



## GENERAL SERVICES ADMINISTRATION DISASTER RECOVERY PURCHASING PROGRAM

### Overview

The General Services Administration (GSA) manages the Federal Supply Schedule Program which provides the framework for federal agencies to conduct a streamlined competition among a number of Schedule contractors for commercial products and services. Section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) allows State, local and tribal governments to use the GSA Federal Supply Schedule to procure products and services for recovery activities resulting from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93-288, as amended, 42 U.S.C. 5121-5206. GSA established the Disaster Recovery Purchasing Program (DRPP) to implement Section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 in an interim rule published in the Federal Register on February 1, 2007 (72 FR 4649). The main provisions of the DRPP are codified at 48 CFR 538.7100-538.7104. The GSA DRPP authority is limited to GSA Federal Supply Schedule contracts and does not include any other GSA programs.

Participation in the GSA DRPP is voluntary for State, local, and tribal governments, as well as for Schedule contractors. GSA DRPP is not available to Private Non-Profits (PNPs). Participating State, local, and tribal governments have full discretion to decide if they wish to order products and/or services from the GSA Federal Supply Schedule, subject to any limitations that may be established under State and local laws and procedures. Contractors listed under the GSA DRPP are not eligible to purchase goods or services off of the GSA Federal Supply Schedule.

The GSA Federal Supply Schedule is not available to State, local, and tribal governments for day-to-day operations or localized emergencies. State, local, and tribal governments may use the GSA Federal Supply Schedule to purchase products or services in advance of and after a Federally declared major disaster to facilitate recovery from a Federally declared major disaster or act of terrorism. Those services and products purchased in advance of a declaration must still meet Public

## GENERAL SERVICES ADMINISTRATION DISASTER RECOVERY PURCHASING PROGRAM

Assistance eligibility requirements for costs incurred from a Presidentially declared major disaster. Schedule 56 for building materials and Schedule 73 for cleaning services are among some of the Schedules available under the GSA DRPP. The GSA Schedule website contains a link entitled "Disaster Recovery Purchasing, State and Local." Participating contractors and the products and/or services available for recovery purchasing are labeled with a Disaster Recovery Purchasing icon.

### *Competition Requirements*

The GSA Federal Supply Schedule ordering procedures address orders for supplies; orders for services where a Statement of Work (SOW) is *not* required (*e.g.*, installation, maintenance, and repair); orders for services where an SOW *is* required; and blanket purchase agreements (*e.g.*, services priced at hourly rates). Each type of procurement noted above requires the ordering entity, in this case the contracting official of the State, local, and tribal governments, to survey a minimum of three (3) contractors. Minimum documentation requirements required by 48 CFR §8.405-1(e) and §8.405-2(e) must be made available to FEMA upon request. See 44 CFR §13.36(g)(2).

#### 1. Full and Open Competition

A Public Assistance State, local, or tribal government applicant that opts to use the GSA Federal Supply Schedule shall not seek competition outside the GSA Federal Supply Schedules. However, **competition is still required among the pool of GSA contractors.** Under the appropriate ordering procedures stated above, participating State, local, and tribal governments must survey at least three (3) Schedule contractors. When restricted competition exists (*e.g.*, only one source is capable of responding due to the unique set of circumstances or nature of the work and/or an urgent and compelling need exists and following the ordering procedures would result in unacceptable delays), participating State, local, and tribal governments are referred to 48 CFR §8.405-6. When competition is not possible because only one Schedule contractor is listed, State and local governments are not relieved from applicable Federal, State and local procurement and competition laws and regulations. See 44 CFR §13.36(b), 48 CFR §8.404.

# GENERAL SERVICES ADMINISTRATION DISASTER RECOVERY PURCHASING PROGRAM

## 2. Fair and Reasonable Prices

Products offered on the GSA Federal Supply Schedule are listed at negotiated ceiling prices. Services offered on the GSA Federal Supply Schedule are priced either at hourly rates, or at a fixed price for performance of a specific task. GSA determines that the prices of products and fixed-price services, and rates for services offered at hourly rates, are fair and reasonable. GSA determines whether prices are fair and reasonable by comparing the prices/discounts that a company offers the government with the prices/discounts that the company offers to commercial customers. Although a spot discount may be sought at any time, State, local, or tribal government applicants placing Schedule orders that exceed the order threshold for a particular Schedule contract shall seek a price reduction pursuant to 48 CFR §8.405.

## Public Assistance Program Eligibility

FEMA's Public Assistance program is a reimbursement program. Public Assistance State, local or tribal government applicants that use GSA DRPP to procure goods and/or services ***must still meet grant eligibility requirements*** under titles IV and V of the Stafford Act, 44 CFR parts 13 and 206 and related policies and guidance when seeking reimbursement of costs. For example, GSA may list a contract that offers a per stump price for the removal of hazardous stumps less than 24 inches in diameter, which would not be eligible for Public Assistance funding. Therefore, in addition to the GSA requirement that goods purchased under the GSA DRPP ***must be used to facilitate recovery from a major disaster***, such purchases must also be eligible for reimbursement under the Public Assistance Program. A State, local or tribal government applicant may be required to compensate FEMA for the fair market value of the cost of equipment and supplies purchased under a GSA Schedule when the items are no longer needed. See 44 CFR §13.32(e)(2).

FEMA may reimburse Public Assistance State, local, and tribal government applicants for products and/or services purchased under DRPP if they were procured competitively and are otherwise eligible under the Public Assistance Program. Public Assistance applicants who purchase goods or services under the DRPP should follow the GSA ordering procedures found in 48 CFR §§8.405–8, 8.405-2. By using these outlined procedures, Public Assistance State, local, and tribal governments that participate in the GSA DRPP will satisfy the requirements to procure products and/or services through full and open competition. See 44 CFR §13.36(c); 48 CFR §8.404.

**GENERAL SERVICES ADMINISTRATION  
DISASTER RECOVERY PURCHASING  
PROGRAM**

Although GSA ordering procedures allow for time and materials contracts, Public Assistance applicants should avoid using these contracts, except under very narrow circumstances. FEMA may reimburse costs for work performed and completed under a time and materials contract for a limited period (generally not more than 70 hours) for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed. See 44 CFR §13.36(b)(10). Public Assistance applicants should be aware that costs incurred under time and materials contracts may not be eligible for Public Assistance funding.

For more information on the GSA Federal Supply Schedule Program visit:

<http://www.gsa.gov/schedules> and <http://www.gsa.gov/disasterrecovery>.



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Date