NY GovBuy

Use of National Cooperative Contracts

May 4 & 5, 2022
Realities of our Public Procurement World
Public Procurement – Realities

• Our primary purpose is to obtain quality goods and services for our governmental entity by ensuring the prudent use of taxpayer funds

• Purchasing laws have become more complex, staffing has decreased as workloads have increased, and our budgets have declined

• We must continually look for new tools to make our governmental agencies more effective and efficient

• Government cooperation – the use of piggybacking or cooperatives (joint solicitations) inspires public confidence that we are using our resources wisely
Definition of Piggybacking

• A process where one governmental entity will extend the pricing and terms of their contract to others

• It’s competitively awarded and will include language allowing other governmental entities to utilize the contract

• Here in New York, you must purchase the exact same item – using the same terms and conditions as presented in the original solicitation
Definition of Cooperative Procurement

1. The action taken when two or more entities combine their requirements to obtain advantages of volume purchases, including administrative savings and other benefits.

2. A variety of arrangements, whereby two or more public procurement entities (or agencies) purchase from the same supplier or multiple suppliers using a single invitation for bids (IFB) or request for proposals (RFP).

3. Cooperative procurement efforts may result in contracts that other entities may “piggyback.” (from NIGP Dictionary)

- Fundamentally cooperative procurement practice takes two forms: joint solicitation and piggybacking.
What the Law Allows – Piggybacking Contracts

• GML 103 was amended to add a new Section 16 that authorizes the piggybacking of certain contracts

• This allows the use of contracts issued by all local governments within New York State and other governmental agencies outside of New York State (if the piggybacking language is included in the original bid)

• Guidance has been published by the New York State Comptrollers Office, however, if you have questions speak with your own attorneys
Piggyback Section of the GML Law

16. Notwithstanding the provisions of subdivisions one, two and three of this section, and section one hundred four of this article, any officer, board or agency of a county, political subdivision or of any district therein authorized to make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, may make such purchases, or may contract for such services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, as may be required by such county, political subdivision or district therein through the use of a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision or district therein if such contract was let in a manner that constitutes competitive bidding consistent with state law and made available for use by other governmental entities.
What to Consider

(1) That bids are solicited competitively through a public solicitation process like advertising in official newspapers or websites, etc. *

(2) That bids are sealed to guard against fraud, favoritism or collusion *

(3) That bid specifications must be fair/open and not skewed toward particular vendors, i.e. that the system fosters open competition

(4) first adopt a local law, rule, regulation or resolution, as the case may be, authorizing the use of best value for awarding purchase contracts*

* [http://osc.state.ny.us/localgov/pubs/piggybackinglaw.pdf](http://osc.state.ny.us/localgov/pubs/piggybackinglaw.pdf)
What to Consider

(5) That the bid goes to the **lowest** bidder and that there is no process in which other bidders who are not the lowest bidders are "encouraged" to drop their prices for purposes of being awarded the bid

– “No 2\textsuperscript{nd} bite of the apple”
Evaluating Cooperative Contracts

• Based on the Comptroller’s guidance contracts that were awarded through a competitive process and awarded to the lowest responsible bidder or awarded by Best Value may be piggybacked

• If piggybacking a contract awarded by Best Value, the local government needs to have passed the required local law or resolution allowing them to award their own purchase contracts by Best Value
Evaluating Cooperative Contracts

The following questions should be asked:

• Why is piggybacking the appropriate mechanism to use for this procurement? (i.e. timing, cost savings)

• Where other procurement methodologies considered?

• Have market conditions changed since the original award? (i.e. price fluctuations, availability of supply)

• How have you determined the reasonableness of price for the piggyback volume?
Best Practices to Consider

• Comparison shopping between state, county and national cooperative contracts:
  – Office supply
  – Industrial supplies
  – Janitorial supplies
  – Automotive supplies

• Issue a formal document amongst cooperatives
• Keeps documentation for auditors in one place
Albany County Justification for Utilizing a Cooperative Contract

