

A Guide to Best Practices in Cooperative Purchasing

ASSOCIATION OF EDUCATIONAL SERVICE AGENCIES



A Guide to Best Practices in Cooperative Purchasing

ASSOCIATION OF EDUCATIONAL SERVICE AGENCIES

WHAT IS COOPERATIVE PURCHASING?

A variety of definitions can be found for the term “cooperative purchasing.” It can be defined as an approach to procuring goods and services where two or more entities work together, often with common interests (e.g., governments, schools), to combine requirements and pool buying power as a means to obtain more favorable pricing and terms and conditions. Cooperative purchasing programs, sometimes called cooperative consortia, purchasing consortia or group purchasing organizations (GPOs), are designed to manage a cooperative purchasing process and establish cooperative contracts for use by multiple entities.

The benefits of an ESA or school using a cooperative purchasing approach are numerous. Cooperative purchasing is:

- Competitive – contracts are established through a competitive solicitation process using public sector principles and processes
- Convenient – significant staff resource time and expense can be saved, increasing staff productivity
- Flexible – contracts are designed to meet the demands and needs of organizations of all sizes
- Transparent – all activities are captured and often published by multiple organizations
- Compliant – cooperative contracts are designed to meet statutory, policy and administrative requirements
- Insightful – when using a cooperative approach, the end user has the ability to review and analyze the pricing and services before making a decision to use the contract

The most tangible benefit to using cooperative purchasing is budget savings. By aggregating the volume and needs of multiple entities, suppliers can be more aggressive with their pricing offers.

PURPOSE

This report examines cooperative purchasing best practices. The intent of the guide is to arm AESA members with best practice processes, key guiding principles and essential criteria they will need in order to make informed decisions when conducting a procurement designed to be used as a cooperative tool or when considering adopting a cooperative contract made available by one of the many national or regional cooperative purchasing programs. This report is not intended or designed to compare the strengths or weaknesses of individual cooperative purchasing programs. AESA, and educational service agencies (or cooperatives) in general, were at the forefront of cooperative purchasing and helped lay the foundation for the tremendous growth and expansion of this cost effective/cost efficient approach to public sector procurement. Over the past several years a number of new cooperative ventures have formed at both the national and regional level. Current programs have continued to grow and evolve at a rapid pace. While this growth has created more opportunities for ESAs and schools, it has also generated several questions. Do all cooperative purchasing programs operate in the same manner? Are cooperative programs governed by a set of standards or values? Are there specific criteria that are critical that an ESA or school should consider when conducting a solicitation for a cooperative contract or when reviewing a cooperative purchasing program and/or contract for possible use?

THE PROCUREMENT PROCESS: BEST PRACTICES

The tremendous growth and expansion of cooperative purchasing programs over the past decade has been cause for consortium leaders to put forth significant effort to design programs that can withstand the scrutiny inherent in public sector contracting. Multiple purchasing cooperatives were studied to provide information for this guide. While the approach may slightly vary, foundationally, all of these cooperatives (either directly or through a lead agency) use the same basic steps/elements in their procurement process in an effort to meet the demands of other public sector entities.

Acting as an umbrella over all these steps/elements is an authorization/governance process whereby the cooperative (or their lead agency) seeks guidance and/or approval from some type of governing board, council or committee. This provides checks and balances to the process and gives credibility to the program. Also, several steps in the process may require legal counsel review or participation to ensure compliance with all applicable laws, rules and policies.

- ✓ **Pre-solicitation research** – cooperative purchasing programs use a variety of methods to help determine and define the needs of their members and potential members. This research would include gaining an insight into the market, identifying current trends that will impact price and delivery, and analyzing other contracts in the same category to learn of best practices. Common activities could include Internet research, meeting with suppliers, reviewing trade publications, talking with industry experts outside the supplier base (e.g., consultants, trade association personnel, analysts specializing in that field, etc.), and gathering input from potential end users. Some cooperatives have formed advisory groups or committees that help to define member needs. For some categories, especially those that are new to the cooperative, a Request for Information (RFI) process is used to gather information. Another key element to this step, particularly for those more complex solicitations, is to build a solid team of individuals that will act as subject matter experts, evaluation team members and advisors throughout the process.
- ✓ **Strategy development** – one of the most critical stages in the procurement process is strategy development. If considerable thought and effort are not given to developing the best methodology, approach and direction for a given solicitation, the remaining stages of the process could be in jeopardy and establishing a high value contract could be at risk. Strategies vary from category to category and can change from one contract cycle to another for the same category. A few sample questions requiring a decision could include the following: Which procurement method is best for this category at this time; Request for Proposal (RFP) or Invitation to Bid (ITB)? How broad should the scope be defined --i.e., is this an opportunity to bundle (or unbundle) products/services? What is the best pricing model and contract term to achieve the optimal results in terms of price and delivery? How much time should be given to suppliers to respond to the solicitation? Depending on the industry and complexities of the category, sometimes a short bidding window may be cause for quickly developed offers and/or lack of competition.
- ✓ **Specification development** – based on the research and strategy activities noted above, clearly articulating the requirements, terms and conditions in the solicitation document will help the supplier community understand the need. Clarity of intent is crucial in this process. Any ambiguity in language could cause confusion among the suppliers and make the evaluation process more difficult and the resulting contract less usable. That said, specifications should be both detailed enough to meet the desired needs and flexible enough to provide for maximum supplier participation.
- ✓ **Evaluation criteria development** – it is important to inform suppliers in the solicitation document how their offer will be evaluated and measured. Evaluation elements and the manner in which they are presented will vary from

