



# *Georgia*

# *Vendor Manual*

## **Department of Administrative Services**

### **State Purchasing Division**

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Atlanta, Georgia 30334  
[statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov)

A handwritten signature in black ink, appearing to read "Brad Douglas", is positioned above a horizontal line.

Brad Douglas, Commissioner

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# Georgia Vendor Manual

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## FOREWORD

The Georgia Vendor Manual has been developed by the Department of Administrative Services (DOAS), State Purchasing Division (SPD), central purchasing authority of the state of Georgia, to assist vendors who wish to engage in business with the State. All interested vendors are encouraged to become acquainted with this manual as it contains important information on how to do business with the State.

Vendors may market goods and services directly to state agencies by contacting the Agency Purchasing Officers to determine which of the many agencies may potentially be in need of the goods and services that these companies provide. Although vendors may market goods and services directly to state agencies, it is important to remember that most purchases will be made by competitive solicitation.

The DOAS website contains detailed information on the State's procurement process. The website address is: [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov).

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## CHAPTER 1 - GENERAL INFORMATION

### SECTION 1.1 - Purpose of the Vendor Manual

The purpose of the Georgia Vendor Manual (hereafter “Manual”) is to acquaint prospective vendors with the State's purchasing system and to provide notice of the regulations, policies and procedures for doing business with the State. It is important to note that **all provisions of this Manual will be incorporated by reference into any contract awarded. However, if there is a conflict between any provision of any individual contract and a provision of this Manual, the contract provision shall govern. If specific questions arise that are not answered in this Manual, vendors may address such questions in writing to:**

Department of Administrative Services  
State Purchasing Division  
Attn: Acquisition Manager  
200 Piedmont Avenue, S. E., Suite 1308  
Atlanta, Georgia 30334-9010  
Phone: 404-657-6000  
Fax: 404-657-8444  
E-mail: doasspo@doas.ga.gov

### SECTION 1.2 - Vendor Manual Revisions

Vendors should periodically visit the State Purchasing Website at [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov) to review the Vendor Manual for any updated information. Select the link for Resources and then Vendor Tools.

### SECTION 1.3 - Purchasing Laws

Laws concerning the Department of Administrative Services procurement process in general may be found in the Official Code of Georgia Annotated (O.C.G.A.) Title 50, Chapter 5, Article 3. The regulations set forth in this Manual are established pursuant to the Department of Administrative Services' authority under O.C.G.A. 50-5-54.

## **SECTION 1.4 - Authority of the Department of Administrative Services, State Purchasing Division**

### **1. Purchases by State Agencies, Departments, and Institutions**

The Department of Administrative Services through the State Purchasing Division is 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 some construction for other agencies of the State, and for overseeing statewide contracts. All state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State are required to purchase through the Department of Administrative Services unless the total dollar amount of the procurement is within the agencies' delegated purchasing authority. Delegated Purchasing Authority is discussed in detail in Article IV of this Manual. Agencies that are specifically exempt by statute or regulation are not required to purchase through the Department of Administrative Services.

When purchasing a product or service, the State Entity should adhere to the following order of precedence:

1. Mandatory Statewide Contracts
2. State Entity Contracts (i.e. an existing contract between the agency/college/university and a supplier)
3. Georgia Correctional Industries (GCI) or Georgia Enterprises for Products and Services (GEPS) for products designated as mandatory (not applicable to preferred products)
4. Convenience Statewide Contracts, "preferred products" available through GEPS, or Open Market Purchases

Notwithstanding the fact that the needed products or services may be fulfilled by an existing statewide contract, the State Entity may, if desired, procure the needed products and services through an intergovernmental agreement with GCI, Georgia Industries for the Blind or any other governmental entity. Intergovernmental agreements do not require approval from SPD or competitive bidding and are not subject to dollar limits.

## 2. Purchases by Local Political Subdivisions

Local political subdivisions, including counties, municipalities, and school boards, are authorized by State law to purchase their supplies, materials, and equipment through the Department of Administrative Services if they so desire. Purchases pursuant to this authorization may take the form of one-time open market purchases, special contracts, or statewide contracts specifically open to use by local political subdivisions. All products offered by bidders/offerors pursuant to statewide contracts may be offered to local political subdivisions as well as state agencies.

### **SECTION 1.5 - Exemptions from State Purchasing Requirements**

State statutes authorize the Department of Transportation, the various public authorities, the Board of Regents, and the Department of Labor through the Unemployment Trust Fund, to contract for construction projects directly. Also exempt from the Department of Administrative Services' rules and regulations are purchases by the legislative and judicial branches of State Government; purchases of technical instruments and supplies and technical books and other printed matter on technical subjects; also manuscripts, maps, books, pamphlets, and periodicals for the use of the State library or any other library in the State supported by State funds; also services; Department of Education purchase of school textbooks; purchases of livestock for slaughter and perishable articles such as fresh vegetables, fresh meat, fish and oysters, butter, eggs, poultry, and milk; purchases for agricultural experiment stations covered by the Smith-Lever Act; Hatch Act Purchases; procurement of professional or personal employment services; and emergency supplies of drugs, chemicals and sundries, dental supplies and equipment.

#### 1. Personal Employment Services

These are services rendered by a person who works full time or part time for and under the control of the State and receives compensation as a salary in direct payment from a State Entity.

#### 2. Professional Services

Services defined by a statute as a "profession" 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.

## **SECTION 1.6 - Small and Minority Businesses**

It is the policy of the state of Georgia that small and minority businesses have a fair and equal opportunity to participate in the State purchasing process. DOAS' Vendor Relations (VR) works with state offices, agencies, departments, boards, bureaus, commissions, institutions, and other entities of the State to provide the small and minority business communities with access to information and bid opportunities. Vendor Relations also provides technical assistance and training to help these businesses understand how to do business with the State. Vendor Relations conducts monthly "New Vendor Orientation" sessions that provide general information on how to become a registered vendor with the State, marketing strategies and other useful information. Vendor Relations also offers vendors a listing of Small and Minority Business Coordinators to inform vendors of procurement opportunities with specific agencies. Additional information about Vendor Relations can be found at the State Purchasing website at [statepurchasing.doas.georgia.gov](http://statepurchasing.doas.georgia.gov). Select Vendor Services from the Quick Links category on the home page. Then Select Vendor Relations.

Georgia State law authorizes certain tax credits for payments to minority subcontractors. (See the Official Code of Georgia Annotated (O.C.G.A) Section 48-7-38). Vendors should consult with their tax advisors to find out how to take advantage of these tax credits.

## **SECTION 1.7 - Inspection of Records**

Solicitation opportunities 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 such as cost estimates, proposals/bids, evaluation criteria, vendor evaluations, negotiation documents, offers and counter-offers, and certain records revealing preparation for the procurement.

Notwithstanding the provisions of the Georgia Open Records Act, 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 proposal shall not be subject to public disclosure.

The State Entity is allowed to assess a reasonable charge to defray the cost of reproducing documents and/or facilitating onsite inspection. A state employee should be present during the time of onsite inspection of documents.

## **SECTION 1.8 - Visits by Salespersons or Other Vendor Representatives**

The State Purchasing Division encourages visits by salespersons or other vendor representatives to members of its staff for the purpose of imparting specialized information concerning their products. To regulate operations, such visits are normally limited to thirty (30) minutes on the first and third Wednesday of each month between the hours of 8:30am and 11:00am by appointment only. To schedule an appointment, call 404/657-6000. Visitors are requested to make appointments in advance.

## **SECTION 1.9 – Retention of Procurement Records**

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 Division of Archives and History of the Office of the Secretary of State 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. Approved retention schedules and other resources provided by the Office of the Secretary of State may be accessed online at the following link: [http://sos.georgia.gov/archives/who\\_we\\_are/rims/default.htm](http://sos.georgia.gov/archives/who_we_are/rims/default.htm). 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.

## CHAPTER 2 - VENDOR REGISTRATION

### SECTION 2.1 - Application and Registration

DOAS provides a web-based vendor registration system which enables vendors to register with the state of Georgia through Team Georgia Marketplace™. Team Georgia Marketplace™ is provided by DOAS and its partners and serves as an online tool to support various state purchasing functions, including registration of bidders and suppliers, advertisement of contract opportunities, electronic bidding, and contracts management. Vendors must register in this system in order to do business with the State and participate in any electronic solicitations hosted through Team Georgia Marketplace™. Access key information about the Team Georgia Marketplace™, including training information to facilitate each vendor's successful use of the Team Georgia Marketplace™, using the link below:

General Information:

<http://doas.ga.gov/TGM/Pages/Home.aspx>

Training Materials:

<http://doas.ga.gov/Training/Pages/SupplierTraining.aspx>

Registration with Team Georgia Marketplace™ offers many benefits to vendors, including automatic email notification of new procurement opportunities to those vendors maintaining active registrations. To take advantage of the automatic email notification feature, the registering vendor must select one or more National Institute of Governmental Purchasing Codes (“NIGP Codes™”) which best reflect the types of goods and/or services offered by the vendor. The selected NIGP Codes™ operate as a filter in that only notice of procurement opportunities which contain one or more of the selected NIGP Codes™ will be emailed to the vendor. In the event DOAS elects to charge a fee to support its provision of the automatic email notification feature, registered vendors will be given prior notice and the opportunity to opt out of the automatic email notification process while still maintaining their registrations and enjoying the other benefits provided by Team Georgia Marketplace™. In the event a vendor elects not to utilize the automatic email notification feature, the vendor may view solicitations by accessing the Georgia Procurement Registry.

Please note that the registration system is “vendor maintained.” In other words, each registering vendor is responsible for updating and maintaining key company, contact, and product/service information in the system.

## **SECTION 2.2 - Vendor Maintained System**

Vendors are responsible for updating and maintaining company contact and product information in the system. All inquiries about the Vendor Registration System should be addressed to [vendoradm@doas.ga.gov](mailto:vendoradm@doas.ga.gov).

# CHAPTER 3 - PROCUREMENT AND AWARD METHODS

## SECTION 3.1- Methods of Procurement

### 1. The Request for Quote (RFQ)

The RFQ is a method of procurement used by state agencies to solicit bids for the supply of goods and/or services. Awards made pursuant to a RFQ are made to the lowest, most responsive and responsible bidder meeting all specifications.

### 2. Request for Proposal (RFP)

The RFP is a competitive method of procurement whereby offerors are asked to submit proposals for the supply of goods and/or services in a format, which allows for the consideration of factors in addition to the price in the evaluation and award process. This method of solicitation is used when it is determined by the Department of Administrative Services (or by a State Entity DOAS has authorized to conduct an RFP) that the use of competitive sealed bidding is not practicable or is not advantageous to the State. The RFP solicits sealed technical and cost proposals from prospective vendors and seeks to obtain the “best value” for the State.

The RFP method does not use the cost of the project as the single determining factor, rather, uses a combination of lowest cost plus best proposed solution to determine the award. RFPs are used when the project does not lend itself to the creation of a clear and accurate Statement of Work and the objective of the solicitation is to determine a vendor who can offer the best possible solution at the most reasonable cost.

The RFP describes in general terms the problems and needs of the State. However, unlike the Request for Quotes process in which the State prescribes both the specifications and solution to its own needs and vendors replicate the State's specifications and solution in the bids that they submit, the RFP process contemplates that vendors will propose their own comprehensive and innovative solutions to the State's needs described in the RFP. The State will evaluate offerors' proposals in accordance with evaluation criteria described in the RFP.

In its technical proposal, the vendor or “offeror” must provide a detailed and comprehensive description of the offeror's proposed solution to the State's needs. In its cost proposal, the offeror must describe the total cost of the proposed solution described in the technical proposal. The offeror’s technical and cost

proposals must be submitted to the State in accordance with the directions contained in the RFP.

