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CHECKLIST FOR FEMA-COMPLIANT PURCHASES FROM COOPERATIVE PURCHASING PROGRAMS

The following checklist may be used as a tool to maximum the potential for FEMA reimbursement for goods/services purchased through a cooperative purchasing program. The checklist is derived from requirements outlined in 2 C.F.R. Part 200 and FEMA Fact Sheets “Public Assistance: Purchasing Goods or Services Through Cooperative Purchasing Programs,” January 26, 2018 and September 18, 2018 (“FEMA Fact Sheets”).

1. Verify that ISD has a signed, valid interlocal agreement with the cooperative.¹
2. Verify that the cooperative is located in the State of Texas.
3. Verify, and compile documentation showing, that the cooperative complies with federal procurement standards, including, but not limited to:
 - a. Letter(s) detailing compliance for the current fiscal year of the cooperative;
 - b. Competitive procurement solicitation document, showing that either the sealed bidding or competitive proposals method of procurement was used; full and open competition (i.e., no overly burdensome or too restrictive requirements); no geographic preferences; and six affirmative steps were followed;
 - c. Documentation showing how the cooperative publicly advertised/publicized the solicitation outlining the requirements for goods/services;
 - d. Documentation showing that the cooperative took the applicable socioeconomic contracting steps required by 2 CFR § 200.321;
 - e. Independent estimate documentation;
 - f. Cost/Price analysis documentation; and
 - g. 2 CFR 200 certifications, including those required by 2 CFR § 200.326 and Appendix II.
4. Compile documentation showing that ISD has taken the applicable socioeconomic contracting steps required by 2 CFR § 200.321 (also known as the “six affirmative steps”) *and* ISD has verified, with documentation, that the cooperative has taken the applicable socioeconomic contracting steps.
5. Obtain at least 3 price or rate quotes from qualified vendors, including at least one quote from a MWBE or disadvantaged business enterprise; include the quotes in your contract file.²
6. Ensure vendor is “responsible” as required by 2 CFR § 200.318(h).³
7. Obtain a copy of the contract between the cooperative and the vendor; include the contract in your file.

¹ Tex. Gov’t Code § 791.011 requires an interlocal contract to be authorized by the governing body, among other requirements. Section 791.025 (c) states, “A local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of goods and services.” Further, Tex. Educ. Code § 44.031(a)(4) lists an interlocal contract as a valid procurement method for goods and services for ISDs.

² The 3 quotes can all be from the same cooperative but must be from 3 separate vendors.

³ 2 CFR § 200.318(h) states: “The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.”

8. Ensure vendor is not suspended, debarred, or otherwise ineligible for participation in federal assistance programs and activities as required by 2 CFR § 200.213; include the sam.gov printout showing such in your contract file.
9. If the purchase is for \$250,000 or more, conduct a cost/price analysis to show that the cost/price is fair and reasonable, using the “Cost/Price Analysis” Form.
10. Negotiate a final contract/purchase order that:
 - a. references the cooperative’s contract/RFP number;
 - b. is not a cost-plus-percentage-of-cost contract;
 - c. if a time and materials contract, includes a not-to-exceed amount;
 - d. requires sufficient insurance coverage; and
 - e. attaches the FEMA Addendum.

Include a copy of the contract/PO, signed by both the ISD and vendor, in your contract file.

Should you have any questions regarding the requirements imposed by FEMA, applicable federal regulations, or the State of Texas, or would like assistance reviewing, revising, or drafting contract documents, please do not hesitate to contact us.

Best regards,

KARCZEWSKI | BRADSHAW | SPALDING
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