



## PROCUREMENT PROCESS IN COMPLIANCE WITH AZ REVISED STATUTES AND PROCUREMENT RULES FOR SCHOOL DISTRICTS

Arizona Revised Statutes (A.R.S.) §15-213(F) requires the systematic review of purchasing practices using guidelines established by the Arizona Auditor General (AG). Purchasing Cooperative of America (PCA) regularly reviews these guidelines and competently provides legally procured, competitively bid contracts for use by PCA Members and/or Arizona Public Schools, in accordance with these guidelines.

The below information was prepared by PCA in response to the June 30, 2023 version of the AG Procurement Compliance Questionnaire; the questions are reproduced here in their entirety (in *italics*), followed by PCA specific guidance on compliance, applicable to all PCA solicitations and awards. This information is provided as a courtesy to PCA Member School Districts in Arizona to support compliance evaluations. The current AG Procurement Compliance Questionnaire is accessible at <https://www.azauditor.gov/procurement-compliance-questionnaire>. Arizona Administrative Code (A.A.C.) references are current as of March 31, 2023 and are available at [https://apps.azsos.gov/public\\_services/Title\\_07/7-02.pdf](https://apps.azsos.gov/public_services/Title_07/7-02.pdf).

***For solicitations prepared for competitive sealed bidding or competitive sealed proposals, for contracts involving the procurement of construction, materials, and services, did the cooperative follow the School District Procurement Rules (A.A.C. R7-1-1011 et seq) and do the following:***

1. *Compile/maintain a list of persons who requested to be added to a list of prospective bidders, if any, and furnish those bidders with notice of available bids? [A.A.C. R7-2-1023].*

PCA maintains a list of prospective responders for each solicitation and provides notification to all prospective responders via email or other reasonable means provided by the responder.

2. *Publish and provide other adequate notice, as applicable, of the issuance of solicitations? [A.A.C. R7-2-1022 or R7-2-1024(C), or R7-2-1042(C)].*

PCA provides adequate notice for every new solicitation. Documentation is maintained for all solicitations:

- Advertised in all 50 states and territories in a national newspaper, *USA Today*.
- Advertised in the classified section of the local newspaper, *Lynn County News* (Texas local requirement) & *AZ Capital Times*.
- Advertised on PCA's website at [www.pcamerica.org](http://www.pcamerica.org).
- Advertised on the Texas Comptroller's Electronic State Business Daily [ESBD] website, as available.
- Announced directly to prospective responders via phone calls and email invitations to encourage responses to the solicitation.
- Posted for response in a 3<sup>rd</sup> party electronic system; notices sent also.

3. *Issue the solicitation at least 14 days before the due date and time set for proposals, as applicable, unless a shorter time was determined necessary? [A.A.C. R7-2-1024(A) or R7-2-1042(B)].*

Newspaper classified advertisements and online notices are posted at least 14 days prior to the opening date/due date.

4. *Include all required content in the solicitation, as required by A.A.C. R7-2-1024(B) or R7-2-1042(A), including the requirement that bidder/offerors have taken steps to ensure no violation of A.R.S. §15-213(O) has occurred?*

PCA solicitations clearly state response instructions; opening day, date and time; contact information for inquiries; the scope and specifications; required signatures; reference to procurement and contracting statutes; contract terms and conditions; specific evaluation factors that will be followed by the evaluation committee; and the requirement that bidder/offerors shall take steps to ensure no violation of A.R.S. § 15-213(O) has occurred.

5. *Record the time and date that sealed bids or proposals were received and store bids or proposals unopened until the time and date set for opening? [A.A.C. R7-2-1029 or R7-2-1045].*

Evaluators have no access to submitted responses until the time and date set for opening. The PCA third-party electronic solicitation system closes promptly at the due date and time, after which no further responses may be uploaded and/or accepted. Electronic reports of electronic submissions and accessibility are maintained as due diligence documentation.

**If a multiple award was made for a solicitation, did the cooperative: (Questions 6 through 9)**

6. *Include in the solicitation(s) notification that multiple contracts may be awarded, the cooperative's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts? [A.A.C. R7-2-1031(C) and R7-2-1050(B)]*

PCA solicitations state the following: "PCA reserves the right to award contracts to multiple vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with PCA." PCA awards contracts on a national basis as well as a local basis to meet the needs of the Members. In many cases this may require multiple contract awards to meet their diverse needs.

The evaluation factors that the evaluation committee will use in its review of the response are stated in the solicitation, along with the following: "Awards will be made to the successful respondent(s) for the total line of services submitted. Awards will be based on the criteria set forth within this document. PCA reserves the right to award multiple vendors if vendors offer items that are unique and have value to members."