The technical proposal is evaluated and receives a score and then the cost proposal is evaluated and receives a score. The two scores are added together. During the evaluation process, the state may seek clarification from any offeror at any time.

The State Entity may conduct site visits and/or request offerors make oral presentations as permitted by the RFP. The evaluation team may lower the offeror's technical score as appropriate as a result of the evaluation team's evaluation of the vendor's oral presentation and/or site visit. In the event the RFP and/or the State Entity's established evaluation criteria reserves points for the oral presentation and/or site visit, then the evaluation team may increase the vendor's technical score as appropriate based on the evaluation team's evaluation of the vendor's oral presentation and/or site visit.

Discussions and negotiations may be conducted with offerors who are deemed qualified and reasonably susceptible for award based on criteria set forth in the solicitation document. DOAS (or any State Entity authorized by DOAS) may engage in one or more rounds of discussions and negotiations for the purpose of seeking clarifications, revisions, and/or best and final offers for technical and/or cost proposal and all such discussions and negotiations shall be reduced to writing within the time prescribed by DOAS. In the event DOAS has authorized the State Entity to conduct the RFP, then the State Entity is permitted to conduct a single round of negotiation of cost proposals provided no changes are made to the technical proposals. Any other negotiation authority must be expressly granted by DOAS.

In conducting such discussions and negotiations, there shall be no disclosure to competing offerors of any information contained in the competing offerors proposals (technical or cost) except the disclosure of information derived from the proposals may be disclosed as follows: if the solicitation document contains a provision notifying offerors that the state may use a process of allowing multiple revisions to cost proposals to establish the final cost proposal, DOAS is authorized to disclose information derived from (but not contained in) the proposals to competing offerors such as overall rankings and overall scores for the purpose of soliciting ongoing revisions to cost proposals.

DOAS (or any State Entity authorized by DOAS to conduct negotiations) will identify which offerors shall participate in the negotiations in one of the following ways:

- a. Identify in the solicitation document the methodology that will be used to identify offerors to participate in negotiations. This may include, but is not necessarily limited to, a methodology that establishes a competitive range based on offerors' rankings following proposal evaluations.
- b. Identify in an addendum to the solicitation document the methodology that will be used to identify offerors to participate in negotiations.
- c. Negotiate with all responsive responsible offerors following bid/proposal evaluations.

Identified offerors will be notified in writing (i) that DOAS is initiating negotiations; (ii) the general purpose and scope of the negotiations; (iii) the anticipated schedule for the negotiations; and (iv) the procedures to be followed for those negotiations. This information may be provided in a single or separate document(s).

DOAS may issue additional information and/or instructions to offerors participating in negotiations as needed. Negotiations may be completed after a single round, or may be done in several rounds as determined by the negotiation team.

After the negotiations, participating offerors may be asked to submit supplemental proposals defining the revisions that are a result of negotiations. Any request for supplemental proposals will be directed in writing to all offerors participating in the negotiations, and will provide details concerning the format and due date for the supplemental proposals.

The DOAS may in its sole discretion terminate negotiations and/or the solicitation at any time.

The offeror that ultimately wins a contract may not be the lowest cost offeror because the higher quality of the winning offeror's technical proposal may offset an increased cost or because no agreement could be reached as to contract terms and conditions. Public notice of the results of the RFP process shall be made in accordance with Section 3.7, "Public Notice and Contract Award", of this manual.

### 3. Request for Information (RFI)

A Request for Information (RFI) is a quasi-formal method for soliciting information from vendors who have knowledge or information about an industry, product or service. The RFI method is not intended to result in a contract award but is designed to allow for the collection of industry information that may be used to determine if a RFQ or RFP solicitation method is appropriate.

### 4. Request for Qualified Contractors (RFQC)

A RFQC is used in cases where the State is attempting to find vendors with the qualifications to produce the product or service desired. The required qualifications are known and each vendor is judged on its ability to meet or surpass the required qualifications. This form of solicitation may, but does not always, culminate in a contract award.

## **SECTION 3.2 - Competitive Bidding/Proposals**

All acquisitions or purchases made by the State Purchasing Division or by any other State Entity subject to the State Purchasing Act are based on competitive bidding whenever possible. Acquisitions or purchases involving expenditures of less than \$5,000 may be made without competitive bidding. When practicable, more than one quotation should be obtained even where the expenditure is less than \$5,000. Acquisitions or purchases involving expenditures of \$5,000 or more will be made by solicitation of competitive sealed bids or proposals unless an exception applies. The State Entity may not split reasonably foreseeable purchases into two or more transactions for the purpose of circumventing the requirement that any purchase of \$5,000 or more be based on competitive bidding. For purposes of determining compliance with this rule, the purchases of the State Entity as a whole for a single fiscal year will be aggregated where reoccurring purchases are reasonably foreseeable. For example, if a State Entity makes semi-monthly purchases of Item X for \$1,000 each, then the State Entity must seek competitive bids for Item X because it is reasonably foreseeable that the annualized cost for the fiscal year will be more than \$5,000. If a State Entity purchases Item Y for \$4,000 in August and again for \$4,000 in February, then the February purchase does not necessarily have to be competed if it was not reasonably foreseeable there would be a subsequent purchase. The key is the reasonable foreseeability that total purchases in a fiscal year for the same goods/services will exceed \$5,000.

For every solicitation, the name of the successful offeror shall be made public upon issuance of the Notice of Intent to Award and upon contract award for all solicitations \$100,000.00 or more. For every solicitation, the name of the successful offeror shall be made public upon contract award for all solicitations \$5,000.00 or more, but less than

\$100,000.00. The names of all persons whose bids and/or proposals were rejected and a statement giving reasons for the rejection shall also be published. Within one day after the Notice of Intent to Award is issued and within one day after contract award, this information should be on public display in the department's office or on GPR so it can be easily seen by the public for the department's office or on GPR so it can be easily seen by the public for solicitations \$100,000.00 or more.

1. Team Georgia Marketplace™

Team Georgia Marketplace™ is provided by DOAS and its partners and serves as an online tool to support various state purchasing functions, including registration of bidders and suppliers, advertisement of contract opportunities, electronic bidding, and contracts management. Access key information about the Team Georgia Marketplace™, including training information to facilitate each vendor's successful use of the Team Georgia Marketplace™, by accessing the links below:

General Information:

<http://doas.ga.gov/TGM/Pages/Home.aspx>

Training Materials:

<http://doas.ga.gov/Training/Pages/SupplierTraining.aspx>

2. eQuote System

a. General Information Regarding the eQuote System. eQuote is a software technology permitting simple Request for Quotes to be conducted online. Vendors responding to electronic Request for Quotes (eRFQs) hosted by eQuote are permitted to logon, select answers and type text in response to questions, and upload any necessary documents. eQuote simplifies the bidding process by enabling electronic responses, reducing paper documents received, and automating the cost evaluation process. eQuote is mandatory for all Request for Quotes (excluding any Request for Quotes conducted through the Team Georgia Marketplace™ unless an exception is granted by the SPDAC. eQuote may not be used for the following: (1) purchases to be conducted through Requests for Proposals or (2) sole source procurements.

Use of the Team Georgia Marketplace™ to process Request for Quotes is an approved alternative to eQuote and does not require additional approval from the SPDAC.

b. How eQuote Generates Notice to Registered Vendors. DOAS has the capability to offer automatic email notifications of new procurement opportunities to vendors

electing to register in Team Georgia Marketplace™ and subscribe to receive such services. Vendors electing to subscribe to receive automated email notifications are allowed to select one or more NIGP codes which best reflect the types of goods and/or services the vendors offer. The NIGP codes™ selected by the registering vendor operate as a filter, limiting the automatic email notifications sent to the vendor to procurement opportunities which contain one or more of the vendor's selected NIGP codes™. Email notice will be sent to all vendors maintaining current subscriptions for the NIGP codes™ identified for the specific eRFQ.

- c. Vendor Request for Notification. Vendors who do not maintain active registrations or do not elect to subscribe to receive automated email notices for solicitations within the Team Georgia Marketplace™ may request to be added as a participant in the eRFQ by requesting access from the state buyer identified as the point of contact for the eRFQ.
- d. Public Advertisement. All solicitations posted in the eQuote are publicly advertised online and may be viewed by accessing the Georgia Procurement Registry ([http://ssl.doas.state.ga.us/PRSapp/GPR\\_P\\_start.jsp](http://ssl.doas.state.ga.us/PRSapp/GPR_P_start.jsp)) and then selecting “eQuote Public Site”.
- e. Vendor Participation. Once a vendor has received an invitation from the eQuote system to respond to a solicitation, the vendor may then access the eQuote system to participate and submit an offer. The eQuote system will allow the vendor to process the following: enter a response per line item, enter a response of “no bid” per line item, and attach/upload documents to the bid response until bid closing.
- f. Public Opening.
  - (i) Reserved.
  - (ii) Reserved.
- g. eQuote Awards.
  - (i) Selecting Apparent Successful Vendor(s). After bids are evaluated, the State Entity will select the lowest, responsive and responsible vendor(s) in accordance with stated award criteria. The standard eQuote instructions permit award to a single vendor or split awards to one or more vendors based on line items and/or subcategories of products.
  - (ii) Public Notice Requirements. eQuote enables automatic emails to be sent to the lowest, responsive and responsible bidder(s) meeting all specifications, notifying the bidder(s) of award selection. In addition, eQuote automatically emails notice to all other participating bidders, notifying the bidders that their bids were not selected for award. In

addition, the State Entity must comply with the following table regarding public notice of the bid results:

**Bid Posting Policy Chart**

<b>Estimated Solicitation Value</b>	<b>Minimum Posting Period</b>	<b>Recommended Posting Period</b>
Up to \$9,999.99	Minimum of Three (3) Business Days	Minimum of Three (3) Business Days
\$10,000 - \$49,999.99	Minimum of Seven (7) Calendar Days	Minimum of Ten (10) Calendar Days
\$50,000 - \$99,999.99	Minimum of Eight (8) Calendar Days	Minimum of Fifteen (15) Calendar Days
\$100,000 - \$249,999.99	Minimum of Ten (10) Calendar Days	Minimum of Twenty (20) Calendar Days
\$250,000 or more	Minimum of Fifteen (15) Calendar Days ( <u>mandated by Georgia law</u> )	Minimum of Thirty (30) Calendar Days

- h. Re-Award. In the event an award must be changed, eQuote permits the State Entity to “re-award” one or more line items to another vendor.
- i. Forms of Payment. A Purchase Order (PO) may be utilized as a form of establishing a contract with the awarded vendor.
- j. No fax or written bids permitted. Fax or written bids cannot be used in conjunction with eQuote. Participating vendors must submit their responses electronically within the eQuote system.
- k. Public Information. All bids and any other public records with respect to the eRFQ shall be subject to public inspection upon request, after the State Entity’s posting of the NOIA or NOA, whichever comes first.

3. Formal (Sealed) Bidding

A formal sealed bidding process shall be used for all solicitations involving expenditures of \$5,000 or more. To solicit competitive sealed bids/proposals, the State Entity must either (1) require the vendor to submit its bid/proposal in a sealed package or (2) utilize eQuote, Team Georgia Marketplace™, or any other procurement tool approved by SPD which facilitates the receipt of sealed responses. Faxed and/or emailed responses will not be considered sealed bids/proposals. Sealed bids/proposals shall not be opened until after the closing date and time of the solicitation.

#### 4. Reverse Auctions

The Commissioner of the Department of Administrative Services has the authority to use reverse auctions as a form of competitive bidding and as an alternative to sealed bidding. Once bidders are pre-qualified, the reverse auction process is performed in real-time, via the internet, on a specifically scheduled day and time. The real-time reverse auction allows the vendors to see the lowest bid but not the identities of the bidders during the bidding process. Once the reverse auction is closed, the State evaluates the bids and awards the contract to the lowest, responsive and responsible vendor.

