Chapter 2

Procurement Planning

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## Chapter 2

## Procurement Planning

### Overview

### Introduction

The purpose of this chapter is twofold, (1) The first is to describe the role of the buyer, including conduct, ethics and good business practices during and after the procurement process, and (2) The second is to describe the preliminary considerations and activities that ensure the success of any procurement effort.

# Section A

# Getting Started

# Introduction

Knowing the rules and applying them appropriately throughout the acquisition process is the key to executing any procurement activity.

Buyers will be successful in their procurement activities when they:

* Know and follow the laws and rules applicable to state purchasing,
* Correctly use the appropriate acquisition approach, and
* Are properly trained

## Topic 1 – The Buyer’s Role

### 2.A1.0 Fiduciary responsibility

Buyers have a fiduciary responsibility to California’s citizens and taxpayers to protect the state’s interest as a whole, to place the state’s interest above their own interests, to safeguard the state's resources.

The person signing the purchase document certifies, on personal knowledge, that the contract for purchasing the items specified is issued in accordance with the procedures prescribed by the laws governing the purchase of such items for the State of California and is fully compliant with all legal requirements.

### 2.A1.1 Responsibility over public funds

Buyers involved in procurement activities are either directly or indirectly spending public funds and subject to public scrutiny. Consequently, buyers specifically are reminded to:

* Act responsibly.
* Conduct business honestly.
* Avoid wasteful and impractical purchasing practices.
* Avoid real or perceived conflicts of interest when conducting business on the state’s behalf.
* Advise others of acceptable business practices, conflicts of interest and respected standards of ethical and moral behavior during any procurement activities involving their participation.
* Seek to maintain and continuously improve their professional knowledge, skills and abilities.

### 2.A1.2 Watchdog

Buyers also act as a caretaker and/or watchdog over the procurement process, ensuring the needs of the department are met within state laws, regulations, executive orders, policies and procedures, while maintaining impartiality, allowing for open competition, reducing waste, preventing improper activities and avoiding conflicts of interest before, during and after the procurement process.

## Topic 2 – Gifts and Gratuities

### 2.A2.0 Accepting gifts and gratuities

Government Code Section 19990 establishes the authority for departments to create Incompatible Activity Statements for employees to follow. Buyers are responsible for knowing their department’s policies regarding incompatible activities and in terms of best practices, buyers and employees involved in the procurement process, whether directly or indirectly, are discouraged from participating in the following activities:

* Accepting directly or indirectly any gift, including money or equipment, meals, lodging, transportation, entertainment, service, gratuity, favor, hospitality, loan, or any other thing of value from anyone who is doing or seeking to do business with the department you represent.
* Using their position in state government to bestow any preferential benefit on anyone related to them by family, business or social relationship.
* Situations that create the appearance of questionable or unethical practices.

### 2.A2.1 Consider the consequence

Buyers, after reviewing the incompatible activities policy, are encouraged to answer the following questions when dealing with suppliers who may offer gifts or gratuities:

* Will I violate a law or department policy if I accept this gift?
* What is the intent of the gift?
* Do I or my relatives or friends benefit from the gift?
* Would I mind seeing acceptance of the gift publicized in the news media?
* How will accepting this gift be interpreted by others?

### 2.A2.2 Avoid making a gift of public funds

The Constitution of the State of California prohibits any gift of public funds. All expenditures of public funds must support the Department’s function, purpose, and benefit the state.

This prohibition extends to any advance payments or pre-payments made to a contractor before work has been performed or before all goods or services have been accepted.

Per the Governor’s press release dated 2/18/11, all state agencies and departments must stop spending taxpayer dollars on free giveaway and gift items (such as key chains, squeeze toys, pens, hats, trinkets, shirts, cups and other gift items).

### 2.A2.3 Considerations before accepting free or loaner equipment from suppliers

Offers from suppliers of goods or services without cost or obligation to the state should not be accepted. If a decision is made contrary to this recommendation, before accepting any supplier’s goods and/or services offered at no cost or obligation, the department must:

* Consider the perception of the acceptance to other suppliers (i.e. how does the department remain fair and impartial if a decision is eventually made to solicit the product?)
* Document the agreement by execution of a purchase document with language indicating the state has no further obligations or hidden costs associated with acceptance.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access links.

## Topic 3 – Procurement File

### 2.A3.0 Procurement File

A Procurement file is required for every acquisition. A procurement file can be defined as a paper file, to be kept locally in the procurement office.

Each state agency must have internal policy and procedures outlining where buyers should file required procurement documents.

Special care should be paid to availability of confidential materials, whether internal or external origins.

# Section B

# Formulating the Acquisition Approach

# Introduction

There are four major areas to consider when planning a purchase activity. Buyers must correctly determine:

* The estimated dollar value of the procurement
* The class of purchase (IT vs. non-IT as well as goods vs. services)
* Pre-procurement review and approvals necessary by state purchasing policies and departmental policies and procedures
* The most appropriate acquisition approach (i.e. competitive, noncompetitive, an existing sources such as a Leveraged Procurement Agreement (LPA). Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access a link titled “Acquisition Methods List”.

This section provides the necessary information to begin the planning and scheduling of the procurement process.

## Topic 1 – Acquisition Planning

### 2.B1.0 Start planning early

Acquisition planning commences with a legislated directive or when a concept or a need is identified.

Acquisition planning includes identification of:

* What is needed
* When it is needed
* How it will be acquired and by whom
* Approvals needed.

Planning the purchase should begin at the earliest practicable time. The amount of time necessary for the planning process is dependent upon the dollar value, risk, complexity, and criticality of the proposed purchase. In addition, the purchase must be classified (IT/non-IT and goods/services) and a decision made on the acquisition approach (competitive, non-competitive, or using an existing source such as a state program or an LPA).

### 2.B1.1 Purchase request review

The first step in conducting a procurement is the initial review of a purchase request (purchase requisition, etc. depending on what the department’s policies and procedures are regarding the necessary documentation to be submitted to the procuring office). Reviewing the request in terms of the following information will assist in determining any impact in relationship to procurement planning and scheduling activities.

Departmental review and approvals:

* Have the proper approvals/signatures been secured?
* Is the request in compliance with equipment standards?
* Does the request require any department technical review?
* Is there documentation in sufficient detail to support and justify conducting the procurement?
* Are there any program schedule requirements, special delivery instructions, time constraints, etc.?

Funding authority:

* Is the procurement scheduling and planning effort limited by:
  + Budgetary constraints?
  + Federal funding limitations and/or restrictions?
  + Availability of current and future year funding?
  + Timing constraints impacted by availability of fiscal year funding?

External reviews, waivers and/or approvals:

* What is required by law, regulation or policy?
* Refer to Section C of this chapter for details for external reviews and approvals.

Coordination within the department for a particular project:

* Have all impacted issues been addressed?
* Are corresponding program areas on board (so that nothing is overlooked – either from a technology perspective or a program perspective).

### 2.B1.2 Legal participation

Legal participation should be sought as early in the procurement as possible. Purchasing activities that benefit from legal staff participation may include but are not limited to the following:

* Purchases that have a history of protests or litigation.
* Large scale IT integration projects.
* Conflict of interest issues.
* Follow-on contracting issues.
* In any purchase where suppliers are using an attorney.

### 2.B1.3 Determining the acquisition approach

The following questions will assist in determining the best acquisition approach to meet needs:

1. What is the Statement of Work?
2. Are specifications required?
3. Is the acquisition an emergency purchase as defined by Public Contract Code Section 1102, Section 12102 for IT, or Public Contract Code 10340 for non-IT?
4. Can civil servants, as opposed to private companies, satisfactorily perform the services?
5. Can another state department provide the product or service through an interagency agreement or alternate contracting means (e.g. surplus)?
6. Does the purchase require the use of any mandatory purchasing processes such as Statewide Contract, CALPIA or use of mandatory LPAs?
7. Is the request within the scope of the department’s approved purchasing authority?
8. Can you consolidate other requests for similar goods or services into a single purchase?
9. What is the department’s total need for acquiring the goods or services over the next 12-month period of time and can the acquisitions be reasonably consolidated to maximize purchasing power?
10. What available purchasing approach can effectively meet the department’s needs at the least cost in terms of time and resources?
11. Can the functional requirements of the request be met through an LPA (i.e., CMAS, Master Agreement, Statewide Contract, State Price Schedule, etc.)?
12. Can the department’s procurement needs and purchasing goals both be met by contracting with a California Certified Small Business (SB) or DVBE supplier utilizing the SB/DVBE Option acquisition method? If there are no certified SBs or DVBEs that can be solicited, communicate the need to the Business Development Program Manager and Certification and Outreach Branch Chief.
13. Is there a known supplier market and can the acquisition best be met through open competition?
14. Is the request so unique that no competition exists and the needs of the customer can only be met through a non-competitively bid (NCB) contract? (For purchases exempt from the NCB process, refer to Chapter 6).
15. What risk factors are inherent to the purchase and what steps can be taken in advance to mitigate them?
16. Does the purchase need to be financed or leased? (See Chapter 9 for more detail)

## Topic 2 – Classifying the Purchase

### 2.B2.0 Importance of Properly Classifying Purchases

It is important to properly classify proposed procurements in order to apply relevant laws, policy, and procedures to the procurement process and resulting contract. For the most part, each acquisition type (i.e. Information Technology) is governed by different areas of law within the Public Contract Code (PCC) and therefore proper classification allows for the appropriate application of laws and subsequent policy and procedures.

Proper classification of proposed procurements is essential in order to determine:

* If the state department has the appropriate level of purchasing authority to conduct the procurement.
* If the procurement needs to be conducted by and under the procurement authority of the California Department of Technology (CDT).
* If certain procurement activities apply, such as advertising, type of solicitation document, etc.
* If additional approvals and/or waivers are required.
* Which contract terms and General Provisions to incorporate, reference, and/or attach.

Inaccurate classification of a proposed procurement may result in:

* Program or project delay.
* Waste of time and effort, ultimately wasting taxpayer money.
* Loss of funding.
* Disputes, protests, and/or lawsuits.
* Illegal contracts.

### 2.B2.1 Acquisition Types

Acquisition types are a high level or general description of what is being purchased. Buyers must identify one of the following four acquisition types for every procurement that will result in a contract (a FI$Cal purchasing “PO” is also considered a contract):

* Non-IT Services
* Non-IT Goods
* IT Goods
* IT Services

The following are listed in FI$Cal as acquisition types, but must not be used by buyers executing contracts and conducting acquisitions under DGS’ procurement authority:

* Encumbrance Only:
  + Only to be used by accounting staff for transactions that are not related to a contract or an acquisition that will result in a contract (a purchasing “PO” is also considered a contract). See section 2.B2.3 for more information.
* Telecommunications (aka “Telecom”)
  + Only to be used when executing contracts or conducting telecommunications acquisition under CDT’s procurement authority.

### 2.B2.2 Acquisition Methods

Once the acquisition type is identified, the next step is to identify the acquisition method.

An acquisition method identifies how the purchase is to be made and what key activities within the procurement process should be followed.

Refer to the [Resources](#_Resources), section at the end of the chapter, for the link to a list of available acquisition methods. The policy and procedures for conducting acquisitions utilizing various acquisition methods is contained in subsequent chapters of this manual.

### 2.B2.3 When to use Encumbrance Only Acquisition Type

“Encumbrance Only” is an acquisition type available for use by accounting personnel **only** for the purposes of encumbering funds for transactions that do not require a contract (aka “agreement” or” Purchase Order”) such as the following:

* Court Orders / Settlements
* Payroll Estimates
* Workers Compensation Claims
* Retirement Cash-Out / Payout
* Debt Services
* Travel / CalATERS
* Grants (only grants that meet criteria specified in SCM Volume 1, Section 4.06).

It is prohibited to use the “Encumbrance Only” acquisition type for procurement transactions such as conducting acquisitions, executing any contract (aka “agreement” or “Purchase Order”), and CAL-Card transactions. The use of the “Encumbrance Only” acquisition type for prohibited transactions will result in non-compliant transactions which may jeopardize purchasing authority granted by the DGS/PD.

### 2.B2.4 Determine the main purpose Non-IT vs. IT

To determine whether a contract is for IT or non-IT, the buyer must consider the predominant purpose or value of the purchase and whether IT skills and knowledge are involved as the primary purpose of the contract or whether such knowledge or skills are used to further an overarching purpose.

Many items depend on IT to operate, yet they may not be classified as IT.

Example 1:

Ten personal computer (PC) keyboards are purchased for replacement stock to issue when an existing keyboard fails. The purchase of PC keyboards is classified as IT. A PC processes data electronically and the keyboard is a critical component to the operation of the PC.

Consequently, the purchase is made under the IT purchasing authority.

Example 2:

A department purchases a vehicle for enforcement use. The vehicle has been fitted with an electronic mapping system and telecommunications equipment.

The purchase is made under the non-IT purchasing authority after securing required approvals from DGS Office of Fleet and Asset Management. The features of the car are secondary to the purpose of the vehicle, which is a means of transportation.

### 2.B2.5 Distinguishing goods from services

When determining if an acquisition is for goods or services, the following concepts should be considered:

* Does the contract have as its sole or main purpose the acquisition of tangible items, such as equipment, parts, supplies or other merchandise?
* What is the main value of the contract – the good or the service? If the main value is a good with minimal or no services, it is handled as a good.
* If the main value is the service, the transaction should be treated as a service contract.
* Non-IT services included with the purchase of non-IT goods may not exceed $9,999.99 and must be directly related to the purchase of the goods, such as set up or installation. Non-IT services such as maintenance is not allowed and must be procured separately under the SCM, Vol. 1 unless available on a leveraged procurement (LPA) contract.
* Large-scale system integration projects are classified as IT services.

### 2.B2.6 Example of goods vs. services

Example #1:

A business solution is required that uses specialized software. Currently a commercial-off-the-shelf (COTS) product is not available to meet the department’s need. The department’s business needs can be met by developing a customized software application. The main purpose of the purchase is the technical expertise that creates a software product to satisfy the department’s business problem. The request would be treated as an IT service.

Example #2:

A manager has requested new furniture for the office. The buyer needs to purchase the new furniture and acquire the services necessary to position that furniture in the office. The main value is the furniture. The request would be treated as a non-IT goods contract.

### 2.B2.7 Help for classifying purchases

Departments that need assistance to determine the classification of a purchase after reviewing the available resources should first consult with their department’s Purchasing Authority Contact (PAC). The following may also be contacted for applicable situations:

* Purchases conducted under delegated purchasing authority: [PAMS@dgs.ca.gov](mailto:PAMS@dgs.ca.gov)
* Purchases conducted by DGS/PD: DGS/PD/One Time Acquisitions
* Purchases made as part of a reportable IT project: The California Department of Technology (CDT).

### 2.B2.8 Final Authority

The ultimate decision for the classification of acquisitions resides with DGS Deputy Director, Procurement Division.

## Topic 3 – Considerations During the Planning Process

### 2.B3.0 Promotional materials

Prior to conducting a purchase for promotional materials, written justification must be kept in the procurement file supporting how the purchase for promotional materials meets the department’s mission and business needs. Written justifications should include a description of the type of event(s) and how the promotional material(s) will be used.

### 2.B3.1 Requests for reasonable accommodation purchases

A purchase made in response to a request for reasonable accommodation does not preclude adherence to state procurement laws, regulations, executive orders, and policies. However, when conducting a procurement to fulfill a reasonable accommodation request, buyers must be mindful of the need to expedite the purchase, regardless of the purchase class or approach used.