7. *Documented the specific reason(s), that a single award was not advantageous to the cooperative's members and retained documentation that supported the basis for a multiple award? [A.A.C. R7-2-1031(D) and R7-2-1050(C)]*

PCA, as stated in the award recommendation to the PCA Awarding Agency, may determine in certain cases that multiple contract awards are advantageous to PCA Members based on the following considerations:

- Local, regional and/or national service area
- Types of PCA Members the Vendor works with (education, government, non-profit)
- Variety of products and services offered
- Pricing and discounts offered
- Value-add products and services offered
- Other as negotiated

PCA awards contracts on a national basis as well as a local basis to meet the needs of the Members. In many cases this may require multiple contract awards to meet their diverse needs.

8. *Establish and communicate to the cooperative's members the procedures for the use of multiple award contracts? [A.A.C. R7-2-1031(D) and R7-2-1050(C)]*

PCA operating procedures allow for the use of multiple award contracts and the circumstances under which multiple awards may be made. PCA Members are provided guidelines for the use of multiple award contracts as part of the registration process and the provision of due diligence documentation.

9. *Limit contract awards to the least number of suppliers necessary to meet the requirements of the members? [A.A.C. R7-2-1031(D) and R7-2-1050(C)]*

Multiple contractors are awarded because PCA contracts are compliant nationwide and PCA Members may join from all 50 States and the U. S. Territories, Canada and Mexico. Additionally, Vendors provide a wide range of materials and services that fall within the scope of a solicitation. PCA actively encourages participation by regional and local companies, while ensuring it awards Vendors who can provide materials and services for as many PCA Members as possible.

10. *For contracts where only 1 responsive bid or proposal was received, did the cooperative determine that the price submitted was fair and reasonable, and that either other prospective offerors had reasonable opportunity to respond or there was not adequate time for resolicitation, and retain documentation that supported the basis for the determination? [A.A.C. R7-2-1032 or R7-2-1046(A)(1)]*

PCA advertises solicitations online and in national newspapers. In addition, numerous vendors are directly notified by phone and/or email. Documentation of the advertisements and contacts is kept as due diligence documentation. When only one responsive proposal is received, the proposal is reviewed by the evaluation committee, which may hold an oral interview. The committee determines whether recommendation for a single award is sufficient and thoroughly evaluates whether it is in the best interest of Vendors and PCA Members to conduct a re-solicitation.

11. *For ( ) solicitations awarded through competitive sealed bidding, did the cooperative award the contracts to the lowest responsible and responsive bidder whose bid conformed, in all material respects, to the requirements and evaluation criteria set forth in the invitation for bid (IFB)? [A.A.C. R7-2-1031]*

'Low Bid' is not the only criteria for an award of a PCA contract, although pricing is a major consideration. PCA considers 'Best Value' for its Members. Vendors are encouraged to submit 'Value Add' items with their response. 'Value Add' items are other goods/services provided by the vendor that are adjunct to the solicitation and would be beneficial to PCA Members.

PCA contracts are indefinite delivery indefinite quantity (IDIQ). It is for the Member and the Awarded Contractor to negotiate the final scope and specifications to meet the Member's needs.

12. *For ( ) solicitations awarded through competitive sealed proposals, did the cooperative award the contract to the offeror whose proposal was determined, with the specific reason(s) in writing, to be most advantageous to the cooperative's members based on the factors set forth in the RFP and*

*retain documentation that supported the determination? [A.A.C. R7-2-1050]*

The evaluation factors by which the Evaluation Committee will review the responses are stated in the solicitation. Contracts are awarded per the recommendation of the Evaluation Committee that are most advantageous and 'Best Value' to PCA Members. Summary Evaluation sheets are kept as due diligence documentation.

13. *If the cooperative procured construction contracts that used construction-manager-at-risk, design-build, job-order-contracting, or qualified select bidders list to procure those services, did the cooperative comply with requirements of A.A.C. R7-2-1100 through R7-2-1115?*

PCA has several Job Order Contracting (JOC) contracts that are appropriate for renovations, additions and repairs, but JOC is not always suitable for new construction. PCA does not employ construction-manager-at risk, design-build solicitations to procure construction services. PCA does not use a qualified select bidders list to procure goods and/or services.

14. *If the cooperative contracted for goods and information services using reverse auctions or electronic bidding, did the cooperative comply with the requirements of A.A.C. R7-2-1018 and R7-2-1021?*

PCA has not, to date, procured any goods or information services using reverse auctions or online electronic bidding.

