



# Guide for Doing Business with the State of New Mexico



## State Purchasing Agent

This guide will help you better understand the State's purchasing system and aid you in becoming a more active participant.

This guide will tell you:

- **What you should know about us**
- **What we need to know about you**
- **What we must do to work together**

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# Guide for Doing Business

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# GENERAL SERVICES DEPARTMENT

## STATE PURCHASING DIVISION

### Guide for Doing Business with the State of New Mexico

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## Introduction

You are invited to join the many other businesses currently providing goods and services to New Mexico State Government through the General Services Department State Purchasing Division.

In addition to excellent procurement staff support, the State Purchasing Division also provides special assistance to small businesses to ensure that such businesses have an equitable opportunity to compete for the State of New Mexico business.

Doing business with the State may be easier than you think. We have developed this guide to encourage, direct and assist you in doing business with State government.

In our travels around the State and meeting with business people like you, a number of questions are continually repeated. This guide should answer a lot of those questions.

We hope that this guide will help you better understand the State's purchasing system and aid you in becoming a more active participant.

This guide will tell you:

- **What you should know about us**
- **What we need to know about you**
- **What we must do to work together**

Selling goods and services to the State of New Mexico is very much a "two way street" where the taxpayers of New Mexico are willing to pay for jobs well done. State government cannot operate without the goods and services of private businesses. Through your participation in the open competition for sales, we benefit from improved quality at lower prices. We hope that your new market will result in sales. If you decide to bid, by law, we cannot help you prepare your bid. We can, however, answer questions to help you better understand what is required.

## Getting on the Bid List

As the bidders' list is typically the source from which State Purchasing solicits, it is imperative that a bid list be sought and achieved.

One of the first steps a vendor who is interested in doing business with the State of New Mexico should take is to register those commodities or services in which you wish to be considered for contract award(s) with the State Purchasing Division and paying the necessary registration fee.

By registering and paying the fee you will automatically receive notification of available Invitations for Bid/Proposals as this office receives them from the using agencies.

There has been confusion on why the State should charge a fee for being put on the bid list. The following statute from the 1984 Laws of New Mexico, as amended should provide an adequate explanation:

**Section 13-1-104, "the State Purchasing Agent shall send copies of the notice of Invitation for Bids involving the expenditure of more than twenty thousand dollars (\$20,000.00) to those businesses who have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services, and have paid any required fees. Such fees shall be related to the actual direct cost of furnishing copies of the notice of Invitation to Bid to the prospective bidders."**

The Vendors Application for Registration, with instructions, is available for download from the State Purchasing Division web site at [www.generalservices.state.nm.us/spd](http://www.generalservices.state.nm.us/spd).

Carefully review the detailed Commodity Codes to identify the eight-digit number(s) that describe the products and/or services you can provide. You should register only in those categories which offer you a good potential for business.

Return the completed, signed application along with your registration fee to the State Purchasing Division. Once the application is returned, it will be reviewed by State Purchasing staff. Assuming all information requested has been provided, your name will be added to the appropriate bidders' list for the commodities and/or services you have noted. From that point, as requests for purchases are received in the particular areas you have registered in, you will automatically receive a notice of available Requests for Bids/Proposals that you may download from this web site.

Getting on the bid list will not automatically result in you winning contracts. You, the vendor, must sell to the State as you would to any other customer. The most successful vendors are

those that best understand the system, know their product or service, and know how to market their product or service and work diligently to sell their product or service.

**NOTE 1:** Being on the bid list is optional. You DO NOT have to be on the list to sell to the state.

**NOTE 2:** Unlike other bid lists, failure to respond to bids received does not jeopardize a vendor's standing on the State of New Mexico's bidders list. Your registration fee entitles you to receive bid information for one year. You are asked not to respond with a no-bid.

## What Does the State of New Mexico Purchase?

The State of New Mexico purchases a wide variety of products and services ranging from cars, trucks and bookmobiles, to architectural services, buildings, and museum exhibits, to pharmaceuticals, brain injury services, and support services for victims of crimes.

