Chapter 2

Procurement Planning

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## Chapter 2

## Procurement Planning

### Overview

### Introduction

The purpose of this chapter is twofold. The first is to describe the role of the buyer, including conduct, ethics and good business practices during and after the procurement process. The second is to describe the preliminary considerations and activities that ensure the success of any procurement effort. These considerations include determining that the transaction is appropriately classified as information technology, identifying pre-procurement approval requirements and processes, and selecting the appropriate acquisition approach for a purchase.

# Section A

# Getting Started

### Overview

### 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
* Pay attention to details.

### Contents

This section contains the following topics:

Topic 1 – The Buyer’s Role, See Page 6

Topic 2 – Gifts and Gratuities, See Page 7

## 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 and to place the State’s interest above their own interests. Additionally, buyers have a fiduciary responsibility to safeguard the States 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 State 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

GC 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. In accordance with GC section 19990(f) 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 (rev 3/11)

In accordance with the California State Constitution, Article 16, section 6, any gift of public funds is strictly prohibited. To not be considered gifts of public funds, all expenditures must support the department’s mission (function and purpose) and benefit the State.

This includes any advance payments or pre-payments made to a contractor before work has been performed or to a supplier before all products or services have been received. See Chapter 9 for additional information.

**Note:** Per the Governor’s memo 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 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, the agreement must be documented by execution of a purchase document.

### 2.A2.4 Consider before accepting

Before accepting any suppliers’ goods and/or services offered at no cost or obligation the perception of the acceptance to other suppliers must be considered, i.e., how does the department remain fair and impartial if a decision is eventually made to solicit the product?

**Warning:** If a decision is made to accept free equipment, the purchase document must state that by accepting the equipment at no cost, the State has no further obligations or hidden costs associated with acceptance.

# Section B

# Formulating the Acquisition Approach

### Overview

### 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 goods or services)
* What pre-procurement review and approvals are necessary either by State purchasing policies or departmental policies and procedures
* The most appropriate acquisition approach (i.e. competitive, noncompetitive, an existing source such as a leveraged procurement agreement [LPA] order)

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

### Contents

This section contains the following topics:

Topic 1 – Classifying the Purchase, See Page 10

Topic 2 – Understanding Information Technology Goods and Services, See Page 12

Topic 3 – Acquisition Planning, See Page 15

Topic 4 – Other Considerations Affecting the Planning Process, See Page 18

Topic 5 – Statement of Work (SOW), See Page 27

Topic 6 – Requirements Specific to IT Goods and/or Services, See Page 28

Topic 7 – Desktop and Mobile Computing Purchases, See Page 36

Topic 8 – Emergency Purchases, See Page 38

## Topic 1 – Classifying the Purchase

### 2.B1.0 Importance of properly classifying purchases

The ability to properly classify purchases enables correct execution of procurements:

* Apply the appropriate laws, regulations, policies, and procedures (e.g., selection of the correct solicitation type, identification of the correct advertising threshold)
* Identify whether or not the department has the applicable purchasing authority to conduct the purchase activity or if it requires purchase by DGS/PD
* Secure additional approvals and/or waivers as applicable

The impact of not correctly classifying a purchase may result in:

* Delaying a department’s program or project
* Waste of time and effort, ultimately wasting taxpayer money
* Loss of funding
* Disputes, protests, and/or lawsuits
* Illegal contracts

### 2.B1.1 Examples of IT purchases

IT goods and/or services are tangible products or services used mainly for information technology.

Examples:

Personal computers, mainframes, software development or independent verification and validation services. Refer to “Topic 2-Understanding Information Technology Goods and Services” of this chapter for additional information regarding IT goods and/or services.

### 2.B1.2 Determine the main purpose

When determining whether a contract is for IT, one must consider the predominant purpose or value of the activity, and whether information technology 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, e.g. contract to manage a health benefits program may utilize software and computer hardware to fulfill services required.

Example: A contract for installing cable for a local area network includes purchase of the wiring and plugs, but also includes installation. The primary value is getting the cable installed, so this would most likely be a service or Public Works contract if it were being done in a public structure.

### 2.B1.3 Example

Ten personal computer (PC) keyboards are purchased for replacement stock to issue when an existing keyboard fails. The purchase of PC keyboards is considered 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.

### 2.B1.4 Non-IT vs. IT

Many items require IT technologies to function, yet they may not be considered to be IT. If the item is determined to be a non-IT good, the transaction will be treated as a “non-IT good” and be acquired under non-IT goods purchasing laws. See SCM Vol. 2 for information on non-IT goods purchasing.

### 2.B1.5 Distinguishing IT goods from IT services

When determining if an acquisition is for IT goods only, 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? If the main value is an IT good with minimal or no IT services, it is handled as an IT good.
* What is the main value of the contract – the good or the service? If the main value is the IT service, the transaction should be treated as an IT service contract.

**Note**: Large-scale system integration projects do not need to be distinguished as either goods or services but the acquisition for such projects must be conducted using a value-effective approach.

### 2.B1.6 Example of IT goods vs. IT services

Example:

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.

### 2.B1.7 Help for classifying purchases

Departments that need assistance to determine the classification of a purchase 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: DGS/PD/PAMS
* Purchases conducted by DGS/PD: DGS/PD
* Purchases that may require a feasibility study report (FSR):

California Department of Technology (CDT)

**Note**: The ultimate decision for the classification of IT acquisition resides with DGS Deputy Director, Procurement Division.

