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3-808 Intergovernmental Procurement

A. Definitions

In this Section, unless the context otherwise requires:

1. "Cooperative purchasing" means procurement conducted by, or on behalf of, one or more public procurement units or one or more nonprofit educational or public health institutions and the Board for itself, a consortia purchasing group, one or more universities, or both. This term does not mean any internal cooperative agreement or consortium agreement existing only between and among the Board and/or one or more universities under its jurisdiction.
2. "Eligible procurement unit" means a public procurement unit or a nonprofit educational or public health institution participating in a cooperative purchasing agreement.
3. "Local public procurement unit" means any political subdivision and any agency, board, department or other instrumentality of such political subdivision, but not the Board or a university.
4. "Nonprofit educational or public health institution" means any educational or public health institution, no part of the income of which is distributable to its members, directors or officers, but does not mean the Board or any institution under its jurisdiction.
5. "Public procurement unit" means either a local public procurement unit, the Arizona Department of Administration, any other state, or any agency of the United States.

B. Cooperative Purchasing Authorized

1. Any university may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction with one or more eligible procurement units in accordance with an agreement entered into between and among the eligible procurement units. An agreement entered into as provided in this Section 3-808 is exempt from A.R.S. §11-952, Subsections D, E, and F. Parties under a cooperative purchasing agreement may:

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- a. Sponsor, conduct or administer a cooperative agreement for the procurement, use or disposal of any materials, services, or construction.
 - b. Cooperatively use currently owned and/or newly acquired materials or services.
 - c. Commonly use or share currently owned and/or newly acquired warehousing facilities, capital equipment and other facilities.
 - d. Provide personnel, except that the requesting eligible procurement unit or university shall pay the eligible procurement unit or university providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
 - e. On request, make available to other eligible procurement units or universities information, technical or other services that may assist in improving the efficiency or economy of procurement. The eligible procurement unit or university furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.
2. The activities described in Subparagraphs a through e of Paragraph 1 above do not limit what parties may do under a cooperative purchasing agreement.
- C. Cooperative Purchasing Agreement in Form of a Requirements Contract
- Any requirements contract with an eligible procurement unit entered into pursuant to Subsection B above shall provide that:
1. Payment for materials or services and inspection and acceptance of materials or services ordered by the eligible procurement unit or university under the requirements contract shall be the exclusive obligation of such unit or university.

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2. The exercise of any rights or remedies by the eligible procurement unit or university shall be the exclusive obligation of such unit or university.
3. The Board or university may terminate without notice any cooperative purchasing agreement if the eligible procurement unit fails to comply with the terms of the contract.
4. Failure of an eligible procurement unit to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require the Board or a university to exercise its own rights or remedies.
5. The eligible procurement unit shall not use a cooperative agreement with the Board as a method for obtaining additional concessions or reduced prices for similar material or services.

D. Use of Payments Received by a Supplying Public Procurement Unit or University

All payments received by a public procurement unit or university supplying personnel or services shall be available to the supplying public procurement unit or university to defray the cost of the cooperative program.

E. Public Procurement Units or Universities in Compliance with Code Requirements

If the public procurement unit or university administering a cooperative purchase complies with the requirements of this Code, any public procurement unit or university participating in such a purchase is deemed to have complied with this Code. A university may not participate in a cooperative purchasing agreement for the purpose of circumventing this Code.

F. Contract Controversies

1. Under a cooperative purchasing agreement in which the Board is a party, controversies arising between an administering public procurement unit or university and its bidders, offerors or

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contractors shall be resolved in accordance with Section 3-809 of this Code.

2. Procedures other than those set forth in Section 3-809 of this Code may be used where agreed to by the parties to the cooperative agreement and approved by Counsel to the Board.
- G. A university may purchase approved materials and service directly from Arizona Industries for the Blind and Arizona Correctional Enterprises without competitive bidding.
 - H. If a procurement involves the expenditure of federal assistance or contract monies, the university involved in the procurement shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in this Code.