



PROCUREMENT PROCESS IN COMPLIANCE WITH AZ REVISED STATUTES AND PROCUREMENT RULES FOR SCHOOL DISTRICTS EFFECTIVE JUNE 30, 2016 AND THEREAFTER

Arizona Revised Statutes (A.R.S.) § 15-213(F) requires an annual review of school purchasing cooperatives to determine if the cooperative is in compliance with the State's procurement laws and applicable rules. Purchasing Cooperative of America (PCA) provides legally procured, competitively bid contracts on behalf of PCA Members in all 50 states and the U.S. Territories.

The following information was prepared by PCA management in response to the 9/16 version of the Procurement Compliance Questionnaire, and the questions are reproduced here in their entirety (and in *italics*).

For solicitations prepared for competitive sealed bidding or competitive sealed proposals, did the cooperative:

1. *Give adequate notice of the invitation for bid (IFB) or request for proposal (RFP)? [R7-2-1022 or R7-2-104(C.)].*

PCA provides adequate notice for each Request for Proposal (RFP) or Request for Qualifications (RFQ). Documentation is maintained for all solicitations:

- advertised in all 50 states and U.S. Territories in the classified section of the Washington Post.
- advertised in the classified section of one or both local newspapers, Victoria Advocate and Houston Chronicle.
- posted online at the PCA website at www.pcamerica.org.
- posted online at the Region 3 ESC website at www.esc3.org.
- posted to the Texas Comptroller's Electronic State Business Daily web page.
- announced directly to prospective responders via phone calls.
- announced via email invitations sent to encourage response to the solicitation.

2. *Compile and maintain a list of persons who requested to be added to a list of prospective bidders, if any? [R7-2-1023].*

Yes. PCA maintains a list of prospective responders for each solicitation.

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

Newspaper classified advertisements and online notices are usually posted first on a Friday and subsequently posted a second time on the Sunday of the following week. Opening Days are typically scheduled for at least 3 weeks after the second posting.

4. *Include all required information in the IFB or RFP? [R7-2-1024(B.) or R7-2-1042(A.)].*

PCA solicitations clearly state response instructions, opening day and time, contact information and the specific evaluation factors that will be followed by the evaluation committee.

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

Receiving reports of both manual submissions and electronic submissions are completed for the opening and available due diligence documentation.

If a multiple award was made for an IFB or RFP, did the cooperative: (Questions 6 through 9)

6. *Establish and follow procedures for the use of multiple award contracts? [[R7-2-1031(D.) and R7-2-1057-2-1050(B.)]*

PCA solicitations contain the following: "Region III ESC/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 Region III ESC/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.

7. *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? [R7-2-1031(C.) and R7-2-1050(B.)]*

PCA solicitations contain the following: "Region III ESC/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 Region III ESC/PCA."

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. Region III Education Service Center reserves the right to award multiple vendors if vendors offer items that are unique and have value to members."

8. *Determine, with the specific reason(s) in writing, that a single award was not advantageous to the cooperative's members and retain documentation that supported the basis for a multiple award? [R7-2-1031(D.) and R7-2-1050(C.)]*

PCA, as stated in the solicitation/contract, "...reserves the right to award multiple contracts, including multiple contracts for each product/service category." PCA IDIQ contracts encourage vendors to submit 'Value Add' goods/services that are adjunct to the solicitation and will benefit PCA Members. 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.

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

PCA awards contracts to vendors who can earn a minimum of 80 evaluation points (out of 100). Multiple contractors are often awarded because PCA contracts are national and contract awards are not limited to companies who work in all 50 States and the U. S. Territories.

10. *For contracts where only one responsive bid or proposal was received, 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 re-solicitation, and retain documentation that supported the basis for the determination? [R7-2-1032 or R7-2-1046(A.) (1.)]

PCA advertises the solicitations online and in a national newspaper, usually 3 weeks in advance of the opening date. Documentation of the advertisements is kept as due diligence documentation.

When only one responsive proposal is received, that proposal is reviewed by the evaluation committee and also orally interviewed. The committee determines whether a single award is sufficient.

11. *For contracts awarded through competitive sealed proposals, 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 IFB? [R7-2-1031]*

'Low Bid' is not the primary criteria for most if not all of PCA solicitations. 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.

Pricing in the response is considered maximum pricing, and, per the contract, the Awarded Contractor can give the Member price discounts based on volume or repeat business or other criteria.

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 contracts 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? [R7-2-1050]*

The evaluation factors by which the Evaluation Committee will review the responses are stated in the solicitation. Certainly, Region III ESC awards contracts (per the recommendation of the Evaluation Committee) that are most advantageous to PCA Members. Summary Evaluation sheets are kept as due diligence documentation.

