

# USE OF COOPERATIVE CONTRACTS FOR PUBLIC PROCUREMENT

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## STANDARD

After conducting extensive due diligence and market research, public procurement should, where permissible by law or regulation, consider the use of cooperative contracts, in order to lower prices, lower administrative costs, increase competition, and obtain more favorable terms and conditions. When using cooperative contracts attention should be given to ensuring legal compliance, open competition, and effective/ efficient use of time and resources.

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### Definition

**Cooperative Procurement** is a term that refers to the combining of requirements of two or more public procurement entities<sup>1</sup> to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses.

Cooperative procurement efforts may result in contracts that other entities may “piggyback”.

**Piggyback (Piggyback Cooperatives)** is a form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity. Generally the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own.<sup>2</sup>

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### Element 1.1 Conducting Due Diligence

Prior to making the decision to use a cooperative contract, procurement should conduct extensive due diligence by following this checklist:

- Compare the cooperative contracts available for the required product or service, conduct market research, and evaluate whether the use of a cooperative contract is appropriate.
- Analyze all costs associated with conducting a competitive solicitation.
- Ensure that the use of the cooperative contract meets all competitive requirements.
- Review the cooperative contract for conformance with all applicable laws and best practices.
- Analyze the product or service specifications, price, terms and conditions and other factors such as: cost to utilize the contract, shipping, minimum spend requirements, and availability of contract documentation, to ensure that the cooperative contract produces best value.
- Ensure that the organization/ local required terms and conditions are incorporated into the contract.
- Incorporate or remove<sup>3</sup> additional terms and conditions by developing an addendum or purchase order<sup>4</sup> that is signed by both procurement and the supplier.
- Contact the cooperative lead government agency to verify contract application and eligibility



## Public Procurement Practice

# USE OF COOPERATIVE CONTRACTS FOR PUBLIC PROCUREMENT *(Cont'd)*

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### Element 1.2 Obtain the Necessary Contract Documents for File

Documents in the cooperative contract file should include:

- Solicitation
- The bid tabulation or evaluation with the reason for award
- A copy of the winning proposal/ bid
- A copy of all insurance/ bond certificates required by the contract

### Element 1.3 Cooperative Contract Administration

- Keep the lead agency informed of any problems with the supplier.
  - Keep the lead agency informed of any specification adherence problems, issues, etc.
  - Resist any tendency to bargain against the contract's fixed pricing.
  - When pricing is established under the cooperative contract, ensure that invoices match the contract prices.
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### Background

It is a best practice to consider the use of cooperative procurement contracts, on a case-by-case basis, and only after proper due diligence has been performed. Cooperative procurement contracts are usually based on the combined requirements of multiple organizations.<sup>5</sup> Government entities can save time and money, obtain higher quality products and services, and standardize products and services by using cooperative contracts.

Not all jurisdictions allow participation in cooperative contracts, either as a user or as a lead. Some jurisdictions restrict or regulate the scope of cooperatives.<sup>6</sup> It is up to the procurement professional to seek guidance to ensure that compliance with all applicable laws are met.<sup>7</sup>

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- 1 Generally, the "entity" issuing and awarding the solicitation must meet the definition of a political subdivision. The entity must meet the legal requirements to piggyback.
- 2 NIGP. (2010). *Public procurement dictionary of terms*. Herndon, VA: NIGP.
- 3 If the procurement professional finds it necessary to add or remove a large amount of terms and conditions, they should carefully consider whether or not the use of the cooperative contract is appropriate.
- 4 Terms and conditions that are not present may be added to your purchase order issued pursuant to the cooperative procurement contract. However, use of a purchase order is a unilateral action. Procurement professionals should evaluate the frequency of use/ purchase to determine whether or not to use a purchase order. If the frequency of use/ purchase is high, then an addendum should be used instead of a purchase order.
- 5 Adapted from NASPO. (2006). Strength in numbers: An introduction to cooperative procurements. Retrieved from [http://www.naspo.org/documents/Cooperative\\_Purchasing0410update.pdf](http://www.naspo.org/documents/Cooperative_Purchasing0410update.pdf)
- 6 Ibid.
- 7 U.S. Communities found at [uscommunities.org](http://www.uscommunities.org) Participation in a cooperative purchasing agreement does not exempt a procurement entity from compliance with local laws or policies, whether as the sponsoring agency or a participant in the agreement. A list of statutes that individual states in the U.S. use for cooperative purchasing can be found at: <http://www.uscommunities.org/purchasing-resources/state-statutes.aspx>