### 2.B3.2 Public Works

A public works component may be allowed only when it is incidental to the overall project requirements. Any portion of a contract that has a public works component that exceeds $1,000 must meet the prevailing wage requirements of Labor Code Section 1771 and California State Contracting Licensing Board requirements for public works.

For information on Public Works Contracts, see SCM Vol. 1.

### 2.B3.3 Contracted Personnel services

Careful analysis must be given when determining whether to use contracted personnel versus civil service positions within state government. Contracting for personal services, in lieu of using civil service personnel is permitted only if the standards outlined in Government Code Section 19130, subdivision (a) or (b) are met.

Government Code Section 19130 (a) permits contracting for personal services to achieve cost savings. Any department proposing to execute a contract based on cost savings to the state as justification for not using civil service personnel, must first notify the State Personnel Board (SPB) of its intention.

Government Code Section 19130 (b) permits contracting for personal services when requirements are met and are subject to review at the request of an employee organization representing state employees.

* Departments must provide to the designated exclusive representative copies of executed personal services contracts, RFPs, and IFBs, that call for personal services found in the bargaining unit. The designated exclusive representatives are listed in the Policy Memo 2012-014 - “Contracting Out Update” on CalHR’s website, accessible in Section G, [Resources,](#Resources2) at the end of this chapter.
* For each personal service and/or consulting service transaction, regardless of purchasing approach or category utilized (i.e. competitive, LPA, etc.), the department must prepare and retain in the procurement file all data and information relevant to the contract and necessary for a specific application of standards set forth in Government Code Section 19130 in the event that the CalHR’s review is requested. For standards of review see Public Contract Code Section 10337.

Government Code Section 19130(c) requires that all persons who provide services to the state under conditions that constitute an employment relationship shall, unless exempted by Article VII, Section 4 of the California Constitution, be retained under an appropriate civil service appointment. Therefore, state law and policy require that each department’s contract for services with individuals be executed and administered in a manner consistent with the establishment of an independent contractor status when a civil service appointment is not intended.

Pursuant to Government Code Section 19135, if a contract is disapproved by SPB or its delegate, a department shall immediately discontinue that contract unless ordered otherwise by SPB or its delegate. The department shall not: (1) circumvent or disregard SPB’s action by entering into another contract for the same or similar services or, (2) to continue the services that were the subject of the contract disapproved by the department. A department ordered to discontinue a contract shall serve notice of the discontinuation of the contract to the vendor within 15 days from SPB’s final action unless a different notice period is specified. A copy of the notice also shall be served on SPB and the employee organization that filed the contract challenge.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access California Law.

### 2.B3.4 Leasing equipment

Departments may acquire equipment by lease or purchase. The decision to lease or purchase should be the result of a careful analysis of all factors involved, especially the total cost to the state for the expected period of use.

Purchase costs are usually lower than lease costs if equipment is used for an appreciable portion of its useful life. One major disadvantage of consummating a purchase is that the buyer may be "locked in" to the acquisition if a major breakthrough in the technology becomes available. Leasing provides a measure of flexibility. This method is frequently used when the department acquiring the equipment is unable to forecast its future need either due to lack of planning data or to unresolved decisions outside of its control.

Departments may lack budgeted funds sufficient for outright cash purchases of equipment and cite this as a reason to lease. Such funding limitations need not preclude the purchase of equipment on conditional sales or installment payment contracts. There are unique tax advantages available to suppliers and lending institutes selling to governments that allow them to quote special low interest rates on conditional sales contracts. The combined total of both lower equipment costs and lower interest charges on conditional sales contracts often show purchase to be less expensive than leasing over time periods of three to five years or more.

### 2.B3.5 Cost analysis – lease vs. purchase

Before initiating the acquisition, departments are expected to perform a cost analysis of leasing versus purchasing. Departments should follow the directions contained in SAM section 3700 et seq., in making cost analyses.

Cost analyses are to be based on the "contract or program life" of the items being required. "Contract or program life" is the anticipated life cycle of the requirement for which they are to be used, less any reasonable estimated length of time when a substitute capability will become available at a lesser cost. "Contract or program life" is not to be confused with "usable" or machine life. Modern electronic equipment can be expected to operate within design specifications for up to ten years when adequately maintained. This period is their "usable" or machine life.

When the lease/purchase analysis indicates leasing is the least costly acquisition method, departments are to enter into such a contract in accordance with the procedures set forth herein and SAM section 3700 et seq., except when:

* Insufficient funding is available for either outright or deferred purchase; or
* A short period of operational experience is desirable to provide validity of a system or equipment design with which there is no previous reliable experience.

The terms of such contract should be equal to the predicted "contract or program life."

The completed lease versus purchase analysis form must be uploaded to the FI$Cal system and kept in the procurement file.

Use of any financing arrangement other than Golden State Financial Marketplace (GS $Mart) is prohibited without prior approval from Department of Finance per Budget Letter 06-27. See Chapter 8, Disbursements, Financing and Payment Programs.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access the Lease vs. Purchase Analysis form and a legible copy of the lease versus analysis form as shown in SAM section 3700 Appendices (A-1).

### 2.B3.6 Purchase option credits

Many lease contracts allow the accrual of monetary credits which the contractor agrees may be applied toward the eventual outright purchase of the equipment being leased if the user so elects. If the probability of exercising a purchase option is remote, the inclusion of purchase option credits in a bid evaluation process will distort the evaluation to a point where it is likely that the bid with the lowest cost will not be selected, and the state will incur higher costs than it would if the winning bid was selected on the basis of the rent alone. Purchase option credits should be cost evaluated in a lease contract only if there is reasonable probability that a purchase option in a lease contract may be executed. Otherwise, purchase option credits are to be excluded from the cost evaluation.

### 2.B3.7 Lease purchase financing

All state departments and tax funded local government agencies are permitted to enter into either installment purchase agreements (commonly referred to in the industry as “lease purchases”) or financed leases as described in the Uniform Commercial Code, Section 2A (commonly referred to as “operating leases”), via DGS’s State Financial Marketplace, which includes “**GS $Mart**” or “Lease $Mart.”

See Chapter 8 for more information on the Golden State Financial Marketplace.

### 2.B3.8 Extensions or renewals of IT activity contract

If a "contract or program life" is accurately estimated at the time of the initial acquisition, there will normally be no need for extending the agreement. To enable an orderly termination of contracts, which may include supplier notifications as well as internal management adjustments, or to provide lead time for renewing or rebidding the contract, the following procedures apply:

* Each IT equipment and/or equipment maintenance; personal services; and IT processing and support services contract is to have a scheduled review, which should be concluded no later than six months prior to the scheduled expiration date, to determine whether the contract can be permitted to expire and, if applicable, any leased equipment returned to the supplier. (This is general guidance. The amount of lead time may be as much as 12 months or more depending upon the scope of the contract. A rule of thumb that may be used is the amount of time required to plan and conduct the original procurements.)
* If it is determined that there is a continuing need for the goods or services provided under the contract, the department should document those reasons and re-estimate a "contract or program life." The department should conduct a lease/purchase analysis for the new period if hardware is involved.
* If the lease/purchase analysis or other considerations indicate that a purchase is more desirable than a lease, action should be initiated to affect the purchase.
* When a lease/purchase analysis indicates that leasing is more appropriate, contracts may not be extended with the same supplier unless it can be demonstrated that the incumbent supplier's prices are competitive or there is no alternative source. To determine if prices remain competitive, the market is to be tested by obtaining quotes from a reasonable number of suppliers, and from the incumbent supplier. The supplier quotations should be in writing and placed with the contract file. If there is no alternate item or source, a statement supporting this fact is required in the contract file.
* If it appears that extension of the lease with the incumbent supplier is the most appropriate course of action, approval of such an extension should be requested from DGS/PD. The analysis supporting such extension and all supporting documents must accompany such requests. If, however, a lease is appropriate but continuation with the incumbent supplier is not, the department must immediately contact DGS/PD to initiate a new competitive procurement.

### 2.B3.9 Blanket Purchases

A blanket purchase is a contract document (a FI$Cal purchasing “PO” is also considered a contract) with one supplier that specifies a contract term of no longer than one year and where the quantities of specific products and/or delivery dates are not known. A determination has been made that a group of goods from a specified supplier is necessary to the program and requires flexibility when determining quantities and delivery dates.

In no case may a blanket purchase exceed $4,999.99 per transaction. An exception is permitted when the blanket purchase is issued under a Leveraged Procurement Agreement (LPA) that allows blanket purchases within a certain dollar threshold identified in the User Instructions. The procurement file must be documented to provide evidence that supports why it is in the state’s best interest to execute a blanket purchase.

Instructions on how to process blanket purchases (aka “PO”) in the FI$Cal system are available on the FI$Cal website. Refer to the [Resources](#_Resources) section at the end of this chapter for a link to FI$Cal’s Job Aids/FAQ webpage.

### 2.B3.10 Term purchases

Departments granted purchasing authority to conduct competitive solicitations may establish term purchase contracts through a competitive bid process.

A term purchase establishes a purchasing mechanism for:

* A specified period of time – not to exceed 36-months.
* A specified list of products and quantities.
* Items a department acquires on a routine basis.

Buyers conducting a competitive solicitation for a term purchase must adhere to the following:

* A competitive bid must be conducted whenever the dollar amount is $5,000.00 or greater.
* The solicitation must clearly identify contract start and end dates and the contract period may not exceed a 36-month period.
* The solicitation must clearly state the aggregate amount of the contract, but in no event may it exceed a department’s approved purchasing authority limit for goods, as applicable to the procurement.
* The solicitation, the resulting contract or the cumulative value of orders released against the contract may not exceed the amount of a department’s approved purchasing authority for goods, as applicable to the procurement.
* The solicitation must clearly state a maximum number of units that may be purchased.

Example:

10 units will be purchased upon award, and the department reserves the right to purchase up to 10 more units during the contract term.

Evaluation and award must be based upon the total quantities per line item to be purchased during the contract term. Using the above example, the evaluation and award would be based upon 20 units.

1. The solicitation must clearly state the delivery terms over the course of the contract term.
2. The solicitation must clearly define whether or not pricing is firm over the course of the contract or if allowances will be made for price increases or decreases.
3. The department must keep a running total of orders placed against each term purchase contract in the procurement file.

A term purchase is not a suitable solicitation approach if a department is unable to commit to the stated quantities.

### 2.B3.11 Statewide Pharmaceutical Program

DGS implements and administers a Statewide Pharmaceutical Program, also referred to as the Prescription Drug Bulk Purchasing Program, established by Government Code §14977-14982. The California State Departments of Corrections and Rehabilitations (CDCR), Department of State Hospitals (DSH), and Developmental Services (DDS) and other state agencies under DGS authority mandated to participate in this program. Other state, district, county, city, municipal, or public agency governmental entities may elect to participate in this program.

DGS works in conjunction with California Pharmaceutical Procurement Collaborative (CPPC) to implement and administer a Statewide Pharmaceutical Program and strategies to manage escalating prescription drug costs. Representation on the CPPC is appointed by the entities participating in the Statewide Pharmaceutical Program.

Please review the DGS/Pharmaceutical Acquisitions Section Website accessible in Section G, [Resources,](#Resources2) at the end of this chapter for more information regarding the Statewide Pharmaceutical Program.

## Topic 4 – Ineligible Businesses

### 2.B4.0 Ineligible Business

The state cannot solicit offers from, award contracts to, or renew, extend, or modify, a current contract, or subcontract with a business identified as noncompliant with state laws. Check for both, primes and subcontractors (as applicable):

* When creating mail lists, or prior to soliciting bids, or requesting offers
* During the evaluation of competitive bids, or assessment of offers
* Prior to creation of amendments, or other purchase documents

### 2.B4.1 Plastic Trash Bags

Public Resources Code (PRC) section 42290 et seq. is collectively referred to as the “Recycled Content Plastic Trash Bag Law.” The law requires that plastic trash bag manufacturers and wholesalers certify their compliance with the law. Manufacturers and wholesalers who are non-compliant with the Plastic Trash Bag Law cannot contract with the state regardless of the product being provided in the contract (i.e. plastic trash bags, janitorial supplies or services, or any other products or services). Businesses found not to be in compliance are deemed ineligible for:

* Award of any state contract or subcontract
* Renewal, extension, or modification of an existing contract or subcontract

A listing of compliant and noncompliant trash bag manufacturers and wholesalers is available on the California Department of Resources Recycling and Recovery (CalRecycle) website.

If a supplier or bid is rejected due to ineligibility, documentation must be placed in the procurement file, identifying the reason, including a printout of the CalRecycle web list.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for a link to CalRecycle’s webpage.

### 2.B4.2 Loss Leader language

Pursuant to Public Contract Code Section 12104.5(b)(1) all RFPs for IT goods and/or services, and pursuant to Public Contract Code Section 10302(b)(1), every solicitation for non-IT goods, shall contain the following statement:

“It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.”

The above statement shall be deemed to be part of a solicitation even if the statement is inadvertently omitted from the RFP (Pub. Cont. Code § 12104.5(b)(4)) or solicitation (Pub. Cont. Code § 10302(b)(4)).

EXCLUSIONS:

The following acquisitions do not require loss leader language:

* Acquisitions made using Leveraged Procurement Agreements
* Acquisitions made using Fair and Reasonable method
* Acquisitions made using the SB Option or DVBE Option

### 2.B4.3 Non-discrimination (Non-IT goods)

Any employer who wishes to contract with the state for non-IT goods is subject to the provisions of Government Code Section 12990 relating to discrimination in employment. Contractors that do not meet the provisions are not eligible to contract with the state for non-IT goods. Ineligible contractors can be found in the California Regulatory Notice Register, accessible in Section G, [Resources,](#Resources2) at the end of this chapter.

EXCEPTION:

The requirements of Government Code Section 12990 do not apply to a credit card purchase of goods of two thousand five hundred dollars ($2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars ($7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

### 2.B4.4 Iran Contracting Act

Pursuant to the Iran Contracting Act of 2010 (Public Contract Code sections 2200 through 2208 are “the Act”), vendors are ineligible to bid on, submit a proposal for, enter into, or renew any contract with the state for goods or services of one million dollars ($1,000,000) or more if the vendor engages in investment activities in Iran, as defined in the Act. The Act requires that DGS establish and periodically update a list of ineligible vendors.

Also, pursuant to the Act, financial institutions are ineligible to bid on, submit a proposal for, enter into, or renew any contract with the state for goods or services of one million dollars ($1,000,000) or more if the financial institution extends credit, as defined in the Act, to a business identified on DGS list of ineligible vendors that will use the credit to provide goods or services in the energy sector in Iran.

Prior to submitting a bid or proposal and prior to executing any state contract or renewal for goods or services of one million dollars ($1,000,000) or more, a vendor must certify that it is not on the list of ineligible vendors (refer to Section G, [Resources,](#Resources2) at the end of this chapter) prohibited from doing business with the State of California. During the bid evaluation, it is the buyer’s responsibility to check the list of ineligible vendors to confirm that the bidder is not on that list. Also financial institutions must certify that they are not extending credit to an ineligible vendor as described in the Act. This certification requirement applies regardless of the procurement approach, method, or solicitation format used, including, but not limited to: Request for Proposals, Invitation for Bids, and non-competitive awards.