The State purchases almost two (2) billion dollars of goods and services each year and must ensure that each dollar is spent fairly and transparently in accordance with the New Mexico Procurement Code.

Whether an Agency needs pencils or a supercomputer, the State Procurement Code governs the action to ensure the tax dollars are spent responsibly, in a manner that ensures fair and open competition, or proper justification is documented when competition is not available.

## How We Buy – Techniques

**State Government uses two (2) techniques in its purchasing: Term Contract and Open Market**

A **Term Contract** purchase is for items in great demand throughout the year. Vehicles, tires, and office equipment, are some examples of the vast number of term contracts issued. These contracts are generally let for one (1) year only.

An **Open Market** purchase is for a onetime purchase. State agencies request these purchases when the value exceeds their small purchase authority of \$1,500.00.

**There are three (3) categories of Term Contracts: STATEWIDE, AGENCY AND MULTI-TERM**

**Statewide Price Agreement** - The State Purchasing Office establishes statewide price agreements for commodities or services commonly used in volume by state agencies. The State allows Local Public Bodies, (counties, cities, schools, etc.) to purchase from these contracts. These contracts are awarded by the **FORMAL SEALED BID** and are issued for definite periods of time, usually one (1) year.

**Agency Price Agreement** - This term contract is issued for estimated quantities for specific products or family of products, or services for use by individual state agencies. An example of this type of price agreement would be for janitorial services for a particular agency or a one-time purchase of a forklift. The Formal Sealed Bid is generally used if the total purchase is estimated to be over \$20,000.00.

**Multi-Term Contract** - A multi-term contract of less than \$25,000.00 per year may be entered into for any term deemed to be in the best interest of a state agency not to exceed four (4) years. Contracts of over \$25,000 may be entered into for any period of time not to exceed eight (8) years.

In the instances above, the terms of the contract and conditions of renewal or extension are included in the specifications and funds are available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds thereafter.

**There are two (2) categories of OPEN MARKET purchases: Quotation and Formal Bid**

An **Informal Quote** is allowed when the purchase totals less than \$20,000.00 but more than \$10,000.00. This solicitation does not require advertisement in the newspapers but does require no fewer than three businesses solicited to submit written or oral quotations.

- Does not require a public opening.

A **Formal Bid**, also called a **Sealed Bid**, must be made if the purchase exceeds \$20,000.00.

- These bids must be legally advertised in at least 3 newspapers of general circulation in the state and sent to all vendors registered with the State for the particular Commodity.
- These bids must be sealed and opened in public at a definite date, time, and place. **TIGHT BID SECURITY IS MAINTAINED UNTIL BID OPENING.**
- All Invitations to Bid and Request for Proposals are also posted on the SPD Website.

**Small Value Authority**- A state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding ten thousand dollars (\$10,000) by issuing a direct purchase order to a contractor based upon the best obtainable price.

**Professional Service Contracts** - Contracts for more than \$50,000.00 shall be solicited, negotiated, and awarded through a competitive, sealed proposal process. Contracts for less than \$50,000.00 may be solicited, negotiated, and awarded without a competitive sealed process if certain conditions have been met. (Because of the complexity of professional services, you may wish to visit with one of the Procurement Specialists in State Purchasing).

Getting on the bid list will not automatically result in contracts or purchase from you. You, the vendor, must sell to the State as you would to any other customer.

The most successful vendors are those that:

- **Best understand the system;**
- **Know their product;**
- **Know where to market their product; and**
- **Work diligently to sell their product.**

## Who Gets the Contract?

The State Purchasing Division is required by law to competitively bid and award contracts to the **lowest responsible bidder**.