#### 5. Electronic Solicitation

Competitive sealed bids and proposals can be received by way of the Internet or other electronic means, however, any bids or proposals received must comply with security standards established by the Georgia Technology Authority. The advertisement of the electronic sealed 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.

Electronic solicitations, including competitive sealed bids and proposals submitted electronically, will be administered pursuant to the “Georgia Electronic Records and Signature Act”. eQuote and Team Georgia Marketplace™ meet the sealed bid and proposal requirements by (1) electronically storing all bids/proposals submitted electronically through those systems and (2) not releasing such bids/proposals to the State Entity until the designated solicitation closing date and time. 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 Open Records Act.

Electronic sealed proposals must include a technical proposal and a cost proposal. In its technical proposal, the offeror must provide a detailed and comprehensive description of the offeror's proposed solution to the State's needs. In its cost proposal, the offeror must describe the total cost of the proposed solution described in the technical proposal. The technical proposal will be released to the evaluation team, evaluated and receive a score and then the cost proposal will be released to the evaluation team, evaluated and receive a score. The two scores are added together.

#### 6. Sole Source

- a. Definition. Sole source acquisition means a contract for the purchase of supplies and/or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. Sole source acquisition shall not include any of the following:

- i. Purchases from existing agency or statewide contracts,
  - ii. Approved “piggybacking” purchases,
  - iii. Contracts for services performed by non-profit entities,
  - iv. Intergovernmental agreements,
  - v. Purchases which, either through statute or other regulation, are exempt from the competitive solicitation process and/or the State Purchasing Act, and/or
  - vi. 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.
- b. Policy. For contracts with a value of \$5,000.00 or more, sole source acquisitions are prohibited unless the agency establishes justification why the needed supplies and/or services should not be procured through open competition. Sound procurement practice requires that a sole source acquisition occur when it is the only option and not as an attempt to contract with a favored service provider or for a favored product. Some examples in which a sole source acquisition could be acceptable are:
- i. When only the proposed source can furnish the services because of its previous agency/Institute experience and having an alternative source duplicating these capabilities would result in excessive cost to agency/Institute. (Excessive cost must be quantified.)
  - ii. When only one (1) supplier can satisfy the technical requirements because of unique technical competence or expertise. (Technical requirements must be valid and verifiable.)
  - iii. The item does not satisfy the requirements for Sole Source, but the use of any other manufacturer’s product would result in excessive cost to agency/Institute. (Excessive cost must be quantified.)
  - iv. When only one (1) source possesses patents or exclusive rights to manufacture or to furnish the item or service.
  - v. Other extenuating circumstances or considerations include, as applicable, adverse impacts on agency/Institute of not using the proposed source, and other considerations not previously stated.

- c. Public Notice. Sole source acquisitions with a value of \$5,000.00 or more must be posted to the Georgia Procurement Registry for a minimum of five (5) business days. The published sole source notice shall serve as the agency's notice of intent to award.
- d. Challenges to Sole Source Determination. In the event a supplier capable of providing the needed goods/services desires to challenge a sole source determination, the supplier must file a protest with the SPDAC prior to the close of the sole source notice. Any such protest shall be resolved in accordance with the provisions of this manual.
- e. Contract Award. In the event the sole source determination is not successfully challenged, the agency may proceed directly to contract award.

## 7. Sole Brand

Before making a determination of Sole Brand, research must be conducted to determine if other products exist which can also satisfy procurement requirements in a timely manner. Sound procurement practice requires that a Sole Brand procurement be used only when it is the last justifiable option, and not as an attempt to contract for a favored product. An approved Sole Brand request allows for the insertion of "No Substitute" after the commodity is specified by brand name, model number, or some other designation identifying a specific product of a manufacturer. The APO/CUPO must complete SPD-NI003a "Sole Brand Justification Form", which is available online at: <http://www.doas.georgia.gov/StateLocal/SPD/Seven/Pages/Home.aspx>. **The completed form must be publicly posted with the solicitation.**

The following information must be included:

- a. **Scope of Work:**

Information to establish the context of the sole brand, for example, the function of the item or service function. Provide where and how the item or service is to be used, operational environment, and previous experience or history. Identify any efforts made to locate other possible sources, such as review of Thomas Register, industry organizations, and internet searches, consultants, Requests for Information, online resources of Buyers Laboratory, Inc., and advertisements in industry publications, and contact with the Buyer.
- b. **Sole Brand Justification:**

Some requirements may need to be provided by a certain manufacturer, for example, "to match existing uniforms." Explain why only a particular style, type, or manufacturer is acceptable. A request for "Sole Brand" does not automatically eliminate bidding requirements, as the item may be available from more than one vendor.

### **SECTION 3.3 - Open Market Contracts**

The Department of Administrative Services frequently purchases supplies, materials, and equipment on the open market (one time buy) without establishing a term contract (contract established for a specified term, usually one year). The bidder should not expect additional orders. The requirements for competitive solicitations apply to these purchases and upon award to the lowest, responsive and responsible bidder a Notice of Award and/or Purchase Order will be issued to the contractor.

### **SECTION 3.4 - Statewide Contracts**

Statewide contracts are generally established for one (1) year by the Department of Administrative Services with options to renew and are for use by all state agencies and local political subdivisions. The solicitation document will contain, whenever possible, non-binding estimates of total usage by the user agencies. The successful bidder/offeror will be issued a Notice of Award. The shipment of supplies, materials, or equipment is authorized by the issuance of purchase orders by user agencies as releases against the contract. All state agencies are required to purchase from statewide contracts. Local governments can procure at their option.

Requests for waivers to mandatory Statewide Contracts may be granted by SPD. Approvals will be limited to purchases with a specified time frame and/or dollar value. Justifiable reasons include, but are not limited to, the State Entity's ability to pay, cost, delivery time, compatibility with existing State Entity situations, or special valid needs not covered by existing mandatory Statewide Contracts, or specifications.

Requests for waivers shall be prepared utilizing the Form SPD-NI008 "Statewide Contract Waiver Request Form", which is available online at

<http://doas.ga.gov/StateLocal/SPD/Seven/Pages/Home.aspx>

The completed form must be submitted by the APO/CUPO via email to [processimprovement@doas.ga.gov](mailto:processimprovement@doas.ga.gov). SPD will respond in writing to the request within five (5) business days. In the event SPD grants the waiver, the waiver must be maintained as part of the State Entity's procurement file. Waivers to statewide contracts do not relieve the State Entities of any bidding requirements.

### **SECTION 3.5 - Agency Contracts**

The phrase "agency contract" is generally used to describe a contract established for use by a single State Entity. Alternatively, a "statewide contract" is a contract designated by the Department of Administrative Services for use by multiple state entities and,

frequently, local governmental entities. An agency contract may be used by one or more other state entities in the event the following conditions are met: (1) the vendor is willing to offer the same price, terms and conditions to the other State Entity and (2) the State Entity holding the agency contract consents, and (3) SPD provides written approval.

### **SECTION 3.6 - Multi-Year Agreements**

The state of Georgia operates on a fiscal year of July 1 through June 30. The State may only enter into contractual obligations one (1) fiscal year at a time and therefore, multi-year obligations are not permissible. However, multi-year agreements are permissible under the following conditions:

- Multi-Year Leases and Purchases - The Department of Administrative Services is authorized by law to execute multi-year leases and installment purchase agreements for the acquisition of supplies, materials, equipment, or services.
- Annual Termination of Obligations Under Multi-Year Agreements - Georgia law requires that multi-year agreements terminate absolutely and without further obligation on the part of the State at the end of each fiscal year (July 1 - June 30). The contract can be renewed only by action on the part of the State. Twelve month agreements which begin at any time other than the first day of the State's fiscal year are multi-year agreements and must be renewed at the beginning of the next fiscal year.
- Renewal of Multi-Year Agreements - Since the multi-year agreement terminates at the close of each fiscal year, it must be renewed each year by the state agency if it is to remain in effect. Renewal of the agreement is accomplished by the issuance of a Purchase Order and/or Notice of a ward Amendment.
- Total Obligation - A multi-year agreement must explicitly state the total obligation which may be incurred by the State during the current fiscal year and must state the total obligation that may be incurred in each succeeding fiscal year for which the agreement may be in effect.
- Establishment of Leases, Rentals, or Installment/Purchase Agreements - The statutory rules concerning competitive solicitation apply to leases, rentals, lease/purchases, and installment sales agreements. Statewide and agency contracts may be established which provide such agreements for individual agencies. In the event that such contracts are established, user agencies will issue purchase orders in the same manner as for any other purchase pursuant to agency or statewide contracts. Each purchase order will establish an Individual Standard Agency Agreement at the rates set forth in the agency or statewide contract. In all other cases, such acquisitions must be processed through the State Purchasing Division.
- Optional Purchase of Leased Items - When an executed Standard Agency Agreement includes equity accruals and an option to purchase the subject

equipment, the equipment may be purchased by the issuance of a purchase order to execute the option, provided that the purchase is a cash transaction.

- Funding - The funding provision required for use in State contracts is intended to preclude any liability on the part of the State for payment in the event that funding for the contract ceases to exist or otherwise becomes insufficient. It is not intended to allow a user agency, by the re-allocation of funds to the acquisition of other equipment, to terminate an existing agreement covering similar equipment due to lack of funding. Moreover, while the determination of lack of funding must be left to the sole discretion of the Chief Operating Officer of the user agency, that discretion may not be arbitrarily or capriciously exercised. Given the manner in which the State appropriates funds and the way user agencies budget them, a lack of funding situation should be readily apparent and easily confirmed by the agency's records.
- Title - The Standard Agency Agreement provides for the following:
  - Leases and Rentals - The title to the property remains with the bidder/offeror. The user agency acquires no right, title, or interest therein, except as may be provided for by equity accruals or options to purchase.
  - Installment Purchases - Title to the property vests in the user agency upon acceptance, subject to the terms and conditions of the Standard Agency Agreement and the user agency's obligations thereunder.

### **SECTION 3.7 – Public Notice and Contract Award**

Public notice of expected contract awards and actual contract awards shall occur in the following manner:

1. Notice of Intent to Award. The Notice of Intent to Award is a form identifying the intended contract award to the apparent successful bidder(s)/offeror(s), the names of all bidders/offerors whose bids/proposals were rejected, and the reasons for rejection of the unsuccessful bidders/offerors. The Notice of Intent to Award is publicly posted before a contract award is made. Although the Issuing Officer may elect to provide individual notice of the Notice of Intent to Award to participating vendors as a courtesy, there is no requirement for personal notice. The Notice of Intent to Award is optional but recommended for all contracts with an estimated value of less than \$100,000.00. The Notice of Intent to Award is mandatory for all contracts with an estimated value of \$100,000.00 or more.

SPECIAL NOTE FOR SOLE SOURCE ACQUISITIONS. Sole source acquisitions valued at \$5,000 or more must be publicly advertised on the Georgia Procurement Registry. The published sole source notice shall serve as the agency's notice of intent to award for purposes of this section.

2. Notice of Award. The Notice of Award is a form identifying the contract award to the successful bidder(s)/offeror(s), the names of all bidders/offerors whose bids/proposals were rejected, and the reasons for the rejection of the unsuccessful bidders/offerors. The Notice of

Award is publicly posted within one day of contract award. The Notice of Award is mandatory for all contracts. For all contracts with an estimated value of \$100,000.00 or more, the Notice of Award may not be issued prior to the expiration of the protest filing period and the resolution of any protests received unless the State Purchasing Division Assistant Commissioner makes a written determination, after consulting with the State Entity, that award 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 bidder/offeror 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 bidder/offeror shall not be entitled to reimbursement for any capital outlay costs, or other up front expenditures incurred in performing the contract.

