

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

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CITYWIDE DEPARTMENT USE OF COOPERATIVE PROCUREMENT CONTRACTS	35.11	2	1 of 10
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1. PURPOSE

- 1.1. This regulation establishes a citywide procedure for the award and use of a *Cooperative Procurement Contract*.
- 1.2. This regulation is also intended to ensure compliance with San Diego Municipal Code (SDMC) section 22.3208, and Council Policy 100-01, all relating to *Cooperative Procurement Contracts*.

2. SCOPE

- 2.1. This regulation applies to all City departments and employees who utilize *Cooperative Procurement Contracts* to purchase goods and/or services.

3. DEFINITIONS

- 3.1. Agency - federal and state agencies, counties, cities, districts, local agencies, joint power authorities, non-profit corporations wholly owned by a public agency, and any quasi-public entity that the Council may designate by resolution.
- 3.2. Contractor - the proposer to whom the Agency awarded the *Cooperative Procurement Contract*.
- 3.3. Cooperative Procurement Contract - (i) a contract between the City and one or more agencies to jointly purchase goods and/or services, or (ii) a contract between a Contractor and one or more agencies, or agencies thereof, that allows other agencies to use the terms, conditions, and pricing of the original contract for goods or contract for services. The situation in (i) is hereinafter referred to as a joint purchase. The situation in (ii) is hereinafter referred to as a *Piggyback Contract*.
- 3.4. Strategic Technology Advisory Committee (STAC) - a group, formed by the Chief Operating Officer, which reviews and approves proposed Information Technology (IT) initiatives that impact City operations.

(Supersedes Administrative Regulation 35.11, Issue 1, effective May 8, 2015)

Authorized

[Signature on File]
CHIEF OPERATING OFFICER

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- 3.5. Initiating Department - a department requesting assistance from the Department of Purchasing and Contracting (P&C). Department regarding the *Cooperative Procurement Contract Process*.
- 3.6. Purchasing Director - includes the *Purchasing and Contracting Department Director* or his or her designee.

4. POLICY

- 4.1. City Departments shall follow the *Cooperative Procurement Checklist* and provide justification in the *Cooperative Procurement Certification Memorandum* to ensure compliance with the procurement requirements.

5. RESPONSIBILITIES

5.1. *Purchasing Director*

- 5.1.1. The *Purchasing Director* is responsible for all purchases of services, supplies, materials, equipment, and insurance required by the various Departments or offices of the City, except as may be otherwise provided by the Council or the Charter.
- 5.1.2. Assisting the *Initiating Department* in identifying the appropriate procurement method to meet their goods and/or service needs.
- 5.1.3. The *Purchasing Director* must certify in writing that the proposed *Piggyback Contract* meets all requirements set forth in the SDMC.
- 5.1.4. In assessing a *Piggyback Contract* to ensure adherence to the SDMC, the *Purchasing Director* shall review the *Agency's* solicitation, any addenda to the solicitation, the *Contractor's* response to the solicitation, the contract between the *Agency* and *Contractor* and any amendments thereto, the pricing sheets, the *Agency's* evaluation criteria, and the manner in which the *Agency* advertised the solicitation.
- 5.1.5. In reviewing a *Piggyback Contract* proposed by an *Initiating Department*, the *Purchasing Director* must review the following:
 - a. The start and end dates of the *Piggyback Contract* and whether there are any options to extend the contract.
 - i. The end date of the term of the City's contract may not exceed the

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end date of the term of the *Piggyback Contract* including all extensions unless the *Purchasing Director* approves in writing and the following conditions are met: (1) An emergency or extraordinary circumstance exists; (2) an extension is to the City's best interest; and (3) the term of the extension is no longer than three years.

- b. Whether the *Piggyback Contract* contains a provision that allows other agencies to utilize the terms of the contract. If the *Piggyback Contract* does not contain an express assignability clause, P&C must obtain written consent from the *Contractor* authorizing the City to utilize the terms, conditions, and pricing of the contract.
 - c. Whether the insurance coverage is acceptable to the City, as determined by the P&C Insurance Coordinator who may consult with Risk Management.
 - d. Whether the *Agency's* advertisement of the solicitation meets City requirements. The *Purchasing Director* must confirm that the *Agency* advertised the solicitation for a minimum of one day in a newspaper of general circulation or on its website at least ten days before bids or proposals were due.
 - e. Whether the *Agency's* evaluation process complies with the policies, rules, and regulations developed by the Chief Operating Officer.
- 5.1.6. If the *Agency* selected more than one *Contractor* to provide a good and/or service, the *Purchasing Director* must select one *Contractor* with whom the City will contract. In adherence with the City of San Diego Charter, Article VII, section 100, the *Purchasing Director* shall use a selection process that does not permit favoritism. For example:
- a. If the *Agency* has contracts with one or more contractors to provide a good, and all contractors can supply the good sought by the City, the *Purchasing Director* must award the contract to the lowest bidder that meets the City's requirements.
 - b. If the *Agency* has contracts with one or more contractors to provide a good, and only one contractor can supply the good sought by the City the *Purchasing Director* shall document the reasons why the City awarded the contract to that particular *Contractor*.

