

Cooperative Purchasing

1. What is Cooperative Purchasing?

Section 211 of the E-Government Act of 2002 (the Act) amended the Federal Property and Administrative Services Act to allow for "Cooperative Purchasing." Cooperative Purchasing allows for the Administrator of General Services to provide states and localities access to certain items offered through the General Services Administration's (GSA's) Federal Supply Schedule 70, Information Technology (IT), and Consolidated (formerly Corporate Contracts) Schedule contracts, containing IT Special Item Numbers (SINs). The information technology available to state and local governments includes automated data processing equipment (including firmware), software, supplies, support equipment, and services.

Public Law 110-248, the Local Preparedness Acquisition Act, amended the "Cooperative Purchasing" provisions of the Federal Property and Administrative Services Act to allow the Administrator of General Services to provide states and localities access to certain items offered through GSA's Federal Supply Schedule 84, Total Solutions for Law Enforcement, Security, Facility Management Systems, Fire, Rescue, Special Purpose Clothing, Marine Craft, and Emergency/Disaster Response. The products and services available to state and local governments include alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services.

2. Can state and local governments purchase from all GSA Schedules?

No. The Cooperative Purchasing Program only allows for state and local government entities to purchase from contracts awarded under GSA Schedule 70, Information Technology, contracts containing IT SINs awarded under the Consolidated (formerly Corporate Contracts) Schedule, and contracts awarded under GSA Schedule 84, Total Solutions for Law Enforcement, Security, Facility Management Systems, Fire, Rescue, Special Purpose Clothing, Marine Craft, and Emergency/Disaster Response. State and local government entities may not use the Cooperative Purchasing Program to purchase products and services from contracts awarded under any other GSA Schedules.

3. What are the differences between the Cooperative Purchasing Program and the Disaster Recovery Purchasing Program?

The primary distinctions between the Cooperative Purchasing Program and the Disaster Recovery Purchasing Program involve the particular GSA Schedules authorized for use and the conditions under which products and services may be purchased.

The Cooperative Purchasing Program authorizes state and local government entities to purchase products and services from contracts awarded under GSA Schedule 70, the Consolidated Schedule (IT SINS), and Schedule 84. The Cooperative Purchasing Program places no restrictions on how or when the products and services may be used.

The Disaster Recovery Purchasing Program authorizes state and local government entities to purchase products and services from contracts awarded under all GSA Schedules. The products and services purchased under the Disaster Recovery Purchasing Program may be used to facilitate recovery from a major disaster, terrorism, or nuclear, biological, chemical, or radiological attack. State and local government entities may use GSA Schedule contracts to purchase products and services in advance of a disaster declared by the president, as well as in the aftermath of an emergency event.

4. [Can state and local governments utilize GSA Government-wide Acquisition Contracts \(GWACs\) to purchase information technology under the Cooperative Purchasing Program?](#)

No. State and local government entities may only purchase information technology from GSA Schedule 70, Information Technology, and Consolidated (formerly Corporate Contracts) Schedule contracts containing IT SINS. GSA Government-wide Acquisition Contracts (GWACs) are not authorized for use by state and local government entities under Section 211 of the E-Government Act of 2002 or the Local Preparedness Acquisition Act.

5. [When did the Cooperative Purchasing Program go into effect?](#)

GSA Schedule 70 and the Consolidated Schedule (IT SINS)

Cooperative Purchasing for GSA Schedule 70 and the Consolidated Schedule (IT SINS) was effective upon publication of the interim rule in the Federal Register (May 7, 2003). Effective May 18, 2004, the final rule governing state and local use of GSA Schedule contracts was published. The final rule is basically unchanged from the interim rule, but does clarify that contractors can offer additional discounts to state and local governments without invoking the Price Reductions clause.

Since the issuance of the interim and final rules, GSA Schedule 70 and Consolidated (formerly Corporate Contracts) Schedule contracts containing IT SINS have been and will continue to be modified, as mutually agreed between the Schedule contractor and GSA, to allow Schedule contractors to participate in the Cooperative Purchasing Program.

Vendors submitting new offers for GSA Schedule 70 contracts and Consolidated Schedule contracts containing IT SINS are also required to indicate whether they will offer Cooperative Purchasing.

