procurement professional's results in conducting market analysis and estimating the expected contract award value or, in the event there is no set contract award value, the state entity's estimated purchase value for the fiscal year.

Once the value of contract award is determined or estimated, the procurement professional can determine the type of contract to be developed. An "open" contract is used when exact quantities needed are not known at the time the contract is established. A "fixed quantity" contract is used when exact quantities needed are known at the time the contract is established.

2.2.3. Conduct Market Analysis

Once the procurement professional has identified the stakeholders and determined the critical business requirements in collaboration with those stakeholders, the procurement professional now has to begin the process of *market analysis*. For purposes of this manual, *market analysis* refers to examining available sources of information

to find available goods, services, and sources of supply, which may meet identified critical business requirements.

While an exhaustive review of sources of supply may not be feasible or practical, the goal of the market analysis process is to identify a variety of potential sources of supply. By identifying the potential sources of supply, the procurement professional and sourcing team will be able to analyze various goods and service offerings. Studying various goods and services offerings is essential to developing a solicitation that is not biased in favor of a single source of supply or otherwise reducing the pool of suppliers which are capable of meeting the state entity's critical business requirements.

2.2.3.1. Identify Available Goods, Services and Sources of Supply

Although stakeholders may have knowledge of certain specific goods, services, or suppliers, the procurement professional should not rely exclusively on stakeholders' knowledge. Instead, the procurement professional must actively engage in market analysis by accessing informational resources such as the Internet, Thomas Register®, industry organizations, consultant reviews, the online resources of Buyers Laboratory, Inc., advertisements, or industrial publications. The procurement professional may also review the GPR to identify examples of possible goods, services, and sources of supply.

SPD

SPD encourages the procurement professional to consult with state entity procurement professionals with similar purchasing needs. When conducting market analysis, SPD procurement professionals must use form SPD-PS004a Supplier Market Analysis Guideline.

2.2.3.2. Request Information from Suppliers

As potential sources of supply are identified, the procurement professional may contact potential suppliers directly to request information. The procurement professional's contact with potential suppliers may occur informally, such as by telephone or email. Alternatively, the procurement professional may determine a more formal method of gathering information from suppliers as desired, such as the Request for Information method.

A *Request for Information* (RFI) is a semi-formal method for requesting information from suppliers who have knowledge or information about an industry, goods, or services. The procurement professional should use the RFI method if there is not enough information or knowledge about the services needed to develop a statement of work or goods where product specification and knowledge is needed for a solicitation. To use the RFI method, the procurement professional must use one of the following templates identified in Table 2.4 as applicable. For state entities using Team Georgia Marketplace™, the procurement professional must post the RFI in Team Georgia

Marketplace™ using the form below. All other procurement professionals may post RFIs to either eSource or the GPR using the applicable forms below:

Table 2.4 Request for Information Templates	
Team Georgia Marketplace™ and eSource	SPD-PS013 State Entity eRFI Template
Georgia Procurement Registry	SPD-PS014 State Entity RFI Template

The RFI should, at a minimum, describe the state entity's needs, identify what information is desired from suppliers, and provide a method for receiving the requested information. The completed RFI is then posted by the procurement professional to the GPR for any period of time deemed desirable by the procurement professional.

The RFI method is not a competitive solicitation method and, as a result, does not satisfy the requirement for competitive bidding. The RFI method is no more than an information gathering tool and such information gathered may or may not be used by the state entity to develop a competitive solicitation.

Supplier

Suppliers are not required to respond to an RFI and a supplier's failure to respond to an RFI will not prohibit the supplier's participation in any competitive solicitation that may result from the RFI. However, SPD strongly encourages suppliers to respond to RFIs as this is a great way to ensure the state entity is aware of the suppliers' available goods and services.

2.2.3.3. Use of Advisory Services

Supplier

The state of Georgia recognizes the value of advisory or consultative services which suppliers often provide to state entities. Services of this type will nonetheless be regarded as normal sales effort, and no preferential treatment will be given to suppliers providing such services when contracts are awarded. Moreover, no compensation may be paid for any such services unless they were provided pursuant to an existing contract. Equipment provided and installed by a supplier for the purpose of demonstration will not be given preferential recognition in contract awards, and the state entity will not be liable for any charges or costs incurred by suppliers in making such equipment available, nor will the state entity be under any obligation to purchase or pay in any manner when a supplier, upon the state entity's request, delivers the equipment or other products for test or trial.

2.2.3.4. Estimate Cost

Through market analysis, the procurement professional will be able to develop a more reliable estimate of the likely cost of the desired goods or services. Pricing may be

available through Internet research or suppliers may be willing to offer preliminary price quotes. Other methods of estimating cost may include reviewing the price of recently awarded contracts on the GPR for similar purchases or reviewing pricing on any applicable convenience statewide contracts.

Estimating the expected cost of the needed goods or services is necessary for at least two reasons.

1. Preliminary cost estimates will assist stakeholders in determining whether the needed goods or services are likely to be obtained within the state entity's budget or if an alternative procurement strategy will be necessary. The Issuing Officer should conduct market research and contemplate total cost of ownership. An evaluation of potential risk should be made to determine the best process to follow in procuring the needed solution. If a volatile pricing market is determined, Price Escalation and De-Escalation Clauses may need to be included in the contract signed with the supplier based on the requirements posted in the solicitation. These clauses may include the following:
    - Increase or decrease tied to a published market indice
    - Provision of a published cap to limit the amount of the increase (i.e. 3% annually)
2. Estimating the expected cost of the needed goods or services is required to determine whether the state entity possesses sufficient delegated purchasing authority to conduct the type of competitive solicitation as discussed further in Section 2.5. - Step 4 – Addressing Delegated Purchasing Authority.

2.2.3.5. Discuss Market Analysis with Stakeholders

The procurement professional must share the results of the market analysis with the participating stakeholders. Sharing the results of the market analysis serves several purposes, such as confirming the procurement professional understands the purchasing need and increasing the stakeholders' knowledge of available market options. In addition, preliminary information regarding the estimated cost of the needed goods or services will also assist stakeholders in determining whether the requested goods or services may be acquired within the state entity's budget.

2.3. Step 2–Addressing Certain Market and Budget Constraints

The state entity's ability to make an open market purchase through the competitive solicitation process can be impacted by limitations in the open market, the state entity's budgetary constraints, or a combination of these factors. As a result of the completed market analysis, the procurement professional may determine that there are limited goods, services or suppliers which are likely to meet the state entity's

critical business requirements and/or budget constraints. The fact that available resources are limited does not negate the requirement to conduct a competitive solicitation. However, there are three special situations affecting an open market purchase which are addressed in the following subsections:

- Sole-brand solicitations
- Sole source purchases, and
- Purchases of used equipment.

2.3.1. Sole-Brand Solicitation

A *sole-brand solicitation* is a competitive solicitation which includes specifications restricting offered goods to a specific manufacturer or owner's brand. Before making a determination that only one specific brand of goods will meet the state entity's critical business requirements, research must be conducted by the procurement professional to determine if other brands exist which can also satisfy procurement requirements in a timely manner. Sound procurement practice requires that a sole-brand solicitation be used only when it is the last justifiable option, and not as an attempt to contract for a favored brand of goods. An example of the appropriate use of the sole-brand justification may include certain situations where a specific piece of equipment is needed to match existing equipment or is a replacement. If the desired good is only available from one source, then the sole-brand solicitation is not applicable and the procurement professional must review Section 2.3.2. - Sole Source Purchases.

A valid sole-brand justification allows the procurement professional to process a competitive solicitation with the insertion of "No Substitute" after the good is specified by brand name, model number, or some other designation identifying a specific good of a manufacturer.

Procedure

To conduct a sole-brand solicitation, the procurement professional must first complete form SPD-PS019 Sole-Brand Justification Form. The procurement professional should access SPD-PS019a Sole-Brand Instructions for additional information regarding the completion of the form. The completed form must be publicly posted as an attachment with the solicitation. A sole-brand solicitation is a competitive solicitation and the procurement professional must comply with all other requirements regarding posting and processing a competitive solicitation.

2.3.2. Sole Source Purchases

Based on market analysis, the procurement professional may determine only one supplier is capable of providing the needed goods or services. This is referred to as a sole-source purchase. *Sole source purchases* must be distinguished from sole brand purchases in which more than one supplier is capable of providing the specific item.

2.3.2.1. Justifying Sole Source Purchases

For purchases with a value of $25,000 or more, sole source purchases are prohibited unless the state entity establishes justification why the needed goods or services should not be procured through open competition. Sound procurement practice requires that a sole source purchase occur when it is the only option and not as an attempt to contract with a favored service provider or for a favored good. Some examples in which a sole source purchase may be acceptable are described in Table 2.5:

Table 2.5 Sole Source Purchase Justifications	
Exclusive or Unique Capabilities	• Example 1: Only one supplier can satisfy the technical requirements because of unique technical competence or expertise NOTE: The procurement professional must ensure the technical requirements are valid and verifiable.
	• Example 2: Only one supplier possesses patents or exclusive rights to manufacture or to furnish the item or service.
Excessive Cost	• Example 3: Only one supplier can furnish the services because of the supplier's previous state entity experience and having an alternative source duplicating these capabilities would result in excessive costs to the state entity. NOTE: Excessive costs must be quantified.
	• Example 4: The item does not satisfy any of the justifications noted above, but the use of any other manufacturer's good or equipment would result in excessive costs to the state entity. NOTE: Excessive costs must be quantified.
Purchase of used equipment as permitted by Section 2.3.3. - Purchasing Used Equipment.	

Table 2.5 is provided for example purposes only. There may be other extenuating circumstances or considerations such as adverse impacts on the state entity for not using the proposed sole source.

2.3.2.2. Conducting Sole Source Purchases

The procurement professional must complete the steps outlined in Table 2.6 prior to finalizing a sole source purchase.

The sole source process does not apply to any of the following purchases:

- Purchases which are exempt from the competitive solicitation process and/or the State Purchasing Act Purchases,
- Purchases from mandatory or convenience statewide contracts,
- Purchases from existing state entity contracts,
- Purchases pursuant to Tier 3 of the Order of Precedence,
- SPD-approved "piggyback" purchases, or
- Any contract resulting from a competitive solicitation conducted in accordance with the provisions of this manual even if only one responsive and responsible bid/proposal is received.

Procedure

Table 2.6 Conducting a Sole Source Purchase	
Step 1: Conduct Market Research	To determine the appropriateness of a sole source purchase, research must be conducted to determine if other goods or service providers exist and can satisfy procurement requirements.
Step 2: Prepare Sole Source Justification	The procurement professional must develop written justification for the proposed sole source to be posted with the public notice on the Georgia Procurement Registry (Step 4).
Step 3: Estimate Expected Contract Value and Route to SPD as needed	The procurement professional must estimate the expected contract value to determine whether the sole source purchase is within the state entity's delegated purchasing authority. a. In the event the state entity's delegated purchasing authority varies depending on the type of solicitation, the procurement professional should use the authority amount for the RFQ process unless the State Purchasing Division Deputy Commissioner has specified a delegated purchasing authority specific to the sole source process. NOTE: If the value of the sole source purchase exceeds the state entity's delegated purchasing authority, the state entity must either submit the sole source to SPD for processing or request SPD approval to process the sole source posting by submitting to SPD a one-time request to exceed delegated purchasing authority as described in Section 2.5.2. - One-Time Request to Exceed Delegated Purchasing Authority. b. If the value of the sole source purchase amounts to $500,000 or greater, the GPR system will route the proposed sole source to the Agency Sourcing Division for review prior to posting. A determination by the Agency Sourcing Division will be sent to the state entity upon completion of review.

Table 2.6 Conducting a Sole Source Purchase	
Step 4: Post Public Notice	The procurement professional must provide public notice of the intended sole source purchase or contract through a posting to the GPR. The purpose of publicizing the sole source is to allow the free market to act as a check and balance on invalid sole sources by allowing suppliers to protest a sole source 1) if suppliers believe and can document that they also meet the requirements of the sole source; or 2) if suppliers believe the sole source requirements are unjustifiably restrictive. The total posting period for a sole source notice is by the estimated contract value. If the estimated contract value is $25,000 - $249,999.99, the notice is to be posted for a minimum of five (5) business days. If the estimated contract value is $250,000 or greater, the notice is to be posted for a minimum of fifteen (15) calendar days.
Step 5: Invite Market Response	The GPR posting must include the following: • a detailed description of the goods/services to be purchased, the exact quantity, the per unit price, and the total price (i.e. quantity x unit price); if the exact quantity is not known because the state entity seeks to establish an open contract without seeking bids/proposals, the state entity must include the estimated quantity, the per unit price, and the total estimated value of the open contract (i.e. estimated quantity x unit price), • The expected term of the contract, to include any renewal options, • the identity of the sole source supplier, and • justification for the sole source and instructions to interested suppliers to file any challenges to the sole source determination in accordance with SPD's established process for resolving protests. The published sole source notice serves as the state entity's Notice of Intent to Award. A sample notice is provided in Table 2.7 below. In addition, during the development of the GPR posting, the procurement professional must select appropriate NIGP Codes™ to facilitate advertisement of the sole source purchase.
Step 6: Complete Protest Process	In the event a supplier is capable of providing the needed goods/services and desires to challenge a sole source determination, the supplier must file a protest with the State Purchasing Division Deputy Commissioner prior to the close of the sole source notice.

Table 2.6 Conducting a Sole Source Purchase	
	Any such protest will be resolved by DOAS in accordance with the provisions of this manual.
Step 7: Contract Award	In the event the sole source determination is not successfully challenged, the state entity may proceed directly to contract award. The state entity must complete SPD-AP005 Notice of Award, indicating the contract award amount, and post it directly to the GPR.

Table 2.7 shows a sample sole source notice:

Table 2.7 Sole Source Sample Notice
[Insert State Entity Name] is providing public notice of its intent to award a contract to [Insert Name of Sole Source] to provide [Insert Description of Goods/Services]. [Insert Name of Sole Source] has been identified as the sole source for this purchase for the reasons stated in the attached sole source notice. Any supplier capable of providing the identified goods/services may challenge this sole source determination by filing a written protest with the Deputy Commissioner of the State Purchasing Division (SPD) in accordance with the protest procedures outlined in Section 6.5. Step 4 – Supplier Participates in Protest Process of the GPM. The protest must be received prior to the closing date and time identified herein.

2.3.3. Purchasing Used Equipment

Due to budgetary constraints or for reasons of economy, the state entity may desire to acquire used equipment. The procurement professional should review Section 1.3.6.4. - Surplus Property for information regarding the Surplus Property Division's assistance with distributing government surplus property. However, in the event the state entity desires to acquire used equipment from a private source, the state entity must comply with the provisions of this section.

Procedure

First, the procurement professional must determine how to conduct the purchase. To do so, the procurement professional must conduct market analysis to determine whether there is a market for the commodity and, if so, what suppliers are capable of supplying the commodity. If there is more than one supplier, then the procurement professional must determine whether comparable specifications may be obtained for the equipment from the suppliers. If comparable specifications can be obtained, then the procurement professional must conduct a Request for Quotes (RFQ) in accordance with the provisions of this manual. Otherwise, the procurement professional must comply with the provisions of Section 2.3.2. - Sole Source Purchases or Section 1.3.4.4. Consortia or Cooperative Purchasing.

Before purchasing the used equipment, the procurement professional must have the used equipment examined by qualified personnel who will furnish a written certification as to the condition and value to the state entity. This certification should include good working condition for intended use, price comparisons to comparable used equipment, and substantial savings versus comparable new equipment. There must also be a letter from the supplier indicating the price for the used equipment and any warranty they might offer.

2.4. Step 3 - Selecting the Solicitation Method

In this step, the procurement professional must identify the best solicitation method. Solicitations are used by state entities to solicit offers from suppliers to sell goods or services. A solicitation may be cancelled by the state entity at any time and should not be construed as an order by the state entity to make any purchase or other commitment.

Approved solicitation methods are limited to Requests for Quotes (RFQ), Requests for Proposals (RFP), Requests for Qualified Contractors (RFQC), and Reverse Auctions. With the exception of reverse auctions and informal pricing requests for purchases less than $25,000, all solicitation methods are conducted through a formal sealed bidding process. In the formal sealed bidding process, suppliers' submitted offers are kept confidential and not opened by the state entity until after the solicitation has closed.

2.4.1. Request for Quotes

The *Request for Quotes* (RFQ) process is a competitive procurement method used by state entities to solicit bids for the supply of goods or services. In the RFQ process, the state entity prescribes both the specifications and solution to its own needs. The state entity should use an RFQ if the project lends itself to the creation of a clear and accurate specifications and the objective of the solicitation is to identify a supplier who can provide the required specifications at the lowest possible cost.

The RFQ process identifies the lowest priced responsive and responsible bidder(s) for contract award; provided, however, no contract award will be made to the bidder with the lowest cost if the state entity determines the low cost bidder cannot clearly perform the contract requirements. The following stages in this GPM define the steps for conducting an RFQ, beginning with Chapter 3 - Stage 3 - Solicitation Preparation, which identifies the resources and tools SPD has provided to assist in conducting RFQs.

2.4.2. Request for Proposals

A *Request for Proposals* (RFP) is a formal solicitation method that seeks to leverage the creativity and knowledge of business organizations in order to provide a solution to a unique procurement. Unlike the RFQ process in which the state prescribes both the specifications and solution to its own needs and suppliers replicate the state's specifications and solutions in the bids the suppliers submit, the RFP process allows suppliers to propose their own comprehensive and innovative solution to the state's needs described in the RFP. The RFP seeks to identify the "best value" for the state by using a combination of technical and cost factors to evaluate suppliers' proposals.

The state entity should use an RFP if the end user wishes to evaluate the experience of the supplier and the quality of the supplier response to either a clear and accurate statement of work or to identify a supplier who can offer the best possible solution to the state entity's identified needs. Additionally, an RFP should be used when the potential for amendments or refinement of scope may be required. The RFP process may only be used as a method of solicitation after a written determination has been made that the use of competitive sealed bidding (i.e., the RFQ process) will not be practicable or advantageous to the state entity.

Important

Unless SPD has granted delegated purchasing authority to the state entity to make the RFP certification on its own, or to use the Fast Track RFP Process, as detailed in Section 2.4.2.1., the state entity must submit a written request and justification to SPD for permission to issue and conduct the RFP. The following stages in this GPM define the steps for conducting an RFP, beginning with Chapter 3 - Stage 3 - Solicitation Preparation, which identifies the resources and tools SPD has provided to assist in conducting RFPs.

2.4.2.1. General Checklist for Use of the Fast Track RFP Process

The Fast Track RFP Process is designed for non-complex solicitations, typically under $ 250,000.00. Non-complex solicitations are considered to be projects that do not require extensive customization, pilot of functionality, or negotiations of technical requirements, and which can be completed within 6 months of contract award. Use the checklist in Table 2.8 to assist in the solicitation process using the Fast Track Process:

Table 2.8
Instructions for Conducting a Fast Track RFP Solicitation

Procedure	Guidelines
1. Complete SPD- PS021 Fast Track RFP Request for Approval and submit to process.improvement@doas.ga.gov	Upon approval from the SPD Deputy Commissioner, in writing, continue in the process.
2. Contact a minimum of 5 suppliers to determine that they are able to respond	If the majority of the identified suppliers cannot meet this timeframe, then the

Table 2.8 Instructions for Conducting a Fast Track RFP Solicitation	
Procedure	Guidelines
fully to the RFP and its worksheets and attachments within 15 calendar days of posting the solicitation.	Fast Track RFP Process should not be used.
3. The solicitation is posted using the State Entity RFP Template (SPD-SP015 or SPD-SP016), the worksheets generated by the Requirements Sheet for RFP, SPD-SP057, and all required forms used in the Solicitation Process as further detailed in Chapters 3 and 4. The solicitation will include one question and answer period, and will not include an offeror's conference or facilitated site visits.	Questions should be received within 5 calendar days of posting the solicitation and be answered within 2 business days of receipt.
4. Upon receipt of the Supplier's response to the solicitation, the Issuing Officer will complete the Administrative Review as further detailed in Chapter 5.	Suppliers who have submitted complete responses and all required forms will advance for evaluation.
5. An evaluation team composed of three (3) Entity employees will independently evaluate the Supplier's Responses prior to convening for a Validation Meeting.	The Supplier Technical Evaluation Template, SPD-EP007, is provided to the evaluation team with the proposals for their independent consideration, but is not required to be used or returned prior to the validation meeting.
6. Issuing Officer will convene a Validation Meeting of the Evaluation Team, and will facilitate the scoring of the proposals based on the independent scores provided by the Evaluation Team, using SPD-EP013 Master Technical Evaluation Form.	This document will serve as the official scoring mechanism for Fast Track RFPs.
7. The Issuing Officer will then open cost, combine the scoring of technical and cost components and identify the winning proposal. If Cost Negotiations are required, the APO/CUPO, who has a Negotiations Certificate, may conduct Cost Negotiation.* * Technical Negotiations are not part of the Fast Track RFP process.	The determination of the winning Supplier is contingent on their full compliance with all required documents and signature by the Supplier of the Contract.

Table 2.8 Instructions for Conducting a Fast Track RFP Solicitation	
Procedure	Guidelines
8. Issuing Officer will document the award amount, timeframe of the solicitation, and alert State Purchasing if either the dollar amount or timeframe exceeded the approved thresholds prior to Notice of Award.	Depending on the award amount, the Issuing Officer will use either the NOIA or NOA Process as specified in Chapter 6.

2.4.3. Request for Qualified Contractors

In accordance with (O.C.G.A.) Section 50-5-68, SPD has broad authority to administer a prequalification process for suppliers with respect to a particular service, good, material or equipment. In the prequalification process, the required qualifications are known and each supplier is judged on the supplier's ability to meet or surpass the required qualifications. The primary intent of the prequalification process is to identify multiple qualified sources of supply. SPD may use or authorize state entities to use the Request for Qualified Contractors (RFQC) process to facilitate prequalification of suppliers. The best use of the prequalification or RFQC process may vary depending on a variety of factors, such as the frequency or duration of the state entity's needs and the manner in which the service, goods, materials or equipment are provided. Without limiting the broad authority to identify reasonable prequalification methods, SPD has preapproved one standard method of using the RFQC process as further described below.

2.4.3.1. Standard RFQC Method

In the standard method of using the RFQC, the procurement professional issues an RFQC to solicit responses from qualified suppliers. Suppliers are evaluated based on their ability to meet or exceed the identified qualification criteria. The results of the prequalification process are published. The resulting list of qualified suppliers, if any, is not a contract award and does not guarantee any future work. However, the qualified suppliers are eligible to submit a response to any future RFQs or RFPs issued by that state entity for the particular service, good, material or equipment for which the supplier has been prequalified to provide. The following stages in this GPM define the steps for conducting the standard RFQC method, beginning with Chapter 3 - Stage 3 - Solicitation Preparation, which identifies the resources and tools SPD has provided to assist in conducting the standard RFQC.

2.4.3.2. Other Prequalification Methods

Other methods of prequalification or use of the RFQC process are not necessarily prohibited but do require prior approval from the State Purchasing Division Deputy

Commissioner or his/her designee. To request approval to conduct a different pre-qualification process or to use the RFQC process in a different manner, the procurement professional must submit a written request via email to processimprovement@doas.ga.gov.

2.4.4. Reverse Auctions

Reverse auctions may be used as a form of competitive bidding and as an alternative to sealed bidding. The reverse auction process allows the suppliers to see the lowest bid, but not the identities of the bidders during the bidding process. No state entity may conduct a reverse auction without prior approval from SPD. Once the reverse auction is closed, the bids are evaluated and contract award, if any, is made to the lowest responsive and responsible bidder. Reverse auctions cannot be used for procurement of construction-related procurements or for any contract for goods or services valued at less than $100,000.00.

2.5. Step 4 - Addressing Delegated Purchasing Authority

After analyzing the purchasing need, addressing any market constraints and selecting the solicitation method, the procurement professional possesses the necessary information to determine whether the solicitation can be processed within the state entity's delegated purchasing authority. If the dollar amount of the purchase is within the state entity's delegated purchasing authority, then the procurement professional may begin to prepare the solicitation as further described in Chapter 3 - Stage 3 - Solicitation Preparation. However, if the dollar amount of the purchase exceeds the state entity's delegated purchasing authority, the solicitation must be processed by SPD unless the state entity requests and receives approval to exceed the state entity's delegated purchasing authority as explained below.

Procedure

In the event the solicitation will be processed by SPD, the procurement professional must prepare and submit a requisition to SPD as described in Section 2.5.1. - Issuing Requisitions to SPD. In the alternative, the procurement professional may elect to request permission to conduct the competitive solicitation by following the procedures outlined in Section 2.5.2. - One-Time Request to Exceed Delegated Purchasing Authority.

2.5.1. Issuing Requisitions to SPD

In the event the solicitation will be processed by SPD, the procurement professional must prepare and submit a requisition along with other pertinent documentation, including specifications, to SPD. Users of Team Georgia Marketplace™ will use the requisition creation functionality within the tool. For those state entities not using

Team Georgia Marketplace™ but using the State Accounting Office's PeopleSoft system, the procurement professional must use SPD-PS015 eRequisition Submission Form. The procurement professional should review SPD-PS015a eRequisition Submission Form – Instructions for assistance in completing the requisition. All other procurement professionals must use form SPD-PS016 Purchase Requisition Form.

Requisitions submitted to SPD must contain adequate specifications/descriptions, validated budget, approval, and all other information pertinent to the procurement. SPD will review the requisition and other documentation submitted by the state entity for completeness. SPD may elect to delegate authority to the state entity's procurement professional to conduct the solicitation. Otherwise, SPD will coordinate with the state entity throughout the solicitation process until a contract has been awarded.

2.5.2. One Time Request to Exceed Delegated Purchasing Authority

Procedure

If the state entity desires to request permission from SPD to exceed the state entity's delegated purchasing authority, the procurement professional must complete and submit form SPD-OP007 One-Time Request to Exceed Delegated Purchasing Authority to SPD in accordance with the instructions contained on the form.

2.6. Step 5 – Planning the Solicitation

By completing the preceding four steps, the procurement professional has completed several key steps in planning the solicitation process. The next chapters of this manual will provide additional guidance on the steps to complete the solicitation. However, for complex RFPs, SPD strongly recommends using SPD's project planning templates:

Table 2.9 Project Plans	
State entities	SPD-PS023 State Entity RFX Project Plan
SPD	SPD-PS010 SWC RFX Project Plan

Stage 3 – Solicitation Preparation

This chapter describes the Solicitation Preparation stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Solicitation Preparation stage are:

- Reviewing Use of Consultants
- Understanding sourcing tools
- Selecting solicitation templates
- Constructing solicitation and evaluation documents
- Selecting contract templates

Table 3.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-SP001 Statewide Contract eRFP Template		•
SPD-SP002 Statewide Contract eRFQ Template		•
SPD-SP003 Statewide Contract eRFQC Template		•
SPD-SP006 Statewide Contract for Goods and Ancillary Services		•
SPD-SP007 Statewide Contract for Services		•
SPD-SP008 Statewide Contract for Software		•
SPD-SP009 Statewide Contract for Equipment Rental or Lease		•
SPD-SP012 Certification of Non-Collusion	•	
SPD-SP013 Georgia Resident and Small Business Verification Form	•	•
SPD-SP014 Checklist for Bid Posting Times and Protest Filings	•	•
SPD-SP015 State Entity RFP Template	•	

Table 3.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-SP016 State Entity eRFP Template	●	
SPD-SP017 State Entity RFQ Template	●	
SPD-SP018 State Entity eRFQ Template	●	
SPD-SP019 State Entity RFQC Template	●	
SPD-SP020 State Entity eRFQC Template	●	
SPD-SP023 State Entity Contract for Goods and Ancillary Services – Open	●	
SPD-SP024 State Entity Contract for Goods and Ancillary Services – Fixed	●	
SPD-SP025 State Entity Contract for Services	●	
SPD-SP026 State Entity Contract for Software	●	
SPD-SP027 State Entity Contract for Equipment Rental/Lease	●	
SPD-SP028 eSource Contract Terms	●	
SPD-SP030 Facilitated Session Sign-in Form	●	●
SPD-SP033 Facilitated Session Guide Template	●	●
SPD-SP036 Request for Supplier Training	●	●
SPD-SP039 Evaluation Committee Member Participation Form	●	●
SPD-SP040 Consultant Confidentiality and Disclosure Agreement Form	●	●
SPD-SP042 Supplier General Information Worksheet	●*	●*
SPD-SP045 Tax Compliance Form	●	●
SPD-SP048 Insurance and Bonding Guidelines	●	●
SPD-SP051 RFP Preparation Scorecard	●	●
SPD-SP057 Requirements Sheet for RFP or Scored RFQC	●	●

*This form should only be used if the procurement professional is posting a solicitation directly to the Georgia Procurement Registry. Solicitations posted electronically through Team Georgia Marketplace™ or eSource will capture this information in the system from the supplier with each bid response.

3.1. Introduction to the Solicitation Preparation Stage

By proceeding to Chapter 3 - Stage 3 - Solicitation Preparation, the procurement professional has identified stakeholders and critical business requirements, conducted market analysis and selected the best solicitation method to acquire the needed goods/services. Chapter 3 - Stage 3 - Solicitation Preparation provides a brief overview of the sourcing tools used by SPD and state entities to solicit electronic bids and proposals. In this stage, the procurement professional will first identify the appropriate sourcing tool and then the applicable solicitation template. The procurement

professional will also construct the solicitation, develop the evaluation criteria, and select a contract template as applicable working in conjunction with the cross-functional and the evaluation teams. If the procurement professional anticipates using the services of a consultant to draft the solicitation, the procurement professional must first review Section 3.2. - Using Third Party Consultants.

3.2. Using Third-Party Consultants

Solicitations which have highly technical or complex requirements may require additional support from a third-party consultant to assist in the development of the solicitation. *A third-party consultant* is an individual or company that is paid or unpaid to develop or draft specifications, or requirements for utilization in a solicitation. Third-party consultants may also serve in a consultative role during the evaluation and negotiation process.

Procedure

Third-party consultants who participate in this process will be required to complete and submit the Consultant Confidentiality and Disclosure Agreement Form, SPD-SP040, to ensure no individual has an impermissible conflict of interest and that confidential or proprietary materials are maintained in a secure manner as specified in the agreement. The procurement professional will also use the agreement form to provide notification in writing to the affected contractor/company of their ineligibility to participate in the solicitation or subsequent work resulting from that contract. Employees of a third-party consultant who are participating in the process are also required to complete and submit the General Confidentiality Form, SPD-EP026.

In such instance where a third-party consultant is utilized, the Entity must conduct the solicitation process and remain as the decision maker based on the input of the third-party consultant.

Any third-party consultant who develops or drafts specifications or requirements of a solicitation document will be prohibited from submitting a bid/proposal in response to that solicitation, serving as an Evaluation Committee member (scoring the proposals), conducting the subsequent negotiation process, or from otherwise performing work on any contract or subcontract directly resulting from that particular solicitation document, unless the State Purchasing Division Deputy Commissioner expressly waives this restriction in writing. Any request for such a waiver must be submitted to SPD in writing via email at processimprovement@doas.ga.gov.

Nothing in this section prohibits the procurement professional from soliciting information or preliminary market research from suppliers or third-party consultants through the RFI process or other means; however, the procurement professional is cautioned not to rely on any one supplier to provide information to assist in the development of the solicitation.

3.3. Understanding Sourcing Tools

SPD may authorize state entities to solicit bids and proposals from suppliers to be submitted non-electronically (e.g. bids/proposals are packaged and delivered to a physical location) or electronically (e.g. bids/proposals are transmitted electronically through an approved SPD sourcing tool). Sourcing tool refers to software permitting a state entity to receive bids and proposals by way of the Internet or other electronic means. The advertisement of the solicitations requiring electronic submission of bids and proposals will be publicly posted in accordance with the provisions of this manual, with directions on how to obtain access to the solicitation. All such solicitations will be administered pursuant to the Uniform Electronic Transactions Act (O.C.G.A.) 10-12-1 et seq. Through use of an SPD approved sourcing tool, an electronic record meets any requirements for writing and an electronic signature meets any requirements for an original signature; provided, however, SPD may require or allow some documents to be submitted in "hard copy" (paper form) with original signatures. All public electronic records are subject to inspection under the provisions of the (O.C.G.A.) Section 50-18-70 through (O.C.G.A.) Section 50-18-77.

Sourcing tools must comply with security standards established by Georgia Technology Authority (GTA) and accommodate any and all of SPD's applicable procurement rules, such as the formal sealed bidding process defined in Chapter 2 - Stage 2 - Pre-Solicitation.

Procedure

The following sourcing tools have been approved by SPD and the use of any sourcing tools other than those identified herein must be approved by the State Purchasing Division Deputy Commissioner. The procurement professional must submit any such request in writing to SPD via email to processimprovement@doas.ga.gov.

3.3.1. eSource

eSource is a software technology that simplifies the bidding process by enabling electronic responses from suppliers, reducing paper documents received, and automating the cost evaluation process for simple RFQs. All solicitations posted to eSource are automatically publicly advertised on the GPR.

Supplier

Suppliers should review Chapter 4 – Stage 4 - Solicitation Process for information regarding accessing and responding to solicitations available through eSource. Bids or proposals delivered via fax, email, mail or any other manner other than through eSource will not be accepted.

Procedure For all state entities not using Team Georgia Marketplace™, use of eSource is mandatory for all RFQs (including RFQs designated as sole brand) and RFPs unless the State Purchasing Division Deputy Commissioner grants an exception. Requests for exceptions must be submitted in writing to SPD via email at processimprovement@doas.ga.gov. The procurement professional has the discretion to use eSource to post RFIs and RFQCs.

Important eSource cannot be used to post sole source notices or consortia/cooperative notices. Instead, these notices must be posted directly to the GPR.

3.3.2. Team Georgia Marketplace™

Team Georgia Marketplace™ is provided by SPD and its partners and serves as an online tool to support various state purchasing functions, including registration of suppliers, advertisement of procurement solicitations and contract opportunities, electronic bidding, and contracts management. All solicitations posted to Team Georgia Marketplace™ are automatically publicly advertised on the GPR.

Supplier Suppliers should review Chapter 4 – Stage 4 - Solicitation Process for information regarding accessing and responding to solicitations available through Team Georgia Marketplace™. Except as expressly stated otherwise in the solicitation, responses to solicitations posted in Team Georgia Marketplace™ must be submitted through the system; bids or proposals delivered via fax, email, mail or any other manner other than through Team Georgia Marketplace™ will not be accepted.

SPD intends Team Georgia Marketplace™ to be the primary vehicle for all solicitations conducted by SPD as well as by all state entities that are using the State Accounting Office version of PeopleSoft Financials. SPD will work with all eligible state entities to develop the knowledge and skills necessary to successfully use Team Georgia Marketplace™ and establish a date for each participating state entity to begin conducting all solicitations in Team Georgia Marketplace™. All procurement professionals should familiarize themselves with Team Georgia Marketplace™ forms since any solicitations conducted by SPD on the state entity's behalf must be prepared using these forms.

Procedure For those state entities currently using Team Georgia Marketplace™, the use of Team Georgia Marketplace™ is mandatory for all RFQs, RFQCs, RFPs, and RFIs unless SPD grants an exception. Requests for exceptions must be submitted in writing to SPD via email at processimprovement@doas.ga.gov.

Important NOTE: Sole source and consortia/cooperative purchase notices must be posted directly to the GPR.

3.4. Selecting the Correct Solicitation Template

Procedure

Once the procurement professional has determined which sourcing tool will be used, the procurement professional can select the approved solicitation template. The state entity's use of SPD's approved solicitation templates and related forms is mandatory unless a written exception has been granted by the State Purchasing Division Deputy Commissioner. Requests for exceptions must be submitted in writing to SPD via email at processimprovement@doas.ga.gov. Use Table 3.2, Table 3.3 and Table 3.4 to identify the corresponding templates and forms. All SPD approved templates and forms referenced within this chapter are available from SPD's Seven Stages of Procurement web page. SPD's templates should not be used for solicitations which are not governed by this manual as the templates are based on the policy in this manual and include references to specific processes administered by SPD, such as the protest process defined in Chapter 6 - Stage 6 - Award Process.