15. *Did the cooperative annually obtain signed procurement disclosure statements for all employees with job responsibilities related to procurement and for all procurement consultants, members of a procurement advisory groups, or evaluation committee involved in each specific procurement process, that includes the requirements disclosures described in A.A.C. R7-2-1008(C)? [A.A.C. R7-2-1008 and R7-2-1015]*

Yes. Reviewers on the evaluation committees sign conflict-of-interest disclosure statements with PCA for each specific procurement and all employees provide disclosures as required; these are kept on file.

16. *Based on type of procurement tested, did the cooperative prepare applicable written determinations as required throughout the procurement rule(s) and specify the reasons and how the determination was made, within the solicitation or separately documented in the procurement file. [A.A.C. R7-2-1004]*

Written determinations are prepared as part of the evaluation process and recorded with due diligence. Upon request, written determinations are made available for school districts to place into their procurement file in accordance with A.A.C. R7-2-1004.

17. *If the cooperative used multi-term contracts for any of the contracts tested:*

- a. *Were the terms and conditions or renewal or extension, if any, included in the IFB or RFP? A.R.S. § 15-213(L) and A.A.C. R7-2-1093]*

As stated in the solicitation, the typical term of a PCA contract for products and services is 1 calendar year with up to 4 additional one-year renewal terms, for a total of 5 years. PCA reserves the right to award a contract to a vendor for a longer term than the period stated in the solicitation, if it is determined to be in the best interest of PCA Members.

The PCA Job Order Contract (JOC) term is typically 2 calendar years with up to 3 additional one-year renewals, for a total of 5 years. PCA has never extended the total contract term for a JOC contract.

- b. For materials or services and contracts for job-order-contracting [JOC] construction services that were entered into for more than 5 years, did the cooperative determine in writing, that a contract of longer duration would be advantageous to its members before the procurement solicitation was issued? [A.R.S. § 15-213(K) and A.A.C. R7-2-1093]*

PCA does not award JOC contracts for longer than 5 years.

PCA contracts allow for the Member to enter into a contract by purchase order or work order up to and on the last day of the PCA contract that extends for as long a term as the Member and vendor agree upon under the purchase order or work order to meet that entity's needs.

- 18. If the cooperative procured contracts for specified professional services, consistent with A.A.C. R7-2-1117 through R7-2-1123 did it provide guidance for use of those contracts to cooperative member districts?*

To date, PCA has not awarded contracts for the services of an architect, engineer, land surveyor, assayer, geologist, or landscape architect which require such guidance.

- 19. The cooperative's procurement files included the information required by A.A.C. R7-2-1001(97), as applicable, and were the files available to cooperative members for due diligence purposes? A.A.C. R7-2-1191(D). If the response is "No," specifically indicate which document listed in R7-2-1001(97) was not included in the file, if not already cited in response to another question].*

PCA maintains a "procurement file" as defined in R7-2-1001(97) and provides all documentation to PCA Member school districts, for due diligence purposes, upon request.

- 20. The cooperative provided training and guidance related to restrictions on soliciting, accepting, or agreeing to accept any personal gift or benefit with a value of \$300 or more to employees and vendors? [A.R.S. §15-213(N) and A.A.C. R7-2-1003]*

As part of Vendor Orientation and Member Registration, Awarded Vendors and PCA Members are reminded of their responsibility to comply with federal, state, and local laws and requirements. PCA Employees and Nonemployees complete all required training relevant to their job responsibilities.

- 21. Did the cooperative have a procedure to prevent additional purchases by new members that would materially increase the volume of goods or services estimated in the original solicitation? [A.A.C. R7-2-1011]*

PCA offers indefinite delivery indefinite quantity (IDIQ) contracts and the Members and vendors negotiate and agree upon the specific scope of work and specifications for the goods and/or services to be purchased/provided.

22. *Did the cooperative have a procedure to verify districts using the cooperative's contracts had an active cooperative purchasing agreement on file? [R7-2-1191 through R7-2-1195]*

PCA Members (including local, state, and federal government agencies, Indian tribal governments, educational institutions K-12 through university, and non-taxed, non-profit organizations in all 50 states and the U. S. Territories, Canada and Mexico) are responsible for following their state and local guidelines for intergovernmental contracting. The Interlocal is open-ended and made available to all eligible PCA Members to retain on file.

I attest that the preceding statements made on behalf of PCA are true to the best of my knowledge. If you have any other questions, I welcome you to contact me.

*Elaine Nichols*

*July 1, 2023*

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Elaine Nichols, Director

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Date

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