A sample of a code-compliant document that satisfies the Act’s certification requirements is available in Section G, [Resources,](#Resources2) at the end of this chapter. Departments that elect to develop their own processes or documents to suit their business needs should work with their legal counsel to ensure compliance with the Act.

The Act provides exceptions to the certification requirement, see Public Contract Code Sections 2203(c) and (d) for additional information regarding the exceptions.

### 2.B4.5 Prohibition on tax delinquents bidding

Pursuant to the Public Contract Code section 10295.4, effective July 1, 2012, persons or companies identified as the largest tax delinquents by the Franchise Tax Board (FTB) or the California Department of Tax and Fee Administration (CDTFA) are ineligible to enter into any contract with the state for non-IT goods and IT goods or services. Any contract entered into in violation of Section 10295.4 is void and unenforceable.

Prior to executing any state contract or renewal for non-IT goods and IT goods or services, the contracting department must verify that the contractor is not on a prohibited list by checking both the FTB and CDTFA websites. This requirement applies regardless of the procurement approach, method, or solicitation format used, including, but not limited to: Request for Proposals, Invitation for Bids, and non-competitive awards. Departments that elect to develop their own processes or documents to suit their business needs should work with their legal counsel to ensure compliance with code.

There are no exceptions to these prohibitions.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for the lists established by FTB and CDTFA.

### 2.B4.6 Darfur Contracting Act (Non-IT Goods and Services)

Pursuant to Public Contract Code sections 10475 through 10481, for acquisitions of non-IT goods or services, departments must require vendors to certify whether they are a scrutinizedcompany. This applies regardless of the procurement approach, method, or solicitation format used including, but not limited to: Formal Bids, Informal Bids, Request for Proposals, Invitation for Bids, Non-Competitive Bids, the SB/DVBE Option, and Fair and Reasonable acquisition method.

A sample of a code-compliant document that satisfies the Act’s certification requirements is available in Section G, [Resources,](#Resources2) n at the end of this chapter.

Departments that elect to develop their own processes and/or documents to suit their business needs should work with their legal counsel to ensure compliance with the Act.

The only exception to departments obtaining this information is for contracts awarded using DGS Leveraged Procurement Agreements (LPAs).

Effective January 1, 2009, procurements for non-IT goods or services must address the requirements of this Act. The Act is intended to preclude state agencies generally from contracting with *SCRUTINIZED* companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A *SCRUTINIZED* company as defined in Public Contract Code Section 10476 is ineligible to bid on or submit a proposal for a contract with a state agency for Non-IT goods or services (Public Contract Code Section 10477(a)). Public Contract Code Section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a SCRUTINIZED company in order to submit a bid or proposal to a state agency. A SCRUTINIZED company may still, however, submit a bid or proposal for a contract with a state agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code Section 10477(b).

### 2.B4.7 Certification for PCC 2010

Pursuant to PCC 2010, a person that submits a bid or proposal or proposes to renew a contract with, a state agency in the amount of one hundred thousand dollars ($100,000) or more shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

* That they are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code).
* That they are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
* Supplier discrimination policies:
  1. That any policy that they have against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, is not used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
  2. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code.

Application is required regardless of the procurement approach, method, or solicitation format, including, but not limited to: Formal Bids, Informal Bids, Request for Proposals, Invitation for Bids, Non-Competitive Bids and the SB/DVBE Option. When renewing a contract either by utilizing an option to extend or an amendment to add time or funding to an existing contract, the supplier must re-certify.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access a sample or a similar code-compliant document should be used to satisfy this certification requirement.

## Topic 5 – Freight and Shipping

### 2.B5.0 Transportation Management Unit (TMU)

The Transportation Management Unit (TMU) was established in accordance with the provisions of Government Code section 14920 et seq. Departments shall contact TMU (916) **376‑1888** to determine the cost and routing of freight whenever the weight of the purchase is 100-lbs or more and Free on Board (F.O.B.) Destination, Freight Prepaid is not used. The TMU also reviews and approves freight invoices in accordance with SAM section 3851, 3852 and 8422.1. See Chapter 9, for additional information.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter to access the TMU website.

### 2.B5.1 Freight and Shipping Terms

The shipping term Free on Board (F.O.B.) identifies the location where title to the goods changes from the seller (supplier) to the person receiving the good (state).

There are several different types of F.O.B. Refer to the table below:

| **TYPE** | **DEFINITION** |
| --- | --- |
| F.O.B. Origin | Unless otherwise qualified in the F.O.B. clause, the buyer is responsible for freight charges. |
| F.O.B. Destination | Unless otherwise qualified in the F.O.B. clause, the seller is responsible for freight charges. |
| Origin/Destination  Freight Collect | Buyer pays and bears the freight charges. |
| Origin/Destination  Freight Prepaid | Seller pays and bears the freight charges. |
| Origin Freight Prepaid & Add | Seller pays and invoices buyer for freight charges |
| Destination Freight Prepaid & Add | Seller pays the freight and add the freight charges to its invoice to the buyer |
| Destination Freight Collect & Allowed | Buyer pays freight charges and deducts the amount from seller’s invoice. |

When any good is purchased F.O.B. Destination, Freight Prepaid or F.O.B. Destination, Freight Prepaid/Add, the title to the good remains with the supplier until it is delivered by the carrier, in original or acceptable condition, to the person receiving the good (state). If loss or damage occurs in transit, the seller is obligated to replace the good or otherwise compensate the state.

Shipping terms for International shipments should be Delivered Duty Paid (DDP). Import Costs, duties, taxes, value added tax or any other transportation or customs costs will not be paid by the state unless expressly included and itemized in the Contract.

Most state purchases will be acquired using the term F.O.B. Destination, Freight Prepaid. Leveraged Procurement Agreement (LPA) purchase documents, unless otherwise specified within the individual LPA user instructions will also identify F.O.B. Destination, Freight Prepaid, as the shipping term.

### 2.B5.2 Shipping Methods that Require TMU Pre-Approval

Prior to executing a requisition, contract, or P.O., Buyers shall complete a Freight Rate Analysis Request, and submit via email ([transportationmanagement@dgs.ca.gov](mailto:transportationmanagement@dgs.ca.gov%20)), to TMU for approval before using the following shipping methods:

* *F.O.B. Destination, Freight Prepaid/Add* – Shipping charge is assessed from the originating shipping point to the point of delivery. Upon verification with the TMU, the purchase document must reflect “freight not to exceed cost per supplier quote stated on PO.”
* *F.O.B. Origin, Freight Collect* – The TMU will determine the cost and routing of freight. The following information must be provided to TMU:
* City, State and Zip Code of origin and destination
* Description of goods being shipped
* Estimated shipping weight
* Special handling requirements
* National Motor Freight Classification (NMFC) – up to 7 digits

Example:

A department located in Sacramento identifies “FOB Origin: Los Angeles” for the shipment of PCs. This means the state will be charged the cost of shipping from Los Angeles to Sacramento.

Transactions Exempt from TMU approval:

TMU approval is not required for any statewide contract or leveraged Procurement Agreement negotiated by DGS.

### 2.B5.3 Packaging and shipping standards

DGS/PD General Provisions describe to suppliers how goods will be packaged and shipped to a state facility. Any special packaging and shipping requirements or instructions over and above the standard provisions must be documented in detail within the bid solicitation and the Contract/PO.

## Topic 6 – Limit to Brand or Trade Name Contracts

### 2.B6.0 LTB contracting

Limit To Brand (LTB) contracts are limited by statute, in accordance with Public Contract Code Section 12102(b) for IT goods and Sections 10301 and 10302 for non-IT goods, to the following circumstances:

* Emergencies, where immediate acquisition is necessary to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Refer to Chapter 2 – Emergency Purchases for more details.
* The contracting agency and DGS agree that the proposed acquisition of goods meets the state’s need.

### 2.B6.1 $25,000.00 LTB contract purchasing authority dollar threshold

A department’s LTB contract purchasing authority dollar threshold will be authorized a maximum of $25,000.00 per transaction, excluding sales and use tax, finance charges, postage and handling. Shipping charges are also excluded from the dollar threshold limits unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collected, or FOB Destination. Refer to Chapter 1 for dollar threshold information.

### 2.B6.2 LTB Statement

The LTB Statement (GSPD-08-001) is used for the purchase of goods of a particular brand or trade name or other specifications which have the effect of limiting bidding to one specified brand or trade name where a department has determined that for a specific category of goods there are unique performance factors necessary to achieve a department’s program objectives. A LTB solicitation requires more than one supplier. If there is only one known supplier, a NCB must be used to justify the purchase. See Chapter 6 for details regarding the NCB.

### 2.B6.3 Acquisitions requiring LTB

A LTB Statement is required for all competitive solicitations (formal and informal) and the SB Option or DVBE Option when a department believes that a product of a specified brand or trade name is the only product that will properly meet their need.

**Existing** proprietary software does not require a LTB.

### 2.B6.4 LTB Statement documents

Departments must use the LTB Statement (GSPD-08-001) when submitting a LTB request to DGS. The LTB form must be uploaded and attached to the requisition and work flowed to DGS/PD.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to the LTB form.

### 2.B6.5 Signature authority

Buyers executing LTB contract statements must secure their Procurement and Contracting Officer signatures and/or FI$Cal approvals, regardless of whether or not the justification is submitted to DGS/PD for approval.

LTB signature/approval authority may not be delegated further than the next highest-ranking official.

### 2.B6.6 LTB contract process

The following chart describes the LTB Contract Statement process for goods.

| STAGE | WHO | DOES WHAT |
| --- | --- | --- |
| 1 | Department | Determines a need to acquire a specified brand or trade name product. Completes a LTB Statement (GSPD-08-001) form, securing approvals from the department Procurement and Contracting Officer or next highest-ranking official. The department buyer must either, upload the LTB Statement and attach it to the requisition to send to DGS/PD, or appropriately workflow the LTB Statement in the system so DGS/PD can view the routing history and verify it has the appropriate approvals. |
| 2 | Department | Creates the purchase package as follows:  **If the purchase**:   * Is within the department’s LTB contract purchasing authority dollar threshold and the department’s approved competitive purchasing authority.   **Then the department**:   * Retains the approved LTB Statement within the procurement file. * Conducts a competitive solicitation restricting to brand name or trade name * Executes the purchase order   **If the purchase**:   * Exceeds the department’s LTB contract purchasing authority dollar threshold but is within the department’s approved competitive purchasing authority.   **Then the department**:   * Attaches the LTB Statement as a Waiver to a requisition to workflow to DGS/PD for review and approval. Since this purchase is within the department’s approved purchasing authority, once the LTB Statement is approved, DGS/PD will send it back to the department to conduct the procurement.   **If the purchase**:   * Exceeds both the department’s LTB contract purchasing authority dollar threshold and the department’s approved competitive purchasing authority.   **Then the department**:   * Attaches the LTB Statement as a waiver to a requisition to DGS/PD for review, approval, and processing via workflow in FI$Cal.   **If the purchase**:   * Is requested by a department without goods and/or services purchasing authority.   **Then the department**:   * Attaches the LTB Statement as a Waiver to a requisition to DGS/PD for review, approval, and processing via workflow in FI$Cal. |

| STAGE | WHO | DOES WHAT |
| --- | --- | --- |
| 3 | DGS/PD | Processes the transaction as follows:  **If the purchase**:   * Exceeds the department’s LTB contract purchasing authority dollar threshold, but is within the department’s approved competitive purchasing authority.   **Then the department**:   * Reviews and approves, or denies the LTB Statement. If approved, returns LTB Statement to the department for processing. * If denied, returns LTB Statement to the department advising them to conduct a competitive solicitation not restricting the solicitation to a brand or trade name.   **All approvals and denials happen in the system.**  **If the purchase**:   * Exceeds both the department’s LTB contract purchasing authority dollar threshold and the department’s approved competitive purchasing authority.   **Then the department**:   * Reviews and approves or denies the LTB Statement and Department’s Requisition. * If approved, conducts the appropriate procurement method and executes a purchase document on behalf of the department. * If denied, conducts a competitive solicitation not restrictive to trade name or brand and executes a purchase document on behalf of the department or cancels the request if directed by the department.   **If the purchase**:   * Requested by a department without purchasing authority non-IT goods or IT goods and/or services.   **Then the department**:   * Reviews and approves or denies the LTB Statement and Department’s Requisition. * If approved, conducts the appropriate procurement method and executes a purchase order on behalf of the department. * If denied, conducts a competitive solicitation without restricting to a specified brand or trade name, and executes a purchase document on behalf of the department or cancels the request if directed by the department. |
| 4 | Department or DGS/PD | * Executes purchase document upon DGS/PD approval. * If the LTB Statement is denied, the department may not limit the competitive bidding to the specified brand or trade name. The department will need to conduct a competitive solicitation. |

### 2.B6.7 File documentation Checklist recommended

Completion and inclusion of the File Documentation Checklist is recommended. Refer to Section G, [Resources,](#Resources2) at the end of this chapter for a sample.

## Topic 7 – Special Category Non-Competitive Bid Request (SCR)

### 2.B7.0 Special Category NCB Request definition

A Special Category NCB Request (SCR) represents categories of contracts for the purchase of non-IT goods and IT goods and services necessary to achieve a department’s program objectives in a timely manner, where DGS has determined in advance and in writing, that for a specific type of category of non-IT goods and IT goods and services there is no viable competition, or that due to critical time requirements such competition cannot be completed by the exercise of reasonable efforts prior to the time such non-IT goods and IT goods and services are required (e.g. emergencies).

All SCRs must use the Special Category NCB Request form (GSPD-09-008).

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to the Special Category NCB request form and the Contract Advertising Exemption Request.

### 2.B7.1 Individual SCR for each category

A SCR must be completed and approved for each category of non-IT goods and IT goods and services being requested and submitted to DGS/PD for consideration and approval.

The SCR form is not to be used for emergencies, nor is it to be used to aggregate requests on behalf of other departments.

### 2.B7.2 SCR dollar threshold and duration

All SCRs have a maximum authorized dollar limit (as noted on the approved SCR) and a maximum “window of approval” not to exceed three (3) calendar years from the date of DGS/PD approval unless renewed by submission of a new SCR 30 days prior to expiration. The expiration date is identified in the box labeled “For DGS Use Only” on the SCR form.

### 2.B7.3 SCR reference number assigned

Each approved SCR will be assigned an SCR reference number by DGS/PD. This SCR number must be recorded on any purchase document executed under the SCR approval.

### 2.B7.4 Executing the purchase

Departments with purchasing authority may proceed with execution of purchase documents in accordance with an approved SCR.

DGS/PD must execute all approved SCR purchase documents for departments without purchasing authority and for transactions exceeding a department’s purchasing authority. In these instances, the requesting department will submit a requisition for non-IT goods and IT goods and services through workflow in FI$Cal.

Unless otherwise required by a department’s internal process, transactions placed against an approved SCR do not require approval signature on the purchase document by the Department’s Director and Agency Secretary or immediate next ranking official since these signatures are obtained during the initial SCR approval process.

### 2.B7.5 Tracking purchases

Departments must track all SCR purchase documents executed under an approved SCR authority, including transactions processed by DGS/PD, and provide reports to DGS/PD as requested.

Information to be tracked will include at a minimum the following:

* Special Category (SCR) approval number issued.
* Dates of transactions.
* Dollar amounts of transactions.
* Supplier names.