Table 3.2
Solicitation Templates Team Georgia Marketplace™ and eSource Forms for State Entities

If the Solicitation Type is…	Then, use the following State Entity Form(s)
Request for Quotes	SPD-SP018 State Entity eRFQ Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQs or non-scored RFQCs* SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)
Request for Proposals	SPD-SP016 State Entity eRFP Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP057 Requirements Sheet for RFPs and scored RFQCs* SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)

Table 3.2 Solicitation Templates Team Georgia Marketplace™ and eSource Forms for State Entities	
If the Solicitation Type is…	Then, use the following State Entity Form(s)
Request for Qualified Contractors	SPD-SP020 State Entity eRFQC Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQs or non-scored RFQs* (as applicable) SPD-SP057 Requirements Sheet for RFPs or scored RFQCs* (as applicable) SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)

* The procurement professional will use the applicable Requirements Sheet to create the individual spreadsheets that will contain the Mandatory requirements, Mandatory Scored requirements, and/or Additional Scored requirements. The Requirements Sheet is not to be posted as part of the solicitation.

Table 3.3 Non-electronic Forms for State Entities	
If the Solicitation Type is…	Then, use the following State Entity Form(s)
Request for Quotes	SPD-SP017 State Entity RFQ Template SPD-SP012 Certification of Non-Collusion SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQ or Non-Scored RFQC* SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)
Request for Proposals	SPD-SP015 State Entity RFP Template SPD-SP012 Certification of Non-Collusion SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps)

Table 3.3 Non-electronic Forms for State Entities	
If the Solicitation Type is…	Then, use the following State Entity Form(s)
	Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP057 Requirements Sheet for RFP or Scored RFQC* SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)
Request for Qualified Contractors	SPD-SP019 State Entity RFQC Template SPD-SP012 Certification of Non-Collusion SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQ or Non-Scored RFQC* (as applicable) SPD-SP057 Requirements Sheet for RFP or Scored RFQC* (as applicable) SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)

* The procurement professional will use the applicable Requirements Sheet to create the individual spreadsheets that will contain the Mandatory requirements, Mandatory Scored requirements, and/or Additional Scored requirements. The Requirements Sheet is not to be posted as part of the solicitation.

Table 3.4 SPD's Statewide Contract Template Forms For Team Georgia Marketplace	
If the Solicitation Type is…	Then, use the following SPD Form
Request for Quotes	SPD-SP002 Statewide Contract eRFQ Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQ or Non-Scored RFQC* SPD-SP059a Instructions for Requirements

Table 3.4 SPD's Statewide Contract Template Forms For Team Georgia Marketplace	
If the Solicitation Type is…	Then, use the following SPD Form
	Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)
Request for Proposals	SPD-SP001 Statewide Contract eRFP Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP057 Requirements Sheet for RFP or Scored RFQC* SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)
Request for Qualified Contractors	SPD-SP003 Statewide Contract eRFQC Template SPD-SP042 Supplier General Information Worksheet (as needed; See Key Steps) Immigration and Security Form (as needed; See Section 3.5.1.3.) SPD-SP058 Requirements Sheet for RFQ or Non-Scored RFQC* (as applicable) SPD-SP057 Requirements Sheet for RFP or Scored RFQC* (as applicable) SPD-SP059a Instructions for Requirements Sheet (Excel 2003) SPD-SP059b Instructions for Requirements Sheet (Excel 2007)

* The procurement professional will use the applicable Requirements Sheet to create the individual spreadsheets that will contain the Mandatory requirements, Mandatory Scored requirements, and/or Additional Scored requirements. The Requirements Sheet is not to be posted as part of the solicitation.

3.5. Constructing the Solicitation

After selecting the appropriate solicitation template from the tables provided in Section 3.4. - Selecting the Correct Solicitation Template, the procurement professional

will begin the process of constructing the solicitation. SPD's approved solicitation templates include instructions to assist the procurement professional in developing the solicitation. However, the following subsections have been provided to describe various solicitation requirements and to offer additional guidance in the development of solicitations.

3.5.1. General Instructions and Administrative Requirements

Procedure

Each solicitation will contain general instructions to the supplier regarding the supplier's preparation and submission of its response. At a minimum, the solicitation must identify:

- The issuing officer assigned to administer the solicitation process,
- How responses to the solicitation should be submitted,
- What information must be submitted,
- The period of time the supplier's offer must be held open and
- The due date and time for submitting responses.

The state entity's identified issuing officer must be familiar with the procurement process and capable of answering general questions regarding the solicitation. In addition to naming the issuing officer, the solicitation template will prompt the procurement professional to identify general contact information for the issuing officer, such as a telephone number or email address. In the event the state entity is not using a sourcing tool, the non-electronic solicitation templates' submission instructions must include the address of the office in which suppliers' responses are to be received.

SPD refers to the general instructions regarding the supplier's preparation and submission of its response as administrative requirements. Other examples of administrative requirements include general information the supplier may be required to disclose or certifications the supplier may be required to sign.

3.5.1.1. Certificate of Non-Collusion

Supplier

(O.C.G.A.) Section 50-5-67 requires suppliers to certify during the bidding process that collusive bidding (i.e., fixed bidding or other agreements between suppliers to "rig" the bidding process) has not occurred. Therefore, the solicitation must contain a *certificate of non-collusion*, which must be signed by an authorized representative of the supplier. Such person must include his or her title and, if requested, must supply verification of authority to bind the company in contract.

The certificate of non-collusion states: "I certify that this bid (proposal) is made prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid (proposal) for the same materials, supplies, or equipment, and is in all

respects fair and without collusion or fraud. I understand that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this bid (proposal), and certify that I am authorized to sign this bid (proposal) for the bidder (offeror)".

eSource has been automated to include a prompt that requires suppliers to certify that collusion has not occurred prior to submitting a response within eSource. However, for any solicitations sourced through Team Georgia Marketplace™ or posted directly to the GPR, the procurement professional must direct the supplier to make a certification of non-collusion. The procurement professional should use SPD-SP012 Certification of Non-Collusion or any other method approved by SPD.

3.5.1.2. Tax Compliance

Procedure

Prior to awarding any contract exceeding $100,000.00, the state entity must verify through the Department of Revenue (DOR) that the selected supplier (including any of the supplier's affiliates) is not a prohibited source as defined by (O.C.G.A.) Section 50-5-82. The state entity must require the supplier to complete SPD-SP045 Tax Compliance Form. For all competitive solicitations posted directly to the Georgia Procurement Registry, the procurement professional must attach SPD-SP042 Supplier General Information Worksheet* to prompt each supplier to respond to this requirement.

Procedure

The completed tax compliance form must be submitted by the state entity to DOR at the following email address: tsd-state-contractors@dor.ga.gov. DOR will respond in writing to the state entity within three business days of its receipt of the completed form. In the event the supplier is approved by DOR, the state entity may proceed with the procurement process. In addition to initial contract award, the supplier's continued tax compliance will be a factor in the state entity's decision to renew any multi-year agreements.

Supplier

Each supplier is strongly encouraged to check its tax status and resolve any outstanding tax liabilities prior to participating in a solicitation. DOR has identified their website as a source to allow suppliers to check current tax status.

* This form should only be used if the procurement professional is posting a solicitation directly to the Georgia Procurement Registry. Solicitations posted electronically through Team Georgia Marketplace™ or eSource will capture this information in the system from the supplier with each bid response.

3.5.1.3. Immigration and Security Compliance – Service Contracts

Supplier

Suppliers and state entities shall comply with the requirements of (O.C.G.A.) §13-10-90 et seq. Additional information regarding Immigration and Security Compliance can be found on the Georgia Department of Audits and Accounts website.

3.5.1.4. Scrutinized Company

Supplier

Any supplier that has, or has had within the last three years, any business activities or other operations outside of the United States must certify that it is not a "*scrutinized company*". A "*scrutinized company*" is a company conducting business operations in Sudan that is involved in power production activities, mineral extraction activities, oilrelated activities, or the production of military equipment, but excludes a company which can demonstrate any of the exceptions noted in (O.C.G.A.) Section 50-5-84. For all competitive solicitations posted directly to the Georgia Procurement Registry, the procurement professional must attach SPD-SP042 Supplier General Information Worksheet* to capture the supplier's certification regarding its status.

If the supplier is a "scrutinized company", the supplier shall not be eligible to bid on or submit a proposal for a contract with the state entity unless SPD makes a determination in accordance with (O.C.G.A.) Section 50-5-84 that it is in the best interest of the state to permit the scrutinized company to submit a bid or proposal. Any scrutinized company desiring SPD to make such a determination must contact SPD in writing via email at processimprovement@doas.ga.gov. The written request must include the company's name, a description of the request, and identification of the solicitation to which the supplier desires to submit a response.

Procedure

False certification by a supplier as to its status as a scrutinized company may result in civil penalties, contract termination, ineligibility to bid on state contracts for three or more years, and/or any other available remedy. In the event the procurement professional has reason to believe a supplier has made a false certification, the procurement professional must report the information to SPD by submitting an email to processimprovement@doas.ga.gov.

* This form should only be used if the procurement professional is posting a solicitation directly to the Georgia Procurement Registry. Solicitations posted electronically through Team Georgia Marketplace™ or eSource will capture this information in the system from the supplier with each bid response.

3.5.1.5. Small or Minority Businesses

All solicitations must include statements encouraging minority business participation and statements encouraging majority businesses to subcontract with minority businesses. Solicitations should also include notification of the income tax credit that is available to any business that subcontracts with a minority-owned business. Examples of both of these statements are already included in SPD's approved solicitation templates.

For information gathering purposes, SPD and/or the state entity may request the supplier to identify whether the supplier may be considered a small or minority business in accordance with Georgia law. For all competitive solicitations posted directly to the Georgia Procurement Registry, the procurement professional must attach SPD-SP042 Supplier General Information Worksheet* to capture the supplier's certification regarding its status. For additional information regarding the state of Georgia's policy with

respect to small and minority businesses, refer too Section I.3.5. - Small and Minority Businesses.

*This form should only be used if the procurement professional is posting a solicitation directly to the Georgia Procurement Registry. Solicitations posted electronically through Team Georgia Marketplace™ or eSource will capture this information in the system from the supplier with each bid response.

3.5.1.6. Georgia Resident Business, Small Business or Georgia Resident Small Business

Where deemed appropriate by the Issuing Officer, based on relevant considerations including market research and funding source, solicitations should include statements encouraging Georgia Resident Business, Small Business, or Georgia Resident Small Business participation, specify the use of an additional scored question, and completion of SPD-SP013 Georgia Resident and Small Business Verification Form, as applicable, to receive not more than 5% of the total available points.

3.5.1.7. Anti-Boycott of Israel

A state entity shall not enter into a contract with an individual or company if the contract is related to construction or the provision of services, supplies, or information technology unless the contract includes a written certification that such individual or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel: "Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel, as defined in (O.C.G.A.) Section 50-5-85."

In accordance with (O.C.G.A.) Section 50-5-85, this requirement shall not apply to contracts with a total value of less than $1,000.00.

3.5.2. Schedule of Events

All solicitations are organized by a schedule of events, which is a list of activities and corresponding dates. For example, each solicitation, at a minimum, will have a posting date (i.e., the date the solicitation is first publicly posted) as well as a closing date (i.e., the deadline for suppliers to submit a final response). Additional scheduled activities may include, but are not limited to, receiving and answering suppliers' questions or conducting an offerors' or pre-bid conference. Developing and posting a schedule of events with the solicitation is recommended if there are key activity dates other than the posting and closing dates for the solicitation; however, at a minimum, the solicitation must clearly identify any deadlines the supplier is required to observe.

3.5.2.1. Posting and Closing Dates

The posting and closing dates of a solicitation are used to determine the total public posting period. Solicitations must remain publicly posted for a minimum period of time depending on the estimated dollar value of the contract. The procurement professional may increase the posting time period as needed.

Table 3.5 Public Posting Guidelines	
If the Estimated Contract Value is…	Then, the Posting Period is…
Up to $24,999.99	0 Days (No competitive bid posting is required)
$25,000 - $99,999.99	Minimum of Three (3) Business Days
$100,000 - $249,999.99	Minimum of Five (5) Business Days NOTE: GA Law mandates NOIA is to be posted for all bids $100,000 or greater.
$250,000 or more	Minimum of Fifteen (15) Calendar Days (mandated by Georgia law)
All solicitations for construction/public works contracts	Minimum of Thirty (30) Calendar Days (mandated by Georgia law)

A Checklist for Bid Posting Times and Protest Filings, SPD-SP014, can be viewed on the DOAS State Purchasing web site for more details.

Important NOTE: Public posting guidelines for sole source notices are described in Section 2.3.2.2. Conducting Sole Source Purchases.

Important NOTE: Public posting guidelines for consortia and cooperative purchases are described in Section 1.3.4.4. Consortia or Cooperative Purchasing.

Procedure In determining the appropriate posting period, the procurement professional must consider the complexity of the solicitation and an appropriate period of time for a supplier to review the solicitation, ask questions, and prepare a sufficient response. In the event the procurement professional desires to post a solicitation for less than the minimum posting period, the procurement professional must first submit a written request with detailed justification for such shorter posting period and receive written approval from SPD prior to proceeding with the shorter posting period. Requests for approval must be submitted in writing to SPD via email at processimprovement@doas.ga.gov. SPD will not approve any requested posting period which does not conform to the State Purchasing Act (O.C.G.A.) Section 50-5-67. The written approval and justification for a posting period of shorter duration than the minimum posting period must be maintained as part of the procurement file.

The GPR is the official public notice of the posting and closing dates for a solicitation and, in the event of any conflict between the GPR and the solicitation documents or any other communication regarding the applicable closing date and time, the GPR will govern.

3.5.2.2. Supplier Questions

SPD strongly recommends that each procurement professional's solicitation identify a period of time for suppliers to submit written questions prior to the close of the solicitation as well as a deadline for the state entity to respond to those questions. If a timeframe is identified, then the procurement professional must provide a written response to all timely questions by posting both the suppliers' questions and the state entity's written responses to the solicitation prior to the solicitation closing date. Identifying a period of time to receive suppliers' questions is a critical step in effectively managing the procurement process as the procurement professional is expected to manage multiple solicitations in addition to performing other tasks. By identifying a deadline for receiving questions, the procurement professional can ensure that sufficient time is reserved to respond to supplier questions. Responding to timely submitted supplier questions is also critical to ensure suppliers have the necessary information to provide competitive bids which are responsive to the state entity's stated needs. Finally, by posting both the suppliers' questions and the state entity's responses, all suppliers share equally in the available information.

3.5.2.3. Offerors' or Pre-bid Conferences/Site Visits

The procurement professional may elect to conduct a public meeting prior to the closing date of the solicitation to distribute information. These public meetings are commonly referred to as *pre-bid* or *offerors' conferences*. *Pre-bid/Offerors' conferences* may be conducted for the purpose of allowing suppliers to participate in a site visit to the physical location where services will be performed, such as the site for new construction or the building where janitorial services will be performed. The solicitation must identify any such public meeting and define whether or not a supplier's attendance at such public meeting is mandatory (i.e., required for the supplier to be considered eligible to submit a response to the solicitation).

Procedure

The procurement professional must schedule any such public meeting to occur no less than seven business days prior to the solicitation closing date. There is no requirement that a state entity host an offerors' or pre-bid conference for every solicitation; however, in determining whether or not to host an offerors' or pre-bid conference, the procurement professional must consider whether there is critical information which cannot be adequately conveyed through the solicitation but could be provided at the offerors' conference. For example, SPD strongly encourages site visits in the event the state entity is contracting for construction services or will be permitting a third party to operate a state-owned facility. If a site visit is not necessary, the procurement professional may conduct the offerors' or pre-bid conference as a virtual meeting online provided conducting the meeting in this fashion would not create an undue hardship for any supplier desiring to attend.

3.5.2.3.1. Mandatory Attendance

The procurement professional must use caution in determining whether or not attendance should be mandatory. In the event the solicitation does not specifically state that attendance is mandatory, attendance is considered optional. It is best practice to document attendance at any conference; however, at a minimum, the issuing officer must document suppliers' attendance at a mandatory conference (e.g. utilize a sign-in sheet), including noting the time of arrival and/or departure of any suppliers arriving late or leaving early. In the event suppliers' attendance to a mandatory conference is poor, the issuing officer must consider whether it is in the best interests of the state entity to hold an additional "make-up" conference and/or amend the solicitation to designate attendance as optional. In any event, any revision must be published in writing prior to the solicitation closing date and time as further described in Chapter 4 - Stage 4 - Solicitation Process.

3.5.2.3.2. Encouraging Suppliers' Attendance

To facilitate suppliers' attendance (whether or not attendance is mandatory), the procurement professional must ensure there is a reasonable time period between the following:

1. When public notice of the meeting is provided
2. When the meeting actually occurs

It is best practice that a conference would be conducted no later than seven business days prior to the closing date and time of the solicitation as the conference may generate additional supplier questions and/or revisions to the solicitation. The procurement professional should provide information which will assist suppliers in attending the conference. For example, the procurement professional should consider providing driving directions, information about available parking, whether picture ID is required to gain admittance, etc. The procurement professional's documentation of attendance is discussed in Chapter 4 - Stage 4 - Solicitation Process.

3.5.2.3.3. Conference Information

The state entity, at its discretion, may arrange for recordings or transcripts of such public meetings to be made. At a minimum, sufficiently detailed notes should be taken with specific attention to noting all questions so that written answers can be posted to the solicitation. Notes, recordings or transcripts will be available to suppliers' upon request in accordance with Section I.6. - Public Access to Procurement Information. Statements made by representatives of the state entity at public meetings are not binding and any revisions to solicitation requirements must be made by the procurement professional in writing and posted with the solicitation as further described in Chapter 4 - Stage 4 - Solicitation Process.

For solicitations conducted through Team Georgia Marketplace™, the procurement professional may desire to use a public meeting to provide training to assist suppliers in submitting electronic responses. If so, the procurement professional must first submit a request for training assistance to SPD using SPD-SP036 Request for Supplier Training.

3.5.2.4. Public Opening

For solicitations to establish construction or public works contracts, the state entity, at its discretion, may conduct public openings. Public openings permit members of the public to be present on the date and time the bids are due at a location identified by the state entity to listen to the state entity's reading of the names of the suppliers submitting bids as well as the pricing submitted by those suppliers. For all other solicitations, the names of the suppliers submitting responses as well as the contract award amount are announced by the state entity through its posting of a Notice of Intent to Award (SPD-AP004 - Notice of Intent to Award) or Notice of Award (SPD-AP005 - Notice of Award) to the GPR as further described in Chapter 6 – Stage 6 - Award Process.

3.5.2.5. Product Demonstrations and Oral Presentations

The procurement professional may also schedule product demonstrations and/or oral presentations in which suppliers provide additional information regarding their proposed products or services after the solicitation has closed. Additional guidance regarding the proper way to conduct demonstrations and oral presentations is addressed in Chapter 5 – Stage 5 - Evaluation Process.

3.5.2.6. Negotiations

For RFPs, the Schedule of Events may also include a reference to a period of time allocated to conducting one or more rounds of negotiations, if desired, with select suppliers. This negotiation process is described in more detail in Chapter 5 - Stage 5 - Evaluation Process.

3.5.3. Scope Description/Purpose of the Procurement

The solicitation should include a general statement regarding the state entity's need so that suppliers may quickly identify the purpose of the solicitation. The solicitation must clearly identify any minimum requirements. The procurement professional should conduct a working session with stakeholders to fully develop all critical business requirements identified in Chapter 2 - Stage 2 - Pre-Solicitation. To assist in this working session, the procurement professional should use SPD-SP033 Facilitated Session Guide Template and SPD-SP030 Facilitated Session Sign-in Form.

3.5.4. Supplier Qualification Requirements

Whether the state entity intends to prequalify suppliers (through use of the RFQC process or other SPD-approved methods) or review suppliers' qualifications as part of evaluating the supplier's response to an RFQ or RFP, the solicitation must identify any relevant qualifications required to perform under the resulting contract, such as previous business experience or licensure requirements. The procurement professional must ensure that identified qualification requirements do not unreasonably or unnecessarily restrict competition.

3.5.5. Product Specifications and Performance Requirements

The majority of the procurement professional's time preparing the solicitation should be allocated to drafting the specifications, requirements or key questions for the solicitation. The procurement professional should use concise, logical wording in precise terms while drafting the solicitation. Use the words "*shall*", "*must*" or "*is required*" to identify mandatory (essential) requirements within a solicitation. The words "*may*" or "*should*" may be used to identify optional (conditional) requirements sometimes referred to as desirable requirements. RFQs and RFPs are addressed separately as noted below.

3.5.5.1. RFQ Specifications and Requirements

For RFQs, identifying the minimum products and/or service requirements may include use of any of the following: performance specifications, design specifications, references to particular products for reference purposes, use of qualified products lists, and performance and service requirements. To be considered responsive, the supplier's bid must meet all of the identified specifications and requirements. Therefore, the procurement professional must use caution in developing and writing specifications and requirements to ensure competition is not unreasonably or unnecessarily restricted.

3.5.5.1.1. Performance Specifications

Performance specifications are based on the expected result, or performance, of a product or service or the minimum acceptable level of performance. The technical

specifications may include a description of the functional requirements of the end user. Neither the manufacturing process nor product composition is specified, but is left to the supplier to decide the best way to meet or exceed the requirements. This type of specification assures compliance with requirements and, in case of failure, the responsibility lies with the contractor. In addition, if specified in the solicitation, it assures inclusion of all applicable new product developments.

3.5.5.1.2. Design Specifications

Design specifications focus on how a product is made rather than what it does. Design specifications frequently use physical dimensions to describe the product. When at all possible, group terms (such as type, grade, class, and composition) should be used to designate items, and if further clarification is needed, then specify classifications (such as style, color, form, weight, and size) suitable for reference. In considering whether to use design specifications in an RFQ, the procurement professional should note design specifications tend to restrict competition and, in cases of failure, the responsibility lies with the state entity. In addition, the cost of inspection to assure compliance with the design requirements may be costly.

3.5.5.1.3. Brand or Trade Name

The procurement professional may elect to reference one or more specific products through reference to the brand name and model number to designate a specific product of a manufacturer as an example of the quality level of materials and workmanship desired and/or functionality needed. When used, brand-name specifications should indicate that the brand is used merely as a reference and not as a statement of a preference for the specific product cited. Therefore, the procurement professional must always insert the phrase "*approved equal*" after the referenced brand name and model number to indicate that items equivalent in quality to the specified brand names will be acceptable. If possible, more than one specific product should be used. In addition, brand names used should be known throughout the industry or have specifications that are readily available. Finally, if using one or more specific products as references, the RFQ must name the specific characteristics which are to be used in comparing brands and determining the award. This is accomplished by determining the minimum acceptable requirement levels or tolerances for the following: significant features, performance, quality, service availability, and compatibility. The procurement professional's use of manufacturer's descriptive literature (cut sheets) is not acceptable. If the procurement professional has determined the RFQ must be posted as a sole brand, then the provisions of Section 2.3.1. - Sole-Brand Solicitation are applicable.

3.5.5.1.4. Qualified Products Lists and Approved Brands Lists

The RFQ may, as applicable, include a reference to a Qualified Products List (QPL) established by the state entity. QPLs are lists of products maintained by a state entity

that meet established specifications. Manufacturers submit products for comparison and/or testing to the established specification. If the product meets the specification criteria, the product and model number are then approved for the list. When an RFQ is subsequently issued by the state entity, only those products listed on the QPL are considered for award. An Approved Brands List (ABL) is a form of QPL that is maintained and it functions much the same way as a QPL.

3.5.5.1.5. Performance and Service Requirements

The RFQ must identify the delivery or performance schedule as applicable, including any inspection and acceptance requirements. In addition, the solicitation must identify all required services and applicable service levels. Finally, the procurement professional must consider the appropriate insurance requirements as well as whether a bond or letter of credit will be required. The procurement professional can obtain additional guidance regarding insurance and bonding requirements by accessing SPD-SP015 State Entity RFP Template. Each state entity should fully assess the state's risk for lowering the recommended dollar amounts based on the particular need.

3.5.5.1.6. Price Matching Requirements

The RFQ should specify whether a price matching option will be available for Georgia Resident, Small Businesses, or Georgia Resident Small Businesses and any conditions under which it will be available. The ability to price match will only be granted to responsive and responsible bidders that are within 5% up to $10,000 of the lowest responsive and responsible bid. The indication by the supplier that the supplier will price match does not constitute further negotiation of pricing.

3.5.5.2. RFP Technical Requirements and Questions

Unlike the RFQ process in which the state prescribes both the specifications and solution to its own needs and suppliers replicate the state's specifications and solutions in the bids the suppliers submit, the RFP process allows suppliers to propose their own comprehensive and innovative solution to the state's needs described in the RFP. Therefore, the RFP generally identifies some specific requirements or results which must be met, but also includes a series of questions to which the supplier will respond with its proposed solution.

The procurement professional, in collaboration with the stakeholders, will now translate the critical business requirements into a series of requirements and/or graded questions through the use of SPD-SP057 Requirements Sheet for RFP or Scored RFQC. This form will organize the requirements and questions into one of three categories: mandatory requirements, mandatory scored requirements, and additional scored requirements:

- A *mandatory requirement* is a requirement that the supplier must meet to be eligible for contract award. A mandatory requirement can be qualification or performance requirement.
- A *mandatory scored requirement* requires the supplier to meet a requirement but also to provide a response which is then graded. For example, a mandatory question may require the supplier to agree to meet a critical project deadline and also describe its plan to accomplish the necessary tasks within that timeframe.
- An *additional scored requirement* refers to additional services or products that may be desirable but not required. A supplier is not required to meet an additional scored requirement to be eligible for contract award; however, the supplier's score may improve if the additional scored requirement can be met. Any supplier that fails to answer an additional scored question cannot receive the points associated with the question.

RFPs may, but are not required to have, all three types of requirements.

The solicitation must identify all required products, services, and applicable service levels. If the solicitation includes provision of consideration for Georgia Resident Business, Small Business, or Georgia Resident Small Business, then the Issuing Officer must include, as part of the Additional Scored Worksheet, the SPD-SP013 Georgia Resident and Small Business Verification Form.

Finally, the procurement professional must consider the appropriate insurance requirements as well as whether a bond or letter of credit will be required. The procurement professional can obtain additional guidance regarding insurance and bonding requirements by accessing SPD-SP048 Insurance and Bonding Guidelines. Each state entity should fully assess the risk for lowering the recommended dollar amounts based on the particular need.

3.5.6. Requesting Samples

The solicitation (RFQ, RFP or RFQC) may require the submission of product or work samples, descriptive literature, and technical data and may require inspection or testing of a product before award. For example, samples may be required to be submitted with a bid for comparison and testing in order to ensure compliance with a general or detailed specification. If samples are desired, the solicitation should clearly state the requirement and further clarify that the state entity is not obligated for the cost of the items or for their return.

Sample comparison and testing may be useful for such items as waxes and floor finishes, paints, disinfectants and germicides, file cabinets, tires, cleaning agents, classroom furniture, printing forms, and art materials. The samples unidentified by manufacturer are subjected to various kinds of comparisons, ranging from visual

inspection and evaluation to chemical and physical laboratory tests to in-use applications. Data and relative performance results must be documented and determinations made of the best value. Samples may also be of great value in ensuring compliance and satisfaction after award, before production, where final award of a contract is contingent upon a satisfactory pilot model or prototype. In this scenario, the solicitation or contract should clearly identify the use of the sample and the sample should be maintained for the life of the contract.

3.5.7. Developing Cost Worksheets

Whether the procurement professional is conducting an RFQ or RFP, the procurement professional must develop a cost worksheet. Cost worksheet refers to the document the supplier will complete to identify the price of the requested goods and/or services. For simple RFQ conducted through eSource or Team Georgia Marketplace™, the procurement professional may create line items within the sourcing tool to capture cost in lieu of using a cost worksheet. Except as expressly approved by SPD, use of the standard RFQC process defined in Chapter 2 – Stage 2 - Pre-Solicitation does not result in contract award. As a result, ordinarily, a cost worksheet would not be used with the standard RFQC process..

The *cost worksheet* should clearly identify the specific items for which the supplier must assign a cost. It is critical that the procurement professional construct the cost worksheet in a manner that allows suppliers' pricing to be easily compared, will encourage competitive pricing and is consistent with the manner in which the state entity is best suited to make payment. In addition, whether the solicitation is for goods, services, or both, the cost worksheet must clearly define the unit of measure. For example, if the state entity desires certain services to be priced based on an hourly rate, the cost worksheet should include instructions directing suppliers to formulate their cost in this manner. Without clear instructions regarding the unit of measure, suppliers may not structure their pricing in the same manner which will prevent an "apples to apples" comparison during cost evaluation.

The cost worksheet may vary from solicitation to solicitation based on a variety of factors, including the type of contract that will be awarded. For example, if the procurement professional does not wish to develop a fixed quantity contract (i.e., prefers to develop an open agency contract in which unit pricing is established, but the state entity has not committed to buy a certain quantity of products or amount of services), then the procurement professional will want to ensure that a unit price is provided, but may also want to establish volume discounts.

3.5.8. Evaluation Criteria and Evaluation Committees

Evaluation criteria refer to the factors that will be used to determine the supplier(s) who are deemed pre-qualified in the event of an RFQC or selected for contract award

(s) in the event of an RFQ or RFP. As noted earlier, the evaluation process is dependant on the type of solicitation.

3.5.8.1. Request for Quotes

For RFQs, the bids of all responsible suppliers must first be evaluated on a pass/fail basis to determine each supplier's compliance with the administrative requirements and all minimum product specifications and performance requirements. Of those bids meeting such requirements, the lowest priced (or most financially advantageous to the state) will generally be selected as the winner. Award types (single, split, multiple, etc.) are discussed further in Chapter 5 - Stage 5 – Evaluation Process.

3.5.8.2. Request for Qualified Contractors

For RFQCs, the responses of all responsible suppliers will be evaluated based on the pre-qualification criteria established in the RFQC. The pre-qualification criteria may include mandatory requirements evaluated on a pass/fail basis and/or scored requirements which will be graded by an evaluation team. Only those suppliers meeting the pre-qualification criteria will be considered qualified contractors.

If the RFQC includes scored requirements, the procurement professional must work with the stakeholders to determine the maximum number of points available for scoring and how those points will be divided amongst the scored criteria. The developed evaluation documents should not be posted as part of the RFQC; however, at a minimum, the RFQC must identify the maximum number of points available for any scored pre-qualification criteria. Ideally, the members of the evaluation committee should be selected prior to the public posting of the RFQC as best practice is to gain their input on the requirements stated in solicitation; however, at a minimum, the evaluation committee members must be finalized before the state entity begins evaluating suppliers' responses. Once the evaluation committee members have been identified, each member must sign and remit SPD-SP039 Evaluation Committee Member Participation Form to the procurement professional. The signed forms must be maintained as part of the procurement file.

3.5.8.3. Requests for Proposals

For RFPs, the proposals of all responsible suppliers are first evaluated on a pass/fail basis to determine each supplier's compliance with administrative and mandatory requirements. Next, of those proposals meeting the administrative and mandatory requirements, the proposals are then scored to determine the relative technical value of each proposal. Each technical score will then be combined with a cost score assigned to the supplier's pricing to determine the supplier's overall score or value. Award is generally made to the supplier with the best overall score or value. Award types (single, split, multiple, etc.) are discussed further in Chapter 5 - Stage 5 – Evaluation Process.

Because RFPs include a technical scoring element, the procurement professional must work with stakeholders during Stage 3 to establish a scoring tool by using SPD-SP057 Requirements Sheet for RFP or Scored RFQC. The development of the requirements sheets also requires the procurement professional to determine a maximum number of points which will be available for scoring the technical proposal. The procurement professional, in consultation with the stakeholders, will then distribute the available points amongst all of the mandatory scored and additional scored questions. These assigned points will then form the basis of the scoring process for the state entity's selected evaluation team. For example, if 50 points are assigned to a mandatory scored requirement concerning a supplier's proposed project plan, the evaluation team will have up to 50 points to award per supplier for the supplier's response to that requirement.

The developed evaluation documents should not be posted as part of the RFP; however, at a minimum, the RFP must state the relative importance of price and technical factors by stating the total number of points assigned to the technical proposal and the total number of points assigned to the cost proposal. Ideally, the evaluation criteria should be established prior to the posting of the RFP, however, at a minimum, the evaluation criteria must be finalized prior to the closing date of the RFP.

When identifying the evaluation committee members, the procurement should consider individuals with professional interest and expertise to effectively evaluate the proposals received in response to the RFP. As noted in Chapter 2 - Stage 2 - Pre-Solicitation, stakeholders may serve as members of the evaluation committee. Ideally, the members of the evaluation committee should be selected prior to the public posting of the RFP as best practice is to gain their input on the requirements stated in solicitation and to ensure their understanding of the RFP requirements; however, at a minimum, the evaluation committee members must be finalized before the state entity begins evaluating proposals. Once the evaluation committee members have been identified, each member must sign and remit SPD-SP039 Evaluation Committee Member Participation Form to the procurement professional. The signed forms must be maintained as part of the procurement file.

3.5.9. Award Strategy

The procurement professional should consider the type of contract award desired, whether single, split or multiple awards. Award types are addressed in greater detail in Chapter 5 - Stage 5 – Evaluation Process. Unless a type of award is specifically prohibited in the solicitation, award may be made by individual line item, by groups of line items, or for the aggregate total of all line items. Ordinarily, split awards will not be made unless the savings to the state entity exceeds 5% of the total contract price or $500.00, whichever is greater. However, the procurement professional has the discretion to split awards even if those thresholds are not met.

3.6. Selecting Contract Templates

Whether the procurement professional is making a one-time purchase or establishing a multi-year agreement, the procurement professional must determine what contract terms will be used to govern the agreement between the state entity and the awarded suppliers. The applicable contract terms must be identified in or attached to the solicitation. The following subsections define optional contract resources provided by SPD as well as specific contract provisions required to be included in multi-year agreements.

3.6.1. Optional Contract Resources

SPD has developed contract templates that may be used by the state entity at its discretion. These contract templates are intended to be used for multi-year agreements established through competitive bidding. SPD strongly recommends the use of these approved contract templates (or a similar agreement approved by the state entity) for all multi-year agreements and/or any contract valued at $100,000.00 or more. The latest versions of SPD approved contract templates will be maintained on SPD's website.

The procurement professional's selection of a contract will depend on the specifics of the solicitation, including the type of goods or services needed as well as the type of financial transaction (e.g. purchase, rental, lease, etc.). For state entities, another distinguishing factor in selecting a contract template is whether the state entity is committing to purchase a pre-determined quantity ("fixed" contract) or will purchase only as needed ("open" contract) since exact quantities are not known. Statewide contracts are examples of open contracts.

Table 3.6 lists the approved contract templates:

Table 3.6 SPD Approved Contract Templates	
State Entity Contract Templates	SPD-SP023 State Entity Contract for Goods and Ancillary Services - Open SPD-SP024 State Entity Contract for Goods and Ancillary Services - Fixed SPD-SP025 State Entity Contract for Services SPD-SP026 State Entity Contract for Software SPD-SP027 State Entity Contract for Equipment Rental or Lease SPD-SP028 eSource Contract Terms
Statewide Contract Templates	SPD-SP006 Statewide Contract for Goods and Ancillary Services SPD- SP007 Statewide Contract for Services

Table 3.6 SPD Approved Contract Templates	
	SPD- SP008 Statewide Contract for Software SPD- SP009 Statewide Contract for Equipment Rental or Lease

After selecting the appropriate contract template, the procurement professional must review the contract terms to determine whether any changes may be necessary based on the specific goods, equipment and/or services to be provided by the supplier. For example, the procurement professional should review applicable contract provisions regarding the state entity's ability to recover compensation from the supplier for any damages to the state entity caused by the supplier. If the procurement professional determines certain anticipated damages or harm to the state entity would be difficult to quantify at the time of the injury, the procurement professional should consult with counsel as to the inclusion of liquidated damages (i.e., pre-determined damage amounts to compensate for certain breaches of the contract) in the contract. State entities must use caution in establishing liquidated damages to ensure the identified damage amount is reasonable compensation for the contract breach. If the identified amount of the liquidated damages is not reasonable, then the liquidated damages will be considered a penalty and, as a result, be unenforceable.

3.6.2. Requirements for Multi-Year Agreements

Multi-year agreement refers to any contract which exceeds twelve months and/or will cover more than one fiscal year. To avoid pledging the state's credit, the state entity almost always must divide the multi-year agreement into two or more contract terms. The most common multi-year structure is to define an initial term of twelve months or less followed by up to four one-year renewal terms which may be exercised by the state entity. No contract may exceed five years without prior written approval from SPD.