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- c. If the *Agency* has contracts with one or more contractors to provide a service and any of the contractors can provide the service sought by the City, the City shall use an objective evaluation process consistent with the competitive procurement process described in the SDMC to select the *Contractor*.
- 5.1.7. If the *Piggyback Contract* is administered by a joint power authority or quasi-public entity, P&C is responsible for obtaining and providing proof of City membership.
- 5.1.8. Unless otherwise approved by the Office of the City Attorney in writing, the City must enter into a separate contract with the *Contractor* when using a *Piggyback Contract*. A Purchase Order may not be used instead of a contract. The contract ensures privity between the City and the *Contractor* and satisfies the SDMC requirement that the City include certain mandatory provisions in all City-funded contracts.
- 5.1.9. Ensures the *Contractor* has signed all required City documents, and provided required insurance endorsements and a completed Contractor Standards Pledge of Compliance form to the City.
- 5.1.10. Retains original executed contracts and forwards signed copies as follows:
 - a. *Contractor* – one copy.
 - b. *Initiating Department* – one copy.
- 5.2. *Initiating Department*
 - 5.2.1. The *Initiating Department* must submit the completed *Cooperative Procurement Certification Memorandum* (Attachment 1) to the *Purchasing Director* to enter into a *Piggyback Contract*. This Memorandum must describe the goods and/or services needed by the *Initiating Department* and why the *Piggyback Contract* is in the City's best interests and economic advantage.
 - a. If the *Initiating Department* has located a *Piggyback Contract* it wishes to use, it must provide the contract to P&C along with the *Agency's* solicitation, any addenda to the solicitation, the *Contractor's* response to the solicitation, the contract between the *Agency* and *Contractor* and any amendments thereto, the pricing sheets, the *Agency's* evaluation criteria, and the manner in which the *Agency* advertised the solicitation.
 - b. If the *Initiating Department* does not have a piggyback contract for the City's use, it may request P&C to locate a piggyback contract for its use. A piggyback contract search shall be conducted using the good and/or service desired and not the name of a particular vendor.

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- 5.2.2. The *Initiating Department* must have its assigned Deputy City Attorney review the *Cooperative Procurement Certification Memorandum (Attachment 1)* with supporting materials for legal sufficiency prior to the *Purchasing Director's* review and certification.
- 5.2.3. For service contracts, the *Initiating Department* must obtain and submit a Human Resources Department approved "Contracting Out Review Request Form."
- 5.2.4. The *Initiating Department* must obtain *STAC* approval for IT-related commodities following established City IT governance processes.
- 5.2.5. The *Initiating Department* must include the *Purchasing Director's* written certification in an e1472 submittal request to the City Council. In addition, the *Initiating Department* must include all materials reviewed by the *Purchasing Director* in issuing the written certification (i.e., the *Agency's* solicitation, any addenda to the solicitation, the *Contractor's* response to the solicitation, the contract between the *Agency* and *Contractor* and any amendments thereto, the pricing sheets, the *Agency's* evaluation criteria, and the manner in which the *Agency* advertised the solicitation).
- 5.3. Department of IT
 - 5.3.1. When an *Initiating Department* requests a *Piggyback Contract* for use of an IT commodity, the Department of IT reviews the solicitation and *Agency* contract for adherence to *STAC* governance processes and for alignment with City IT strategies and standards.
- 5.4. Office of the City Attorney
 - 5.4.1. The *Purchasing Director* or the *Initiating Department* will seek advice from the assigned Deputy City Attorney on whether the *Cooperative Procurement Certification Memorandum (Attachment 1)* and supporting materials meets the established criteria required for award.
 - 5.4.2. The assigned Deputy City Attorney assists the *Initiating Department* in preparing, approving, and signing the City's contract with the *Contractor*.

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Legal References

City Charter sections, 40, 80, 84, 99, and 100

Council Policy 100-01

San Diego Municipal Code section 22.3208

Forms

Attachment 1 – Cooperative Procurement Certification Memorandum Template

Attachment 2 – Cooperative Procurement Checklist

Contractor Standards Pledge of Compliance Form

Human Resources Department “Contracting Out Review Request Form”

Process Narratives

PN-0257 IT Governance

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ATTACHMENT 1

COOPERATIVE PROCUREMENT CERTIFICATION MEMORANDUM

DATE: [INSERT DATE]
TO: [INSERT NAME], Director, Purchasing & Contracting
FROM: [INSERT NAME OF PERSON WRITING CERTIFICATION MEMO], [TITLE]
SUBJECT: Request for Cooperative Procurement Contract under San Diego Municipal Code §22.3208
[INSERT NAME OF COOPERATIVE PROCUREMENT CONTRACT]

In accordance with San Diego Municipal Code (SDMC) §22.3208, the [INSERT NAME OF DEPARTMENT] Department requests the Purchasing Director utilize a contract for the provision of [INSERT DESCRIPTION OF GOOD OR SERVICE] as described in the [INSERT NAME OF COOPERATIVE PROCUREMENT CONTRACT] contract (hereinafter “Contract”) awarded by [INSERT THE AGENCY NAME].