### 2.B7.6 SCR usage oversight

Purchase orders executed under an approved SCR may be reviewed during the department’s purchasing authority renewal process.

## Topic 8 – Statement of Work (SOW)

### 2.B8.0 Determining the need for a SOW

A SOW must be included for all goods and services transactions. A clear and concise SOW protects the state and the contractor by identifying and documenting the details of the work to be performed.

### 2.B8.1 What to include in a SOW

A SOW is unique to each purchase document, but usually consists of some or all of the following:

1. A detailed statement of the purpose, objective or goals to be undertaken by the contractor or supplier
   * An estimated time schedule for the provision of these services by the contractor. Hours the work is expected to be performed (business hours, after hours, etc.)
   * Completion criteria for the work to be performed
   * An identification of support and/or maintenance that will be provided and how frequently
   * Reference special provisions and applicable laws and regulations
2. An identification of all licensing and/or certification requirements
3. Labor requirements
   * The job classification or approximate skill level of the personnel to be made available by the contractor
   * The name or identification of the contractor personnel to be assigned.
   * The contractor’s work hours required to accomplish the purpose, objective or goals
4. Material requirements
   * An identification of all significant material to be developed and delivered by the contractor to the state
   * Reference commodity specifications
   * Environmentally Preferable Purchasing (EPP) criteria
     + Packaging
     + Product take-back requirements
     + Post-Consumer Recycled Content (PCRC)
5. Delivery of Goods
   * Delivery schedules, description of when and where product is to be delivered
   * Pallet requirements
   * State department delivery requirements for personnel, i.e. California Department of Corrections and Rehabilitation (CDCR).
6. Acceptance Criteria
   * Inspection and acceptance requirements
   * Testing procedures and requirements to be performed prior to acceptance
   * Travel details for conducting pre-construction meetings, testing or inspections (when applicable)
7. Budget and Cost
   * The contractor’s billing/labor rates per work hour
   * Indicate rates for varying work hours/days (if applicable).
   * The cost per deliverable
   * Contractor’s total cost, including any applicable taxes
   * Inspection and testing to be performed prior to acceptance
   * Travel requirements for conducting pre-construction meetings, testing, and inspections

## Topic 9 – Specifications

### 2.B9.0 Specifications development assistance

DGS/PD Engineering Services is available to assist departments in providing technical knowledge, assistance in planning efforts, and specification preparation, including inspection criteria and acceptance testing and Environmentally Preferable Purchasing (EPP) components (See Chapter 3 Socioeconomic and Environmental Programs).

1. Does the acquisition meet PD Purchasing Standards: approved third-party environmental certifications such as Energy Star, Green Seal, or Electronic Product Environmental Assessment Tool EPEAT (®) or industry standards such as Society of Automotive Engineers (SAE) American Society for Testing and Materials (ASTM) or National Institute of Standards and Technology (NIST) or equivalent?
2. Is the acquisition reportable, is it a SABRC commodity category, contain recycled materials or provide take-back options?
3. Is the acquisition for on or off road equipment, an appliance or use for building maintenance?
4. Must the commodity be customized?

Refer to Section G, [Resources](#Resources2), at the end of this chapter for access to DGS/PD Engineering Services web page.

### 2.B9.1 Specifications

When developing specifications departments should begin by identify:

1. Type of commodity (i.e. vehicle, HVAC, plumbing, IT)
2. Number of manufactures offering commodity meeting department’s needs
3. Performance factors
4. Cost of ownership
5. Customization requirements
6. Regulatory criteria
7. DGS Purchasing Standards, approved third-party environmental certifications [i.e. Energy Star, Green Seal, or Electronic Product Environmental Assessment Tool (EPEAT®) ]
8. Industry standards [i.e. Society of Automotive Engineers (SAE), American Society for Testing and Materials (ASTM), National Institute of Standards and Technology (NIST)]
9. Specialized test and acceptance procedures
10. Licenses and Permits
11. Installation and setup requirements (i.e. building and IT interface)

## Topic 10 – Emergency Purchases

### 2.B10.0 Definition

Where immediate acquisition is necessary for the protection of the public health, welfare, or safety, Public Contract Code Section 12102(a)(2) allows for emergency purchases of IT goods and/or services. Public Contract Code Section 10302(a) allows for emergency purchases for non-IT goods and services.

IT Goods and Services:

An emergency as defined by Public Contract Code Section 12102(a): “the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety.”

Non-IT Goods and Services:

Public Contract Code Section 1102 defines an emergency as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services.”

Departments are not required to conduct competitive solicitations when the determination has been made that goods and/or services are needed on an emergency basis, where immediate acquisition is necessary for the protection of the public health, welfare, or safety.

An emergency is further defined and divided into the following classifications:

* An emergency purchase in response to a natural disaster, i.e. fire, flood, earthquake.
* An emergency purchase not in response to a natural disaster, i.e., purchase of goods needed to manage drought conditions.

### 2.B10.1 Required documentation

Regardless of the classification of the emergency, documentation must be uploaded into FI$Cal system and kept in the procurement file. The following information must be provided to DGS/PD, as applicable:

* A description of the emergency.
* Explanation of how the situation falls within the parameters of an emergency justifying the emergency purchase.
* Explanation of the consequences of making the purchase through normal procurement processes.
* A description of the IT goods and/or services and price.
* The names and quotations of suppliers contacted.
* Approval of the Department Director or designee.

### 2.B10.2 Responding to a natural disaster

If an emergency purchase in response to a natural disaster when a response requires immediate action, the department shall proceed with the purchase regardless of the department’s NCB purchasing authority status. The department shall document in FI$Cal the circumstances of the emergency purchase and then issue the purchase document.

### 2.B10.3 Emergency purchase not in response to a natural disaster

The following provides the emergency purchase process in response to an emergency situation other than a natural disaster. If the purchasing activity:

Is within a department’s authorized NCB contract purchasing authority dollar threshold, proceed with the purchase:

* Document the circumstance of the emergency purchase.
* Document names and quotations of suppliers contacted.
* Issue the purchase document.

Exceeds a department’s authorized NCB contract purchasing authority threshold, proceed with the purchase:

* Contacting the DGS/PD immediately or within the next business day to provide the circumstance of the emergency at the One-Time Acquisition support number: 375-4471.
* The DGS/PD contact reviews the circumstance and if approved, assigns the transaction an Authorization to Exceed Monetary Limits (Form 42) number.
* Documenting the circumstance of the purchase.
* Recording the Form 42 number in the PA number box on the purchase document prior to issuing the purchase document.

### 2.B10.4 Examples of emergency purchase

Example #1 - IT emergency:

A server supporting a prison’s security system fails, and the prison has to resort to a backup server. The server must be replaced immediately to ensure the safety of the population internal and external to the prison.

Example #2 – IT non-emergency:

A supplier does not meet a delivery date to supply a department director with a laptop, so the department wants to execute an immediate purchase of a laptop from another supplier. This is not an emergency purchase, as it does not pose an immediate threat to the public health, welfare or safety or an immediate threat to public property.

Example #3 - Non-IT emergency:

A mudslide, caused by a flood, occurs on a highway and the crew must make an immediate purchase for supplies to clean up the mud.

Example #4 - Non-IT non-emergency:

A department wants to purchase three (3) used bulldozers for routine forestry maintenance at a cost of $492,000.00. The purchase saves the department an estimated $260,000.00 when prices are compared to new bulldozer prices. Although it may be in the state’s best interest to purchase the used equipment, it does not meet the definition of an “emergency”.

**Warning**: Poor planning is not an emergency.

# Section C

# Pre-Procurement Reviews and Approvals Applicable to all Contracting Types

# Introduction

There are certain classes of purchases that may require review and approval before a department can proceed with a purchasing activity. This section describes those requirements and processes.

At this point, the buyer has determined the class of a purchase request before initiating a procurement activity. Now, the buyer needs to analyze the request to validate any pre-approval requirements.

## Topic 1 – Surplus Property Program

### 2.C1.0 Requirement to utilize existing surplus personal property

State agencies shall utilize surplus personal property whenever feasible by contacting the DGS Surplus Property & Reutilization (SPR) program to determine if surplus personal property is available.

Personal property includes all types and categories of property (i.e. furniture), except land or other real property, and records of the state government.

Exception: State agencies purchasing property related to an approved Reasonable Accommodation (RA) are not required to contact DGS SPR Program to determine if surplus personal property is available.

Procurement files must note use of this exemption.

### 2.C1.1 How to contact SPR

Contact the DGS SPR program at their facility in Sacramento:

Call: (916) 928-5800

Email: [contactspr@dgs.ca.gov](mailto:contactspr@dgs.ca.gov)

Visit: National Drive Warehouse

1700 National Drive

Sacramento, CA 95834

Online: A real time listing of current property is available at the National

Drive Warehouse [website](https://www.dgs.ca.gov/OFAM/Services/Page-Content/Office-of-Fleet-and-Asset-Management-Services-List-Folder/Attend-Public-Auctions-of-Surplus-Personal-Property#@ViewBag.JumpTo).

### 2.C1.2 Needs not met by SPR

When a state agency’s functional needs cannot be met by the SPR program, then the state agency must next consider if its needs can be met by the California Prison Industry Authority (CALPIA) before proceeding with a purchase in the open market.

### 2.C1.3 Modular systems & conventional furniture

State agencies must first check with the SPR program to confirm surplus property is not an option and obtain a CALPIA waiver before purchasing new modular systems & conventional furniture.

For additional information see Management Memo 11-01 in Section G, at the end of this chapter. Documentation of the contact with SPR must be kept in the procurement file.

### 2.C1.4 Transfer and Disposal Requirements for IT Equipment

The policy and process for the transfer and disposal of IT equipment (SAM section 5901, 5902 and 5903) is as follows:

* Salvage value of state-owned IT equipment (SAM section 5901) and purchase option credits for leased IT equipment are a source of value to the state. Each state department must ensure that such value is received to the extent that doing so is in the best interest of the state.
* The disposition of surplus IT equipment must be in accordance with the most economical and practical manner for the state as a whole.
* Government Code Sections 14674-14675 authorizes the Director of DGS to approve the competitive sale, exchange, or interagency transfer of personal property owned by the state if such action is in the best interest of the state. Each state department must receive approval from DGS Surplus Property & Reutilization Unit, prior to disposing of surplus IT equipment.
* Each state department is responsible for ensuring that any residual value in surplus IT equipment is realized. Each state department must explore the reutilization of surplus IT equipment prior to requesting approval for disposal or attempting to use the equipment as a credit toward the purchase or lease of new equipment.
* The state department must submit a completed PSR (STD. 152) to DGS Property Reutilization Unit at least 30 days prior to the disposal of surplus IT equipment. At the same time, the state department must send an informational copy of the completed Property Survey Report to the California Department of Technology (CDT).

Each state department must comply with the state property accounting requirements described in SAM section 8633 and 8640-8642 when disposing of surplus IT equipment.

### 2.C1.5 Transfer and Disposal Requirements for IT Supplies

The disposition of surplus IT supplies must be in accordance with the most economical and practical manner for the state as a whole. Each state department is responsible for ensuring that any residual value in surplus IT supplies is realized. Each state department must comply with the state property accounting requirements described in SAM sections 8633 and 8640-8642 when disposing of surplus IT supplies. The state department must prepare and maintain a PSR (STD. 152) when disposing of surplus IT supplies.

A diligent effort must be made to secure at least three competitive bids for the supplies. If three bids cannot be obtained, a list or organizations or individuals solicited must be prepared and signed by an authorized representative of the state department. The list and the bids received must be attached to the PSR.

IT paper goods, e.g., computer printouts, punch cards, and pre-numbered forms, must be disposed of in accordance with SAM sections 1930.1 and 1693.

Magnetic media for data processing devices, e.g., magnetic tapes and disk packs, must be disposed of in accordance with the procedures of this section. If sale is not possible, the magnetic media may be disposed of through any organization that will retrieve them without charge to the state.

The handling and disposal of IT supplies containing information classified as confidential or sensitive as defined in SAM section 5320.5 must be conducted according to the policies stated in SAM section 1693 and the procedures established by the state department program having ownership responsibility for such information (SAM section 5320.2). See SAM section 5300 et seq. for detailed information on Information Security.

## Topic 2 – Acquisitions Related to Reasonable Accommodations

### 2.C2.0 Background

It is the policy of the state that qualified individuals with a disability shall be employed in public service on the same terms and conditions as the nondisabled, consistent with applicable state or federal law. Further, it is the policy of this state that a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an individual with a disability, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an individual with a disability if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee.

Public Contract Code (PCC) 10298.1 requires DGS to provide a report on the DGS website regarding the purchases of services, goods, information technology, and telecommunications related to reasonable accommodations for state employees. DGS is also required to review procurement policy/procedures and make recommendations on improving the process for acquisitions related to reasonable accommodations. This topic implements PCC 10298.1 and provides special procedures specific to acquisitions related to reasonable accommodations.

### 2.C2.1 Tracking and Reporting RA Acquisitions in FI$Cal

State agencies shall track acquisitions related to reasonable accommodations. These acquisitions shall be recorded, reported, and identified in the State Contracting and Procurement Registration System (SCPRS) located in the state’s FI$Cal. DGS will use this data to produce the report required by PCC 10298.1.

Acquisitions conducted by state agencies shall be recorded and reported by the state agency as follows:

* For state agencies transacting in FI$Cal, this shall be accomplished by selecting the Acquisition Sub-Type “Reasonable Accommodation (State Employee)” in FI$Cal at the beginning of the acquisition process. Contracts executed using the Std 213 Standard Agreement form which are generated and approved outside of FI$Cal shall not be reported separately to SCPRS since the transaction has already been recorded in SCPRS while transacting in FI$Cal.
* For state agencies not transacting in FI$Cal, this shall be accomplished by selecting the Acquisition Sub-Type “Reasonable Accommodation (State Employee)” when reporting the purchase in SCPRS-FI$Cal.

Acquisitions that exceed state agency’s purchasing authority and that are conducted by DGS/PD One Time Acquisitions Unit (OTA) will be recorded and reported by OTA. OTA shall select the Acquisitions Sub-Type ““Reasonable Accommodation (State Employee)” when transacting in FI$Cal. OTA may execute contracts using the Std 213 Standard Agreement form which are generated and approved outside of FI$Cal. When this occurs, the Std 213 Standard Agreement shall not be reported separately to SCPRS since the transaction has already been recorded in SCPRS by the OTA.

### 2.C2.2 Expedite RA Acquisitions

When conducting an acquisition to fulfill a reasonable accommodation request, buyers must expedite the purchase, regardless of the acquisition type or method used to make the purchase. A purchase made in response to a request for reasonable accommodation does not preclude adherence to state procurement laws, regulations, executive orders, and policies.

State agency buyers must initiate the procurement process within seven business days of receipt of the purchase request.

State agency internal procurement policy and procedure manuals must identify the expedite process for RA acquisitions including the expectation and required steps to initiate the procurement process within seven business days of receipt of the purchase request.