GSA Schedule 84

Cooperative Purchasing for GSA Schedule 84 was effective upon publication of the interim rule in the Federal Register (**September 19, 2008**).

Since the issuance of the interim rule, GSA Schedule 84 contracts have been and will continue to be modified, as mutually agreed between the Schedule contractor and GSA, to allow Schedule contractors to participate in the Cooperative Purchasing Program.

Vendors submitting new offers for GSA Schedule 84 contracts are also required to indicate whether they will offer Cooperative Purchasing.

6. How are state and local governments defined?

The General Services Administration Acquisition Manual (GSAM), Part 538.7001, Definitions, offers the following definition of state and local governments:

"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.

7. Are Cooperative Purchasing orders subject to the Industrial Funding Fee (IFF)?

Yes. Each Schedule contract price includes an industrial funding fee, which is represented in the prices paid by ordering activities and passed on to GSA by Schedule contractors. The IFF reimburses GSA for procurement and administrative costs incurred to operate the GSA Schedules Program.

8. Will GSA waive, or give a portion of, the IFF to state and local government entities?

No.

9. Are state and local government entities required to use the GSA Schedules Program?

No. Cooperative Purchasing is voluntary for both state and local government entities and for Schedule contractors. State and local 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.

10. Are Schedule contractors required to accept orders from state and local government entities?

Schedule contractors have the option of deciding whether they will accept orders placed by state and local government buyers. Schedule contractors will make this decision on two levels. First, at the contract level, Schedule contractors will decide whether they want to offer Cooperative Purchasing and, if so, the applicable SINs to be offered. Schedule contractors will then either enter into a mutual agreement with GSA to modify the existing Schedule contract or indicate, prior to contract award, their intent to offer their Schedule products and services under Cooperative Purchasing. Second, even after an existing contract is modified or a new contract awarded, 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 (GSAM 552.232-79).

11. How do state and local government entities place orders against Schedule contracts? Do such orders against Schedule contracts meet competition requirements?

State and local government entities are encouraged to use GSA's Schedule Ordering Procedures to ensure the benefit of receiving the best value from GSA Schedule contractors. When state and local governments follow the GSA Schedule Ordering Procedures—i.e., the Ordering Procedures for Supplies, and Services Not Requiring a Statement of Work (Federal Acquisition Regulation (FAR) 8.405-1) or the Ordering Procedures for Services Requiring a Statement of Work (FAR 8.405-2)—use of the GSA Schedules Program is considered to be a "competitive procedure" under the Competition in Contracting Act of 1984 (CICA). State and local entities 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.

12. If the contractor does not perform acceptably under a Cooperative Purchasing order issued by a state or local entity, should the ordering activity request the GSA contracting officer take corrective measures?

No. Acceptance of an order by the Schedule contractor under Cooperative Purchasing constitutes the formation of a new contract between the non-federal ordering activity and the Schedule contractor. The ordering activity's contracting officer is responsible for all contract administration under the new contract.

While the majority of the terms and conditions of the Schedule contract are incorporated by reference into the Cooperative Purchasing order (see Questions 14 and 15, below, for exceptions), the federal government is not liable for the contractor's performance, or non-performance. Disputes that cannot be resolved by the parties may be litigated in any state or federal court with jurisdiction, using the principles of federal procurement law and the uniform commercial code, as applicable and appropriate.

However, state and local government entities may submit information concerning a contractor's performance to the GSA contracting officer for consideration when evaluating the contractor's overall performance under the GSA Schedule contract.

13. Under Cooperative Purchasing, can ordering activities include terms and conditions required by state or local statutes, ordinances, regulations, or orders?

Yes. However, the additional terms and conditions must be included as a part of the Statement of Work (SOW) or the Statement of Objectives (SOO) and must not conflict with the terms and conditions of the GSA Schedule contract.

14. Are any GSA Schedule contract terms and conditions not incorporated by reference into Cooperative Purchasing orders?

Yes. The following contract terms and conditions are not incorporated by reference into Cooperative Purchasing orders:

Disputes Clause;

Patent Indemnity Clause; and

Certain Commercial Item Contract Terms and Conditions. Portions of the commercial item contract terms and conditions that specify compliance with laws unique to federal government contracts are not applicable to Cooperative Purchasing orders.