The Contract meets the requirements of SDMC §22.3208 as described below:

1. The Contract is in the Best Interest of the City:

[INSERT REASONS]

2. The Contract is to the City’s Economic Advantage:

[INSERT REASONS]

In addition, the City will save time and resources by utilizing this existing Contract, in lieu of putting this item out to bid.

3. The Contract was Awarded Using a Process the Complies with the Policies, Rules, and Regulations Developed by the City Manager:

Advertising: The [AGENCY] [Describe method of advertising here. This could be posting the notice of the solicitation on the Agency’s website, advertising in a newspaper of general circulation, etc.] on [INSERT DATE(S)]. The deadline for submission of sealed proposals in response to the [SOLICITATION] was [INSERT DATE]. In addition, the [AGENCY] posted the [SOLICITATION] on the following websites [INSERT NAMES OF WEBSITE] on the following dates [INSERT DATES].

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Therefore, the [SOLICITATION] was advertised in the named print publication(s) and website(s) for more than ten (10) days prior to the solicitation closing date in compliance with SDMC § 22.3208 and A.R. XX.

In addition, and consistent with Charter section 100, the [AGENCY] awarded the contract after completing a comprehensive, fair, and objective bidding process which included clearly defined criteria.

Summary of Evaluation Process: [INSERT SUMMARY OF EVALUATION CRITERIA AND EVALUATION PROCESS AS DESCRIBED IN SOLICITATION]

Based on the foregoing, I certify that the requirements of SDMC § 22.3208 and A.R. XX are met: the [AGENCY] Contract is in the City's best interests; (2) the contract is to the City's economic advantage; and (3) the Contract was competitively awarded using a process that complies with the policies, rules, and regulations developed by the City Manager. This request is approved.

Director, Purchasing & Contracting

Date

Attachments: [LIST ANY ATTACHMENTS]

cc: FILE

[INSERT NAME OF EMPLOYEE/ORIGINATING DEPARTMENT]

[INSERT NAME OF PURCHASING AND CONTRACTING CONTACT], [TITLE]

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ATTACHMENT 2

COOPERATIVE PROCUREMENT CHECKLIST

Description of Goods/Services:	Estimated Contract Dollar Amount:
Initiating Dept. Requesting Goods/Services:	DCA Assigned to Initiating Dept.:
Has the Initiating Dept. DCA Reviewed this Request?	Primary P&C Contact Name and Extension:
Date Submitted by P&C to OCA for Review:	Date OCA Review to be Completed:
	Justification for Due Date:

<u>Task</u>	<u>Date Completed</u>	<u>Not Applicable</u>
Submit approved cooperative procurement certification memo template (memo) to P&C.		
Provide copies of the following documents with the memorandum: <ul style="list-style-type: none"> <input type="checkbox"/> Solicitation for Original Contract & any Addenda <input type="checkbox"/> Contractor's response to the Solicitation <input type="checkbox"/> Pricing Sheets <input type="checkbox"/> Original Contract between Contractor and the Agency & any Amendments <input type="checkbox"/> Agency's Evaluation Criteria <input type="checkbox"/> Proof of Advertisement of Solicitation <input type="checkbox"/> Contractor Standards Pledge of Compliance Form <input type="checkbox"/> If this is a services contract, include Human Resources Department approval via their "Contracting Out Review Request Form" 		

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Tasks to be Completed by the Purchasing Director

<u>Task</u>	<u>Date Completed</u>	<u>Not Applicable</u>
Certify that SDMC § 22.3208 requirements are met.		
Confirm agency advertised the solicitation.		
If the Cooperative Procurement Contract is administered by a joint power or quasi-public entity, provide and obtain proof of City membership.		
Review insurance coverage to ensure it is acceptable to the City.		
Contractor Standards Pledge of Compliance Form		
Confirm that the <i>Agency's</i> evaluation process complies with the policies, rules, and regulations developed by the City Manager.		
If the Cooperative Procurement Contract does not contain an express assignability clause, obtain written authorization from the contractor to use the terms, conditions, and pricing of the contract.		
Confirm that the City's contract term does not exceed the contract term of the Piggyback Contract, or includes written authorization to exceed term of the cooperative contract.		