

54TH ANNUAL RUTGERS UNIVERSITY PUBLIC PURCHASING EDUCATIONAL FORUM

OSC'S TOP PROCUREMENT UPDATES OF 2023-2024 & OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING

**STATE OF NEW JERSEY
OFFICE OF THE STATE COMPTROLLER**

April 25, 2024



**Geoffrey LeGrand Esq., Procurement Division Staff Attorney
Alysia Walsh Esq., Procurement Division Deputy Director**

**OFFICE OF THE STATE
COMPTROLLER
PROCUREMENT DIVISION**



OSC'S TOP PROCUREMENT UPDATES OF 2023-2024 & OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING

■ Agenda

- **OSC's Top Procurement Updates of 2023-2024**
 - **New Cases**
 - **OSC Rule Adoption 2024**
 - **OSC's Statutory Procurement Oversight**
- **OSC's Roadmap to Compliance with Cooperative Contracting**
 - **Cooperative Pricing Systems**
 - **Joint Purchasing**
 - **County Cooperative Purchasing**
 - **State Contract Cooperative Purchasing**
 - **National Cooperative Purchasing**



OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

NEW CASES IN PROCUREMENT LAW

Russia Belarus (Iran) Certifications

- **DLGS LFN 2024-04 (2/22/24)**
- Updated DLGS Certification for Goods and Service Contracts
- **Updated Treasury Guidance**
- <https://www.nj.gov/treasury/administration/pdf/NoticeRussia.pdf>

Election Transparency Act

PL2023, c.30

- **\$300 to \$200 contribution threshold**
- **Different candidate / committee lists on updated c.271 form**

Joint Ventures

Bock v. Pennsauken, A-3684-22 (November 30, 2023)

- A joint venture must hold a public works contractor registration certificate at the time of bid submission in order to avoid rejection of the bid for material non-compliance.

Ownership Disclosure Statements

Asphalt Paving v. Stone Harbor, A-0712-20 (November 14, 2022)

- “[T]he Legislature intended that a bid would comply with N.J.S.A.52:25-24.2, so long as the bidder provided the home, business or mailing address for each owner of ten or more percent.”


OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

OSC RULE ADOPTION 2024

February 5, 2023
Notice Of Rule Proposal



April 5, 2024
Deadline For Written Comments



**Public Comments Are Currently
Under Review**

OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

OSC RULE ADOPTION 2024

“Intended to clarify the organization, functions, and powers of the OSC, as well as the reporting requirements for entities subject to its oversight.”

Procurement

New Medicaid Fraud Division Rules

New Debarment Suspension and Disqualification Rules

Renaming of Division

Clarification of current contract submission procedures

Clarification of process for issuing written determinations on Procurement Reviews

OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

OSC'S STATUTORY PROCUREMENT OVERSIGHT

N.J.S.A. 52:15C-10

\$12.5M or more

- **Submit to OSC at least 30 days prior to proposed advertisement date**
- **OSC works with the contracting unit to ensure compliance with applicable law prior to OSC approval to advertise**

\$2.5M to \$12.5 M

- **Submit to OSC 20 business days after the award**
- **OSC offers guidance to the contracting unit for future procurements**

Emergency contracts over \$2.5M

- **Submit to OSC 30 business days after the award**
- **OSC offers guidance to the contracting unit for future procurements**

OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

OSC'S STATUTORY PROCUREMENT OVERSIGHT

PRE-ADVERTISEMENT (10b) SUBMISSION TIPS

Submission Form

- **Must include a representative employed by the contracting unit**
- **Must include all known funding sources**
- **Must correctly indicate the proposed advertisement date**

Submission of Documents

- **Submit all documents in WORD format, preferably .docx**
- **Submit all documents that will be issued as part of the project manual (construction) or solicitation package (goods/service)**
 - **EXCEPT blueprints and drawings**
- **Submit all documents in FINAL DRAFT FORM as you intend to issue them to potential respondents**

OSC'S TOP PROCUREMENT UPDATES OF 2023-2024

OSC'S STATUTORY PROCUREMENT OVERSIGHT

EXPECTATIONS PRE-ADVERTISEMENT (10b) REVIEW

Pre-Advertisement Review Timeline

- **Automated email acknowledging receipt of your submission**
- **Email with your assigned OSC File Number**
- **Introductory email from assigned attorney**
- **Initial Comments from OSC: within approximately 15 days from receipt of a complete submission**
 - **May be longer for more complex procurements, not to exceed 30 days**
- **Always use word document with the track changes and comment functions**
- **Respond to and resolve the concerns noted by OSC**
 - **Revise your bid package to address OSC's concerns**
 - **Email revised documents to OSC showing revisions in track changes and replying to comments, as appropriate**
 - **Do not accept any revisions or delete any of OSC's comments**
- **PLEASE NOTE, you may not advertise until all OSC comments have been resolved, and you receive written OSC approval**



OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING: ACRONYMS AND TERMS

LGS = Local Government Services

DCA = Department of Community Affairs

Director = LGS Director

CPS = Cooperative Purchasing System

Lead agency = entity that issues solicitation and awards contract

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING: ACRONYMS AND TERMS

Registered member = contracting unit that is a member of a CPS and uses Master Contract

OSC = Office of the State Comptroller

Participating member = contracting unit participating in a County Cooperative Contract Purchasing System

Master Contract = contract awarded by Lead agency

LFN = Local Finance Notice

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING – RISKS & BENEFITS



Potential Benefits

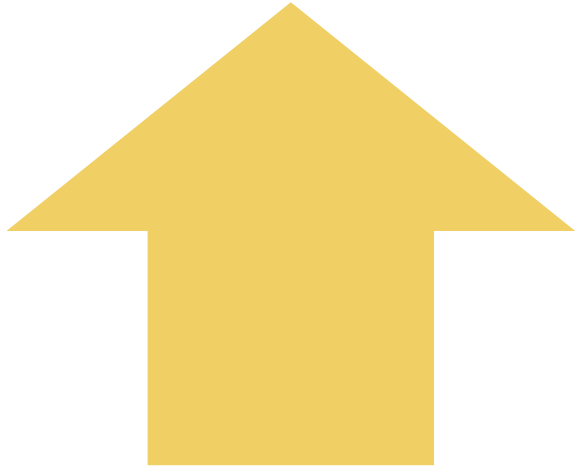
- **Save time**
 - **Leverage expertise of the Lead agency**
 - **Market research, writing the bid specifications, receiving and evaluating proposals**
- **Save money**
 - **Leverage by aggregating purchasing power of many local governments**



Potential Risks

- **Provides a price ceiling, but not necessarily the lowest price**
- **Due diligence to find the right contract**
 - **Will the goods/services scope of work satisfy your needs**
- **Does the cooperative contract afford you enough control**
- **Adds administrative fee**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING WHEN TO USE COOPERATIVE PURCHASING



May use cooperative purchasing programs, State contracts, National Cooperative contracts for:

- **Goods**
- **Services**
- **Discrete tasks**



May not use cooperative purchasing programs for:

- **Public works projects**
- **Construction**
- **See LFN 2021-20**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING AVAILABLE TO LOCAL GOVERNMENTS

Joint Purchasing System– N.J.S.A. 40A:11-10

Cooperative Purchasing Program – N.J.S.A. 40A:11-11

- **Cooperative Pricing System**
- **County Cooperative Contract Purchasing System**