## Topic 2 – Understanding Information Technology Goods and Services

### 2.B2.0 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:
* Feasibility study preparation
* 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.B2.1 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.B2.2 IT supplies

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

* Documents, i.e., standards and procedures manuals, contractor supplied systems documentation and educational or training manuals.
* Equipment supplies, i.e. 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.B2.3 IT goods not considered supplies

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

**Note**: 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.B2.4 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 3 – Acquisition Planning

### 2.B3.0 Start planning early

Acquisition planning commences with a legislated directive or when a concept or a need surfaces. It includes identification of what is needed, when it is needed, how it will be acquired and by whom, and determination of needed approvals (e.g., creation of a feasibility study report. 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 goods or IT 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).

**Note**: Departments are advised to involve DGS/PD early in the acquisition process regarding IT procurement strategy. Examples include when a feasibility study report is being created and prior to the creation of an Information Technology Procurement Plan (ITPP), before an evaluation or assessment methodology is formalized.

### 2.B3.1 Initial review

The first step in conducting a procurement is the initial review of a purchase request (purchase requisition, purchase estimate, 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 approval 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, Topics 1 - 8 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.B3.2 Legal participation

Legal participation should be sought as early in the project 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.B3.3 Acquisition approach to meet needs

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

* What is the Statement of Work (SOW)?
* Is the acquisition an emergency purchase as defined by PCC section 12102(a)(2)?
* Can civil servants, as opposed to private companies, satisfactorily perform the services?
* Can another State department provide the product or service through an interagency agreement or alternate contracting means?
* Does the purchase require the use of any mandatory purchasing processes such as use of existing telecommunications contracts?
* Is the request within the scope of the department’s approved purchasing authority?
* Can you consolidate other requests for like equipment into a single purchase?
* 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?
* What available purchasing approach can effectively meet the department’s needs at the least cost in terms of time and resources?
* Can the functional requirements of the request be met through an LPA (i.e., CMAS, Master Agreement, Statewide Contract or State Price Schedule)?
* Are there certified small businesses, microbusinesses or certified DVBEs that can be solicited to provide the IT good and/or service?
* Can the department’s procurement needs and purchasing goals both be met by conducting a small business (SB) and DVBE procurement based upon GC section 14838.5 (SB/DVBE Option)?
* Is there a known supplier market and can the acquisition best be met through open competition?
* 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?
* What risk factors are inherent to the purchase and what steps can be taken in advance to mitigate them?

### 2.B3.4 Hybrid RFP Procurement Process and Development

As warranted, and generally only for the most complex, risk sensitive IT procurements, DGS/PD will consider using a hybrid RFP procurement process that includes a mixture of techniques from the traditional ten section RFP process and some or all of the following elements:

* Accelerated RFP development sessions
* Solution based requirements
* Multiple proposal stages

Due to the complexity of the hybrid processes, only DGS/PD has the authority to conduct such procurements. Departments that wish to partner with DGS to use any of the elements of the hybrid RFP processes, including use of a multiple proposal stages approach, are encouraged to contact DGS/PD early to discuss their requirements.

For additional information on the hybrid RFP procurement process, refer to Chapter 4.

### 2.B3.5 Specifications development

Specifications (or the State’s needs) for procurements conducted using a Request for Proposals (RFP) are more general in nature than those used in Invitation for Bids. Rather than specifying a specific product design, an RFP describes a problem to be solved or the goal to be achieved thus allowing bidders to propose a solution.

### 2.B3.6 Specifications development assistance

DGS/PD Engineering Services is available to assist departments in providing technical knowledge and assistance in planning efforts and specification preparation.

Click here to access the [DGS/PD Engineering Services webpage](https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Request-Procurement-Engineering-Services).

## Topic 4 – Other Considerations Affecting the Planning Process

### 2.B4.0 Promotional materials

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

### 2.B4.1 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.B4.2 Installation of physical layer cable

Installation of physical layer cable (all electrical and mechanical aspects relating to the connection of a device to a transmission medium, i.e., connection of a workstation to a LAN) is considered 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.

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

### 2.B4.3 Contracted 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 GC section 19130 (a) or (b) are met.

GC 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.

GC section 19130 (b) permits contracting for personal services when any of the requirements of GC section 19130 (b) are met.

Contracts awarded on the basis of GC section 19130 (b) are subject to review at the request of an employee organization representing state employees.

* Departments must provide the designated exclusive representative copies of personal services contacts, RFPs, IFBs, STD. 215/agreement summary or the department’s equivalent that call for personal services found in the bargaining unit. The designated exclusive representatives are found in the Policy Memo - “Contracting Out Update” on [DPA’s website](http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx).
* When a department requests approval from DGS for a contract let under GC 19130(b), the department shall include with its contract transmittal a written justification (STD.215 or department’s equivalent form) that includes specific and detailed factual information that demonstrates how the contract meets one or more of the conditions specified in GC 19130(b) See the [State Personnel Board](http://www.spb.ca.gov/) webpage at www.spb.ca.gov.
* 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 GC 19130 in the event that the SPB’s review is requested. For standards of review see PCC 10337.

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

Click here to access [California Law](http://leginfo.legislature.ca.gov/faces/codes.xhtml).

### 2.B4.4 Leasing equipment

IT equipment may be acquired by departments 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.B4.5 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.  The terms of such contract should be equal to the predicted "contract or program life."

When such analyses indicate purchase is the least costly method, agencies 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.