cooperative to cooperative. Some cooperatives focus on price (especially those conducting an ITB). Others want to incorporate qualitative factors to determine who will provide the best overall value to the members. Regardless of approach, it is a best practice to include the evaluation factors in the solicitation. Some evaluation factors or elements that are often considered and/or used include how the cooperative defines a responsive/responsible supplier, mandatory vs. discretionary requirements, and specific points or percentages (i.e., weighting) that will be applied to a series of defined factors. These factors can either be presented in detail or more general in scope. Regardless, they should closely align with the specifications and requirements outlined throughout the solicitation document.

- ✓ ***Solicitation publication*** – as many cooperative purchasing programs are designed to serve public sector organizations on a national scale, it is important that solicitations be given national exposure. The same would be true for a cooperative seeking only regional delivery – advertising covering the desired region would be key. All national cooperatives promote opportunities on their own websites. In today’s environment, there are a host of well-known companies that disseminate contracting opportunities that are published on governmental websites to interested suppliers. Thus, by publishing an opportunity on the cooperative’s website, virtually all suppliers should be aware of it. Beyond that, because contract ownership under cooperatives have varying structures, there is no one common platform for publicizing, advertising and marketing solicitation opportunities. Each use a combination of print media, lead agencies and potential end users to announce the opportunities to the supplier community.

- ✓ ***Active solicitation management*** – during an active solicitation (i.e., from publication to offer opening date) there are often steps taken to ensure the solicitation process maintains a high level of integrity and that any confusion with the stated needs and requirements of the solicitation be clarified. Sometimes, the cooperative will hold a pre-proposal conference for interested suppliers in order to highlight key points in the solicitation document. Suppliers are almost always provided time in which to ask clarifying questions. Responses to the questions, and any other change to the solicitation document, are always formally published (usually as an addendum or amendment) for all suppliers to review.

- ✓ ***Offer opening and evaluation*** – once the offers are received by the cooperative, the review process begins where often, but not always, some form of an evaluation committee applies the evaluation criteria outlined in the solicitation document to the offers received. In order to preserve a fair process, it is important that these reviews do not deviate from the stated criteria. For transparency purposes, cooperatives will document and record the bid opening

and evaluation process. Part of the review process may include the cooperative reaching back out to the suppliers for clarifications, best and final offers, and/or to invite the suppliers to present their solution in-person. After each offer is thoroughly evaluated, an award recommendation is typically prepared summarizing the process used to arrive at the conclusion and including a scoring summary (if applicable).

- ✓ **Award publication** – similar to the “solicitation publication” stage noted above, a formal publication announcing an intent to award a contract informs the supplier community of the cooperative’s final decision. Some cooperatives will also notify the suppliers that made an offer and did not receive an award. Again, these announcements are typically made via the same mediums used with the “solicitation publication.”
- ✓ **Protest/appeal process** – because most cooperative contracts are designed to be used on a national scale, it is vital that the process to select the awarded supplier(s) be completed in a manner consistent with the established process outlined in the solicitation. Cooperatives will often provide a set amount of time for suppliers to protest or appeal the final decision of the cooperative to award a contract. If a protest or appeal is received it will be cause to delay final contract execution until the protest or appeal is resolved.
- ✓ **Final contract negotiation and execution** – legal counsel from both the cooperative and supplier are often involved in this stage of the process. Both sides must ensure the final contract language adheres to all applicable laws, rules, policies and ordinances and aligns with the requirements of the solicitation. While no material changes can be made to the agreement at this point, the cooperative could negotiate certain terms and pricing (again provided the new terms do not materially alter the requirements). Once all parties agree, the contract is executed.
- ✓ **Contract implementation** – cooperative purchasing programs all make an effort to announce new contracts using a variety of channels: website, newsletter, e-mail to end users, etc. Cooperatives and suppliers must work together to develop a plan and strategy to rollout the new contracting vehicle, including the coordination of promotional materials, training for cooperative staff, the development of a marketing plan, etc. Cooperative staff gaining an understanding of how the contract works and its benefits is an important element and one that will prove to be valuable in growing acceptance and use of the contract.
- ✓ **Marketing** – while marketing programs vary between cooperatives, the growth of cooperative purchasing over the past decade can be partially, if not significantly, attributed to the efforts made by the cooperatives to promote their