When determining beginning and ending dates of the initial contract term, the state entity must consider both its needs and its budget. To ensure the contract dates comply with state policy prohibiting the pledging of the state's credit, the state entity must set aside sufficient funds to meet the entire financial obligation of the initial term of the contract when the contract is signed. Thereafter, the state entity must ensure sufficient funds are available prior to exercising any renewal option. It may be necessary to structure the end of the initial term to coincide with the end of the state's fiscal year so that renewal terms will align with the state's fiscal year for budgetary reasons. Open contracts (or contracts that do not commit the state entity to spending any money) are an exception to this requirement.

State entities are authorized to enter into multi-year lease, purchase, or lease purchase contracts for the acquisition of goods, materials, equipment, services, and supplies. However, the multi-year agreements must be structured as follows:

- A contract for supplies services or equipment may be entered into for any period of time deemed to be in the best interest of the state, provided the term of the contract and conditions of renewals or extension, if any, are included in the solicitation and funds are available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds.
- The contract may be renewed only by a positive action taken by the state entity and the nature of such action shall be specified in the contract (i.e., no automatic renewals).
- No contract developed and executed shall create a debt of the state for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.
- The contract shall state the total obligation of the user state entity for the fiscal year of execution and shall further state the total obligation, which will be incurred in each fiscal year renewal term, if renewed.
- The contract shall terminate immediately at such time as appropriated and otherwise un-obligated funds are no longer available to satisfy the obligations of the state entity under the contract. The determination of the occurrence of such unavailability of funds shall be made by the state entity in its sole discretion and shall be conclusive.
- For lease financing agreements, the contract may provide for the payment by the state entity of interest or the allocation of a portion of the contract payment to interest.

3.7. Reviewing the Solicitation

Procedure

Finally, once the procurement professional has drafted the solicitation, the solicitation must be carefully reviewed to ensure all necessary instructions and requirements have been included prior to the posting of the solicitation. For RFPs, the procurement professional must evaluate the document by using SPD-SP051 RFP Preparation Scorecard. The completed scorecard must be maintained with the solicitation files if the RFP is within the entity's delegation. If the RFP exceeds the entity's delegation, the completed scorecard must be forwarded to SPD at processimprovement@doas.ga.gov.

Stage 4 - Solicitation Process

This chapter describes the Solicitation Process stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Solicitation Process stage are:

Supplier

- Supplier Actions:
  - Accessing and reviewing solicitations.
  - Preparing and submitting the supplier's response.
- State Actions:
  - Publicly advertising solicitations.
  - Managing communications.
  - Revising or canceling solicitations as needed.
  - Receiving supplier responses as closing the solicitation.

Table 4.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-SPR001 Bidders/Offerors Conference Agenda	•	•
SPD-SPR004 Supplier Q&A Template	•	•
SPD-SPR007 Bidders/Offerors Conference Sign-in Form	•	•
SPD-SPR010 Bidders/Offerors Conference Announcement	•	•
SPD-SPR010a Instructions for Posting a Bidders/Offerors Conference in Team Geor-	•*	•

Table 4.1 Referenced Official Forms	State Entity Use	SPD Use
gia Marketplace™		
SPD-SPR010b Instructions for Posting Bidders/Offerors Conference in GPR	•	•
SPD-SPR013 RFX Addendum Form	•	•
SPD-SPR014 RFX Cancellation Notice	•	•

*For those state entities using Team Georgia Marketplace™ to conduct solicitations

4.1. Introduction

Supplier

By proceeding to Chapter 4 - Stage 4 - Solicitation Process, the procurement professional has finished preparing the solicitation and evaluation criteria for that solicitation in accordance with Chapter 3 - Stage 3 - Solicitation Preparation. Chapter 4 - Stage 4 - Solicitation Process describes the solicitation process, including public advertisement of the solicitation and all events occurring while the solicitation is open for competitive bidding. This chapter also includes important information for suppliers interested in submitting responses to solicitations. Some of the following steps may overlap; however, the material has been organized according to Table 4.2:

Table 4.2 Stage 4 - Solicitation Process – Major Steps	
Step 1	State's public advertisement and notice of solicitations
Step 2	Supplier's access and review of open solicitations
Step 3	Managing state and supplier communications
Step 4	Supplier's preparation of its response
Step 5	Supplier's submission of its response
Step 6	Supplier's revision or withdrawal of its response
Step 7	State's revision or cancellation of the solicitation
Step 8	State's receipt of suppliers' responses
Step 9	Closing the solicitation

4.2. Step 1 - Public Advertisement and Notice

The solicitation process begins with the procurement professional's public notice of the solicitation. To give every supplier an equal opportunity to submit responses to state of Georgia solicitations, all solicitations are publicly advertised on the GPR in accordance with the minimum public posting time periods identified in Table 3.5 Additional materials to assist the procurement professional in posting the solicitation and advertising any planned conferences include:

- SPD-SPR0010 Bidders/Offerors Conference Announcement
- SPD-SPR010a Instructions for Posting a Bidders/Offerors Conference in Team Georgia Marketplace™
- SPD-SPR010b Instructions for Posting Bidders/Offerors Conference in GPR

4.2.1. Georgia Procurement Registry (GPR)

Supplier

As noted in Section I.3.3. - Supplier Registration, the GPR is the site for publicly posting notice of all state of Georgia solicitations governed by the State Purchasing Act. The GPR is freely accessible to the public and contains search capabilities to assist suppliers in performing a targeted search of solicitations.

All solicitations sourced through Team Georgia Marketplace™ and eSource, which are procurement applications or sourcing tools used by state entities to process solicitations, are automatically publicly advertised on the GPR.

4.2.2. Additional Advertisement Efforts

Supplier

In addition to publishing notice of a solicitation on the GPR, the procurement professional may elect to provide additional advertisement of the solicitation. Additional advertisement efforts may include, but are not limited to, advertising the solicitation in a newspaper or a publication with statewide circulation.

4.2.3. Email Notifications

Supplier

SPD offers email notifications of new solicitations as an optional service to registered suppliers. Suppliers should review Section I.3.3. - Supplier Registration for additional information regarding this optional service.

4.3. Step 2 – Accessing and Reviewing Solicitations

Supplier

The GPR is the source for suppliers to access information about all solicitations required to be competitively bid in accordance with the provisions of this manual. The GPR notice includes instructions to the supplier about accessing the solicitation itself. For example, the GPR notice will instruct the supplier whether a response to the solicitation must be submitted through an SPD sourcing tool, such as Team Georgia Marketplace™ or eSource. The supplier must review and comply with any and all instructions for accessing the solicitation that are included on the GPR for that solicitation.

4.4. Step 3 – State and Supplier Communications

Supplier

The following subsections address suppliers' communications with the state entity with respect to published solicitations. Suppliers must comply with any additional directions identified in the solicitation with respect to communication with the state entity.

4.4.1. Issuing Officer

Supplier

The solicitation will identify the individual who will serve as the point of contact to the supplier for that solicitation. This individual is generally the procurement professional developing the solicitation and is commonly referred to as the issuing officer. From Chapter 4 - Stage 4 - Solicitation Process through Chapter 7 – Stage 7 - Contract Process, this manual will refer to the issuing officer as the individual who is responsible for all aspects of the solicitation process.

4.4.2. Restrictions on Communications

Supplier

From the issue date of the solicitation and until a supplier is selected for contract award and the selection is made public, suppliers are not allowed to communicate for any reason with any state staff regarding the solicitation except through the issuing officer (or his/her designee) named in the solicitation. Prohibited communication includes all contact or interaction, including but not limited to telephonic communications, emails, faxes, letters, or personal meetings, such as lunch, entertainment, or otherwise. Exceptions to this restriction on communication include the following:

- Communication during bidders'/offerors' conference provided the issuing officer is present,
- As necessary to perform under any existing contracts with the state entity,
- With SPD pursuant to the protest process, and
- With SPD's technical staff to resolve any issues with the electronic bidding process.

A supplier's violation of the restriction on communication can lead to disqualification of the supplier's response from consideration for contract award and/or other disciplinary action by SPD, such as suspension or debarment.

4.4.3. Supplier Questions

The following subsections provide information about supplier questions.

4.4.3.1. Submitting General Questions

Supplier

All questions concerning a solicitation should be directed in writing to the issuing officer whose name and contact information appears in the solicitation. Suppliers should refer to the solicitation number and the closing date when making an inquiry. The solicitation may include instructions to suppliers concerning the submission of questions; however, in the absence of any such instructions, all inquiries must be submitted by the supplier in writing to the issuing officer to be received by the issuing officer in advance of the closing date and time of the solicitation and in accordance with the solicitation and the GPM. Only written responses will be binding upon the state entity.

4.4.3.2. Resolving Technical Issues

Supplier

Questions regarding supplier registration or access to Team Georgia Marketplace™ and eSource should be directed to SPD by calling the Customer Service Help Desk or sending an email with a description of the system problem. Table 4.3 provides the contact information:

Table 4.3 Customer Service Help Desk Contact Information	
Email Address	ProcurementHelp@doas.ga.gov
Phone number	404-657-6000

The Customer Service Help Desk operates Monday through Friday 8:00 am to 5:00 pm EST, excluding state holidays or any other day state offices are closed such as furlough days or closings in response to inclement weather.

4.4.3.3. Responding to Suppliers' Questions

Supplier

The process for answering suppliers' questions was previously addressed in Section 3.5.2.2. - Supplier Questions. The issuing officer must complete and post SPD-SPR004 Supplier Q&A Template to address all received supplier questions. In the event the issuing officer determines the state entity's response to a supplier's question requires a revision to the solicitation, the issuing officer must make the revision in writing by posting an addendum in accordance with Section 4.8.1. - Revising the Solicitation.

4.4.4. Public Meetings

Supplier

As discussed in Chapter 3 - Stage 3 - Solicitation Preparation, the state entity may elect to conduct public meetings, referred to as offerors' or pre-bid conferences, forthe purpose of distributing information, answering questions, or facilitating visits to certain physical locations. There is no material distinction between the use of the terms "offerors' conferences" and "pre-bid conferences" other than the fact that "offerors' conferences" is the term generally associated with RFPs and "pre-bid conferences" is the term generally associated with RFQs or RFQCs. These public meetings occur prior to the closing of the solicitation and are generally open to all interested suppliers. The general purpose of any such public meeting is to share information by facilitating any of the following activities:

- Open dialogue between the state entity and interested suppliers.
- Live question and answer session.
- Conducting a site visit or "walk-through" at a relevant site.

Procedure

There is no requirement that a state entity host an offerors' or pre-bid conference for every solicitation. The solicitation will identify the date, time and place for the conference, if any, as well as whether suppliers' attendance at the conference is mandatory to be considered eligible for contract award. The issuing officer, or his/her designee, serves as the facilitator for the conference and will be in attendance. It is best practice for the issuing officer to document all attendees at the conference; however, at a minimum, the issuing officer must document suppliers' attendance at a mandatory conference, including noting the time of arrival and/or departure of any suppliers arriving late or leaving early. To document attendance, the issuing officer must use SPD-SPR007 - Bidders/Offerors Conference Sign-in Form. The issuing officer may, but is not required, to post the completed sign-in form to the GPR; however, the sign-in form must be maintained as part of the procurement file and is subject to immediate public disclosure upon request. In the event the issuing officer discloses the sign-in form in response to a request, SPD recommends posting the sign-in form to the GPR in the event the issuing officer has not already done so.

The state entity may, at its option, elect to provide for transcriptionist services such that a written record of the conference would be available to all attendees. Statements made at a conference are not considered revisions and/or additions to the solicitation. Solicitations must be revised in writing as described in Section 4.8.1. - Revising the Solicitation.

4.5. Step 4 – Preparing the Supplier's Response

Supplier

Suppliers must comply with the solicitation's instructions for preparing a response. "*Response*" is used to refer to the supplier's offer, bid or proposal. Suppliers must carefully review all included instructions and conditions of the solicitation prior to beginning to prepare a response to the solicitation. In the event the solicitation is sourced through eSource or Team Georgia Marketplace™, the supplier is strongly encouraged to take advantage of available user guides and/or training to assist the supplier in successfully submitting a response. The following supplier resources are available online.

4.5.1. General Instructions

Supplier

Suppliers should carefully review the requirements of the solicitation and its attachments as well as the minimum performance standards identified in Chapter 7 - Stage 7 - Contract Process of this manual. Suppliers must note that there may be specific requirements unique to a solicitation above and beyond the requirements identified in this manual. All suppliers must carefully review Table 4.4 and Table 4.5 when preparing a response to a solicitation. Compliance with the instructions in the Table 4.4 and Table 4.5 is not a substitute for complying with the solicitation instructions and requirements; however, it is a good place for the supplier to start:

Table 4.4 General Instructions for Preparing Responses	
DO	Review the general guidance provided in Section I.3. - Fundamentals for Suppliers.
	Review the specific instructions in the solicitation.
	Use the forms or spreadsheets provided with the solicitation to prepare your response. Only provide additional documentation if requested by the requirements.
	Clearly identify what is being offered and any exceptions to the solicitation's requirements.
	Comply with instructions regarding submission of catalog excerpts, specifications, samples or other materials suitable for use in the evaluation of the goods/services being offered.
	Offer pricing in accordance with all solicitation requirements (stated quantities, unit of measure, etc.) and include all costs of performance (delivery/shipping, insurance, bonds, etc.). Unless otherwise stated in the solicitation, the standard shipping method is FOB (Free on Board) destination, freight prepaid and allowed.
	Calculate price based on payment terms of Net 30 (payment within 30 days of the state entity's receipt of an undisputed invoice) unless directed otherwise by the solicitation. The state entity may permit the supplier to propose pricing discounts for early payment.

Table 4.5 General Instructions for Preparing Responses	
DO NOT	Use a company bid form containing terms and conditions which are in conflict with the solicitation. Use of such a company bid form constitutes a counteroffer and may not be acceptable to the state entity.
	Combine responses to separate solicitations.
	Include price escalator clauses, minimum order requirements, late charges

Table 4.5 General Instructions for Preparing Responses	
	or any other additional pricing terms not included in the terms and conditions of the solicitation. Inclusion of these terms may cause rejection of the supplier's response.
	Include prepayment and/or progress payment requirements unless permitted or requested by the solicitation. Inclusion of these terms may cause rejection of the supplier's response.
	Wait until the last minute to begin preparing a response to a solicitation. Take advantage of available supplier training to become familiar with the state's electronic sourcing tools and ensure your proposal is received in a timely manner ahead of all deadlines established within the solicitation.

4.5.2. Specifications and Performance Requirements

Supplier

To be eligible for contract award, the supplier must comply with all specifications and performance requirements identified in the solicitation. In addition, the supplier must also be considered responsible as defined in Section I.3.4. - Eligibility for State Contracts.

SPD and state entities endeavor to use open specifications and procedures that conform to accepted public procurement practices whenever possible to ensure robust competition. Suppliers are requested to inform the issuing officer of any issues with the solicitation's specifications or performance requirements. To formally dispute a solicitation, the supplier must comply with the protest filing process identified in Chapter 6 – Stage 6 - Award Process.

4.5.3. Exceptions to Solicitation Requirements

Supplier

All exceptions taken by a supplier to any portion of any solicitation must be clearly noted in a separate section of the supplier's response and identified as "Exceptions". Otherwise, the state entity will consider the supplier's response to meet all requirements. For example, if a solicitation requests a specific brand of product, the state entity will consider any supplier's submitted response to that solicitation to be for that specific brand of product unless the supplier clearly indicates otherwise in its response. Failure to note exceptions in the supplier's response may be cause for rejection of the supplier's response. Exceptions to a solicitation which give the supplier a competitive advantage or which cause the supplier to fail to meet a mandatory requirement cannot be accepted.

4.5.4. New, Used or Altered Products

Supplier

All supplies, materials, and equipment supplied to the state entity must be new and in first-class condition unless the solicitation specifically allows the supplier to offer used, reconditioned, or remanufactured items. If newly manufactured products are specified, such products must be of recent origin and not previously used. Unless otherwise specified in the solicitation, all supplies, materials and equipment supplied to the state entity must be commercially available at the time of the supplier's submission of its response. No equipment of any type is acceptable if serial numbers or any other manufacturer's identifying labels or marks have been removed, obliterated, or changed in any way. A supplier delivering any such equipment to the state entity will be deemed to have breached its contract.

4.5.5. Goods of Foreign Manufacture

Supplier

In order to be considered for award, goods of foreign manufacture must meet all specifications contained in the solicitation, must be in stock in the continental United States, and must be available for immediate shipment at the time a supplier submits a response. If foreign made machinery, mechanical, or electro-mechanical equipment is bid/offered, then this must be accompanied by evidence acceptable to the state entity in its sole discretion that adequate service locations, service personnel, and repair parts are available from stocks in the continental United States.

4.5.6. Security Interest, Liens, Claims, and Encumbrance

Supplier

No supplier may acquire a security interest in supplies, materials, or equipment sold to the state entity. No supplier may sell state entities any goods and services which are subject to any liens, claims, or encumbrances of any kind.

4.5.7. Submitted Materials and Samples

Supplier

The solicitation may require the supplier to submit certain materials or samples to assist in the evaluation of the supplier's response. For example, the state entity may request that the supplier submit proof that it is the manufacturer or one of the manufacturer's authorized dealers or distributors of any goods proposed and is capable of providing the original manufacturer's warranty services on any items delivered. When a manufacturer's certificate or evidence of authorized distributorship is required, it must be dated not more than 30 days prior to the date of the solicitation closing.

The supplier's response, including all materials submitted with the response, becomes the property of the state entity upon submission. Samples of items, when required by the state entity, must be furnished free of charge. Samples furnished will be returned

upon request, at the supplier's expense, unless consumed in examination, testing or as stated in the solicitation. Such requests should be made at the time samples are submitted. Each sample submitted must be clearly labeled, with the supplier's name, manufacturer's brand name and number, and the solicitation number. No samples will be returned until after a contract award has been made. Samples submitted by the successful supplier may, in some instances, be held for comparison with the merchandise furnished, and will not be returned until all of the merchandise ordered pursuant to the contract has been delivered and inspected. Failure on the part of the supplier to submit requested samples within time specified may be cause for rejection of the supplier's response.

4.5.8. Requirements for Bonds or Letters of Credit

Supplier

Solicitations may require the supplier to obtain certain bonds or letters of credit. For purposes of this manual, a letter of credit generally refers to a written document representing an irrevocable undertaking by the issuing bank to make payment of a certain sum of money to the beneficiary (the applicable state entity) in the event certain conditions are not met. Suppliers must, at their own expense, make arrangements for the issuance of any such bonds or letters of credit called for in the solicitation or otherwise required by law.

There are two primary types of bonds: fidelity bonds and surety bonds.

- A fidelity bond protects against the financial loss that can result from a dishonest act or crime committed by a supplier's employee.
- A surety bond (bid, performance, or payment bond) ensures that a supplier fulfills certain terms and conditions of a contract.

Bid bonds are generally required for construction contracts, but only occasionally for non-construction contracts. Any supplier failing to provide a required bid bond with its submitted response will not be considered for contract award. All bid bonds must be in a sum equal to 5% of the total amount of the supplier's response, unless otherwise specified in the solicitation. Bid bonds are irrevocable for the period of time specified in the solicitation (or the period of time the solicitation requires the supplier to honor its submitted response). However, if a supplier is permitted to withdraw its response before contract award, or is excluded from competition before contract award, no action will be taken against that supplier or the supplier's submitted bid bond.

Payment and performance bonds are required by law for all construction contracts in excess of $100,000.00; however, the state entity may also require bonds for construction contracts valued at less than $100,000.00 and for any non-construction contracts. All payment and performance bonds must be in an amount at least equal to 100% of the total contract price unless otherwise specified in the solicitation. Surety bonds issued by a surety authorized to do business in the state of Georgia are

acceptable. Unless otherwise specified in the solicitation, other types of bonds including cash bonds, checks, and certified checks are not acceptable.

4.5.9. Insurance Requirements

Supplier

Solicitations may require the supplier to procure and maintain insurance during the period of the contract which protects the supplier and the state entity from any claims for bodily injury, property damage, or personal injury which arise out of operations under the contract. Insurance requirements may differ depending on the type of procurement. If the state entity requires insurance, that requirement will be stated in the solicitation. Suppliers must obtain any insurance coverage required by law or the solicitation at their own expense. Suppliers are required to submit proof of insurance coverage to the state entity in the form of a signed insurance certificate. The signed insurance certificate must be received by the state entity before the supplier will be permitted to perform under any contract.

4.5.10. Inspection of Supplier's Operations

Supplier

By submitting a response to the solicitation, the supplier agrees to permit the state entity the right of inspection at the supplier's plant, warehouse or offices. Upon request, the supplier must provide all reasonable facilities and assistance for the safety and convenience of the state entity's appointed representative in the performance of such inspection.

4.5.11. Confirmation of Georgia Resident, Small Business or Georgia Resident Small Business Status

By submitting a response to the solicitation, the supplier agrees to permit the state entity the right to verify its status as a Georgia Resident, Small Business, or Georgia Resident Small Business in order to reasonably ascertain that the requested status may be considered in the evaluation process, and will facilitate access to the Issuing Officer in the performance of such inspection.

SPD-SP013 Georgia Resident and Small Business Verification Form will be used during the procurement process with the Additional Scored Worksheet in RFP and RFQC Solicitations.

4.6. Step 5 - Submitting the Supplier's Response

Supplier

To be eligible for contract award, the supplier's response must be submitted in accordance with the instructions of the solicitation and received by the state entity before the solicitation closing date and time. Suppliers are responsible in all respects for timely delivery of their responses and completeness. The state entity is also not responsible for late delivery or non-delivery of responses. A supplier must submit a separate response for each solicitation in order to receive consideration for award. Before submitting a response, the supplier must carefully review its response to ensure the response is complete, accurate, addresses all requirements of the solicitation and can be performed. Suppliers should carefully review any revisions that the issuing officer may make to the solicitation. The supplier may be required to submit written acknowledgment of revisions to the solicitation. In addition, the supplier must monitor the solicitation through the solicitation closing date and time to respond to any revisions which may be made after the supplier has submitted its response. Failure to bid or propose in accordance with revisions to the solicitation may be cause for rejection of the supplier's response.

4.6.1. Sourcing Tools

Supplier

Suppliers' responses to solicitations sourced through eSource or Team Georgia Marketplace™ must be submitted electronically through those systems.

4.6.2. Delivering Non-electronic Responses

Supplier

In the event the solicitation is not sourced through an SPD-approved electronic sourcing tool, the solicitation will require the supplier to submit a sealed response to a physical address. In this event, the supplier's sealed response must be delivered in a separate envelope or package to the state entity in accordance with the solicitation's instructions. It is imperative that the supplier place the solicitation closing date, time, and the solicitation number on the outside of the envelope since this is the means by which it is to be identified as an offer. Suppliers are encouraged to carefully weigh and verify postage on all responses before mailing. The state entity will not accept mail with postage due.

4.6.3. Acceptance Period

Supplier

The solicitation will define the minimum period of time the supplier must honor its submitted response. Unless stated otherwise in the solicitation, the supplier is required to honor any submitted response according to the minimum time periods outlined in Table 5.4.

At the state entity's request, the supplier may agree to honor its response beyond the minimum time period identified in this manual or the solicitation.

4.6.4. Multiple Responses to a Single Solicitation

Supplier

Unless otherwise stated in the solicitation, suppliers are not permitted to submit multiple responses (i.e., alternative bids) on the same solicitation. In the event the supplier submits more than one response to a solicitation, only the last response received prior to the solicitation closing date will be considered for contract award.

4.7. Step 6 - Revising or Withdrawing Submitted Responses

Supplier

The supplier must carefully review its response prior to submission to ensure the response is complete, complies with the solicitation's instruction, and does not include any errors. However, in the event a supplier determines a submitted response must be revised or withdrawn, the supplier must comply with the following provisions. The supplier's negligence in submitting an incorrect response does not confer a right to correct such response after the close of the solicitation.

4.7.1. Revising Supplier Responses

Supplier

The supplier may revise a submitted response at any time prior to the solicitation closing date and time in accordance with Table 4.6:

Table 4.6 Revising Supplier Responses	
Team Georgia Marketplace™	Before the solicitation closes, the supplier must: 1. Log on to the system, 2. Access the response (Download files), 3. Edit the response, and 4. Resubmit the revised response. Access DOAS Supplier Training web page for training resources.
eSource	Before the solicitation closes, the supplier must: 1. Access the response through the supplier's emailed invitation link,

Table 4.6 Revising Supplier Responses	
	2. Edit the response, and 3. Resubmit the revised response. Access DOAS Supplier Training web page for training resources.
Mailed or Hand-delivered Responses	Before the solicitation closes, the supplier must: 1. Submit the revision in writing in the same manner as the solicitation required the response to be submitted prior to the closing date, OR 2. Arrange with the issuing officer to permit an authorized representative of the supplier to modify the response in person and initialing any revision.

Revisions cannot be made after the solicitation closes; however, the supplier may request to withdraw its response in accordance with Table 4.7 During evaluation, the state entity is permitted to waive minor informalities, waive administrative requirements, and resolve discrepancies between unit and extended pricing as further described in Chapter 5 – Stage 5 - Evaluation Process.

4.7.2. Withdrawing Supplier's Submitted Responses

Supplier

The supplier is allowed to withdraw the supplier's submitted response at any time prior to the close of the solicitation in accordance with Table 4.7:

Table 4.7 Withdrawing the Supplier's Submitted Response		
Team Georgia Marketplace™	Before the solicitation closes, the supplier must: 1. Log on to the system, 2. Access the response, and 3. Select "Save for Later" Access DOAS Supplier Training web page for training resources.	After the solicitation closes, the supplier must submit a written request to the issuing officer with an explanation why the supplier desires to withdraw its response. The written request must be a signed letter that is emailed, mailed, faxed or hand-delivered to the issuing officer.
eSource	Before the solicitation closes, the supplier must:	

Table 4.7 Withdrawing the Supplier's Submitted Response		
	1. Access the response through the supplier's emailed invitation link, and 2. Select "Complete Delete of Your Response". Access DOAS Supplier Training web page for training resources.	
Mailed or Hand-delivered Responses	Before the solicitation closes, the supplier must submit a written request to the issuing officer. If desired, the supplier may arrange to pick up the supplier's submitted response, provided this occurs prior to the close of the solicitation.	

After the close of the solicitation, the state entity, in its sole discretion, may permit withdrawal when the best interest of the state entity would be served. Generally, withdrawal will only be allowed in cases where there has been an honest mistake not resulting from negligence and the mistake is clearly ascertainable. All decisions to permit withdrawal of responses or to cancel awards or contracts based on mistakes in the supplier's response must be supported by a written determination made by the issuing officer.

4.8 Step 7 – Revising or Cancelling the Solicitation

The issuing officer is responsible in all respects for managing the solicitation, including identifying and posting any corrections or revisions to the solicitation as well as cancelling solicitations as needed.

4.8.1. Revising the Solicitation

Procedure

The issuing officer may make revisions to the posted solicitation provided the issuing officer complies with the following subsections. In the event the issuing officer identifies new members of the evaluation committee during this stage, the issuing officer should review the solicitation with those new members to ensure there are no identified ambiguities in the solicitation. Any ambiguities should be clarified through the posting of a revision to the solicitation.

4.8.1.1. Written Revisions

Supplier

Any change to the solicitation after the solicitation has been publicly posted, including but not limited to changes to the solicitation requirements or attachments, must be made by the issuing officer in writing and included with the solicitation. Published revisions may take the form of separate official written addenda or may occur as direct revisions to electronic files or fields within the electronic sourcing tool.

Procedure

In the event the issuing officer makes a direct revision to an electronic file or field within the electronic souring tool, the issuing officer must still provide some notice to suppliers that a change has occurred. All revisions must be posted prior to the closing date and time of the solicitation; provided, however, the issuing officer may make changes to the schedule of events after the closing date and time of the solicitation for those activities which will not occur until after the close of the solicitation, including, but not limited to the periods of time allocated for evaluation and negotiations. Modifications to the schedule of events for activities that occur after the closing date and time of the solicitation (e.g., time period allowed for negotiations, etc.) are permitted and do not require the posting of an addendum.

In the event the issuing officer is conducting a non-electronic solicitation process by posting the solicitation directly to the GPR and requiring suppliers to submit their responses to a physical address, then the issuing officer should use form SPD-SPR013 RFX Addendum Form to obtain the supplier's written acknowledgement of all material changes to the solicitation. Material changes to the solicitation include any revision or addition to requirements or any change to the solicitation which would affect pricing.

The issuing officer should not require the supplier's signed acknowledgement for non-material changes, such as identifying a change in the issuing officer, posting directions to a conference, posting the state entity's response to suppliers' questions, and updating the schedule of events, including the closing date and time of the solicitation.

4.8.1.2. Response to Revisions

Procedure

When making a revision to a solicitation, the issuing officer must ensure suppliers are provided adequate time to view and respond to the revision. Depending on the magnitude of the revisions and the length of time remaining prior to the closing date and time of the solicitation, the issuing officer may need to extend the closing date and time of the solicitation.

Supplier

The supplier must comply with the solicitation's instructions regarding the acknowledgement of revisions to the solicitation. For example, if the solicitation (or posted revision) directs suppliers to submit a signed acknowledgement of the revision, then the supplier should submit the signed acknowledgement with its response.

Supplier

For all solicitations sourced through Team Georgia Marketplace™ or eSource, the supplier must be deemed to have accepted all terms and agreed to all requirements of the solicitation (including any revisions/additions made in writing prior to the close of the solicitation whether or not such revision occurred prior to the time the supplier submitted its response) by the submission of the supplier's response unless expressly stated otherwise in the supplier's response.

Supplier

Therefore, each supplier is individually responsible for reviewing the revised solicitation and making any necessary or appropriate changes and/or additions to the supplier's response prior to the close of the solicitation. Suppliers are encouraged to frequently check the solicitation for additional information.

4.8.2. Cancelling the Solicitation

Supplier

The state entity may withdraw or cancel a solicitation document at any time. A notice of cancellation, SPD-SPR014 RFX Cancellation Notice, will be issued to include either a description or to document the reason for cancellation. With respect to supplier responses which were hand delivered or received via mail, the submitted responses may be returned to the supplier upon the supplier's written request if the supplier's response had not been opened. Otherwise, the submitted response is considered a public record and is subject to public disclosure in accordance with Georgia law. In the event suppliers' submitted responses to the cancelled solicitation have not become publicly available and the state entity's rebid of the cancelled solicitation is imminent, then the state entity is not required to release the suppliers' responses received in response to the cancelled solicitation until such time as responses to the rebid solicitation become publicly available.

4.9. Step 8 - Receiving Suppliers' Responses

Supplier

Suppliers' responses must be received on or before the solicitation closing date and time to be considered for contract award. All responses must remain sealed until the solicitation closing date and time. Those responses received after the solicitation closing date and time must be rejected.

eSource and Team Georgia Marketplace™ each support the sealed bidding process by only releasing submitted suppliers' responses to the state entity upon the closing date and time of the solicitation. Also, eSource and Team Georgia Marketplace™ do not allow the submission of late responses. However, in the event the state entity is not using Team Georgia Marketplace™, eSource or any other sourcing tool approved by SPD to facilitate receipt of electronic responses from suppliers, the state entity must facilitate a process in which all suppliers' responses are time and date stamped upon receipt and remain sealed until the solicitation closing date and time.

All suppliers' responses received by the state entity in response to a solicitation must remain unopened and stored in a secure place until after the solicitation closing date and time. No unauthorized persons may have access to the suppliers' responses. An envelope that is not marked as a supplier's response or does not identify the supplier or solicitation may be opened solely for the purpose of identification. A record must be made on the envelope stating the reason for opening the supplier's response as well as the date and time the supplier's response was opened, the solicitation to which the supplier responded and the signature of the person who opened the supplier's response. The envelope must then be re-sealed until the solicitation closing date and time and then maintained as part of the procurement file.

The state entity's time and date stamp must be used to determine whether or not the supplier's response was submitted by the closing date and time. Although late responses cannot be evaluated, late responses must be marked as late and maintained as part of the procurement file. The issuing officer will identify the supplier submitting a late response as an unsuccessful offeror on the Notice of Intent to Award (SPD-AP004 Notice of Intent to Award) (if used) as well as the Notice of Award (SPD-AP005 Notice of Award).

4.10. Step 9 - Close of the Solicitation

The solicitation closes upon the expiration of the date and time identified in the solicitation as the deadline for suppliers to submit responses. In the event that the state offices are closing because of an emergency such as severe weather, the issuing officer should extend any electronically sourced solicitations (i.e., solicitations processed through eSource or Team Georgia Marketplace™) that are scheduled to close during the time in which state offices are closed for a minimum of 48 hours or until

such time as state offices are expected to reopen. If the issuing officer fails to extend the for emergency closures, SPD reserves the right to extend the solicitation without consulting the issuing officer.

As noted in Section 3.5.2.4. - Public Opening, the state entity may elect to conduct a public opening at the close of a solicitation to establish a construction or public works contract. Public openings permit members of the public to be present on the date and time the bids are due at a location identified by the state entity to listen to the state entity's reading of the names of the suppliers submitting bids as well as the pricing submitted by those suppliers. For all other solicitations, the names of the suppliers submitting responses as well as the contract award amount are announced by the state entity through its posting of a Notice of Intent to Award (SPD-AP004 Notice of Intent to Award) or Notice of Award (SPD-AP005 Notice of Award) to the Georgia Procurement Registry (GPR) as further described in Chapter 6 – Stage 6 - Award Process.

Stage 5 – Evaluation Process

This chapter describes the Evaluation Process stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Evaluation Process include:

Supplier

- Supplier Actions:
  - Responding to requests for clarifications, if any.
  - Participating in negotiations, if any.
  - Participating in contract discussions, if any.
- State Actions:
  - Managing the evaluation process.
  - Verifying suppliers' eligibility for contract award.
  - Soliciting additional information from suppliers as needed.
  - Conducting negotiations as appropriate.
  - Finalizing contract discussions.

Table 5.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-EP001 Administrative Review Requirements Summary Sheet	•	•
SPD-EP004 Evaluation Committee Agenda	•	•
SPD-EP007 Supplier Technical Evaluation	•	•
SPD-EP010 Request for Clarification	•	•
SPD-EP013 Master Technical Evaluation Template	•	•

Table 5.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-EP015 Negotiation Plan	•*	•
SPD-EP 016 Invitation to Negotiations	•*	•
SPD-EP017 Negotiations Script	•*	•
SPD-EP018 Negotiations Workbook	•*	•
SPD-EP020 Request for Cost Negotiation (Best and Final Offer)	•	•
SPD-EP023 Evaluation Committee Guidelines	•	•
SPD-EP026 General Confidentiality Form	•	•

*Authorized for use only by APO/CUPO as specified in Section 5.8.1 RFP Rounds of Negotiation

5.1. Introduction to the Evaluation Stage

Supplier

By proceeding to Chapter 5 - Stage 5 - Evaluation Process, the state entity's solicitation has officially closed. During the evaluation process, the issuing officer in conjunction with the evaluation committee (if any) will review and evaluate the suppliers' responses to determine which suppliers are responsive and responsible. Of those suppliers determined to be responsive and responsible, the best ranked supplier(s) will be selected in accordance with the terms of the solicitation. The methodology for determining the best ranked supplier(s) will vary based on the solicitation type as well as the specific language of the solicitation. Some of the following steps may overlap; however, the material for the Evaluation Stage has been organized as follows:

Table 5.2 Stage 5 Evaluation Process – Major Steps	
Step 1	State opens suppliers' sealed responses.
Step 2	State conducts administrative review.
Step 3	State finalizes the evaluation committee (if any).
Step 4	State manages State and supplier communications.
Step 5	State's evaluation of suppliers' responses.
Step 6	Supplier's revision or withdrawal of its response.
Step 7	State and Supplier's participation in negotiations (if any) and State's re-evaluation.
Step 8	State finalizes selection of supplier(s).
Step 9	Re-soliciting when necessary.

5.2. Step 1 – State Opens Suppliers' Sealed Responses

Once the solicitation officially closes, the issuing officer may open all submitted responses as further described in Section 4.9. - Step 8 – Receiving Suppliers' Responses.

5.3. Step 2 – State Conducts Administrative Review

As a *preliminary* step in the evaluation process, the issuing officer should conduct an *administrative review* to determine each supplier's compliance with several basic requirements.

The purpose of the *administrative review* process is to identify any responses which are not eligible for further evaluation.