Click here to access the Lease versus Purchase Analysis form. [Word](https://www.dgs.ca.gov/-/media/48851CA3279845ACA1A814DB1CD7322A.ashx) [PDF](https://www.dgs.ca.gov/-/media/E95C03A5D5BF47E6A7BA254BE67162C7.ashx)

Click here to access a legible copy of the [lease versus purchase analysis form](https://www.dgs.ca.gov/-/media/E95C03A5D5BF47E6A7BA254BE67162C7.ashx) as shown in SAM section 3700 Appendices (A-1).

**Note:** Use of any financing arrangement other than GS $Mart is prohibited without prior approval from Finance per Budget Letter 06-27. See Chapter 9, California’s Financial Marketplace.

### 2.B4.6 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.B4.7 Lease purchase financing

All State departments and tax funded agencies, i.e., local government, 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/PD’s financial marketplaces – “**GS $Mart®**” or “Lease $Mart**®**.”

See Chapter 9 for more information on the State of California’s Financial Marketplace.

### 2.B4.8 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.B4.9 Shipping charges

Shipping terms shall be determined during the acquisition planning phase. The preferred shipping method is “Free on Board” (FOB) Destination Freight Pre-paid (FRT. PPD) where the supplier is responsible for freight charges and costs as well as owning the goods while in transit.

Should it be determined that another method of shipping is more appropriate in meeting needs and the weight of the purchase is 100-lbs or more, then the Transportation Management Unit (TMU) shall be contacted to provide the cost of freight charges from pre-established shipping agreements. For purchases weighing less than 100 lbs., TMU need not be contacted.

**Note**: If shipping charges for purchases weighing less than 100 lbs. appear to be excessive (e.g., $500 for a 5 lb. package where the shipping charge is a percentage of the cost of the item being purchased), departments are encouraged to contact the TMU for help to obtain more appropriate pricing.

Refer to Chapter 4 - Competitive Solicitations and Chapter 8 – Purchase Documents for additional information.

Click here to access the [TMU web page](https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Transportation-Management).

### 2.B4.10 State contracts for IT goods and/or services, loss leader

Pursuant to PCC section 12104.5(b)(1) all RFPs for IT goods and/or services 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 an RFP even if the statement is inadvertently omitted from the RFP (PCC § 12104.5(b)(4)).

### 2.B4.11 Excluded acquisitions, loss leader

The following acquisitions do not require loss leader language:

* RFOs for acquisitions from Leveraged Procurement Agreements
* Acquisitions made using Fair and Reasonable method
* Acquisitions made using the SB/DVBE Option.

### 2.B4.12 Non-discrimination

Any employer who wishes to contract with the State for non-IT goods is subject to the provisions of GC 12990 relating to discrimination in employment. Contractors that do not meet the provisions of GC 12990 are not eligible to contract with the State for non-IT goods. Ineligible contractors can be found in the California Regulatory Notice Register. To access the California Regulatory Notice Register, use this [link](https://www.dgs.ca.gov/-/media/B1554E31CB1A4FB8A45B470C9AC5CB36.ashx).

### 2.B4.13 Exception

The requirements of GC 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.B4.15 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 the 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](https://www.dgs.ca.gov/-/media/Divisions/PD/PTCS/OPPL/Iran-Contracting-Act-List.ashx?la=en&hash=95E15BE0E8841A4AC8C2CD823C7D8EC0F1F58981) 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. This [sample](https://www.dgs.ca.gov/-/media/B495FA7745BF41D9A85D19AD55CAE4B4.ashx) or a similar code-compliant document should be used to satisfy the Act’s certification requirements. 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 PCC sections 2203(c) and (d) for additional information regarding the exceptions.

### 2.B4.16 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.

This [sample](https://www.dgs.ca.gov/-/media/8FB4E76F852F4F829CB9EB58638F318D.ashx) or a similar code-compliant document should be used to satisfy this certification requirement.

### 2.B4.17 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 IT goods and services. Any contract entered into in violation of section 10295.4 is void and unenforceable.

Prior to executing any state contract or renewal for IT goods and 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.

Public Contract Code 10295.4 provides no exceptions to these prohibitions.

The list established by FTB can be found on the [FTB webpage](https://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/index.html) at https://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/index.html.

The list established by CDTFA can be found [here](https://www.cdtfa.ca.gov/taxes-and-fees/top500.htm).

## Topic 5 – Statement of Work (SOW)

### 2.B5.0 Determining the need for an SOW

An SOW must be included for all IT service transactions and for IT goods transactions when appropriate. A full and complete SOW protects the State and the contractor by identifying and documenting the details of the work to be performed.

### 2.B5.1 What to include in an SOW

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

* A detailed statement of the purpose, objective or goals to be undertaken by the contractor
* The job classification or approximate skill level of the personnel to be made available by the contractor
* An identification of all significant material to be developed by the contractor and delivered to the State
* An identification of all significant materials to be delivered by the State to the contractor
* An estimated time schedule for the provision of these services by the contractor
* Completion criteria for the work to be performed
* An identification of maintenance that will be provided
* An identification of support that will be provided
* The name or identification of the contractor personnel to be assigned.
* The contractor’s work hours required to accomplish the purpose, objective or goals
* The contractor’s billing rates per work hour (as provided in the contract documentation)
* The cost per deliverable
* Invoice procedures
* Contractor’s total cost, including any applicable taxes
* Product specifications
* Description of when and where product is to be delivered
* Palletization requirements
* Delivery personnel requirements

### 2.B5.2 Additional Considerations for Cloud Computing

Additional considerations must be provided for when acquiring Cloud Computing services. Guidance has been developed to assist with identifying service level expectations and writing the SOW. You can access the Cloud Computing Contract Checklist for (SaaS) document [here](https://www.dgs.ca.gov/-/media/61D0CEB0ECBD49BEAC19A1F50EE6C8A0.ashx).