Cooperative or Lead Agency ____________________________

Contract No. _______________________________________

Vendor(s) Name(s) ___________________________________

We have reviewed and completed due diligence on the aforementioned cooperative contract. As part of the due diligence review, we have confirmed that the contract complies substantially with our procurement rules and practices. We have further confirmed that all purchases will comply with the terms and prices in the contract. It has been determined that it is in the best interests of our entity to utilize this contract for the reasons cited below:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Procurement Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New York State Considerations:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Was the contract let by the United States or any agency thereof, any state or any other political subdivision or district therein?</td>
<td></td>
</tr>
<tr>
<td>2. Was the contract made available for use by other governmental entities?</td>
<td></td>
</tr>
<tr>
<td>3. Was the contract let in a manner that constitutes competitive bidding “consistent with state law”?</td>
<td></td>
</tr>
<tr>
<td>4. Was there a public solicitation of bids consistent with OML 103.5 and serves to ensure that the purposes of OML 103 are furthered?</td>
<td></td>
</tr>
<tr>
<td>5. Was the submission of sealed bids, or analogous procedure, done in a manner to secure and preserve the integrity of the process and confidentiality of the bids submitted?</td>
<td></td>
</tr>
<tr>
<td>6. Was the preparation of bid specifications, or a similar document that provides a common standard for bidders to compete fairly?</td>
<td></td>
</tr>
<tr>
<td>7. Was the award to the lowest bidder who materially or substantially meets the bid specifications and is determined to be a responsible bidder?</td>
<td></td>
</tr>
<tr>
<td><strong>General Considerations:</strong></td>
<td></td>
</tr>
<tr>
<td>8. Do the terms, conditions and scope of work/specifications meet the need?</td>
<td>It should be noted here if terms or prices were negotiated.</td>
</tr>
<tr>
<td>9. If no, are the terms, conditions and scope of work/specifications negotiable?</td>
<td>Factors may include advantageous terms, conditions, prices, quality, performance, timing, entity’s experience and ability to duplicate the contract, age of the contract, etc.</td>
</tr>
<tr>
<td>10. Does the cooperative contract provide the most advantageous solution? Why?</td>
<td></td>
</tr>
<tr>
<td>11. Will volume pricing advantages be applied to purchases?</td>
<td></td>
</tr>
<tr>
<td>12. Were local and regional vendors offered the opportunity to compete for the contracts?</td>
<td>Use this area if applicable to the entity’s procurement policies, practices or principles.</td>
</tr>
<tr>
<td>13. Did the cooperative or lead agency have</td>
<td></td>
</tr>
</tbody>
</table>
Verification Template Examples

TOWN OF COLONIE
General Services Department
Memorial Town Hall
Newtown

Phone: (518) 786-3726
Fax: (518) 786-7329
www.colonie.org/gen-services

Paula A. Mahan
Town Supervisor

Douglas W. Sippel, CPPB
Director

Town of Colonie
Contract Verification Form

Municipality: _____________________________
Address: ________________________________
Phone Number: __________________________
Contact Name: __________________________
Contract Title: __________________________
Awarded Vendor: _________________________

The Town of Colonie is attempting to determine if the above contract meets the New York State requirements that allow political subdivision to use this contract. The information requested is only for the Town’s use to help make that determination. The Town of Colonie is a New York State Political Subdivision located in Albany County, New York.

This contract was let by the United States or any agency thereof, any state or any other political subdivision or district thereof.

YES _____ NO _____

This contract has been made available for use by other government entities.

YES _____ NO _____

This contract was the result of a public solicitation that included public

This contract required sealed submissions of bids or offers from vendors to secure and preserve the integrity of the process and confidentiality of the bids or offers submitted.

YES _____ NO _____

Prepared specifications were supplied to potential vendors as part of the solicitation of this contract.

YES _____ NO _____

The award of this contract was made on the basis of lowest responsible bidder or best value.

YES _____ NO _____

I affirm that the above answers are true and correct.

Signature: _____________________________
Printed Name: __________________________
Date: ________________________________

Thank you for your assistance. Please fax this completed back to the Town of Colonie at 518-786-7329. If you have any questions please contact Douglas Sippel, CPPB at 518-786-2726.
State Agency Only

Contract Use Request Form

Instructions:
- Any State Agency requesting OGS review of piggyback should complete and submit the following to the Customer Services Team:
  - By email: customer.service@ogs.ny.gov
  - By email: NY’s Office of General Services Procurement Services; Corning Tower, 38th Floor; Albany, NY 12242
- Individual agency contracts are subject to review & approval of OGS & other agency specific review as applicable.