### Who is the lowest responsible bidder?

The lowest responsible bidder is one who:

- Meets specifications
- Meets terms and conditions of the bid
- Provides the lowest price

## Other Agencies/Exemptions

The State Purchasing Division is but one of many different State Agencies that purchase goods and services. We are responsible for the majority of the State's purchases, but there are a number of other agencies who by statute are exempt from having to come through the State Purchasing Division for their procurement needs. These exempt agencies could be additional sources for potential business that you may wish to pursue.

**Exemptions** - The following are some of the procurements excluded from the requirement of procurement through the State Purchasing Agent, but not from the requirements of the Procurement Code:

- Procurement of professional services;
- Small purchases having a value not exceeding \$1,500.00;
- Procurement of highway construction or construction by the State Highway and Transportation Department;
- Procurement by the Judicial Branch of Government;
- Procurement by the Legislative Branch of Government;
- Procurement by Boards of Regents of State Educational Institutions;
- Procurement by the Information Systems Council;
- Procurement by the State Fair Commission;
- Procurement by State Health Care Institutions; and
- Procurement by all Local Public Bodies

**Goods and Services** - Additionally there are some goods and services that are exempt from the Procurement Code:

- Procurement of tangible personal property or services for the Governor's Residence;
- Printing and duplicating contracts involving materials which are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- Purchase of publicly regulated utilities;
- Subscriptions from the publishers for books or periodicals;

- Travel or shipping by common carrier, meals or lodging;
- Purchase of livestock; and
- Contracts with businesses for public school transportation services

## Myths and Reality About Government Purchasing

Whenever business people get together, a prime topic of conversation is how to sell to government markets. Many suppliers approach government selling as if it were a world all its own - forbidding and mysterious. This is not true, and success in this field requires the same quality of commitment as any other.

If you want your company to sell to "government" you must first decide just how much of your company's resources you are willing to give to that task. Your starting step might be market research. Later, if you see enough profit potential and your company's ability to go after it, you may want to assign considerably more resources.

A common fallacy is "the government market." It is not "the market," but rather thousands of markets, including federal agencies, state, cities, counties, towns, boards, commissions, authorities, schools, and institutions of higher learning, and so on. There are basic commonalities, but every purchasing authority has some unique characteristics. Once a company is willing to accept that there are thousands of markets, the next step is to examine some common basic beliefs about government.

### **A few common basic beliefs about government:**

- Governments are bureaucratic and contain too much red tape;
- Tax money is misspent - and government employees are not concerned;
- Bids are rigged; and
- Governments do not pay their bills.

When you examine the commonly held beliefs, you need to be willing to discover the truth and give up the myths.

**What is the truth about red tape in government?** An objective examination reveals that "red tape" is a derogatory name for a series of processes, laws and regulations - which must be followed to get things done legally. The processes are designed to protect the taxpayer - actually for the public good. These processes normally are not complicated, but may be lengthy. They do entail more than a handshake. A company interested in the government market must be willing to accept that these processes exist and be willing to play by the rules.

**Is tax money misspent and are government employees concerned?** The truth is that government employees, as a whole, are probably more concerned about how money is spent than the average taxpayer.

While the demand for services has not changed significantly over the past decade, unfortunately resources have - the budget and number of employees. Governments are today doing more with less, thanks in a large part by streamlining operations and government employees figuring out how to make the system work more efficiently.

**Are bids rigged?** If you closely examine the way a public purchasing agent spends a great deal of his/her time, you'll discover that a good portion is devoted to identifying new sources of supply, administering outreach programs to encourage companies' interest in doing business with the government, and notifying them of opportunities. These activities as well as adhering to the Procurement Code and bid rigging are hardly compatible.

**At one time governments' reputation for slow pay may have been valid.** However, today efforts to insure prompt payments are being given top priority.

## **Information for the Vendor**

### **Contract Agreement**

The State does not sign standard contract forms which may be used by vendors. The bid with the vendor's signature affixed thereto, shall constitute an offer to sell to the State under the terms and conditions contained therein. The delivery of a Purchase Order or Contract Award with the valid signature of the State Purchasing Agent constitutes acceptance of the offer to sell and consummates the binding contractual agreement.