For additional tools and information, refer to the [DGS/PD Cloud Computing webpage.](https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Cloud-Computing-Policy)

## Topic 6 – Requirements Specific to IT Goods and/or Services

### 2.B6.0 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 the California Department of Technology (CDT).  Written approval of an exception must be received 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 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.B6.1 Low power office computing policy

When purchasing IT equipment, departments shall follow the Low Power Office Computing policy outlined in IT Policy Letter (ITPL)10-04. Click here to access ITPL [10-04](https://cdt.ca.gov/technology-letters/).

### 2.B6.2 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.

Click here to access the [IFB/RFP solicitation format](https://www.dgs.ca.gov/-/media/84A092A5A4254CA39D56AC385066AF44.ashx).

### 2.B6.3 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.

PCC 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 PCC section 10365.5 and this section are applicable to any IT contract that includes a consulting component as articulated in PCC 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 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 36 months in accordance with PCC section 12102(j).

### 2.B6.4 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.B6.5 Analysis of potential follow-on issues

An analysis of potential follow-on issues should be made and include consideration of the following factors.

Initial Contract

If the initial contract is not for consulting services, the prohibitions of PCC section 10365.5 do not apply.

Contract Type
In the lifecycle of a typical IT project there are no hard and fast rules; however, an evaluation of the initial contract type is a useful first step. The following are examples of what are typically or not typically considered consulting services:

* IT contracts typically considered a consulting services contract:
* Feasibility Study Report
* Strategic Planning and business process reengineering/improvement (not included in the lifecycle of an IT project)
* Maintenance and Operations
* IT contracts typically not considered a consulting services contract because the primary purpose is not to deliver services having characteristics outlined in PCC section 10335.5(a):
* Design Development and Implementation
* Project Management
* Independent Validation and Verification
* Independent Project Oversight Consultant
* IT contracts that require analysis of the specific details of the contract to determine whether it is a consulting services contract or not:
* Acquisition Specialist

**Note**: While the examples above are typically characterized as noted, analysis of contracts for purposes of the follow-on statute must be made on a case-by-case basis. The essential issue is what the contract delivers, not how it is labeled.

Evaluation of Work and Deliverables

In evaluating contracts on a case-by-case basis, the following questions may prove helpful.

* Are consulting services present?
* Does the contract call for services that are advisory in nature, providing a recommended course of action or personal expertise and having an end product that transmit information or analysis related to the governmental functions of a State department?

An analysis of the scope of work with these criteria in mind should suggest an answer.

Are the actions:

* Required, suggested, or otherwise deemed appropriate?
* Found in an end product or deliverable of the contract (PCC section 10365.5(a))?

If there is no “end product” or deliverable that has the characteristics of a consulting services contract, a follow-on situation will not exist.

Multipurpose Contract

The above does not cover situations where the initial contract is not primarily a consulting services contract, but includes work that is consulting services in nature in the contract’s deliverables. The statute is silent with regard to contracts that do not provide consulting services as the primary deliverable, but include them as a relative minor part of the contract. No definitions are provided, nor is there any other specific guidance.

In absence of specific statutory guidance, the primary or predominant purpose of the initial contract must be determined. PCC section 10335.5 provides some guidance. Is the primary or predominant purpose of the contract “advisory in nature;” does it “recommend a course of action or personal expertise”? Is the end product of the contract “basically a transmittal of information…related to the governmental functions of a state department?”

For example, in a large system implementation contract, the supplier’s principal work is to design a new data processing system. This contract would not reasonably be considered a consulting services contract even if, in the course of contract performance, the supplier makes recommendations regarding the new system which it is implementing.

Therefore, if the primary or predominant purpose of the initial contract is not that of a consulting services contract, a follow-on situation will not exist.

Although not based explicitly in statutory language, this approach is a reasonable attempt to meet the Legislature’s clear purpose to effectuate the State’s best interest in IT contracting, while guarding against the potential dangers inherent in the follow-on contracting situation.

**Note**: This is an administrative interpretation which has not been tested in the courts. Both contracting agencies and suppliers are urged to exercise caution in this area.

Subsequent Contract

If the initial contract is determined to be a consulting services contract, the analysis must turn to the causal relationship, if any, between the initial contract and the potential follow-on contract. The purpose of the causal inquiry is to determine whether there is sufficient link between the end product(s) of the first contract and the deliverable(s) to be procured by the second contract to warrant preclusion of the supplier that performed the first contract.

### 2.B6.6 Consider potential contracting opportunities

Since the determination of follow-on issues is dependent on the services rendered pursuant to the scope of the initial contract, care must be exercised in drafting the scope of services that are anticipated. The awarding department and potential bidders should give serious consideration at the time that an initial contract is being developed to whether there may be potential future contracting opportunities that could fall within the follow-on prohibitions. Solicitations for all consulting services contracts should advise of the application of PCC section 10365.5.

**Note**: Departments may determine, as part of the initial contract that subsequent project oversight services, such as Independent Validation and Verification (IV&V) and Independent Project Oversight Consultant (IPOC) services, shall be used and are not part of the deliverables on the initial contract, thus assuring that bidders in the initial contract may participate in bidding for oversight services without violating the prohibitions of Public Contract Code section 10365.5.

### 2.B6.7 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 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 PCC section 10365.5 based on factors discovered by DGS subsequent to the initial determination.