NJ State Cooperative Purchasing Program – N.J.S.A. 40A:11-12

National Cooperative Contracts - N.J.S.A. 52:34-6.2

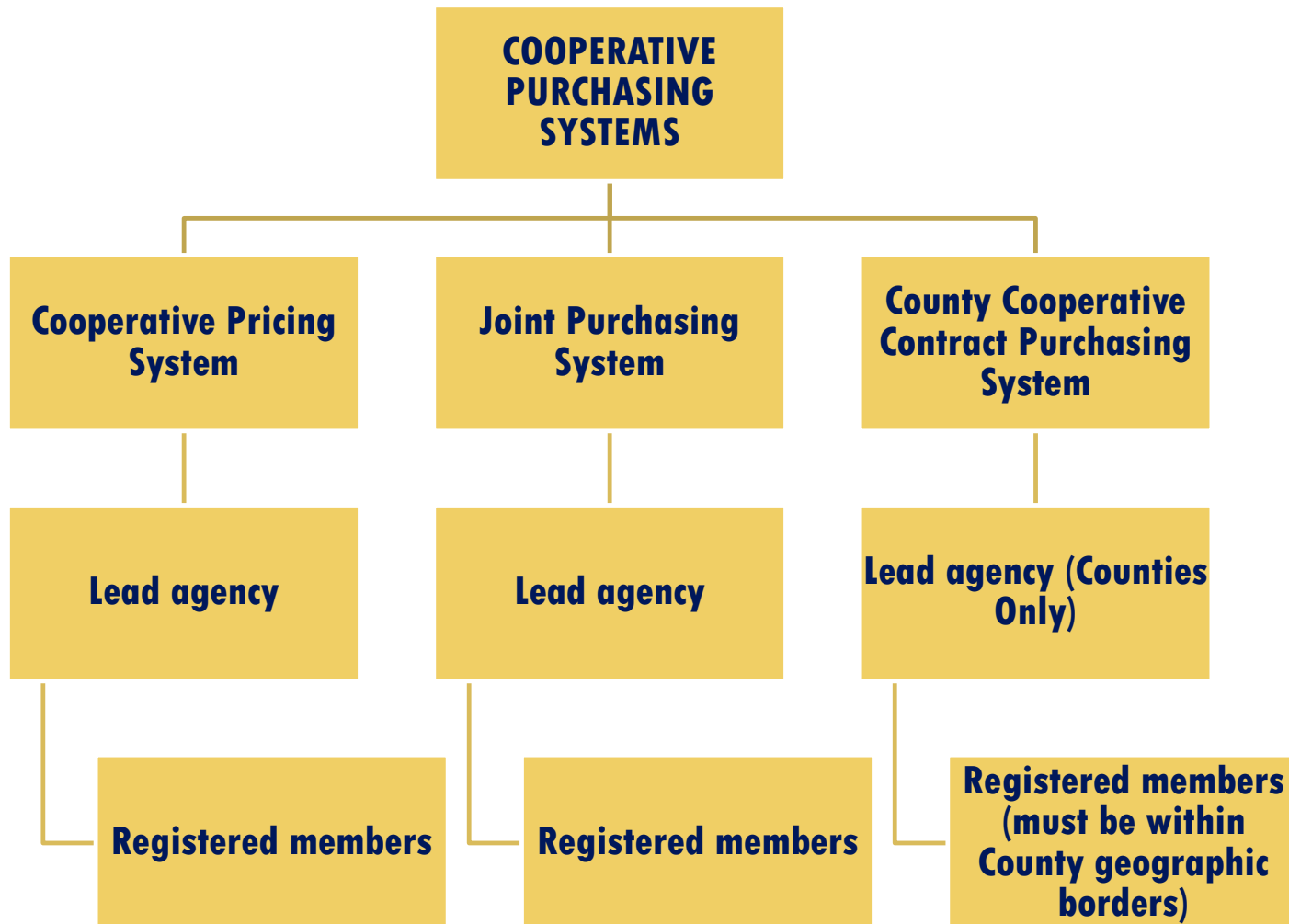
OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING AVAILABLE TO LOCAL GOVERNMENTS

LPCL Regulations N.J.A.C. 5:34 Subchapter 7

**Department of Community Affairs/Division of Local Government
Services Guidance:**

- **Cooperative Purchasing: A Guide for Local Officials, Department of Community Affairs, February 2002, Reprinted September 2006**
- **Local Finance Notice 2012-10 Using National Cooperative Contracts: Application of P.L. 2011, c. 139**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING LPCL COOPERATIVE PURCHASING SYSTEMS



**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
LPCL COOPERATIVE PURCHASING SYSTEM
DEFINITIONS – N.J.A.C. 5:34-7.2**

“Cooperative purchasing system” means a cooperative pricing system, joint purchasing system, commodity resale system, county cooperative contract purchasing system or regional cooperative pricing system which has been approved and registered pursuant to this subchapter.

“Cooperative pricing system” means a purchasing system in which a local contracting unit advertises for bids and awards a master contract to a successful vendor for its own quantities and the estimated quantities submitted by the individual registered members.

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING LPCL COOPERATIVE PURCHASING SYSTEM DEFINITIONS – N.J.A.C. 5:34-7.2

“County cooperative contract purchasing system” means a cooperative purchasing system that shall only be formed by a county and in which the county advertises for bids and awards a contract to the successful vendor.

“Joint purchasing system” means a cooperative purchasing system in which the Lead agency serves as the purchasing agent for the membership of the system with all of the duties and responsibilities attendant thereto. The Lead agency advertises for bids and awards a single contract to a vendor providing for the payment to the contractor for its own needs and for the needs of the participating registered members of the system. The only contractual relationship is between the Lead agency and the vendor.

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
LPCL COOPERATIVE PURCHASING SYSTEM
DEFINITIONS – N.J.A.C. 5:34-7.2**

“Lead agency” means the contracting unit which is responsible for the management of the cooperative purchasing system.

