

**State Procurement Office (SPO)**  
**Procurement Compliance Questionnaire**  
**For Fiscal Year Ended June 30, 2008**

## PROCUREMENT COMPLIANCE QUESTIONNAIRE

### INSTRUCTIONS

Arizona Revised Statutes (A.R.S.) §15-213(F) requires school purchasing cooperatives to have, as part of their audit, a systematic review of their purchasing practices using guidelines established by the Auditor General. The purpose of the review is to determine whether the cooperative is in compliance with the State's procurement laws and applicable rules in awarding contracts for schools to use. Cooperatives meet this requirement by having their auditors complete this questionnaire using the guidelines specified below. As required by A.R.S. §15-213(E), procurement review contracts and completed Procurement Compliance Questionnaires must be submitted for review by the Office of the Auditor General. This questionnaire is applicable for audits of fiscal years ending June 30, 2004, and thereafter. The audit documentation supporting auditors' answers on the questionnaire must be made available for review at the Auditor General's request. To facilitate this review, auditors may wish to include in the audit documentation a copy of the questionnaire with references to the audit procedures performed for each question. Reviews not meeting these guidelines may be rejected by the Auditor General.

- ◆ Sufficient, competent evidence must be gathered for each question to satisfactorily determine whether the cooperative complies with the State's procurement laws and applicable rules, and the evidence must be included in the audit documentation.
- ◆ Evidence may be gathered through test work, observation, examination, and client assertion. However, client assertion alone is not adequate evidence to support "Yes" answers to the questionnaire.
- ◆ Population size should be considered in determining the number of items to test, and the items selected should be representative of the population. However, a minimum number of items to test has been specified for each question.
- ◆ The sample size should be expanded if the auditor cannot clearly determine whether the cooperative complies with the State's procurement laws and applicable rules on that question.
- ◆ If sufficient evidence has been gathered and documented during the audit, that evidence may be relied on to answer questions.
- ◆ All "No" and "N/A" answers must be adequately explained in the comments column or in an attachment. Findings must be described in sufficient detail to enable the Auditor General to describe the finding in a letter. The description should include the number of items tested and the number of exceptions noted.
- ◆ A "Yes" answer indicates that the auditor has determined that the cooperative complies with the State's procurement laws and applicable rules on that question and a "No" answer indicates the cooperative does not comply. However, the final determination of compliance on each question, as well as overall compliance, is made by the Auditor General based on the evidence presented in the questionnaire, audit reports, audit documentation, and any other sources.

## PROCUREMENT COMPLIANCE QUESTIONNAIRE

**For question 1: Auditors must select and test the lesser of 50 percent or 15 of the cooperative’s contracts awarded during the fiscal year to be used by schools, but no fewer than 5 awarded contracts. These sample sizes represent the minimum level of required test work. Auditors should use their own judgment in determining whether a larger sample is needed. On the blank line included in the question, write the actual number of contracts tested. If all contracts are tested, indicate such in the “comments” column. Of the total awarded contracts selected for testing, at least 40 percent must be of purchases made through competitive sealed bids and at least 40 percent must be of purchases made through competitive sealed proposals. If the 40 percent thresholds cannot be met due to an inadequate population size, the auditor must test all contracts awarded through competitive sealed bids or proposals, as applicable. Of the bids/proposals selected above, at least one expenditure should be for construction-manager-at-risk, design-build, job-order-contracting, or qualified select bidders list, if applicable.**

|   | <u>YES/NO</u> | <u>COMMENTS</u>   |
|---|---------------|---|
| 1. Based upon review of a sample of awarded contracts for the procurement of construction, materials, and services that met or exceeded the amount requiring sealed bids, as calculated by the State Board of Education in accordance with A.R.S. §15-213, did the cooperative follow the School District Procurement Rules as set forth in Title 7, Chapter 2, Articles 10 and 11, of the Arizona Administrative Code? | Y             | The results of our test work indicated that SPO and the SCCs (strategic contracting centers) complied with their procurement rules and regulations in all material respects, except for three errors noted on a. (1), b.(1), and b.(5). |
| a. For a sample of contracts tested that were made through competitive sealed bidding, did the cooperative:   |               |   |
| (1) Give adequate notice of the invitation for bids as required by R7-2-1022?   | Y             | There was one solicitation for which adequate public notice was not given. Though it was published on the SPIRIT website, the requirement to advertise in a newspaper within the state was not met.                                     |
| (2) Compile and maintain a list of prospective bidders in accordance with R7-2-1023?  | Y             |   |
| (3) Issue invitations for bids at least 14 days before the time and date set for bid opening unless a shorter time was determined necessary, and did the invitation for bids include all information required by R7-2-1024, including:  |               |   |
| (a) The purchase description and specifications, including the estimated volume of purchases for the cooperative’s members  | Y             |   |
| (b) Delivery or performance schedule  | Y             |   |
| (c) Inspection and acceptance requirements  | Y             |   |
| (d) Contract terms and conditions   | Y             |   |
| (e) The closing date and time of bid receipt  | Y             |   |
| (f) Address where bids are to be sent   | Y             |   |
| (g) Time and date of bid opening  | Y             |   |
| (h) Notice that all bids will be available for public inspection after contract award   | Y             |   |
| (i) Factors to be used in bid evaluations   | Y             |   |
| (j) Bonding and warranty requirements   | Y             |   |
| (k) The name of the cooperative representative  | Y             |   |