**Note**: 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.B6.8 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.B6.9 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.

PCC 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.B6.10 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 PCC 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.B6.11 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.

Refer to [Budget Letter 17-20](http://www.dof.ca.gov/budget/Budget_Letters/documents/BL17-20.pdf)  for details.

### 2.B6.12 Cloud Computing

The State Administrative Manual (SAM) Section 4819.2 provides definitions for three distinct Cloud Computing services:

* Cloud Software as a Service (SaaS)
* Cloud Platform as a Service (PaaS)
* Cloud Infrastructure as a Service (IaaS)

Requirements found in SAM 4983-4983.1must be followed when contracting for Cloud Computing services.

## Topic 7 – Desktop and Mobile Computing Purchases

### 2.B7.0 Requirements

CDT delegates authority in lieu of requiring submittal of a Feasibility Study Report (FSR) 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.

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

### 2.B7.1 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 for additional desktop and mobile computing definitions.

### 2.B7.2 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.B7.3 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.

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

## Topic 8 – Emergency Purchases

### 2.B8.0 Definition

An emergency as defined by PCC 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.”

Departments are not required to conduct competitive acquisition of IT goods and/or services when the determination has been made that IT 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 which ultimately effects how the purchase activity will be processed:

* An emergency purchase in response to a natural disaster, i.e. fire, flood, earthquake.

#### An emergency purchase not in response to a natural disaster.

### 2.B8.1 Required documentation

Regardless of the classification of the emergency, the procurement file must be documented and/or the following information 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.

### 2.B8.2 Responding to a natural disaster

The following provides the process for executing an emergency purchase in response to a natural disaster when a response requires immediate action. If the purchase activity:

* Is within a department’s authorized non-competitively bid (NCB) contract purchasing authority dollar threshold, proceed with the purchase:
* Document the circumstance of the emergency purchase.
* Issue the purchase document, identifying the department’s Purchasing Authority (PA) number in the PA number box on the purchase document.
* Exceeds a department’s authorized NCB contract purchasing authority threshold or if a department does not have delegated purchasing authority, proceed with the purchase:
* Document the circumstance of the emergency purchase.
* Issue the purchase document, leaving the PA number box on the purchase document blank.

### 2.B8.3 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 for IT goods and/or services, proceed with the purchase:
* Document the circumstance of the emergency purchase.
* Document names and quotations of suppliers contacted.
* Issue the purchase document, identifying the department’s PA number in the PA number box identified on purchase document.
* Exceeds a department’s authorized NCB contract purchasing authority threshold or if a department does not have delegated purchasing authority, proceed with the purchase:
* Contact DGS/PD immediately or within the next business day to provide the circumstance of the emergency at (916) 375-4381.
* DGS/PD contact will review the circumstance and if approved, assigns the transaction an Authorization to Exceed Monetary Limits (Form 42) number.
* Document the circumstance of the purchase.
* Record the Form 42 number in the PA number box on the purchase document prior to issuing the purchase document.

### 2.B8.4 Examples of IT emergency purchase

PCC section 12102(a)(2) allows for emergency purchases of IT goods and/or services where immediate acquisition is necessary for the protection of the public health, welfare, or safety.

* Example: 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 of a 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.

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

# Section C

# Pre-Procurement Reviews and Approvals

### Overview

### Introduction

As mentioned earlier in this chapter, 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.

### Contents

This section contains the following topics:

Topic 1 – Surplus Property Program, See Page 40

Topic 2 – Community-based Rehabilitation Program (CRP), See Page 42

Topic 3 – Information Technology, See Page 43

Topic 4 – Information Technology Procurement Plan, See Page 47

Topic 5 – Negotiation Process Guidelines and Procedures, See Page 49

Topic 6 – Certification of Compliance with State Policies (IT and Telecommunications), See Page 57

Topic 7 – Additional Pre-Procurement Reviews and Approvals, See Page 58

Topic 8 – Purchase Requisition, See Page 59

## Topic 1 – Surplus Property Program

### 2.C1.0 Transfer and disposal requirements for IT equipment

Following are rules for transfer and disposal of IT equipment (SAM section 5901, 5902 and 5903):

* 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 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.
* GC 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 department must receive approval from the DGS Property Reutilization Unit, prior to disposing of surplus IT equipment.
* Each department is responsible for ensuring that any residual value in surplus IT equipment is realized.  Each 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 department must submit a completed Property Survey Report (Standard Form [STD.] 152) to the DGS Property Reutilization Unit at least 30 days prior to the disposal of surplus IT equipment.  At the same time, the department must send an informational copy of the completed Property Survey Report to CDT.

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

### 2.C1.1 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 department is responsible for ensuring that any residual value in surplus IT supplies is realized.  Each department must comply with the State property accounting requirements described in SAM sections 8633 and 8640-8642 when disposing of surplus IT supplies.  The department must prepare and maintain a Property Survey Report (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 department.  The list and the bids received must be attached to the Property Survey Report.

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 department program having ownership responsibility for such information (SAM section 5320.2). See SAM section 5300 et seq. for detailed information on Information Security.

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

Contact the DGS SPR program at their facility in Sacramento:

Call: (916) 928-5800

Email: 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/Submit-your-Surplus-State-owned-Personal-Property).

### 2.C1.3 Electronic surplus property system

DGS has implemented an automated business management system to allow online web-based submission and approval of the following documentation:

* Property Survey Reports (STD.152),
* Transfer of Location of Equipment Reports (STD.158) and
* A real time listing of current property that is available at the National Drive warehouse.

