

State of Georgia Department of Administrative Services State Purchasing Division

Official Announcement # 21-02

- **FROM:** Lisa Eason, Deputy Commissioner, DOAS \mathcal{LE}
- **DATE:** August 31, 2020
 - **TO:** State of Georgia Procurement Professionals

RE: Revised Georgia Procurement Manual

The State Purchasing Division (SPD) is pleased to announce updates to the <u>Georgia Procurement</u> <u>Manual (GPM)</u> as outlined below and the attached Summary of GPM Changes Table. All revisions are effective as of the issue date of this Official Announcement unless otherwise stated within the Georgia Procurement Manual and attached Summary of GPM Changes Table.

- Revise Supplier Protest Procedures: SPD has revised the supplier protest procedures as further described in GPM Section 6.5 "Step 4 – Supplier Participates in Protest Process." A courtesy notice has been included in updated versions of the Notice of Intent to Award (SPD-AP004), Notice of Award (SPD-AP005) and RFQC List of Qualified Contractors (SPD-AP008). Please use these <u>updated versions</u> effective immediately.
- 2. **Revise Supplier Suspension and Debarment Procedures:** SPD has revised the supplier suspension and debarment procedures as further described in GPM Section 7.7.4 "Suspension and Debarment."
- 3. Adopt Supplier Debriefing Policy: SPD is adopting a supplier debriefing policy to be effective for all competitive solicitations posted on or after **November 1, 2020** resulting in contract award valued at \$250,000 or more that meet the requirements of GPM Section 6.6 "Supplier Debriefing Process."
- 4. Additional Updates: Additional updates to the GPM include: (a) clarifications to the Official Announcement process; (b) revision to Table 1.3 "Select Exemptions from the State Purchasing Act"; (c) updated contact information to GPM Section 1.3.6.1. "Construction or Public Works"; and more as further described in the attached Summary of GPM Changes Table.
- 5. **Conduct General Clean-Up:** SPD has updated the Title Page and Signature Page, corrected certain typographical errors and repaired broken web links.

SPD will conduct webinars to review these changes. Please distribute this Official Announcement internally. For any questions related to this Official Announcement, please contact SPD at process.improvement@doas.ga.gov.



Summary of Georgia Procurement Manual (GPM) Changes August 31, 2020

NOTE: This table summarizes changes to the GPM. Please reference the <u>GPM</u> for the official version of the Department of Administrative Services (DOAS) State Purchasing Division (SPD) policy. In the event of any conflict between this Summary of GPM Changes Table and the GPM, the GPM shall govern.

GPM Section	Description of Change
Cover and Signature Pages	
Updated DOAS motto, release date and 0	Commissioner signature line
Introduction and General Overview	
Section I.1.5. Revisions to the Manual	Clarify that issuance of an Official Announcement is sufficient to accomplish a revision to the GPM and that SPD will publish a new version of the manual periodically to incorporate policy revisions announced through previous Official Announcements. See revised language below: "Any revisions to the GPM will be accomplished through issuance of an Official Announcement, which will specify the effective date of the policy revisions. Periodically, SPD will publish a new version of this manual to incorporate policy revisions announced through previous Official Announcements."
Section I.3.4. Eligibility for State Contracts	 Expand examples of non-responsible suppliers to include suppliers that are suspended, debarred or declared ineligible by any governmental entity (federal, state or local). Clarify that suppliers <u>must</u> be prepared to provide accurate and prompt information to state entities' requests for information

GPM Section	Description of Change	
Chapter 1: Stage 1 – Need Identification		
Section 1.2.1.2. Partial Exemption, Table 1.3 "Select Exemptions from the State Purchasing Act – Factors 1 + 3: Identity of Purchaser and What is Being		emption for the Georgia Department of Human children in the care of custody of the Division of Family elow:
Procured"	Department of Human Services (DHS)	Contracts for the purchase of placements for children in the care or custody of the Division of Family and Children Services of the Department of Human Services as further described in O.C.A.A. Section 50-5-69(f)
Section 1.3.6.1. Construction or Public Works, Table 1.10 "GSFIC Contact Information"	Update Table 1.10 with current contact inform Commission (GSFIC):	nation for the Georgia State Finance and Investment
		Table 1.10 Contact Information
	Website Address	https://gsfic.georgia.gov/
	Phone Number	GSFIC Procurement Services Office 404-463-5600
Chapter 5: Stage 5 – Evaluation Proce	ss	
Section 5.6.2.2. Responsible	Expand examples of non-responsible supplie or declared ineligible by any governmental en	ers to include suppliers that are suspended, debarred ntity (federal, state or local).
Chapter 6: Stage 6 – Award Process	1	
Section 6.3.1. Purchase Order	Purchase Order Policy for guidance on the u	Manual and add reference to the current Statewide se of purchase orders. Clarify that purchase orders n-Team Georgia Marketplace™ users, purchase

must reference the contract number. For non-Team Georgia Marketplace™ users, purchase orders should reflect the contract number in the PO reference field. Revised language includes the following:
"The State Accounting Office (SAO) maintains the Statewide Purchase Order Policy, which offers guidance to state entities on when a purchase order is expected in the procurement