15. Are Prompt Payment provisions incorporated into Cooperative Purchasing orders?

Yes. GSAM 552.232-81, Payments by Non-Federal Ordering Activities, allows for the terms and conditions of a state's prompt payment law to apply to orders placed by eligible non-federal ordering activities. However, if the ordering activity is not otherwise subject to a state prompt payment law, the activity is covered by the federal prompt payment act in the same manner as federal ordering activities.

16. Are state and local government preference programs affected by Cooperative Purchasing?

No. Cooperative Purchasing does not affect state and local government preference programs.

17. May state and local government entities use credit cards to purchase products and services under this program?

Yes. Schedule contractors may accept any state and local government-issued credit cards for orders placed under Cooperative Purchasing. Contractors are required to accept credit cards for orders up to the micro-purchase threshold and contractors may voluntarily accept credit cards for orders exceeding the micro-purchase threshold.

18. Can state and local governments issue Blanket Purchase Agreements (BPAs) under the Schedule contracts?

Yes. State and local government entities may issue BPAs under the Schedule contracts. In order to qualify as a GSA Schedule BPA, the competition underlying the award of the BPA must be conducted in accordance with the GSA Schedule ordering procedures.

19. Can state and local government entities be granted additional price reductions under the Schedule contracts?

Yes. State and local government entities may be granted additional price reductions under Cooperative Purchasing.

20. Will a spot discount to state and local government entities under the GSA Schedule contract trigger the Price Reductions clause?

No. Granting state and local government entities additional price discounts under the GSA Schedule contract will not trigger the Price Reductions clause.

21. Does the Trade Agreements Act apply to contracts between the Schedule contractor and state and local government entities?

Yes. All Schedule contract terms and conditions, except those stated in Questions 14 and 15, apply to contracts between the GSA Schedule contractor and state and local government entities.

22. Can state or local government grantees purchase products and services from GSA Schedule 70, the Consolidated Schedule (IT SINs), or Schedule 84 under the Cooperative Purchasing Program? If state or local governments themselves receive grant money, can they purchase products and services from GSA Schedule 70, the Consolidated Schedule (IT SINs), or Schedule 84?

Under the Cooperative Purchasing Program, only state and local government entities, as defined in General Services Administration Acquisition Manual (GSAM) 538.7001, are eligible to purchase products and services from GSA Schedule 70, the Consolidated Schedule (IT SINs), or Schedule 84. As noted in the definition, the term, state and local government entities, "...does not include contractors of, or grantees of, state or local governments." Thus, state or local government grantees cannot purchase Schedule products and services under the Cooperative Purchasing Program.

With regard to state or local governments themselves receiving grant money, these entities are eligible users under the Cooperative Purchasing Program by virtue of meeting the definition of state and local government entities; the source of funding for these entities is irrelevant.

23. Can state and local government entities use GSA Advantage!® to place orders under Cooperative Purchasing?

Yes. In addition to their previous capability to "browse" on GSA Advantage!®, state and local government entities may now use the GSA Advantage!® online shopping and ordering system to purchase products and services from Schedule contractors that have agreed to offer Cooperative Purchasing. Products and services available for Cooperative Purchasing are identified on GSA Advantage!® with the Cooperative Purchasing icon.

Payments for state and local government purchases on GSA Advantage!® are limited to credit card payments using a state or local government issued credit card. No other form of payment will be accepted at this time. State and local government customers must also register and obtain the necessary approvals from a supervisor or approving official as part of the registration process. State and local government ordering activities are responsible for ensuring that only authorized representatives of their governments place orders, and that the products and services purchased will only be used for governmental purposes.

Orders placed through GSA Advantage!® will be transmitted directly to GSA Schedule contractors. Schedule contractors will, in turn, ship the products and/or perform the services prior to billing the customer's credit card. GSA does not ship merchandise or bill the customer's credit card. All order/billing problems and/or discrepancies must be addressed directly with Schedule contractors.

[24. Where can I obtain more information about Cooperative Purchasing?](#)

To view a wealth of information on Cooperative Purchasing, visit the Center for Acquisition Excellence.