### 2.C2.3 Designate an RA Procurement Coordinator

Each state agency shall designate one individual as the RA Procurement Coordinator for the state agency. State agencies with a procurement function that includes decentralized purchasing, may designate sub-RA Procurement Coordinators at each location or for a particular region. Internal policy and procedures must specify the designated individuals.

| **Your roles and responsibilities include, but not limited to:** | **Who Can Be Designated** |
| --- | --- |
| 1. Receives RA acquisition requests from the state agency’s designated RA Coordinator(s). 2. Ensures RA acquisitions are expedited. 3. Tracks RA acquisitions in order to ensure that the acquisition is expedited and that the goods or services are delivered timely. 4. Evaluates and recommends internal procurement procedures in order to expedite acquisitions. 5. Participate in training as required by DGS. 6. Ensures that RA acquisitions are accurately reported in FI$Cal. | A trained buyer that works in the procurement office under the chain of command of the Purchasing Authority Contact (PAC).  The PAC can be designated.  Sub-RA Procurement Coordinators must be a trained buyer that works in a decentralized procurement office. |

### 2.C2.4 Training Related to RA Acquisitions

State agencies shall ensure that RA procurement coordinators are trained procurement professionals. RA procurement coordinators are required to attend and receive a certificate of completion for the Acquisitions Related to Reasonable Accommodations course offered by the DGS PD’s California Procurement and Contracting Academy (Cal-PCA).

### 2.C2.5 Internal Procurement Procedures Specific to RA Acquisitions

State agencies shall maintain internal procurement procedures that align with SCM policy and procedures for acquisitions related to reasonable accommodations. Internal procedures shall be unique to each state agency’s internal business process and organizational structure to include detailed steps/action items, timeframes, individuals (working titles) responsible for steps/action items, and process flow charts.

State agencies shall ensure that their procurement professionals and other state staff involved in the procurement process are knowledgeable of these internal procurement procedures.

### 2.C2.6 Surplus Property Verification Exempt for RA Acquisitions

State agencies purchasing property for employees related to an approved Reasonable Accommodation (RA) are not required to contact the DGS Surplus Property & Reutilization (SPR) program to determine if surplus personal property is available.

Personal property includes all types and categories of property (i.e. furniture), except land or other real property, and records of the state government.

Procurement files must note the use of this exemption.

### 2.C2.7 CalPIA Waiver Exemption for RA Acquisitions

State agencies must first evaluate CALPIA products (i.e. chairs, tables). If CALPIA does not offer products that meet the individualized needs (such as features or functionality of necessary equipment) of the applicant or employee with a disability necessary to fulfill an approved\* reasonable accommodation (RA) request, the state agency may proceed with the purchase without a CALPIA exemption/waiver. The state agency must document the procurement file in sufficient detail to explain why CALPIA products did not meet the needs specified in the RA request.

\*“Approved” means that the state agency followed their internal RA process and received the appropriate approvals prior to proceeding with the purchase.

Reminder: Medical and/or confidential information regarding the RA request must not be retained in the procurement file. See section 2.C2.11 Procurement File Documentation for RA Acquisitions.

### 2.C2.8 California Assistive Services, Devices, and Technology Supplier Directory (Cal-ATSD)

The Department of Rehabilitation (DOR) maintains the California Assistive Technology, Services, and Devices Supplier Directory (Cal-ATSD). Cal- ATSD is a valuable resource of suppliers with expertise for addressing employee reasonable accommodation needs. The Cal-ATSD is a centralized directory that provides state and local agencies with a resource to quickly identify suppliers who provide assistive services, devices, and technology.

This resource supports the timely and effective delivery of reasonable accommodation goods and services such as assistive/adaptive services, devices, and technology to state employees with disabilities, consumers served by the California Department of Rehabilitation as well as other individuals served by state and local agencies. DOR is collecting necessary information such as manufacturer certifications and other pertinent data from suppliers listed on Cal-ATSD to assist buyers with identifying the types of products and services offered by suppliers.

This supplier directory is not a Leveraged Procurement Agreement (LPA) as defined in the SCM; however, it is a centralized resource of suppliers that DOR has created and is making available to state and local agencies to assist with expediting procurements.

State agencies can conduct acquisitions with suppliers on the Cal-ATSD after determining that a mandatory source such as CalPIA or mandatory LPAs do not offer goods or services required to meet the unique needs of an employee with a reasonable accommodation.

Use of this supplier directory is encouraged as a resource of suppliers with expertise in the assistive/adaptive services, devices and technology.

State agencies shall conduct acquisitions in accordance with State Contracting Manual (SCM) procedures and may use available acquisition methods identified in the SCM such as the Fair and Reasonable Acquisition Method for purchases under $10,000 when conducting acquisitions and executing contracts with suppliers on this directory.

### 2.C2.9 Leveraged Procurement Agreements

DGS/PD is committed to continuously improving the acquisitions process in order to expedite delivery of goods and services to employees with reasonable accommodations. Therefore, DGS will periodically review RA acquisition data entered into FI$Cal to identify opportunities to create Leveraged Procurement Agreements specific to goods and services regularly purchased on behalf of RA needs.

### 2.C2.10 Compliance with RA Procurement Policy & Procedures

DGS/PD Purchasing Authority Unit (PAU) and the DGS Office of Audit Services (OAS) will monitor compliance. State agencies conducting acquisitions under the purchasing authority granted by the DGS are required to establish policy.

### 2.C2.11 Procurement File Documentation for RA Acquisitions

State agencies shall document the procurement file with required procurement/contract related information. Medical and/or confidential information must not be contained in the procurement file.

Federal and State law require that certain information in connection with the reasonable accommodation process must be kept confidential. This includes the fact that an accommodation has been requested or approved and information about functional limitations. It also means that any employee of a state department who obtains or receives such information is strictly bound by these confidentiality requirements. State agencies should ensure to the extent possible that these requirements are met during the RA process, including the procurement/acquisition process, so that any RA related information that is disclosed will be no more than is necessary to process the request.

## Topic 3 – Additional Pre-Procurement Reviews and Approvals

### 2.C3.0 Purchases from community-based rehabilitation programs

Purchasing products and services from rehabilitative or sheltered workshops pursuant to Welfare and Institutions Code (WIC) section 19403 is encouraged. In accordance with WIC section 19404, purchases using these programs are exempt from advertising requirements, conducting a competitive bid and dollar threshold limits. These transactions are also exempt from the non-competitively bid (NCB) contract requirements.

The procurement file must be documented to support that the price offered by a community rehabilitation program is fair and reasonable.

### 2.C3.1 Records management requirements

Prior to the purchase or rental of any file, microfilm, optical disk and/or records destruction equipment, departments will review and coordinate the purchase activity through the department’s records manager or analyst in accordance with the State of California Records and Information Management (CalRIM) manual. The Secretary of State (SOS) oversees the CalRIM program.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for current program information on the SOS website.

**2.C3.2 Pre-Procurement and Post-Award Requirements When Purchasing Printing Equipment**

1. **Policy**

Pursuant to Management Memo 19-03 and the State Administrative Manual (SAM), Section 2876, no state agency may acquire printing equipment, where a piece of equipment is valued in excess of $50,000, without prior approval from the Office of the State Printer (OSP).

1. **Procedure**

The procedures below apply to the purchase of any piece of printing equipment valued in excess of $50,000 in accordance with SAM Section 2876.

| **Step** | **Task** | **Timeframe** |
| --- | --- | --- |
| 1 | Complete the Printing Equipment Acquisition Request (PEAR) and a Recovery of Investment Template (RIT), which are available on the Office of the State Printer [(OSP) website](https://www.dgs.ca.gov/OSP/Resources/Page-Content/Office-of-State-Publishing-Resources-List-Folder/In-plant-operations) at https://www.dgs.ca.gov/OSP/Resources/Page-Content/Office-of-State-Publishing-Resources-List-Folder/In-plant-operations. |  |
| 2 | Submit a PEAR and RIT to the [Statewide In-Plant Operations Manager](mailto:inplantopsmanager@dgs.ca.gov) in OSP.   1. Must be submitted by the state agency’s Deputy Administrative Director and/or Procurement and Contracting Officer (no designee signature will be accepted). 2. If the state agency intends to use DGS’ Procurement Division’s One-Time Acquisition (OTA) services prior to the end of the fiscal year, the documents must be received by the Statewide In-Plant Operations Manager by the first business day in February of that fiscal year. | No less than ninety (90) calendar days prior to the anticipated solicitation release date for printing equipment.  Must be received by first business day of February for requested OTA services. |
| 3 | The PEAR must be approved by the State Printer.   1. The State Printer may approve the PEAR as written, provide conditional approval through the recommendation of alternative equipment, or reject the PEAR with explanation. 2. An approved PEAR is valid for the duration of the fiscal year of issuance and the following fiscal year. |  |
| 4 | When PEAR approval is received from OSP, the submitting state agency must provide the PEAR to:   1. DGS Procurement Division’s Purchasing Authority Unit (PAU) with requests to increase purchasing authority. 2. DGS Procurement Division’s Dispute Resolutions Unit (DRU) with requests for approval of Non-Competitively Bid (NCB) Justifications. 3. OTA when requesting procurement services. 4. State Controller’s Office (SCO) with invoice for payment processing. |  |
| 5 | Electronic copies of the Scope of Work issued with the solicitation and the final purchase agreement must be provided to the Statewide In-Plant Operations Manager. | Within sixty (60) days of signed purchase agreement. |
| 6 | State agencies must keep a copy of the approved PEAR in the procurement file for acquisitions conducted under DGS’ purchasing authority. |  |

1. **Legal Reference**

* Government Code, Title 2, Division 3, Part 5.5, Chapter 7

1. **Related Policy, Procedures, & Resources**

* Management Memo 19-03
* State Administrative Manual (SAM), Section 2876

1. **Attachments**

* Printing Equipment Acquisition Request (PEAR), located on the Office of State Publishing (OSP) website at [PEAR](https://www.dgs.ca.gov/OSP/Resources/Page-Content/Office-of-State-Publishing-Resources-List-Folder/In-plant-operations#@ViewBag.JumpTo).
* Recovery of Investment Template (RIT), located on the Office of State Publishing (OSP) website at [RIT](https://www.dgs.ca.gov/OSP/Resources/Page-Content/Office-of-State-Publishing-Resources-List-Folder/In-plant-operations#@ViewBag.JumpTo).

## Topic 4 – Negotiation Process Guidelines and Procedures Under Public Contract Code 6611

### 2.C4.0 Authority over negotiation

Public Contract Code Sections 6611 (a) and (b) set forth the conditions under which DGS may use negotiations for new and existing contracts and/or procurements. Public Contract Code Section 6611(e) also allows the CDT to use the negotiation procedures and guidelines developed by DGS for procuring information technology and telecommunications goods and services on behalf of state departments.

When an appropriate basis exists, DGS or CDT may authorize negotiations in any of the following circumstances:

* At the outset of a procurement,
* During a competitive procurement, or
* When no responsive bids are received

Public Contract Code Section 6611(b) authorizes a negotiation process to amend existing contracts when it is in the best interest of the state.

In all circumstances, approval of the Director of DGS or the Director of CDT or their designee is required in advance, and negotiations must be conducted by DGS or CDT (for technology projects). The actual negotiations will be conducted in partnership with the procuring agency.

DGS recommends during the acquisition planning phase, agencies and departments plan accordingly and consider whether a negotiation process is appropriate for a given procurement. Departments should contact DGS for assistance in determining applicability of Public Contract Code Section 6611(a) and developing the framework for the negotiation process.

### 2.C4.1 Negotiation Process Guide

DGS has provided a Negotiation Process Guide for IT goods & services under Public Contract Code Section 6611. Refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to the guide.

### 2.C4.2 How to make a request to DGS

In order to implement negotiations pursuant to Public Contract Code Section 6611(a), using the template in Section G, [Resources,](#Resources2) at the end of this chapter, state Agencies and Departments shall submit a written request to DGS containing the following information:

* Description of the procurement including estimated cost and term of the contract
* How the procurement meets the state’s needs
* Explanation of how the procurement meets one or more of the four conditions listed below under the topic *Bases for Negotiations*.

The request shall be signed by the State Agency Secretary, Department Director, or the Procurement and Contracting Officer and sent to DGS. DGS will respond to the requesting department in writing, with a determination regarding the request to use a negotiation process. If approved, DGS will stipulate any conditions on the use of a negotiation process. CDT may engage in negotiations as specified in Public Contract Code Section 6611(e) without making this request.

The request shall be forwarded to DGS as follows:

Non-IT Goods and IT Goods and Services:

* DGS/PD Deputy Director

Non-IT Services

* DGS/OLS: Deputy Director and Chief Counsel

### 2.C4.3 Basis for negotiations PCC section 6611(a)

DGS and CDT may initiate negotiations if one or more of the following conditions exist:

The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process (Pub. Cont. Code § 6611(a)(1)); In general, this may occur when a business solution common in the commercial marketplace needs to be tailored to fit the unique needs of the state.

**Example:** Use of temporary and contract labor to meet volatile staffing demands is commonplace in the private sector. However, due to restrictions on use of personal services contracts for civil service functions, the state often is unable to use these services “as is.” The state could negotiate with temporary labor contractors to purchase only the services that conform with California law under Government Code Section 19130.

The business need or purpose of a procurement or contract is known, but a negotiation process may identify different types of solutions to fulfill the business need or purpose (Pub. Cont. Code § 6611(a)(2)); In general, this condition can exist with emerging technology where fully developed solutions do not yet exist and require negotiations to ensure the solution meets the state’s needs.

**Example:** The state identifies a need to block unauthorized mobile phone communications at correctional facilities. While emergent frequency management technology exists, no complete solutions have been delivered to the market. Through a negotiation process, the state would be able to identify potential solutions prospective contractors may be willing to offer.

The complexity of the purpose or need suggests a bidder’s costs to prepare and develop a solicitation response are extremely high (Pub. Cont. Code §6611(a)(3)); This condition can exist when the state is acquiring solutions of an extremely large scale and/or scope which requires bidders to perform significant analysis, design, and/or development in order to bid. It can also occur when past attempts to secure bids have resulted in no compliant bids.

**Example:** Acquisition of any complex system of significant scale and scope. A negotiations process that provided for regular discussion of the state’s needs, refinement of requirements, the creation and evaluation of pilot systems, and bargaining to trade-off costs and benefits could reduce the costs for bidders to submit acceptable bids.

The business need or purpose of a procurement or contract is known, but negotiation is necessary to ensure the department is receiving the best value or the most cost-effective goods, services, information technology, and telecommunications (Pub. Cont. Code § 6611(a)(4)); This condition most commonly exists when bid prices exceed the state’s target price compared to historical costs or established through market research.

**Example:** The state has conducted a bid for computer equipment, however bidder prices were higher than expected compared to the state’s prior contract. A negotiation process is used to obtain pricing more in line with the estimate.

### 2.C4.4 Basis for negotiations (PCC section 6611(b)

When a critical business need develops and it is in the best interests of the state, DGS may negotiate amendments to the terms and conditions, including scope of work, of existing contracts for goods, services, information technology, and telecommunications, whether or not the original **contract** was the result of competition, on behalf of DGS or another state agency.

This Section is not intended to circumvent the NCB amendment process in Chapter 6.