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|  | <u>YES/NO</u> | <u>COMMENTS</u>  |
|--|---------------|--|
| (l) The special requirements if procuring information or telecommunication systems, or earth-moving, material-handling, road maintenance, and construction equipment   | N/A           | Contracts selected were not for purchase of information or telecommunication systems, or earth-moving, material-handling, road maintenance, and construction equipment.  |
| (4) Stamp sealed bids with the time and date upon receipt and store bids unopened until the time and date set for bid opening (R7-2-1029)?   | Y             |  |
| (5) Award 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 bids (R7-2-1031)?   | Y             |  |
| (6) If a multiple award <sup>1</sup> was made, determine, with the specific reason(s) in writing, that a single award was not advantageous to the cooperative's members?   | Y             |  |
| (7) Maintain documentation that supported the basis for a multiple award?  | Y             |  |
| (8) Limit contract awards to the least number of suppliers necessary to meet the requirements of the members?  | Y             |  |
| (9) For contracts where only one responsive bid was received, determine that the price submitted was fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there was not adequate time for resolicitation? | N/A           | Contracts selected received more than one responsive bid.  |
| (10) Maintain documentation that supported the basis for that determination?   | N/A           | Same as above  |
| b. For a sample of contracts tested that were made through competitive sealed proposals, did the cooperative:  |               |  |
| (1) Determine, with the specific reason(s) in writing, that the use of competitive sealed bids was either not practicable or advantageous to the cooperative's members for specified types of materials or services (R7-2-1041)?                             | Y             | Except for six contracts selected in which neither SPO (5 contracts) nor the applicable SCC (1contract) were able to locate the written determination in the respective procurement file. SPO does have a generic, written "Determination" that they use when justifying the use of a RFP over an IFB; |

<sup>1</sup> Examples of multiple awards include—

- Incremental awards—made only if it is necessary to obtain the required quantity or delivery.
- Regional awards—made if materials or services are required in widely scattered locations or a particular requirement is of a local nature.

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|  | <u>YES/NO</u> | <u>COMMENTS</u>   |
|--|---------------|---|
|  |               | however, they did not include this document in the procurement files. Their "Determination" specifically states it shall be kept in the procurement file. As such, this was only a non-compliance issue with their internal policy. For the applicable SCC, they were unable to determine a specific reason for the missing written determination due to employee turnover. |
| (2) Determine, with the specific reason(s) in writing, that the use of competitive sealed bidding was either not practicable or not advantageous to the cooperative's members because it was necessary to: |               |   |
| (a) Use a contract other than a fixed-price type   | Y             | Same as above   |
| (b) Conduct oral or written discussions with offerors concerning technical and price aspects of their proposals  | N/A           |   |
| (c) Afford offerors an opportunity to revise their proposals   | Y             |   |
| (d) Compare the different price, quality, and contractual factors of the proposals submitted   | Y             |   |
| (e) Award a contract in which price was not the determining factor   | N/A           |   |
| (3) Maintain documentation that supported the basis for the determinations in (1) and (2) above?   | Y             | ↓   |
| (4) Include all applicable factors in the request for proposals required by R7-2-1024(B) and R7-2-1042(A), including:  |               |   |
| (a) The type of services required and a description of the work involved, including the estimated volume of purchases for the cooperative's members  | Y             |   |
| (b) Delivery or performance schedule   | Y             |   |
| (c) Inspection and acceptance requirements   | Y             |   |
| (d) The type of contract to be used  | Y             |   |
| (e) Contract terms and conditions  | Y             |   |
| (f) The estimated duration that services will be required  | Y             |   |
| (g) That cost or pricing data is required  | Y             |   |
| (h) That offerors may designate portions of the proposal as proprietary  | Y             |   |
| (i) That discussions may be conducted  | Y             |   |
| (j) The minimum information that the proposal must contain   | Y             |   |

