

# APTAC Body of Knowledge Competency Guide

## C. Basics of Contracting with Government Entities

### C.16 Government Entities Other Than Federal

#### Description

Public procurement is conducted under laws and regulations enacted by each government entity whose funds are to be spent on the items to be purchased. Aside from the U. S. Federal Government, there are thousands of public entities throughout the country, including cities, townships, counties, boroughs, states, territories, commonwealths, public utility districts, regional parks, Native American tribal governments, and various equivalent configurations of these, and some may overlap others.

Although most principles of public procurement are common to all, there are numerous differences based on differing legislation enacted by the local taxpayers. Local legislation reflects local culture seen in the local population, so there is wide variation in the practices and procedures by which local public employees use to do their jobs.

Some non-federal public entities are allowed to utilize the federal GSA Schedule contracts, under certain conditions. This is what is commonly called Cooperative Purchasing. Refer to GSA Schedule information for how State and Local government may participate.

Vendors may encounter major differences from federal terminology, and should be careful to learn the language to avoid serious miscommunication. Most non-federal governmental entities do not use the Federal Procurement Data System product and service codes, but most use the National Institute of Government Purchasers commodity codes or their own database. They do not use CCR but most maintain their own vendor database system.

It is important to clearly define the particular non-federal government for what it is, state, county, city, town, university, Tribal, and so on, to determine how it does business.

The following sections provide a general overview of the differences found among these non-federal public entities.

#### **C.16.1 State Governments**

One significant difference in state government is that the federal Department of Transportation delegates administration of its Disadvantaged Business Enterprise (DBE) program to one transportation-related department or agency within each state government, usually the state highway department by whatever name it operates. Within this framework, each state operates or contracts for a DBE Support Services Program to assist the vendors in contracting with the state agency under federal funding.

Most state governments have established somewhat familiar procurement codes and practices, and their websites contain helpful information for vendors.

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#### **C.16.2 Tribal/Native American Governments**

Native American tribal governments, unlike the other entities, are established as sovereign governments under treaties with the U. S. Government. There is some federal jurisdiction over certain aspects of how Tribal Governments manage their affairs, according to the treaties. Each tribe is entirely independent of all others, although some councils or associations have been formed in which member tribes collaborate on specific issues. Some tribal governments have formal procurement procedures and others do not. Most do not publish their solicitation opportunities and it is difficult to market to them. Most tribes have vendor preference programs favoring their own members.

Marketing to Tribal Governments is particularly challenging. There is no generalized policy for transparency, competition, or access, although some tribes may endorse these practices locally. Native American vendors may contact their local American Indian PTAC for assistance. Other PTACs may also seek their advice for helping for their non-Native clients who wish to market to tribal governments.

Some tribes have posted their bid opportunities on a website. For example:  
Cherokee Nation

<http://www.cherokee.org/PressRoom/listProcurements.aspx?Invalid=/default.aspx>

#### **C.16.3 Local (Municipal) Governments**

Cities, counties, and other forms of government below the level of state government enact and implement legislation related to how their funds are spent on goods and services. The smaller the entity the simpler their legislation and procedures are likely to be. Some features are:

- Some make their bid and contract information available publicly and some do not.
- Some have no professional procurement officer, and purchasing may be conducted by users in the field, or by finance personnel, or by other departments.
- Some local governments subscribe to an e-commerce service called On Demand Star, which charges a fee to vendors to gain access to the solicitations, submit offers, and conduct other business.

Regional entities abound, such as public utilities, water conservation districts, park districts, interurban transportation systems, etc. They are governed by elected commissions or "authorities" or a variety of other bodies.

Housing Authorities may be a unit of city or county government, or may be an independent local government entity with or without ties to the city or county government. Their funds come from

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a combination of federal Housing & Urban Development (HUD) and local funds. Their procurement procedures may be based on a HUD guide or on whatever their governing commission or other body directs, often with similarities to some federal policies that follow the money.

Base Realignment and Closure (BRAC) has produced numerous redevelopment authorities, often established as a regional entity governed by elected commissioners or other such body. Information about this program is at <http://www.brac.gov/> and a link on the left for "DOD List" produces a long PDF document providing information by state on all BRAC projects. One would Google for each location to find its website and from there to find its procurement information.

#### **C.16.4 Inter-Government Transactions/Issues**

A variety of relationships exist between a federal entity and a state or local entity. A familiar example is the Cost-Sharing Cooperative Agreement between DLA and a unit of local government such as a city, county, or public university. Executive Order 12372 of July 14, 1982, "Intergovernmental review of Federal programs" may apply to other such relationships, requiring the state government to be notified of such federal funding which may result in special procurement procedures, depending on the state's requirements. The contact person for each state is listed at [http://www.whitehouse.gov/omb/grants\\_spoc](http://www.whitehouse.gov/omb/grants_spoc) and the Executive Order itself is posted at <http://www.fws.gov/policy/library/rgeo12372.pdf>.

Cooperative Purchasing Agreements occur when two or more local governments delegate one of their members to make certain commodity purchases on behalf of the entire group, in order to obtain quantity discounts at lower prices.

See also the discussions above about Housing Authorities and BRAC projects. Many other such "quasi-government" entities exist which may call for additional discussion here.

#### **References**

List of State purchasing/procurement offices: <http://www.shgresources.com/> Click the desired state on the map, then click "state agencies", then click on the desired agency.

National Association of State Purchasing Officials: <http://www.naspo.org/>

National Institute of Government Purchasing: <http://www.nigp.org/eweb/StartPage.aspx>

<http://www.bia.gov>

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Information about the Buy Indian Act: <http://www.tgiok.com/BuyIndian.pdf>

Information about the Indian Incentive Program: <http://www.acq.osd.mil/osbp/programs/iip/>

Finding websites for each city and town may be difficult. Most state sites contain links to counties, and from there links to cities and towns may be found. It may be easier to Google for each desired entity.