

Effective September 1, 2011, this section in the Georgia Procurement Manual will be replaced in its entirety with the following:

1.3.4.5. Open Market Purchases

In Tier 4 of the [Order of Precedence](#), the APO/CUPO may elect to go to the open market to identify a source of supply for the needed good or service. If the APO/CUPO determines an open market purchase is the appropriate purchasing method under Tier 4 of the [Order of Precedence](#), the APO/CUPO must purchase the item through the use of competitive bidding procedures as further described in chapters 2 through 7 of this manual unless the needed good/service can be purchased for less than \$5,000.00 in which case the good/service may be purchased without competitive bidding pursuant to OCGA 50-5-69.¹ Although competition is not required for purchases under \$5,000.00, SPD recommends the comparison of produces and prices from at least three suppliers, including any applicable convenience statewide contracts, prior to ordering.

Otherwise, all purchases made by a state entity should be based on competitive bidding whenever possible. The state entity may not split reasonably foreseeable or related purchases into two or more transactions for the purpose of circumventing the requirement that any purchase of \$5,000.00 or more be based on competitive bidding.

Table 1.7 Examples – Reasonably Foreseeable or Related Purchases	
If	Then
A state entity has a history of making regular monthly purchases of office supplies of \$3,000 - \$4,000 each month.	The state entity may use an existing convenience statewide contract for office supplies or must establish its own agency contract for office supplies via competitive bidding because its historical spend makes it reasonably foreseeable that the recurring quarterly cost will be more than \$5,000.00.
A state entity purchases office supplies	The state entity does not have to seek

¹ Purchases made without competitive sealed bidding, even if allowable under the Purchasing Act, are not eligible for the conflict of interest safe harbors provided in OCGA 45-10-20 et seq. when transacting business with a business in which a state employee or state official has a “substantial interest”. A state entity can only purchase from a business in which a public official has a substantial interest by seeking competitive sealed bids as set forth in OCGA 45-10-20 et seq. or by purchasing from statewide contracts which have been established by competitive sealed bidding.

Table 1.7
Examples – Reasonably Foreseeable or Related Purchases

<p>for \$4,000 on July 10. IT DOES NOT KNOW when it will next purchase office supplies as its history of purchasing office supplies is IRREGULAR AND AD HOC – in the past, the state entity has purchased \$3000-4000 in office supplies once in six months or \$3000-4000 each month for three consecutive months. On September 15, the state entity purchases \$3000 in office supplies. On October 30, the state entity purchases \$4000 in office supplies. On November 20, the state entity purchases \$4500 in office supplies. On March 1, the state entity purchases \$3500 in office supplies.</p>	<p>competitive bids to purchase the office supplies on July 10, September 15, October 30, November 20 and March 1.</p>
<p>A state entity has 10 a/c units that are all past their normal lifespan and plans to replace all of the a/c unit compressors at various points in time during the fiscal year. Each of the a/c compressors will cost \$4,000.</p>	<p>The state entity must seek competitive bids for the replacement of the a/c compressors as a group because the state entity PLANS to spend \$40,000– well above the \$5,000 statutory competitive bid requirement.</p>
<p>A state entity has 10 a/c units which are all past their normal lifespan but does not have the funds to replace the a/c units – SO THE STATE ENTITY DOES NOT KNOW WHEN OR IF IT CAN REPLACE THE A/C UNITS. The compressor fails in one of the a/c units on July 10 and the state entity finds money to purchase an a/c compressor for \$4,000. On August, 15, another a/c unit compressor dies and so the state entity again finds money to purchase an a/c compressor for \$4,000 in August. On September 1, another a/c unit compressor dies and so the state entity again finds money to purchase an a/c compressor for \$4,000 in September.</p>	<p>The state entity does not have to seek competitive bids for the a/c compressors.</p>