

# Purchasing Under a FEMA Award: Using the GSA Schedule

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## Use of GSA Schedules

The GSA Schedule (also referred to as Multiple Award Schedule (MAS) and Federal Supply Schedule) is a long-term government-wide contract with commercial firms providing eligible buyers access to millions of commercial products and services at volume discount pricing. Eligible non-federal entities (NFEs) that include state, tribal, and local governments, as well as some educational institutions, may procure goods and services from the GSA Schedule. Before using the GSA Schedule, NFEs should review the [GSA purchasing program guidelines](#) to determine whether their entity is eligible to purchase from the GSA Schedule.

GSA offers multiple efficient and effective procurement programs for state, tribal, and local governments to purchase products and services directly from pre-vetted contractors. Although eligible NFEs may use the GSA MAS contracts, this act alone does not satisfy the federal procurement requirements. NFEs should also take additional steps to ensure full compliance with the applicable federal grant requirements.

## State Entities

If a state, which includes state and territorial agencies and instrumentalities, procures goods or services using the GSA Schedule, the state must ensure compliance with its own procurement rules pursuant to [2 C.F.R. § 200.317](#). The state entity must also comply with the socioeconomic affirmative steps at [2 C.F.R. § 200.321](#), domestic preferences at [2 C.F.R. § 200.322](#), procurement of recovered materials requirements at [2 C.F.R. § 200.323](#), and required contract provisions at [2 C.F.R. § 200.327](#). For more information on the procurement rules applicable to state entities, please see the [State Entity Fact Sheet](#).



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## Non-state Entities

When purchasing from a GSA schedule, eligible NFEs other than states (collectively referred to as non-state entities), that are tribal governments, local governments, and educational institutions, will satisfy the federal requirements for full and open competition provided that the GSA ordering procedures are followed. However, the eligible non-state entities will still need to follow the other federal procurement rules at [2 C.F.R. §§ 200.318 – 200.327](#), to include the socioeconomic affirmative steps, contractor oversight, cost and price analysis, and required contract provisions.

## Guidance for Purchases under the SAT

When conducting a procurement under \$250,000, non-state entities must ensure compliance at all levels of governance to include the following rules below.

- **Informal Procurement Methods:** A non-state entity may conduct a purchase of goods or services where the cost does not exceed the federal micro-purchase threshold of \$10,000, without soliciting competitive quotations if it considers the price to be fair and reasonable. To the extent practicable, a non-state entity must distribute micro-purchases equitably among qualified suppliers. A non-state entity may award small purchases above the micro-purchase threshold and below the SAT, after soliciting quotes from an adequate number of qualified sources. For both micro-purchases and small purchases, non-state entities must comply with the lowest applicable threshold, whether federal, state, tribal, or local. See [2 C.F.R. § 200.320](#).
- **Prohibited Divisions:** A non-state entity must not divide or reduce the size of its procurement to avoid the additional procurement requirements applicable to larger acquisitions. See [need determination](#).
- **Documentation:** A non-state entity must document its determination that the price is fair and reasonable, and the basis for that determination.
- **Responsibility:** A non-state entity must award contracts only to [responsible contractors](#) possessing the ability to perform successfully under the terms and conditions of the solicitation and contract.



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# Frequent Compliance Issues with the GSA Disaster Purchasing Program

## Socioeconomic Contracting ([2 C.F.R. § 200.321](#))

State and non-state entities must ensure they take all necessary affirmative steps to ensure that target firms such as small and minority businesses, women's business enterprises, and Labor Surplus Area firms are used when possible. The GSA requirements only meet some of the federal procurement requirements; however, the NFE is responsible for the following four requirements, and it is important that NFEs document their compliance actions for each:

- Use the tools available on the GSA website to assure that target firms are directly solicited whenever they are potential sources;
- Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by target firms;
- Establish delivery schedules, where the requirement permits to encourage participation by target firms; and
- Require the prime contractor, if subcontracts are to be let, to take all necessary affirmative steps. This requirement can be accomplished through the addition of contract terms to the contract between the NFE and the selected contractor.

## Cost or Price Analysis ([2 C.F.R. § 200.324](#))

Non-state entities must conduct an independent cost or price analysis when using the GSA Schedule to determine whether the contract price is reasonable. As a starting point, non-state entities should conduct an independent estimate before searching for MAS contracts. The GSA Schedule contract price is only a ceiling price and non-state entities are free to negotiate a lower price than what is listed on the GSA Schedules.

## Bonding Requirements ([2 C.F.R. § 200.326](#))

For construction or facility improvement projects above the SAT, FEMA or the pass-through entity may accept the bonding policies of the non-state entity after determining that the federal interest is adequately protected. Without such a determination, the federal procurement rules require a minimum 5 percent bid guarantee, 100 percent performance bond, and 100 percent payment bond



amounts. Applicants should ensure they require the contractors to comply with the applicable bonding requirements by including these requirements in the Request for Quotation (RFQ).

### **Contractor Oversight ([2 C.F.R. § 200.318\(b\)](#))**

After executing a contract, non-state entities have a responsibility to maintain oversight and ensure that the contractor performs in accordance with the terms, conditions, and specifications of the contract or purchase order.

### **Maintain Records ([2 C.F.R. § 200.318\(i\)](#))**

Even if utilizing a GSA MAS contract, non-state entities must still maintain records sufficient to detail the history of the procurement, including the rationale for the method of procurement; selection of contract type; contractor selection or rejection; and the basis for the contract price. All NFE contracts must contain the required contract clauses described in [Appendix II to Part 200](#). GSA contracts do not include the federally required contract provisions in their contracts with vendors. To include the contract provisions required under 2 C.F.R. § 200.327, NFEs should use the [GSA eBuy system](#). In the eBuy system, NFEs can upload and submit additional terms and conditions, such as the required contract provisions, into its RFQ. These terms will formally become part of the solicitation.

### **Contract Provisions ([2 C.F.R. § 200.327](#))**

The federal procurement rules require that NFE contracts contain the applicable provisions described in [Appendix II to Part 200](#) of the Uniform Rules (*Contract Provisions for Non-Federal Entity Contracts Under Federal Awards*). The *Uniform Rules* authorize FEMA to require additional provisions for NFE contracts. Additionally, NFEs are responsible for ensuring the new terms and conditions do not conflict with the primary MAS contract. If there are no such conflicts, a new task order is generated incorporating these new terms and conditions and a contract is formed. Please see the [Contract Provisions Guide](#) for more information. **NOTE:** GSA Advantage does not allow for the addition of the terms and conditions needed.



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