3. Contract Award. All contract awards will be made by the issuance of a Notice of Award and/or a Purchase Order. The State has the authority to review any solicitation or award at any time and for any reason and all contracts shall be contingent upon and subject to defeasance by the protest procedures set out in this Manual. The signed contract is available for public view and inspection following the issuance of the Notice of Award and/or Purchase Order.

## **SECTION 3.8 –Protest Process**

This section describes the mandatory administrative procedure whereby vendors may challenge the solicitation process and whereby bidders/offerors may challenge contract awards.

### **1. Protests**

A vendor may file a written protest challenging a State Entity's compliance with applicable procurement procedures subject to the vendor's compliance with the following provisions. Any such written protest will be resolved in accordance with the following provisions.

### **2. Types of Challenges**

Any aggrieved vendor interested in and 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. Any aggrieved vendor interested in and capable of providing the goods/services identified in a sole source notice may file a protest challenging the sole source determination. Any aggrieved vendor submitting a timely bid/proposal in 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.

### 3. Form of Protest

At a minimum, the written protest must include the following:

- a. the name and address of the protestor;
- b. appropriate identification of the solicitation/sole source notice;
- c. a statement of reasons for the protest;
- d. supporting exhibits, evidence or documents to substantiate any claims unless not available within the filing time (in which case the vendor must proceed to file the protest when the filing period identified below but state the expected availability of the material); and
- e. the desired remedy.

The State, at its discretion, may deem issues not raised in the initial protest as waived with prejudice by the protesting vendor.

### 4. Filing Protests

A protest is considered to be properly filed when it is in writing, signed by a company officer authorized to sign contracts on behalf of the vendor, and is received by SPD.

The protest may be sent by any of the following means:

MAIL: Attn: Assistant Commissioner - Procurement  
State Purchasing Division  
Department of Administrative Services  
200 Piedmont Ave., SE, Suite 1308 West Tower  
Atlanta, GA 30334-9010

FAX: 404-657-8444

EMAIL: [protests@doas.ga.gov](mailto:protests@doas.ga.gov)

The vendor must observe the following deadlines when filing a protest:

Type of Protest	Protest Filing Deadline
Challenge to Competitive Solicitation Process	Two (2) business days prior to the closing date and time of the solicitation as identified on the GPR or eQuote
Challenge to Sole Source Notice	Prior to the closing date and time of the Sole

	Source Notice as published on the GPR
Challenge to an Intended or Actual Contract Award	In the event the State Entity posts a Notice of Intent to Award (NOIA), the protest must be filed within ten calendar days of the date the NOIA is posted
	In the event the State Entity does not post a NOIA, the protest must be filed within ten calendar days of the date the NOA is posted

If an aggrieved vendor fails to file a protest by the applicable deadline, the State may, at its discretion, deem such failure as a waiver with prejudice of any grounds the vendor may have for protest.

**5. Stay of Procurement During Protest Review**

When a protest challenging the competitive solicitation process has been timely filed at least two (2) business days prior to the closing date and time, the solicitation shall not close until a final decision resolving the protest has been issued, unless the SPDAC 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 or an intended contract award has been timely filed, the State Entity shall not proceed to actual contract award unless the SPDAC 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 bidder/offeror 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 bidder/offer shall 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. Protest Resolution**

The SPDAC shall review and issue a written decision on the protest as expeditiously as possible after receiving all relevant requested information from the State Entity and/or issuing officer. Available remedies for sustained protests are as follows:

- If a protest is sustained prior to the closing date and time of the solicitation, available remedies may include, but are not limited to, the following: modification of the solicitation document, including but not limited to

specifications and terms and conditions; extension of the solicitation closing date and time (as appropriate); and cancellation of the solicitation.

- If a protest of a sole source notice is sustained, available remedies include revision or cancellation of the sole source notice.
- If a protest of the intended/actual contract award is sustained, available remedies may include, but are not limited to, the following: revision or cancellation of the NOIA/NOA, re-evaluation and re-award or re-solicitation with appropriate changes to the new solicitation.

## **7. Costs**

In no event shall a vendor 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 bid/proposal, the costs of participating in the protest/request for formal review process or any attorneys' fees.

## **8. Requests for Formal Review/Appeal Process**

All protest decisions concerning solicitations, sole source notices, and/or intended/actual contract awards with an estimated value of \$100,000 or more shall be subject to formal review by the DOAS Commissioner upon request. In the event the estimated value of the solicitation, sole source notice, and/or intended/actual contract award is less than \$100,000, it shall be within the DOAS Commissioner's discretion whether such request for formal review will be granted. The following parties may file a request for formal review: (1) any vendor adversely impacted by the protest decision, including, but not limited to, the protesting vendor, provided the vendor is interested in and capable of providing the goods/services at issue and, in the event the underlying protest disputes an intended/actual contract award, submitted a timely bid/proposal and (2) the State Entity.

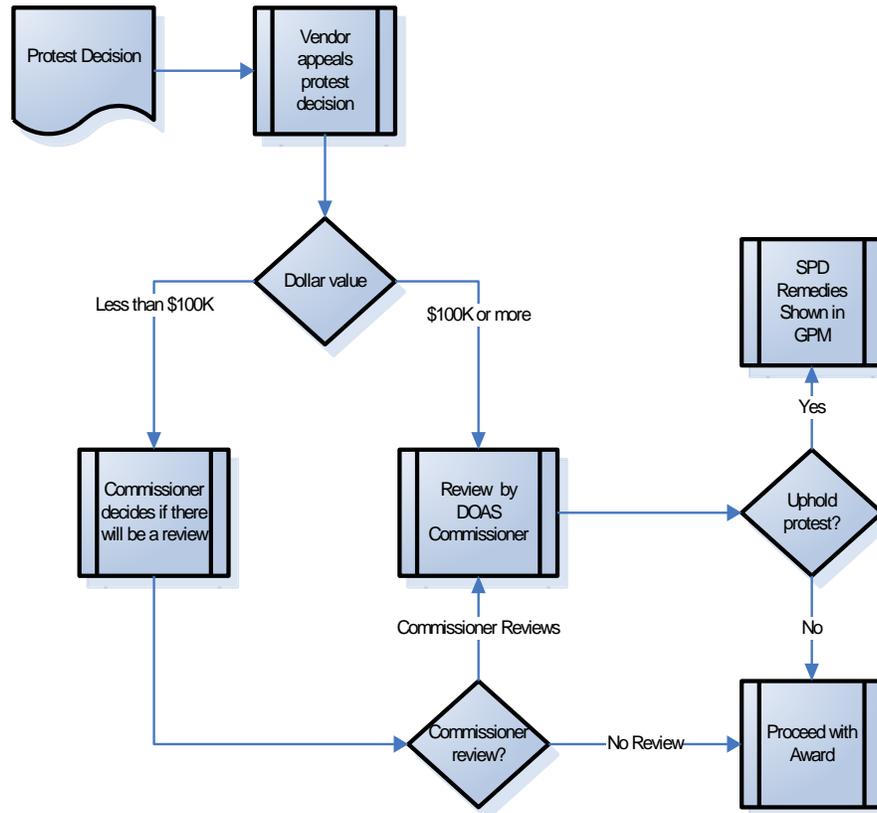
A request for formal review must be made in writing and sent to the DOAS Commissioner by any of the following means:

MAIL: Attn: DOAS Commissioner  
Department of Administrative Services  
200 Piedmont Ave., SE, Suite 1804 West  
Atlanta, GA 30334-9010

FAX: 404-651-9595

EMAIL: [protests@doas.ga.gov](mailto:protests@doas.ga.gov)

Any request for formal review must be received by the DOAS Commissioner within three (3) business days of the issuance of the protest decision. The request for formal review must be in writing and shall 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.



*Diagram of the Review/Appeal Process*

The DOAS Commissioner, in his or her sole discretion, may allow the party requesting formal review to make an oral presentation, and may solicit whatever other information he or she deems appropriate. However, issues not raised in the initial protest by the protestor or issues not raised in the initial request for formal review by the party requesting formal review may, at the discretion of the DOAS Commissioner, be deemed waived with prejudice. In the event the DOAS Commissioner elects to grant the request for an oral presentation and the DOAS Commissioner determines the oral presentation must be transcribed, the requesting party shall be required to pay the costs of the transcriptionist services, including one copy of the transcribed materials for the DOAS Commissioner's records.

## **9. Exempt Entities/Categories**

There are certain state entities and specific categories of purchasing which fall under the exempt category as stated in O.C.G.A. §50-5-58 and Chapter 1, Section 1.5 of this manual, which are exempt from State Purchasing requirements. Offerors objecting to solicitations/purchases by these entities or solicitations/purchases concerning the specific exempt categories must address their complaints to the State Entity responsible for the solicitation/purchase. All other protests must be filed according to the rules within this section of the manual.

## **10. 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 vendor desires to file a protest as defined by Section 3.8 and the protest concerns a solicitation handled by GSFIC pursuant to the intergovernmental agreement between DOAS and GSFIC, the vendor shall file the protest in accordance with the instructions provided in GSFIC’s solicitation. GSFIC shall issue a written 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 Assistant 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 DOAS.

## **CHAPTER 4 - DELEGATION OF AUTHORITY TO STATE AGENCIES**

The State Purchasing Division delegates certain types of authority to the state agencies to facilitate their purchasing needs. These include, releases against statewide contracts and agency contracts, delegated purchasing authority, and emergency purchase authority. Agencies issue purchase orders directly to the successful bidder/offeror to effectuate these purchases.

### **SECTION 4.1 - Mandatory Source Procurement**

Statutes and the regulations of the Department of Administrative Services require state agencies to purchase certain certified products and services from other agencies of the State whenever such services or products are required and are certified to be competitive as to quality and price. These include, but are not limited to, the products of the Georgia Industries for the Blind, Georgia Enterprises for Products and Services, and Georgia Correctional Industries. The procurement of such products is not subject to the competitive solicitation requirements of the Official Code of Georgia Annotated.

### **SECTION 4.2 - Releases Against State and Agency Contracts**

When an agency needs to acquire supplies, materials, equipment, or services covered by either an agency or statewide contract, the agency issues a Purchase Order to the successful bidder/offeror referencing the contract and using contract price information provided by the State Purchasing Division. Receipt of the Purchase Order authorizes the successful bidder/offeror to ship the items requested subject to the terms and conditions of the statewide or agency contract referenced.

State agencies authorized under previously existing individual agency contracts to obtain supplies, materials, equipment, or services, that are provided under any newly awarded statewide contract shall continue to buy such supplies, materials, equipment, or services under any such agency contract until such contract shall expire and, until such expiration, shall not be subject to terms and conditions of the statewide contract.

### **SECTION 4.3– Delegated Purchasing Authority**

The authority to purchase is delegated to state agencies by the DOAS State Purchasing Division. Delegated purchasing authority varies from agency to agency. Vendors should contact the State Purchasing Division for specific information regarding each individual agency's delegated purchasing authority. The rules for competitive solicitation apply to

purchases of such goods and services. This authority should only be exercised if no statewide contracts, agency contracts or mandatory sources exist.

#### **SECTION 4.4 - Emergency Purchases**

In accordance with O.C.G.A. Section 50-5-71, State Purchasing 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. An emergency procurement is handled outside of the normal competitive process 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 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. The emergency purchase process does not apply to requests for contract extensions or amendments, which require prior written approval from SPD.

1. Utilizing a Purchase order or P-Card. If a Purchase Order ("PO") is utilized to make the emergency purchase, the PO should be issued with the phrase "Emergency Purchase" included. Please note the 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 shall resume and Program Administrators and/or Coordinators shall be responsible for returning affected cardholders' accounts to their original status as they existed prior to the emergency.