### 2.C4.5 Participants and roles

While DGS (and CDT when applicable) is responsible for the administration of the negotiating authority, successful negotiations require the cooperation of three key stakeholders: DGS, CDT, and the buying agency. The following guidelines establish that all parties are co-approvers of any final, negotiated outcome. Departments are advised to ensure that all state participants are free from economic conflicts of interest before beginning work on a Public Contract Code Section 6611 negotiation project. See Government Code Section 81000 et seq. (Political Reform Act); see also Government Code Section 1090. Not all participants listed in the table below are required in all situations.

| **PARTICIPANT** | **ROLES** |
| --- | --- |
| Procurement Official (DGS or CDT) | Conducts the procurement in accordance with the laws of the State of California;  Coordinates contract negotiations sessions;  Coordinates DGS Legal participation in negotiations, if required; and  Oversees negotiation sessions.  Co-approval of final negotiated agreement. |
| Buying Agency | Participates in negotiation sessions to ensure outcomes meet program needs.  Co-approval of final negotiated agreement. |
| Core Negotiation Team | DGS and/or CDT, and sponsoring agency:  Provides negotiation facilities;  Prepares negotiation points;  Participates in negotiation sessions; and  Tracks status of outstanding items and completed agreements |
| State Evaluation Team Members | SMEs tasked with evaluating bid submissions  Participates in negotiations sessions, as required. May be same individuals as core negotiation team. |
| Subject Matter Experts (SMEs) | Provides subject matter expertise and support to the Core Negotiation Team and state Evaluation Team, as requested. |
| CDT (where DGS is the procurement official) |  |

| **PARTICIPANT** | **ROLES** |
| --- | --- |
| Bidder Negotiation Team | At a minimum, the supplier team:  Prepares negotiation materials in response to negotiations points;  Participates in negotiations sessions;  Develops and provides revised proposal materials for state review and agreement during the negotiation sessions; and  Provides Best and Final Offer (BAFO) that incorporates all negotiated changes. |

### 2.C4.6 Procedure when conducting negotiations from the outset of a procurement

Departments shall follow this procedure when conducting negotiations from the outset of a procurement:

1. With the exception of CDT, obtain approval from DGS to utilize negotiations (see Section 2.C4.1 above).
2. Craft a solicitation under the authority of Public Contract Code Section 6611. The solicitation should include initial administrative and technical requirements, a cost proposal, evaluation criteria, and reference the state’s general provisions. It should also explain the general purpose and scope of the negotiations, the anticipated schedule for the negotiations; and the procedures to be followed for those negotiations See Section 2.C4.1 for template.
3. Identify in the solicitation document the requirements for bidders to be included in negotiations. This may include, but is not limited to, establishment of objective pre-requisites based on capabilities, experience, expertise, or capacity.
4. Determine the negotiation sequence which may include the order of steps such as negotiations, bid submission, evaluation, confidential discussions, supplemental bid submission, and contract award.
5. Evaluate bids.
6. The solicitation may allow for evaluation of all bids, even bids that would not be responsive under the rules of Public Contract Code Section 12100 et seq. (for IT goods and services) or Public Contract Code Sections 10308, 10309, 10331, 10332, 10333, and 10290.1\* (for non-IT goods) Alternatively, the solicitation may require that bids meet certain minimum criteria in order to be evaluated.
7. Buyers may choose to establish an evaluation team to evaluate bids according to the methodology specified in the solicitation.
8. Establish initial scores either via ranking, as a percentage of total possible points, or other method that clearly differentiates between each bid.

\*Includes non-IT services for LPA transactions.

1. Negotiate.
2. Follow the rules of the solicitation in negotiating with bidders.
3. Negotiations may be completed after a single round, or may be done in several rounds.
4. Negotiations may be conducted orally and/or in writing. Oral negotiations may be held in person, by conference call, or by use of video or web conferencing.
5. The negotiation process may include persuasion, alteration of assumptions and positions, give and take, and may apply to price, schedule, requirements, or other terms of the proposed contract. The state may discuss other aspects of the Bidder’s proposal that could, in the opinion of the state, be altered or explained to enhance materially the proposal’s potential for award. However, the state is not required to discuss every area where the Bidder’s proposal could be improved. The scope and extent of negotiation exchanges are the matter of the state’s judgment. All Bidders currently in negotiations will be notified of changes in requirements.
6. The state may establish a negotiation team to consist of representatives from DGS, and the requesting department, and other state representatives. The table in 2.C4.5 identifies the general roles and responsibilities of a negotiation team although the composition of any team may vary based upon the procurement.
7. Supplemental bids may be received after initial bids are opened. At the conclusion of negotiations, Bidders may be given an opportunity to submit a Best and Final Offer (BAFO) to the state. The state will establish a date and time for receipt of each Bidder’s BAFO.
8. Final evaluation and award. Use one of the following options to make a final award:
   1. Using the original criteria in the solicitation, score all proposals based on either the results of negotiations or, if applicable, the BAFO. Award to the highest ranked bidder.
9. Revise the evaluation criteria based on the results of the negotiations. Prior to final evaluation, all bidders participating in negotiations shall be informed of the revised evaluation criteria and shall have the opportunity to submit a BAFO based on those criteria. Award to the highest-ranked bidder.
10. Issue a final evaluation and selection report documenting any decisions relating to selection of bidders to participate in negotiations, final scoring of proposals, and award decisions.
11. DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time.

### 2.C4.7 Procedure when conducting negotiations during a procurement

Departments shall follow these steps when conducting negotiations during a competitive procurement in which at least one responsive, responsible bid has been received:

1. Obtain approval from DGS to utilize negotiations (see section 2.C4.1 for template.).
2. Only bidders that submitted responsive, responsible bids may participate in negotiations. Notify bidders that will be selected to participate in negotiations. Buyers must establish the criteria for selection in the solicitation either from the outset or via addendum. Examples include:
3. Negotiate with all responsive, responsible bidders.
4. Establish a competitive range based on bidders’ rankings following bid/proposal evaluations.
5. Initiate negotiations with the highest ranking bidder then, if no agreement can be reached, move on to the next highest ranked bidder continuing until an agreement can be reached.
6. Negotiate. See “Negotiate” (step 6) of Section 2.C4.6 above.
7. Final evaluation and award. Use one of the following options to make a final award:
8. Using the original criteria in the solicitation, score all proposals based on either the results of negotiations or, if applicable, the BAFO. Award to the highest ranked bidder.
9. Revise the evaluation criteria based on the results of the negotiations. Prior to final evaluation, all bidders participating in negotiations shall be informed of the revised evaluation criteria and shall have the opportunity to submit a BAFO based on those criteria. Award to the highest-ranked bidder.
10. Issue a final evaluation and selection report documenting any decisions relating to selection of bidders to participate in negotiations, final scoring of proposals, and award decisions.
11. DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time.

### 2.C4.8 Procedure when no responsive bids are received

In rare cases, it may be necessary to negotiate with bidders participating in a competitive procurement even when no responsive, responsible bid has been received. This can happen when repeated solicitations yield no bidders or when the complexity of the administrative, technical or cost requirements results in all bids failing to meet the requirements. Departments shall follow these steps in those circumstances.

1. Obtain approval from DGS or CDT, as applicable, to use negotiations. See Section 2.C4.1. Usually, subsection 3, “the complexity of the purpose or need suggests a bidder’s costs to prepare and develop a solicitation response are extremely high” or subsection 4, “negotiation is necessary to ensure the department is receiving the best value” from Section 2.C4.2 will apply.
2. If any responsive, responsible bids have been received, buyers must follow the procedures in 2.C4.5 or 2.C4.6.
3. In order to use negotiations in this circumstance, the criteria for participation must have been established in the solicitation (either from the outset or through an addendum). Any of the following criteria may be used:
4. All firms that submitted a bid may participate.
5. Bidders within a competitive range may participate. Rankings may be established by using a percentage of required items and/or scoring non-mandatory items.
6. The highest ranking bidder negotiates first, then, if no agreement can be reached, the next highest similarly ranked bidder may negotiate continuing the process until the state reaches an acceptable agreement. Rankings may be established by using a percentage of required items and/or scoring non-mandatory items.
7. Negotiate. See “Negotiate” (step 6) of Section 2.C4.5 above.
8. Final evaluation and award. Use one of the following options to make a final award:
9. Using the original criteria in the solicitation, score all proposals based on either the results of negotiations or, if applicable, the BAFO. Award to the highest ranked bidder.
10. Revise the evaluation criteria based on the results of the negotiations. Prior to final evaluation, all bidders participating in negotiations shall be informed of the revised evaluation criteria and shall have the opportunity to submit a BAFO based on those criteria. Award to the highest-ranked bidder.
11. Issue a final evaluation and selection report documenting any decisions relating to selection of bidders to participate in negotiations, final scoring of proposals, and award decisions. The final evaluation and selection report becomes a public record.

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### 2.C4.9 Question and Answer Process

DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time. Public Contract Code Section 6611(d) states that “...an unsuccessful bidder shall have no right to protest the results of the negotiating process.” However, during the negotiation process, any bidder may raise questions regarding the procurement process prior to the conclusion of negotiations.

The requester should provide as much information as possible so that DGS can evaluate their issues. Questions must be mailed or delivered to:

Deputy Director, Procurement Division

707 Third Street, West Sacramento, CA 95605

Facsimile No.: (916) 375-4611.

DGS shall acknowledge the receipt of questions and shall provide a written response or explanation. DGS shall inform all bidders of any actions that are taken in response to such objections or questions. At the Deputy Director’s discretion, the issue may be provided to a designated procurement official for resolution or an ombudsman may be selected to work with the parties to address the issue. This Q & A is not a right to protest and the submission of questions does not automatically trigger a delay in the award of a contract. The disposition of the issues and response to the issues raised during this Q & A process is solely at the discretion of DGS.

## Topic 5 – Requests for the Procurement Division to Conduct Procurements

### 2.C5.0 How to Submit a Requisition to the Procurement Division (PD)

Submitting a requisition in the FI$Cal system is the standard process to initiate a request for PD’s One-Time Acquisition’s Unit (OTA) to conduct procurements on behalf of state departments.

Requisitions (formerly known as a Purchase Estimate, STD. 66) must be submitted with all required attachments and internal approvals through the FI$Cal Requisition Module using the workflow approval process. The appropriate FI$Cal “Ad hoc Approver” must be selected for the purpose of routing the request to the appropriate procurement entity (OTA or California Department of Technology).

Instructions on how to create a requisition to submit to OTA are available on the following webpages (refer to the [Resources](#_Resources) section at the end of this chapter for links):

* FI$Cal’s Job Aids/FAQ Webpage
* OTA’s Webpage - Submit FI$Cal Requisition

### 2.C5.1 Amendments to Transactions Submitted to or Processed by OTA

Instructions on how to update a requisition submitted to OTA or how to request a Purchase Order Change (POC) are available on the following webpages (refer to the [Resources](#_Resources) section at the end of this chapter for links):

* FI$Cal’s Job Aids/FAQ Webpage
* OTA’s Webpage - Submit FI$Cal Requisition

# Section D

# Pre-Procurement Reviews and Approvals Specific to Non-IT

# Introduction

In addition to the previous requirements, there are additional requirements specific to Non-IT procurements. The following pages provide buyers with this information.

## Topic 1 – Office of Fleet and Asset Management (OFAM)

### 2.D1.0 Office of Fleet and Asset Management (OFAM)

In accordance with Government Code Section 13332.09, departments may not procure mobile equipment without first securing approval from DGS/Office of Fleet and Asset Management (OFAM). Evidence of OFAM approvals must be documented in the procurement file as well as uploaded into FI$Cal.

Mobile equipment is defined in the OFAM state Fleet Handbook (OFAM Handbook) as:

“Used for passenger and equipment transportation, construction or maintenance work, and is self-powered or easily moved (trailer or skid mounted). This includes sedans, station wagons, Suburbans, carryalls, light utility pickups, vans under ¾ ton, jeeps, trucks, boats, and trailers.”

### 2.D1.1 Fleet assets requiring OFAM approval

| MOBILE EQUIPMENT TYPE | DESCRIPTION |
| --- | --- |
| Motor vehicle | A vehicle that is self-propelled and registered by the Department of Motor Vehicles (DMV) for street use. |
| General use mobile equipment | * Self-propelled mobile equipment * Self-propelled mobile equipment registered by the DMV for off-road use. * Vessels registered by the DMV for use on water. * Vessels documented by the U.S. Coast Guard. |
| Surplus mobile equipment | Motor vehicles or general use mobile equipment that was previously owned or operated by any entity. |

The following motor vehicles and general use mobile equipment are subject

to OFAM approval:

Please refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to DGS/OFAM Management Memo 13-01, *State Fleet Asset Oversight* for a complete listing of assets that require DGS/OFAM approval.

### 2.D1.2 Excluded from OFAM oversight

Departments are not required to obtain the OFAM’s approval on the following

fleet type assets regardless of registration status by the DMV or not:

* Golf Cart (if rated below 35 mph)
* Mower (self-propelled and 24 hp or less)
* Generator
* Mobile home and/or office (only if permanently parked, if moved see footnote)
* Indoor Forklift
* Pallet jack
* Personnel hoist or lift
* Agriculture or construction equipment pulled by a vehicle
* Other fleet-related equipment as determined by the OFAM
* Trailer (2,999 lbs. GVWR or less)\*

Trailer pertains to small trailers only, and not the equipment mounted on trailers, e.g. generators, welders, signs, message boards, kettle pots, outhouses, etc. Assets carried on trailers such as: motorcycles, snowmobiles, ATVs, etc., are considered fleet assets and are referenced separately.

### 2.D1.3 Mobile equipment purchases and repairs

When purchasing mobile equipment, departments must obtain approval from OFAM prior to contract execution (see OFAM Fleet Handbook for instructions).

In accordance with the OFAM Fleet Handbook, tires and batteries for mobile equipment must be purchased using the state’s leveraged procurement agreements whenever possible.

Mobile equipment repairs are considered non-IT services and, therefore, may not be purchased under a department’s purchasing authority.

Departments may not make modifications to mobile equipment without OFAM approval. Departments may not repair mobile equipment without OFAM approval if the repair exceeds the OFAM-established dollar thresholds. When contracting for mobile equipment repairs, departments must obtain OFAM approval when the transactions are expected to exceed specific dollar thresholds as established by OFAM. In addition to obtaining advance OFAM approval for vehicle modifications and preapproved repairs, departments must also get OFAM post approval once the modifications and repairs have been completed.

Department’s should consult the OFAM Fleet Handbook and the SCM, Vol. 1 regarding these services.

Refer to Section G, [Resources,](#Resources2) at the end of the chapter for access to the OFAM Fleet Handbook.

## Topic 2 – California Prison Industry Authority (CALPIA)

### 2.D2.0 Requirement and Process to Purchase from the California Prison Industry Authority (CALPIA)

### 1. Policy

Pursuant to Penal Code Section 2807, state departments must first consider if CALPIA can fulfill the state department’s need prior to purchasing goods and services from private sector suppliers (including suppliers that have a Leveraged Procurement Agreement with the DGS/PD).