contracts. A primary goal of any cooperative purchasing program is to increase awareness of their contract offerings to all eligible end users. To meet this goal cooperative programs must continue to improve their websites, participate in trade shows/associations events and work with their suppliers to develop strategies to market their individual contracting solutions. A key role of any cooperative program is to facilitate a connection between their suppliers and all potential end users.

- ✓ ***Supplier/contract management*** – as stated previously, it is imperative that the staff of a cooperative program possess a deep understanding of the contracting vehicles in their portfolio. In best practice cooperatives, the staff not only promote the contracts, but also manage all on-going activities: respond to inquiries from potential end users, help resolve problems/issues that arise, provide training to suppliers on how the cooperative works, and program clarifications. Cooperative staff should also assist the supplier in not only developing a marketing plan (as noted above) but also provide guidance on how to best “sell” their contract to the public sector community (e.g., how to get a meeting, talking points connecting the cooperative with the supplier, etc.). Finally, the cooperative and the supplier should meet regularly (e.g., quarterly business review or similar) to evaluate performance and discuss any pertinent issues.

- ✓ ***Collection of administrative fees*** – most cooperative purchasing programs are funded by administrative fees. Fees are based on supplier sales volume. Cooperatives work with suppliers to gather sales and other data that help calculate the administrative fee amount. These fees help to support the activities of the cooperative: staff, marketing, contract promotion, contract management, problem resolution, etc. Fee amounts vary and are often dependent on the contract category. As a provider of services to the public sector, it is important that cooperatives maintain records in terms of the collection of and distribution of administrative fee proceeds.

COMMON PRINCIPLES

Given the basic elements described above, and using the data gathered from a number of national cooperative purchasing programs a set of common guiding principles were identified. It should be noted that while the basic principles are important and utilized by each cooperative, the extent to which they are applied to the steps/elements noted above do vary.

1. ***Be knowledgeable of members needs***
-

Related steps/elements: pre-solicitation research

One of the key principles for all cooperatives is to ensure they provide value to their members. Determining member needs is a critical element in building a strong portfolio of contracts for any cooperative. Further, once a specific need has been identified, it is imperative that the cooperative gain insight into the supplier community that would provide the desired product or service. Who are the suppliers? Can they deliver equally to all potential customers under the cooperative's umbrella? How well does the category lend itself to establishing a national cooperative contract? Due diligence is necessary to serve the member needs.

2. *Optimize value to members*

Related steps/elements: strategy development, specification development, evaluation criteria development, offer evaluation

In order for the resulting contracting vehicle to be of interest to members, cooperatives work to develop sound strategies when developing the solicitation document. Cooperatives know that their contract offerings (in many cases) are just one of many choices the end user has at their disposal. Therefore, throughout the solicitation process they strive to establish contracting solutions and services that provide maximum value to their members and potential members: savings, efficiencies, flexibility, ease of use, training (if required), delivery, customer service, contract management, etc.

3. *Use sound contract management practices*

Related steps/elements: final contract negotiation and execution, contract implementation, marketing, supplier/contract management

Cooperatives agree that the manner in which they manage their contracts is critical to their success and their acceptance by the public sector. Using accepted business practices helps bring credibility to the cooperative and their contracts.

4. *Be consistent in the application of the process*

Related steps/elements: all

An objective of public sector entities is to be consistent in their processes and decisions when procuring goods and services. Cooperative purchasing programs strive to do the same knowing that any deviation may be cause for the end user to question the validity of the program.

5. *Promote fair, equal and open competition*

Related steps/elements: strategy development, specification development, evaluation criteria development, solicitation publication, active solicitation management, offer evaluation

Could be considered the foundation of public sector procurement. All cooperatives understand that if they do not conduct themselves in a manner that promotes competition and seeks maximum participation from the supplier community, they are at great risk of being rejected by most public sector entities and could tarnish the appeal of cooperative purchasing.