Please see the Statewide Purchasing Card Policy for guidance regarding required procedures and documentation to support emergency purchases by access the following link:

<http://www.doas.georgia.gov/StateLocal/SPD/Services/Pages/SpdCards.aspx>

2. Notifying SPD. In the event of an emergency purchase, the APO/CUPO must provide the SPD with written notice and justification by completing the following form: SPD-NI005 "Emergency Justification" which is available online at [http://www.doas.georgia.gov/StateLocal/SPD/Seven/Docs\\_SPD\\_Stages/SPD-NI005EmergencyJustificationForm.doc](http://www.doas.georgia.gov/StateLocal/SPD/Seven/Docs_SPD_Stages/SPD-NI005EmergencyJustificationForm.doc). The completed form must be forwarded by the APO/CUPO via email to the Process Improvement at [processimprovement@doas.ga.gov](mailto:processimprovement@doas.ga.gov) within one business day of the emergency purchase. A copy of the PO and all pertinent documentation relating to the purchase

transaction should be forwarded as soon as possible. There are additional requirements in the event a P-Card was utilized as noted in the Statewide Purchasing Card Policy.

SPECIAL NOTE: 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.

## **SECTION 4.5 – Piggyback Purchasing**

Piggyback purchasing allows the issuing State Entity and the awarded vendor to agree to open up the contract for the use of other State Entities. However, the vendor must offer other State Entities the same prices, terms, and conditions as that of the issuing State Entity.

1. A State Entity will be permitted to use another State Entity's contract only with the approval of the SPDAC by utilizing SPD-NI009 "Piggyback Request Form", which is available at <http://doas.ga.gov/StateLocal/SPD/Seven/Pages/Home.aspx>

The State Entity must submit documentation, which includes a copy of the contract, the issuing State Entity's approval to "piggyback" on the contract, the vendor's approval to "piggyback" on the contract, and justification as to why the other State Entity's contract should be used. The APO/CUPO must indicate whether there will be repetitive purchases or whether this is a one-time buy.

2. All State Entities that are given permission by the SPDAC to use another State Entity's contract must submit a monthly report listing other State Entity contracts that are being used along with a list of purchase orders and dollar amounts that have been issued against the other State Entity contract.

## CHAPTER 5 - THE SOLICITATION PROCESS

### SECTION 5.1 - Selection of Vendors; Advertisement

It is the policy of the State to give every vendor an equal opportunity to submit bids/offers on State procurement requirements. The method of solicitation depends on the estimated value of the solicitation, the particular goods or services to be purchased and what methods are most advantageous to the State. Contracts of \$5,000 or more shall be awarded by soliciting competitive sealed bids/proposals. DOAS procurement policy requires agencies to post competitive solicitations to the GPR in the event eQuote is not utilized, and the solicitation is expected to result in a contract award of \$5,000 or more. In addition to (and not in lieu of) using the GPR or eQuote, sealed bids/proposals may also be solicited by advertisement in a newspaper of state-wide circulation for at least fifteen (15) calendar days prior to the date set for opening of the bids/proposals. Solicitations for construction projects will be advertised for at least thirty (30) calendar days. The Website address for the GPR is

[http://ssl.doas.state.ga.us/PRSapp/PR\\_index.jsp](http://ssl.doas.state.ga.us/PRSapp/PR_index.jsp)

### SECTION 5.2 - Solicitation Documents

RFQs, RFQCs, and RFPs are used by the State to solicit offers to sell goods or services and should not be construed as an order by the State to make any purchase. A RFI is used to obtain information from the vendor community that may or may not be used to develop a solicitation document at a later date. Vendors should review instructions and conditions of the solicitation document and include all information and signatures as required. The bid or proposal must be returned to the State Purchasing Division or specified state agency before the time and date indicated for the bid closing. The use of a company bid form containing terms and conditions which are in conflict with those in the solicitation document constitutes a counteroffer and may not be acceptable.

Occasionally, the State may utilize the assistance of a consultant in the development of a solicitation document. These consultants are obtained either through a standing consulting contract or through a competitive bid process. The consultants who participate in this process will be required to prepare and submit a nondisclosure statement regarding this procurement. Any consultant who assists in the development of a solicitation document will be prohibited from submitting a bid/proposal in response to that solicitation or from otherwise performing work on any contract directly resulting from that particular solicitation document, unless the State expressly waives this restriction in writing. Vendors who respond to RFIs may respond to solicitations resulting from the RFI.

### **SECTION 5.3 - Communication with the State in Connection with any Solicitation**

- Inquiries - All questions concerning a solicitation should be directed to the purchasing agent or issuing officer whose name and phone number appears in the solicitation document. Vendors should refer to the RFQ or RFP number and the opening date when making an inquiry. All inquiries must be in writing and delivered or faxed to the purchasing agent or issuing officer. Questions other than written will not be accepted. Responses other than written will not be binding upon the State.
- Restriction on Communication with State Staff - From the issue date of the solicitation document and until a contractor is selected and the selection is made public, vendors are not allowed to communicate for any reason with any State staff regarding this procurement except through the Issuing Officer named in the solicitation document or during the bidder's/offeror's conference, or as provided for by existing contracts. For violation of this provision, the State may reject any bid/proposal of the offending bidder/offeror or initiate suspension/debarment proceedings with respect to the offending vendor or bidder/offeror. All questions concerning the solicitation document must be submitted in writing (email may be used) to the Issuing Officer. Questions sent by electronic mail (email) are the preferred method. However the State will accept Fax copies. No questions other than written will be accepted. No response other than written will be binding upon the State.
- Pre-Bid/Pre-Proposal Conference (a/k/a Bidder's/Offeror's Conference) -Pre-bid/pre-proposal conferences are generally held after issuance of the solicitation document to provide vendors an opportunity to raise questions or clear up any misunderstanding regarding the solicitation documents. Transcripts of such conferences may be taken and can be provided to all vendors who request a copy. Information concerning pre-bid/pre-proposal conferences is posted by the State on the Georgia Procurement Registry.

### **SECTION 5.4 – Submitting a Response**

Each vendor must carefully follow all solicitation instructions regarding the proper submission of a response. In the event the solicitation requires the vendor to submit a sealed bid/proposal to a physical address, the sealed bid/proposal must be delivered in a separate envelope or package, completed in ink or typewritten, signed in ink, sealed, and include the following information on the outside of the package/envelope:

To: Issuing Officer's Name  
State Entity's Name  
State Entity's Address

From: Name of Vendor/Company  
Vendor Point of Contact  
Email Address/Telephone No.  
Street or Box Number  
City, State, Zip Code

Bid/Proposal Closing Date: \_\_\_\_\_ Time: \_\_\_\_\_

Solicitation Number: \_\_\_\_\_

It is imperative that the bidder/offeror 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.

### **SECTION 5.5 - Amendment or Cancellation of Solicitation Documents**

The State may revise a solicitation document by issuing an addendum prior to its opening. Acknowledgment of receipt of an addendum should be returned prior to the time set for receipt of bids/proposals, or accompany them. Failure to bid or propose in accordance with an addendum may be cause for rejection. In unusual circumstances, the State may postpone an opening in order to notify vendors to give them sufficient time to respond to the addendum.

The State may withdraw or cancel a solicitation document at any time. A notice of cancellation will be issued. Bids or proposals may be returned upon request if unopened.

### **SECTION 5.6 - Combining Solicitation Documents**

A vendor should not combine responses to separate solicitation documents. A vendor must submit separate bids or proposals for each solicitation in order to receive consideration for award.

### **SECTION 5.7 - Terms, Conditions and Instructions**

Unless otherwise specified in a solicitation document, all such solicitations are deemed to include all the terms and conditions outlined in this Manual, as well as the terms, conditions, and instructions included in the solicitation document itself. In the event of conflict between the language in this Manual and the solicitation document, the latter shall govern. These terms and conditions should be read carefully prior to the submission of any bid/proposal. Unless a specific exception is noted by the bidder/offeror and accepted by the State by inclusion in the Purchase Order/Notice of Award, all provisions of the terms and conditions of the solicitation document will become a part of any

contract awarded. Any exception to provisions in the Georgia Vendor Manual must be made in the offer.

## **SECTION 5.8 - Exceptions to Solicitation Documents**

All exceptions taken by a bidder/offeror to any portion of any solicitation document must be clearly noted in a separate section of the bid or proposal entitled "Exceptions." Failure to note exceptions in the bid or proposal may be cause for their rejection. Exceptions which give the bidder/offeror a competitive advantage or which cause the bidder/offeror to fail to meet a mandatory requirement may not be accepted.

## **SECTION 5.9 - Vendor Address**

All correspondence concerning the award of State business, including Notices of Award and/or Purchase Orders will be sent to the contractor's address on file. Contractors wishing to have orders or payments mailed to a different address other than the one on file should so indicate.

## **SECTION 5.10 – Registration and Disclosure of Lobbyists Employed or Retained by Vendors to State Agencies**

### **1. Definitions**

- ‘Lobbyist’ shall have the meaning given in O.C.G.A. § 21-5-70(6), and shall also include:

any person who, for compensation, either individually or as an employee of another person, undertakes to influence a public employee or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include a person solely on the basis that such person participates in preparing a written bid, written proposal, bid protest, or other document relating to a potential involvement with or sale to a state agency;  
or

any natural person who makes a total expenditure of more than \$250 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material, to promote or oppose the awarding of a contract to a particular vendor or vendors by any state agency; where the total value of any single contract, including anticipated renewals, exceeds \$50,000 in value or \$100,000 in the aggregate for all contracts the lobbyist promotes or opposes in a calendar year;

- ‘Public employee’ shall have the meaning given in O.C.G.A. § 45-1-6(a)(4), but shall additionally include all State elected officials;
- ‘State Entity’ means each State department, agency, board, bureau, office, commission, authority, council, or corporation, by whatever name denominated;
- ‘Vendor’ shall have the meaning given in O.C.G.A. § 45-1-6(a)(5).

## 2. Lobbyist Registration and Vendor Certification

- All vendors or prospective vendors who employ or retain one or more lobbyists shall cause such lobbyists to register with the State Ethics 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 agency or the date that bids or proposals are due, whichever is earlier.
- Such lobbyist disclosures shall include the name of any vendor or vendors by which the lobbyist is employed or retained, shall identify the contract or contracts for which the lobbyist is lobbying, and shall include a good faith estimate of the total amount of all income to the lobbyist from the vendor (including any payments to the lobbyist by any other person for lobbying activities on behalf of the vendor), other than income for matters that are unrelated to lobbying. Lobbyist disclosures required pursuant to this regulation shall be updated with the same frequency as lobbyist disclosures required in Article 4 of Chapter 5 of Title 21 of the O.C.G.A.
- All vendors or prospective vendors shall certify, as part of any response to a request for proposals or bids or other procurement method that any lobbyist whom the vendor or prospective vendor employs or retains has registered with the State Ethics Commission and complied with the requirements of this regulation.
- The registrations and disclosures required pursuant to this regulation shall be considered "information voluntarily supplied" to the State Ethics Commission by such vendors under O.C.G.A. § 21-5-6(b)(3), so that the State Ethics Commission may perform its duty to accept and file such information.
- The registrations and disclosures required pursuant to this regulation shall be in addition to any reports required under O.C.G.A. § 45-1-6. Compliance with this regulation shall 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. §§ 45-12-130, -131 and other applicable law, DOAS, along with the Office of Planning and Budget, shall decline to approve any contract with any vendor that has failed to comply with this regulation.

- If any contract is awarded but it is subsequently discovered that a vendor has made an inaccurate certification pursuant to this regulation or that one or more of the vendor's lobbyists has failed to fully comply with the requirements of this regulation, such contract shall be voidable.

### **SECTION 5.11 - Certificate of Non-collusion - Signature on Bids/Proposals**

RFQs, RFPs, RFQCs, must contain a certificate of non-collusion which must be signed by an authorized representative of the bidder/offeror. Such person shall include his or her title, and if requested, shall supply verification of authority to bind the company in contract. This certificate is required by law and failure to sign and submit it with the bid/proposal may result in its rejection.

