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The United States Educational Technology Purchasing Alliance (USETPA) Cooperative Group Purchasing Program

Compliance with NJ State and Local Purchasing Regulations

The United States Educational Technology Purchasing Alliance (“USETPA”) is a competitive bidding group purchasing program that provides cooperative purchasing assistance to its public section members in a more effective manner than direct purchases by any single entity or individual.

Any public entity may be a member of the USETPA, including public K12 schools, community colleges, higher education, local government units, special purpose districts, and state agencies. There is no charge to become a member.

The USETPA issued its most recent Request for Proposals (#2112001) on December 20, 2021 (“RFP”). Contracts under the RFP were awarded on January 24, 2022. Terms of the RFP and vendor awards may be found at www.usetpa.org. Contracts were awarded to all responsive and responsible bidders after evaluation by the USETPA’s award committee of sealed bids received by the announced bid due date.

The USETPA purchasing process is intended to comply with state statutes that authorize agencies and local governments to purchase goods and services through competitive bidding group purchasing programs. A member should review applicable law and confer with counsel to verify that it is eligible to use a competitive bidding group purchasing program. The USETPA maintains a file of applicable statutes and will provide the file to any potential member upon request.

The USETPA’s efforts to comply with New Jersey law are summarized below:

Chapter 139 added the following language to subsection (b) of N.J.S.A. 52:34-6.2:

(3) Notwithstanding any other law to the contrary, any contracting unit authorized to purchase goods, or to contract for services, may make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey, or within any other state, when available. Prior to making purchases or contracting for services, the contracting unit shall determine that the use of the cooperative purchasing agreement shall result in cost savings after all factors, including charges for service, material, and delivery, have been considered.

For purposes of this paragraph, “contracting unit” means any county, municipality, special district, school district, fire district or any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services...



The second section makes clear that the Law applies to a wide range of local contracting units. The first section provides the operative language that these agencies must apply to their circumstances. In context of the LPCL and PSCL, the provisions of this notice apply when the aggregate value of the goods or services (see N.J.A.C. 5:34-8.2) exceeds the contracting unit's bid threshold. When the aggregated value of goods and services is below the contracting unit's bid threshold, a national cooperative contract can be used subject to a contracting unit's political contribution disclosure (pay-to play) requirements when soliciting quotations. Depending on the circumstances, an award under a national cooperative contract may occur without governing body approval.

National Cooperative Contract Standards:

1. National Cooperative Contract awarded through Competitive bidding process

The national cooperative contract must have been awarded through a "competitive bidding process" that complies with the laws covering the issuing entity. In this context, a "competitive bidding process" requires open competition, or competition among those qualified or pre-qualified, submission of bids, and awarded pursuant to a "lowest responsible", "most advantageous to the public entity, price and other factors considered", or other similar standard employed by a public entity. This excludes contract awards based on unadvertised, "invitation only," negotiated, local preference, or sole source procurement practices.

Please see www.usetpa.org for RFPs, advertisements, bidding matrixes and contract awards for verification of competitive bidding process.

2. Contract awarded a contracting unit

The contract being awarded pursuant to the national cooperative model must have been awarded by a contracting unit as defined in c. 139, and cannot have been awarded by a non-profit or private organization, even if a member of the cooperative. Stated differently, Chapter 139 only permits contracting units to access national cooperative contracts that were solicited by another "contracting unit" as defined by the statute.

As per relevant USETPA RFP, bids were conducted and awarded on behalf of a specific contracting unit(s) as well as all formal USETPA subscribers (contracting units). Named contracting units may be found at www.usetpa and listed as part of designated RFP.

3. Bid must have been advertised a national cooperative contract

The original bid must have been advertised as a national cooperative contract (or a regional contract that includes New Jersey in its region) – not as a strictly local contract that is made "national" or "regional" after the receipt of bids.

The USETPA RFP states that "The USETPA has Subscribers and users of the contracts in multiple states. The contracts issued by the consortium are used both for securing government funding and for Convenience Contract purposes." And therefore meets this requirement.

For the foregoing reasons, it is the USETPA's position that local government units in New Jersey may purchase information technology goods and services as a result of contracts awarded under the RFP.

The USETPA will answer any questions that a potential member may have regarding its compliance with local or state purchasing statutes, but a member should consult with its own legal counsel for specific questions regarding its ability to utilize competitive bidding group purchasing programs.