PP-O4-10  COOPERATIVE PURCHASES

I.  OVERVIEW

The District may, pursuant to Public Contract Code section 20652, purchase or lease personal property (but not services) under the authority of contracts awarded by other public corporations or agencies. In addition, the District may, pursuant to Public Contract Code sections 20653 and 10290, procure personal property and services under contracts specifically awarded by the California Department of General Services. This cooperative method of procurement is sometimes referred to as “piggybacking.” For the District, it is a non-competitive process and does not require the solicitation of bids or proposals from suppliers since a competitive bid process was held by another public agency in the original award of the contract.

The authority for transacting cooperative purchases corresponds to the price thresholds established for small, medium and large purchases. As such, responsibility for these transactions may be with the college, College Procurement Specialist or the Contracts and Purchasing Section in the Business Services Office.

When transacted by a college or College Procurement Specialist—that is, when the cost is less than the statutory bid threshold—a cooperative purchase is also exempt from the District’s internal requirement for competitive quotes or proposals. Such a transaction is not conducted under the authority of Public Contract Code sections 20652 and 20653, which apply to purchases over the bid threshold, and, therefore, is not subject to the requirements of those sections.

Cooperative purchasing utilizing specially funded program monies may be prohibited by the grant agreement terms. As such, the purchase initiator should consult the grant agreement to determine whether they are limited from utilizing cooperative purchasing as means for procurement in their program.

When determining whether a piggy back contract transaction is appropriate, purchasing staff should request a copy of the piggybackable contract for review of the terms to determine whether the transaction is appropriate and in the best interests of the District or college.

II.  PROCESS

A.  Cooperative Purchases Less than the Statutory Threshold

As set forth previously, cooperative purchases below the statutory bid threshold are exempt from the need to request competitive quotes and proposals from other vendors. However, “piggyback”
contracts do not always offer the District the best prices or terms. For this reason, it is recommended that a purchaser research prices in the market to determine if a contemplated cooperative purchase is more advantageous to the District than collecting competitive quotes or proposals.

B. **Purchases Made under Authority of Public Contract Code Section 20652**

A purchase that is required to be competitively bid pursuant to Public Contract Code Section 20651 but is, instead, transacted under the authority of a contract awarded by another public agency (other than the California Department of General Services) must comply with the requirements of Public Contract Code section 20652. Purchases made under this authority require that the Board of Trustees to make a determination that procuring in this manner is in the best interests of the District.

A cooperative purchase may be in the District's best interests if it:

(a) saves money (including the cost of the District conducting its own sealed bid process); (b) saves time, particularly if the item is needed urgently and a sealed bid process would create a hardship for the District; (c) affords access to suppliers or contractual terms and conditions that the District may not otherwise be able to obtain through its own competitive process, or (d) offers other material advantages over the expected outcome of a separate sealed bid process conducted by the District. Convenience, by itself, is not considered to be a valid basis for the District “piggybacking” another agency’s contract instead of bidding the requirement itself. If it is determined that a cooperative purchase is in the District’s best interests, the reasons for this conclusion must be documented and made available upon request to the Board of Trustees or the public.

To establish the consent by the awarding public agency to the District’s cooperative use of that agency’s contract, a copy of the agency’s agreement must be obtained by the District and a communication must be sent to, or received from, the agency confirming the District’s plan to buy under the contract.

Notice to the awarding agency may consist of the following information:

- Identification of the awarding agency’s contract i.e. tracking number/title;
C. Purchases under Contracts Awarded by the California Department of General Services.

The California Department of General Services (DGS) has various procurement programs that permit state and local government agencies to contract with vendors with which (DGS) has already contracted. A description of these programs can be found at the DGS Procurement Division home page at http://www.pd.dgs.ca.gov/default.htm. Among the most commonly used DGS cooperative purchase programs are the California Multiple Award Schedules (CMAS), Statewide Commodity Contracts, Master Agreements, State Price Schedules, CAL-Card and the Western States Contracting Alliance (WSCA), which is a purchasing consortium of 15 western state governments that includes California. WSCA contracts awarded by state governments other than California/DGS may also be accessed under the authority of Public Contract Code section 20652.

DGS contracts may be “piggybacked” by invoking the appropriate Public Contract Code section, citing the DGS contract number and seeking the Board of Trustees’ authorization of the transaction. Any administrative fee assessed by
DGS for use of its contract must be factored into the acquisition cost used to determine if this is more advantageous than the District conducting its own sealed bid process. The fee must also be included in the total cost of the contract presented to the Board for authorization.

D. Joint Purchasing

When the District deems it to be advantageous to do so, it may work with another public agency to issue a joint invitation for bids or request for proposals for the same product or service. Joint purchases are to be handled by the Contracts and Purchasing Section at the District Office.

The assessment of the benefit to the District of a joint purchase will be similar to the evaluation of “best interests of the District” made before a cooperative purchase is made as described in section II.A, above. An example of such a benefit is the projection that deeper volume discounts on products may be obtained from bidders by combining the District’s specified quantities with those of another public agency.

When conducting a joint purchase with another public agency, care must be taken to ensure that the contents of the solicitation and the process followed comply with the legal and policy requirements governing the District’s procurement transactions, even if they differ from the other agency's.

E. Considerations in Cooperative Purchases

In determining whether a cooperative purchase is a suitable and advantageous method of procurement for a particular acquisition, the following questions must be considered.

1. Is the awarding public agency a reliable purchasing source? Consider the size of the agency, whether it is located in California, its similarity in function to the District, and other factors that affect the agency’s ability to make a sound contracting decision.

2. Are the prices, terms and conditions in the contract favorable? Evaluate whether potentially unfavorable terms outweigh the benefit of the cooperative purchase. (Pay
particular attention to the indemnity, insurance, payment, arbitration and venue provisions).

3. Does the awarding agency charge an administrative or processing fee for the cooperative purchase? If so, include the administrative fee when evaluating the cost of the purchase.

4. Is the duration of the piggyback contract provide for the sufficient duration of time needed to complete the transaction?

5. Was the piggy back agency’s bid award made in accordance with all legal requirements applicable to the awarding agency and the District, including but not limited to its own business policies and procedures?

If the evaluation of a potential piggyback contract fails to indicate positive responses to the above considerations, such a cooperative purchase should not be made.

III. LEGAL AUTHORITY AND CITATIONS

Public Contract Code sections 10290, 20650-20660
Education Code sections 81550 et seq, 81641, 81651
Government Code section 53060
Board Rules 7100 and 7102.16
04-02 – Types of Transactions
Government Code sections 6250-6270