The certificate of non-collusion states:

"I certify that this bid (proposal) is made without 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). (O.C.G.A. 50-5-67). I further certify that the provisions of the Official Code of Georgia Annotated 45-10-20 et. seq. have not and will not be violated in any respect."

### **SECTION 5.12 - Pricing and Discounts**

Solicitation documents may request the quotation of the list price less all trade or other special discounts offered. Discount from list quotations may be requested for the supply of certain types of commodities. Instructions concerning this method of pricing will be included in the solicitation document. The addition by the bidder/offeror of price escalator clauses, minimum order requirements, or other additional pricing terms not included in the terms and conditions of the solicitation document may be cause for rejection. Pricing must be based upon payment within thirty (30) days unless otherwise specified in a solicitation document. In all cases, if there is a discrepancy between the unit price and the extended price, the unit price shall govern, unless otherwise specified in a solicitation document.

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. Based on these

statutes, any bid received from Georgia Enterprises for Products and Services will receive a 5% to 8% price preference for purposes of cost evaluation as determined by DOAS.

### **SECTION 5.13 - Late Charges**

Bids/proposals containing provisions for late charges, whether designated as interest charges or otherwise, will not be considered for an award. Vendors are instructed to remove, strike through, or otherwise withdraw any such provision contained in a vendor's printed forms. The bidder/offeror must initial such changes prior to submitting a bid or proposal to the state of Georgia.

### **SECTION 5.14 - Taxes**

The State is prohibited from paying or reimbursing a vendor for any taxes which may be lawfully imposed on the vendor or on the property being provided. The State will, however, pay any taxes which may be lawfully imposed on it.

State Taxes from which state agencies are exempt:

- Ad Valorem Property Tax
- Sales and Use Tax
- Local Option Sales Tax
- MARTA Tax
- Special Purpose Sales Tax
- Hotel/Motel Excise Tax (with use of exemption form)

State Taxes from which state agencies **are not** exempt:

- 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 (except when bill paid directly by state agency)

Federal Excise Taxes from which state agencies are exempt:

- Communications (telephone & telegraph)
- Heavy Trucks, Trailers, and Tractors
- Tires
- Gasoline (including Leaking Underground Storage Tanks [LUST] tax)
- Gasohol

- Diesel Fuel
- Special Motor Fuels
- Firearms
- Ammunition
- Sport Fishing Equipment
- Non Commercial Aviation Fuels
- Gasoline
- Fuels other than gasoline including jet fuel (Airports & airways trust fund tax)

Federal Excise Taxes from which state agencies **are not** exempt:

- Transportation of Persons by Air
- Transportation of Property by Air
- Gas Guzzler (except for law enforcement agencies)
- Certain ozone depleting chemicals tax
- Tax on coal
- Tax on vaccines
- Superfund Taxes on petroleum products

### **SECTION 5.15 – Time of Performance**

The number of calendar days required for delivery after receipt of a purchase order should be shown in the space provided on the solicitation document. These documents may contain specific delivery time requirements which must be met. Should a bidder/offeror not be able to offer delivery as required, the bidder/offeror should indicate an exception to the requirement and indicate the delivery time offered. Failure to offer the specified delivery time, however, may cause a bid/proposal to be rejected.

### **SECTION 5.16 - Specifications**

Detailed specifications may not always accompany a solicitation document. In some instances, reference will be made to certain standard specifications. Such a reference incorporates any standard specifications in the solicitation document and any response must be in accordance with those specifications.

In other cases, references may be made to one or more brand names. Such reference is not restrictive unless otherwise specified and is used for descriptive purposes only. Unless the bidder/offeror clearly indicates in the bid or proposal that the bidder/offeror is offering equivalent products, such bids or proposals will be considered as offering the brand name products referenced in the solicitation document. Bids or proposals on equivalent products of like quality and performance will be considered provided that the product is clearly equivalent. The bidder/offeror should submit catalog excerpts,

specifications, or other materials suitable for use in the evaluation of the product offered. Any such materials shall become official records of the State. The State Purchasing Division will, in its sole discretion, determine whether a substitute offer is equivalent to the product or products specified and may require the bidder/offeror to supply additional descriptive material, samples, or other proof if needed.

Occasionally, the solicitation document will include a Qualified Products List (QPL). This is a list of products that, because of the length of time required for test and evaluation, are tested in advance to determine compliance with specification requirements. In such instances, only those on the list may be bid or offered. The criteria for qualification are made available to allow potential suppliers an opportunity to qualify for future requirements. The Department will be the sole judge of when qualification is required.

### **SECTION 5.17 - Samples**

Samples of items, when required by the State, must be furnished free of charge. Samples furnished will be returned upon request, at the vendor's expense, unless consumed in examination or testing. Such requests should be made at the time samples are submitted. Each sample submitted must be clearly labeled, with the vendor'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 bidder/offeror 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 bidder/offeror to submit requested samples within time specified may be cause for rejection of the bid/proposal.

### **SECTION 5.18 - Sending or Transmitting Bids/Proposals**

Vendors are encouraged to carefully weigh and verify postage on all bids/proposals before mailing. The State Purchasing Division is not responsible for late delivery or non-delivery and does not accept mail with postage due. The State Purchasing Division is also not responsible for late delivery or non-delivery of faxed bids/proposals. Vendors are responsible in all respects for timely delivery of bids/proposals.

### **SECTION 5.19 - Corrections**

No erasure may be made on bids or proposals. Prior to submission or opening, errors may be stricken and corrections entered provided that any such strike-over or addition is initialed by the person signing the bid/proposal or their agent. Negligence on the part of the preparer confers no right to correct such bids/proposals after their opening or due date.

## **SECTION 5.20 - Revision or Withdrawal of a Bid/Proposal**

A bid/proposal may be revised or withdrawn by the bidder/offeror prior to the opening date and hour. After the opening, the State Purchasing Division may, in its sole discretion, permit withdrawal when the best interest of the State 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.

## **SECTION 5.21 - Alternate Bids/Proposals**

Alternate bids/proposals may be submitted by bidders/offerors and such alternate bids/proposals may be considered in lieu of or in addition to an offer for the goods or services requested by the State. When alternate bids/proposals reveal that more economical supplies, materials, equipment, or services than those requested exist, the State Purchasing Division reserves the right to make an award based on the alternate bid/proposal as long as it is responsive and meets the requirements and specifications in the solicitation document. If the alternate bid/proposal suggests that changes to the specifications would result in a more desirable solicitation, cancellation and re-solicitation may occur with modified specifications.

## **SECTION 5.22 - Late Bids/Proposals**

Bids/proposals must be received in the State Purchasing Division on or before the date and hour designated for their opening. Those received after the date and hour for opening will be rejected.

## **SECTION 5.23 - Bid, Performance, and Payment Bonds**

Bid bonds are generally required for construction (public works) contracts. They are required only occasionally by the State Purchasing Division for non-construction contracts. The requirement will be stated clearly in the solicitation document in all cases, and the bid bond must accompany the bid/proposal. Any bid or proposal submitted without the required bid bond will not be considered for award. All bid bonds must be in a sum equal to five percent (5%) of the total amount of the bid/proposal, unless otherwise specified.

Payment and performance bonds are required by law for all construction (public works) contracts in excess of \$100,000. Performance bonds may also be required for construction contracts below \$100,000 and for any non-construction contracts at the discretion of the State. All payment and performance bonds must be in an amount at least equal to one hundred percent (100%) of the total contract price unless otherwise

specified. Other than bonds required by law, any requirement for a bond must be identified in the solicitation document.

Surety bonds issued by a surety authorized to do business in the state of Georgia are acceptable to the State. Unless otherwise specified in the solicitation document, other types of bonds including cash bonds, checks, and certified checks are not acceptable. Vendors should, at their own expense, make arrangements for the issuance of any bond called for in the solicitation document or otherwise required by law.

#### **SECTION 5.24 - Open Specifications and Procedures**

The State Purchasing Division endeavors to use open specifications and procedures that conform to accepted public procurement practices whenever possible. Vendors are requested to inform the State Purchasing Division whenever specifications or procedures appear not to be fair and open. Such information should be supplied as early as possible in the procurement process to allow time for necessary corrections prior to the scheduled opening date.

#### **SECTION 5.25 - Manufacturer's Certificate**

The State Purchasing Division reserves the right to request that the vendor furnish proof that it is the manufacturer or one of the manufacturer's authorized dealers or distributors of the product 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 shall be dated not more than thirty (30) days prior to the date of opening of the bid/proposal.

#### **SECTION 5.26 - Source Inspection**

By submitting a bid or proposal to the State, the bidder/offeror agrees to permit the State the right of inspection at the bidder's/offeror's plant or warehouse. Upon request, the bidder/offeror shall provide all reasonable facilities and assistance for the safety and convenience of the State's appointed representative in the performance of such inspection.

#### **SECTION 5.27 – Insurance**

Contractors who conduct business with the state of Georgia may be required to procure and maintain insurance during the period of the contract which protects the contractor and the State from any claims for bodily injury, property damage, or personal injury which arise out of operations under the contract. If the State requires insurance, that requirement will be stated in the solicitation or in the State's contract. Insurance coverage is at the contractor's own expense. The insurance must list the State as

certificate holder. Vendors should review the insurance coverage requirements contained in the solicitation or sample contract attached to the solicitation document prior to submitting a bid to the State. Insurance requirements may differ depending on the type of procurement. Contractors are required to submit proof of insurance coverage in the form of a signed insurance certificate to the State before beginning contract performance.

## **SECTION 5.28 – Administrative Fee**

DOAS is authorized to collect moneys, rebates, or commissions payable to the State that are generated by supply contracts established pursuant to Code Section 50-5-57 and DOAS designates a vendor or vendors as authorized sources of supply (whether for goods or services). Pursuant to this authority, DOAS may elect to impose administrative fees on statewide contracts. The purpose of the administrative fee is to support and increase DOAS' provision of services and resources to its customers. For example, the administrative fee may be used to manage existing statewide contracts, establish new statewide contracts, fund training and developmental courses offered by DOAS to procurement professionals, and support technology initiatives. If DOAS elects to impose an administrative fee, the fee may be initially identified in the solicitation or subsequently identified in the statewide contract.

Administrative fees shall be collected and remitted in accordance with the terms of the respective statewide contract. A vendor's failure to comply with the contract requirements governing the collection and remittance of administrative fees is a material default, which, if uncured, 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 reprocurring the statewide contract in addition to the collection of any outstanding administrative fees; suspension by DOAS; debarment by DOAS; and any other remedies permitted by the statewide contract or at law.

## CHAPTER 6 - EVALUATION OF BIDS/PROPOSALS AND AWARD

### **SECTION 6.1 - Rejection of Bids/Proposals**

The state of Georgia reserves the right to reject any and all bids/proposals submitted in response to any solicitation document, to reject any portion thereof, or to waive any minor irregularity or administrative requirement.

### **SECTION 6.2 - Acceptance Period**

The State Purchasing Division generally requires a minimum of thirty (30) days to evaluate bids/proposals for award. Those which limit the acceptance period to less than thirty (30) days may therefore be rejected. Should the State Purchasing Division determine that a time period other than thirty (30) days is appropriate, the solicitation document will so indicate.

### **SECTION 6.3 - Contract Award**

For all contracts established through a RFQ, the award will be made to the lowest responsible and responsive bidder to the RFQ. This is the bidder who submits the lowest price, whose bid meets the specifications, who agrees to contract terms and conditions with the State, and who is clearly capable of performing the resulting contract. Therefore, the awarded bidder may not always be the bidder who has submitted the lowest monetary bid.

For all contracts established through a RFP, the award will be made to the offeror submitting the proposal which is most advantageous to the State and provides the best overall value to the State. This is the offeror whose proposal receives the highest overall score, who is able to reach mutually agreeable contract terms and conditions with the State and who is clearly capable of performing the resulting contract.