### **Correspondence Concerning Bid Invitations**

Any questions concerning the Invitation to Bid, or the Request for Proposal should be directed to the buyer whose name and telephone number are listed on the document. The person corresponding should specify the bid or proposal number, the opening date, etc.

### **Bid Errors**

Prior to submission of bids, errors may be corrected. The change should be initialed by the person signing the bid in the same ink color. No bids shall be altered or amended after bid opening. In case of errors in the extension of price, the unit price shall govern.

### **Modification or Withdrawal of Bids**

A bid may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written or telegraphic notice to the State Purchasing Agent. After bid opening, authority to allow for withdrawal of bids is granted solely at the discretion of the State where there is an obvious error in the bid supported by cost data, or where enforcement of the bid would impose an unconscionable hardship

due to an error in the bid resulting in a quotation substantially below the other bids received. Such withdrawal will be considered only after receipt of a written request from the vendor.

### **Late Bids**

Bids must be received in the State Purchasing Division Office at the address shown on the bid on or before the exact date and time designated for the bid opening or the bid will be rejected and placed in the late bid file unopened.

- **IT IS THE BIDDER'S SOLE RESPONSIBILITY TO ENSURE THAT HIS/HER BID IS PHYSICALLY RECEIVED AND OFFICIALLY CLOCKED IN AS A SEALED DOCUMENT BY THE STATE PURCHASING DIVISION NO LATER THAN THE OFFICIAL BID OPENING DATE AND TIME**
- **LATE BIDS ARE NOT RETURNED TO BIDDERS**
- **THE BIDS ARE AWARDED PURSUANT TO SECTIONS OF THE PROCUREMENT CODE**

### **Cancellation of Invitations to Bid**

The State Purchasing Agent may cancel an Invitation to Bid in whole, or in part, when it is in the best interest of the State to do so.

### **Samples and/or Literature**

Any samples or descriptive literature requested must be provided free of charge.

### **Specifications**

Unless a vendor specifies otherwise in his bid, it is assumed that the vendor is bidding in strict accordance with the specifications in the Invitation to Bid. When merchandise is received that does not meet these specifications, it will be returned to the vendor, shipping charge collect.

### **Substitutions**

Any products delivered that do not meet the specifications will be returned to the vendor at his expense. When a shipment or product is returned, the contractor must make immediate replacement with acceptable merchandise or the State may seek remedies for default.

### **Right to Protest**

In accordance with Section 13-1-172 NMSA 1978, any bidder or offeror who is aggrieved in connection with a **solicitation or award of a contract** may protest to the State Purchasing Agent. If, pursuant to Section 13-1-99 NMSA 1978, the procurement is excluded from procurement through the State Purchasing Agent, the protest shall be made to the central purchasing office having responsibility for initiating the solicitation. The protest must be submitted in writing within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest. The protest shall: include the name and address of the protestant; include the solicitation number; contain a statement of the

grounds for protest and specify the ruling requested from the State Purchasing Agent or the central purchasing office.

### **Resident Business/Contractors and Manufactures Preference**

Pursuant to the laws of New Mexico, a Resident Business, Resident Contractor and/or Resident Manufacturer, as those terms are defined in Subsection A of Section 13-1-21 NMSA 1978 and Section 13-4-2 NMSA 1978, shall be given a 5 percent preference in the awarding of contracts for furnishing of materials, items of tangible personal property or construction provided they have qualified with the New Mexico Taxation & Revenue Department either as a Resident Business or Resident Contractor by making application to the New Mexico Taxation & Revenue Department and receiving from him a **CERTIFICATION NUMBER.**

### **Payment for Purchases**

The State Purchasing Division is responsible only for the contracting of needed goods and services for User State Agencies. It is the responsibility of the ordering agency, when upon receiving and approving merchandise or services, to initiate as quickly as possible the necessary paperwork to insure prompt payment to the vendor.