GPM Section	Description of Change	
	of goods and services. All state entity contracts, statewide contracts, and interagency agreements should also be procured consistent with this Statewide Purchase Order Policy." "When utilizing a statewide contract or state entity contract for a purchase, each purchase order must reference the contract number whether the purchase is sourced from a catalog or not." "For non-Team Georgia Marketplace™ users, Purchase Orders should reflect the contract number in the PO reference field."	
Section 6.3.1.2. Purchase Type Codes, Table 6.6 "Purchase Type Codes"	Revise Table 6.6 "Purchase Type Codes" related to the requirement to specify the specific exemption being claimed. Revised language highlighted below: Table 6.6 Purchase Type Codes	
	EXM Exempt State entity's purchase of goods/services for which competitive bidding requirements have been waived (See Table 1.6). EXM may also be used to designate purchases which are exempt from the State Purchasing Act (See Table 1.2, Table 1.3, Table 1.4, Table 1.5, and Section 1.2.4.) if permitted by the state entity's internal policy. NOTE: Specific exemption being claimed must be identified in the PO comment field if the use of Exempt NIGP Codes is not applicable.	
Section 6.5. Step 4 – Supplier Participates in Protest Process	Add the following language:"There is no such thing as a perfect procurement. Thus, a protestor must show prejudice, not mere error, for not every error compels the rejection of an award. Rather, it is the significance of errors in the procurement process that determines whether the overturning of an award is appropriate, and it is the protestor who bears the burden of proving error in the procurement process sufficient to justify relief."Revise the general principles that apply to the review of protests as follows:	

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	 Added: "In order to demonstrate that a state entity's evaluation was improper, a protester cannot merely suggest alternative methodologies or conclusions; it is required to establish that the state entity's actual evaluation lacked a reasonable basis." Revised: "Governmental officials and state entities are presumed to act in good faith, and a protester's contention that procurement officials, including but not limited to procurement personnel and evaluation team members, are motivated by bias or bad faith must be will not be considered unless supported by convincing proof." Revised: "The manner and depth of a state entity's price analysis is a matter within the sound exercise of the state entity's discretion. Interested suppliers may not challenge the realism of a potential awardee's price, such as arguing that whether a supplier's price is so low that it reflects a lack of understanding of the state entity's requirements, but only to the extent that such requirements are not overly restrictive." Deleted: "State entities maintain discretion in establishing their requiremente, but only to the extent that such requirements are not overly restrictive." Added: "A state entity maintains discretion to determine its needs and the best method to accommodate them and the responsibility for drafting proper specifications that reflect the State's needs is the procuring entity's. However, those needs must be specified in a manner designed to achieve full and open competition. Where a protester alleges that performance is impossible, DOAS will not substitute its judgment for that of the procuring entity or sustain the protest in the absence of clear and convincing evidence that the specifications are in fact impossible to meet or unduly restrict competition. Where a requirement reflects a procuring entity's minimum needs, the fact that the protester will be unable to meet the requirement does not establish that the specifications are impossible to meet or tha

GPM Section	Description of Change
	 whether the protester would have submitted a different offer that would have had a reasonable possibility of being selected for award or that it could have done something else to improve its chances for award had it known that the state entity would waive the requirement." Added: "If a state entity's improper deviation from the solicitation equally affects all suppliers, then it causes prejudice to none. In the event that the deviation restricted competition in a material manner, DOAS may determine that such deviation is impermissible."
Section 6.5.4. Sole Source and Consortia Notice Protest Review	Adopt same process for reviewing Consortia Notice Protests as applies to Sole Source Challenges
Process	6.5.4. Sole Source Challenges and Consortia Notice Protest Review Process "Upon initial receipt of a timely-filed protest regarding a sole source <u>or proposed</u> <u>consortia/cooperative procurement</u> , DOAS will forward such protest to the APO/CUPO for initial consideration. During the consideration of the protest, the APO/CUPO may provide additional information to the supplier regarding the goods/services that the state entity is seeking to procure and/or request additional information from the supplier in order to understand whether the protesting party is able to meet the state entity's requirements. Sole source and consortia/cooperative procurement challenges can be resolved at any time by either 1) the APO/CUPO contacting DOAS and providing notification of the cancellation of the sole source <u>or consortia/cooperative procurement</u> ; or 2) the protesting party submitting a written request to withdraw its protest to DOAS. In the event the APO/CUPO determines that the protest will not be resolved by cancellation or withdrawal, the APO/CUPO will notify DOAS that review of the protest by the Deputy Commissioner of State Purchasing is required. Such notification shall be sent by the APO/CUPO to <u>protests@doas.ga.gov</u> ."
Section 6.5.6. Filing Protests	Establish that filing process is via email only at protests@doas.ga.gov
Section 6.5.9 Protest Resolution	Add the following language: "In the event that a solicitation, a sole source notice, or a consortia/cooperative notice is cancelled by a procuring entity prior to issuance of a decision, the protest will be deemed moot and no further action will be taken by DOAS regarding the protest."
Section 6.5.11 Request for Formal Review/Appeal Process	Establish that filing process is via email only at protests@doas.ga.gov

