



DEPARTMENT OF MANAGEMENT  
**SERVICES**

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July 15, 1996

Suite 335

MEMORANDUM NO.: 1 (96-97)

TO: State Agency Purchasing Offices Addressed

FROM:  George C. Banks, CPPO  
Director, Division of Purchasing

SUBJECT: World Trade Organization Government Procurement Agreement

The State of Florida was one of 37 states to agree to procure in accordance with the Government Procurement Agreement concluded under the auspices of the World Trade Organization (WTO). The Agreement's objective is expansion of world trade through three primary measures: prohibition on discrimination based on national origin; establishment of clear, transparent laws, regulations, procedures and practices regarding government procurement; and application of competitive procedural requirements related to notification, tendering (bidding), contract award, tender (bid) protest, etc. This memo is a synopsis of the agreement and its effect on State agencies of the executive branch.

The type of purchases covered by this agreement are State of Florida executive branch agency purchases which exceed \$519,000 for commodities and services and \$7,311,000 for construction.

Procurement procedures were developed to provide fair and transparent procedures for all covered procurements. Steps 1-7 cover the procedures as outlined in the Government Procurement Agreement:

1. Agency determination of procurement need is made and processed according to current state procedures.
2. Total value of the anticipated contract must be determined by:
  - a. agency estimate
  - b. evaluation of prior history on same or similar procurement
  - c. canvassing of agency to determine potential value
3. Determine if the procurement is covered by the Agreement.



4. Advertise: Agencies should advertise at least annually in the Florida Administrative Weekly or Florida Communities Network Notice of Planned Procurement. If the agency does not publish an annual Notice of Planned Procurement, an individual announcement, referred to as Notice of Proposed Procurement, should be advertised in the Florida Administrative Weekly or Florida Communities Network at least 40 days in advance of the opening date. This period may be shortened to 24 days if the contract is of a recurring nature and was previously published. When a state of urgency is established, the period may be reduced to 10 days.
5. Provide the detailed solicitation to all vendors who responded to the advertisement issued through Step 4 or advertise the specific procurement using a Notice of Proposed Procurement. It is recommended that solicitations for covered procurements include a specific statement regarding each of the following:
  - ◆ if contract award will involve negotiation
  - ◆ the date (in text form) to start delivery or complete delivery of goods or services
  - ◆ any economic or technical requirements, financial guarantees and information required from suppliers
  - ◆ the address of the entity to which the tender (bid) should be sent and the specific location for courier delivery, if allowed, or a statement explaining that hand delivery is not accepted. In addition, note where requests for supplementary information should be sent. Information about addresses and telephone numbers should reflect international communication standards such as dialing codes. Tenders (bids) shall normally be submitted in writing or by mail but, if other transmission methods are acceptable, they should be specifically identified.
  - ◆ the date (in text form) and time (in 24-hour clock with reference to the time zone) for receipt of tenders (bids) and the length of time during which any tender (bid) should be open for acceptance. It is important to be clear and specific with regard to date and time, therefore, it is wise to detail the time zone in which your state operates.
  - ◆ a complete description of the products or services required
  - ◆ the criteria for awarding the contract, including all factors other than price that are to be considered in the evaluation of tenders and the cost elements to be included in evaluating tender prices, such as transport, insurance and inspection costs, customs duties and other import charges, taxes and currency of payment
  - ◆ the terms of payment
  - ◆ any other terms and conditions
6. Allow sufficient time for tender response. The Agreement sets two specific time frames for response. A 40-day period must be set for most tenders. However, some solicitations, if adequately advertised, can be reduced to require as little as 10 to 24 days for response.
7. Award notices must be published for Agreement-covered procurements in the Florida Administrative Weekly or the Florida Communities Network. They must be advertised within 72 days after the award and should contain the information listed below:
  - a. type/quantity of entity
  - b. name/address of entity
  - c. date of award
  - d. name/address of winning tenderer (bidder)
  - e. value of winning award or high and low offers
  - f. means of identifying the original advertisement
  - g. type of procedure (open, selective or limited)

Listed below are general exceptions that are exempt from the Agreement:

- ◆ Construction-grade steel, including requirements on subcontracts
- ◆ Motor vehicles
- ◆ Coal
- ◆ All transportation services, including launching services and even transportation services which are incidental to a goods contract.
- ◆ Dredging
- ◆ All services purchased in support of military forces located overseas
- ◆ Management and operation contracts of certain government or privately-owned facilities used for government purposes, including federally-funded research and development centers
- ◆ Public utilities service, including telecommunications and ADP-related telecommunications services, except value-added telecommunications services (Note: telecommunications equipment is covered by the Agreement).
- ◆ Research and development
- ◆ Printing Services

The U. S. schedule promoting the development of distressed areas and businesses owned by minorities, disabled veterans, and women, as well as "Buy American" restriction applied to procurement by state and local governments made with federal grants pursuant to the Federal Transit Act, the Federal Highway Act, the Airport Improvements Act, and the Intermodal Surface Transportation Act.

Specific-to-Florida exceptions include purchases from: Prison Rehabilitative Industries and Diversified Enterprises (PRIDE); Commission for Purchase from the Blind or Other Severely Handicapped (Respect); set-aside bids for minority vendors certified by the Commission on Minority Economic and Business Development; or bids/purchases that involve environmentally-sensitive products or services (i.e., restrictions on heavy metals in packaging).

This memorandum is a brief overview of the World Trade Organization Government Procurement Agreement; copies of this Agreement, along with complete implementation guidelines, are available through the National Association of State Purchasing Officials, 167 West Main Street, Suite 600, Lexington, KY 40507, at a cost of \$15 (FEID No. F611250573001).

If you have any questions, please contact Cherrie McClellan at (904) 921-6027, Suncom 291-6027.

GCB/cm/ew