6. *Be transparent*

Related steps/elements: all

Transparency was identified by each cooperative as being a key principle and one in which they feel they are strongly measured. Not only is it vital that each step of the process be fully documented and recorded, it is also important that the cooperative be responsive to specific requests in regard to their decisions, including granting access to publicly available data and sharing information pertinent to their process.

7. *Be fiscally responsible*

Related steps/elements: collection of administrative fees

As organizations serving the public sector and/or public sector organizations themselves, cooperatives realize the importance of managing the collection and distribution of funds in a responsible manner. Periodic audits and/or reviews, as well as program oversight, help to ensure compliance with accepted accounting practices and that proper checks and balances are in place.

8. *Act with integrity and in an honest and ethical manner*

Related steps/elements: all

Cooperative purchasing programs understand that they are held accountable for their decisions and the manner in which they conduct themselves in a public facing environment. The cooperatives studied place a heavy emphasis on the core values of integrity, honesty, trust and ethical behavior. A lack of adherence to this principle could severely damage the reputation of the cooperative and cooperative purchasing in general.

9. *Adhere to established laws, rules, policies set forth to govern the cooperative*

Related steps/elements: all

All cooperatives are governed by various laws, rules, policies, regulations, bylaws, provisions and/or ordinances, depending on how the cooperative is structured. The understanding of and adherence to each of these directives is critical to the cooperatives' operation. Further, cooperatives understand that the more these directives align with a typical public sector organization's requirements the more likely their contracts will be accepted and adopted.

ESSENTIAL CRITERIA

The key steps to a procurement process and the guiding principles applied by national cooperative purchasing organizations are important factors and must be understood. However, what are the essential criteria that must be considered when evaluating a cooperative purchasing program? Below are twelve criteria that, if incorporated into a cooperative program, should provide the necessary credibility for those entities wanting to lead or be a part of the cooperative purchasing process or for those entities evaluating a program for possible contract adoption. It should be noted that these criteria are not listed in any particular order. It could be argued that each could stand on its own as an equal to the others on some level.

1. Legal Authority

Why is this essential? A cooperative purchasing program must possess clear authority to conduct solicitations and establish contracts for use by other public sector jurisdictions. This authority should be cited and made available in the solicitation and resulting contract documents. Lacking this authority will be enough to prohibit some organizations from taking advantage of the solutions offered.

2. Governance Process

Why is this essential? The application of standards and the adherence to a consistent process is critical to a cooperative purchasing endeavor. Having mechanisms in place to define responsibilities and monitor the actions of program officials can serve to bring a level of accountability to the cooperative. A governance process helps to dictate the actions and parameters of those responsible for decisions that will impact the operation.

3. Documented Process

Why is this essential? As with any discipline, well documented rules, policies, processes and procedures assist not only those responsible for developing and managing the solicitation and contracting process, but it also gives the program credibility with potential users. Programs with a poorly documented process, or no documented process at all, could be cause for some potential users to feel uncomfortable in adopting a contract. Furthermore, for programs subject to

audit, lack of a documented process would place the program at significant risk for a material finding.

4. Alignment

Why is this essential? One of the key questions a potential user may ask when evaluating a cooperative purchasing vehicle is how closely the rules, policies and processes of the cooperative align with the rules, policies and processes of his or her jurisdiction. A process that does not align well with that of a typical public sector organization will find it difficult to gain widespread acceptance.

5. Understanding of what is needed

Why is this essential? If a cooperative program does not possess a deep understanding of the needs of its potential audience the resulting solutions will not be beneficial to any party involved in the exercise. The contract will most likely fail to meet its objectives. Part of this understanding would also include insight into the supplier community and whether the market environment is capable of supporting a cooperative endeavor.

6. Competitive/Open/Fair

Why is this essential? Competition is the backbone of public sector procurement. Often the first question asked by a government or school considering a cooperative vehicle is “Was it competitively bid?” If the solicitation was developed and structured in a manner that ensures fair, open and equal competition and if the solicitation was properly advertised in a manner designed to reach the appropriate supplier community, then the process could be considered competitive.

7. Flexible

Why is this essential? By their nature, cooperative purchasing contracts must be designed to meet the needs of many diverse organizations – small in size, large in size, varying administrative mandates, different required terms and conditions to comply with local laws or ordinances, etc. This flexibility and customization must be balanced with an adherence to the sometimes restrictive standard processes and principles outlined earlier.