The issuing officer should review Steps 1 through 6 of Table 5.2 as part of the administrative review process. Provided there is at least one response which passes the administrative review, the issuing officer may continue with the evaluation process.

5.4. Step 3 – State Finalizes the Evaluation Committee

Procedure

Selection of the *evaluation committee* is discussed in Section 3.5.8. - Evaluation Criteria and Evaluation Committees. The issuing officer may, but is not required to, use the assistance of an evaluation committee when reviewing responses to RFQs and any RFQCs which do not include scoring.

In determining whether or not to use an evaluation committee, the issuing officer should consider whether he/she possesses sufficient knowledge to evaluate the suppliers' responses. However, for all RFPs and for any RFQCs which include scoring, the issuing officer must use an evaluation committee and the evaluation committee must include at least three members. It is essential that the issuing officer manage the entire evaluation process and serve as an ex-officio member of the evaluation committee to facilitate the solicitation process.

Procedure

Once the solicitation has closed and before the issuing officer releases any of the suppliers' responses to the evaluation committee, the issuing officer must determine whether any members of the evaluation committee may have a conflict of interest (e.g. current employment with the supplier, significant financial interest, litigation other dispute, etc.) based on the identity of one or more suppliers that submitted a response.

Important

Any individual determined to have a conflict of interest cannot participate on the evaluation committee and must be excused from further participation in the evaluation

Important

process. The issuing officer may need to identify one or more additional individuals to serve on the evaluation committee as needed in the event one or more committee members are unable to serve due to conflicts of interest.

Finally, before beginning the evaluation process, the issuing officer must confirm that all members of the evaluation committee have signed SPD-SP039 Evaluation Committee Member Participation. The signed forms must be maintained as part of the procurement file.

5.5. Step 4 – Managing State and Supplier Communications

Supplier

As discussed in Section 4.4.2. - Restrictions on Communications, suppliers are not allowed to communicate for any reason with any State staff throughout the evaluation process regarding the solicitation except through the issuing officer. The issuing officer is responsible for managing all communication during the evaluation stage, including, but not limited to, contacting suppliers for clarification requests, negotiations, and contract discussions. Suppliers should direct all communication to the issuing officer.

The following information is not subject to public release during the evaluation stage:

- Names of the suppliers submitting responses to the solicitation (unless the state entity conducted a public opening).
- Suppliers' responses (or any portion thereof), including any responses to requests for clarifications, negotiations or contract discussions.
- Evaluation material (results of administrative review, scoring sheets, etc.).
- Any other information protected from public release.

5.6. Step 5 – State Evaluates Suppliers' Responses

Supplier

All suppliers' responses which pass the administrative review will be evaluated further in accordance with the provisions outlined in this section. The state entity is bound by the terms of the solicitation as well as the established evaluation criteria. No changes to either the solicitation or the evaluation criteria may be made after the closing date and time of the solicitation. Although the manner of evaluating suppliers' responses will vary based on the type of solicitation and the specific terms of the solicitation, a supplier must be both responsive and responsible as defined in Section 5.6.2. - General Evaluation Criteria.

Procedure The issuing officer should review the general evaluation tips in Table 5.3 before beginning the evaluation process:

Table 5.3 General Evaluation Tips	
DO	Act as the facilitator for the solicitation process through active engagement.
	Make sure any evaluation tool is up-to-date and captures any changes made to the solicitation prior to the close of the solicitation.
	Make sure the evaluation committee understands the evaluation process. For example, the issuing officer must review the scoring guide with the entire evaluation committee.
	Remind the evaluation committee that the evaluation process is confidential and that committee members cannot discuss the suppliers' responses with others.
	Remind evaluation committee members to review questions with issuing officer. No evaluation committee member should contact suppliers directly.
DO NOT	Change the evaluation or scoring criteria.
	Revise or amend the solicitation (including any specifications or requirements) after the solicitation closes.
	Allow suppliers to revise their responses except as permitted during negotiations.

5.6.1. Review Period

Supplier The solicitation will identify the minimum period of time the supplier must honor the supplier's response from the time that the solicitation closes. In the event that the solicitation does not identify a minimum time period, the minimum periods listed in Table 5.4 apply:

Table 5.4 Minimum Review Period	
RFQs	• 30 days from the solicitation closing date. • 60 days from the solicitation closing date for construction/public works contracts.
RFQCs	60 days from the solicitation closing date.
RFPs	120 days from the solicitation closing date.

The actual review period may vary based on several factors, including, but not limited to, the complexity and length of suppliers' responses and the number of supplier responses. Any supplier which limits the acceptance period to a lesser time period than that specified in the solicitation document may be rejected. In the event the issuing officer determines additional time is needed to complete the evaluation process, the issuing officer may request that suppliers extend the acceptance period for their offers. The supplier is not required to extend the acceptance period; however, if the supplier does not extend the acceptance period, the supplier's response cannot be evaluated further and must be identified as withdrawn.

5.6.2. General Evaluation Criteria

Supplier

During the evaluation process, the state entity is evaluating the supplier as well as the supplier's submitted response. When evaluating the supplier's submitted response, the state entity is determining whether the supplier has met all of the requirements of the solicitation as further discussed in Section 5.6.2.1. - Responsive. When evaluating the supplier, the state entity is determining whether or not the supplier is a responsible supplier as further described in Section 5.6.2.2. - Responsible. A supplier must be both responsive and responsible to be eligible for further consideration.

5.6.2.1. Responsive

Supplier

"*Responsive*" means the supplier, whether a company or an individual, has submitted a timely offer which materially conforms to the requirements and specifications of the solicitation. The supplier's response must be considered responsive to be eligible for status as a qualified contractor in the event of an RFQC or for contract award in the event of an RFQ or RFP. The state entity is permitted to waive minor informalities in the supplier's response as well as certain administrative requirements, if doing so is in the best interest of the state. In the event a supplier's response is determined to deviate from the requirements, the state entity must determine whether the deviation is material. A material deviation will be cause for rejection of the supplier's response. An immaterial deviation will be processed as if no deviation had occurred. If a supplier is determined to be non-responsive, this determination must be made in writing and maintained as part of the procurement file. The results of the evaluation process will be published as discussed in Chapter 6 - Stage 6 – Award Process.

5.6.2.2. Responsible

Supplier

"*Responsible*" means the supplier, whether a company or an individual, has appropriate legal authority to do business in the state of Georgia, a satisfactory record of integrity, appropriate financial, organizational and operational capacity and controls, and acceptable performance on previous governmental and/or private contracts, if any. A supplier must be considered responsible to be eligible for status as a qualified contractor in the event of an RFQC or for contract award in the event of an RFQ or RFP.

Examples of non-responsibility include, but are not limited to: a supplier's history of nonperformance or performance problems on other contracts (public or private); a record of financial difficulty, business instability, criminal sanctions, civil sanctions, or tax delinquency; or being debarred, suspended, proposed for disbarment, or declared ineligible or voluntarily excluded by any governmental entity (federal, state or local). A supplier's unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility. Non-responsibility will be determined by the issuing officer on a case-by-case basis taking into consideration the unique circumstances of the individual procurement. A non-responsibility determination must be put in writing and maintained as part of the procurement file. The results of the evaluation process will be published as discussed in Chapter 6 - Stage 6 – Award Process.

5.6.2.3. General Checklist for Evaluating Solicitations

Use the checklist in Table 5.5 to assist in the evaluation process:

Table 5.5
General Checklist for Evaluating RFQs, RFQCs and RFPs

Review to ensure…	If supplier fails, then reject reason is…
1. Supplier is not currently suspended or debarred (Section 5.3. - Step 2 - State Conducts Administrative Review). • Georgia List • Federal List	Non-responsible
2.Supplier submitted a timely response (Section 5.3. - Step 2 - State Conducts Administrative Review).	Non-responsive
3. Supplier's response is materially complete (Section 5.3. - Step 2 – State Conducts Administrative Review). • Example 1: Includes pricing	Non-responsive

Table 5.5 General Checklist for Evaluating RFQs, RFQCs and RFPs	
Review to ensure…	If supplier fails, then reject reason is…
(RFQ and RFP only) • Example 2: Includes bid bond (if required) NOTE: Receipt of Payment, Performance and Fidelity Bonds is addressed in Chapter 7 - Stage 7 - Contract Process.	
4. Supplier agreed to certificate of non-collusion (Section 3.5.1.1. - Certification of Non-Collusion).	Non-responsible
5. Supplier has submitted a signed and notarized Immigration and Security Form (Section 3.5.1.3. - Security and Immigration Requirement).	Non-responsible
6. Supplier has complied with certification regarding status as scrutinized company (Section 3.5.1.4. - Scrutinized Company). NOTE: Permissible to accept this certification after close of the solicitation but prior to contract award; however, supplier must certify that it is not a scrutinized company.	Non-responsible
7. Supplier meets all requirements/specifications of the solicitation (Section 5.6.2.1. - Responsive). NOTE: Any ambiguities in the supplier's response should be resolved through the clarification process (Section 5.6.4. - Written Clarification).	Non-responsive
8. Ensure all Georgia resident, Small Business, and Georgia Resident Small Business considerations have been addressed.	• Price Match GRB (RFQ) • Price Match SB (RFQ) • Price Match GRSB (RFQ) • Not highest scoring (RFP or RFQC) • Did not not meet minimum scoring threshold (RFQC)

Table 5.5 General Checklist for Evaluating RFQs, RFQCs and RFPs	
Review to ensure…	If supplier fails, then reject reason is…
	• Did not score within identified scoring range (RFQC)
9. RFQs and RFPs Only: Supplier has submitted firm, unconditional pricing (Section 5.6.6.1. - Firm Pricing).	Non-responsive
10. Supplier meets selection criteria: • RFQs: has submitted lowest priced bid (Section 5.6.6. - Cost Evaluation). • RFPs: has received highest total score (Section 5.6.3.2.3. - RFP Total Combined Score). • RFQCs: if prequalification is based solely on supplier's compliance with mandatory requirements, then refer to Item #7 of this table. Otherwise, supplier must meet minimum scoring threshold or rank within identified scoring range.	• Not low bid (RFQ) • Not highest scoring (RFP or RFQC) • Did not meet minimum scoring threshold (RFQC) • Did not score within identified scoring range (RFQC)
11. For all contract awards of $100,000.00 or more, supplier has been approved by DOR (Section 3.5.1.2. - Tax Compliance). NOTE: For the sake of efficiency, only complete the tax compliance check for the supplier (s) actually selected for award. To complete the tax compliance check, follow the steps identified in Section 3.5.1.2. - Tax Compliance.	Non-responsible
12. Any supplier contract exceptions are resolved.	Failed Contract Discussions
13. For all contract awards of $1,000.00 or more, supplier certifies that it is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel, as defined in O.C.G.A. Section 50-5-85.	Failed Contract Discussions

5.6.3. Evaluating By Solicitation Type

The method of evaluation (pass/fail, scored, etc.) will vary by solicitation type as well as the specific terms of the solicitation. The following subsections address the general evaluation method for the identified solicitation types.

5.6.3.1. Evaluating Responses to RFQs

Supplier

After completing the administrative review, the issuing officer must review each supplier's response in conjunction with the evaluation committee (if any) to determine each supplier's compliance with the RFQ's requirements. Suppliers' responses to RFQ requirements are evaluated on a pass/fail basis. Any supplier that fails one or more RFQ requirements is non-responsive. Evaluation of cost is discussed in Section 5.6.6. - Cost Evaluation.

For all contracts established through the RFQ process, unless otherwise specified in the solicitation that price match has been allowed, award will be made to the lowest priced responsible and responsive supplier. This is the supplier, whose bid meets the specifications, who agrees to contract terms and conditions with the state entity, and who is clearly capable of performing the resulting contract. Therefore, the awarded supplier may not always be the supplier who has submitted the lowest monetary bid if any of the conditions outlined above are not met. Unless otherwise provided for in the RFQ, award may be made by individual line item, by groups of line items, or for the aggregate total of all line items.

In the event that no contract award can be made, the RFQ must be cancelled and rebid. However, prior to cancelling the RFQ, the issuing officer must first review the provisions Section 5.8.2. - Negotiations Authorized by O.C.G.A. Section 50-5-67(c) to determine whether negotiations may be permitted.

5.6.3.2. Evaluating Responses to RFPs

Supplier
Procedure

The issuing officer must complete an administrative review of each supplier's response and record the results of the administrative review in SPD-EP001 Administrative Review Requirements Summary Sheet. Next, after completing the administrative review, the issuing officer will submit the suppliers' technical responses to the evaluation committee for review as further described below.

The technical responses are first evaluated on a pass/fail basis to determine each supplier's compliance with administrative and mandatory requirements. Of those responses meeting the administrative and mandatory requirements, the "*Mandatory scored*" and "*Additional scored*" responses are then scored to determine the relative technical value of each supplier's response. Each technical score will then be combined with a cost score assigned to the supplier's pricing to determine the supplier's overall score or value.

Award s made to the responsive and responsible supplier with the best overall score or value. This is the supplier who received the highest combined technical and cost scores, who agrees to contract terms and conditions with the state entity, and who is clearly capable of performing the resulting contract. Although single contract awards are common for RFPs, award may be made to more than one supplier if specified in the RFP.

5.6.3.2.1. Technical Evaluation

Procedure

The issuing officer is responsible for managing the entire evaluation process and serves as an ex-officio member of the evaluation committee to facilitate all evaluation meetings. After completing the administrative review, the issuing officer should schedule the kick-off meeting for the evaluation committee. The issuing officer should use SPD-EP004 Evaluation Committee Agenda as a guideline for the initial and subsequent meetings of the evaluation committee. Table 5.6 provides a general overview of the technical evaluation process. State entities should not deviate from these guidelines without SPD's prior written approval. Any such request for approval should be submitted via email to processimprovement@doas.ga.gov.

Table 5.6 General Overview of Technical Evaluation	
Step 1:Kick-off Meeting	Issuing Officer conducts kick-off meeting with evaluation committee members to complete the following tasks: • Review the requirements of SPD-EP004 Evaluation Committee Agenda (all members should already have signed this form) • Review the requirements of SPD-EP023 Evaluation Committee Guidelines, including the scoring guidelines. • Review and discusses how to evaluate the different types of RFP questions/requirements: mandatory, mandatory scored and additional scored (Section 3.5.5.2. - RFP Technical Requirements and Questions). • Understand how to complete SPD-EP007 Supplier Technical Evaluation, which is used to capture scoring for each supplier's technical response. • Understand the requirement to add explanatory comments for any score/rating other than "*adequate*". • Understand issuing officer may facilitate the use of pre-screened third party consultants for assistance in answering questions from the evaluation committee but

Table 5.6 General Overview of Technical Evaluation	
	that such consultants cannot score proposals without SPD's prior approval.
Step 2: Initial Independent Review	The initial evaluation consists of the following steps: • After completing Step 1, the issuing officer distributes suppliers' Technical proposals only (not Cost proposal) to the evaluation committee members to evaluate using SPD-EP007 Supplier Technical Evaluation. • Each evaluation committee member must independently score each supplier's technical proposal. • Each supplier's response must be evaluated against the solicitation/scoring criteria and not against another supplier's response. Each evaluation committee member is responsible for scoring all suppliers' responses. In very complex RFPs, it is permissible for evaluation committee members to be organized based on subject matter expertise. For example, perhaps four evaluation committee members are responsible for evaluating suppliers' "security measures"; therefore, these same four evaluation committee members must evaluate the same sections for all suppliers' responses. • If an evaluator determines it may be necessary to request written clarification from a supplier, this request must be submitted to the issuing officer for review and release to the supplier. • The issuing officer is responsible for coordinating receipt of written requests from the suppliers and the prompt distribution of these requests to the evaluation committee.
Step 3: Initial Evaluation Results	After completing the initial evaluation, each evaluation committee member must submit his/her evaluation documents to the issuing officer. Once the issuing officer has assembled all evaluation documents from the evaluation committee, the issuing officer will schedule a Validation meeting.
Step 4: Other Evaluation Activities	Conduct other evaluation activities as applicable (Section 5.6.5. - Additional Evaluation Activities).
Step 5: Validation	The evaluation committee will convene to discuss the results of the independent scoring. As a result of this discussion, a committee member may modify his/her scoring; however,

Table 5.6 General Overview of Technical Evaluation	
	there is no requirement that all committee members reach agreement on a score for a particular question. Any changes to scoring based on discussions, and additional comments must be documented in SPD-EP013 Master Technical Evaluation Template. Each evaluation committee members' score for each question will be added together and the issuing officer will average the individual scores to determine the supplier's score for that particular question.
Step 6: Consolidated Evaluation	Once the evaluation committee has completed the validation process, the issuing officer will finalize SPD-EP013 Master Technical Evaluation Template. In addition, the issuing officer will complete the cost evaluation (Section 5.6.3.2.2. - RFP Cost Scoring) and enter the cost scores into the template as well.
Step 7: Results Discussion	Once Step 6 is complete, the issuing officer may share the consolidated evaluation results with the evaluation committee and discuss whether negotiations are recommended.
Step 8: Negotiations (if any) and Rescoring	In the event the evaluation committee determines negotiations are recommended, negotiations may be conducted subject to the issuing officer's compliance with the provisions of Section 5.8.1. - RFP Rounds of Negotiations.

5.6.3.2.2. RFP Cost Scoring

Supplier

The issuing officer will analyze each supplier's cost responses independently of the evaluation committee, but may perform the cost evaluation concurrently with the evaluation committee's initial scoring of the technical responses. Each supplier's submitted cost and the resulting cost scores will not be shared with the evaluation committee until after the initial scoring of the technical proposals has been completed and any needed clarifications are obtained.

The supplier deemed to have the most competitive cost response overall, as determined by the state entity, will receive the maximum score for the cost criteria. Alternatively, in the event the cost proposal is scored at the category, subcategory or line level, the state entity should assign the maximum score per category/subcategory/line for the most competitive cost response at that level based on its value.

As a general rule, other suppliers' cost responses will receive a percentage of the maximum score based on the percentage differential between the most competitive cost proposal and the specific proposal in question. This cost scoring can be accomplished using the formula noted in Table 5.7:

Table 5.7 Cost Scoring Formula	
L/R x P = Z	Where: L = Price of the supplier's response with the lowest cost. R = Total cost of the Proposal being ranked. P = Total points available for cost scoring. Z = Assigned points.
Example	State entity receives responses from two suppliers on an RFP. The RFP assigned 700 possible points for technical scores and 300 possible points for cost scores. Supplier A's cost proposal is $50, 000.00. Supplier B's cost proposal is $55,000.00. As Supplier A offered the lowest cost, Supplier A receives 300 points. The issuing officer can calculate the number of cost points to assign to Supplier B's cost score by using the formula noted above. As shown below, Supplier B's total cost score is 272.7 points. . L/R x P = Z ($50,000.00/$55,000.00) x 300 = Z .909 x 300 = Z 272.7 = Z

The cost scoring formula in Table 5.7 is a common scoring method; however, nothing in this subsection will supersede any provision within the RFP or the state entity's established evaluation criteria regarding other cost evaluation methodologies.

5.6.3.2.3. RFP Total Combined Score

Supplier

As a general rule, each supplier's initial technical score and cost score will be combined to create a total score; provided, however, nothing in this subsection will supersede any provision within the RFP or the state entity's established evaluation criteria regarding the calculation of total scores. The supplier's total combined score may be adjusted by the results of any negotiations permitted by Section 5.8. - Step 7 – State and Supplier's Participation in Negotiations (if any) and state's re-evaluation.

5.6.3.3. Evaluating Responses to RFQCs

For RFQCs, the responses of all responsible suppliers will be evaluated based on the pre-qualification criteria established in the RFQC. RFQCs may include any combination

of the types of requirements identified in Section 3.5.5.2. - RFP Technical Requirements and Questions. As a result, the pre-qualification criteria may include mandatory requirements evaluated on a pass/fail basis and/or scored requirements which will be graded by an evaluation committee. In the event the RFQC includes a scoring element, the issuing officer must comply with the provisions of Section 5.6.3.2.1. - Technical Evaluation (excluding any reference to cost evaluation and/or negotiations). Only those suppliers meeting the pre-qualification criteria will be considered qualified contractors.

5.6.4. Written Clarification

Supplier Procedure

During evaluation, the state entity may seek *written clarification* from any supplier regarding the contents of the supplier's response by using SPD-EP010 Request for Clarification. A request for *written clarification* may be made when a supplier's response contains conflicting information or is so ambiguous that it is possible for a reasonable person to attribute different meanings to the ambiguous portion of the supplier's response. A request for written clarification may not be used to negotiate (i.e., request the supplier to revise or improve the supplier's response). Written clarifications received from the supplier will become part of that supplier's response.

5.6.5. Additional Evaluation Activities

For all RFQs, RFQCs, and RFPs, the issuing officer must facilitate any other evaluation activities which were identified in the solicitation, including, but not limited to, reference checks, oral presentations, product demonstrations, site visits, plant inspections, and/or sample testing.

5.6.5.1. Reference Checks

Procedure

A reference check refers to the process of contacting a supplier's current or previous client to solicit information regarding that client's business experience with the supplier. A supplier's client references can provide insight into the supplier's level of work experience as well as quality of past performance. The solicitation may request that suppliers submit client references as part of the suppliers' responses. In addition, during the evaluation process, the issuing officer has the discretion to ask suppliers to provide client references even if the solicitation did not require client references to be submitted. References may be evaluated on a pass/fail basis. In the event points were reserved to score client references as part of an RFP or scored RFQC , the evaluation committee must evaluate the references using the predefined scoring method and allocated points.

Best Practice Procedure: To the extent feasible, all provided client references should be contacted by the issuing officer and/or one or more members of the evaluation committee and verified as part of the evaluation process. A list of questions for the client

references should be prepared in advance and the same questions should be asked of all references. Evaluation committee members may ask related follow-up questions. Responses from references should be documented in writing.

The types of questions to ask client references will vary depending on the state entity's purpose in requesting references; however, some sample suggestions include the following:

- Nature and duration of the work,
- Quality of supplies delivered or services rendered,
- Timeliness of performance,
- Cost or price in terms of control—including changes and claims,
- Business integrity—including behavior with subcontractors,
- Willingness to cooperate, especially when confronted with unexpected issues, and/or
- Effectiveness of management of the project and internal practices.

5.6.5.2. Oral Presentations and Product Demonstrations

Supplier

An *oral presentation* generally refers to a verbal presentation made by one or more supplier's representatives to all members of the evaluation committee to explain or describe certain features of the supplier's proposed response to the solicitation. An oral presentation may occur as an "in person" presentation or through any other method approved by the issuing officer (phone conference, web conference, etc.). An oral presentation may or may not include a presentation of software, goods or products which are being offered as part of the supplier's response. A presentation which is focused on the features and functionality of any software, goods or products is generally referred to as a product demonstration. A product demonstration may occur at any site approved by the issuing officer..

Any requirement for the supplier to provide an oral presentation or product demonstration to the evaluation committee should be clearly stated as part of the solicitation. If the solicitation includes a requirement for the supplier to make an oral presentation or product demonstration, then the issuing officer is responsible for arranging these presentations/demonstrations during the evaluation process. An oral presentation or product demonstration is not a negotiation and suppliers are not permitted to revise their responses as part of the presentation/demonstration.

Product demonstrations may be evaluated on a pass/fail basis in the event the product demonstration is being used to confirm the supplier's compliance with any solicitation requirements. For all RFPs and any RFQCs including a scoring element, the evaluation committee will use scored questions to appropriately evaluate the quality

of the presentation, the supplier's ability to meet the needs of the solicitation, and to assist in the overall evaluation of the supplier.

5.6.5.3. Site Visits and Plant Inspections

Supplier

During the evaluation process, a site visit or plant inspection generally refers to the evaluation committee's observation and inspection of a physical location to be used by the supplier as part of the supplier's performance of any contract awarded pursuant to the solicitation. Any requirement for the supplier to facilitate a site visit or plant inspection during the evaluation process should be clearly stated as part of the solicitation. However, for purposes of contract administration, by accepting contract award, the supplier is agreeing to permit the state entity the right of inspection at the supplier's facility subject to any reasonable security measures.

In the event a site visit or plant inspection will occur as part of the evaluation process, the issuing officer is responsible for arranging the site visit or plant inspection. The supplier must provide all reasonable facilities and assistance for the safety and convenience of the issuing officer and the evaluation committee (or the state's designee) in the performance of such inspection; however, the state entity is responsible for its costs in participating in such visit/inspection (cost of transportation of evaluation committee, etc.).

A site visit or plant inspection may be evaluated on a pass/fail basis. For all RFPs and any RFQCs including a scoring element, the evaluation committee may lower the supplier's score as appropriate as a result of the evaluation committee's evaluation of the supplier's facility. In addition, for all RFPs and scored RFQCs which reserved points to grade the site visit and/or plant inspection, the evaluation committee may increase the supplier's technical score as appropriate based on the evaluation committee's evaluation of the supplier's facility.

In the event that the site visit or plant inspection will be part of the state entity's scoring process, all evaluation committee members must participate in the site visit/plant inspection. In the event one or more members of the evaluation committee cannot participate, the issuing officer must determine whether sufficient notes and or documentation of the site visit/plant inspection can occur such that the absent evaluation committee members would be able to fairly score.

If the issuing officer determines that it is not possible for an absent evaluation committee member to be able to fairly evaluate the supplier, then the site visit/plant inspection must be rescheduled to permit all evaluation committee members to participate.

Table 5.8 Guidelines for Site Visits

• The issuing officer should make all arrangements in advance, including identifying the date and time period for the site visit/plant inspection and notifying all parties of this information.
• The issuing officer should discuss in advance with the evaluation committee any and all travel and meal arrangements.
• The issuing officer should notify the supplier that the evaluation committee will handle any requirements for meals and that only refreshments of a nominal value and part of normal courtesy would be accepted and that the supplier should not offer meals to the evaluation committee.
  ◦ It is permissible for evaluation committee members to purchase their own food from vending machines or cafeterias that are located on the supplier's site.
  ◦ There may be some circumstances in which it is either not possible or would be unreasonably disruptive for the issuing officer to make separate meal arrangements for the evaluation committee. In this event, the evaluation committee may accept a meal from the supplier provided the supplier is reimbursed for the cost of the meal.
• The supplier's representatives and the state of Georgia representatives must sign in upon arrival.
• The group should stay together. Side conversations should be avoided between the supplier's representatives and separate meetings of one or more evaluation committee members are not permissible.
• The evaluation committee should ask pre-determined questions. It is appropriate for evaluation committee members to ask related follow-up questions. It is also appropriate for evaluation committee members to ask a question about something they may see while on site.
• The issuing officer should manage the agenda and time allotted for the visit.

5.6.5.4. Sample Testing and Acceptability Requirements

Supplier

A product acceptability evaluation may be conducted to determine whether a supplier's product sample meets the requirements of the solicitation. Any supplier's offering that does not meet the acceptability requirements must be rejected as nonresponsive. A pre-established and generally accepted standard, e.g. ANSI, IEEE, etc. should be used whenever possible.

5.6.6. Cost Evaluation

For RFQs and RFPs, cost must be evaluated in accordance with the specific provisions of the solicitation. However, the following general provisions also apply:

5.6.6.1. Firm Pricing

Procedure

Unless stated otherwise in the solicitation, the state entity requires *firm*, *unconditional pricing*. In the event the state entity is establishing a multi-year agreement, the state entity may elect to identify conditions under which a price increase/-decrease will be allowed.

Supplier

Suppliers may take exception to the firm price provision in a solicitation document if they wish, but such an exception will not be granted unless no firm price responses are received. If an exception is granted, the state entity will factor in 100% of any percentage increase for the purpose of evaluation.

5.6.6.2. Determining Best Pricing

As applicable, the state entity may use lowest cost, lowest total cost, total cost of ownership, life cycle costs or greatest savings to determine the most advantageous or "*best value*" cost response; provided, however, the issuing officer must abide by any statements within the solicitation regarding cost evaluation. *Total cost of ownership* generally refers to the purchase price plus the ongoing costs the state entity may also incur such as installation costs, operating costs, maintenance costs, replacement costs, depreciation costs, potential price escalation or de-escalation, disposal costs and expected salvage values measured over the lifetime of the item or some other predefined time period.

In addition, the cost responses may be scored on an overall basis or at the category/subcategory/line level (as applicable) relative to other suppliers' responses. SPD encourages the purchasing professional to consider the items mentioned above in their calculation of total cost of ownership.

5.6.6.3. Estimated Usage/Spend

When exact quantities are not known, the state entity may use estimated usage for evaluation purposes. The use of such estimates is not a guarantee of future spend.

5.6.6.4. Prompt Payment Discount

The phrase "*prompt payment discount*" refers to a discount off the invoice price for early payment. The overall policy concerning any type of discount in bidding is one of preference and encouragement of a net bid price, FOB (Free on Board) destination, freight prepaid and allowed. All forms of deduction, discounting, or special pricing should be reduced to a simple net bid price for each item.

As a general rule, prompt payment discounts offered from 1% up to 5%, for payment made in 30 days from the state entity's receipt of an undisputed invoice, will be considered for the purpose of bid evaluation. However, the issuing officer may consider a prompt payment discount offered by the supplier outside of the general rule noted above for the purpose of bid evaluation if the solicitation document so provides. For example, the issuing officer may consider a discount in excess of 5% and/or a condition to pay in less than 30 days. To effectively exercise this discretion and determine whether prompt payment discounts outside of the general rule should be evaluated, the issuing officer must assess the likelihood of the state entity making payment within the provided time period and the ability of the state entity to monitor and ensure the supplier's compliance with the provided prompt payment discount. Any deviation from the general rule regarding cash discount evaluation must be clearly stated in the evaluation.

5.6.6.5. Reciprocal Preference Law

Supplier

The Georgia Reciprocal Preference Law, (O.C.G.A.) Section 50-5-60, requires that suppliers resident in the state of Georgia be granted the same preference over suppliers resident in another state in the same manner, on the same basis, and to the same extent that preference is granted in awarding bids or proposals for the same goods or services by such other state (or by any local governments of such state) to suppliers resident therein over suppliers resident in the state of Georgia. This reciprocal preference is used for evaluation purposes only. Additional information on applying the Georgia reciprocal preference Law is also available on SPD's website as it pertains to preferences.

Important

There is no need to apply the reciprocal preference law unless (1) the issuing officer has received responses from both Georgia and non-Georgia suppliers and (2) a non-Georgia supplier appears to be the winner based on the evaluation process.

5.6.6.6. Georgia Enterprises for Products and Services (GEPS)

For additional information on GEPS and when the state entity must purchase from GEPS, review Section 1.3.3.2. - Georgia Enterprises for Products and Services. Products and services offered by GEPS are not limited to those that have been certified as mandatory. Therefore, it is possible that GEPS may elect to submit a response to a solicitation conducted by the state entity.

Procedure

In the event the issuing officer has received a response from GEPS, the issuing officer must factor in a price preference of 8% for purposes of cost evaluation. The price preference of 8% has been approved by DOAS in accordance with the State Use Law set forth at (O.C.G.A.) 50-5-135 et seq., which is intended to create opportunities for disabled persons employed by community-based rehabilitation programs and training centers that are certified by the State Use Council. To implement the price preference, the issuing officer must lower GEPS' price by 8% when comparing GEPS' price with any other supplier's response. However, in the event GEPS wins the contract award, GEPS must be paid at its actual bid price.

5.6.6.7. Resolving Pricing Discrepancies

In all cases, if there is a discrepancy between the supplier's quoted unit price and the extended price, the unit price will govern, unless otherwise specified in the solicitation.

5.7. Step 6 – Supplier's Revision or Withdrawal of Response

Supplier

Suppliers are not permitted to revise their responses after the close of the solicitation except as permitted during any authorized negotiations. Any supplier desiring to withdraw its response must review Table 4.7.

5.8. Step 7 – State and Supplier's Participation in Negotiations (if any) and State's Re-evaluation

Procedure

There are two general types of negotiations, including:

1. RFP rounds of negotiations, and
2. Negotiations authorized by (O.C.G.A.) Section 50-5-67(c).

Table 5.9 defines the use of these negotiations based on the type of solicitation conducted:

Table 5.9 Two Types of Negotiations		
Solicitation Type	RFP Rounds of Negotiations Permitted?	(O.C.G.A.) Section 50-5-67(c) Negotiations Permitted?
Request for Quotes	NO	Yes, but only if all requirements in Section 5.8.2. - Negotiations Authorized by O.C.G.A. Section 50-5-67(c) are met.
Request for Qualified Contractors	NO	NO
Request for Proposals	YES, subject to SPD's prior approval	Yes, but only if all requirements in Section 5.8.2. - Negotiations Authorized by O.C.G.A. Section 50-5-67(c) are met.

5.8.1. RFP Rounds of Negotiations

"*RFP rounds of negotiations*" refer to the negotiations authorized by (O.C.G.A.) Section 50-5-67(a)(6). During the RFP process, SPD (or the APO/CUPO of a state entity expressly authorized by SPD by completion of the Negotiations Certificate) possesses discretionary authority to conduct one or more rounds of negotiations with select suppliers to solicit revisions to technical and/or cost proposals as permitted by and SPD's established procurement policy. RFP rounds of negotiations may not be used to alter the RFP. The following subsections describe policies and processes governing this type of negotiations.

The process for negotiation must document the items to be discussed in each round of negotiations. A SWOT (Strength Weakness Opportunity and Threats) Analysis, Cost Analysis, and Desired Outcomes Document should be prepared prior to the discussions and retained in the procurement file. State Purchasing Form SPD-EP018, the Negotiations Workbook is an optional suite of tools, available to the APO/CUPO or State Purchasing Professionals that captures these items in an interactive document.

5.8.1.1. State Entity's Negotiation Authority

Each state entity's authority to conduct negotiations is separate and distinct from the authority to conduct an RFP; therefore, SPD's delegation to a state entity to conduct an RFP is not authorization to conduct negotiations.

Procedure

Any state entity desiring approval to conduct RFP rounds of negotiations, whose APO/CUPO has not yet completed a Negotiations Certificate, must submit an approval request to SPD at processimprovement@doas.ga.gov.

Procedure

Any state entity, whose APO/CUPO has received a Negotiations Certificate by attending and successfully passing the associated exam, will have the capability to have that individual negotiate on their behalf up to the entity's delegated purchasing authority.

5.8.1.2. Negotiations are Discretionary Process

The use of RFP rounds of negotiations to solicit improved responses from suppliers is a discretionary process. No supplier should assume that negotiations will occur.

5.8.1.3. Reasonably Susceptible to Contract Award

Procedure

Supplier

In the event SPD (or a state entity's APO/CUPO expressly authorized by SPD by completion of a Negotiations Certificate) conducts RFP rounds of negotiations, negotiations may only be conducted with suppliers reasonably susceptible to contract award. To be considered reasonably susceptible to contract award, the supplier must be responsive and responsible. RFP rounds of negotiations cannot be used to allow a supplier to attempt to correct an otherwise failing response. If the supplier fails any part of the evaluation process, then the supplier is not reasonably susceptible to contract award and cannot be included in any RFP rounds of negotiations.

The state entity may conduct negotiations even if there is only one supplier reasonably susceptible to contract award. In the event the state entity elects to conduct negotiations, all suppliers reasonably susceptible to contract award must be allowed to participate unless the RFP expressly permits the state entity to limit the number of suppliers invited to participate in negotiations. For example, the solicitation may limit negotiations to a predefined number of top ranked suppliers or define a methodology that establishes a competitive range of suppliers based on rankings of total combined scores.

5.8.1.4. Use of Negotiation Team

If RFP rounds of negotiations will occur, a negotiation team may be convened if verbal discussions will be part of the negotiation process. The negotiation team may be the same team as the evaluation committee, or a subset of evaluation committee members, for the RFP, however, in any event, the issuing officer must continue to be the official point of contact for any interactions between the state entity and participating suppliers. Once convened, the negotiation team, headed by the APO/CUPO who has completed the Negotiations Certificate, will confirm the purpose and scope of negotiations and the identity of the suppliers who will be invited to participate in negotiations. Other state staff, such as state attorneys, may participate in the negotiation process as appropriate; provided the staff member does not possess a conflict of interest and is willing to sign and comply with the provisions of SPD-EP026 General Confidentiality Form.

5.8.1.5. Negotiation Invitations

Supplier

Suppliers selected to participate in negotiations will be notified in writing by the issuing officer of the following:

- That the state entity is initiating negotiations;
- The general purpose and scope of the negotiations;
- The anticipated schedule for the negotiations; and
- The procedures to be followed for negotiations.