1. Please provide contact information.

   For Your Agency/Organization:
   - Agency/Organization:
   - Contact Name:
   - Address:
   - Phone:
   - Email:
   - Fax:

   For the Original Contracting Entity:
   - Entity:
   - Contract:
   - Terms:
   - Dates: 
   - Address:
   - Phone:
   - Email:
   - Fax:

2. Please provide details of the procurement.

   Describe the product or service which you intend to acquire:

   Original Contract #/Reference:
   - Original Contract Award Date:
   - Contract Terms:
   - Your Acquisition Timeline:

   A copy of the original contract & its pricing is required with this application. Have you included a hard copy or forwarded an electronic copy of both to OGS Customer Services? Yes No
   Does the original contract contain language for contract extensions to additional users? Yes No
   Within approval for using this contract must be obtained & provided from both the original contracting entity & the vendor. Have these been included with your application? Yes No
   Does the original contract provide for aggregate discounts? Yes No
   If yes, have these discounts been applied to the intended piggyback volume? Yes No

   For the product or service you wish to acquire, provide the following information:

   Major/Primary Product(s), or Type(s) of Service or Job Title(s) to be Acquired:
   - Estimated Quantity Required:
   - Unit Price For Original Contract:
   - Anticipated Total B W Price For Piggyback:

   Estimated Total Value of Piggyback (including secondary contract items):

   * attach additional information as necessary

3. Provide information on the procurement method.

   What was the original method of award for this contract? Yes
   - Competitive
   - Min-bid
   - Non-Competitive Based On:
   - Preferred Source
   - Under Discretionary Threshold
   - Sale
   - Single Source
   - Other

   What procurement alternative(s) could be used for your situation? Yes
   - Competitive
   - Min-bid
   - Non-Competitive Based On:
   - Preferred Source
   - Under Discretionary Threshold
   - Sale
   - Single Source
   - Other

   Please describe why piggybacking is the appropriate mechanism for this procurement (e.g. timing, level playing field, nature of use) Were other procurement methods considered? Are there any special, unusual, or exigent market circumstances underlying this extension request? Make sure to answer all questions and attach additional documents if you need more space.

4. Please provide price justification information.

   Have market conditions changed since the original award (e.g. availability of supply, price fluctuations)? Yes No
   Is there a mechanism in the contract for an adjustment to the original contract terms to reflect current pricing or market conditions? Yes No

   How have you determined the reasonableness of price for the piggyback volume? Is there additional discount being provided in consideration of your use of this agreement? Please describe:

5. Agency Representation:

In providing the above information to the Office of General Services for piggybacking approval under State Finance Law, § 183 (10)(e), the entity making this submission represents that it has gone thorouh review of the original procurement documents, and that the information forwarded in this “Contract Use Request” provides a complete and accurate summary of both the original contract and intended agency piggyback procurements.

Data:
- Name & Title (Printed):

Authorized Signature:

For OGS Use Only

Data:
- Name & Title (Printed):

Authorized Signature:

Approved
- Approved with Comment (see attached)
- Disapproved
Cooperatives Used by Albany County

• **OMINA PARTNERS** (formerly US Communities, National IPA and TCPN)
  - Office Depot
  - Hill & Marks – Janitorial Supplies
  - Lowes
  - Gov Connection
  - BSN Sports
  - Ricoh – Saved $35,000 over 5 years
  - AMSAN – Janitorial products
  - Safeware – Public safety
  - KONE – Elevator maintenance and modernization
Cooperatives Used by Albany County

- **SOURCEWELL** (formerly NJPA)
  - Carpet
  - Fuel Master – complicated contract
  - Goodyear
  - Grainger
  - NAPA
  - Pitney Bowes
Cooperatives Used by Albany County

- TIPS-USA
- National Cooperative Purchasing Alliance – NCPA
- NASPO Value Point
Example of NYS Cooperative Contracts

• “Joint solicitations” with NYS internal state users

Filed Requirements System

File Your Requirements Online

Procurement Services relies on you to provide a breakdown of the quantity you plan to purchase in advance of a contract being awarded for milk, salt, and certain fuels. The amount you submit is called a filed requirement. By submitting your filed requirements online it allows Procurement Services to communicate your needs for the coming year to the contractor.

Time is of the essence when it comes to filing your requirements. Buyers who do not submit their requirements before the contract award date will not be guaranteed to be included in that contract. The contractor will have the final decision as to whether or not to provide you with the commodity.