Examples of a non-responsible bidder/offeror include, but are not limited to a bidder/offeror with history of non-performance or performance problems on other contracts (public or private), a record of financial difficulty, business instability, criminal sanctions, civil sanctions, and/or tax delinquency. Responsibility or non-responsibility will be determined by the State on a case by case basis taking into consideration the unique circumstances of each individual procurement.

## **SECTION 6.4 - Reciprocal Preference Law**

The law requires that bidders/offerors resident in the state of Georgia be granted the same preference over bidders/offerors 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 to bidders/offerors resident therein over bidders/offerors resident in the state of Georgia. This reciprocal preference is used for evaluation purposes only. All state agencies are required to apply this reciprocal preference.

## **SECTION 6.5 - Split and Multiple Awards**

Where more than one (1) item is requested in a RFQ, the State Purchasing Division reserves the right to determine the lowest responsible bidder either on an overall basis, or on the basis of individual items or groups of items. Ordinarily, split awards will not be made unless the saving to the State exceeds five percent (5%) of the total contract price or \$500, whichever is greater.

In some circumstances, when it is deemed to be in the State's best interest, the State Purchasing Division may make multiple awards for the supply of different brands or models of the same commodity. Such awards allow the user agencies to select those products which best suit their needs. They are only made when it is not possible or practical to make a competitive low bid award to a single brand or model.

## **SECTION 6.6 - Resolving Tie Bids**

A tie bid exists when two or more bidders offer, at identical prices, products that meet all specifications, terms, and conditions. In such a situation State statutes provide three preferences which will be used to resolve tie bids whenever applicable: (1) preference to products manufactured or produced within the state of Georgia; (2) preference to products sold by local bidders/offerors within the State; and (3) preference to products manufactured or sold by small business. If these preferences are insufficient to resolve the tie, the following in order of priority may be considered:

- Past performance of the bidders
- Earliest delivery date
- Division of the order
- Closest proximity to delivery site
- Flip of the coin

## **SECTION 6.7 - Freight Charges**

All offers received will be F.O.B. destination. Bidders/offerors may, however, charge back freight and insurance. In such event, the bidder/offeror shall state the exact amount of freight or insurance charges or a "shall not exceed" amount.

## **SECTION 6.8 - Minimum Order Pricing**

Unless called for in the solicitation document, offers containing a minimum order/ship quantity or dollar value may be treated as non-responsive and may not be susceptible for award.

## **SECTION 6.9 - Prepayment**

Unless called for in the solicitation document, offers containing prepayment and/or progress payment requirements may be treated as non-responsive and may not be susceptible for award.

## **SECTION 6.10 - Clarification of Bids and Proposals**

When evaluating any bid or proposal, the State may seek clarification from any bidder/offeror regarding the contents of its bid or proposal.

If after evaluation and clarification of bids and proposals the State determines that bids/proposals are unreasonable or unacceptable, are non-competitive, or the low bid or highest scoring proposal exceeds available funds, and it is determined in writing by the State Purchasing Division that time or other circumstances will not permit the delay required to re-solicit competitive bids or proposals, a contract may be negotiated provided that each responsible bidder/offeror who submitted such a bid/proposal under the original solicitation is notified of the determination and is given a reasonable opportunity to negotiate. In cases where the bids/proposals received are noncompetitive or the low bid or highest scoring proposal exceeds available funds, the negotiated price shall be lower than the lowest rejected bid/proposal of any responsible bidder/offeror under the original solicitation.

## **SECTION 6.11 - Re-solicitation**

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 so desires.

## **SECTION 6.12 - Incorporation of Terms and Conditions**

The terms, conditions, and specifications of the solicitation document and the award document will be incorporated in any contract with the State or user agency. The contract also incorporates by reference the contents of this Manual, except as may be modified or deleted by specific language in the executed contract.

### **SECTION 6.13 - Price Increases/Decreases**

The State Purchasing Division normally requests quotations of firm prices for the contract term. Term Contracts, however, may in some cases contain a clause describing conditions under which a price increase will be allowed. In all cases, if there is a discrepancy between the unit price and the extended price figures, the unit price will govern.

After award, a request to increase prices pursuant to the contract must be in writing and addressed to the responsible purchasing agent. It must contain all of the information and documentation called for in the contract. The purchasing agent will respond to any such request within thirty (30) days. Price increases will not be granted unless the solicitation document or contract makes provision for them. In most cases, the State requires that any announced price decreases in a commodity also be passed along to the State. Bidders/offerors 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 bids/proposals are received. If an exception is granted, the State Purchasing Division will factor in one hundred percent (100%) of any percentage increase for the purpose of evaluation.

### **SECTION 6.14 - Contract Extension**

The State Purchasing Division Assistant Commissioner may in his or her discretion extend a contract for such period as may be necessary to afford the State a continuous supply of the items listed in a term contract. Extensions are authorized in the event that a contract shall terminate or be likely to terminate prior to the making of an award for a new contract.

### **SECTION 6.15 - Security Interest, Liens, Claims, and Encumbrance**

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

### **SECTION 6.16 - Advisory Services**

The state of Georgia recognizes the value of advisory or consultative services which vendors often provide to agencies. Services of this type will nonetheless be regarded as

normal sales effort, and no preferential treatment will be given to vendors 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 vendor for the purpose of demonstration will not be given preferential recognition in contract awards, and the State will not be liable for any charges or costs incurred by vendors in making such equipment available, nor shall the State be under any obligation to purchase or pay in any manner when a vendor, upon the request of an agency, delivers the equipment or other products for test or trial.

### **SECTION 6.17 - Goods of Foreign Manufacture**

In order to be considered for award, goods of foreign manufacture must meet all specifications contained in the solicitation document, must be in stock in the continental United States, and must be available for immediate shipment at the time a bidder/offeror submits its bid/proposal

If foreign made machinery, mechanical, or electro-mechanical equipment is bid/offered, then this must be accompanied by evidence acceptable to the State Purchasing Division in its sole discretion that adequate service locations, service personnel, and repair parts are available from stocks in the continental United States.

### **SECTION 6.18 - Life Cycle Cost**

Life cycle cost analysis may be used in the evaluation of bids/proposals. "Life cycle cost" is defined as the amortized annual cost of a product, and may include capital costs, installation costs, operating costs, maintenance costs and disposal costs measured over the lifetime of the product. The use of life cycle cost analysis will be announced in the solicitation document.

### **SECTION 6.19 – Sales and Use Tax Compliance**

Prior to awarding any contract exceeding \$100,000, the State Entity must verify through the Department of Revenue (DOR) that the selected vendor (including any vendor affiliates) is not a prohibited source as defined by O.C.G.A. §50-5-82.

The State Entity shall require the vendor to complete SPD-SP014 Sales and Use Tax Compliance Form, which is available online at <http://doas.ga.gov/StateLocal/SPD/Seven/Pages/Home.aspx>

The completed form must be submitted by the State Entity to DOR at the following email address: [tsd-state-contractors@dor.ga.gov](mailto: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 vendor is approved, the State Entity may proceed with the procurement process.

## CHAPTER 7 - CONTRACT PERFORMANCE

### **SECTION 7.1 - Receipt of Purchase Order or Notice of Award - Authority to Ship**

Successful bidders/offerors will receive either a Notice of Award from the State Purchasing Division, or a Purchase Order from a user agency. The Purchase Order and/or Notice of Award will include the terms, conditions and specifications that the contractor must comply with, in fulfilling its obligations to the State as well as any contractor exceptions accepted by the State.

The receipt of a Purchase Order for a one-time open market purchase, a lease or installment purchase, or a fixed quantity contract, authorizes shipment in accordance with its terms. The receipt of a Notice of Award establishing a term contract, however, does not authorize any shipment. Shipment against term contracts is authorized by the receipt of a purchase order. 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 agencies may request the contractor to ship against a term contract prior to the issuance of a Purchase Order. Any shipments made pursuant to such a request and before the receipt of a Purchase Order are made at the contractor's sole risk.

### **SECTION 7.2 - New, Used, or Altered Products**

All supplies, materials, and equipment supplied to the State must be new and in first-class condition unless the solicitation document specifically allows bids/proposals of 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 document, all supplies, materials and equipment supplied to the State must be commercially available at the time of bid.

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 contractor delivering any such equipment to the State will be deemed to have breached its contract, and appropriate action will be taken by the user agency.

### **SECTION 7.3 - State Property**

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

### **SECTION 7.4 - Packaging**

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 packages should be labeled properly showing brand name, size, or package number and amount.

### **SECTION 7.5 - Back Orders**

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

### **SECTION 7.6 - Payment Withheld**

Payment for any item delivered pursuant to a contract or order may be withheld by a user agency until all requirements of the contract or order have been complied with, in full.

### **SECTION 7.7 - Substitutions**

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

## **SECTION 7.8 - Loss or Damage in Transit/Freight**

For all Purchase Orders or contracts designated F.O.B. destination, delivery of goods to a common carrier does not constitute delivery to the State or any user agency, and the risk of loss will remain with the contractor until actual delivery to the user agency. Any claim for loss or damage incurred during the delivery shall be made by the contractor directly to the carrier. The user agency will note all damage incurred in transit on the freight bill and notify the contractor and the contractor shall make immediate replacement of the damaged merchandise. If damage is to a small quantity only and the user agency will not be inconvenienced because of the shortage, the contractor may, with the consent of the agency, deduct the amount of damage or loss from their invoice to the agency in lieu of replacement.

For accounting and budgeting reasons, the State is unable to prepay freight. Therefore, bids/proposals must be quoted F.O.B. destination unless otherwise specified. The contractor shall prepay the freight and insurance.

The contractor may charge back the freight and insurance if the exact amount or the "charge" or a "shall not exceed" amount is stated in the bid/proposal. In such instances, supporting documentation of any freight or insurance charges must be attached to the invoice.

## **SECTION 7.9 - Delivery Time**

The successful bidder/offeror should maintain or have available an inventory sufficient to make delivery within the time stated, 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 contractor being declared in default.

## **SECTION 7.10 - Receipt by State Agency**

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.

## **SECTION 7.11 - Inspection**

Delivery does not constitute acceptance. All supplies, materials, and equipment delivered to any agency of the State shall be subject to inspection and testing. Items that do not meet specifications will be rejected. Failure to reject upon receipt, however, does not

relieve the contractor of its liability. If tests subsequent to delivery reveal a failure to meet specifications, the contractor shall be deemed to have breached its contract.

### **SECTION 7.12 - Complaints**

In the event a user agency determines that the contractor's performance has not been in accordance with its contract, the Issuing Officer will complete and send to the contractor a written complaint stating the nature of the complaint and requesting an explanation. The contractor should respond promptly to all such complaints. Failure to satisfactorily respond will be considered in determining the contractor's eligibility for future contracts. The seriousness of the complaint is determined by the State Purchasing Division. Repeated complaints could result in suspension and/or debarment.

### **SECTION 7.13 - Default**

- Non-Exclusive Remedies - In the event of default by the contractor 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 with the contractor, procure the subject items or services from other sources and hold the contractor responsible for any additional cost which is incurred as a result. Default on contracts may result in suspension and/or debarment.
- Consequential Damages - Unless otherwise stated in the solicitation documents, a contractor will not be liable to the State for consequential or remote damages incurred by the State which are indirectly caused by the default of the contractor.

### **SECTION 7.14 - Cancellation of Purchase Orders or Contracts**

Cancellation of an agency or statewide contract may not be made unless in writing and signed by the State Purchasing Division. Cancellation of a Purchase Order may not be made unless in writing and signed by the user agency. The State may in its sole discretion grant a contractor's request to cancel an order to release a contractor from its contract if the contractor 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 contractor. The burden of proof for such relief rests solely with the contractor. All requests for relief must be addressed to the State Purchasing Division with a copy sent to the ordering agency. The State Purchasing Division reserves the right to cancel all contracts with any contractor who fails to perform on any given contract or order.