GPM Section	Description of Change
	 Establish that the protesting party requesting that the hearing be conducted before a court reporter must secure the court reporting services (in addition to paying for the cost of such services) Establish that and no motion for reconsideration shall be considered following the Commissioner's decision
Section 6.6. Supplier Debriefing Process NEW	Adopt supplier debriefing process and establish effective date as follows: "The following provisions governing the supplier debriefing process shall be applicable to all solicitations posted on or after November 1, 2020 that meet the requirements below."
	"The purpose of a supplier debriefing is to share information about the evaluation and award process. Suppliers can benefit from supplier debriefings by enhancing their understanding of the procurement process and gaining insights to improve the competitiveness of their responses to future solicitations. The supplier debriefing is not an adversarial proceeding and may not be used to challenge the state entity's selection and award process. Any challenge to the procurement process must be filed in accordance with Section 6.5. Step 4 – Supplier Participates in Protest Process."
Section 6.6.1. Scope and Application of the Supplier Debriefing Process <i>NEW</i>	Establish scope and application for supplier debriefing process as follows: 6.6.1 Scope and Application of the Supplier Debriefing Process "The supplier debriefing process is available, upon request, to any supplier who submitted an unsuccessful response to a competitive solicitation resulting in contract award valued at \$250,000 or more. The supplier debriefing process is not applicable to Requests for Information, sole source notices, consortia notices, or standard Request for Qualified Contractors used for prequalification only.
	The general scope of the supplier debriefing may include an overview of the solicitation process, the selection criteria, the unsuccessful supplier's evaluation results and the strengths and weaknesses of the unsuccessful supplier's response. The debriefing shall not include point-by-point comparisons of the debriefed supplier's response with those of other participating suppliers. The state entity, at its discretion, may also solicit feedback from the unsuccessful supplier regarding the procurement process."

GPM Section	Description of Change
GPM Section Section 6.6.2. Process for Requesting and Conducting Supplier Debriefings <i>NEW</i>	 Establish process for requesting and conducting supplier debriefings as follows: 6.6.2 Process for Requesting and Conducting Supplier Debriefings "The unsuccessful supplier must submit a written request for debriefing to the issuing officer within fifteen (15) calendar days of the state entity's posting of a Notice of Award. The Issuing Officer may share the request with the APO/CUPO as appropriate. If a timely request is received which meets the requirements of Section 6.6.1, the state entity will acknowledge receipt of the request and notify the supplier of the following: scope of the debriefing; the format for conducting the debriefing, which may include conducting the debriefing in writing, by phone, through virtual technology, or through a face-to-face meeting at the state entity's sole discretion; and,
	 the date, time and place (as applicable) for the debriefing. Whenever possible, the state entity should attempt to conduct the supplier debriefing within thirty (30) days of the written request but only upon completion of the protest process and resolution of any related litigation. The supplier debriefing may be performed by the issuing officer or APO/CUPO and may include other state entity representatives as appropriate who are knowledgeable of the procurement. Upon receipt of the state entity's communication, the supplier must acknowledge receipt of the state entity's notice via email within three (3) business days and, if a debriefing will be granted: confirm its intention to participate in the supplier debriefing session; and
	 notify the state entity of the supplier's representatives that will participate. As the supplier debriefing is not a hearing, no legal representation is required. However, if the supplier prefers to have legal representation present, the supplier must notify the state entity in advance and identify its attorney. Requests for supplier debriefing that are not timely submitted or concern solicitations not within the scope of Section 6.6.1 may be granted by the state entity at its sole discretion."
6.6.3. Documentation of Supplier Debriefings <i>NEW</i>	Specify how documentation of supplier debriefings is handled: 6.6.3 Documentation of Supplier Debriefings