When submitting your requirements, make sure to:

- Include updated contact information
- Provide any missing or incomplete contact or delivery information
- Use the guidelines for each contract
- Pay close attention to the requirement due date.

FILED REQUIREMENTS SYSTEM
Examples of NYS Piggyback Contracts

- “Piggybacks” utilizing various cooperative organizations

<table>
<thead>
<tr>
<th>Award #</th>
<th>Award Title</th>
<th>Cooperative used</th>
</tr>
</thead>
<tbody>
<tr>
<td>PGB-23067 RA, RM</td>
<td>Park and Recreation Equipment (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
<tr>
<td>PGB-23193</td>
<td>Tires, Retreads (Statewide)</td>
<td>Sourcewell</td>
</tr>
<tr>
<td>PGB-23243</td>
<td>Vehicle Lifts and Associated Garage Equipment Sourcewell Piggyback (Statewide)</td>
<td>Sourcewell</td>
</tr>
<tr>
<td>PGB-22947</td>
<td>Garage Equipment/Vehicle Lifts/Hoists (NJPA Piggyback) (Statewide)</td>
<td>Sourcewell (formerly NJPA)</td>
</tr>
<tr>
<td>PGB-23035</td>
<td>Electric Vehicle Supply Equipment and Network Services</td>
<td>Sourcewell (formerly NJPA)</td>
</tr>
<tr>
<td>PGB-23084</td>
<td>Walk-In Building Supplies (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
<tr>
<td>PGB-23063 GR, RM</td>
<td>Floor Coverings (NJPA - National Joint Powers Alliance) Piggyback (Statewide)</td>
<td>Sourcewell (formerly NJPA)</td>
</tr>
<tr>
<td>PGB-23197</td>
<td>Distribution of Vaccines Including Influenza Vaccines (Statewide) (Replaces Award PGB-22797)</td>
<td>Infuse (formerly MMCAP)</td>
</tr>
<tr>
<td>PGB-23117</td>
<td>MN Multistate (MMCAP) Influenza Vaccine Sanofi Pasteur (Statewide)</td>
<td>Infuse (formerly MMCAP)</td>
</tr>
<tr>
<td>PGB-23201</td>
<td>Specialty Pharmaceuticals (Statewide) MMCAP</td>
<td>Infuse (formerly MMCAP)</td>
</tr>
<tr>
<td>PGB-23163</td>
<td>Police Radar/Lidar Speed Enforcement &amp; Speed Advisory Systems, Parts, and Accessories (&quot;Police Radar/Lidar Products&quot;) (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
</tbody>
</table>
### Examples of NYS Piggyback Contracts

“Piggybacks” utilizing various cooperative organizations

<table>
<thead>
<tr>
<th>Contract Code</th>
<th>Description</th>
<th>Organization</th>
</tr>
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<tbody>
<tr>
<td>PGB-22916</td>
<td>Electronic Monitoring of Offenders (WSCA-NASPO Cooperative Purchasing Organization) (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
<tr>
<td>PGB-22830-ES</td>
<td>Environmentally Preferable Cleaning Products Programs, Equipment and Supplies (Statewide) [Buy from these contracts in the NYS eMarketplace]</td>
<td>Commonwealth of Massachusetts</td>
</tr>
<tr>
<td>PGB-23144</td>
<td>Professional Grade Tools (Snap-On) (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
<tr>
<td>PGB-23174</td>
<td>Passenger Vehicle Rentals (Statewide)</td>
<td>NASPO ValuePoint</td>
</tr>
<tr>
<td>PGB-23066</td>
<td>Small Package Delivery (Statewide)</td>
<td>Sourcewell</td>
</tr>
<tr>
<td>PGB-22966</td>
<td>GPS Telematics (Statewide)</td>
<td>GSA Schedule 84</td>
</tr>
<tr>
<td>PGB-22792</td>
<td>Heavy Equipment (Statewide)</td>
<td>Sourcewell</td>
</tr>
<tr>
<td>PGB-23178 GR, RS</td>
<td>Five Compartment Compostable Plates Distribution (Statewide)</td>
<td>New York City Department of Education</td>
</tr>
</tbody>
</table>
Examples of Joint Purchasing

