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Procurement Division
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Broadcast Date: March 21, 2024   **Bulletin #: P-03-24**

TO: **Procurement and Contracting Officers (PCOs)**

          Purchasing Authority Contacts (PACs)

RE: **Initial Procurement Guidance Applicable to ALL Purchases (IT & Non-IT) to Incorporate Generative Artificial Intelligence (GenAI) Requirements**

Purpose   This Broadcast Bulletin (BB) provides initial procurement and contracting steps to implement item 3a of Executive Order (EO) N-12-23 signed on September 6, 2023, related to the use of Generative Artificial Intelligence (GenAI), by announcing new procurement policy and procedures applicable to all purchases of goods and services.

Policy   The new policy, procedures, and requirements are effective March 21, 2024, and must be fully implemented on or before April 30, 2024.

              At this time, the procurement requirements are applicable to <u>NEW solicitations</u> for the purchase of information technology (IT) goods and services, non-IT services, and non-IT goods, and are located in the following document:

              State of California Generative AI Toolkit for Procurement, Use, and Training (GenAI Toolkit)

              The procurement guidance in the above GenAI Toolkit has been incorporated into State Contracting Manual Volume 2 (SCM V2). Transactions subject to SCM V2 must adhere to new and updated SCM V2 policy and procedures as noted in this BB.

              Transactions subject to California Department of Technology's (CDT's) procurement authority are also subject to the procurement requirements noted in the above GenAI Toolkit.

              At a later date, DGS and CDT will issue updated guidance to address existing contracts that may include GenAI.

              SCM V2 incorporates the GenAI Toolkit procurement requirements. Below is a summary of the new procurement policy, procedures, and

requirements:

GenAI Definition

"Generative Artificial Intelligence (GenAI): The class of AI models that emulate the structure and characteristics of input data in order to generate derived synthetic content. This can include images, videos, audio, text, and other digital content." – State Administrative Manual (SAM) 4819.2

GenAI Disclosure Notification Clause

All written solicitations (IT and non-IT goods and services, etc.) are required to include mandatory GenAI disclosure language that is provided in the GenAI Toolkit and SCM V2.

GenAI Disclosure & Factsheet Form STD 1000

Bidders/offerors are required to complete and return form STD 1000 GenAI Disclosure & Factsheet at the time of bid/offer.

Written Solicitation

Acquisitions for the purchase of GenAI technology or that include the purchase of services generated by GenAI, must be conducted using a written solicitation. Use of acquisition methods that do not require a written solicitation (e.g., Fair and Reasonable Acquisition Method) are prohibited for these purchases.

Department Chief Information Officer (CIO) Confirmation

Prior to proceeding with a GenAI purchase or approving a contract that includes services generated by GenAI, procurement professionals must confirm with their department CIO that the purchase may proceed. Confirmation must be kept in the procurement/contract file and can be an email or a form created by the department.

Through June 30, 2024, CIO's must consult with CDT prior to proceeding with a GenAI purchase, including contracts that incorporate the use of GenAI by vendors [refer to Technology Letter (TL) 24-01].

Effective July 1, 2024, CIOs will be required to conduct a risk assessment and potential consultation with CDT before proceeding with a GenAI purchase (refer to TL 24-01).

GenAI Special Provisions

CDT may identify the need to incorporate certain GenAI Special Provisions as a result of a CIO's consultation with CDT. The GenAI

Special Provisions are applied on a case-by-case basis and not made available for use by departments without CDT's recommendation.

GenAI Procurement Reporting

Following existing FI$Cal State Contracting and Procurement Registration System (SCPRS) policy and procedures, identification of GenAI purchases is now required in the description field.

GenAI Procurement Training

Each state entity's designated Purchasing Authority Contact (PAC) is required to complete mandatory GenAI procurement training.

Background	EO N-12-23 signed on September 6, 2023, tasked DGS and CDT, under item 3: "To ensure State government fosters a safe and responsible innovation ecosystem that puts AI systems and tools to the best uses for Californians" by issuing procurement guidance through a consultative process to "address safety, algorithmic discrimination, data privacy, and notice of when materials are generated by GenAI" for GenAI purchases by January 2024. The EO allows revisions to occur after initial guidance is issued.
Procedure/ Process	Chapter 23 "Generative Artificial Intelligence (GenAI)" has been added to SCM V2 and the following sections of SCM V2 have been updated to carry out new policy, procedures, and requirements: **Section 100.3** – Purchasing Authority Standards *(updated to identify and include the mandatory GenAI procurement training for PACs)* **Section 301** – Acquisition Planning *(updated to refer readers to Chapter 23 Generative Artificial Intelligence when acquisitions include the purchase or use of GenAI)* **Section 2200.1** – FI$Cal State Contract and Procurement Registration System *(updated to identify and include mandatory GenAI procurement reporting)* In addition to the above, departments must: Create and implement internal policy and procedures to carry out the new requirements, as soon as possible and no later than April 30, 2024. Ensure that current PACs complete the GenAI procurement training

before April 30, 2024 and email certificates of completion to DGS at PAMS@dgs.ca.gov before May 15, 2024.

The required GenAI procurement training will be available through the DGS California Procurement and Contracting Academy (CalPCA) on March 29, 2024. To register and complete the GenAI procurement training, visit CalPCA Online at DGS CAL PCA.

Newly designated PACs must complete the GenAI procurement training and submit certificates to DGS within 30 days of designation (SCM V2 Section 100.3).

PACs are encouraged to invite other procurement officials and employees involved in the procurement process (e.g., contract managers, CIOs, etc.) to complete the GenAI procurement training.

| Questions | For transactions subject to SCM V1, please contact the attorney assigned to your department.

For transactions subject to SCM V2, please email: PPO@dgs.ca.gov |