GPM Section	Description of Change
	"Documentation of the supplier debriefing should be maintained by the state entity as part of the procurement files. Documentation of the debriefing process includes, but is not limited to, the supplier's request, state entity's response and any other related correspondence, meeting agenda, list of individuals attending the meeting, any written documents provided to the supplier, any notes taken during the debriefing, etc. A supplier's request to receive procurement records as part of the debriefing process will be handled in accordance with the Georgia Open Records Act."
Chapter 7: Stage 7 – Contract Process	
Section 7.7.2. Supplier Performance Review	Update URL for Supplier Performance Report System to: https://service.doas.ga.gov/app/answers/detailopa/a_id/1075
Section 7.7.4. Suspension and Debarment	 Revise application of suspension and debarment process to include "an individual, supplier, supplier's affiliate(s), supplier's subcontractor(s), successor company, or any combination of the foregoing" Expand violations of contract provisions so series as to justify debarment action to include "deliberate failure to remit administrative fees in accordance with the terms of a statewide contract with SPD"
Section 7.7.4.1. Request for Debarment	 In addition to the State Entity's APO/CUPO, establish that that any of the following may submit a request for debarment: "SPD staff member; or a representative of the State of Georgia Office of Inspector General, State Ethics Commission or other applicable state entity." Establish submission process for written requests to be submitted via email to protests@doas.ga.gov Clarify that DOAS does not maintain statutory authority to review requests for debarment relating to procurements conducted by entities that are not subject to the State Purchasing Act. Examples listed in Section 7.7.4.1. Clarify that GSFIC's debarment procedures apply to procurements conducted by GSFIC.
Section 7.7.4.2. Suspension Procedures	 Establish that the SPD Deputy Commissioner may consult with SPD staff, the Attorney General's Office or other state entity representatives (in addition to the other individuals listed in Section 7.7.4.2) in determining whether probably cause exists for debarment. Establish that a suspended supplier shall be ineligible for consideration as a prime contractor or a subcontractor for award of any new contracts.

GPM Section	Description of Change
Section 7.7.4.3. Effect of Decision to Suspend	Establish that the suspension period may be ended upon the supplier's completion of mitigation actions as further described in Section 7.7.4.8.
Section 7.7.4.6. Determination of Hearing Officer – Final Decision	 Establish that the supplier's debarment period shall be, at a minimum, six months. Specify that debarment decision will state the "extent to which existing contracts will be voided or cancelled"
Section 7.7.4.7. Effect of Decision to Debar	Add the following additional language:"During the debarment period, the supplier is ineligible for consideration of any contract award, whether as a prime contractor or subcontractor. Existing contracts will continue unless specifically stated otherwise in the debarment decision; however, state entities will not add new work, exercise renewal options or otherwise extend the duration of current contracts to
Section 7.7.4.8. Mitigation NEW	Add new section identifying process for supplier to mitigate, to the extent possible, the cause(s) of the proposed debarment. New language is as follows: "At any time during the suspension period, the suspended supplier may submit a proposed plan to cure or mitigate, to the extent possible, the cause(s) of the proposed debarment. The proposed plan must identify specific actions to be completed, dates for completion, and any other relevant information, and be submitted in writing to the State Purchasing Division Deputy Commissioner. If acceptable to the State Purchasing Division Deputy Commissioner and the requestor, then the supplier will be provided an opportunity to complete the proposed plan within a period of time specified by the State Purchasing Division Deputy Director, during which time the supplier shall remain suspended. Within the timeframe(s) specified within the approved plan, the supplier shall provide a written report and other documentation of the supplier's progress in completing all identified actions. The State Purchasing Division Deputy Director shall review the supplier's written reports and make a written determination as to whether the mitigation plan has been successfully completed within the agreed upon timeframe.

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	Upon the State Purchasing Division Deputy Director's written determination that the mitigation plan has been successfully completed, the suspension shall be lifted. If the State Purchasing Division Deputy Director makes a written determination that the mitigation plan has not been successfully completed, the debarment proceedings shall resume."
Section 7.7.4.9. Appeal	 In addition to supplier, establish ability for requestor to appeal the debarment decision Establish that the appeal must be in "writing and identify any errors in the debarment decision as well as the factual and legal grounds upon which reversal or modification of the decision is warranted." Clarify that 10 day filing period is 10 calendar days Establish process for appeals to be submitted via email to protests@doas.ga.gov Specify that the DOAS Commissioner "will make a decision on the appeal as expeditiously as possible after receiving all relevant requested information"
Chapter 8: Operational	
Section 8.2.1. APO/CUPO Responsibilities	 Deleted the reference to an annual self-audit, as no longer mandatory. Providing an annual self-audit and spend analysis report to SPD. Four (4) quarterly self- audit results can be submitted annually in lieu of one annual report.
Global Edits	
Update certain web links ar	nd correct certain typographical errors