This information may be provided by the issuing officer using SPD-EP016 Invitation to Negotiations. The issuing officer may issue additional information and/or instructions to suppliers participating in negotiations as needed.

5.8.1.6. Rounds of Negotiations and Rescoring

Procedure

Negotiations may occur in a single round or over the course of two or more rounds of negotiations. As discussed in Section 5.8.1. - RFP Rounds of Negotiations, negotiations may only be used to solicit improvements from suppliers to their technical and/or cost responses. Negotiations may not be used to modify the RFP, such as revising or deleting mandatory requirements.

In conducting such negotiations, there will be no disclosure to competing suppliers of any information contained in the competing suppliers' proposals (technical or cost). The APO/CUPO, having received a Negotiations Certificate, is authorized to disclose to each supplier that particular supplier's scores and/or overall ranking. However, cost scores should not be revealed to suppliers during negotiations if the state entity is using the cost formula described in Section 5.6.3.2.2. - RFP Cost Scoring or any other cost formula that has been disclosed to suppliers that would enable suppliers to calculate the amount of another supplier's cost proposal.

SPD

SPD and the APO/CUPO that has completed a Negotiations Certificate, must use the SPD-EP016 Invitation to Negotiations and and may also use the following resources to assist in the negotiations process: SPD-EP017 Negotiation Script and SPD-EP018 Negotiations Workbook. These resources may be released to a state entity upon that state entity's completion of negotiation training or as otherwise approved by SPD.

Supplier

All revisions to a supplier's response resulting from such negotiations will be reduced to writing by the supplier and submitted to the issuing officer within the time prescribed by the issuing officer. In the event the supplier does not remit the revised response by the deadline identified by the issuing officer, the revised response may not be considered; however, the supplier's most recent response may still be considered, provided the supplier is still willing to honor the most recent response. The supplier should follow the issuing officer's instructions regarding the submission of revised responses. As a general rule, the supplier should submit the supplier's response using the same form/worksheets as used to prepare the original response except that changes should be clearly identified so that the evaluation committee may easily identify revisions. Each supplier should use caution during the negotiation process in preparing the revised response to ensure any revised response still meets all RFP requirements. Should the State Purchasing Issuing Officer or APO/CUPO designated to complete the Negotiations Process on behalf of an entity choose not to have the original worksheets revised, then, at a minimum, the points negotiated, and agreed upon, must be included in a formal document, signed by both parties, and affixed to the contract agreement.

Any revised responses received as a result of the negotiations process will be evaluated and re-scored in accordance with the established evaluation criteria. The evaluation criteria may not be altered during negotiations. Only the evaluation committee may score revised technical responses.

5.8.1.7. Terminating Negotiations

RFP rounds of negotiations may be terminated by SPD (or a state entity expressly authorized by SPD) at any time.

5.8.2. Negotiations Authorized by O.C.G.A. Section 50-5-67(c)

Procedure

(O.C.G.A.) Section 50-5-67(c) permits negotiations to occur for responses to RFQs provided certain conditions are met and SPD makes a written determination that time or other circumstances will not permit the delay required to re-solicit responses from suppliers, then SPD may authorize the state entity's APO/CUPO to conduct negotiations subject to the following conditions.

Table 5.10 applies to RFQs:

Step	Table 5.10 Request for Quotes – Negotiations Authorized by (O.C.G.A.) Section 50-5-67(c)
1	First, one of the following must be met: • All responses received are unreasonable or unacceptable as to terms

	and conditions (for example, all suppliers fail one or more mandatory requirements), or • All responses are noncompetitive, or • The lowest priced responsible supplier's response exceeds available funds.
2	Second, SPD must determine in writing that time or other circumstances will not permit or justify the delay required to re-solicit competitive bids. To request SPD's written certification, submit a request to processimprovement@doas.ga.gov.
3	If 1 and 2 are met, then negotiations may be conducted subject to the following conditions: • Each responsible supplier who submitted a response under the original solicitation is notified of the determination and is given a reasonable opportunity to negotiate*, and • If the negotiation is due to suppliers' responses being non-competitive or the lowest priced responsible supplier's response exceeding available funds, then the final price resulting from the negotiations must be lower than the lowest priced rejected response of any responsible supplier under the original solicitation. *Exception: if the RFQ will establish a construction contract and the negotiation due to bids exceeding budgeted funds, negotiations may only be conducted with the lowest responsible and responsive bidder.
4	During negotiations, the state entity may make the decision to reduce or eliminate certain requirements, reduce the scope of the procurement or make any other reasonably necessary revisions to facilitate contract award.

5.9. Step 8 – State Finalizes Selection of Successful Supplier(s)

After completing the general evaluation of suppliers' responses and any permitted negotiations, the issuing officer must select the successful supplier(s) based on the solicitation type (Section 5.6.3. - Evaluation by Solicitation Type) and the specific terms of the solicitation with respect to type of award. In addition, the issuing officer must finalize the selection of successful suppliers by completing the following tasks as applicable:

- Resolving any tie responses,
- Verifying fairness of single response,

- Tax compliance verification, and
- Contract discussions.

The following subsections provide additional guidance.

5.9.1. Award Types

For RFQs and RFPs, there are several types of award scenarios, including a single award, a split award, multiple awards and primary/secondary awards.

5.9.1.1. Single (Primary) Award

Supplier

In the *single award scenario*, the entire award is made to one supplier. This award scenario is most common for RFPs; however, it is also applicable for RFQs. For an RFP, the single award is made to the responsive and responsible supplier with the highest total score and with whom the state entity has reached agreement as to contract terms. For an RFQ, the single award is made to the responsive and responsible supplier with the lowest overall priced response (whether or not that supplier was the lowest on a particular line item) who is clearly capable of performing and with whom the state entity has reached agreement as to contract terms.

5.9.1.2. Split (Primary) Award

Supplier

In the *split award scenario*, the solicitation has been divided into two or more parts and each part will be awarded to the best ranked supplier for that particular part. In a split award scenario, more than one supplier may receive a contract award; however, there is no overlap of contract awards. For example, an RFQ may identify multiple products that may be purchased from separate sources or an RFP may identify several different locations or facilities to be serviced separately. A split award is more likely to occur on a multi-line RFQ than with an RFP.

For an RFQ, each line item is awarded to the responsive and responsible supplier who had the lowest price for that particular line item and is both clearly capable of performing and has reached agreement with the state entity as to contract terms. For an RFP, each part of the solicitation must be awarded to the supplier with the highest total score and with whom the state entity has reached agreement as to contract terms. Making a split award may or may not be the most economical solution for the state as there are costs associated in managing more than one contract. Ordinarily, split awards will not be made unless the saving to the state entity exceeds 5% of the total contract price or $500.00, whichever is greater. However, the issuing officer may make a split award even if those thresholds are not met, however the issuing officer's rationale should be documented.

5.9.1.3. Multiple (Primary – Overlapping) Awards

Supplier

In the *multiple award scenario*, the solicitation reserves the right to identify multiple sources of supply for the same desired goods and/or services. Multiple awards should only be made when it is not possible or practical to make a competitive low bid award to a single brand or model or to establish a single source of supply for services. Multiple awards commonly occur on certain statewide contracts but should rarely occur on state entity contracts. In the multiple award scenario, each supplier has equal standing and the state entity may choose amongst the awarded suppliers as permitted by the solicitation.

5.9.1.4. Primary/Secondary Awards

Supplier

In the *primary/secondary award scenario*, the state entity is identifying the primary source of supply for a particular contract and/or line item but is also designating a secondary (or "back up") source of supply for that same contract/line item. There are limited situations in which primary/secondary awards should be made as the state entity should reserve this award for a scenario in which backup sources of supply are expected to be needed on a continual basis. In the primary/secondary award scenario, the suppliers do not have equal standing. The state entity must attempt to use the primary supplier first and may only use the secondary (backup) supplier once certain conditions in the solicitation have been met.

5.9.2. Resolving Tie Responses

Supplier

A *tie* exists when two or more suppliers offer, at identical prices, products that meet all specifications, terms, and conditions. In such a situation, State statutes provide three preferences to use to resolve tie responses whenever applicable:

- Preference to products manufactured or produced within the state of Georgia;
- Preference to products sold by local suppliers within the state; and
- Preference to products manufactured or sold by small businesses.

Procedure

If these preferences are insufficient to resolve the tie, the following in order of priority may be considered:

1. Past performance of the suppliers (i.e., documented performance – either positive or negative).
2. Earliest delivery date.
3. Closest proximity to delivery site (i.e., in the event of ongoing services/maintenance).

4. Division of the order (provided this is in the state's best interest and each supplier is willing to honor the pricing for ½ the order).
5. Flip of the coin.

5.9.3. Only Single Response

If only one responsive and responsible response is received, an award may be made to the single supplier if the issuing officer determines in writing that the price submitted is fair and reasonable.

5.9.4. Tax Compliance Verification

Supplier

Prior to finalizing the selection of the successful supplier(s) as a result of the solicitation, the issuing officer must comply with the provisions of Section 3.5.1.2. - Tax Compliance for any contract award exceeding $100,000.00.

5.9.5. Contract Discussions

Supplier

In the event the state entity permitted suppliers to submit exceptions to the state entity's proposed contract and the supplier(s) identified for contract award have submitted contract exceptions, such contract exceptions must be resolved within any time limit established by the solicitation. In the event the state entity is unable to reach agreement as to contract terms with a particular supplier, the supplier will be ineligible for contract award and the state entity may award to the next best ranked supplier.

5.10. Step 9 – Re-soliciting When Necessary

Supplier

In the event that no suppliers' responses are eligible for contract award, then the state entity must cancel the solicitation without contract award, using SPD-SPR014 RFX Cancellation Notice, unless the terms of Section 5.8.2. - Negotiations Authorized by O.C.G.A. Section 50-5-67(c) are applicable. In addition, if at any time it is found that the integrity of the process has been compromised or that errors have occurred, the solicitation may be canceled. The procurement may be re-solicited if the state entity so desires.

Stage 6 - Award Process

This chapter describes the Award Process stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Award Process stage are:

Supplier

- Supplier Actions:
  - Receiving contract award as applicable.
  - Participating in protest process as applicable.
  - Reviewing state entity's public notice of solicitation results.
- State Actions:
  - Providing public notice of solicitation results.
  - Having all solicitation records available for prompt review by suppliers.
  - Issuing contract award.
  - Participating in protest process as applicable.

Table 6.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-AP001 Selection Report		•
SPD-AP004 Notice of Intent to Award	•	•
SPD-AP005 Notice of Award	•	•
SPD-AP008 RFQC List of Qualified Contractors	•	•
SPD-AP011 Purchase Order (Non-PeopleSoft)	•	

6.1. Introduction to the Award Stage

Supplier

Chapter 6 - Stage 6 – Award Process begins once the state entity is ready to publicly announce the results of the evaluation process. Once the results of the evaluation process have been published, suppliers may review procurement documents. In the event a material error is identified that impacts the results of the procurement process, suppliers must report such error to SPD in accordance with the protest process identified in this stage. Some of the following steps may overlap; however, the material for the Award Stage has been organized as outlined in Table 6.2:

Table 6.2 Stage 6 Award Process – Major Steps	
Step 1	State publishes results of evaluation process
Step 2	State and supplier finalize contract award
Step 3	Supplier reviews published results
Step 4	Supplier participates in protest process (as applicable)

6.2. Step 1 – State Publishes Results of Evaluation Process

Procedure

State entities must publish notice of the results of the solicitation process, including any intended or actual contract awards. The published notice will identify:

- The name(s) of the successful supplier(s),
- The amount of any contract award,
- The names of the unsuccessful suppliers, and
- The reasons why those suppliers were unsuccessful.

For contracts that do not have a guaranteed award amount (such as open state entity contracts), the issuing officer should use the estimated purchase amount for purposes of identifying the contract award amount. The following subsections address the publication of results based on solicitation type.

6.2.1. Publishing Results of Prequalification Process

Once the state entity has completed the evaluation stage for responses submitted to an RFQC, the issuing officer will publish the results of the RFQC process using SPD-AP008 RFQC List of Qualified Contractors. This form must be published to the GPR. In

the event the state entity did not use the standard RFQC method (as defined by Section 2.4.3.1. - Standard RFQC method) and will make contract award(s) as a result of the RFQC, then the state entity must comply with the provisions of Section 6.2.2. - Publishing Results of Award Process.

6.2.2. Publishing Results of Award Process

Once the state entity has completed the evaluation stage for responses submitted to any solicitation resulting in contract award (RFQs, RFPs, reverse auctions, and non-standard RFQCs pre-approved by SPD as described in Section 2.4.3.2. - Other Pre-qualification Methods), the issuing officer will publish the results in accordance with the following provisions. If the contract award amount exceeds the state entity's DPA, then the state entity must first contact SPD prior to announcing the award results to request approval to exceed its DPA in accordance with Section 8.3.2. - Exceeding Delegated Purchasing Authority.

SPD must complete SPD-AP001 Selection Report prior to publishing the results of the evaluation process.

6.2.2.1. Notice of Intent to Award

The *Notice of Intent to Award (NOIA)* is the state entity's official public announcement of its intended contract award to the identified apparent successful supplier(s). The NOIA also identifies the amount of the intended contract award, the names of all suppliers whose responses were rejected, and the reasons for rejection of the unsuccessful supplier. The NOIA is publicly posted before a contract award is made. Use of the NOIA is governed by the information in Table 6.3:

Table 6.3
Notice of Intent to Award

If the Contact Has an Estimated Value of...	Then, Use of the NOIA is...
Less than $100,000.00*	Optional, but strongly recommended as a best practice
$100,000.00 or more*	Mandatory

*For multi-year agreements, use the value of the initial term to determine whether the NOIA is required to be posted

Supplier

Once the NOIA is published, the protest filing period begins and no contract award may occur until after at least 10 calendar days have passed from the publication of the NOIA. In the event a protest is received during the 10-calendar day filing period, contract award will be delayed except as otherwise approved by the State Purchasing Division Deputy Commissioner.

Procedure

The NOIA must be completed and posted as indicated in Table 6.4:

Table 6.4 NOIA Posting Policy	
If the RFQ/RFP was sourced using …	Then, the issuing officer must…
eSource	Follow the prompts within eSource to create and post the NOIA.
Team Georgia Marketplace™	Complete SPD-AP004 Notice of Intent to Award and post to GPR.
The GPR directly (i.e., a non-electronic bidding process)	Complete SPD-AP004 Notice of Intent to Award and post to GPR.

Although the issuing officer may elect to provide individual notice of the NOIA to participating suppliers as a courtesy, there is no requirement for personal notice. Suppliers are responsible for checking the GPR or eSource as applicable to view the NOIA.

6.2.2.2. Notice of Award

The *Notice of Award (NOA*) is the state entity's official announcement of actual contract award to the identified supplier(s). The NOA also identifies the amount of the actual contract award, the names of all suppliers whose responses were rejected, and the reasons for the rejection of the unsuccessful suppliers. The NOA must be publicly posted within one day of contract award (i.e., issuing a purchase order to the supplier and/or executing a contract). The NOA is mandatory for announcing any and all awards resulting from solicitations regardless of the dollar amount.

For all contracts with an estimated value of $100,000.00 or more, the NOA may not be issued prior to the expiration of the protest filing period and the resolution of any protests received except as permitted by Section 6.5.5. - Stay of Procurement During Protest Review.

Procedure The NOA must be completed and posted as indicated in Table 6.5:

Table 6.5 NOA Posting Policy	
If the RFQ/RFP was sourced using …	Then, the issuing officer must…
eSource	Follow the prompts within eSource to create and post the NOA.
Team Georgia Marketplace™	Complete SPD-AP005 Notice of Award upload to Team Georgia Marketplace™ then post to GPR.
The GPR directly (i.e., a non-electronic bidding process to include posting a Sole Source or a Consortia/Cooperative Purchase notice)	Complete SPD-AP005 Notice of Award and post to GPR.

6.3. Step 2 – State and Supplier Finalize Contract Award

Supplier The state entity must make contract award through the issuing of a purchase order to the supplier and/or by signing a standard contract with the supplier. The state entity is not required to issue a purchase order to the supplier when using the P-Card to make payment for a one-time purchase; however, the issuing officer must ensure that all necessary contract terms were included in the solicitation. Any contract discussions between the state entity and the supplier should be resolved in Chapter 5 - Stage 5 – Evaluation Process.

6.3.1. Purchase Order

A *purchase order* or PO is a contract between the state entity and the supplier. The purchase order is used for financial purposes to encumber funds. In addition, the purchase order may also be used to establish minimum contract terms. The terms, conditions, and specifications of the solicitation document and the award document will be incorporated into any contract between the state entity and the supplier as a result of the solicitation.

The State Accounting Office (SAO) maintains the Statewide Purchase Order Policy, which offers guidance to state entities on when a purchase order is expected in the procurement of goods and services. All state entity contracts, statewide contracts,

and interagency agreements should also be procured consistent with this Statewide Purchase Order Policy.

Purchase orders must contain an authorized signature, correct payment and delivery terms, and the appropriate "*purchase type*" codes and commodity codes as further described below. In addition, all PO line descriptions must clearly identify what is being purchased (using invoice, manufacturer, or item number alone are not acceptable).

For Team Georgia Marketplace™ users, Purchase Orders should be executed in the system and contain all of the above listed criteria. When utilizing a statewide contract or state entity contract for a purchase, each purchase order must reference the contract number whether the purchase is sourced from a catalog or not.

For non-Team Georgia Marketplace™ users, Purchase Orders should reflect the contract number in the PO reference field. SPD-AP011 Purchase Order (Non-PeopleSoft) is a sample purchase order that may be used by certain state entities as appropriate.

Following these specific instructions on Purchase Orders will ensure accurate data is captured in entity procurement spend reports.

6.3.1.1. Commodity Codes

Commodity codes are used to identify commodities and/or services being purchased and these purchases must be coded with the applicable NIGP Code™ regardless of the dollar amount. Every purchase order line item must be coded accurately with a five-digit (Class) NIGP Code™ selected from the correct three-digit (Category) Code.

6.3.1.2. Purchase Type Codes

Procedure

Purchase Type codes must be identified on each purchase order issued by the procurement professional as indicated in Table 6.6:

Table 6.6
Purchase Type Codes

Code	Meaning	Exempt Category
AC	State Entity Contract	State entity's purchase from an established state entity term contract (includes multi-year agreements and open agency contracts). In the event a more descriptive manual code in this table is applicable (e.g. CSN, SB, etc.), then use the more descriptive code.
ACC	State Entity Cooperative/Consortia Purchase	State entity's purchase from its own contract with a Consortia-approved/cooperative-approved supplier. (See Section 1.3.4.4. - Consortia and Cooperative Purchasing)

Table 6.6 Purchase Type Codes		
Code	Meaning	Exempt Category
ACP	State Entity Contract Piggyback	State entity's purchase through SPD Pre-Approved Piggyback. (See Section 1.3.4.3. - Piggyback Purchases). NOTE: No state entity may use another state entities contract without SPD's prior consent.
CNV	Conversion	This is an old code that is no longer applicable. Do not use this code.
CSN	Construction Contracts	State entity's purchase from construction, public works and/or architectural and engineering contracts. (See Section 1.3.6.1. Construction or Public Works)
EMER	Emergency Purchase	State entity's purchase of necessary goods/services on an emergency basis. (See Section 1.3.5. - Emergency Purchases)
EXM	Exempt	State entity's purchase of goods/services for which competitive bidding requirements have been waived (See Table 1.6). EXM may also be used to designate purchases which are exempt from the State Purchasing Act (See Table 1.2, Table 1.3, Table 1.4, Table 1.5, and Section 1.2.4.) if permitted by the state entity's internal policy. NOTE: Specific exemption being claimed must be identified in the PO comment field if the use of Exempt NIGP Codes is not applicable.
IGA	Intergovernmental Agreements	State entity's purchase from an intergovernmental agreement. (See Section 1.2.2.1. - Intergovernmental Agreements) For purchases of certified products from GCI, use MAN. For all other purchases from GCI, use IGA. See Section 1.3.3.1. - Georgia Correctional Industries Administration for additional information.
MAN	Statutory Mandatory Sources of Supply	State entity's purchase from sources designated as mandatory (See Section 1.3.3. - Tier 3 Statutory Sources Designated as Mandatory). For purchases of preferred products from GEPS, use PRF.
MUL*	Multiple Purchase	The state entity's issuance of a single PO to a

Table 6.6 Purchase Type Codes		
Code	Meaning	Exempt Category
	Order Types	single supplier to purchase a combination of Purchase Type items. Some examples of purchase types that can be combined on a single PO are shown below: • OMP (less than $25,000) and SWCM. • OMP (less than $25,000) and SWCC. • OMP (less than $25,000) and AC. • OMP (less than $25,000) and MAN (GEPS mandatory) • OMP (less than $25,000) and Exempt. Contact processimprovement@doas.ga.gov for questions concerning acceptable purchase combinations for use of the MUL code.
OMP	Open Market Purchase	A state entity's purchase made on the open market regardless of dollar amount on a one-time basis (e.g., the state entity is not establishing a term contract).
PRF	Preferred	State entity's purchase of GEPS preferred products. (See Section 1.3.4.2. - Preferred Products).
SB	Sole Brand	State entity's purchase resulting from a sole-brand solicitation. (See Section 2.3.1. - Sole Brand Solicitations).
SS	Sole Source	State entity's purchase from a sole source contract. (See Section 2.3.2. - Sole Source Purchases).
SWCM	Statewide Contract – Mandatory	State entity's purchase from a statewide contract designated by SPD as mandatory. (See Section 1.3.1. - Tier 1 - Mandatory Statewide Contracts).
SWCC	Statewide Contract – Convenience	State entity's purchase from a statewide contract designated by SPD as convenience. (See Section 1.3.4.1. - Convenience Statewide Contracts).

*Use of the "MUL" code is intended to introduce work efficiencies by allowing a single purchase order to be issued to a single supplier for a combination of purchases as shown in the examples in the table above. The "MUL" code is available for use by all state entities.

Use of the "MUL" code does not alter the state entity's responsibility to comply with other applicable policies within this manual, including, but not limited to:

- The Order of Precedence as defined in Section 1.3. - Order of Precedence,
- Applicable competitive bidding requirements for any purchase of $25,000 or more as defined in Section 1.3.4.5. - Open Market Purchases, and
- The requirement to receive SPD's pre-approval for certain contract amendments as defined in Section 7.6.1.2. - Substantive Change.
- For all PeopleSoft users making a purchase from a SWC or AC when the MUL code is used, the contract number must be entered at the PO line.

6.3.1.3. Purchase Order Comments Field

The comments field for each purchase order should be used to include additional information. For all purchases identified as exempt, the reason for exemption must be identified in the comments field.

6.3.2. Standard Contracts

The state entity may elect to sign a standard contract with the supplier. The terms, conditions, and specifications of the solicitation document and the award document will be incorporated into any contract between the state entity and the supplier as a result of the solicitation.

6.3.3. Contract Review

DOAS has the authority to review any solicitation or award at any time and for any reason. All contracts are contingent upon and subject to being declared void by the protest procedures set out in Section 6.5. - Step 4 – Supplier Participates in Protest Process. In the event a contract is voided by DOAS, that contract has no legal force or validity. Any supplier beginning contract performance prior to the conclusion of the protest process does so at that supplier's sole risk.

6.4. Step 3 – Supplier Reviews Published Results

Supplier

Each participating supplier is responsible for promptly reviewing the results of the solicitation process. As discussed in Section 6.2. - Step 1 - State Publishes Results of Evaluation Process, the state entity will identify the reasons why a supplier was not successful. Common rejection reasons are discussed in Table 6.7; however, the supplier should contact the issuing officer directly to receive additional information.

Table 6.7 Common Rejection Reasons	
Non-responsive	Supplier's response was late, materially incomplete, and/or failed to meet one or more minimum/mandatory requirements. Non-responsive can also include a supplier's response which was disqualified for unreasonably/unrealistically low pricing.
Non-responsible	Supplier is ineligible for contract award (e.g. poor history of contract performance). Additional examples are identified in Section 5.6.2.2. - Responsible; however, the supplier must contact the issuing officer for specific reason(s).
Not low-bid	Supplier did not submit the lowest price (applies to either RFQs or reverse auctions).
Price Match GRB	Supplier's lowest price was matched by a Georgia Resident Business.
Price Match SB	Supplier's lowest price was matched by a Small Business.
Price Match GRSB	Supplier's lowest price was matched by a Georgia Resident Small Business.
Not highest scoring	Supplier's response did not receive the highest total score (common for RFPs).
Did not meet scoring threshold	Supplier's response did not receive minimum score established by solicitation (generally used for either RFPs or scored RFQCs). For example, an RFQC might require a supplier to score a minimum of 700 points to be considered a qualified contractor.
Did not score within identified scoring range	Supplier's response did not receive sufficient score necessary to score within identified points range and/or ranking established by solicitation (generally used for either RFPs or scored RFQCs). For example, an RFQC might state that the top 10 scoring suppliers will be identified as qualified contractors.
Failed contract discussions	Supplier and state entity were unable to reach agreement on the contract terms to govern the transaction.

Suppliers may contact the issuing officer to view or receive copies of the state entity's evaluation documents, suppliers' responses, and other related procurement records. Review Section I.6. - Public Access to Procurement Information for additional information governing the release of public records.

6.5. Step 4 – Supplier Participates in Protest Process

Supplier

An interested supplier may file a *written protest* challenging a state entity's compliance with applicable procurement procedures subject to the interested supplier's compliance with the provisions of this section and subsections. An "interested supplier" is defined as an actual or prospective bidder or offeror with a direct economic interest in the procurement. In challenges relating to the evaluation of bids and proposals and the award of contracts, this generally means a bidder or offeror that would potentially be in line for award if the protest were sustained. There is no such thing as a perfect procurement. Thus, a protestor must show prejudice, not mere error, for not every error compels the rejection of an award. Rather, it is the significance of errors in the procurement process that determines whether the overturning of an award is appropriate, and it is the protestor who bears the burden of proving error in the procurement process sufficient to justify relief. Protests must demonstrate a reasonable possibility of competitive prejudice; in effect, but for the state entity's actions, the protesting party would have had a substantial chance of receiving an award. The presence of multiple nonmaterial issues in a solicitation or award does not constitute a material issue unless the interested party can establish those nonmaterial issues together would prejudice the outcome of the procurement. Protests will be resolved in accordance with the following subsections.

The following general principles shall apply in the review of protests:

- The standard for reviewing the evaluation of proposals is one of deference to any reasonable judgment of the evaluation team.
- A protesting party's simple disagreement with the evaluation team provides no basis for reversing the evaluation team's allocation of points.
- In order to demonstrate that a state entity's evaluation was improper, a protester cannot merely suggest alternative methodologies or conclusions; it is required to establish that the state entity's actual evaluation lacked a reasonable basis.
- Governmental officials and state entities are presumed to act in good faith, and a protester's contention that procurement officials, including but not limited to procurement personnel and evaluation team members, are motivated by bias or bad faith will not be considered unless supported by convincing proof.
- The composition of an evaluation team is a matter in which the procuring entity maintains great discretion. The qualifications or the composition of an evaluation team may not be questioned unless the protester provides convincing proof of bad faith, conflict of interest, or actual bias.
- The manner and depth of a state entity's price analysis is a matter within the sound exercise of the state entity's discretion. Interested suppliers may not challenge the realism of a potential awardee's price, such as arguing a

supplier's price is so low that it reflects a lack of understanding of the state entity's requirements or creates a risk of unsuccessful performance.

- A state entity maintains discretion to determine its needs and the best method to accommodate them and the responsibility for drafting proper specifications that reflect the state's needs is the procuring entity's. However, those needs must be specified in a manner designed to achieve full and open competition. Where a protester alleges that performance is impossible, DOAS will not substitute its judgment for that of the procuring entity or sustain the protest in the absence of clear and convincing evidence that the specifications are in fact impossible to meet or unduly restrict competition. Where a requirement reflects a procuring entity's minimum needs, the fact that the protester will be unable to meet the requirement does not establish that the specifications are impossible to meet or that the specifications unduly restrict competition.
- State entities who provide education-related services will be provided deference in instances where the state entity determines that specific brand-name equipment is required for educational purposes; however, such determination by the state entity must be documented and reasonably related to a need or desired outcome.
- A state entity may waive compliance with a material solicitation requirement in awarding a contract if the award will meet the state entity's actual needs without prejudice to other suppliers. Competitive prejudice from such a waiver exists only where the requirement was not similarly waived for the protester, or where the protester would be able to alter its submission to its competitive advantage if given the opportunity to respond to the relaxed term. In cases where the protester argues that a state entity improperly waived a certain requirement, prejudice does not mean that, had the state entity failed to waive the requirement, the awardee would have been unsuccessful. Rather, the pertinent question is whether the protester would have submitted a different offer that would have had a reasonable possibility of being selected for award or that it could have done something else to improve its chances for award had it known that the state entity would waive the requirement.
- If a state entity's improper deviation from the solicitation equally affects all suppliers, then it causes prejudice to none. In the event that the deviation restricted competition in a material manner, DOAS may determine that such deviation is impermissible.
- Patent ambiguities must be challenged prior to close of the solicitation. A supplier who chooses to compete under a patently ambiguous solicitation does so at its own peril and cannot later complain when the state entity proceeds in a manner inconsistent with one of the possible interpretations.

6.5.1. Types of Challenges

Supplier

There are numerous different challenges an interested supplier may make; however, the types of challenges are generally organized as follows:

- *Challenge to the Solicitation*: Any interested supplier capable of responding to a competitive solicitation may file a protest with respect to the competitive solicitation process, including but not limited to a challenge to specifications or any events or facts arising during the solicitation process.
- *Challenge to a Sole Source Notice*: Any interested supplier capable of providing the goods/services identified in a sole source notice may file a protest challenging the sole source determination.
- *Challenge to a Consortia/Cooperative Notice*: Any interested supplier capable of providing the goods/services identified in a consortia/cooperative notice may file a protest challenging the consortia or cooperative notice determination.
- Challenge to Results of RFQC: Any interested supplier submitting a timely written response to a RFQC may file a protest with respect to the results of that RFQC, including, but not limited to, events or facts arising during the evaluation process.
- *Challenge to the State's Intended or Actual Contract Award*: Any interested supplier submitting a timely written response to a competitive solicitation may file a protest with respect to the state entity's intended or actual contract award, including, but not limited to, events or facts arising during the evaluation and/or negotiation process.

DOAS does not maintain statutory authority to consider protests relating to procurements conducted by the following entities:

- University System of Georgia including colleges and universities regarding public works.
- Georgia Department of Transportation regarding construction, public works, and services ancillary to the construction and maintenance of public roads.
- Certain government authorities such as the Georgia Technology Authority (GTA).
- Local governmental entities, community service boards, local boards of public health, local boards of education, Regional Educational Service Agencies, state authorities, or the federal government.

6.5.2. Determinations of Responsibility

Affirmative determinations of responsibility by a state entity are subject to protest only in the following circumstances:

- Challenges alleging that definitive responsibility criteria contained in the solicitation were not met.
- Challenges identifying significant evidence that a state entity failed to consider available relevant information that, by its nature, would be expected to have strong bearing on whether the apparent successful supplier should be found responsible. Then information in question must concern serious matters that call into question the supplier's capability or qualification to contract with the state, such as allegations of fraud or other potential criminal activity.

In making a negative responsibility determination (a determination that a supplier is nonresponsible), a state entity is vested with a wide degree of discretion and, of necessity, must rely upon business judgment in exercising that discretion. Although the determination must be factually supported and made in good faith, the ultimate decision appropriately is left to the state entity, since the state entity must bear the effects of any difficulties experienced in obtaining the required performance. For these reasons, DOAS generally will not question a negative determination of responsibility unless the protester can demonstrate bad faith on the part of the state entity or a lack of any reasonable basis for the determination.

6.5.3. Protests Involving Ability of a Supplier to Submit a Timely Bid or Proposal

Supplier

A bid or proposal that is received after the exact time specified in the solicitation is considered to be late and generally will not be considered by a state entity. Suppliers are responsible in all respects for timely submission of bids and proposals. A supplier's protest relating to ability to submit a timely bid utilizing the state's electronic bidding system will not be sustained unless DOAS's technical review of the electronic bidding system specifically identifies a system functionality error that prevented submission of supplier's response within two hours prior to close of a solicitation. Increased processing time is not considered to be a system functionality error.

6.5.4. Sole Source and Consortia Notice Protest Review Process

Supplier

Upon initial receipt of a timely-filed protest regarding a sole source or proposed consortia/cooperative procurement, DOAS will forward such protest to the APO/CUPO for initial consideration. During the consideration of the protest, the APO/CUPO may provide additional information to the supplier regarding the goods/services that the state entity is seeking to procure and/or request additional information from the supplier in order to understand whether the protesting party is able to meet the state entity's requirements. Sole source and consortia/cooperative procurement challenges can be resolved at any time by either 1) the APO/CUPO contacting DOAS and providing notification of the cancellation of the sole source or consortia/cooperative procurement; or 2) the protesting party submitting a written request to withdraw its protest to DOAS. In the event the APO/CUPO determines that the protest will not be resolved by cancellation or withdrawal, the APO/CUPO will notify DOAS that review of the protest by the Deputy Commissioner of State Purchasing is required. Such notification shall be sent by the APO/CUPO to protests@doas.ga.gov.

6.5.5. Form of Protest

At a minimum, the protest must be submitted in writing and must include the following:

- The name and address of the protestor;
- Appropriate identification of the solicitation/sole source notice/consortia or cooperative notice;
- A statement of reasons for the protest;
- Supporting exhibits, evidence or documents to substantiate any claims unless not available within the filing time (in which case the supplier must proceed to file the protest within the filing period identified below, but state the expected availability of the material); and
- The desired remedy.

To ensure the protest process is conducted efficiently and in a manner fair to all parties, DOAS requires a protesting supplier to identify all grounds for protest during the protest filing period. DOAS, at its discretion, may deem issues not raised in the protest filing period as voluntarily relinquished by the protesting supplier. After the protest filing period expires, any grounds for protest voluntarily relinquished by the protesting supplier may not be introduced by the protesting supplier at any time during the protest process or any subsequent litigation.

6.5.6. Filing Protests

A protest is considered to be properly filed when it is in writing and signed by a company officer authorized to sign contracts on behalf of the supplier, is submitted via e-mail to protests@doas.ga.gov, and is received by the Deputy Commissioner within the filing period.

6.5.7. Filing Deadlines

Protests must be received within ten (10) calendar days after the protesting party knows or should have known of the occurrence of the action which is protested, or the protest filing deadline located in Table 6.9, whichever date is earlier. DOAS will not consider untimely protests absent evidence of malfeasance or administrative error by the state entity that substantially impaired an interested supplier's ability to file a timely protest. In the event that a state entity does not provide timely access to records as required pursuant to (O.C.G.A.) Section 50-5-67(d)(2), the interested supplier is required to file a protest within the filing period, indicating the failure of the state entity to provide timely access to records and reserving the right to file an amended protest upon production of such records. A Checklist for Bid Posting Times and Protest Filings, SPD-SP014, can be viewed on the DOAS State Purchasing website for more details. If an interested supplier fails to file a protest by the applicable deadline, DOAS may, at its discretion, deem such failure as the supplier's voluntary relinquishment of any grounds the supplier may have for protesting through DOAS' protest process or through subsequent litigation.

Table 6.8
Protest Filing Deadlines

Type of Protest	Dollar Threshold	Protest Filing Deadline
Challenge to Competitive Solicitation Process	$25,000 to $249,999.99	One business day prior to the closing date and time of the solicitation as identified on the GPR.
	$250,000.00 or greater	Two business days prior to the closing date and time of the solicitation as published on the GPR.
Challenge to Sole Source Notice	N/A	Prior to closing date and time of the Sole Source Notice as published on the GPR.
Challenge to Consortium/Cooperative	N/A	Prior to closing date and time of the Notice of

Purchase Notice		Intent to Purchase from a Consortia/Cooperative as published on the GPR.
Challenge to Results of RFQC	N/A	The protest notice must be filed within ten calendar days of the date the RFQC List of Qualified Contractors is posted.
Challenge to an Intended or Actual Contract Award as posted in State Entity's NOIA	$25,000 to $99,999.99	The protest notice must be filed within five calendar days of the date the NOIA is posted.
	$100,000.00 to $249,999.99	The protest notice must be filed within five calendar days of the date the NOIA is posted. The supplier has an additional five calendar days to complete and submit supporting exhibits, evidence or documents with desired remedy to DOAS.
	$250,000.00 or greater	The protest notice must be filed within ten calendar days of the date the NOIA is posted.
Challenge to an Actual Contract Award State Entity was not required to post NOIA	Less than $100,000.00	The protest notice must be filed within ten calendar days of the date the NOA is posted.