Click here to access the [Surplus Property Program web page](https://www.dgs.ca.gov/OFAM/Services/Page-Content/Office-of-Fleet-and-Asset-Management-Services-List-Folder/Submit-your-Surplus-State-owned-Personal-Property).

## 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:**

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.

**Who Can Be Designated**

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

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 – Community-based Rehabilitation Program (CRP)

### 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.

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

## Topic 4 – Information Technology

### 2.C4.0 CDT approval of IT activities

GC section 11545 establishes 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 the required approvals from CDT BEFORE initiating any IT procurement activity or encumbering any funds.

Click here to access [SAM](http://sam.dgs.ca.gov/). See specifically SAM sections 4500 et seq.-telecommunications, 4800 et seq. – information technology, 4989 - Desktop and Mobile Equipment Computing Policy, 5200 – IT procurement (Note: 5200 was incorporated into this manual) and 6700 – 6780 IT expenditures.

Click here to access the [SIMM](https://cdt.ca.gov/policy/simm/) for additional information. Information.

### 2.C4.1 Project approval

The mechanisms to obtain approval for IT projects that provide the necessary authorization to acquire IT goods and/or services from CDT are listed below:

* Feasibility Study Reports (FSR): An FSR documents the results of a feasibility study conducted to address a business problem or opportunity, and identifies measurable business objectives and functional business requirements. The FSR is used to present the business case for investing in an information technology project. Once approved, the FSR establishes an agreement between the department and CDT as to how the project is to proceed. The FSR identifies the proposed solution’s logical and technical design requirements. It also establishes the requirements used to define the procurement documents that successful proposals from suppliers must meet.
* FSR for a Business-Based Procurement: An FSR for a business-based procurement differs from a typical FSR in that it does not include a proposed solution. Suppliers will propose the solution during the procurement process (i.e. no specific technical solution is required by the department). For those proposals that initially recommend a business-based procurement and the proposed technical solution is not determined in the FSR, the department must submit a Special Project Report to CDT for review and approval prior to contract award.
* Special Project Report (SPR): An SPR is a detailed project change proposal. An SPR is required any time a project changes in costs, benefits or schedule by ten percent or more (or other amount as determined by CDT), or if a significant change occurs in the project's scope or methodology. Approval of an SPR constitutes a new approval agreement between the department and CDT.
* Compliance with the DMCP (see Section B of this chapter)
* Post Implementation Evaluation Report (PIER) — A PIER is developed after the project has been completed and in production a sufficient period of time to assess its functionality and productivity (typically one year or one business cycle). Objectives, costs and benefits are compared against the estimates presented in the last approved project document (FSR or SPR). A PIER is the final reporting requirement for a project. Once the PIER is approved, the project is officially complete and the system is considered a production system (application).
* Identifying that a project or acquisition is excluded under SAM section 4819.32.

**Note**: There are other conditions to justify the acquisition of IT goods and/or services, and departments are advised to review SAM section 4819.32 to ensure procurement compliance

### 2.C4.2 CDT review of procurement documents

CDT may decide to review specifications in procurement documents before they are advertised to ensure that the specifications are consistent with the functional specifications and system design in the FSRs or SPRs for the projects.  CDT’s decision to review the procurement documents will be based on whether it believes projects require special oversight during the procurement process.  Procurement documents that CDT determines are subject to its oversight under this section may not be released until CDT has approved their release.  CDT will inform departments of its intention to review the procurement documents for a project in its approval letters for FSRs and SPRs.

### 2.C4.3 CDT’s 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](https://cdt.ca.gov/technology-letters/) notifications. If a department has questions about any of the TLs, contact the person noted in the TL or your [Department of Technology Manager](https://cdt.ca.gov/project-approvals-and-oversight-contact/).

### 2.C4.4 CDT’s telecommunication approvals

The purchase of public safety radio and related electronic equipment requires CDT’s technical review and approval prior to initiating a procurement activity. Radio and microwave equipment and services are not delegated.

Additionally, the use of the state consolidated network for voice and data services is mandatory unless a waiver is granted by CDT.

### 2.C4.5 Office of Technology Services, Statewide Telecommunications and Network Division contracts

Departments are required to use contracts issued by the Office of Technology Services (OTECH), Statewide Telecommunications and Network Division (STND) or mandatory-use strategically sourced LPAs issued by DGS/PD to obtain voice and data services. In particular, departments must use OTECH/STND contracts that offer voice, data, video and internet services.

### 2.C4.6 Personal communications device (PCD)

The use of LPA contracts issued by DGS 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.

### 2.C4.7 Desktop and mobile equipment

#### Refer to Section B of this chapter for information on desktop and mobile equipment purchases.

## Topic 5 – FSR Requirements for Information Technology Procurement Plan (ITPP)

### 2.C5.0 Purpose of the FSR/ITPP

The FSR/ITPP is the document used to provide information to assess a project’s readiness for procurement. The FSR/ITPP Sections 1-5 describe the overall strategy necessary to accomplish and manage an IT procurement by formally documenting the proposed approach and how the procurement satisfies State requirements.

### 2.C5.1 Department interface with PD

Departments are advised to involve DGS/PD early in the acquisition process regarding IT procurement strategy. DGS/PD should be consulted when an FSR/ITPP is being created that requires DGS/PD review and approval.

### 2.C5.2 Requirements to submit to DGS/PD

For DGS/PD to evaluate and approve a proposed IT procurement strategy, departments may be required to submit a copy of the FSR/ITPP Sections 1-5, to DGS/PD.