• “Joint purchasing” lead by others
• NYS participated from the beginning
  o Planning
  o Solicitation
  o Award
  o Specs
  o Evaluation
• NYS Department of Environmental Conservation and NYS pharmacy partner subject matter experts

<table>
<thead>
<tr>
<th>PGB-22830-ES</th>
<th>Environmentally Preferable Cleaning Products Programs, Equipment and Supplies (Statewide) [Buy from these contracts in the NYS eMarketplace]</th>
<th>Northeast states lead by Massachusetts</th>
</tr>
</thead>
<tbody>
<tr>
<td>23184</td>
<td>Pharmaceutical Prime Vendor Contract Cardinal Health 110 (LLC) (Statewide)</td>
<td>Infuse (formerly MMCAP)</td>
</tr>
</tbody>
</table>
Analysis Tools - ProcureSource

Meet ProcureSource

- ONE location
- ONE format
- HUNDREDS of contracts
- FREE access

No more searching the internet or hunting for contract documents. With ProcureSource, you'll have the information and tools you need to make an informed decision.

THE source for cooperative purchasing contracts.

The use of cooperative contracts to deliver savings and save staff resources on the RFP process has become a widespread best practice for purchasing professionals. As a result of their popularity, there are many cooperative options which have made it difficult to identify the differences and discern whether the various cooperative procurement processes meet public procurement standards.

ProcureSource was launched to address these challenges. Any organization that uses cooperative contracts -- state and local public agencies, K-12 school districts, higher education institutions, housing authorities, nonprofits -- will all find value in having one source of information presented in a consistent format.

About Us
FAQs
Information for Cooperatives
Information for Suppliers
Due Diligence
State Statutes
Definitions
Contact Us
Analysis Tools - ProcureSource

• ProcureSource was created with one goal — to make cooperative purchasing easier

• It’s free to use

• One easy online tool to search for a cooperative contract

• Conduct your search, access contract documents and find the information needed to confirm if the contract is eligible for use under your state laws

• One location, one format with hundreds of contracts and the information to determine what is best for your organization
Analysis Tools - ProcureSource

• Search contracts by:
  – Category
  – Supplier
  – Cooperative

• [http://www.procuresource.com/](http://www.procuresource.com/)
Helpful Tools

- National Cooperative Procurement Partners (NCPP)
  - North America’s premier association for cooperative procurement, leading the way in elevating the discussion, advocacy, and educational content surrounding cooperative procurement
  - Working collaboratively to bring all the partners in procurement together—cooperative organizations, strategic suppliers with cooperative contracts, affiliated organizations, and public procurement professionals—their mission is to produce meaningful resources to support public procurement agencies and become the go-to association for cooperative procurement
Helpful Tools

- Legislation | NY State Senate (nysenate.gov) GML Section 103
- “Piggybacking” Law - Exception to Competitive Bidding (state.ny.us) OSC 10/21 updated memo
- https://ogs.ny.gov/procurement/procurement-municipalities
- An Introduction to Cooperative Purchasing: (naspovaluepoint.org)
- https://www.nigp.org/our-profession/cooperative-purchasing-programs
Helpful Tools

Arizona Cooperative Program
Association of Educational Purchasing Agencies (AEPA)
Baltimore Regional Cooperative Purchasing Committee (BRCPC)
Buyboard
Choice Partners National Purchasing Cooperative
Educational & Institutional Cooperative Purchasing (E & I)
H-GAC Cooperative Purchasing Program
H-GAC Energy Purchasing Corporation
Kansas City Regional Purchasing Cooperative (KCRPC)
Kinetic GPO
MiDeal - State of Michigan
Midwestern Higher Education Compact
National Cooperative Purchasing Alliance (NCPA)
North Texas SHARE
NPPGov

NASPO Value Point
OMNIA Partners (formerly National IPA and U.S. Communities)
PEPPM Cooperative Purchasing

Infuse MMCAP
Purchasing Cooperative of America
Sourcewell
Southeast Florida Governmental Purchasing Cooperative
Texas Department of Information Resources DIR
TIPS Purchasing Cooperative
Unified Purchasing Cooperative of the Ohio River Valley

* Eligibility for use should be checked with your legal department
** Known cooperatives used by NYS and Albany County are bolded
Contact Information

Karen A. Storm, CPPB
Former Albany County Purchasing Agent
Former SAMPO Executive Board

Don Greene, CPPO CPPB
Former Director OGS Procurement