6.5.8. Stay of Procurement During Protest Review

When a protest challenging the competitive solicitation process has been timely filed at least one business day prior to the closing date and time if the solicitation is under $250,000 or two business days prior to the closing date and time if the solicitation is $250,000 or greater, the solicitation will not close until a final decision resolving the protest has been issued, unless the State Purchasing Division Deputy Commissioner makes a written determination that the closing of the solicitation without delay is necessary to protect the interests of the state.

When a protest challenging a sole source notice, consortium or cooperative purchase notice, or an intended contract award has been timely filed, the state entity will not proceed to actual contract award unless the State Purchasing Division Deputy Commissioner makes a written determination that the issuance of a contract or performance of the contract without delay is necessary to protect the interests of the state.

If it is determined that it is necessary to proceed with contract performance without delay, the supplier with this contingent contract may proceed with performance and receive payment for work performed in strict accordance with the terms of the contract; however, such supplier will not be entitled to reimbursement for any capital outlay costs, or other up-front expenditures incurred in performing the contract. The provisions of this paragraph are not applicable to a protest pertaining to events or facts arising during the solicitation process.

6.5.9. Protest Resolution

The State Purchasing Division Deputy Commissioner will review and issue a written decision on the protest as expeditiously as possible after receiving all relevant requested information from the state entity, issuing officer, and suppliers. In the event that a solicitation, a sole source notice, or a consortia/cooperative notice is cancelled by a procuring entity prior to issuance of a decision, the protest will be deemed moot and no further action will be taken by DOAS regarding the protest. Available remedies for sustained protests are outlined in Table 6.9:

Table 6.9
Protest Remedies

If protest concerns…	Then, available relief includes, but is not limited to the following:
Challenge to Competitive Solicitation Process	• Modification of the solicitation document. • Extension of the solicitation closing date and time (as appropriate). • Cancellation of the solicitation.

Table 6.9 Protest Remedies	
Challenge to Sole Source Notice or Consortia/Cooperative Notice	• Revision or cancellation of the sole source notice or the consortia/cooperative notice.
Challenge to Results of RFQC	• Revision or cancellation of the RFQC List of Qualified Contractors. • Re-evaluation. • Cancellation. • Ree-solicitation with appropriate changes to the new solicitation.
Challenge to an Intended or Actual Contract Award	• Revision or cancellation of the NOIA /NOA. • Re-evaluation and re-award. • Cancellation. • Re-solicitation with appropriate changes to the new solicitation.

6.5.10. Costs

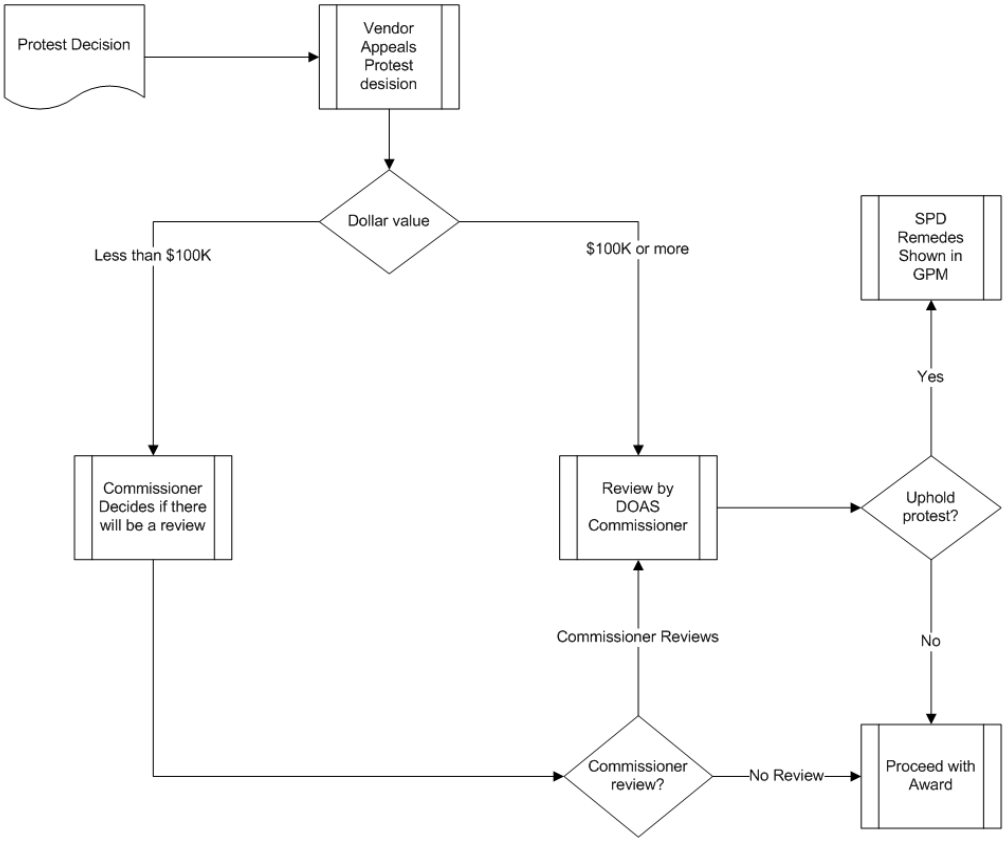
In no event will a supplier be entitled to recover any costs incurred in connection with the solicitation or protest process, including, but not limited to, the costs of preparing a response to the solicitation, the costs of participating in the protest/request for formal review process or any attorneys' fees.

6.5.11. Request for Formal Review/Appeal Process

All protest decisions concerning solicitations, sole source notices, consortia or cooperative purchase notices, results of RFQCs and/or intended/actual contract awards with an estimated value of $100,000.00 or more will be subject to formal review by the DOAS Commissioner upon request. In the event the estimated value of the solicitation, sole source notice, consortia or cooperative purchase notices, results of RFQC or intended/actual contract award is less than $100,000.00, it will be within the DOAS Commissioner's discretion whether such request for formal review will be granted.

Diagram 6.1

Review/Appeal Process



The parties listed in Table 6.10 may file a request for formal review:

Table 6.10 Parties Eligible to Request Formal Review	
If protest concerns…	Then, the following parties may appeal the resulting protest decision.
Challenge to Competitive Solicitation Process	• The supplier filing the protest. • Any supplier adversely impacted by the protest decision provided the supplier is interested in and capable of providing the goods/services at issue. • The state entity identified in the soli-

Table 6.10 Parties Eligible to Request Formal Review	
	citation.
Challenge to Sole Source Notice	• The supplier filing the protest. • The identified sole source supplier. • The state entity identified in the sole source notice.
Challenge to Results of RFQC	• The supplier filing the protest. • Any supplier adversely impacted by the protest decision provided that supplier submitted a timely response to the RFQC. • The state entity identified in the RFQC.
Challenge to an Intended or Actual Contract Award	• The supplier filing the protest. • Any supplier adversely impacted by the protest decision provided that supplier submitted a timely response to the solicitation. • The state entity identified in the solicitation.

Procedure

Any request for formal review must be submitted to the DOAS Commissioner via e-mail at protests@doas.ga.gov. Such request for formal review must be received by the DOAS Commissioner within three business days of the issuance of the protest decision. The request for formal review must be in writing and will identify any errors in the protest decision as well as the factual and legal grounds upon which reversal or modification of the protest decision is deemed warranted. The parties involved in the protest have a right to a hearing before the DOAS Commissioner. If a hearing is requested, the DOAS Commissioner, or designee, shall issue a Procedural Order, scheduling and providing details for a hearing.

Procedure

The parties may submit documentary evidence and witness testimony in the form of affidavits prior to the hearing. The DOAS Commissioner may solicit additional information from the parties at any time prior to the issuing of the final decision. Issues not raised in the initial protest or issues not raised in the initial request for formal review may, at the discretion of the DOAS Commissioner, be deemed voluntarily relinquished. The protesting party may request that the hearing be conducted before a court reporter. Such request must be in writing and include an agreement by the protesting party that it shall secure and pay for the court reporting services for such hearing. To be made part of the record, the original transcript of any such proceedings shall be submitted to the DOAS Commissioner as soon as the transcript is available, without cost. The DOAS Commissioner will make a decision on the protest as expeditiously as possible after receiving all relevant requested information. The decision of the DOAS Commissioner will be the final DOAS action regarding the protest. No motion for reconsideration shall be considered.

6.5.12. Partnership with Georgia State Finance and Investment Commission

DOAS has entered into an intergovernmental agreement with the Georgia State Finance and Investment Commission (GSFIC) transferring to GSFIC the authority to administer procurements and contracts for certain construction projects due to GSFIC's expertise in construction matters. DOAS and GSFIC will jointly determine what construction projects GSFIC will handle. In the event a supplier desires to file a protest as defined by Section 6.5.1. - Types of Challenges and the protest concerns a solicitation handled by GSFIC pursuant to the intergovernmental agreement between DOAS and GSFIC, the supplier will file the protest in accordance with the instructions provided in GSFIC's solicitation. GSFIC will make a decision on the protest as expeditiously as possible after receiving all relevant requested information. Before issuing a written decision resolving the protest, GSFIC will notify the State Purchasing Division Deputy Commissioner of the intended resolution of the protest. After issuing a written decision resolving the protest, GSFIC will send a copy of the written decision to the State Purchasing Division Deputy Commissioner.

6.6 - Supplier Debriefing Process

The following provisions governing the supplier debriefing process shall be applicable to all solicitations posted on or after November 1, 2020 that meet the requirements below.

The purpose of a supplier debriefing is to share information about the evaluation and award process. Suppliers can benefit from supplier debriefings by enhancing their understanding of the procurement process and gaining insights to improve the competitiveness of their responses to future solicitations. The supplier debriefing is not an adversarial proceeding and may not be used to challenge the state entity's selection

and award process. Any challenge to the procurement process must be filed in accordance with Section 6.5. Step 4 – Supplier Participates in Protest Process.

6.6.1. Scope and Application of the Supplier Debriefing Process

The supplier debriefing process is available, upon request, to any supplier who submitted an unsuccessful response to a competitive solicitation resulting in contract award valued at $250,000 or more. The supplier debriefing process is not applicable to Requests for Information, sole source notices, consortia notices, or standard Request for Qualified Contractors used for prequalification only.

The general scope of the supplier debriefing may include an overview of the solicitation process, the selection criteria, the unsuccessful supplier's evaluation results and the strengths and weaknesses of the unsuccessful supplier's response. The debriefing shall not include point-by-point comparisons of the debriefed supplier's response with those of other participating suppliers. The state entity, at its discretion, may also solicit feedback from the unsuccessful supplier regarding the procurement process.

6.6.2. Process for Requesting and Conducting Supplier Debriefings

The unsuccessful supplier must submit a written request for debriefing to the issuing officer within fifteen (15) calendar days of the state entity's posting of a Notice of Award. The Issuing Officer may share the request with the APO/CUPO as appropriate.

If a timely request is received which meets the requirements of Section 6.6.1, the state entity will acknowledge receipt of the request and notify the supplier of the following:

- scope of the debriefing;
- the format for conducting the debriefing, which may include conducting the debriefing in writing, by phone, through virtual technology, or through a face-to-face meeting at the state entity's sole discretion; and
- the date, time and place (as applicable) for the debriefing.

Whenever possible, the state entity should attempt to conduct the supplier debriefing within thirty (30) days of the written request but only upon completion of the protest process and resolution of any related litigation. The supplier debriefing may be performed by the issuing officer or APO/CUPO and may include other state entity representatives as appropriate who are knowledgeable of the procurement.

Upon receipt of the state entity's communication, the supplier must acknowledge receipt of the state entity's notice via email within three (3) business days and, if a debriefing will be granted:

- confirm its intention to participate in the supplier debriefing session; and
- notify the state entity of the supplier's representatives that will participate.

As the supplier debriefing is not a hearing, no legal representation is required. However, if the supplier prefers to have legal representation present, the supplier must notify the state entity in advance and identify its attorney.

Requests for supplier debriefing that are not timely submitted or concern solicitations not within the scope of Section 6.6.1 may be granted by the state entity at its sole discretion.

6.6.3. Documentation of Supplier Debriefings

Documentation of the supplier debriefing should be maintained by the state entity as part of the procurement files. Documentation of the debriefing process includes, but is not limited to, the supplier's request, state entity's response and any other related correspondence, meeting agenda, list of individuals attending the meeting, any written documents provided to the supplier, any notes taken during the debriefing, etc. A supplier's request to receive procurement records as part of the debriefing process will be handled in accordance with the Georgia Open Records Act.

Stage 7 – Contract Process

This chapter describes the Contract Process stage, the policies that govern this stage, and the steps performed during this stage by SPD, state entity procurement professionals, and suppliers.

Key Steps

The key steps for the Contract Process stage are:

- Supplier Actions:
  - Performing under the contract requirements.
  - Working with state entity to resolve any contract disputes.
- State Actions:
  - Administering and managing the contract.
  - Working with supplier to resolve any contract disputes.
  - Completing contract close out tasks.

Table 7.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-CP001 Supplier Data Sheet	●	●
SPD-CP004 Excise Tax Exemption Certificate	●	●
SPD-CP007 Contract Action Summary Form	●	●
SPD-CP010 Contract Renewal Template	●	●
SPD-CP012 Contract Administrative Change Template	●	●
SPD-CP013 Contract Amendment Template	●	●
SPD-CP016 Contract Administration Plan Template	●	●
SPD-CP019 Contract Assessment Report	●	●
SPD-CP022 Contract Quarterly Administrative Fee Report		●
SPD-CP025a Supplier Quarterly Sales Report for Goods		●
SPD-CP025b Supplier Quarterly Sales Report for Ser-		●

Table 7.1 Referenced Official Forms	State Entity Use	SPD Use
vices		
SPD-CP025c Supplier Quarterly Sales Report for IT		•
SPD-CP028 Statewide Contract Benefit Example		•
SPD-CP029 Statewide Contract Benefit Template		•
SPD-CP030 Statewide Contract Announcement Letter Template		•
SPD-CP031 Statewide Contract Webinar PowerPoint Template		•
SPD-CP032 Statewide Contract Information Sheet Tem-plate		•
Automated Submission Process	State Entity Use	SPD Use
Supplier Performance Report	•	•

7.1. Introduction to the Contract Stage

The contract process begins once the state entity has finalized contract award. Some of the following steps may overlap; however, the material for the Chapter 7 - Stage 7 – Contract Process has been organized according to Table 7.2:

Table 7.2 Stage 7 - Contract Process – Major Steps	
Step	Description
Step 1	State's initial contract administration tasks
Step 2	Supplier's contract performance
Step 3	State's review and acceptance of supplier's performance
Step 4	State's payment for accepted goods and services
Step 5	State's ongoing contract management
Step 6	State and supplier's resolution of disputes
Step 7	Contract Close out

7.2. Step 1 – State's Initial Contract Administration Tasks

The goal of *contract administration* is to ensure the supplier performs according to the terms of the contract and that both parties (e.g., the supplier and the state

entity)properly discharge their responsibilities. Step 1 addresses the role of the contract administrator and the use of a project manager. Step 1 also identifies several initial tasks in the contract administration process.

7.2.1. Role of Contract Administrator

For purposes of this manual, the procurement professional primarily responsible for administering and managing the contract will be called the contract administrator. For state entity contracts, the APO/CUPO (or his/her designee) is the contract administrator. For statewide contracts, the SPD issuing officer or other appropriate staff member serves as the contract administrator. The contract administrator is responsible for the following:

- Monitoring supplier performance,
- Monitoring invoice payment reports from accounting for timeliness and accuracy,
- Managing the contract, including renewing multi-year agreements as appropriate,
- Documenting all actions taken regarding the contract and maintain such documentation as part of the official contract file, and
- Closing out the contract file.

7.2.2. Role of Project Manager

For service agreements or complex projects, the state entity may elect to assign an individual to serve as the *project manager*. The *project manager* is generally responsible for both technical oversight and direction. The project manager (in conjunction with other applicable staff) is responsible for:

- Reviewing all work that has been or is being performed by the supplier,
- Confirming that the work being performed is in accordance with the specifications and provisions of the contract,
- Addressing any performance deficiencies,
- Monitoring the progress of the contract, and
- Performing inspections as necessary.

In addition, whenever the contract so prescribes, the project manager is responsible for acceptance of the work product or service provided. If changes need to be made to the contract in the form of modifications, terminations or claims disposition, then the contract administrator manages this process.

7.2.3. Maintaining Contract Information

Procedure

State entities using the Sourcing Module of Team Georgia Marketplace™ must use the contract management functionality of that module for any and all contracts established through Team Georgia Marketplace™. The Procurement Professional will upload the completed and executed documents referenced in Table 7.1 into the Contracts Module as they are completed.

7.2.4. Preliminary Communications

Once a new contract has been awarded, the contract administrator must manage preliminary communications, including the initial contract kickoff meeting with the awarded supplier as well as announcements to contract users.

7.2.4.1. Contract Kickoff Meeting

Supplier

A *contract kickoff meeting* (also known as a post-award meeting) is a conference of the parties (both supplier and state entity) responsible for administering the contract which is held immediately upon award of a contract. The contract kickoff meeting is an orientation for the supplier to ensure a clear and mutual understanding of all contract terms and conditions and the respective responsibilities of the parties. It is a tool to clarify and resolve any potential misunderstandings. Although both the supplier and state entity personnel should be fully aware of the requirements of the contract at the time of award, the kickoff meeting ensures that those involved directly in the contract administration process understand all requirements of contract performance.

Procedure

State entity personnel should first conduct a preliminary conference to properly plan for the contract kickoff meeting. The contract kickoff meeting should cover the following areas:

- Scope of the contract, for example, specifically, what the state entity is buying.
- Contract terms and conditions, particularly any special contract provisions.
- Technical and reporting requirements of the contract. Reporting requirements are a means to keep the state entity informed regarding contract status and verify that the supplier's progress coincides with contract requirements.
- Applicable contract administration procedures, including contract monitoring and progress measurement.
- The rights and obligations of both parties and the supplier performance evaluation procedures.
- Potential contract problem areas and their possible solutions.

- Invoicing requirements and payment procedures. This is especially important if payment will be made according to milestones achieved by the supplier.
- Liquidated damages (if any) and performance bonds (if any) must be discussed with the supplier and conditions for enforcement explained.
- State entity personnel must explain the limits of their authority, and obtain the same information regarding supplier personnel.

Procedure

The contract administrator should establish the time and place of the meeting, prepare an agenda, and notify all appropriate personnel. All direction to a supplier must be within the scope of the contract. State entity personnel must not impose additional requirements upon the supplier or make changes that are out of scope of the contract.

After the contract kickoff meeting, the contract administrator must prepare a memorandum for the file detailing the items covered. The memorandum must include areas requiring resolution, a list of participants, and, in particular, those individuals assigned responsibilities for further action and the due dates for those actions. Copies of the memorandum should be distributed to all participants and maintained as part of the state entity's contract file.

7.2.4.2. Contract Announcement and Marketing

Supplier

The contract administrator is responsible for announcing the new contract to all applicable users of the contract. The state entity in conjunction with the supplier will manage any contract marketing efforts.

SPD

For statewide contracts, SPD may use webinars, email communications, public announcements on DOAS' webpage, or any other approved communication method to announce new statewide contracts. The following templates may be used by the SPD contract administrator to facilitate communication and marketing efforts:

- SPD-CP028 SWC Benefit Example.
- SPD-CP029 SWC Benefit Template.
- SPD-CP030 SWC Announcement Letter Template.
- SPD-CP031 SWC Webinar PowerPoint Template.
- SPD-CP032 SWC Information Sheet Template.

7.2.5. Using Contract Administration Plan

The objective of a *contract administration plan* is to ensure that all state entity personnel have a common understanding of both the state entity and the supplier's respective obligations. It is a cursory view of planned and completed activities, and can be used throughout the term of the contract as a status report. The contract

administrator may use SPD-CP016 Contract Administration Plan Template as a guide to document and manage the contract. Among the items that are included in the contract administration plan are:

- The statement of work, including identification of all deliverables, milestones and due dates,
- A list of all contract modifications/amendments issued,
- A summary of all invoices submitted and paid,
- A list of all option/renewal dates and option/renewal notification dates, and
- A list of the resources which the supplier applies to the work required (such resources should be used in accordance with the proposed levels in the contract).

More complex contracts may require in-process *reviews* and *visits*. *Site visits* to the supplier's facility by the contract administrator (and/or project manager) can be used to verify actual performance against scheduled or reported performance. They can also assure that the supplier is dedicating sufficient resources and appropriate personnel to the contract. Site visits also provide the opportunity to enhance communication with the supplier and follow-up on any previously noted discrepancies.

7.2.6. Monitoring by Third Parties

In some instances, the obligation of monitoring a supplier's progress is assigned to a third party. For example, on a construction contract, the task of ensuring progress in accordance with the contract may be handled by the architectural firm that provided the plans for construction. For highly technical work, the state entity may elect to use consultant subject matter experts to perform monitoring services independently.

7.3. Step 2 – Supplier's Contract Performance

Each supplier's contract performance is governed by the specific terms of the contract. However, the following subsections provide general guidance regarding the supplier's initial and ongoing contract performance.

7.3.1. Authorization to Begin Performance

Supplier

Except as provided otherwise in Section 6.3. - Step 2 – State and Supplier Finalize Contract Award, the awarded supplier will receive either a signed contract or a purchase order (or both) from the state entity. The purchase order and/or signed contract will include the terms, conditions and specifications governing the supplier's contract performance as well as any of the supplier's exceptions that were accepted by the state entity. No supplier is authorized to begin contract performance prior to receiving a signed contract or purchase order from the state entity.

In addition, if there are preliminary tasks to be completed before contract work begins, then the supplier cannot commence work until such tasks have been performed. For example, the supplier must submit proof of any required insurance to the state entity prior to beginning contract performance. Any required bonds (payment, performance, fidelity, etc.) or letters of credit must also be promptly submitted to the state entity in accordance with the terms of the contract.

The supplier's receipt of a purchase order from the state entity for a one-time purchase, a lease or installment purchase, or a fixed quantity contract, authorizes shipment in accordance with its terms. The supplier's receipt of a Notice of Award from the state entity establishing a term contract, however, does not authorize any shipment. Shipment against term contracts is only authorized by the supplier's receipt of a purchase order from the state entity. The purchase order number or contract number must be shown on all bills of lading, packing slips, back orders, invoices, and other transactional documents. Some state entities may request the supplier to ship against a term contract prior to the issuance of a purchase order; however, any shipments made pursuant to such a request and before the receipt of a purchase order are made at the supplier's sole risk.

7.3.2. Delivery of Goods/Performance of Services

Supplier

The contract administrator must work with the supplier to assure the timeliness and quality of deliverables. Any delay in delivery or poor quality of products or services is an indication that the supplier may be experiencing problems. Prompt inquiry may avoid further delays or quality problems. If a supplier is late in the delivery of goods, equipment or in meeting a milestone, the contract administrator must immediately contact the supplier to ascertain the circumstances regarding the delay. However, it is the supplier's responsibility to identify schedule or performance issues and correct deficiencies.

7.3.2.1. Delivery Time

Supplier

The supplier must maintain or have available an inventory sufficient to make delivery within the time stated in the contract, or take whatever other measures may be necessary in order to ensure that delivery will be made in accordance with the contract. Failure to deliver in accordance with the contract could result in the supplier being declared in default.

7.3.2.2. Packaging

Supplier

All items must be packaged in new packing containers. Packing that meets the requirements of freight shipping, that is acceptable to carriers, and that is in normal use, will generally be acceptable. A packing slip or invoice must accompany all shipments and must reference the purchase order number or contract number. All packing slips should be labeled properly showing brand name, size, or package number, part numbers and amount.

Quantities, units, and prices on all shipping documents must match those on the purchase order. If the contract requires grading certificates, USDA stamps, or other proof of quality, such proof must accompany the shipment.

7.3.2.3. Back Orders

Supplier

If it is necessary for a supplier to back order any item, and if the contract or purchase order allows for back orders, the supplier should notify the consignee and advise as to the expected shipment or delivery date. The need to back order may be deemed a breach of contract.

The supplier should discuss with the contract administrator whether partial shipment is acceptable and, if so, whether the contract administrator agrees to make payment for the partial shipment. For some contracts, acceptance of a partial shipment or partial payment may not be practical and/or beneficial to the state entity.

7.3.2.4. Substitution

Supplier

Substitution refers to the shipment of an item that does not conform strictly to the purchase order or contract specifications, including any brand and/or model number specified. Any substitution must be approved in writing by the contract administrator prior to delivery. Items which do not meet specifications will be returned to the supplier at the supplier's expense. The contract administrator's refusal to accept a substitution does not relieve the supplier of the supplier's obligation to provide the item or items called for in the contract.

7.3.2.5. New, Used or Altered Product

Supplier

All goods and equipment supplied to the state entity must be new and in first-class condition unless the contract specifically allows used, reconditioned, or remanufactured items. If newly manufactured items are specified, such items must be of recent origin and not previously used.

Unless otherwise specified in the solicitation, all goods and equipment supplied to the state entity must be commercially available at the time of bid. No goods or equipment of any type will be acceptable if serial numbers or any other manufacturer's identifying labels or marks have been removed, obliterated, or changed in any way. A supplier delivering any such goods or equipment to the state entity will be deemed to have breached the contract, and appropriate action will be taken by the state entity.

7.4. Step 3 – State's Review and Acceptance of Contract Performance

The state entity's review and acceptance of contract performance is a critical part of successful contract management. All goods, services and other contract deliverables delivered to any state entity will be subject to inspection, testing and other appropriate review.

Supplier

The supplier's delivery of such goods, services and other contract deliverables does not constitute the state entity's acceptance. Goods, services or other contract deliverables that do not meet applicable contract specifications and requirements will be rejected. Failure to reject upon receipt, however, does not relieve the supplier of its liability. If tests subsequent to delivery reveal a failure to meet specifications, the supplier will be deemed to have breached the contract.

7.4.1. Inspection and Acceptance

Procedure

Goods delivered by the supplier must be inspected by the contract administrator upon receipt, and either accepted or rejected. Deliverables must be inspected as soon as they are received to ensure that quality deficiencies are not repeated in the next shipment. For service contracts, inspection and acceptance may be upon the completion of stated tasks or timely achievement of milestones or events. Acceptance constitutes the state entity's acknowledgment that the goods and services conform to the quality and quantity requirements set forth in the contract.

7.4.2. Loss or Damage in Transit

Supplier

For all purchase orders or contracts designated *Free On Board* ("F.O.B.") destination, delivery of goods or equipment to a common carrier does not constitute delivery to the state entity, and the risk of loss will remain with the supplier until actual delivery to and acceptance by the state entity.

Procedure

Any claim for loss or damage incurred during the delivery will be made by the supplier directly to the carrier. The state entity will note all damage incurred in transit on the freight bill and notify the supplier and the supplier must make immediate replacement of the damaged merchandise. If damage is to a small quantity only and the state entity will not be inconvenienced because of the shortage, the supplier may, with the consent of the state entity, deduct the amount of damage or loss from their invoice to the state entity in lieu of replacement. For accounting and budgeting reasons, the state entity is unable to prepay freight. The supplier must prepay the freight and insurance. The supplier may charge back the freight and insurance if the exact amount of the "charge" or a "shall not exceed" amount is stated in the supplier's response to the state entity's solicitation. In such instances, supporting documentation of any freight or insurance charges must be attached to the submitted invoice.

7.4.3. Rejection of Goods, Equipment and Services

If goods, equipment or services do not meet the contract requirements, the contract administrator must identify the deficiencies and advise the supplier in writing so that remedial action can be taken immediately.

Procedure

Supplier

It is critical that all rejections be fully documented since these will be used to support any disapproval of invoices. Upon receipt of a rejection notice, the contract administrator must immediately contact the supplier to ascertain what corrective actions the supplier is taking to correct the deficiency and assure that future deliveries/ performance meet the contract requirements. Suppliers must be given prompt notice of rejection, including the reason(s) for rejection. If prompt notice is not given, acceptance may be implied as a matter of law. Suppliers must be given an opportunity to correct or replace nonconforming goods or services when that can be accomplished within the delivery schedule. Correction or replacement must be without additional cost to the state entity. Additionally, supplier performance must be well to provide a historical record that can be used in making future contract award decisions.

7.4.4. Acceptance of Nonconforming Goods or Services

Procedure

Nonconforming goods or services may, however, be accepted by the contract administrator when it is in the best interest of the state entity. When considering whether or not to accept nonconforming goods or services, the contract administrator, in conjunction with appropriate state entity staff, must determine if the nonconformance adversely affects the satisfaction of a basic contract objective. Repeated submission of nonconforming goods or services by the supplier will generally require that the contract be terminated and the requirements resolicited. However, if the contract administrator determines an exception will be made, the contract administrator must also determine whether or not such nonconformance is a one-time exception or may apply in repeated special circumstances.

Finally, when accepting nonconforming goods or services, the contract administrator must determine whether or not the nonconformance merits an applicable adjustment in the contract fees. If so, the contract administrator will issue an appropriate modification to the contract reflecting the nonconformance, whether it is a one-time occurrence or for special circumstances, and any applicable monetary reduction to the contract.

7.4.5. Returned Items

Procedure
Supplier

When goods are shipped incorrectly or damaged in shipping, the contract administrator should obtain a return authorization number, if required by the supplier. Many suppliers require that a return authorization number is obtained prior to their acceptance of a return item. Neglecting to obtain this number when it is required may result in the package being refused by the supplier and/or no credit being issued to the account.

In some cases there could be a restocking fee (usually a percentage of the purchase price). If the supplier is completely responsible for the error or the problem, the state entity should not have to pay freight, restocking, or any other fee. However, if the supplier is not fully responsible for the error, then the state entity may be required to pay the fee. Once the supplier has been notified that an item needs to be returned and a return authorization number has been issued, a change order can then be sent to the supplier.

7.4.6. Title to Property

Supplier

All tools, dies, jigs, patterns, equipment, plates, cuts, negatives, artwork, or other items purchased, furnished, charged to or paid for by the state entity and produced in conjunction with or in order to fulfill any contract, and any replacement thereof, will become and remain the property of the state entity. The supplier must hold such property for the benefit of the state entity and upon the state entity's written request, or at the time of contract termination, deliver the property to the state entity.

7.4.7. Warranties

Supplier

The supplier's warranty of its provided goods and services shall be as defined in the contract. For example, the contract may require the supplier to guarantee that the goods are merchantable (i.e., undamaged, usable, and of sufficient quality to merit purchase at the requested price by a reasonable buyer) and fit for the purposes identified in the solicitation or contract. However, at a minimum, the supplier must warrant that any goods and services supplied to the state entity meet or exceed specifications set forth in the solicitation.

7.4.8. Additional Terms

The state entity will not be bound by any terms and conditions included in any supplier's packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition at variance with or in addition to the terms and conditions contained in any contract or purchase order executed or issued by the state entity.

7.4.9. Tracking Performance

Procedure

The contract administrator is responsible for monitoring the *supplier's performance*. The *supplier's performance* (both satisfactory and non-satisfactory) must be documented in writing. The contract administrator may use the contract administration plan referenced in Section 7.2.5. - Contract Administration Plan to document supplier performance as applicable. The contract administrator should also share suppliers' performance (both satisfactory and non-satisfactory) with SPD through use of SPD's online Supplier Performance Report.

7.5. Step 4 – State's Payment for Accepted Goods and Services

Supplier

The state entity must not pay for goods or services which have not been accepted by the state entity (i.e., the supplier has failed to deliver goods, equipment or services which conform to the contract requirements). In the event the supplier has failed to perform, payment should be withheld pending state entity satisfaction with the supplier's progress. The costs incurred by the supplier must be in accordance with the terms of the contract, including any contract rate schedule. The following subsections detail additional policy governing the payment process.

7.5.1. Invoicing and Billing Requirements

Supplier

Each state entity is solely responsible for the payment of all invoices for goods, equipment, and services ordered under the stated payment terms. Suppliers should maintain separate accounts and records for each state entity. State entities should not pay any invoice without a corresponding purchase order and affirmation of receipt and acceptance such as a delivery receipt or receiving report as applicable. Therefore, any shipment made prior to the receipt of a purchase order is made at the supplier's sole risk.

Supplier

Suppliers are required to promptly present an accurate invoice in accordance with the terms of the contract for goods and services performed or delivered. The name and address of the ordering state entity is shown on each purchase order or contract. Invoices must be rendered in the number of copies required by the purchase order or contract and issued to the state entity no later than five business days after delivery is made or as otherwise stated in the contract. Invoices and statements should include the following information:

- Supplier name, address, and tax I.D. number,
- Purchase order number,
- State entity name, address, and zip code,
- Item description and line number,
- Quantity, unit, unit price, and extension for each item,
- Invoice number and invoice total,
- Discount, if applicable,
- Date of order and shipping date, and
- Back order amount, if any, and shipping date.

7.5.1.1. Taxes

Supplier

The state entity is prohibited from paying or reimbursing a supplier for certain taxes, which may be lawfully imposed on the supplier or on the property being provided. The state entity will, however, pay any taxes that may be lawfully imposed on the state entity and for which the state entity is legally obligated. Suppliers must not submit invoices that include taxes the state entity is not obligated to pay. The state entity should provide SPD-CP004 Excise Tax Exemption Certificate to suppliers as appropriate.

Table 7.3 lists the taxes from which state entities are exempt and Table 7.4 lists the taxes from which state entities are *not* exempt:

Table 7.3 Taxes from which state entities are Exempt	
State Taxes	• Sales and Use Tax • Local Option Sales Tax • MARTA Tax (Rapid Transit Tax) • Special Purpose Sales Tax • Hotel/Motel Excise Tax (when bill is paid directly by state entity; use exemption form as needed)
Federal Taxes	• Communications (Telephone and Telegraph) • Heavy Trucks, Trailers and Tractors • Tires • Gasoline (including Leaking Underground Storage Tanks [LUST] tax) • Gasohol • Diesel Motor Fuels • Firearms • Ammunition • Sport Fishing Equipment • Non-commercial Aviation Fuels • Fuels other than gasoline including jet fuel (Airport and airway trust fund tax)

Table 7.4 Taxes from which state entities are NOT Exempt	
State Taxes	• Motor Fuel Tax (except aviation fuel is not taxed; aviation gasoline is not exempt) • 2nd Motor Fuel Tax (except aviation fuel is exempt; aviation gasoline is not exempt) • GUST (Georgia Underground Storage Tank Act) • State Scrap Tire Fee (new tires only) • Hotel/Motel Sales Tax (exempt when bill paid directly by state entity)
Federal Taxes	• Transportation of Persons by Air • Transportation of Property by Air • Gas Guzzler (except for Law Enforcement state entities) • Certain Ozone Depleting Chemicals Tax • Taxes on Coal Tax on Vaccines • Superfund Taxes on Petroleum Products

7.5.1.2. Interest

State entities are permitted to pay interest on installment purchase or lease/purchase contracts provided the terms of such interest rate and payments are defined in advance in the contract. (O.C.G.A.) Section 50-5-64 state entities are not authorized to pay interest payments as late fees on outstanding principal balances associated with contracts.

7.5.2. Compensation

The contract administrator must serve as a resource to the state entity's accounts payable personnel to ensure all invoices comply with the terms and conditions of the contract, that the supplier is only billing for goods or services received and accepted by the state entity, and that the total payments do not exceed the contract limits.

Procedure

The contract administrator should submit SPD-CP001 Supplier Data Sheet or other similar form to the state entity's accounts payable personnel to facilitate payment to the supplier, such as the supplier's contact information and any applicable prompt payment discounts.

Payment for any item delivered pursuant to a contract or order may be withheld by the state entity until all requirements of the contract or order have been complied with, in full; provided, however, the state entity may make payment for authorized

partial shipments as discussed in Section 7.3.2.3. - Back Orders. If the contract administrator believes that the requested payment exceeds the supplier's progress, an explanation must be requested from the supplier prior to approval of the invoice.

7.5.2.1. Net 30

Payment of invoices owed by the state entity will be made whenever possible within 30 days of the receipt and acceptance of an undisputed invoice or the state entity's receipt and acceptance of the provided goods, equipment and services, whichever is later, unless otherwise provided for in the solicitation document or resulting contract.