A copy of the FSR/ITPP Sections 1-5 is not required to be submitted to DGS/PD for review and approval if the estimated dollar value of an IT procurement is within the department’s purchasing authority dollar threshold for the applicable category (e.g. competitive, non-competitive, LPA), except as noted below in the last two bullets.

After approval of the FSR/ITPP by CDT and the Department of Finance. departments are required to submit a copy of the FSR/ITPP Sections 1-5 in the following instances:

* When the estimated dollar value of an IT procurement exceeds the department’s purchasing authority dollar threshold for the applicable category (e.g. competitive, non-competitive, LPA) and the estimated dollar value of the IT procurement is greater than $1,000,000.00. This includes all LPA procurements for IT goods and services. For Leveraged Procurement Agreement Exemption Requests (LPAER), a copy of the FSR/ITPP Sections 1-5 approval must be received before the department submits the LPAER to DGS/PD.
* For departments with delegated purchasing authority above $1,000,000.00, a copy of the FSR/ITPP Sections 1-5 is only required to be submitted to DGS/PD when it exceeds the department’s purchasing authority dollar threshold for the applicable category (e.g. competitive, non-competitive, LPA).
* When the department does not have applicable purchasing authority and the IT procurement exceeds $1,000,000.00.
* All IT procurements that CDT has assessed the Risk/Criticality as “high,” regardless of the dollar value.
* All competitive IT procurements that will use an RFP, regardless of the dollar value. Per PCC 12104(c), all RFPs for IT goods and services must be reviewed by DGS prior to release to the public.

### 2.C5.3 Requests for DGS/PD to conduct an IT procurement

DGS/PD conducts IT procurements for departments that do not have the applicable purchasing authority or when the IT procurement exceeds the department’s purchasing authority dollar threshold for the applicable category (e.g. competitive, LPA, NCB). When the estimated dollar value of the IT procurement exceeds $1,000,000.00, the department must provide a copy of the FSR/ITPP Sections 1-5 to DGS/PD for evaluation and approval before the department submits a requisition to DGS/PD to conduct the procurement.

### 2.C5.4 FSR/ITPP Approval is required

The FSR/ITPP Sections 1-5 must be approved by DGS/PD prior to the creation of any IT procurement documents (solicitation, Request for Offer, etc.). An IT acquisition cannot commence until the department receives the approval from DGS/PD. Approval is conveyed via a letter to the department.

### 2.C5.5 Where and how to submit

A copy of the FSR/ITPP Sections 1-5 must be submitted electronically to the following email address: TABFSRs@dgs.ca.gov.

It must be accompanied by a cover letter and associated documentation that authorizes the IT procurement (e.g., CDT’s approval letter, FSR, SPR). Authorizing documentation must be submitted to DGS/PD regardless of whether the project is reportable to CDT.

### 2.C5.6 Cover letter

The FSR/ITPP Sections 1-5 cover letter is to identify all accompanying documentation. The cover should also include a statement regarding the anticipated sensitivity of solicitation requirements. Sensitivity pertains to:

* Items that if disclosed might impact security or
* Items characterized as having a confidential nature

### 2.C5.7 FSR/ITPP Preparation Instructions

The FSR/ITPP instructions are located in the State Information Management Manual - [SIMM](https://cdt.ca.gov/policy/simm/).

## Topic 6 – Negotiation Process Guidelines and Procedures Under Public Contract Code 6611

### 2.C6.0 Authority over negotiations

Public Contract Code Section 6611 (PCC 6611) sections (a) and (b) set forth the conditions under which DGS may use negotiations for new and existing contracts and/or procurements.  PCC 6611(e) also allows 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. DGS has provided a Negotiation Process Guidefor IT goods & servicesunder PCC 6611. For procedures and guidelines related to non-IT services, see SCM Volume 1; for non-IT goods, see SCM Volume 2.

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

1. At the outset of a procurement,
2. During a competitive procurement, or
3. When no responsive bids are received

PCC 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 the CDT (for technology projects).  The actual negotiations will be conducted in partnership with the procuring agency.

DGS recommends that 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 PCC Section 6611(a) and developing the framework for the negotiation process.

### 2.C6.1 How to make a request to DGS

In order to implement negotiations pursuant to PCC Section 6611(a), using this [template](https://www.dgs.ca.gov/-/media/40A0249E8A4A4161BE03FC8FE504E356.ashx), 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 the Deputy Director Procurement Division, 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. The CDT may engage in negotiations as specified in PCC 6611(e) without making this request.

### 2.C6.2 Bases for negotiations PCC section 6611(a)

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

1. The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process (PCC 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 (GC) Section 19130.

1. 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 (PCC 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.

1. The complexity of the purpose or need suggests a bidder’s costs to prepare and develop a solicitation response are extremely high (PCC 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.

1. 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 (PCC 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.C6.3 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. Use the template in Section 2.C5.1 to request this negotiation.

**Note:** This Section is not intended to circumvent the NCB amendment process in Chapter 5.

### 2.C6.4 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. Departments are advised to ensure that all state participants are free from economic conflicts of interest before beginning work on a PCC 6611 negotiation project. See GC Section 81000 et seq. (Political Reform Act); see also GC Section 1090. Not all participants listed in the table below are required in all situations.

State 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):

* Ensures negotiations meet all applicable IT architecture, technical, and project standards.

