

ARRA EPL Guidelines

Additional notes regarding use of ITS
Express Products Lists (EPLs) for
ARRA purchases

Last Updated: July 1, 2011

ITS EPLs may be used for ARRA purchases

- ITS, DFA and OSA concur that EPLs may be used for ARRA purchases IF certain guidelines are followed.
- Caveat – until Federal auditors review Mississippi ARRA purchase files, there are no guarantees!

EPLs meet State requirements for Competitive Purchases

- ITS EPLs are based on sealed proposals by vendors in response to RFPs advertised in accordance with all state statutory requirements for legal procurements of IT products.
- All EPL RFPs advertised in Clarion Ledger
- All EPL RFPs advertised on the MDA Mississippi Procurement Technical Assistance Program Website (formerly MS Contract Procurement Center): <http://www.mscpc.com/>

EPLs are Evaluated by ITS & Customer

- EPLs are evaluated by ITS to ensure the proposing vendors meet vendor qualifications.
- EPLs are evaluated by ITS for cost discounts.
- EPLs have a not-to-exceed price that typically is based upon a unit cost of one. Therefore, ITS recommends customers request quotations for lower pricing and quantity discounts from multiple sellers **(two or more)** for those EPLs that are not single awards.

EPLs are Evaluated by ITS & Customer

- ITS recommends that Customers use best practices to further evaluate needed products from awarded EPL Vendors.
- Mississippi procurement laws allow “lowest and best” in selecting a winning vendor. If you are not choosing the low quote or bid, be careful! Include substantial documentation to justify “best” in your scoring.
- EPLs may be used from \$1 to the EPL Limit, regardless of funding source: ARRA, E-Rate, State Funds; EPLs may be used above the stated dollar limits only when ITS gives additional spending authorization (see later slides on “EPL Planned Purchase.”)

ARRA Contract Language

- ARRA has additional terms and conditions that need to be agreed to by the seller for any stimulus purchase.
- The DFA website information on this contract language in their “Memo #27” and “Memo #12”.
 - http://www.mmrs.state.ms.us/statewide_applications/Stimulus/index.shtml
 - Then choose “Stimulus Policies and Procedures”
- On 11-12-2009, DFA posted a revised “ARRA Award Terms Exhibit” that is now 11 pages.

ARRA contract language on EPLs

IT Hardware

- The IT Hardware EPL 3658 combines two former EPLs – the Micro EPL and the Computer Hardware EPL.
- IT Hardware EPL 3658 (July 2011 – June 2014) has an “EPL Purchase Agreement” also includes the ARRA Exhibit
- There is an “ARRA Participant” designation on the IT Hardware EPL 3658. Most “Sellers” chose “YES” and signed the ARRA Exhibit.

ARRA contract language on EPLs – IT Hardware

- When finalizing your contracts, include as your exhibit the latest version of the ARRA contractual language as recommended by DFA and OSA as posted on the DFA website.
- Customers using the IT Hardware EPL are covered on this language and do not therefore need their vendor to sign the ARRA language exhibit that was from the DFA Memo 12 dated 11-12-2009.
- Should DFA and OSA recommend any additional terms after the 11-12-2009 exhibit, you may wish to cover your bases by having your vendor sign off on any revised exhibit.

ARRA contract language on EPLs – Cabling EPL

- Cabling EPL 3608 (December 2009 – October 2011) has the current ARRA exhibit that was posted 11-12-2009 included in the Master Cabling Agreement.
- All Cabling EPL 3608 vendors agreed to sign the ARRA exhibit.

Additional ARRA terms to consider

- Some of the recommended Ts and Cs may not apply to your project.
- You can choose to edit the recommended ARRA Ts and Cs OR can choose to be “safe” and just include the entire most current “Memo 12” from the DFA as an exhibit to your purchase and have the vendor agree that your purchase is subject to these terms.

ARRA contract language on other EPLs

- The ARRA Contract language is NOT included in all EPLs.
- Each customer using one of the other EPLs for an ARRA purchase needs to supplement the existing EPL Terms and Conditions with the ARRA Exhibit that is current at the time of your purchase.
- ITS has created a sample “supplement” for the customer and EPL Vendor to sign for ARRA purchases for these EPLs.

Supplement Agreement to EPL for ARRA Purchases

- Here is the link to a sample Supplement Agreement. This is a word document you can tailor to your entity name, vendor name, and EPL number.

<http://www.its.ms.gov/EPL/ARRA-Supplemental-Agreement-to-EPLs.doc>

- Here is the link to the ARRA Exhibit to attach to this Supplement.

<http://www.its.ms.gov/EPL/ARRA-Exhibit-EPL-Supplement-2009-11-12.pdf>

- You may also find the same ARRA Exhibit on the DFA website under Memo 12.

SUPPLEMENTAL AGREEMENT TO EXPRESS PRODUCTS LIST (EPL)

This Agreement is entered into **between <enter full name of Customer, such as XXXX County School District>** (hereinafter referred to as “Customer”) and **<enter full company name of EPL vendor>** (hereinafter referred to as “Seller”) in order to set forth mutual understandings in regards to the purchase of certain products and/or services from one or more Express Products Lists that are established by the Mississippi Department of Information Technology Services in full compliance with Mississippi purchasing laws. This Agreement shall serve as a supplement to the terms and conditions previously agreed to by Seller and the Mississippi Department of Information Technology Services.