7.5.2.2. Prompt Payment Discounts

Prompt payment discount refers to a reduction in the invoice price due to the state entity's payment of the invoice in advance of the payment due date. For example, the contract may state that the state entity is entitled to a 5% discount in the event payment is made within 15 days. Suppliers should clearly identify any prompt payment discounts on the invoice. In addition, the contract administrator should notify appropriate state entity staff, such as the accounts payable staff, of any applicable prompt payment discounts.

In the event that the state entity is entitled to a prompt payment discount, the period of computation will commence on the date of delivery, or receipt of a correctly completed invoice indicating the discount, whichever occurs later. All prompt payment discounts offered will be taken if earned. If the state entity is entitled to a discount under the contract, but the invoice does not reflect the existence of a prompt payment discount, and the state entity pays the invoice, the state entity is entitled, upon demand, to a credit in the amount of such discount.

7.5.2.3. Forms of Payment

The contract should define acceptable *forms of payment* and should follow the State Accounting Office Policy: Payment Method. In general, each state entity may make payment to suppliers by electronic funds transfer, or through the state of Georgia's purchasing card (P-Card), or by check in the event the entity bank has not yet been configured for electronic payment. All state entities' use of the P-Card is governed by the State of Georgia Purchasing Card Policy.

It is SPD's preference that most if not all statewide contract suppliers accept the state's P-Card as a form of payment.

7.5.2.4. Assistance in Securing Payment

Supplier

Requests by suppliers for assistance in obtaining payment may be addressed to the APO/CUPO of the state entity to which the goods, equipment, or services were sold or rendered. In extreme cases, SPD may make inquiries of the state entity regarding late or unpaid invoices.

7.5.2.5. Withholding Payment

The contract administrator has the responsibility to protect the interests of the state entity, and under the appropriate circumstances, it may be necessary to withhold payments from suppliers for nonperformance. Examples of circumstances where it may be necessary to withhold payment include, but are not limited to, the following:

- A material breach of the contract by the supplier,
- Errors in the invoice,
- Unsupported or undocumented costs,
- To remedy previous overpayments on the same contract,
- Supplier's performance is nonconforming or unacceptable, and/or
- Invoices for travel that are not in compliance with Georgia's travel regulations.

Any circumstances justifying withholding payments should be documented by the contract administrator in writing and maintained as part of the procurement file.

7.5.2.6. Statewide Contract Payments and Sales Reports

SPD

The statewide contract supplier is responsible for invoicing state entities for purchases against statewide contracts in accordance with the terms of the contract. Each state entity is individually responsible for payment of any purchases made pursuant to statewide contracts. Neither DOAS nor SPD has any financial obligation with respect to purchases made by other state entities.

Supplier

Statewide contract suppliers are responsible to provide all reports to SPD as required by the statewide contract, such as periodic sales reports. Statewide contract suppliers should report sales using SPD-CP025a Supplier Quarterly Sales Report for Goods, SPD-CP025b Supplier Quarterly Sales Report for Services, or SPD-CP025c Supplier Quarterly Sales Report for IT unless another report form is identified by the SPD contract administrator.

The SPD issuing officer or contract administrator is responsible for reviewing the accuracy of the supplier's submitted sales reports and the supplier's compliance with the contract requirements governing the supplier's remittance of collected administrative fees (if any) to DOAS. The statewide contract supplier must remit SPD-CP022 Con-

tract Quarterly Administrative Fee Report or such other report as approved by the SPD contract administrator.

A supplier's failure to comply with the contract requirements governing the collection and remittance of administrative fees is a material default, which, if uncorrected, will result in any one or more of the following consequences:

- Termination of the statewide contract by DOAS,
- DOAS' recovery of interest and the costs of reprocuring the statewide contract in addition to the collection of any outstanding administrative fees,
- Suspension by DOAS,
- Debarment by DOAS, and/or
- Any other remedies permitted by the statewide contract or applicable law.

7.6. Step 5 – State's Ongoing Contract Management

Supplier In addition to monitoring the suppliers' contract performance and managing acceptance and payment for goods and services, the contract administrator is also responsible for facilitating the following tasks as applicable:

- Contract amendments (change order process),
- Renewals,
- Extensions,
- Assignments, and
- Terminations, as applicable.

Supplier State entities and suppliers are required to cooperate in good faith throughout the contract process. The issuing officer or contract administrator must clearly document in writing all changes to a contract over the life of the contract.

Procedure The contract administrator must use SPD-CP007 Contract Action Summary Form to document changes and upload to the contracts module of Team Georgia Marketplace™ or a similar tool to document contract actions.

7.6.1. Contract Amendments

Throughout the term of the contract, it may be necessary to make changes to the contract. These changes can be minor administrative changes, such as a change of address, or they can be substantial changes that affect the price and delivery. All

contract amendments must occur in writing as further described in the following sub-sections, which define the two types of contract amendments:

- Administrative and
- Substantive.

7.6.1.1. Administrative Change

Administrative change refers to a contract change that is within the scope of the contract and does not affect or alter the rights of the parties. *Administrative changes* are executed in writing via a unilateral amendment (i.e., a document only signed by the party making the change). Examples of administrative changes include, but are not limited to:

- Changes in billing instructions or address,
- Corrections of typographical errors not affecting the substance of the contract,
- Changes as permitted by the specific contract clauses, and
- Changes in State Entity personnel assigned to administer the contract.

Procedure

Before processing an administrative change, the contract administrator must verify that the rights of the parties are not affected by the change. The contract administrator then executes the administrative change, using SPD-CP012 Contract Administrative Change Template, and distributes a written copy to the supplier. Other departments that are affected by the change should also receive copies of the amendment. For example, Accounts Payable should receive a copy if there is a change to the supplier's remittance address.

State entities may process administrative changes without SPD's approval using SPD-CP012 Contract Administrative Change Template.

7.6.1.2. Substantive Change

Substantive change refers to a contract change that affects the rights of the parties. A *substantive change* to a contract must be processed through a bilateral amendment (i.e., a document signed by an authorized representative from both parties). Examples of substantive changes include, but are not limited to:

- Change in the price(s) of the contract,
- Change in delivery schedule,
- Change in the quantity,
- Change of nature of deliverables, for example, the specification,
- Change of key personnel,

- Change of any terms and conditions, and/or
- An extension or renewal of the contract not previously contemplated by the contract.

Procedure

A substantive change may be requested by the contract administrator (or other state entity staff) or the supplier. Upon receipt of a substantive change order request, the contract administrator must determine whether the proposed change is within the scope of the contract. This may require input from other staff, such as a program manager or staff attorney. Changes in the contract terms (either through a contract extension or contract renewal) are addressed in Table 7.5 and Table 7.6.

State entities are authorized to execute substantive changes to contracts provided the substantive change is within scope and that the combined total of such changes does not increase the overall cost of the contract by more than 10% or $250,000.00 (whichever is less) within a twelve month period. Otherwise, the state entity must request and receive SPD's approval prior to executing the contract amendment. Requests for approval must be submitted in writing via email to processimprovement@doas.ga.gov. Substantive changes may be processed using SPD-CP013 Contract Amendment Template or any other contract amendment approved by the state entity.

7.6.1.2.1. Price Increases

Supplier

After contract award, a supplier's request to increase prices pursuant to the contract must be in writing and addressed to the contract administrator. The supplier's request must contain all of the information and documentation called for in the contract. The contract administrator will respond to any such request within 30 days or as otherwise required by the contract.

The entity, upon receiving a request for increase substantiated by a published market indice or limit, will then determine the amount of increase, if any, that can be accommodated and will enter into negotiations for such prior to proceeding with the renewal process.

Price increases generally will not be granted and are not guaranteed as part of the contract award unless the solicitation document or contract makes provision for them,. In most cases, the state entity requires that any announced price decreases in a commodity also be passed along to the state entity.

7.6.2. Contract Renewals

Some contracts contain renewal clauses describing the conditions under which a contract resulting from a solicitation document may be renewed for an additional period of time. Unless otherwise stated by SPD, all state entities are authorized to renew such

contracts without any additional approval from SPD provided the conditions outlined in Table 7.5 are met:

Table 7.5 Steps to Exercise Contract Renewal	
Steps	Description of Step
Step 1: Review available statewide contracts	First, the contract administrator must verify that there are no existing statewide contracts which would meet the state entity's needs. If a mandatory statewide contract exists, the state entity must request a waiver from SPD in accordance with Section 1.3.1.1. - Waivers and receive SPD's approval prior to exercising a renewal option. If a convenience statewide contract exists, the state entity is not required to request a waiver; however, the state entity should first ensure that the overall cost and conditions of the state entity's contract are more favorable than the convenience statewide contract prior to renewing the state entity contract for an additional term.
Step 2: Verify remaining renewal option(s)	Second, the contract administrator must confirm that there is at least one valid renewal option remaining on the contract. NOTE: Contract renewal options cannot be added through contract amendments. If there are no contract renewal options remaining, the contract administrator may only extend the contract term as permitted by Section 7.6.3. - Contract Extensions.
Step 3: Verify available funds	Third, the contract administrator must confirm that the state entity has sufficient funds to exercise a renewal option.
Step 4: Assess supplier's performance	Next, the contract administrator must complete SPD-CP019 Contract Assessment Report and determine that the supplier has performed satisfactorily and met all of the requirements set forth in the contract.
Step 5: Re-verify tax compliance as needed	For contracts exceeding $100,000.00, the contract administrator must re-verify the supplier's tax compliance with Department of Revenue (DOR) as defined in Section 3.5.1.2. - Tax Compliance prior to processing a contract renewal.
Step 6: Process renewal option	Finally, the contract administrator must process the contract renewal in accordance with the terms of the contract. The state entity uses SPD-CP010 Contract Renewal Template as appropriate to process renewals. Depending on the terms of the specific contract, the contract administrator's exercise of a contract renewal

Table 7.5 Steps to Exercise Contract Renewal	
	may or may not require the supplier's prior written consent. In the event the supplier's prior written consent to the contract renewal is required, the contract administrator should allow ample time to establish a new contract in the event that the supplier is not willing to renew the contract at the terms requested by the state entity. If the contract does not identify a time period for exercising contract renewals, SPD recommends exercising contract renewals no later than 60 days prior to the expiration date of the contract.
Step 7: Request updated documents	At the time of renewal, the contract administrator must also request any updated documents which may be necessary to support the new contract term, including, but not limited to: • Department of Audits and Accounts Immigration and Security Form (as applicable) • Insurance Certificate (as applicable) • Performance Bond (as applicable) • Payment Bond (as applicable) • Letter of Credit (as applicable) • Any other document required by contract or the State Entity's policy
Step 8: Execute Bi-Lateral Agreement as necessary	If, at the time of renewal, additional changes to the contract are required (change orders, schedule modification, etc.), the Contract Administrator, after executing the SPD-CP010 Contract Renewal Template, will complete and execute the SPD-CP013 Amendment Form.

Throughout the contract lifecycle, the contract and complete executed contract forms, refer to Table 7.1 are to be uploaded into the system.

Important

In lieu of creating a new purchase order, it is mandatory for the state entity to process a change order to the existing purchase order when encumbering funds for a new contract renewal. Effective July 1, 2011, state entities must process a change order to an existing purchase order (in lieu of creating a new purchase order) when encumbering funds for a new contract renewal unless SPD grants a written exception. If the state entity does not have the system capability to copy in the contract renewal from an

Important

electronic requisition where the information has already been entered, then this rule regarding modification of the initial purchase order shall not apply. All other requests for exceptions must be submitted in writing to processimprovement@doas.ga.gov.

7.6.3. Contract Extensions

Contract extension generally refers to the continuation of a contract outside of the contract renewal process.

Procedure

All contract extensions must occur in writing and require the supplier's consent. SPD's prior consent to the contract extension may also be required depending on the type of extension as further described in Table 7.6:

Table 7.6
Contract Extensions

If the state entity's contract is as follows…	Then, the state entity may process contract extensions as follows…
Scenario One: The contract has no renewal options OR all renewal options have been exercised.	If the state entity must have a continuous source of supply, then the state entity may exercise a contract extension for no more than six months (if the supplier consents) provided the state entity has already posted a solicitation to resource the contract. If the state entity has not yet posted a solicitation or desires a longer contract extension, then the contract administrator must first request and receive permission from SPD by submitting a written request to processimprovement@doas.ga.gov.
Scenario Two: The contract has one or more renewal options remaining.	If the state entity determines it is best to forgo a one-year renewal option and only extend the contract for a shorter period of time, the state entity may extend the contract (if the supplier consents) without requesting SPD's consent. However, if the state entity later determines it will continue to renew the contract for the remaining contract renewals, then the state entity may do so provided the total contract term does not exceed the time period originally defined in the contract. Once the total contract term has elapsed, then Scenario One of this table is applicable.

The extension is processed using SPD-CP010 Contract Renewal Template. The amendment numbering remains sequential for an extension.

7.6.4. Assignment and Delegation

Contracts are not assignable or delegable in whole or in part without the express written consent of the state entity. Contracts may only be assigned to responsible suppliers as defined by Section 5.6.2.2. - Responsible.

Procedure

Prior to approving a contract assignment, the state entity must, at a minimum, complete the following tasks:

- Confirm the new supplier is not currently suspended or debarred, and
- Require the new supplier to complete SPD-SP042 Supplier General Information Worksheet if the solicitation is posted directly to the GPR. If the solicitation is posted through Team Georgia Marketplace™ or eSource, then:
  - The supplier must certify that it is not a scrutinized company as defined by Section 3.5.1.4. - Scrutinized Company.
  - The state entity must verify the supplier's tax compliance for all contracts valued in excess of $100,000.00 per year as defined by Section 3.5.1.2. - Tax Compliance (whether the solicitation is posted directly to the GPR or posted in Team Georgia Marketplace™ or eSource).
  - The supplier must complete and submit Department of Audits and Accounts Immigration and Security Form (as applicable).

As part of the contract assignment process, the initial supplier and the new supplier must cooperate in good faith to quickly and efficiently transfer the contract. The new supplier is responsible for promptly submitting all required documentation to the state entity, including, but not limited to, insurance certificates, bonds, etc.

7.6.5. Cancellation

Supplier

Cancellation of a purchase order may not be made unless in writing and signed by the state entity. The state entity may at its sole discretion grant a supplier's request to cancel an order to release a supplier from its contract if the supplier is prevented from performing its contractual obligations by an act of war, act of God, order of legal authority, or other unavoidable cause not attributed to the fault or negligence of the supplier. The burden of proof for such relief rests solely with the supplier. Any supplier request for such relief must be addressed in writing to the state entity. SPD reserves the right to cancel all contracts with any supplier who fails to perform on any given contract or order.

7.6.6. Termination for Convenience

The state entity's contract may include a *termination for convenience provision*. A *termination for convenience* (no-fault termination) allows the state entity to terminate any contract, in whole or in part, at any time at its sole discretion, if it is determined that such termination is in the best interest of the state. The state entity must use caution in determining whether to exercise the right to terminate for convenience before establishing a new source of supply. As a general rule, SPD will not approve an emergency purchase in the event the emergency was created by the state entity's decision to terminate an existing contract for convenience.

The state entity's exercise of its right (if any) to terminate for convenience must be in accordance with the contract terms. However, in general, a state entity's termination of a contract for convenience will be exercised as indicated in Table 7.7:

Table 7.7
General Provisions Governing Termination for Convenience

Steps	Description of Step
Step 1: Written Notice	The state entity must provide the supplier with a written notice specifying: the extent (full or partial) of termination, the effective date, and that the supplier is to cease all work or stop all delivery of goods or equipment as of the effective date and to notify all subcontractors of the termination. The state entity should attempt to provide the supplier with as much notice as possible. A sample notice has been provided below. The contract administrator should ensure notification of contract termination is made to Accounts Payable staff and end users.
Step 2: Payment for provided goods/services	Upon receipt of any invoice from the supplier for work performed prior to the issuance of the notice of termination, the contract administrator must thoroughly review the invoice to assure that no excessive costs are included. The following limitations apply regarding payment: • The supplier will generally be paid for allowable costs incurred up to the termination, and • The state entity will not be liable for payment to the supplier related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination. Once the amount due the supplier has been determined,

Table 7.7 General Provisions Governing Termination for Convenience	
Steps	Description of Step
	the contract administrator must inform the supplier. If the supplier disagrees with the state entity's determination, the contract administrator should attempt to negotiate a settlement. If no agreement can be reached, the contract administrator must make a determination of a fair and reasonable price.
Step 3: Contract close out	The contract administrator must complete all applicable tasks identified in Section 7.8. - Step 7 – Contract Close Out.

As noted in Table 7.7, Step 1 - Written Notice, the state entity must provide written notice to the supplier in the event of contract termination for convenience. The form of the notice must comply with the specific provisions of the state entity's contract; however, a sample notice is provided in Table 7.8:

Table 7.8 Sample Notice
"Pursuant to clause No. ___, Termination, this contract is hereby terminated immediately. You are directed to immediately stop all work, terminate subcontracts, cease in delivering goods or equipment and accept no further orders. In accordance with this Notice of Termination, you must: 1. Keep adequate records of your compliance with this notice, including the extent of completion on the date of this Termination; 2. Immediately notify all subcontractors and suppliers, if any, of this Notice of Termination; 3. Notify the (state entity) contract administrator, (Name), of any and all matters that may be adversely affected by this termination; and 4. Take any other action required by the (state entity) contract administrator to expedite this termination".

7.7. Step 6 – State and Supplier's Resolution of Disputes and Non-performance

A contract is awarded with the expectation that both the supplier and the state of Georgia have entered into the agreement in good faith, and that both parties will perform their respective duties and obligations in accordance with the contract specifications, terms and conditions and at the quoted price.

Supplier

At times, the supplier and the state entity may disagree over performance or other contract issues. In this event, the supplier and state entity must work in good faith through the dispute resolution process. In addition, situations arise when the supplier does not perform and the state entity may suffer damages as a result. Typical non-performance issues include, but are not limited to:

- Missing a scheduled delivery date and time,
- Providing inferior merchandise or unauthorized substitutions,
- Altering contract pricing,
- Unauthorized use of subcontractors,
- Unauthorized assignment of the contract to another supplier,
- Inadequate or unqualified workers, and/or
- Late or failed delivery.

Non-performance must be reported to SPD and addressed through the contract default process. Failure to resolve non-performance issues will result in contract termination and/or the supplier's suspension and debarment.

7.7.1. Dispute Resolution

Proper dispute resolution is a core skill of successful contract management. The goal of the resolution process is to resolve all problems before they escalate to the next level. It is essential to identify problems early in the performance period, use effective communication, and formalize the process in writing via cure notice procedure or less formal written procedure such as the complaint to supplier form. To avoid escalation and assure the state entity has not exacerbated potential problems, it is imperative that state entity personnel respond promptly to all supplier inquiries. The general steps in the dispute resolution process are described in Table 7.9; however, nothing in this section will supersede the terms of the contract with respect to dispute resolution (such as provisions governing escalation process, mediation, etc.):

Table 7.9 General Steps Governing Dispute Resolution	
Steps	Description of Step
Step 1: Identify the problem	The contract administrator should obtain all the information regarding the potential problem from all relevant sources, including the project manager, representative customers and the supplier.
Step 2: Research facts	Once the problem is identified, the contract administrator must 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 entity cannot expect the supplier to perform outside the agreement.
Step 3: Evaluation	The contract administrator should review all the facts in conjunction with the requirements and terms and conditions of the contract. The contract administrator should then confer with the program manager (and management and budget, if necessary) to determine the appropriate course of action.
Step 4: Discussion with Supplier and Written Plan of Action	Identify the problem to the supplier and discuss resolution. Frequently, what may appear to be a problem can be resolved by providing the supplier with information or clarification. The resolution should be formalized in writing.

7.7.2. Supplier Performance Review

Procedure

In the event the state entity determines that the supplier's performance has not been in accordance with the contract and the non-performance is not resolved through the dispute resolution process, the contract administrator will complete and send to the supplier a written complaint stating the nature of the complaint and requesting an explanation. SPD recommends that the state entity also completes and submits an online written report to SPD through Supplier Performance Report System.

Supplier

The supplier should respond promptly to all performance reports containing a performance complaint. In the event of default by the supplier for failure to deliver, failure to meet specifications, or for any other reason, the state of Georgia may, in addition to any other remedies which it may have by law, in equity, or which may be provided for in its contract, procure the subject items or services from other sources and hold the supplier responsible for any additional cost which is incurred as a result. Failure to satisfactorily respond will be considered in determining the supplier's eligibility for future contracts.

The performance report further provides a means by which SPD may obtain factual reports relative to the performance of a supplier to furnish goods, equipment, and/or services to state entities. The contract administrator must promptly notify SPD if the performance complaint has been resolved. The seriousness of the performance

complaint is determined by SPD. Repeated performance complaints may result in the supplier's suspension and/or debarment as further described in Section 7.7.4. - Suspension and Debarment.

7.7.3. Default and Termination

A contract may be *terminated for default* when the state entity concludes that the supplier fails to perform, make progress, or in any way breached the contract. It should be noted that the state entity is not required to terminate a contract even though the circumstances permit such action. The state entity may determine that it is in its best interest to pursue other alternatives, for example, extending the delivery/completion date and allowing the supplier to continue working, or working with the supplier's surety to complete the outstanding work. Although the contract administrator is generally encouraged to resolve performance issues through the dispute resolution process, the seriousness of the non-performance issue may warrant the immediate issuance of a default notice as further described in this section.

Termination for default should be used as a last resort and not as punishment. The purpose of a termination for default is essentially to protect the interests of the state entity while obtaining the necessary goods or services. Factors to consider prior to the termination for default decision:

- Whether the state entity has contributed to the supplier's failure to cure the default.
- The specific contractual failure(s) and the reasons/excuses for the failures.
- The urgency of the need for the contracted goods, equipment or services. The state entity may need to weigh the respective benefits/disadvantages of allowing a delinquent supplier to continue performance and re-soliciting a new supplier.
- The availability of the goods, equipment or services from other sources, and the time required to obtain them (compared with the additional time the current supplier needed to complete the contract).
- Availability of funds for costs to repurchase in the event such costs cannot be recovered from the delinquent supplier. Under a termination for default, the state entity is within its rights to demand re-procurement costs from the defaulting supplier. (Consultation should occur with the state entity's legal counsel or DOAS counsel. Nevertheless, the supplier may not be financially capable of financing the repurchase, or such demand may result in protracted legal action).

If the contract administrator identifies a default, the contract administrator must review and comply with the directions contained in the following subsections, which address:

- Excusable causes,
- Contract default procedures, including show cause and cure notices,
- Notice of termination,
- Damages, and
- Waiver of contract defaults.

7.7.3.1. Excusable Causes

A contract may not be terminated for default when the failure to perform is due to *excusable causes*. In order to qualify as an excusable cause, the cause must be beyond the supplier's control, not due to the fault or negligence of the supplier, and the contract must not be for the purpose of mitigating the events that constitute the excusable cause. Examples of excusable causes include, but are not limited to:

- Acts of God or of the public enemy,
- Fires
- Floods
- Epidemics
- Strikes
- Freight embargoes, and/or
- Unusually severe weather

Supplier

If a supplier's failure to perform is due to the default of a subcontractor, in order to qualify as an excusable cause, the default must arise out of causes beyond the control and without the fault or negligence of both the supplier and subcontractor. Even if this requirement is met, the cause will not be excusable if the goods, equipment or services to be provided by the subcontractor could have been obtained from other sources in time to meet the contract delivery schedule. The supplier must promptly notify the state entity's contract administrator of any excusable causes, the effect on the supplier's performance, the anticipated duration of any interruption in services, alternative solutions to continue services, and any other relevant information.

Supplier Procedure

7.7.3.2. Contract Default Procedures

The terms of the state entity's contract may provide for certain rare circumstances in which the state entity is permitted to immediately terminate the contract for the supplier's default without any additional notice to the supplier. Otherwise, once the contract administrator identifies a contract default that is not a result of any excusable cause as further described in Section 7.7.3.1. - Excusable Causes, the contract administrator must first provide a delinquency notice to the supplier prior to terminating a contract for default. Types of delinquency notices include cure notices and show cause notices as further described in the following subsections. These notices are generally sent via certified mail with proof of delivery requested; however, the state entity must comply with the specific terms of the contract with respect to the delivery of default notices.

7.7.3.2.1. Cure Notice

When it has been determined that a termination for default is warranted, the contract administrator must notify the supplier in writing and allow a reasonable period to correct or cure the deficiency or violation. This notice is commonly known as a cure notice. The minimum cure period is often defined in the contract and is generally at least 10 days.

The form of the notice must comply with the specific provisions of the state entity's contract; however, a sample notice is provided in Table 7.10:

Table 7.10 Sample Cure Notice
"You are notified that the [state entity] considers [specify failure(s)] a condition that is endangering performance of the contract. Therefore, unless this condition is cured within [insert cure period identified in contract] days after receipt of this notice, the [state entity] may terminate for default under the terms and conditions of the Termination clause of this contract".

7.7.3.2.2. Show Cause Notice

If the time remaining in the contract delivery schedule is not sufficient to permit a realistic cure period, a "*show cause*" *notice* can be used. The show cause notice requests the supplier to respond in writing explaining the reason for non-performance, including any excusable causes preventing the supplier's performance. A *show cause notice* may also be used as a final warning to the supplier if the supplier has failed to adequately respond to a cure notice. The form of the notice must comply with the specific provisions of the state entity's contract; however, a sample notice is provided in Table 7.11:

Table 7.11 Sample Show Cause Notice
"Since you have failed to perform Contract No._____ within the time required by its terms [or cure the conditions endangering performance under Contract No._____ as described to you in the (state entity's) letter of _____], the [state entity] is considering terminating the contract under the provisions for default of this contract. Pending a final decision in this matter, it will be necessary to determine whether your failure to perform arose from causes beyond your control and without fault or negligence on your part. Accordingly, you are given the opportunity to present, in writing, any facts bearing on the question to [name and address of contract administrator] within 10 days after receipt of this notice. Your failure to present any excuses within this time may be considered as an admission that none exist. Any assistance given to you on this contract or any acceptance by the [state entity] of delinquent goods or services will be solely for the purpose of mitigating damages, and it is not the intention of the [state entity] to condone any delinquency or to waive any rights the [state entity] has under the contract".

7.7.3.3. Notice of Termination

Procedure

Supplier

If the supplier fails to cure the situation or provide a satisfactory explanation as requested in the show cause notice, the contract may be terminated. State entities must contact SPD prior to terminating a contract by sending an email to processimprovement@doas.ga.gov. SPD will respond to any such written communication by promptly contacting the state entity to discuss any questions regarding the termination process, alternatives for fulfilling the state entity's needs or other related issues.

If the state entity determines that it is necessary to terminate the contract without delay to prevent harm to life or property (or other exigent circumstances), then the state entity may proceed to terminate the contract without first consulting with SPD; provided, however, the state entity must notify SPD of the terminated contract as soon as possible. To formally terminate the contract, the contract administrator should issue a *notice of termination* to the supplier. The *notice of termination* should contain the following:

- The contract number and date of contract,
- The effective date of the termination,
- Reference to the clause under which the contract is being terminated,
- A concise, accurate statement of the facts justifying the termination,

- A statement that the goods, equipment or services being terminated may be re-procured and that the supplier will be held liable for any excess repurchasing costs as further described in Section 7.7.3.4. - Damages and Non-Exclusive Remedies, and
- A statement regarding any other claim for payment of damages by the supplier to the state entity. The payment of damages, such as liquidated damages, is further discussed in Section 7.7.3.4. - Damages and Non-Exclusive Remedies.

7.7.3.4. Damages and Non-Exclusive Remedies

Supplier

The state entity may incur damages as a result of a supplier's failure to perform in accordance with the terms of the contract. In the event of default by the supplier for failure to deliver, failure to meet specifications, or for any other reason, the state entity may procure the goods, equipment or services at issue from other sources and hold the supplier responsible for any additional cost which is incurred as a result. The supplier may be charged such additional cost provided such costs are reasonable and subject to any limitation of damages identified in the contract.

In procuring substitute services, all applicable procurement rules apply, including those rules governing competitive bidding and emergency purchases. In the event the contract with the defaulting supplier was established pursuant to a recently conducted competitive solicitation, the state entity may, subject to SPD's approval, obtain substitute services from the next best ranked supplier willing to honor its response to the previous solicitation in lieu of conducting a second solicitation.

Procedure

To request SPD's approval, the contract administrator must submit a written request to SPD via email at processimprovement@doas.ga.gov. The state entity's right to seek reimbursement for the additional cost of substitute performance is in addition to any other remedies the state entity may have by law, in equity, or which may be provided for in the contract with the supplier.

As a result of the supplier's performance, one or more third parties may be harmed. The supplier must indemnify and hold harmless the state entity from and against any claims of liability to a third party for any loss due to injury or damage arising out of or resulting from the supplier's performance. The supplier is also responsible for indemnifying the state entity for all the supplier's agents, employees, or subcontractors.

Unless otherwise stated in the contract, a supplier will not be liable to the state entity for consequential or remote damages incurred by the state entity which are indirectly caused by the default of the supplier. The state entity may invoke a liquidated damages clause if included in the contract. The liquidated damages clause may not be invoked as a penalty or punishment. Instead, the identified liquidated damages must reflect estimated monetary damages to the state entity. Default on contracts may result in supplier's suspension and/or debarment by SPD.

7.7.3.5. Waiver

The state entity's waiver of the supplier's breach of any provision contained in any contract will not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision contained in a contract. No such waiver or waivers will serve to establish a course of performance between the parties contradictory to the contract terms.

7.7.4. Suspension and Debarment

Supplier

The State Purchasing Division Deputy Commissioner may debar an individual, supplier, supplier's affiliate(s), supplier's subcontractor(s), successor company, or any combination of the foregoing for any of the causes listed below:

- Violation of contract provisions, as set forth below, of a character which is regarded to be so serious as to justify debarment action:
  - Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
  - A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; or
  - Deliberate failure to remit administrative fees in accordance with the terms of a statewide contract with SPD;
- Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state supplier;
- Conviction under state or federal antitrust statutes arising out of the submission of solicitation responses;
- Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance in the contract or subcontract;
- Any other cause so serious and compelling as to affect responsibility as a state supplier, including debarment by another government entity; and
- Any violations of the provisions of O.C.G.A. Sections 45-10-20 through O.C.G.A. Sections 45-10-28 which govern conflicts of interest.

7.7.4.1. Request for Debarment

Procedure

A request for debarment may be initiated by the state entity's APO/CUPO; SPD staff member; or a representative of the State of Georgia Office of Inspector General, State Ethics Commission or other applicable state entity. A request for debarment must be submitted in writing along with supporting documentation to the State Purchasing Division Deputy Commissioner requesting debarment action against a supplier where the causes of debarment stated above are met.

Attn: Deputy Commissioner-Procurement
State Purchasing Division, Department of Administrative Services
Email: protests@doas.ga.gov

Procedure

The State Purchasing Division Deputy Commissioner will review the documentation and the stated reasons for the requested debarment and issue a written determination to the requestor on whether suspension or debarment is appropriate. The State Purchasing Division Deputy Commissioner may suspend the supplier pending a determination of the debarment. The State Purchasing Division Deputy Commissioner will not take suspension or debarment action against a supplier where the basis of the request appears to be arbitrary or capricious, frivolous or without merit.

Procedure

DOAS does not maintain statutory authority to review requests for debarment relating to procurements conducted by entities, which do not fall under the jurisdiction of the State Purchasing Act. Examples include, but are not limited to:

- University System of Georgia including colleges and universities regarding public works.
- Georgia Department of Transportation regarding construction, public works, and services ancillary to the construction and maintenance of public roads.
- Certain government authorities such as the Georgia Technology Authority (GTA).
- Local governmental entities, community service boards, local boards of public health, local boards of education, Regional Educational Service Agencies, state authorities, or the federal government.

For procurements conducted by the Georgia State Finance and Investment Commission in accordance with Section 6.5.12. Partnership with Georgia State Finance and Investment Commission, any proposed debarment request shall be submitted to GSFIC in accordance with GSFIC's debarment procedures.

7.7.4.2. Suspension Procedures

Procedure

Suspension procedures may be initiated after consultation with SPD staff, APO/CUPO (s), the DOAS Office of Legal Services, the Attorney General's Office, other state entity representatives, and where practicable, the supplier who is to be suspended, and upon written determination by the State Purchasing Division Deputy Commissioner that probable cause exists for debarment as hereinafter set forth, a supplier will be suspended.

Procedure

A notice of suspension including a copy of such determination will be sent to the suspended supplier. The notice will include the following information:

- The suspension is for the period it takes to complete an investigation into possible debarment including any appeal of a debarment decision but not for a period in excess of 120 days.
- During the period of suspension, the supplier shall be ineligible for consideration as a prime contractor or a subcontractor for award of any new contracts.

If a hearing has not been held, the suspended supplier may request a hearing in accordance with the procedures for suspension and debarment of suppliers set forth in the manual.

7.7.4.3. Effect of Decision to Suspend

Supplier

A supplier is suspended upon the State Purchasing Division Deputy Commissioner's issuance of the notice of suspension. The suspension will remain in effect during any appeals. The suspension may be ended by the State Purchasing Division Deputy Commissioner or by the DOAS Commissioner, or by a court of law, but otherwise will only be ended when the suspension has been in effect for 120 days, upon completion of mitigation actions as further described in Section 7.7.4.7, or a debarment decision has taken effect. Written notice of the proposed debarment action must be sent by certified mail, return receipt requested, to the supplier. This notice will state:

- That debarment is being considered,
- The reasons for the action,
- That, if the supplier so requests, a hearing will be held, provided such request is received by the State Purchasing Division Deputy Commissioner within 10 days after the supplier receives notice of the proposed action, and
- That the supplier may be represented by counsel.

7.7.4.4. Request for Hearing

Supplier

A supplier that has been notified of a suspension/proposed debarment action may request in writing that a hearing be held. Such request must be received by the State Purchasing Division Deputy Commissioner within 10 days of the supplier's receipt of notice of the proposed action. If no hearing request is received by the State Purchasing Division Deputy Commissioner within the 10-day period, a final determination may be made as described in Section 7.7.4.6. - Determination of Hearing Officer – Final Decision.

7.7.4.5. Hearing Procedures

Hearings will be as informal as may be reasonable and appropriate under the circumstances and in accordance with applicable due process requirements. The State Purchasing Division Deputy Commissioner or his/her designee will serve as the hearing officer. The requestor or other individuals may be called upon as a witness and be requested to provide information pertinent to the proposed debarment. The weight to be attached to evidence presented in any particular form will be within the discretion of the hearing officer. The hearing officer may require evidence in addition to that offered by the parties. The hearing may be recorded but need not be transcribed except at the request and expense of the supplier. A record of attendees, identification of any written evidence, copies of all written statements, and a summary of the hearing will be sufficient record. Opening statements may be made unless a party waives this right.

7.7.4.6. Determination of Hearing Officer - Final Decision

Supplier

The hearing officer may or may not issue a final decision immediately following the hearing depending on whether additional investigation must occur. However, no later than 120 days from the date of the issuance of the suspension, the hearing officer will issue a written decision stating whether the proposed debarment will be imposed. In the event no decision is issued, the suspension period will automatically end upon the expiration of the 120-day period.

When *debarment* is recommended or ordered, the debarment decision will include the following:

- The length of the supplier's debarment (no less than six months but not to exceed five years),
- The reason(s) for the debarment decision,
- The extent to which the supplier's affiliates are included in the debarment decision,

- The extent to which existing contracts will be voided or cancelled, and
- A statement regarding the debarred supplier's right to judicial review.

7.7.4.7. Effect of Decision to Debar

A *debarment decision* will take effect upon issuance and receipt by the supplier. After the debarment decision takes effect, the supplier will remain debarred until the debarment period specified in the decision expires.

During the debarment period, the supplier is ineligible for consideration of any contract award, whether as a prime contractor or subcontractor. Existing contracts will continue unless specifically stated otherwise in the debarment decision; however, state entities will not add new work, exercise renewal options or otherwise extend the duration of current contracts to debarred suppliers unless the debarring official makes a written determination of the compelling reasons for doing so.

Should any manufacturer or publisher be debarred, then any bids or proposals offering material, equipment, or supplies manufactured, produced or published by that debarred entity may be rejected even though the bid or proposal is submitted by a supplier in good standing.