## PROCUREMENT COMPLIANCE QUESTIONNAIRE

|   | YES/NO | COMMENTS  |
|---|--------|---|
| (k) The closing date and time of proposal receipt   | Y      |   |
| (l) Address where proposals are to be sent  | Y      |   |
| (m) Time and date of proposal opening   | Y      |   |
| (n) Notice that all proposals will be available for public inspection after contract award  | Y      |   |
| (o) The relative importance of price and other evaluation factors   | Y      |   |
| (p) Bonding and warranty requirements   | Y      |   |
| (q) The name of the cooperative representative  | Y      |   |
| (r) The special requirements if procuring information or telecommunication systems, or earth-moving, material-handling, road maintenance, and construction equipment  | N/A    | See a. (3)(l)   |
| (5) Give adequate notice of the request for proposals as required by R7-2-1042(C)?  | Y      | There was one solicitation for which adequate public notice was not given. Though it was published on the SPIRIT website, the requirement to advertise in a newspaper within the State was not met. |
| (6) Compile and maintain a list of prospective bidders in accordance with R7-2-1023?  | Y      |   |
| (7) Issue the request for proposals at least 14 days before the closing date and time for receipt of proposals unless a shorter time was determined necessary [R7-2-1042(B)]?   | Y      |   |
| (8) Stamp sealed proposals with the time and date upon receipt and store proposals unopened until the closing date and time for receipt of proposals (R7-2-1045)?   | Y      |   |
| (9) Award the contract to the offeror whose proposal was determined in writing to be most advantageous to the cooperative's members based on the factors set forth in the request for proposals and in accordance with the other provisions of R7-2-1050? | Y      |   |
| (10) Maintain documentation that supported the basis for that determination?  | Y      |   |
| (11) If a multiple award <sup>2</sup> was made, determine, with the specific reason(s) in writing, that a single award was not advantageous to the cooperative's members?   | Y      |   |
| (12) Maintain documentation that supported the basis for a multiple award?  | Y      |   |
| (13) Limit contract awards to the least number of suppliers necessary to meet the requirements of the members?  | Y      |   |

<sup>2</sup> Ibid.

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|  | <u>YES/NO</u> | <u>COMMENTS</u>  |
|--|---------------|--|
| (14) For contracts where only one responsive proposal was received, determine that the price submitted was fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there was not adequate time for resolicitation?   | N/A           | See a. (9)   |
| (15) Maintain documentation that supported the basis for that determination?   | N/A           | See a. (10)  |
| (16) If the cooperative used construction-manager-at-risk, design-build, or job-order-contracting to procure construction services, did the cooperative comply with the requirements of Title 41, Chapter 23 [until the Arizona State Board of Education (ASBE) adopts rules for these procurements, after which the cooperative should comply with those rules]?                              | N/A           | This step is not applicable as SPO does not procure such services. |
| c. If the cooperative used a qualified select bidders list to procure construction services, did the cooperative receive approval from the School Facilities Board (until ASBE adopts rules for the use of a list, after which the cooperative should comply with those rules)?  | N/A           | See above.   |
| d. If the cooperative procured goods and information services using electronic, on-line bidding, did the cooperative comply with the requirements of Title 41, Chapter 23, Article 13 and the rules adopted by the Department of Administration in implementing that article (until the ASBE adopts rules for these procurements, after which the cooperative should comply with those rules)? | Y             |  |
| e. For purchases made through the Simplified School Construction Procurement Program (R7-2-1033), did the cooperative:   |               |  |
| (1) Ensure that construction costs did not exceed the maximum amount specified in A.R.S. §15-213(A)(2)?  | N/A           | This step is not applicable as SPO does not procure such services. |
| (2) Submit solicitations to bid and all other information related to the project to all vendors included in a list maintained by the CSS?  | ↓             | ↓  |
| (3) Open the bids at a public opening?   | ↓             | ↓  |
| (4) Keep the bids confidential until the public opening?   | ↓             | ↓  |
| (5) Encourage competition to the maximum extent possible?  | ↓             | ↓  |
| 2. Did the cooperative prevent additional purchases by new members that would materially change the volume of goods or services estimated in the original invitation for bids/request for proposals?   | Y             |  |

**For questions 3 and 4: If the cooperative had any emergency or sole source procurements, the auditor must test all such procurements.**

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|  | <u>YES/NO</u> | <u>COMMENTS</u> |
|--|---------------|-----------------|
| 3. Based upon review of all emergency procurements, 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 (R7-2-1057)? | <u>Y</u>      | <u></u>         |
| 4. Based upon review of all sole source procurements, did the cooperative retain written documentation of the reasons for the determination that there was only one source for the required materials, service, or construction items (R7-2-1053)?   | <u>Y</u>      | <u></u>         |

This questionnaire was completed in accordance with guidelines established by the Auditor General as set forth in the instructions on page 1.

Office Of The Auditor General-Arizona  
CPA FIRM  
Jay Zsorey  
Preparer (CPA Firm Representative)

1/14/09  
Date  
Financial Audit Director  
Title