



Overview of the Eligibility Process

Audience: The Coalition of Government Procurement
Focus: Non-Federal Entities use of GSA sources

July 11, 2024

Agenda

Introduction

Overview of the eligibility process

Identification of some of the authorities and GSA sources available to Non-Federal entities

Review of common questions

Questions

Introduction

Introduction

GSA's Eligibility Office

- Is a part of the GSA Office of Acquisition Policy (OAP)
- Has been delegated the authority to make determinations of eligibility for entities concerning use of GSA sources¹.

Questions

- E-mail: gsaeligibilitydetermination@gsa.gov
- Website²: <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/eligibility-determinations>

¹ Determinations of eligibility issued by GSA's Eligibility Office do not cover every authority.

² The website is in the process of being updated, thus references contained within this presentation may change.

What are some of the authorities not covered by the eligibility process managed by the GSA Eligibility Office?

- FAR part 51 authorizations
- The DLA Wildland Fire Protection program
- The DoD 1122 program (10 U.S.C. § 281)
- GSA's Fleet Leasing program (managed by GSA Fleet)
- Federal Property Management Regulation (FPMR) related to the purchasing of Government excess, surplus, and forfeited property

Process Overview

Why is eligibility important?

Understanding eligibility may help your organization have a better understanding of who is authorized to place orders under your GSA contract.

GSA contracts include terms and conditions that identify who may place orders under the contract (i.e., sometime referred to as “authorized ordering activities”).

Authorized ordering activities may include Non-Federal entities as authorized under certain authorities under specific conditions.

Always defer to the terms and conditions of your GSA contract.

What is the eligibility process?

It is a process conducted by GSA's Eligibility Office that determines whether or not an entity is able to use a particular GSA source or GSA sources, under certain conditions, as prescribed by statute, regulation, or other authority.

Who generally initiates the eligibility process?

Typically, the entity seeking use of a GSA source submits a request for an eligibility determination. Instructions for submitting a request for an eligibility determination is available on our office's website (see Section II).

What happens once an determination of eligible has been made?

The entity is notified of the results of the determination, including any conditions. If the entity is found to be eligible their name is added to the list of eligible entities published on our office's website (see Section I).

Important.

An eligible entity may have to complete additional requirements before being able to place an order against a given GSA source. These requirements are prescribed by the specific GSA source/program in question.

An eligible entity is still responsible for-

- Complying with all GSA contract/program requirements; and
- Using the GSA source in accordance with any conditions prescribed by the underlying authority (e.g., 40 U.S.C. § 502(c) (known as the GSA Cooperative Purchasing program) limits purchases to specific supplies and services available under the MAS program).

Also-

- An eligibility cannot be transferred to a third party (e.g., a subcontractor) or successor entity.
- Purchases cannot be made for personal use.
- Purchases cannot be for resale, unless specifically authorized.

GSA Sources & Authorities

Multiple Award Schedule (MAS)

MAS contracts include the following clauses that address Non-Federal entity use.

- 552.238-112 Definitions—Federal Supply Schedule Contracts. This clause defines the terms “ordering activities” and “eligible”.
- 552.238-113 Authorities Supporting Use of Federal Supply Schedule Contracts. This clause identifies some of the primary authorities supporting use of the contract.
- 552.238-114 Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities. This clause prescribes the responsibilities of both parties and includes terms and conditions that apply when a accepting an order/entering into a BPA with these types of entities.

Indian Health Care Improvement Act

Urban Indian organizations, as defined under 25 U.S.C. § 1603(29), may use GSA contracts when carrying out a contract or grant pursuant to 25 U.S.C. chapter 18, subchapter IV. Authority: 25 U.S.C. § 1660g(e)

Tribally Controlled Schools Act

Tribally controlled schools, as defined under 25 U.S.C. § 2511(9), may use GSA contracts when carrying out a grant pursuant to 25 U.S.C. chapter 27. Authority: 25 U.S.C. § 2507(a)(6)

Native American Housing Assistance and Self Determination Act (NAHASDA)

Indian Tribes, as defined in 25 U.S.C. § 4103, and tribally designated housing entities, as defined in 25 U.S.C. § 4103, may use GSA contracts when carrying out any program, service, or other activity under Title 25 U.S.C., chapter 43. Authority: 25 U.S.C. § 4111(j)

Tribal transportation self-governance program (TTSGP)

TTSGP participants may use GSA contracts when carrying out a TTSGP compact or funding agreement. Authority 23 U.S.C. § 207(l)(8)

Indian Self-Determination and Education Assistance Act (ISDEAA)

Tribal organizations, as defined in 25 U.S.C § 5304, and Indian Tribes, as defined in 25 U.S.C. § 5304, may use GSA contracts when carrying out a contract, grant, cooperative agreement, or funding agreement under Title 25 U.S.C., chapter 46.

Authorities: 25 U.S.C. § 5324(k), § 5370, and § 5396

GSA's Cooperative Purchasing program

State or local governments, as defined in 40 U.S.C. § 502(c)(3)(A), may use MAS contracts for the purpose of purchasing the types of supplies and services described in 40 U.S.C. § 502(c). Authority: 40 U.S.C. § 502(c)

The types of supplies and services described in 40 U.S.C. § 502(c) are limited to those available in the MAS Information Technology Category and the Security and Protection Category (or any successor categories).

GSA's Disaster Purchasing program

State or local governments, as defined in 40 U.S.C. § 502(c)(3)(A), may use GSA MAS contracts for the purposes of

- Facilitating disaster preparedness or response,
- Facilitating recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.), or
- Facilitating recovery from terrorism, nuclear, biological, chemical, or radiological attack.