13. *If the cooperative used a qualified select bidders list to procure construction services, did the cooperative comply with requirements of [R7-2-1101]?*

PCA did not use a qualified select bidders list to procure goods/services.

14. *If the cooperative used construction-manager-at risk, design-build, or job-order-contracting [JOC] to procure construction services, did the cooperative comply with the requirements of [R7-2-1100 through R7-2-1115]?*

PCA has a number of Job Order Contracting contracts that are appropriate for renovations, additions and repairs but JOC is not always suitable for new construction.

15. *If the cooperative procured goods and services using reverse auctions or electronic bidding, did the cooperative comply with the requirements of [R7-2-1018, R7-2-1021, or R7-2-1041]?*

PCA did not procure any goods/services using reverse auctions or online electronic bidding.

16. *For purchases made through the Simplified School Construction Procurement Program, did the cooperative follow the requirements of [R7-2-1033]?*

PCA did not procure any goods/services using the Simplified School Construction Procurement Program.

17. *Did the cooperative have signed conflict-of-interest disclosures filed for any employee or non-employee evaluation committee members? [R7-2-1008 and R7-2-1015]*

As of October 1, 2016, members of the Evaluation Committee sign and file conflict-of-interest disclosures with PCA prior to serving on the Evaluation Committee.

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

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

The term of the typical PCA contract is a period of one (1) calendar year with up to four (4) additional one-year renewal terms, at Region III ESC/PCA discretion. *TEX. GOV'T. CODE § 2269.409*. The Service Center reserves the right to award a contract to a vendor for a longer initial term period than time period stated in the solicitation, if it is determined to be in the best interest of REGION III ESC/PCA or PCA Member.

- 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 R7-2-1093]*

PCA did not enter into any contracts for longer than 5 years. PCA contracts typically last a maximum of 5 years with Region III ESC reserving the right to extend the contract for the benefit of PCA Members. Also, PCA contracts allow for the Member to enter into a contract for goods/services up to and on the last day of the PCA contract that extends for as long a term as the Member and Awarded Contractor agree upon, under the purchase order and meeting that jurisdiction's requirements.

19. *Did the cooperative prevent additional purchases by new Members that would materially change the volume of goods or services estimated in the original solicitation? [R7-2-1011]*

PCA offers indefinite delivery indefinite quantity (IDIQ) contracts and the Member and Awarded Contractor negotiate and agree upon the scope of work and specifications for the goods/services to be provided, and document the final agreement on the purchase order or in a supplemental contract that becomes part of the contract package.

As stated in the solicitation/contract, prices submitted with the response are considered maximum pricing. The Awarded Contractor may offer price discounts based on the Awarded Contractor's pricing policy(ies), with the caveat that all other Members making the same comparable purchase be offered the same price discount.

20. *Did the cooperative maintain current cooperative purchasing agreements with participating districts? [R7-2-1191 through R7-2-1195]*

Yes, membership is current. Region III Education Service Center is the government agency administering the PCA purchasing cooperative. Region III ESC awards and holds the PCA contracts.

Tex. Local Gov't. Code § 791, Interlocal Cooperation Act, and similar statutes in other states, allows for various entities to utilize contracts procured by PCA. Texas school districts are required to execute interlocal contracts with Region III ESC to participate as a PCA Member. PCA Members other than Texas school districts (including local, state and federal government agencies, Indian tribal governments, educational institutions and non-taxed, non-profit organizations in all 50 states and the U. S. Territories) are responsible for knowing and following their state or local guidelines for intergovernmental contracting.

The Region III cooperative purchasing agreements start on the signature date and have an open-ended termination date. PCA Members complete the procurement justification by including 'PCA and the Contract Number' on their purchase orders.

If the cooperative had any emergency and sole source procurements:

21. *Was the basis for each emergency procurement reasonable; did the cooperative maintain a written statement for each emergency procurement documenting the basis for the emergency, the selection of the particular contractor, and why the price paid was reasonable; and was such statement signed by the individual authorized to initiate emergency procurements? [R7-2-1055 and R7-2-1056]*

PCA has not made any emergency procurements at this time. PCA does have competitively awarded contracts with several disaster recovery companies to cover fire, water and other damage.

22. *Was the basis for the sole source procurement reasonable, and did the cooperative retain its written determination that there was only one source for the required materials, service, or construction items? [R7-2-1053]*

PCA has no sole source contracts.

23. *If the cooperative procured contracts for specified professional services, did the cooperative follow the School District Procurement Rules? [R7-2-1117 through R7-2-1123]*

PCA has no professional contracts at this time.

I attest that the preceding statements are true to the best of my knowledge. If you have any other questions, or need an updated questionnaire, please do not hesitate to contact me.

Elaine Nichols

November 1, 2016

Elaine Nichols, Director, PCA

Date

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