8. Knowledgeable

Why is this essential? Program staff should be well versed in their processes, their contract offerings and in how their program works overall. A cooperative providing inaccurate or misleading information could cause a potential user to make an inappropriate, ill-advised or in some cases, illegal decision.

9. Subject Matter Expertise

Why is this essential? Staff working in a cooperative purchasing environment responsible for conducting research, developing solicitation documents, evaluating offers and managing contracts should possess a high level of expertise in the specific category for which this work is being done. Understanding the supplier base as well as current and future market trends is critical when developing a solicitation strategy. This subject matter expertise can provide a high level of confidence to potential end users that the solicitations and resulting contracts will provide maximum value.

10. Clear Communication

Why is this essential? A cooperative program with a user friendly, easy to navigate website can help potential users locate the information they need to make an informed decision. Likewise, marketing materials, staff availability, and other means of communication that can provide critical data points and general information about the cooperative program only help to increase the confidence level a potential user will have of that program.

11. Transparent

Why is this essential? Transparency may be the most used buzzword in the public sector. In general, the more transparent a program, the better. A lack of transparency may open program elements up to false assumptions or be cause for the program to be accused of hiding information.

12. Ethics and Honesty

Why is this essential? This is fairly obvious. A cooperative purchasing program that is managed in an unethical or dishonest manner will come under scrutiny. These discretions will become evident in over time. Questions to consider: How many protests or appeals does the cooperative respond to compared to the number of contract vehicles they have in place? How often does a governing board, council or committee reject or strongly question a recommendation presented to them by the cooperative? How many complaints are registered by suppliers pointing to the manner in which their contract is managed? Has the cooperative been highlighted in the media for a questionable decision? Negative answers to any of these questions will make a potential user question the credibility and integrity of the program.

CONCLUSION

Twenty years ago cooperative purchasing in the public sector was in its infancy. Today, it is a valuable tool used by thousands of states, cities, counties and educational entities. In the coming years cooperative purchasing programs will continue to expand their offerings and new ventures will be introduced into the market. Given this growth,

ESAs and schools will need to be ever vigilant when entering into cooperative engagements. Through this comprehensive review of cooperative purchasing best practices, ASEA believes this report will equip ESAs and schools with the knowledge they will need to make educated and informed decisions.

DEFINITIONS

For the purposes of this report, please reference the following definitions:

- **Bid:** Used generically to describe an offer/response from a vendor to a solicitation (i.e., submit a bid), a solicitation document (i.e., bid document), or the solicitation process (i.e., competitively bid).
- **Cooperative purchasing program/cooperative/consortium:** Refers primarily to one or all of the four (4) national cooperative purchasing programs studied for this report. However, in many instances, this term could also be applicable to any cooperative purchasing venture.
- **Invitation to Bid (ITB):** A competitive selection process where price is the primary evaluation factor.
- **Member:** Used interchangeably in this report with other terms (e.g., end user) to mean formally registered members or participants of a cooperative program, potential members, public sector entities/agencies, customers, contract users, potential contract users, etc.
- **Multi-Award:** When a cooperative purchasing program or its designated lead agency awards a contract to more than one successful supplier in a given category.
- **Request for Information (RFI):** A process by which a jurisdiction or cooperative purchasing program requests information from suppliers prior to releasing a solicitation. Typically an RFI invites comments from suppliers or the industry, best practices and other important information from suppliers. This information is then incorporated into a formal solicitation document.
- **Request for Proposals (RFP):** A competitive sealed proposal process. Proposals are evaluated on price as well as other factors relating to the suppliers' overall ability to meet the stated requirements. An RFP process provides for a contract award that could be based on a "most advantageous" or "best value" standard.

- **Single-Award:** A contract awarded to only one successful supplier in a given category by a cooperative purchasing program or its designated lead agency.
- **Solicitation:** An Invitation to Bid (ITB) or Request for Proposal (RFP) document.
- **Supplier:** In the context of this report “supplier” is synonymous with “vendor” and “contractor.”

ABOUT AESA

The **Association of Educational Service Agencies (AESA)** is a professional organization serving educational service agencies (ESAs) in 45 states. There are 553 ESAs nationwide with hundreds of thousands of staff members. AESA, through its members, can reach over 80% of all public school districts and over 83% of private schools.

Educational service agencies are public entities created by state statute to provide educational support programs and services to local schools and school districts within a given geographic area. AESA is governed by an Executive Council comprised of ESA members.

Part of AESA’s mission is to support ESAs by providing guidance and direction designed to strengthen operations. AESA recognizes the procurement approach of cooperative purchasing as a means to help schools save administrative staff time, drive cost savings and improve operational efficiencies.