Authority: 40 U.S.C. § 502(d)

GSA's Public Health Emergencies program

State or local governments, as defined in 40 U.S.C. § 502(c)(3)(A), may use GSA MAS contracts when expending Federal grant funds in response to Public Health Emergencies declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act

Authority: 42 U.S.C. § 247d

AbilityOne qualified nonprofit agencies

Qualified nonprofit agencies for other severely disabled, as defined under 41 U.S.C. § 8501(6), and qualified nonprofit agencies for the blind, as defined under 41 U.S.C. § 8501(7), may use GSA sources when providing a commodity or service to the Federal Government under Title 41 U.S.C., Chapter 85.

Authority: 40 U.S.C. § 502(b)*

*This authority is implemented in the FAR under 51.101(c).

American National Red Cross and other qualified organizations

The GSA Administrator may provide use of GSA MAS contracts to the American National Red Cross and other qualified organizations, as defined under 40 U.S.C. § 502(e)(3).

- Purchases under this authority by the American National Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in 36 U.S.C. § 300102.
- Purchases under this authority by other qualified organizations shall be used in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by GSA and FEMA.

Authority: 40 U.S.C. § 502(e)

Entities authorized under section 607 of the Foreign Assistance Act (FAA)

Pursuant to 22 U.S.C. § 2357, when determined by the President to be consistent with and in furtherance of the international development goals of the FAA and limitations therein, any agency of the United States Government is authorized to furnish products and services to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the USAID.

- The determination is sometimes referred to as a Section 607 determination.
- The authority to make 607 determinations is delegated to USAID.
- An entity submits a request to use a source to an agency (e.g., GSA). The agency reviews the request. If the agency agrees with the entity's request, the agency submits a request to USAID. USAID will review and make a Section 607 determination.

GSA MACs, GWACs, and Other Sources

The following are some of the authorities that support Non-Federal entities use of other GSA sources¹.

- TTSGP
- ISDEAA
- NAHASDA
- Tribally Controlled Schools Act
- Indian Health Care Improvement Act

¹GSA contractors should refer to their GSA contract for direction on the entities authorized to place orders against their GSA contract. Our office recommends directing questions to the Contracting Officer or the designated GSA point of contact for your contract prior to contacting our office.

Common Questions

Question. Where can I find a current list of eligible entities (covering the authorities handled by GSA's Office of Eligibility)?

Answer. A searchable list of eligible entities (covering the authorities handled by our office) is located on our office's website (see Section I).

Reminder. Our office recommends reviewing your GSA contract to identify the type of entities authorized to place orders against your GSA contract, including any applicable conditions/T&Cs (e.g., refer to the GSAR clauses identified on Slide 13 for those contained in GSA MAS contracts).

Question. I believe an entity is able to use our GSA contract, but I am unable to find them on the list published by GSA's Eligibility Office. What should I do?

Answer. Our office recommends taking the below steps prior to contacting our office:

- Reviewing the terms and conditions of your GSA contract in order to identify the types of entities that are authorized to place orders, including any applicable conditions/T&Cs. If you are uncertain, contact your contracting officer or designated POC; and
- Seeking clarification from the requesting entity¹

¹Seeking clarification may be useful given the eligibility list published by our office does not include each and every authority (e.g., FAR part 51 authorizations). Also, keep in mind for ease of use and simplicity purposes, the list identifies the primary entity and not each and every component that comprises the primary entity. For example, the list identifies the name of cities in lieu of identifying each and every office/department that comprises a city's government, such as the mayor's office and accounting department.

Question. An entity is asking for “GSA pricing” what should I do?

Answer. Asking for “GSA pricing” or “Government pricing” may be someone simply seeking to obtain the “best pricing” they can get (e.g., they have no intention of placing an order against your GSA contract or may not even be aware they can place an order against your GSA contract). Therefore, our office recommends making sure you understand the “Ask”.

Reminder. If you are uncertain, seek clarification/ review the request (e.g., how are they seeking to do business with my organization, if at all) and then go from there. Ultimately, the decision to do business is yours.

Question. Where can I direct tribal entities for information about how they may be able to use GSA sources?

Answer. You may direct them to the following GSA website.

<https://www.gsa.gov/resources/native-american-affairs>

Question (MAS contractors). What does the term “State and local government” mean in relation to GSA’s Cooperative Purchasing, Disaster Purchasing, and Public Health Emergencies programs?

Answer. “State and local government” as used in 40 U.S.C. § 502(c)(3)(A) includes:

- State and local governments (e.g., the City government of Austin, Texas);
- Regional governments;
- Tribal governments (i.e., Federally recognized Indian Tribes & ANCs); and
- Instrumentalities thereof
 - Instrumentalities include, but not limited to, local educational agencies (e.g., public schools) and institutions of higher education (e.g., public colleges and universities)

Question (MAS contractors). Where can I direct entities for more information about how to do business under the GSA Cooperative Purchasing, Disaster Purchasing and Public Health Emergencies programs?

Answer. You may direct them to the following GSA MAS website.

<https://www.gsa.gov/buy-through-us/purchasing-programs/multiple-award-schedule/help-with-mas-buying/mas-help-for-state-local-and-tribal-governments>

Question (MAS contractors). How can my organization increase awareness of the use of my GSA MAS contract by State, local, regional, Tribal governments, and other eligible organizations?

Answer. Our office recommends ensuring your organization's-

- GSA vendor profile (located on GSA elibrary) is updated in terms of your organization's participation, as applicable, in the GSA Cooperative Purchasing program and/or Disaster Purchasing program (i.e., these programs have icons that show participation).
- Information is updated to reflect acceptance of orders under other authorities / GSA programs (e.g., Public Health Emergencies program does not have an icon on GSA advantage)

Questions

THANK YOU

