

Immediate Expansion of Eligible Ordering Activities Under Federal Supply Schedules (FSS)

GSA Authority for Expansion of Eligible Ordering Activities:

Section 40 U.S.C § 501 (a)(1) provides that the Administrator of General Services shall take action for executive agencies to the extent that he determines that the action is advantageous to the Federal government in terms of economy, efficiency, or service. This action includes the procurement, and supply of personal property and nonpersonal services for executive agencies to use in the proper discharge of their responsibilities...” 40 U.S.C § 501 (b)(1)(A).

In 1967 GSA’s Administrator determined that the functions performed by grantees are integral to Federal agencies and therefore supplying and equipping these grantees would provide the government with greater economy and efficiency in terms of procurement programs in accordance with 40 U.S.C § 501. In a recent request from the White House, the GSA Administrator has been requested to take the necessary actions to allow state, local, territorial, and tribal governments to access the Federal Supply Schedules as authorized users for goods and services when expending Federal grant funds in response to Public Health Emergencies (PHEs) declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act, codified at 42 U.S.C. § 247d.

Pursuant to the above authority and request, and in support of current and upcoming Public Health Emergencies, the GSA Administrator, with specific support from the National Security Staff, the Office of Management and Budget, the Department of Health and Human Services, the Department of Veterans Affairs, and the Department of Homeland Security, has authorized state, local, territorial, and tribal governments as eligible ordering activities to access all Federal Supply Schedules for the purchase of goods and services when expending Federal grants funds in response to Public Health Emergencies (PHE) declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act, codified at 42 U.S.C. § 247d.

Definitions

The General Services Administration Acquisition Manual (GSAM), Part 538.7001, Definitions, offers the following definition of state and local government: "The States of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges, and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative

and judicial departments." The term does not include contractors or grantees of state or local governments.

Territorial governments are defined as: Government of American Samoa, Government of Virgin Islands (including Virgin Islands Port Authority), Government of Guam, Commonwealth Government of Northern Mariana Islands, Trust Territories of the Pacific Islands, Marshall Islands, Micronesia, Palau, and Puerto Rico.

Ordering Information

Eligible ordering activities are responsible for ensuring compliance with all rules, regulations, and requirements stipulated in the grant funding, by the granting agency, as well as any applicable state and local procurement regulations.

State, local, territorial, and tribal governments are encouraged, but not mandated to use the use GSA's Schedule Ordering Procedures—i.e., [Federal Acquisition Regulation Subpart 8.4 Federal Supply Schedules](#) to ensure the benefit of receiving the best value from GSA Schedule contractors.

State, local, territorial, and tribal governments, may include terms and conditions required by statute, ordinance, regulation, or order to the extent that these terms and conditions do not conflict with the terms and conditions of the GSA Schedule contract.

Participation in this program is voluntary for both government entities and for Schedule contractors. Eligible ordering entities have full discretion to decide if they wish to make a GSA Schedule purchase, subject to any limitations that may be established under state and local laws and procedures.

Schedule contractors have the option of deciding whether they will accept orders placed by state and local government buyers. A Schedule contractor will retain the right to decline orders received from state and local government entities on a case-by-case basis. Schedule contractors may decline an order, for any reason, within a five-day period after receipt of the order; however, credit card orders must be declined within 24 hours (GSAR 552.232-79).

Order Language:

The following language should be included on all task or delivery orders placed by state, local, territorial, and tribal governments purchasing with grant funds in support of Public Health Emergencies (PHE) declared by the Secretary of Health and Human Services under 319 of the Public Health Services Act, 42 U.S.C. § 247d:

This order is placed under Federal Supply Schedule number _____ pursuant to GSA policy that authorizes state, local, territorial, and tribal government entities, as authorized users for purchasing goods and services, when expending Federal grant funds in response to Public Health Emergencies

(PHEs) declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act, codified at 42 U.S.C. § 247d.

Schedule Contract Action

This new authority is effective immediately. GSAR 552.238-78 Scope of Contract (Eligible Ordering Activities) (May 2004) or Alternative I (Feb 2007) is incorporated in all FSS contracts. This clause in paragraph (a) (8) authorizes GSA to add organizations to the eligible list of ordering activities, pursuant to statute or regulation. Federal Supply Schedule contractors are reminded that although these new ordering activities are eligible to place orders under the contract, this does not obligate the GSA FSS contractor to accept orders from these activities (See GSAR 552.238-78 (f)).

Follow-on contractual action will be taken to align with existing access for the respective organizations.

For additional information on all of GSA's State and Local Government Programs, please visit: www.gsa.gov/stateandlocal

For questions, please email MASstateandlocal@gsa.gov