7.7.4.8. Mitigation

At any time during the suspension period, the suspended supplier may submit a proposed plan to cure or mitigate, to the extent possible, the cause(s) of the proposed debarment. The proposed plan must identify specific actions to be completed, dates for completion, and any other relevant information, and be submitted in writing to the State Purchasing Division Deputy Commissioner. If acceptable to the State Purchasing Division Deputy Commissioner and the requestor, then the supplier will be provided an opportunity to complete the proposed plan within a period of time specified by the State Purchasing Division Deputy Director, during which time the supplier shall remain suspended.

Within the timeframe(s) specified within the approved plan, the supplier shall provide a written report and other documentation of the supplier's progress in completing all identified actions. The State Purchasing Division Deputy Director shall review the supplier's written reports and make a written determination as to whether the mitigation plan has been successfully completed within the agreed upon timeframe. Upon the State Purchasing Division Deputy Director's written determination that the mitigation plan has been successfully completed, the suspension shall be lifted. If the State Purchasing Division Deputy Director makes a written determination that the mitigation plan has not been successfully completed, the debarment proceedings shall resume.

7.7.4.9. Appeal

The requestor or supplier may appeal the hearing officer's decision by filing a written letter with the DOAS Commissioner no later than 10 calendar days following the date of the hearing officer's decision. The request must be in writing and identify any errors in the debarment decision as well as the factual and legal grounds upon which reversal or modification of the decision is warranted. Otherwise, the hearing officer's decision shall be final.

Attn: DOAS Commissioner
Department of Administrative Services
Email: protests@doas.ga.gov

In the event the supplier files a timely appeal, the DOAS Commissioner may, in his or her sole discretion, request oral argument. The DOAS Commissioner will make a decision on the appeal as expeditiously as possible after receiving all relevant requested information. The DOAS Commissioner will issue a final decision in writing.

7.8. Step 7 – Contract Close Out

The purpose of the *closeout process* is to verify that both parties to the contract have fulfilled their contractual obligations and that there are no responsibilities remaining. A contract is completed when all goods, equipment or services have been received and accepted; all reports have been delivered and accepted; all administrative actions have been accomplished; all state entity-furnished equipment and material has been returned; and final payment has been made to the supplier.

Procedure

The contract administrator or designee is responsible for contract closeout and must:

- Determine whether all payments to the supplier have been made,
- Determine whether all administrative actions have been completed,
- Ensure that all issues have been resolved, and
- Ensure that the official contract file contains all necessary documentation.
- Complete the Close Out Portion of the SPD-CP007 Contract Action Summary Form.

In addition, the contract administrator (or the project manager as applicable) must:

- Determine whether all deliverables, including reports, have been delivered and accepted,
- Determine whether all state entity property, if any, has been returned,
- File a Contract Assessment Report, SPD-CP019, with the contract administrator, and
- Provide the contract administrator with the appropriate material from the project manager's file for inclusion in the official contract file.

Operational

This chapter describes operational functions, related policy and associated tasks to be conducted by SPD and state entity procurement professionals.

Key Steps

Key information for the Operational chapter includes:

- Describing roles and responsibilities of the state entity's delegated procurement officer (APO/CUPO).
- Receiving and managing delegated purchasing authority.
- Outlining the training and development requirements.
- Managing procurement records and periodic reporting requirements.
- Understanding of SPD's process review functions.

Table 8.1 Referenced Official Forms	State Entity Use	SPD Use
SPD-OP001 Designation of State Entity Procurement Officer (APO or CUPO)	•	
SPD-OP007 One Time Request to Exceed Delegated Purchasing Authority	•	
SPD-OP008 Permanent Increase to RFP DPA Request	•	

8.1. Introduction to the Operational Chapter

The Operational chapter addresses the role and responsibilities of the state entity's designated procurement officer as well as delegated purchasing authority. In addition, the Operational chapter describes SPD's training program, minimum training requirements, SPD's audit functions, and general reporting requirements.

8.1.1. State Entity Procurement Spend

At the direction of the Governor, SPD will report in such detail as may be required any purchase or purchases made by state entities. Each state entity is solely responsible for the accuracy of the procurement data that records the entity's spend for the purchase of all goods, equipment, and services. Spend is captured at the line level of purchase Spend is captured at the line level of purchase orders by either NIGP Codes or by Purchase Type Codes. Accurate procurement spend is critical for:

- an organization to understand buying efficiencies and trends;
- an organization to detect the need for creating or renewing entity contracts;
- an organization and SPD to verify compliance in procurement processes;
- SPD to create, dissolve, or renew statewide contracts; and
- SPD to respond to Executive and Legislative inquiries.

Analysis of an entity's spend must be conducted, at a minimum, on a quarterly basis by the APO/CUPO. In addition, APOs/CUPOs are required to deliver an annual self-audit and spend analysis report to SPD. The report should be submitted to SPD at training@ doas.ga.gov by February 15 each year. It is also an excellent business practice for staff who make purchases to review their procurement transactions on a weekly or biweekly basis, in the event errors can be detected and corrected before transactions are complete. These frequent analyses by an entity has positive benefits to include:

- Non-compliance with the State Purchasing Act and administrative rules are detected and corrective actions taken;
- Risk exposures to the entity and/or the state are reduced or eliminated;
- Entity spend is more accurately reported;
- Performance levels of procurement staff are evaluated for training needs;
- Saving opportunities are identified; and
- Scope of need is determined for developing solicitations.

8.2. State Entity's Designated Procurement Officer

Each state entity is required to have a designated procurement officer. The state entity's designated procurement officer, also known as the *Agency Procurement Officer (APO)* or *College or University Procurement Officer (CUPO)*, has the authority to procure goods and services within the state entity's Delegated Purchasing Authority (DPA) and is primarily responsible for coordinating the state entity's procurement activity.

The APO/CUPO serves as the primary point of contact between SPD and the state entity and the APO/CUPO is responsible for promptly distributing any communications from SPD to the APO/CUPO's procurement staff. In addition, the APO/CUPO must promptly distribute any relevant communications concerning statewide contracts to other internal staff as appropriate.

8.2.1. APO/CUPO Responsibilities

The APO/CUPO has various responsibilities and duties. For purposes of this manual, any responsibilities and duties that relate to a certain procurement stage have been identified in that stage. Other general responsibilities and duties of the APO/CUPO include, but are not limited to:

- Being familiar with Georgia procurement law (O.C.G.A.) Section 50-5-50 et seq. in order to assure that the legal requirements with respect to state entity procurement activities are met;
- Being familiar with the rules and regulations governing purchases as issued by the State Purchasing Division Deputy Commissioner (e.g. the provisions of the GPM as well as Official Announcements as further described in Section I.1.3. - Communication);
- Prioritizing purchases of commodities, goods and services in accordance with Section 1.3. - Order of Precedence;
- Monitoring the state entity's compliance with these administrative rules and, when areas of non-compliance are found, determine the appropriate course of action needed to correct the non-compliance, document the action plan, and detail the corrective action(s) taken;
- Coordinating and understanding the state entity's long term purchasing and contracting needs;
- Analyzing the state entity's current and forecasted purchases (composed of any and all divisions/departments of the state entity) on at least a quarterly basis to identify supplies, materials, equipment, and services which must be sourced through the competitive bidding process;
- Preparing and submitting to SPD the state entity's requirements for all materials and services that exceed the state entity's DPA;
- Providing information to SPD regarding purchasing transactions as requested;
- Serving as the liaison (or identifying a designee to serve as liaison) to provide assistance to suppliers qualifying as small or minority business (the name and contact information of the liaison should be identified in all of the state entity's solicitations and forwarded to SPD via email at processimprovement@doas.ga.gov;

- Providing methods to ensure all purchasing laws, rules, regulations and procedures are observed within the state entity;
- Mentoring and training all staff, at a minimum annually, and ensuring completion of GCPA Certification as needed;
- Ensuring that the ethics of public procurement are being maintained;
- Participating in the protest process and ensuring accurate information has been provided by the state entity;
- Maintaining all necessary state entity procurement records; and
- Maintaining all procurement staff and their current contact information directly to the Georgia Procurement Registry/Agency Information with Procurement Staff site.

8.2.2. Identifying New APO/CUPO

From time to time, the state entity may need to identify a new procurement officer. As noted in Section I.2.5.3. - Designated Procurement Officers, the state entity's proposed APO/CUPO must meet the minimum requirements identified by SPD as well as any additional requirements identified by the state entity (O.C.G.A.) Section 50-5-53.

Procedure

To select a new APO/CUPO, the state entity must complete the following steps:

1. After identifying a candidate, request SPD's approval of the candidate by completing and submitting SPD-OP001 Designation of State Entity Procurement Officer to SPD in accordance with the instructions contained on the form.
2. The candidate may not assume the duties of APO/CUPO until SPD approval has been received.

8.3. Delegated Purchasing Authority

As noted in the Introduction and General Overview chapter, SPD may, at its discretion, delegate purchasing authority to state entities to permit those state entities to make purchases on their own behalf. It is the intention of the State Division Deputy Commissioner to delegate purchasing authority to the maximum extent possible. This is determined by the state entity's staff capabilities which can generally be determined by experience, training, certification and proven ability to successfully provide best-in-class purchasing services to the state entity. SPD will define a state entity's DPA in writing, which may include both limitations and conditions.

Examples of DPA limitations include, but are not limited to:

- Restrictions regarding the approved dollar amount of the purchase,
- Restrictions regarding the solicitation type, limitations regarding the specific good or service to be procured, and/or
- Limitations to the time frame in which the good or service can occur.

Examples of DPA conditions include, but are not limited to:

- Completing SPD-prescribed training/certification and/or professional development training classes,
- Completing any action plans resulting from procurement process reviews conducted by SPD, and/or
- Conducting certain procurement activities in conjunction with SPD.

DPA may vary from state entity to state entity and may be increased, decreased or revoked at any time by SPD.

Procedure

The APO/CUPO is responsible for ensuring the state entity does not exceed its DPA and that all conditions of the DPA are met. Further, the APO/CUPO is responsible for ensuring all staff exercising such DPA are properly skilled and trained to perform the assigned purchasing tasks. The APO/CUPO should contact SPD to resolve any questions regarding DPA by sending an email to processimprovement@doas.ga.gov. SPD's website also includes additional information regarding current DPA.

8.3.1. Initial Request of Delegated Purchasing Authority

There are instances where a state entity may request an initial grant of DPA. Common examples include the establishment of a new state entity or where a state entity is administratively attached to a state entity and has not received a delegation of authority in the past.

Procedure

To request an initial grant of DPA, the state entity must submit a written request to SPD via email to processimprovement@doas.ga.gov. The written request should include pertinent supporting documentation, such as a distribution of authority within the state entity, reporting requirements, training of purchasing staff, and any other pertinent information to justify the DPA request. The The State Purchasing Division Deputy Commissioner will review the state entity's request and will consider all relevant factors, including, but not limited to, the experience and training of the state entity's APO/CUPO and other procurement staff.

The State Purchasing Division Deputy Commissioner or his/her designee may grant the state entity a trial DPA for a three-to six-month or longer period. This trial period will continue until such time as SPD conducts a purchasing process review to determine whether the state entity has instituted sound internal purchasing policies and

procedures and to allow time for the individual(s) to obtain training and certification. The State Purchasing Division Deputy Commissioner or his/her designee will notify the state entity in writing of the final action taken on the request for an initial grant of DPA after the purchase process review. Any abuse of the DPA by the state entity could result in the DPA being revoked.

8.3.2. Exceeding Delegated Purchasing Authority

On a case-by-case basis, SPD may allow a state entity to exceed its existing DPA. A state entity must always request and receive written permission prior to exceeding its DPA.

Procedure

In the event the state entity desires to conduct a competitive solicitation on its own to establish a contract which exceeds the state entity's existing DPA, the state entity must first request approval from SPD. To request approval, the state entity must complete SPD-OP007 One Time Request to Exceed Delegated Purchasing Authority and submit to to SPD in accordance with the instructions on the form.

The state entity must request and receive written permission to exceed its DPA prior to conducting the competitive solicitation. However, an exception may be granted when a state entity issues a solicitation with the intent that the resulting contract would not exceed its DPA and later, after reviewing suppliers' responses to the solicitation, determines the resulting contract will exceed the state entity's DPA. In this situation, the state entity must first request and receive written approval from SPD prior to completing contract award. To request approval, the state entity must complete SPD-OP007 One Time Request to Exceed Delegated Purchasing Authority and submit to SPD in accordance with the instructions on the form.

8.3.3. Increasing Delegated Purchasing Authority

Procedure

If a state entity desires an increase to its existing DPA, the state entity must prepare and submit SPD-OP008 Permanent Increase to RFP DPA Request in accordance with the instructions contained on the form to the State Purchasing Division Deputy Commissioner or his/her designee for the permanent increase. The request should be submitted to processimprovement@doas.ga.gov.

Procedure

The state entity should include information which justifies the requested increase in delegated purchasing authority, such as:

- Experience and training of the APO/CUPO and procurement staff,
- Results of previous purchasing process reviews conducted by SPD,

- History of purchase transactions (such as examples of successful purchases conducted with one-time increases to delegated authority), and
- State entity internal purchasing procedures.

The State Purchasing Division Deputy Commissioner or his/her designee may also request the state entity submit additional information to facilitate the review process. After review, the State Purchasing Division Deputy Commissioner or his/her designee will notify the state entity in writing of the action taken on the request for an increase in DPA. Any abuse of the DPA by the state entity could result in the DPA being revoked.

8.3.4. Delegating Purchasing Authority for RFPs

Prior to using the RFP process to establish a contract, the state must certify in writing that the use of competitive sealed bidding (i.e., the RFQ process) will not be practicable or advantageous to the state (O.C.G.A.) Section 50-5-67. SPD will make such certification for all RFPs conducted by SPD on behalf of state entities. For all RFPs conducted by the state entity, the state entity is authorized to make such written certification.

Important

NOTE: Standard RFP certification language is included in all of SPD's RFP templates referenced in Section 3.4. - Selecting the Correct Solicitation Template.

8.3.5. Monitoring Purchases through Open Contracts

For each open contract established by the state entity, the state entity must monitor the purchasing activity under the open contract to ensure that the expenditures do not exceed the state entity's DPA governing of the establishment of the open contract. For example, if the state entity received permission to exceed its existing DPA of $1,000,000.00 for RFPs to establish an open contract with estimated spend of $1,500,000.00, then the APO/CUPO must monitor spend under the contract to ensure it does not exceed $1,500,000.00.

Procedure

If the APO/CUPO later determines that the cumulative total of purchases throughout the duration of the open contract will likely exceed the state entity's applicable DPA for that open contract, then the APO/CUPO must first request and receive SPD's prior approval. To request approval, the APO/CUPO must complete and submit SPD-OP007 One-Time Request to Exceed Delegated Purchasing Authority to SPD in accordance with the instructions on the form.

8.4. Training and Professional Development

Training in procurement is vital for all procurement personnel. Current purchasing staff must become certified within designated time-frames. To obtain certification, SPD will provide procurement training to APO/CUPOs and other procurement staff throughout the state. The initial certification is valid for five (5) years, and purchasing staff must complete the re-certification process to maintain State of Georgia purchasing credentials.

SPD's training includes an overview of the procurement process for state entities and includes topics such as the fundamentals of public purchasing, role and responsibilities of the APO/CUPO, delegated purchasing authority, specifications, procurement types, bid procedures, evaluation and award, Team Georgia Marketplace™, eSource, the GPR, and the use of these systems. Information about training can be obtained from SPD's state entity training web page. It is imperative that all new employees promptly complete training and limit their work to those areas where they have received training and are certified.

Supplier

Training for suppliers is also available from the SPD's supplier's training web page. This web page contains information to aid you with your training needs. Table 8.2 outlines the training available for suppliers.

Table 8.2 Supplier Training Resources Available	
Georgia Procurement Manual (GPM) for Suppliers	The purpose of this online training session is to learn how to navigate the DOAS State Purchasing web site to find supplier information.
Register as a Sourcing Bidder	The purpose of this online training session is to review the process of registering as a sourcing bidder through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
Maintain Bidder Information	The purpose of this online training session is to guide you as a sourcing bidder through the steps to maintain your company profile through Team Georgia Marketplace™.
Register as a Supplier	The purpose of this online training session is to help you understand the process of registering as a supplier through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
Maintain Supplier Information	The purpose of this online training session is to guide you as a supplier through steps to maintain your company profile through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
Manage Purchase	The purpose of this online training session is to help you under-

Table 8.2 Supplier Training Resources Available	
Orders	stand the process of reviewing account information through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
Manage Payment Information	The purpose of this online training session is to help you understand the process of reviewing account information through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
Respond to Bids in eSource	The purpose of this online training session is to familiarize you with the eSource procurement application and explain how to respond to bids in eSource.
Respond to Events and Place Bids in Team Georgia Marketplace™	The purpose of this online training session is to help you understand the process of responding to bid opportunities/events through Team Georgia Marketplace™, the supplier registration system in the state of Georgia.
eSource Supplier Guide	This is a Supplier manual on how to access eSource and how to respond to solicitations posted in eSource.

8.4.1. Certification Programs

Important

SPD has established the Georgia Procurement Certification Program, which identifies minimum skill sets and training requirements necessary to complete procurement tasks. SPD State Purchasing Division offers three (3) specialized certifications as shown in Table 8.3 Certification:

Table 8.3 Certification		
Title	Components of Certification	Audience
Georgia Certified Purchasing Associate (GCPA) or Basic Certification	Basic Certification	Employee who need basic understanding of State procurement tools, procedures, and policies and will be creating Request for Quotations solicitations.
Georgia Certified Purchasing Manager (GCPM)	GCPA	Employee must complete GCPA Basic Certification prior to being eligible to pursue GCPM status.
	RFP Certificate*	Employees responsible for writing and managing the RFP process.
	RFP Negotiation Certificate*	All employees are not required to take this course for GCPM Certification. APOs/CUPOs alone will have the author-

Table 8.3 Certification		
Title	Components of Certification	Audience
		ity to conduct Negotiations on behalf of the State Entity and will be required to complete this course.
	Contract Management Certificate*	Employees responsible for writing and administering the contracts.
	Team Georgia Marketplace™ Certificate*	For Team Georgia Marketplace™ users only.
Georgia Certified Purchasing Card Administrator (GCPCA)	P-Card Certification	Employees whose responsibilities include coordinating and administrating the P-Card Program at their facilities.

*Indicates completing the study of a specialized procurement process.

Key deadlines for completing certain certifications/certificates are defined in Table 8.4 Other certifications and associated deadlines may be announced through official announcements:

Table 8.4 Training Deadlines	
Description	Completion Deadlines
Georgia Certified Purchasing Associate (GCPA) or Basic Certification	For APOs/CUPOs and other procurement professionals… • Within nine months of hire for all new APOs/CUPOs. • Within twelve months of hire for all new procurement professionals. To request an exception, contact SPD via email at processimprovement@doas.ga.gov.
RFP Certificate	For APOs/CUPOs… • Within nine months of completing GCPA or Basic Certification. • Notwithstanding the deadlines noted above, the RFP training classes included in the RFP Certificate must be completed prior to the posting of any RFP which identities the APO/CUPO as the RFP issuing officer.

Table 8.4 Training Deadlines	
Description	Completion Deadlines
	For all other procurement professionals… • Within the deadline established by the APO/CUPO except that the RFP training classes included in the RFP Certificate must be completed prior to the posting of an RFP which identifies the procurement professional as the RFP issuing officer. To request an exception, contact SPD via email at processimprovement@doas.ga.gov.
Georgia Certified Purchasing Manager (GCPM)	For APOs/CUPOs… • Within six months of completing RFP Certificate • Notwithstanding the deadlines noted above, the RFP training classes included in the RFP Certificate must be completed and Negotiations Certificate received prior to negotiation of any RFP which identifies the APO/CUPO as the Negotiating Party for the State Entity. For all other procurement professionals… • Within the deadline established by the APO/CUPO except that the RFP training classes included in the RFP Certificate must be completed prior to the posting of an RFP which identifies the procurement professional as the RFP issuing officer. • APOs/CUPOs alone will have the authority to conduct Negotiations on behalf of the State Entity. To request an exception, contact SPD via email at processimprovement@doas.ga.gov.

SPD will coordinate with the APO/CUPO to assess the training needs of state entity procurement personnel, and will make procurement training available to assist in the development of highly skilled state entity procurement staff. SPD encourages each APO/CUPO to submit recommendations to SPD on procurement training topics by submitting emails to training@doas.ga.gov.

8.4.2. Training Registration

Registering for training classes is accomplished through the Learning Management System (LMS). In order to acquire access to the LMS, the procurement professional must send an email request to Training@doas.ga.gov. Once access is granted, State entity procurement professionals can register for training classes and drop from training classes through the LMS. The LMS transcript keeps a record of each registration transaction, cancellations, and test scores. Using a virtual tour of LMS, the procurement professional can navigate through the LMS in order to review training schedules, register for or drop from training classes, complete courses/tests online, and obtain reports on training progress.

SPD uses the information stored in the LMS to review training progress for state entity procurement professionals in order to determine approval for APO/CUPO nominations, DPA increases or exceptions, etc.

8.4.3. No Show or Late Attendance to Training Sessions

The State Purchasing Division (SPD) will assess a $30.00 fee for any NO-SHOW student who registers for a training class and does not attend it without dropping the registration at least 72 hours prior to the beginning of the training class. This fee is necessary to offset the cost of producing the training materials, preparing the classroom, and most importantly, for the no-show student reserving a training seat and keeping it from another prospective student.

The $30.00 No-Show fee will be collected at the end of each week and submitted to the state entity for payment. The billing statement will be identified as SPD Training No Show in the description and contain a list of all students from the entity who registered for a training class and did not attend it without dropping 72 hours in advance. The assessed No-Show fee(s) must be paid before the student can register for another training class.

In addition, the LMS will show a screen that displays after the student selects the Enroll button. This screen outlines the training policy and allows the student to accept or decline the terms. If the student accepts, he/she will be enrolled in the training session. If the student declines, he/she will not be registered for the training class.

For students arriving late to any class, the student must arrive within 30 to 45 minutes of the class start time in order to be eligible to complete the class, unless arrangements have been made with the instructor; otherwise, the student will need to re-enroll for the class to be taken at a later time.

8.4.4. Re-Certification

Re-certification includes activities and training courses designed to certify employees due to the availability of new tools or change in procedures or policies. Re-certification activities ensure the evaluation of the employee's ongoing competency. In order to receive re-certification, certified employees must earn at least 40 hours of Continuing Education Units (CEUs) over a 5-year renewal period. Re-certification units can be obtained from SPD or from an accredited purchasing organization.

CEUs can be obtained from SPD by completing:

1. SPD training courses*
2. All SPD-hosted webinars. For example, the release of GPM changes is always accompanied by webinars that review the changes implemented.

* Enrollment in SPD training courses used for re-certification cannot be within 2 years of initial completion.

All CEUs that are offered by the SPD will be tracked for each student in LMS. To receive CEUs for re-certification, the student must be registered as an attendee and attend the sessions listed above.

As a complement of the employee's education and in order to maintain certification, the employee is expected to attend relevant procurement-related courses to be granted CEUs. Relevant procurement-related courses from accredited organizations such as National Institute of Governmental Procurement (NIGP), Institute of Supply Management (ISM), etc. receive CEUs. When CEUs are granted from accredited organizations, the recipient must obtain a certificate of completion from the organization for each procurement-related course completed.

When appropriate, SPD will verify the approval of CEUs for the student of procurement-related courses from sources outside of SPD or from accredited organizations. The student must submit the following to training@doas.ga.gov to receive this CEU verification prior to receiving the training:

- Details of the organization/source providing the course
- A full description of the course
- Number of hours required for completing the course

All CEUs will be granted on an hour-for-hour basis of completion.

Table 8.5
Training Re-Certification

Certification description	Completion Deadline
Georgia Certified	For APOs/CUPOs and other procurement professionals...

Table 8.5 Training Re-Certification	
Certification description	Completion Deadline
Purchasing Associate (GCPA) or Basic Certification	• Renewed within 6 months of expiration of 5 year certification date. NOTE: To request an exception, contact SPD via email at processimprovement@doas.ga.gov. Re-certification is based on completion of the following: • 40 hours of procurement training (can include professional organization training, i.e. NIGP, ISM, etc., or SPD led training, webinars, or GPM Update Sessions. NOTE: Individuals whose certification expires, and who fail to re-certify within 6 months following that date, will be required to complete the curricula in its entirety.
Georgia Certified Purchasing Manager (GCPM) Certification	For APOs/CUPOs and other procurement professionals... • Renewed within 6 months of expiration of 5 year certification date. Within five years of completing GCPM Certification. • Notwithstanding the deadlines noted above, the renewal of certification must be completed prior to the posting of any RFP which identifies the individual as the RFP issuing officer. NOTE: To request an exception, contact SPD via email at processimprovement@doas.ga.gov. Re-certification is based on completion of the following: • 40 hours of procurement training (can include professional organization training, i.e. NIGP, ISM, etc., or SPD led training, webinars, or GPM Update Sessions.
Georgia Certified Purchasing Card Administrator (GCPCA)	For APOs/CUPOs and Purchasing Card Administratiors... • Renewed within 6 months of expiration of 5 year certification date. NOTE: To request an exception, contact SPD via email at processimprovement@doas.ga.gov. Re-certification is based on completion of the following: • 40 hours of procurement training (can include professional organization training, i.e. NAPCP etc., or

Table 8.5 Training Re-Certification	
Certification description	Completion Deadline
	SPD led training, webinars, or GPM Update Sessions. NOTE: Individuals whose certification expires, and who fail to re-certify within 6 months following that date, will be required to complete the curricula in it entirety.
APO/CUPO Specific Re-certification Requirement	For any individual designated as APO/CUPO for an entity or an affiliate, re-certification will also be contingent on completion and delivery of an annual self-audit and spend analysis report for every year during the certification period. The self-audit and spend analysis report must be submitted to training@doas.ga.gov by February 15 each year. NOTE: Instructions for completing this report can be located in the SPD LMS as "Instructions for Annual APO/CUPO Self-Audit Report".

8.4.4.1. Steps to Re-Certify

Once an employee achieves the required 40 hours of Continuing Education Units (CEUs) for re-certification, the employee must submit the following to Training@doas.ga.gov within 6 months of the re-certification deadline, refer to Section 8.4.4. – Re-Certification:

1. A completed DOAS Application for Re-Certification, form SPD-OP010.
2. Proof of completion for any non-SPD training indicated on the Application for Re-Certification. This includes courses, webinars, conferences, internal training, etc. that was pre-approved by SPD before completion, refer to Section 8.4.4. – Re-Certification. Certificates of completion are acceptable proof that can be submitted for each course completed; however, the number of course hours must be indicated in order to receive the correct number of CEUs by State Purchasing. In the event a Certificate cannot be obtained or the Certificate does not indicate the number of credit hours, a Continuing Education Units Attendance Record, form SPD-OP11, must be completed and submitted with the application.

For any questions regarding completing the steps to re-certify, contact Training@doas.ga.gov.

8.5. Team Georgia Marketplace™

Team Georgia Marketplace™ is provided by SPD and its partners and serves as an online tool to support various state purchasing functions, including registration of suppliers, advertisement of contract opportunities, electronic bidding, and contracts management. SPD intends Team Georgia Marketplace™ to be the primary vehicle for all solicitations conducted by SPD as well as all state entities that are capable of becoming participating state entities. SPD will work with all participating state entities to develop the knowledge and skills necessary to successfully utilize Team Georgia Marketplace™ and establish a date for each participating state entity to begin conducting all purchasing activity in Team Georgia Marketplace™ unless the State Purchasing Division Deputy Commissioner grants a written exception.

For all participating state entities, the following subsections identify applicable policy for use of Team Georgia Marketplace™, including eProcurement, the Virtual Catalog or the statewide contracts, Strategic Sourcing, and Supplier Contracts. The APO/CUPO of each state entity using Team Georgia Marketplace™ is responsible for ensuring all users (requestors, approvers, buyers, P-Card holders, etc.) of Team Georgia Marketplace™ adhere to applicable policy.

8.5.1. eProcurement Module

Team Georgia Marketplace™ includes a module called eProcurement or "ePro". ePro facilitates the creation, management and approval of requisitions (or purchase approval requests).

Procedure

Table 8.6 identifies applicable policy for all participating state entities' use of ePro:

Table 8.6
ePro Usage Policy

Transaction Type	Applicable Policy
Purchases from Statewide Contracts Listed in Virtual Catalog	When making a purchase through the Virtual Catalog, the user must create and process an ePro requisition for all goods/services with the exception of any goods/services listed as non-requisitionable items (such as vehicle rentals).
Purchases of goods/services not available through Virtual Catalog	The user must use ePro to create a special item requisition for all purchases whenever the state entity's current internal policy requires written approval to occur before the purchase can be made. No ePro requisition is required if payment is made with a recurring voucher (i.e., rent, utilities, etc.).
Modifying Dispatched/Executed	If the procurement professional is modifying a dis-

Table 8.6 ePro Usage Policy	
Purchase Orders	patched/executed purchase order, the user/procurement professional must create and process an ePro requisition when the state entity's internal guidelines require approval. SPD recommends using an ePro requisition to obtain approval for any material change to a purchase order, such as a change increasing the dollar amount of the purchase order.

8.5.2. Virtual Catalog

The *Virtual Catalog* is an online database of *statewide contracts*, that is part of Team Georgia Marketplace™, which allows users to view and/or shop available goods and services.

When a needed good/service is identified, the user must first access the Virtual Catalog to search available statewide contracts. Mandatory statewide contracts must be used and convenience statewide contracts may be used if desired. If the user purchases from a statewide contract available in Virtual Catalog, then the user has two purchasing options:

1. Processing the transaction directly through the Virtual Catalog, or
2. Conducting a face-to-face transaction at the supplier's physical location. In a face-to-face transaction, the state representative is physically present at the supplier's location to make the purchase.

Procedure No other purchasing options (i.e., purchases by phone, fax, or directly on supplier's website) may occur without SPD's prior written approval. To request approval, submit a written request via email to processimprovement@doas.ga.gov. SPD strongly encourages the use of the P-Card for all purchases from statewide contracts.

8.5.3. Strategic Sourcing Module

Team Georgia Marketplace™ includes a module called *Strategic Sourcing*. *Strategic Sourcing* facilitates the process of soliciting and receiving suppliers' responses to RFIs, RFQs, RFQCs, and RFPs.

Procedure For all participating state entities, all solicitations must be processed through Strategic Sourcing unless SPD grants a written exception. Requests for exceptions must be submitted to SPD in writing via email at processimprovement@doas.ga.gov.

8.5.4. Supplier Contracts Module

Procedure

Team Georgia Marketplace™ includes a module called *Supplier Contracts*. *Supplier Contracts* supports the creation, revision, management and termination of contracts. Table 8.7 identifies applicable policy governing participating state entities' use of Supplier Contracts:

Table 8.7 Supplier Contracts Module	
Transaction Type	Applicable Policy
Establishing New Contracts	When establishing a new contract, the procurement professional must comply with all applicable procurement policies, including competitive bidding requirements. In addition, the procurement professional must comply with the following: • State Entity Contracts: With the exception of intergovernmental agreements, all new contracts should be created and maintained in Supplier Contracts for the duration of that contract. • Statewide Contracts: All new statewide contracts should be created and maintained in Supplier Contracts for the duration of that statewide contract. • State Entity Contracts Established by SPD: For all state entity contracts established by SPD on behalf of a non-SAO PeopleSoft state entity, SPD must create a contract entry within Supplier Contracts for record purposes only. All header level information must be entered on the contract entry page for non sourced events completed before go live. The contract must be scanned and uploaded with signature page for public record purposes.
Transitioning Existing Contracts	When transitioning to Team Georgia Marketplace™, state entities are required to import all existing, active, multi-year contracts with more than one renewal option remaining and which the state entity intends to renew (with the exception of intergovernmental contracts).

Throughout the contract lifecycle, the contract and complete executed contract forms (see Table 7.1) are to be uploaded into the system.

8.6. Managing Procurement Records

Each procurement file should be identified so it can be readily located and referenced. All purchasing transactions should be supported with appropriate documentation. The state entity may maintain the files either in hard copy or in electronic form as long as the documentation is accessible. It is important that documentation maintained in electronic form has the same level of detail that would be available in hardcopy, including authorized signatures.

8.6.1. Retention of Procurement Records

Important

The use, retention, and destruction of Georgia records, including procurement records, is governed by the Georgia Records Act.(O.C.G.A.) 50-18-90 et seq. The act requires state entities to manage records in accordance with the procedures and regulations issued by the Department of Archives and History of the University System of Georgia and the retention schedules approved by the State Records Committee. "*Retention schedule*" means a set of instructions prescribing how long, where, and in what form records are maintained by the state entity. Department of Archives and History's online resources include approved retention schedules and other resources.

In addition to maintaining procurement records in accordance with the state entity's approved retention schedule, the APO/CUPO must manage procurement records in a way that ensures documents are easily located to support contract management, respond to public requests for documents, and facilitate procurement processes such as resolution of protests and completion of audits.

8.6.2. Periodic Reporting and DOAS' Right to Examine Records

DOAS is authorized by law to examine books, records, and papers of any state entities relative to purchases and to require those individuals in control of such records to promptly provide copies to DOAS. (O.C.G.A.) Section 50-5-52.

SPD

At the direction of the Governor, SPD will report in such detail as may be required any purchase or purchases made by state entities. In addition, from time to time, SPD may also direct state entities to provide certain data regarding procurement activity, such as a list of suppliers receiving contract award who qualify as a small or minority businesses under Georgia law.

8.7. Review of Procurement Processes and Purchases

SPD will conduct periodic reviews of the purchasing practices of all state entities that fall under SPD's purview. The primary purpose of the review is to determine if procurement professionals are providing their respective entities with the highest quality of purchasing support while complying with Georgia's purchasing statutes and rules. The review will also allow SPD to determine if increased delegation can occur or if the entity's performance and compliance dictate a reduced level of delegation.

SPD staff continuously monitor statewide procurement data available through the state's financial system and the GPR. In addition, SPD staff continually monitor transactions made using the purchasing, travel, and fuel cards. SPD's review of a state entity's purchasing processes and purchases may include visits to the state entity's location and/or requests for electronic copies (e.g. fax or email) of documentation as part of desk audits. Failure to provide requested documentation promptly will result in an audit finding. Each state entity will cooperate with SPD's Staff during an onsite visit, provide them with requested records, adequate office space for conducting the review, and ensure that state entity purchasing staff is available for discussion of purchasing transactions.

Any periodic reviews will be documented in writing, including any exceptional work being done as well as findings of non-compliance along with recommendations for corrective action. The results of the review will be provided by SPD to the state entity in writing and the state entity will respond to the review.

Procedure

As noted in Section 8.2.1. - APO/CUPO Responsibilities, each APO/CUPO must monitor the state entity's procurement activities and are strongly encouraged to perform periodic reviews by using the self-audit tools developed by SPD's Process Improvement Team. These online self-audit tools mirror the processes performed by SPD's Process Improvement Team during SPD's periodic performance reviews. For questions or issues with the self-audit tools or processes, contact processimprovement@doas.ga.gov.

Glossary

A

APO
Agency Procurement Officers

B

BOR
Board of Regents

C

CEU
Continuing Education Units

CUPO
College/University Procurement Officer

D

DOAS
Department of Administrative Services

DOR
Department of Revenue

DPA
Delegated Purchasing Authority

E

ePro
eProcurement

F

F.O.B.
Free on Board

G

GCI
Georgia Correctional Industries Administration

GCPA
Georgia Certified Purchasing Associate

GCPM
Georgia Certified Purchasing Manager

GDOT
Georgia Department of Transportation

GEPS
Georgia Enterprises for Products and Services

GPM
Georgia Procurement Manual

GPR
Georgia Procurement Registry

GSFIC
Georgia State Finance and Investment Commission

GTA
Georgia Technology Authority

I

ISM
Institute of Supply Management

L

LMS
Learning Management System

N

NIGP
National Institute of Governmental Purchasing

NOA
Notice of Award

NOIA
Notice of Intent to Award

O

O.C.G.A.
Official Code of Georgia Annotated

OIG
Office of Inspector General

OPB
Office of Planning and Budget

P

P-Card
Purchasing Card

PO
Purchase Order

Q

QPL
Qualified Products List

R

RFI
Request for Information

RFP
Request for Proposals

RFQ
Request for Quotations

RFQC
Request for Qualified Contractors

S

SAO
State Accounting Office

SECI
State Entity Contract Index

SPD
State Purchasing Division

SWOT
Strength Weakness Opportunity and Threats

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