1. Seller asserts that it is an approved Seller under the following Express Products List or Lists that are to be used as procurement authority for this purchase.
 - **<example: Software Curriculum EPL 3620>**
 - **<example: Two Way Radio EPL 3657>**
2. Customer agrees to purchase from Seller certain products and/or services from the referenced Express Products List(s) as described on the attached purchase order.
3. Seller understands and agrees that some or all of this Agreement is funded by the American Recovery and Reinvestment Act of 2009 and, as such, represents and warrants that it will comply with the requirements of the American Recovery and Reinvestment Act of 2009, as set forth in **Exhibit _____**, which is attached hereto and incorporated herein by reference.

(Signature lines for customer and vendor would be below)

Exceeding the EPL Limits

- If your purchase will exceed the EPL dollar limitation published with each EPL, you can request additional purchasing authority from ITS using the “EPL Planned Purchase” process.
- Customer sends in a request with required documents to ITS; ITS reviews the documentation and issues a CP-1 Approval document.
- ITS charges for this service. And we are backlogged so get your request in asap!

EPL Planned Purchase Steps

- Planned Purchase Form:
<http://www.its.ms.gov/procurementforms.shtml>
- All documents can be emailed to projects@its.ms.gov or FAXed to 601-713-6380
- State Agencies must have filed a long range plan with ITS Strategic Services Division.
- K-12 Schools may send a copy of their plan filed with MDE in lieu of a planned purchase with ITS. You can email this as a PDF.
- The Planned Purchase process is the same regardless of funding source: E-Rate, ARRA, State funds, etc.

EPL Planned Purchase Steps - continued

- Include at least two vendor quotations from the EPL; if over \$1 million, at least three;
- Include the pages from the EPL showing the EPL products and pricing; in the case of the EPL Manufacturer Websites, the product pages from the site;
- Verify the pricing from the chosen vendor is the same or lower than the EPL price; If quote chosen was not the low cost, provide substantial justification for the selection.
- Include any justification for a manufacturer standard.

EPL Planned Purchase Steps - continued

- If you are relying on separate “projects” as each being below the EPL dollar limits, please review ITS’ “Project” definition in our Procurement Handbook, article 005-600

<http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView>

- If your “projects” don’t seem to be separate, be safe and request authority to go over the EPL Limits by submitting a Planned Purchase.
- See detailed instructions on exceeding the EPL Limits on the bottom of the main EPL page:
<http://www.its.ms.gov/EPL.shtml>

Posting the Award

- All awards for ARRA contracts, regardless of amount, have to be posted in the Award/Contract Interface
- The following address is the Award/Contract Interface link for agencies in SAAS:
<https://merlin.state.ms.us/Stimulus/AwardsContracts.nsf/Home?OpenPage>
- There is also an Award/Contract Interface version for non-SAAS entities (counties, cities, school districts, etc) at this link:
<https://merlin.state.ms.us/Stimulus/ContractUploads.nsf/Home?OpenPage>
- For Help in posting your contracts, you can call the MMRS Help Desk at 601-359-1343.

Examples of other posted awards

- You can see other ARRA postings at the Mississippi Management and Reporting System website (MMRS):
<https://merlin.state.ms.us/merlin/merlin.nsf/Navigation?OpenForm&Stimulus>
- Scroll to the bottom and choose:
 - **Agency Notice of Awards and Contracts (ARRA-Funded)** or
 - **Non-SAAS Statewide Notice of Awards and Contracts**
- Post the notice of award first.
- Post the contract after contract completed
- For Help in posting your contracts, you can call the MMRS Help Desk at 601-359-1343.

Summary

- DFA-OSA-ITS believe EPLs are valid purchase instruments for ARRA funds when EPL best practices are used.
- Customers should solicit quotes from at least two EPL vendors; multi-quotes from all or several even better.
- If going over the stated EPL Limits, Customer must have ITS' approval.
- Recommend Customer & Vendor sign a Supplemental Agreement with ARRA terms and conditions for all EPLs that do not have this language.

Best Efforts

- The ARRA rules and their interpretation are in transition. Do best efforts to obtain best pricing from the EPLs or your own bids using the recommended guidelines issued by DFA at the time of your procurement.
- If the rules or recommendations change after you have made your purchase, there's not much you can do. Keep your records consistent with the recommendations in effect at the time of your procurement.

How to find this document

- To find these power point slides on the ITS Website:
<http://www.its.ms.gov>
- Choose “Express Products Lists” from the Quick Links
- Scroll to the bottom of the main EPL page for these slides and the “Supplement” sample and ARRA Exhibit terms and conditions.

ITS Contact Information for ARRA

- ITS Procurement Help Desk
-601-432-8166
-isshelp@its.ms.gov
- Gary Rawson, ITS Federal Programs Coordinator
-601-432-8113
-gary.rawson@its.ms.gov
- Lynn Ainsworth, ISS-ITS Division Director
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