## **SECTION 7.15 - Contract Assignment**

Contracts are not assignable or delegable in whole or in part without the express written consent of the State Purchasing Division and the user agency.

## **SECTION 7.16 - Contract Renewal**

Some contracts contain renewal clauses describing the conditions under which a contract resulting from a solicitation document may be renewed. The decision to renew any contract must be approved by both the user agency and the State Purchasing Division. In order to renew any contract, the user agency must certify in writing to the State Purchasing Division that the contractor has performed satisfactorily and met all of the requirements set forth in the contract. After receiving this certification from the user agency, the State Purchasing Division may then approve the renewal of the contract.

## **SECTION 7.17 - Waiver**

The waiver by the State of the breach of any provision contained in any contract shall 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 shall serve to establish a course of performance between the parties contradictory to the contract terms.

## **SECTION 7.18 - Assignment and Delegation**

A state contract or any performance required by the contract may not be assigned or delegated, in whole or in part, without the express prior written consent of the user agency and State Purchasing.

## **SECTION 7.19 - Warranties**

In submitting a bid/proposal to the State, the bidder/offeror warrants that any goods supplied to the State meet or exceed specifications set forth in the solicitation documents.

## **SECTION 7.20 - Additional Terms**

Neither the State nor any user agency shall be bound by any terms and conditions included in any vendor'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 or by such user agency.

## SECTION 7.21 - Suspension or Debarment of Vendor

The procedures for suspension and debarment of vendors are as follows:

- Application - This regulation applies to all debarment or suspensions of persons, firms, or corporations from consideration for award of contracts imposed by the Department of Administrative Services, State Purchasing Division.
- Causes for Debarment or Suspension - The causes for debarment or suspension include the following:
  - 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;
  - Damage or destruction to State property.
- Suspension
  - Initiation - After consultation with State Purchasing Agent(s) or Agency Procurement Officer(s), the Office of Legal Services, and where practicable, the vendor who is to be suspended, and upon written determination by the State Purchasing Division Assistant Commissioner that probable cause exists for debarment as hereinafter set forth, a vendor shall be suspended. A notice of suspension including a copy of such determination shall be sent to the suspended vendor. Such notice shall state that:
    - 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 one hundred-twenty (120) days.
    - Bids or proposals will not be solicited from the suspended person, and, if they are received, they will not be considered during the period of suspension; and
    - If a hearing has not been held, the suspended person may request a hearing in accordance with this regulation.
  - Effect of Decision - A vendor is suspended upon issuance of the notice of suspension. The suspension shall remain in effect during any appeals. The suspension may be ended by the officer who issued the notice of suspension, by the Commissioner of Administrative Services, or by a court of law, but otherwise shall only be ended when the suspension has been in effect for one hundred-twenty (120) days or a debarment decision has taken effect.

- Initiation of Debarment Action - Written notice of the proposed debarment action shall be sent by certified mail, return receipt requested, to the vendor. This notice shall:
  - State that debarment is being considered;
  - Set forth the reasons for the action;
  - State that, if the vendor so requests, a hearing will be held, provided such request is received by the State Purchasing Division Assistant Commissioner within ten (10) days after the vendor receives notice of the proposed action;
  - State that the vendor may be represented by counsel.
  
- Request for Hearing - A vendor that has been notified of a proposed debarment action may request in writing that a hearing be held. Such request must be received by the State Purchasing Division Assistant Commissioner within ten (10) days of receipt of notice of the proposed action under Section D above. If no request is received within the ten (10) day period, a final determination may be made as set forth hereinafter.
  
- Authority of Hearing Officer - The hearing officer, in the conduct of the hearing, has the power, among others, to:
  - Hold informal conferences to settle, simplify, or correct the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding either by consent of the parties or upon such officer's own motions;
  - Require parties to state their positions with respect to the various issues in the proceedings;
  - Require parties to produce for examination those relevant witnesses and documents under their control;
  - Rule on motions and other procedural items or matters pending before such officer;
  - Regulate the course of the hearing and the conduct of the participants therein;
  - Receive, rule on, exclude, or limit evidence, and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;
  - Set time limits for submission of written documents and matters before such officer;
  - Impose appropriate sanctions against any party or person failing to obey an order under these procedures, which sanctions may include:

- Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
  - Excluding all testimony of unresponsive or evasive witnesses; and
  - Expelling any party or person from further participation in the hearing;
- Take official notice of any material fact not appearing in the record if such fact is among the traditional matters of judicial notice.
- Hearing Procedures -
  - Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with applicable due process requirements. The weight to be attached to evidence presented in any particular form will be within the discretion of the hearing officer. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if that witness were present. 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 vendor. A record of those present, identification of any written evidence, copies of all written statements, and a summary of the hearing shall be sufficient record.
  - Opening statements may be made unless a party waives this right.
- Determination of Hearing Officer - Final Decision - The hearing officer shall prepare a written determination and shall send copies thereof to the Commissioner of the Department of Administrative Services and to the vendor. The vendor shall have ten (10) days in which to file comments upon the hearing officer's determination. The Commissioner of the Department of Administrative Services may thereafter, in his or her sole discretion, request oral argument. The Commissioner of the Department of Administrative Services shall issue a final decision. Both the hearing officer's determination and the final decision shall recite the evidence relied upon. When debarment is recommended or ordered, the length of debarment (not to exceed five years), the reasons for such action, and to what extent affiliates are effected shall be set forth. In addition, the final determination shall inform the debarred person of his or her rights to judicial review.
- Effect of Debarment Decision - A debarment decision shall take effect upon issuance and receipt by the vendor. After the debarment decision takes effect, the vendor shall remain debarred until the debarment period specified in the decision expires.

# **CHAPTER 8 - CHARGES AND COLLECTIONS**

## **SECTION 8.1 - Separate Agency Records**

Each state agency is solely responsible for the payment of all invoices for supplies, materials, equipment, and services ordered by it. The name and address of the ordering agency is shown on each purchase order or contract. Vendors should maintain separate accounts and records for each agency.

## **SECTION 8.2 - Invoice/Billing Requirements**

Invoices must be rendered in the number of copies required by the purchase order or contract and issued to the ordering agency no later than five (5) business days after delivery is made. Invoices for orders shipped to other agencies should not be sent to the State Purchasing Division. Invoices and statements should include the following information:

- Contractor name, address, and 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;
- The invoice number and invoice total;
- Discount, if applicable;
- Date of order and shipping date;
- Back order, if any, and shipping date.

## **SECTION 8.3 - Payment Requirements**

Agencies are precluded by law from paying any invoice without a corresponding purchase order and delivery receipt. Any shipment made prior to the receipt of a purchase order is made at the contractor's sole risk.

## **SECTION 8.4 - Assistance in Securing Payment**

Requests for assistance in obtaining payment for an order may be addressed to the Procurement Officer of the User agency to which the supplies, materials, equipment, or services were sold or rendered. In extreme cases, the State Purchasing Division, through the responsible purchasing agent, may make inquiries of the user agencies.

## **CHAPTER 9 - ETHICS AND UNLAWFUL ACTIONS**

### **SECTION 9.1 - Ethics in General**

The Department of Administrative Services subscribes to the State's Code of Ethics for Governmental Service. Among the provisions relevant to the relationship between Department personnel and vendors 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 of 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.
- Expose corruption whenever discovered.

The general thrust of the code is to protect governmental integrity. Employees of the Department of Administrative Services must discharge their duties impartially and in such a manner as to assure fair and competitive access to governmental procurement by responsible vendors. Moreover, these employees should conduct themselves in such a manner as to foster public confidence in the integrity of the Department and the public procurement process.

### **SECTION 9.2 - Unlawful Actions in General**

State statutes prohibit certain activities related to State procurement. Some of the statutes regulate the activities of State employees, while others concern vendors. The paragraphs that follow will enumerate those unlawful activities and the penalties for their commission:

- Financial Interest of Department Personnel in Contracts - Neither the Commissioner of the Department of Administrative Services, nor any employee of the Department shall be financially interested or have any personal beneficial

interest either directly or indirectly in the purchase or contract for any materials, equipment, or supplies, nor in any such firm, corporation, partnership, or association furnishing any such supplies, materials, or equipment to the State Government or any of its Departments, Institutions, or Agencies. (O.C.G.A. 50-5-78).

- Acceptance of Benefits from Contracts - Except as provided for elsewhere in this section, it shall be unlawful for the Commissioner of the Department of Administrative Services or any employee of the Department to accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract may be awarded any money or anything of more than nominal value or any promise, obligation, or contract for future reward or compensation.

Nothing in this Code section shall preclude the Commissioner or any employee of the Department of Administrative Services from attending seminars, courses, lectures, briefings, or similar functions at any manufacturer's or vendor's facility or at any other place if any such seminar, course, lecture, briefing, or similar function is for the purpose of furnishing the Commissioner, or employee with knowledge and information relative to the manufacturer's or vendor's products or services and is one which the Commissioner determines would be of benefit to the Department and to the State.

In connection with any such seminar, course, lecture, briefing, or similar function, nothing shall preclude the Commissioner or employee from receiving meals from a manufacturer or vendor. Nothing in this section shall preclude the Commissioner or employee from receiving educational materials and business related items of not more than nominal value from a manufacturer or vendor.

Nothing contained in this Code section shall permit the Commissioner or employee to accept free travel from the manufacturer or vendor outside the state of Georgia or free lodging in or out of the state of Georgia. (O.C.G.A. 50-5-78).

- Purchases through the Department for Individual Ownership - It shall be unlawful for any employee or official of the State to purchase, directly or indirectly, through the Department of Administrative Services, or through any Agency, Department, Board, or Bureau of the State, any article, material, merchandise, ware, commodity, service or other thing of value for the personal or individual ownership of himself or other person or persons. (O.C.G.A. 50-5-80).
- Sale or Delivery of Merchandise by or through a State Entity, for Individual Ownership - It shall be unlawful for any person knowingly to sell or deliver any article, material, merchandise, ware, commodity, services, or other thing of value to any person, directly, or indirectly, by or through the Department of Administrative Services or by or through any office, agency, department, board, bureau, commission, institution, or other entity of the State for individual and

personal ownership of such person or other person or persons except that property for the State which may be sold or otherwise disposed of in accordance with the laws governing the sale or other disposition of State property. (O.C.G.A. 50-5-80).

- Trading with State Employees - The Official Code of Georgia Annotated 45-10-20 et. seq. describes in great detail certain improper conduct. Vendors are expected to comply fully with these provisions.
- Collusion - Conspiracy in restraint of free and open competition in transactions with the State or collusion is prohibited by Georgia Law (Official Code of Georgia Annotated, 16-10-22). Vendors should note that State Law requires that a certificate must be signed before the bid/proposal is submitted, in order for it to receive consideration.
- Bribery - An individual who gives to any person acting for or on behalf of the State 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 may be guilty of bribery if he solicits or receives such benefit, reward or consideration. (O.C.G.A. 16-10-12).

### **SECTION 9.3 - Fraud in Delivery or Performance**

If any vendor attempts 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, the Department of Administrative Services may in its discretion, suspend or debar such vendor from any further transactions with the State and take such other action as may be proper to recover any loss or damage to the State.

### **SECTION 9.4 - Other Improper Purchases or Sales**

All contracts are solicited and awarded on the basis of good faith. After a term contract has been established, it is improper for any state agency to purchase like commodities from other sources except in emergency situations or under such other circumstances as may be provided for in the contract. All vendors are prohibited from

deliberately attempting to sell to any state agency items that are listed on existing term contracts. Attempts to sell to individual offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the State by price reductions or sales pressure may result in removal from the state of Georgia Vendor Registration System.