State departments shall purchase goods and services identified in the CALPIA store, including but not limited to, the following:

| **CALPIA PRODUCT/SERVICES CATEGORIES** | **PRODUCT/SERVICES EXAMPLES** |
| --- | --- |
| Bedding, Clothing & Textiles, Gloves, Flags, Shoes, Laundry Services | Mattresses & Pillows, Flags, Signs, NFPA Wildland Gear, ANSI Garments, Highway Construction & Maintenance Garments, Safety Vests and Clothing Institutional Garments, Hospital & Medical Garments, Laundry Services |
| Bindery Products, Signs & Decals | Binders, Portfolios, Files, Diploma Covers, Parking Placards, Plaques & Name Plates, Banners, Decals & Stickers, Metal Signs, Road Signs |
| Braille | Formatting, Transcription, Tactile, Embossing |
| Cleaning Products | Bar Soap, Janitorial Chemicals, Kitchen Chemicals, Laundry Chemicals, Green Seal Certified Chemicals, Carpet Care |
| Food Products | Milk, Almonds, Poultry Products, Eggs, Meat Products, Bread Products, Coffee, Juice/Beverages, Packaged Meals, Peanut Butter & Jelly, Cookies, Syrup |
| Furnishings, Modular Systems Furniture, Metal Products | Office furniture Product Lines, Computer Furniture, Office Furniture, Residential Life, Seating, Storage, Tables, Accessories |
| Modular Buildings | Portable Customized Buildings |
| Optical, Dental | Optical Services, Dental Services |
| Printing | Tabbing, Carbonless Forms, Single-Part Forms, Envelopes, Letterhead, Business Cards, Newsletters, Booklets, Brochures |

**2. Procedure**

**Instructions for Purchasing Standard Goods (aka “Products”)**: State departments transacting in the FI$Cal system are required to purchase CALPIA standard products using the FI$Cal requisition process and the CALPIA online store catalog available in the FI$Cal requisition module. Purchasing standard products from CALPIA outside of the FI$Cal requisition module is prohibited (i.e. phone orders using a CAL-Card). CAL-Cards can be used as payment for CALPIA purchases executed in the FI$Cal system.

Detailed procedures for making CALPIA standard product purchases in the FI$Cal system are available in FI$Cal Job Aid: FISCal.449.

**Instructions for Purchasing Services and Non-Standard Specialty Goods (aka “Products”):**

1.Contact CALPIA at salesinfo@calpia.ca.gov for a quote outside of the FI$Cal system.

2. Create a PO by direct entry.

3. Upload the quote as an attachment.

## 4. Enter the CALPIA Item ID into the PO line description.

5. Include set in place & assembly fees.

More information about how to create a direct entry PO can be found in the FI$Cal Training User Productive Kit (UPK): PO122 - Processing Purchase Orders.

**Instructions Applicable to All CALPIA Purchases:**

Phone orders are not accepted. CALPIA requires a PO for all purchases.

Do not include sales, use or federal excise taxes, as they do not apply.

Upon receipt of necessary approvals, the buyer must dispatch the PO which will automatically email the PO to CALPIA.

CALPIA requires the following information to be included on all POs in order to process orders:

1. Buyer Contact Name
2. Buyer Contact Phone Number
3. Buyer Contact Email
4. Ship To Contact Name
5. Ship To Contact Phone Number
6. Ship To Contact Email
7. Quote ID in the notes (non-standard only)

CALPIA will honor pricing for 90 days from the initial quote or requisition date. After 90 days the price is not guaranteed and may require a price change.

When purchasing goods and services from CALPIA, select the following acquisition method:

Exempt by Law - Interagency Agreement - Prison Industry Authority (PIA) - NON-COMPETITIVELY BID

**3. Legal References**

Penal Code Section 2807

Public Contract Code (PCC) 10332 (c)

Government Code 14612 (e)

**4. Related Policy, Procedures, & Resources**

Management Memo 07-06 – Contracts for Printing

Management Memo 19-03 – State Agency Printing Operations

CALPIA/ DGS Product Stewardship, dated June 9, 2010

**5. Attachments**

[FI$Cal Job Aid: FISCal.449](https://fiscalexp.service-now.com/csm/csm?id=kb_search&kb_knowledge_base=9641cdc3db3ab744f2b9dd4b5e961944)

### 2.D2.1 CALPIA exemption process

Departments may be granted a CALPIA exemption to procure goods from other sources when sufficiently justified. The table below describes the CALPIA exemption process that departments must follow:

| STAGE | DESCRIPTION |
| --- | --- |
| 1 | The department contacts CALPIA sales branch at  (916) 323-2419 or accesses and completes the CALPIA Exemption Request (accessible in Section G, [Resources,](#Resources2) at the end of this chapter) |
| 2 | The department completes a CALPIA exemption request and mails it to:  CALPIA Sales Branch  560 East Natoma Street  Folsom, CA 956340-0040  Expedite requests may be faxed to (916) 322-1184, however, expedites must be justified and a hard copy of the exemption request with original signatures is required prior to CALPIA approval. |
| 3 | All exemption requests will be faxed back to the department. Copies of the exemption request approved by CALPIA must be retained in the procurement file as proof of exemption determination. Documentation of only the CALPIA exemption number is insufficient to comply with the exemption documentation requirement. |
| 4 | The CALPIA Sales Representative will contact the department when an exemption request is denied. The denied exemption request with original signatures will be sent to the department. |

### 2.D2.2 Acquisitions Related to Reasonable Accommodation Requests

State agencies must first evaluate CALPIA products (i.e. chairs, tables). If CALPIA does not offer products that meet the individualized needs (such as features or functionality necessary equipment) of the applicant or employee with a disability necessary to fulfill an approved\* Reasonable Accommodation (RA) request, the state agency may proceed with the purchase without a CALPIA exemption/waiver. The state agency must document the procurement file in sufficient detail to explain why CALPIA products did not meet the needs specified in the RA request.

\*“Approved” means that the state agency followed their internal RA process and received the appropriate approvals prior to proceeding with the purchase.

**Reminder:** Medical and/or confidential information regarding the RA request must not be retained in the procurement file.

See section 2.C2.11 Procurement File Documentation of RA Acquisitions.

## Topic 3 – Other Pre-Approval Requirements

### 2.D3.0 Real Estate Services Division (RESD)

DGS/RESD has the statutory authority for the acquisition of real property. Departments, prior to acquiring space, property and/or facility design services, must contact RESD.

Refer to Section G, Resources Section at the end of this chapter to access the RESD web page.

### 2.D3.1 Bottled water requirements

Bottled drinking water may be purchased under a department’s delegated purchasing authority where it has been determined that the building water supply does not meet standards set by the California Department of Public Health (CDPH) for state owned facilities or local city, county environmental management department(s) for state leased facilities, or where DGS/RESD has determined that the cost of connecting a drinking fountain to the building water supply renders it impractical. Documentation from the CDPH and/or local city, county environmental management department(s), and/or DGS/RESD must be maintained in the procurement file.

### 2.D3.2 Department of Conservation (DOC)

Public Contract Code Section 10295.5 prohibits departments from purchasing sand, gravel, aggregates or other minerals produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975, unless the Department of Conservation (DOC) has determined that the surface mining operation is eligible to sell materials to the state.

If a department purchases sand, gravel, aggregates or other minerals from a mining operation that is not on the DOC’s list of approved mining operations, then the department must:

* Obtain both a retailer’s certification of the supplier’s identification and the Department of Conservation’s listing of approved mines in effect at the time of the award and contains the originating mining operation.
* Document the procurement file that the items acquired came from an acceptable source.

**Warning:** Departments must obtain sufficient supplier certifications until the originating mining operation’s identification can be determined.

Refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to the Department of Conservation’s listing of approved mining operations and a *Surface Mining and Reclamation Act Certification Form.*

# Section E

# Considerations Specific to IT Procurements

# Introduction

Just as there are requirements specific to Non-IT procurements, the same is true for IT purchasing. In addition to the requirements in Section C, the following pages provide buyers with this information

## Topic 1 – Understanding Information Technology Goods and Services

### 2.E1.0 Defining an IT procurement

SAM Section 4819.2 defines information technology as “all computerized and auxiliary automated information handling, including systems design and analysis, conversion of data, computer programming, information storage and retrieval, voice, video, data communications, requisite systems controls, and simulation.”

In accordance with SAM Section 4819.2, any of the activities listed below either individually or in combination are considered IT procurement:

* IT facility preparation, operation and maintenance.
* Application systems development and implementation, or changes to application systems or programs to meet new or modified needs, or maintenance, including:
* Systems analysis,
* Systems design
* Purchase and installation of software
* Programming services
* Data or programming conversions
* Systems and procedures documentation
* Project appraisal or assessment
* Operation of application systems or programs including handling, assembling or editing of input-output data or media where IT equipment or IT personnel are used.
* Acquisition, installation, operation and maintenance of data processing equipment.
* Other installation management activities including:
* Performance measurement
* System tuning
* Capacity management
* Personnel employed in support of, or directly related to, any of the activities listed above, including:
* Administration
* Technical services
* Clerical services
* Travel
* Training
* Preparation of periodic and special reports
* Control functions directly related to the above activities.

### 2.E1.1 IT equipment examples

The following are examples of IT goods:

Central processing units (mainframes) and all related features and peripheral units, including processor storage, console devices, channel devices, etc.;

* Minicomputers, midrange computers, microcomputers and personal computers and all peripheral units associated with such computers;
* Special purpose systems including work process:
* Magnetic Ink Character Recognition (MICR)
* Optical Character Recognition (OCR)
* Photo composition
* Typesetting and electronic bookkeeping
* Communication devices used for transmission of data such as:
* Modems
* Data sets
* Multiplexors
* Concentrators
* Routers
* Switches
* Local area network (LAN)
* Private branch exchanges
* Network control equipment, or microwave or satellite communications systems.
* Input-output (peripheral) units (off-line or on-line) including:
* Terminal
* Card readers
* Optical character readers
* Magnetic tape units
* Mass storage devices
* Card punches
* Printers
* Computer output to microform converters (COM)
* Video display units
* Data entry devices
* Teletypes
* Teleprinters
* Plotters
* Scanners
* Or any device used as a terminal to a computer and control units for these devices.

The above items are considered IT equipment and may be purchased by departments with IT purchasing authority.

### 2.E1.2 IT supplies

The following consumable items are considered IT products, but may be acquired as non-IT goods:

* Documents (standards and procedures manuals, contractor supplied systems documentation and educational or training manuals).
* Equipment supplies (printer forms, punch card stock, disk packs, floppy disks, magnetic tape and printer ribbons or cartridges).
* Furniture (IT-related, such as desktop station tables and printer stands).

### 2.E1.3 IT goods not considered supplies

PC keyboards, mice, zip drives, memory cards, personal digital assistants (PDA), software and scanners are not supplies.

Only departments with an approved IT purchasing authority may acquire the above in accordance with all applicable IT project and procurement standards and requirements.

### 2.E1.4 IT services

IT personal services are services that have someone doing IT related services, e.g., hardware, software or system maintenance services.

IT consulting services are services of an advisory nature that provide a recommended course of action or personal expertise (product of the mind). This may include subject matter experts or specialists within the IT field overseeing technical projects or providing IT training.

Resumes and customer references should always be reviewed to ensure the level of expertise and experience matches the project requirements or skill levels as identified in the solicitation or request for offer, as well as in the applicable LPA service contracts (CMAS or MSA).

The end product may transmit information, either written or verbal, and is related to the governmental functions of a state department’s administration and management and program management or innovation. It may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

Example:

Independent Verification and Validation (IVV) consulting services or Independent Project Oversight (IPO) consulting services are considered IT services because they provide oversight and validation on large IT Integration Projects (required by SIMM Section 45). These services must be acquired in adherence to IT procurement rules.

## Topic 2 – Information Technology

### 2.E2.0 Department of Technology approval of IT activities

GC Section 11545 establishes the Department of Technology (CDT) and gives CDT general authority over the strategic management and direction of the state’s information technology resources. SAM Sections 4800-5180 constitutes these powers and defines the procedures for obtaining CDT’s approval of proposed information technology expenditures.

All departments must obtain IT project approval as specified in CDT policy BEFORE initiating any IT procurement activity or encumbering any funds.

SAM and SIMM are accessible in the resources section at the end of this chapter. See specifically SAM Sections 4500 et seq.-telecommunications, 4800 et seq. – information technology, 4989 - Desktop and Mobile Equipment Computing Policy, 5200 – IT procurement (5200 was incorporated into this manual) and 6700 – 6780 IT expenditures.

### 2.E2.1 Department of Technology - technology letters

Technology Letters (TL) are issued by CDT to disseminate new or changes to existing IT policies, standards, and procedures. Departments should review CDT’s website frequently to stay current on TL notifications. If a department has questions about any of the TLs, contact the person noted in the TL or refer to Section G, [Resources,](#Resources2) at the end of this chapter for a list of CDT contacts.

### 2.E2.2 Personal communications device (PCD)

The use of LPA contracts issued by DGS or CDT to obtain PCDs and associated service plans should be considered first. PCDs include but are not limited to:

* Cellular phones
* Pagers
* Personal Digital Assistants (PDA)
* Related items or configurations that permit remote communication and/or messaging.

## Topic 3 – Requirements Specific to IT Goods and/or Services

### 2.E3.0 New equipment

The state will procure new information technology equipment. All equipment must be new and the latest model in current production. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.

Equipment owned by a state department that is transferred or sold to another state department is exempt from this requirement. However, such transfers must be conducted in accordance with the rules for disposal of IT equipment and all rules applicable to developing a new or enhanced information technology capability.

Exceptions may be considered for equipment that marginally extends an existing production operation and for which no equivalent new equipment is available. Exceptions will not normally be approved for development or acquisition of a new capability, for enhancement of an existing capability, or for system replacement or upgrade. Requests for exceptions must be fully justified and in the state’s long-term best interest. Requests for exceptions must be submitted in writing to CDT. Written approval of an exception must be received from CDT prior to release of any solicitation document and kept in the procurement file.

If the purchase is for equipment that contains used parts, the equipment may be obtained without CDT’s approval if the supplier certifies or warrants in writing the equipment as new. This condition must be documented in the purchase document and supporting documentation retained within the procurement file.

### 2.E3.1 Low power office computing policy

When purchasing IT equipment, departments shall follow the Low Power Office Computing policy outlined in IT Policy Letter (ITPL) 12-3, available in Section G, [Resources,](#Resources2) at the end of this chapter.

### 2.E3.2 Productive use requirements

Successful operation of a state program frequently depends upon reliable operation of IT equipment or software. Failure of procured IT products may result in loss of revenue, unnecessary expenditure of funds, idling of state personnel or interruption of services to program recipients.

These Productive Use Requirements are intended to: (1) Minimize risk of failure of a procured product; and (2) Protect the state from procuring equipment or software that has no record of proven performance. The requirements pertain to all procurements for IT goods.

Model language for inclusion in solicitation documents regarding Productive Use Requirements is provided in the IFB/RFP solicitation format.

Refer to Section G, [Resources,](#Resources2) at the end of Chapter 4 for the current solicitation format.

### 2.E3.3 Consulting services in feasibility studies and other IT procurements

Occasionally, the state contracts with consultants to assist in the preparation of feasibility studies and/or to make recommendations for the acquisition IT goods and/or services. It is the state’s intention that such consultant assistance and all ensuing recommendations be based on objective, unbiased analyses of the relevant facts.

Public Contract Code Section 10365.5 states, "No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract." SCM Vol. 1, defines the term "consulting services" with respect to state contracts.

The requirements of Public Contract Code Section 10365.5 and this section are applicable to any IT contract that includes a consulting component as articulated in Public Contract Code Section 10430 (b)(1).

All IT solicitation documents that include a consulting component must include the language contained in 2.B6.4 and 2.B6.8 of this section. Amendments to contracts that incorporate a consulting component that was not part of the original solicitation document must also contain this language. A reference to these sections is not sufficient. The actual language should be reproduced and included in the solicitation document.

In addition, should a consultant establish or become aware of such a financial interest during the course of contract performance, the consultant must inform the state in writing within ten (10) working days. If, in the state’s judgment, the newly-established financial interest will jeopardize the objectivity of the recommendations, the state shall have the option of terminating the contract.