Bidder Participant Role

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.C6.5 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.C5.1 above).
2. Craft a solicitation under the authority of PCC 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.C5.1 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.
	1. The solicitation may allow for evaluation of all bids, even bids that would not be responsive under the rules of PCC 12100 et seq. Alternatively, the solicitation may require that bids meet certain minimum criteria in order to be evaluated.
	2. Buyers may choose to establish an evaluation team to evaluate bids according to the methodology specified in the solicitation.
	3. Establish initial scores either via ranking, as a percentage of total possible points, or other method that clearly differentiates between each bid.
6. Negotiate.
	1. Follow the rules of the solicitation in negotiating with bidders.
	2. Negotiations may be completed after a single round, or may be done in several rounds.
	3. 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.
	4. 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.
	5. The state may establish a negotiation team to consist of representatives from DGS and the requesting department, and other state representatives as appropriate. The table in 2.C5.4 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.
	2. 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.
9. 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.
10. DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time.

### 2.C6.6 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.C5.1 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:
	1. Negotiate with all responsive, responsible bidders.
	2. Establish a competitive range based on bidders’ rankings following bid/proposal evaluations.
	3. 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.
3. Negotiate. See “Negotiate” (step 6) of Section 2.C5.5 above.
4. Final evaluation and award. Use one of the following options to make a final award:
5. 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.
6. 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.
7. 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.
8. DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time.

### 2.C6.7 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.C5.1. 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.C5.2 will apply.
2. If any responsive, responsible bids have been received, buyers must follow the procedures in 2.C5.5 or 2.C5.6.

### 2.C6.7 Procedure when no responsive bids are received (continued)

1. 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:
2. All firms that submitted a bid may participate.
3. Bidders within a competitive range may participate. Rankings may be established by using a percentage of required items and/or scoring non-mandatory items.
4. 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.
5. Negotiate. See “Negotiate” (step 6) of Section 2.C5.5 above.
6. Final evaluation and award. Use one of the following options to make a final award:
7. 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.
8. 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.
9. 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.

### 2.C6.8 Question & Answer Process

DGS or CDT, as applicable, may terminate negotiations and/or the solicitation at any time. PCC 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.

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## Topic 7 – Certificate of Compliance with State IT Policies

### 2.C7.0 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.

## Topic 8 – Additional Pre-Procurement Reviews and Approvals

### 2.C8.0 State personnel board (SPB)

Every personal services contract must be documented to support the need to contract out work. GC section 19130(b) establishes acceptable exemptions from the Civil Service provision of the California Constitution for the use of personal services contracts.

In accordance with GC section 19131, departments proposing to execute a personal services contract pursuant to GC section 19130(a) must notify the State Personnel Board (SPB) of its intention prior to contract award.

Click here to access the [SPB web site](http://www.spb.ca.gov/).

### 2.C8.1 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 DGS California Records and Information Management (CalRIM) manual.

Click here to access the [DGS/OSP State Records Center](https://www.dgs.ca.gov/OSP/Services/Page-Content/Office-of-State-Publishing-Services-List-Folder/Records-Storage).

### 2.C8.2 NCB requirements

See Chapter 5 of this manual.

## Topic 9 – Purchase Requisition

### 2.C9.0 General use of the purchase estimate (STD. 66)

The Purchase Estimate (STD. 66) is the standard requisition used by departments to request DGS/PD conduct competitive and/or non-competitive informal procurements of IT goods and/or services.

**Note**: For formal procurements requests for DGS/PD to conduct the acquisition, instead of the STD. 66 submit a memorandum to DGS/PD. In some situations, prior to issuance of the purchase document, DGS/PD may subsequently request a STD. 66.

### 2.C9.1 STD. 66 instructions

Refer to the instructions provided on the last page of the STD. 66 to ensure complete and accurate information is provided. If you need help completing the form refer to the Purchase Estimate Preparation Check List on the DGS/PD website.

[Click](https://www.dgs.ca.gov/-/media/939B0FCFF6EE47B285B21588CC8D512B.ashx) here for the Purchase Estimate Preparation Check List

[Click](http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std066.pdf) here for the Purchase Estimate (PE) (STD. 66).

### 2.C9.2 Where to send the STD. 66

The completed STD. 66 should be submitted to DGS/PD a minimum of 45 days prior to the anticipated delivery date and may be sent electronically, by hardcopy or facsimile as follows:

* + Attach it to an e-mail and send it to iau@dgs.ca.gov
	+ (Additional descriptive information and specifications may be attached.)
	+ Fax the form to (916) 376-6315
	+ Mail a copy to:

DGS/Procurement Division
Attn: Intake and Analysis Unit
707 3rd Street, 2nd Floor
West Sacramento, Ca. 95605

**Note**: Receipt of Purchase Estimates for fiscal year end deadlines may be different.

### 2.C9.3 Amendments

The Purchase Order/Estimate Change Request (STD. 96) is used to request a change to a Purchase Estimate (STD. 66) submitted to DGS/PD or to a purchase order issued by DGS/PD.

The STD. 96 may not be used to create an amendment to an IT transaction executed on a STD. 65.

Click here for the [Purchase Order/Estimate Change Request](https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std096.pdf) (STD. 96) (Also, see Chapter 8, for further information on amending purchase documents.)

# Section D

# 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.

### Contents

This section contains the following topic:

Topic 1 – Documenting the Decisions, See Page 60

## Topic 1 – Documenting the Decisions

### 2.D1.0 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.D1.1 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.D1.2 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.D1.3 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.

Click here to access a sample discussion note form. [Word](https://www.dgs.ca.gov/-/media/87F2010C03A34D3C8729FA83A74C13C1.ashx)

### 2.D1.4 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.