Failure to disclose a relevant financial interest on the part of a consultant will be deemed grounds for termination of the contract with all associated costs to be borne by the consultant and, in addition, the consultant may be excluded from participating in the state's bid processes for a period of up to thirty-six (36) months in accordance with Public Contract Code Section 12102(j).

### 2.E3.4 Exclusion for conflict of interest

No consultant shall be paid out of state funds for developing recommendations on the acquisition of IT goods or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or would otherwise directly and/or materially benefit from the state adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of state funds for developing recommendations on the disposal of state surplus IT products if that consultant would directly and/or materially benefit from state adoption of such recommendations.

### 2.E3.5 Advice process

Before determining to either reject a potential bidder or withhold an award of a contract a state department should analyze the issues considering the information provided in this manual and applicable statutes. Consultation with departmental counsel is strongly recommended. Further advice may be sought when a bidder is participating in a solicitation to provide services or goods under circumstances which might constitute a follow-on (subsequent) contract. The purpose of this advice is to facilitate an early determination to allow suppliers and departments to ascertain eligibility for proposed/pending procurements.

For contracts awarded by DGS, or pursuant to purchasing authority delegated by DGS, or which are subject to the approval of DGS, the Procurement and Contracting Officer of a contracting department or a potentially disqualified bidder may seek advice from the Deputy Director, Procurement Division, within ten (10) business days after a contracting opportunity is advertised or announced to bidders, typically through the issuance of an RFI or RFP, whichever occurs first. DGS may, in its discretion, consider requests made after the expiration of the time period. For its part, DGS will make every effort to provide an expeditious response. If the inquiry is from the contracting department, that department shall reimburse DGS for any costs associated for such review.  
The request for advice should be submitted to:  
Deputy Director  
Procurement Division  
707 Third Street, 2nd Floor  
West Sacramento, CA 95605  
FAX: (916) 375-4505  
  
Any documents submitted for review and any written advice of DGS shall be subject to the Public Records Act (GC section 6250 et seq.) and applicable exemptions thereto.  
  
The advice provided will be considered informal and not an official determination by DGS. The provision of this informal advice shall not constrain any subsequent determination under law, nor will DGS be restricted from the full exercise of its contract review responsibilities, including further review of issues related to Public Contract Code Section 10365.5 based on factors discovered by DGS subsequent to the initial determination.

Departments must document the procurement file with known suppliers that may not compete. In the event that no official consistent determination is made regarding a supplier’s ability to compete, departments must contact DGS/PAMS for advice regarding consistent application of the policy.

### 2.E3.6 Disclosure of financial interests

Proposals in response to state procurements for assistance in the preparation of feasibility studies or the development of recommendations for the acquisition of IT goods and/or services must disclose any financial interests (i.e., service contracts, OEM agreements, remarketing agreements, etc.) that may foreseeably allow the individual or organization submitting the proposal to materially benefit from the state’s adoption of a course of action recommended in the feasibility study or of the acquisition recommendations.

### 2.E3.7 IT equipment maintenance policies

IT equipment maintenance shall be performed by state personnel when the technical expertise is available and the service can be provided in a timely manner. If maintenance service is performed by private sector individuals or organizations, the services shall be acquired through the competitive bidding process, except as outlined below.

Public Contract Code Section 12102(a) states in part that “Acquisition of information technology goods and services shall be conducted through competitive means, except when the Director of General Services determines that (1) The goods and services proposed for acquisition are the only goods and services which can meet the state's need, or (2) The goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety.”

Maintenance contracts for any state-owned IT equipment which do not meet the conditions for noncompetitive justification or another exception must be competitively bid. See Chapter 4 for requirements for competitive bidding of maintenance contracts. These requirements are to be applied in the development of the maintenance specifications and the procurement document must contain the specifications.

### 2.E3.8 IT risk criteria guidelines and financial protection measures

The risk evaluation guidelines and financial protection measures have been developed to protect the best interest of the state pursuant to Public Contract Code Section 12112. These guidelines and protections are effective as of March 19, 2008 and must be applied to all IT goods and/or services solicitations valued at and above $1,000,000. Solicitations valued under $1,000,000 may comply with the risk evaluation guidelines and financial protection measures.

For additional information, refer to Chapter 4.

### 2.E3.9 Reporting IT projects, software licensing agreements and amendments to the legislature

Pursuant to the Budget Act, certain contracts associated with IT projects, statewide software licensing agreements, and associated amendments must be reported to the Legislature. With some exceptions, reporting must be made prior to entering into a contract or agreement that exceeds specific dollar thresholds approved for the project or the statewide software licensing business proposal. Control Section 11.00 and 11.10 reporting allows the Legislature an opportunity to review future funding obligations and enterprise license commitments before they are made.

For additional information, see Budget Letter 17-20 in Section G, [Resources,](#Resources2) at the end of this chapter.

## Topic 4 – Desktop and Mobile Computing Purchases

### 2.E4.0 Requirements

CDT delegates authority to acquire desktop and mobile computer goods to departments that (see SAM section 4989-4989.3):

* Have submitted acceptable Disaster Recovery Plans (DRP) or DRP certifications to CDT,
* Maintain compliance with all applicable state IT security provisions as defined in SAM section 4800, and
* Have appropriate plans for the use of desktop and mobile computing goods.

Under the Desktop and Mobile Computing Policy (DMCP) departments may acquire desktop and mobile computing goods necessary to support programmatic functions and business needs may be acquired.

This does not exclude departments from continuing to establish and maintain appropriate standards for the purchase of desktop and mobile computing goods.

### 2.E4.1 Allowed purchases

The DMCP includes the acquisition and support of:

* Personal computers
* Laptop computers
* Personal digital assistants
* Peripheral equipment (e.g., printers)
* Local Area Networks
* Other equipment and software commonly required for most state employees to perform daily business transactions.
* Software typically purchased and installed on a standard desktop or mobile computer such as:
  + Word processing
  + Spreadsheets
  + Desktop database
  + Other non-modifiable commercial-off-the-shelf (COTS)

See SAM section 4989.1-4989.3 for additional desktop and mobile computing information. Refer to Section G, [Resources,](#Resources2) at the end of this chapter for access to the SAM Manual.

### 2.E4.2 Excluded purchases

In accordance with SAM section 4989.2 the following activities are excluded from the DMCP and must be justified in accordance with SAM sections 4819.3 through 4819.42:

* IT Projects – as defined in SAM section 4819.2, beyond the acquisition, installation and operation of DMCP goods.
* Budget Actions – any acquisition, maintenance or support of desktop and mobile computing IT goods, which requires a Budget Change Proposal, a Budget Revision or other budget action.
* Specialized or single-purpose systems – such as computer-aided design systems, desktop publishing systems, programmer workbench systems or artificial intelligence systems.
* Infrastructure or platform migration – acquisitions associated with or mandated by a change in a department’s standard technical architecture for servers, desktops and/or mobile computing platforms. Migrating to a newer version within the existing standard’s product family is not considered an infrastructure or platform migration.
* Wide Area Networks (WAN) – acquisition, maintenance or support of desktop and mobile computing goods specifically to install or operate a WAN.

### 2.E4.3 File documentation

Purchases acquired under the DMCP for desktop and mobile computing equipment must include, within the procurement file, sufficient justification to support that the purchase was conducted in accordance with established hardware, software and security standards for desktop and mobile computing. The documentation supporting the purchase must also be uploaded into FI$Cal.

#### A statement of fact must be included for each purchase executed under the authority of the DMCP.

## Topic 5 – Certificate of Compliance with State IT Policies

### 2.E5.0 Certification of Compliance with State IT Policies

Pursuant to State Administrative Manual (SAM) Section 4819.41, a signed Certification of Compliance with IT Policies is required for all IT acquisitions of hardware, software, services and IT Interagency Agreements. A certification is not required for acquisitions less than $5,000.00.

State agencies are required to complete the certification form provided in the State Information Management Manual (SIMM) Section 71B and adhere to the preparation instructions provided in SIMM Section 71A. The SIMM is available on the California Department of Technology’s webpage.

The signed certification must be retained within the procurement file.

If the acquisition is being forwarded to DGS/PD for processing, a signed certification must be part of the submitted procurement package.

A certification must be included in requests to DGS/PD, such as requests to review and approve Non-Competitive Bid (NCB) Justifications and requests for transaction-based increases in IT purchasing authority.

# Section F

# Creating the Paper Trail

# Overview

# Introduction

It is absolutely essential to maintain good records and information relating to the decisions made during the initial planning phase. This is the beginning of establishing the paper trail that should continue throughout the procurement process from the department request through contract conclusion and closure.

## Topic 1 – Documenting the Decisions

### 2.F1.0 Documenting the decisions

As previously stated, planning the purchasing activity begins as soon as the department has identified a need.

Buyers should develop a strategy of how the procurement activity will be accomplished and document the rationale of what led to the decision.

### 2.F1.1 Provide the basis of the decisions

Buyers shall also describe how competition will be sought, promoted and sustained throughout the course of the purchasing activity. If open competition is not the method of choice, document the basis of the decision.

### 2.F1.2 Degree of detail

The degree of documentation detail is determined by the cost, risk, complexity and criticality of the purchasing activity.

Example:

If the selection of the purchase approach was dictated by time constraints, then appropriate notations in the procurement file should be made.

In simple terms, buyers should maintain a diary of the events and decisions that lead up to and complete the purchase transaction, providing a timeline and history of the actions and decisions made throughout the procurement process.

### 2.F1.3 Take notes

Buyers should make notations of meetings held and decisions made, and create a phone log to record phone conversations impacting the procurement effort.

Consistent, high quality file documentation helps the transaction to be easily understood by a reader who is unfamiliar with it and makes documents easy to locate.

### 2.F1.4 End result is a public record

Buyers should create and maintain their procurement records keeping in mind that all procurement records are public records subject to request and release to the requestor. Consequently, avoid typos, scratch outs, and personal notations not relevant to the procurement.

# Section G

# Resources

# *Chapter 2 Resources*

**A**

Acquisition Methods List [PDF](https://www.dgs.ca.gov/-/media/5F87AD580D944FB2A5EB260D77EC6461.ashx)

**B**

Budget Letters [Link to Webpage](http://www.dof.ca.gov/budget/Budget_Letters/)

**C**

CalHR, Policy Memo [Link to Webpage](http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx)

California Law [Link to Webpage](http://leginfo.legislature.ca.gov/faces/codes.xhtml)

California Regulatory Notice Register [Word](https://www.dgs.ca.gov/-/media/B1554E31CB1A4FB8A45B470C9AC5CB36.ashx)

CALPIA Exemption Request [Link to Webpage](https://www.calpia.ca.gov/about/doing-business-with-calpia/)

CDT Contact [Link to Webpage](https://cdt.ca.gov/project-approvals-and-oversight-contact/)

Certification of Compliance with state IT Policies [PDF](https://cdt.ca.gov/wp-content/uploads/2019/06/SIMM-71B-Certification.pdf)

Conservation, Department of [Link to Webpage](http://www.conservation.ca.gov/Index/Pages/Index.aspx)

California Civil Rights Laws Certification [Word](https://www.dgs.ca.gov/-/media/8FB4E76F852F4F829CB9EB58638F318D.ashx)

**D**

Darfur Contracting Act Certification [PDF](https://www.dgs.ca.gov/-/media/CBAFDC111B6C43B09496B8391E11F394.ashx)

DGS/PD Engineering Services [Link to Webpage](https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Request-Procurement-Engineering-Services)

DGS/PD Pharmaceutical Acquisitions Section [Link to Webpage](https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/California-Pharmaceutical-Collaborative-Overview)

DGS Real Estate Services Division [Link to Webpage](https://www.dgs.ca.gov/RESD/Resources/Page-Content/Real-Estate-Services-Division-Resources-List-Folder/Current-Bid-Opportunities-List)

**F**

Freight Rate Analysis Request link [Link to Webpage](https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Transportation-Management)

FI$Cal’s Job Aids/FAQ Webpage [Link to Webpage](https://fiscal.ca.gov/user-support/job-aids/)

**H**

Human Resources, Department of [Link to Webpage](http://www.calhr.ca.gov)

**I**

Iran Contracting Act Certification [PDF](https://www.dgs.ca.gov/-/media/B495FA7745BF41D9A85D19AD55CAE4B4.ashx)

**L**

Lease vs. Purchase Analysis form [PDF](https://www.dgs.ca.gov/-/media/4672FB8A10B446F6858EA09A19B98DCC.ashx)

Lease versus purchase analysis form as shown in SAM

section 3700 Appendices (A-1) [PDF](https://www.dgs.ca.gov/-/media/E95C03A5D5BF47E6A7BA254BE67162C7.ashx)

List of Ineligible Vendors [Link to Webpage](https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/List-of-Ineligible-Businesses)

**M**

Management Memo 11-01 *Cost Effective Reuse of Surplus Furniture* [PDF](https://www.dgs.ca.gov/-/media/Divisions/OSPPR/Memos/MM11_01.ashx?la=en&hash=0DE7467A676B316901A17A0FBB4E03C3348FAFEB)

Management Memo 13-01 State *Fleet Asset Oversight* [PDF](https://www.dgs.ca.gov/-/media/Divisions/OSPPR/Memos/MM13_01.ashx?la=en&hash=1544D3098619FD65AD6B7AF80D9C160574F87CAE)

**N**

Negotiation Process Guide [Contact PAU](mailto:PAMS@dgs.ca.gov)

**O**

OFAM Handbook [PDF](https://www.dgs.ca.gov/OFAM/Resources/Page-Content/Office-of-Fleet-and-Asset-Management-Resources-List-Folder/Guide-to-Resolving-Mobile-Equipment-Problems)

One-Time Acquisitions (OTA) Website [Link to Webpage](https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/One-Time-Acquisitions)

OTA’s Webpage - Submit FI$Cal Requisition [Link to Webpage](https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Submit-a-FI$Cal-Requisition-to-One-Time-Acquisitions)

**S**

Secretary of State Website [Link to Webpage](http://www.sos.ca.gov/archives/calrim/)

State Administrative Manual (SAM) [Link to Webpage](http://sam.dgs.ca.gov/)

Statewide Information Management Manual (SIMM) [Link to Webpage](https://cdt.ca.gov/policy/simm/)

Surface Mining and Reclamation Act certification form [Word](https://www.dgs.ca.gov/-/media/F35D90E55DFD497097B327D38D666D4F.ashx)

Surplus Property & Reutilization Program [Link to Webpage](https://www.dgs.ca.gov/OFAM/Services/Page-Content/Office-of-Fleet-and-Asset-Management-Services-List-Folder/Reutilize-State-owned-Personal-Property)

**T**

Tax Delinquents Lists

California Department of Tax and Fee Administration [Link to Webpage](https://www.cdtfa.ca.gov/taxes-and-fees/top500.htm)

Franchise Tax Board [Link to Webpage](https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/november-2018/top-500-delinquent-taxpayer-list.html)

Technology Letter 12-03 *Low Power Office Computing* [PDF](https://cdt.ca.gov/wp-content/uploads/2017/03/TL_12-3_Low_Power_Supersession_Final.pdf)

Template – 6611 Negotiation Process [Word](https://www.dgs.ca.gov/-/media/40A0249E8A4A4161BE03FC8FE504E356.ashx)

Transportation Management Unit [Link to Webpage](https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Transportation-Management)