“Registered member” means a contracting unit which has been approved by the Director for participation in a cooperative purchasing system.

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PURCHASING SYSTEMS
ROLES AND RESPONSIBILITIES DIRECTOR - DCA/LGS**

**The Director approves new applications and renewals for
Cooperative Purchasing Systems**

- **45 day review period**
- **Lead agency must use required form – CP-2001 or CP-1917**

Criteria for Director approval

- **provision for adequate records and orderly procedures**
- **adequacy of public disclosure**
- **adequacy of procedures to comply with LPCL**
- **clarity of provisions to assure responsibilities of each party is understood**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COOPERATIVE PURCHASING SYSTEMS ROLES AND RESPONSIBILITIES DIRECTOR - DCA/LGS

Duration of Approval = 5 years

Assigns alpha numeric identifier for each CPS

Authority to assure orderly conduct of CPS

May Prepare Guidelines

- **Cooperative Purchasing: A Guide For Local Officials, February 2002, Reprinted September 2006**

Oversees compliance with CPS regulations

- **If Director finds Lead agency is non-compliant, may suspend or terminate the CPS**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEMS & JOINT PURCHASING SYSTEM FORMAL AGREEMENT
REQUIREMENTS: N.J.A.C. 5:34-7.4**

Reference to authorizing statute

Identification of the type of cooperative purchasing system:

- **Joint purchasing**
- **Cooperative pricing**

Description of the items of goods and services to be purchased

Manner of advertising for bids and of awarding contracts

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEMS & JOINT PURCHASING SYSTEM FORMAL AGREEMENT
REQUIREMENTS: N.J.A.C. 5:34-7.4**

Clear and specific assignment of responsibilities, duties, and rights

Sharing of administrative costs

Standards of performance

May rotate Lead agency role

Not to exceed 5 years

System identifier must appear on all documentation

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – COOPERATIVE PRICING SYSTEM

Creation must be authorized by resolution

Formal agreement with Registered members

Submission of CP-2001 application form to DCA

- **Includes resolution of Lead agency and Registered members**
- **Agreements**

Duration may not exceed 5 years

Prior to expiration, Lead agency must file a renewal application with DCA

Publish in newspaper “Notice of Cooperative Purchasing” upon approval and annually on anniversary date of creation

Certification of funds for Lead agency purchases only

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – COOPERATIVE PRICING SYSTEM

Prior to advertisement of Invitation to Bidders, Lead agency must:

- **Obtain estimated quantity of goods and services from each Registered member**

Determine whether Registered member estimates will be firm and binding

Develop specifications that include:

- **definite quantities of Lead agency**
- **estimated quantities of Registered members**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – COOPERATIVE PRICING SYSTEM

Required bid language – N.J.A.C. 5:34-7.10(a)

- **Are bidders willing to provide goods and services to Registered members? or**
- **Are bidders not willing to provide goods and services to Registered members?**
- **Registered members will place orders directly subject to the Master Contract**
- **Procedure to be followed in the event the lowest responsible bidder declines to extend prices to Registered members**
- **A bidder's refusal to extend pricing to registered members cannot adversely affect consideration of this bid with respect to the needs of the Lead Agency**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – COOPERATIVE PRICING SYSTEM

Master Contract shall state that bid prices may be extended to Registered members who have not submitted estimates upon written approval of the Lead agency and the contractor

Include system identifier on all Invitations to Bids, Master Contracts, purchase orders

May require Registered members to report use and expenditure under Master Contracts

Value the proposed procurement to determine whether OSC pre-advertisement or post-award review is required

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
ROLES AND RESPONSIBILITIES
LEAD AGENCY – COOPERATIVE PRICING SYSTEM
CONTRACT VALUATION**

Prior to advertisement, the Lead agency must:

- **Value the proposed Master Contract to determine whether OSC submission and pre-approval is required.**
- **N.J.A.C. 17:44–3.2 Process by which contracting units shall determine the value of contracts; notice required when the value of contract changes**
 - **(a) When the exact value of a contract is uncertain, contracting units shall act in good faith to ascertain an estimated value using the following guidelines:**
 - **1. The individual(s) responsible for the procurement shall use professional judgment based on, but not limited to, prior procurements made by the contracting unit for similar goods or services.**
 - **2. The contract value is calculated as a whole, that is, the number of years times the yearly amount. Although potential contract extensions are not included in calculating the contract value at the time of estimating total contract value or at the time of the award, if an extension itself exceeds \$2 million, then notice is required at the time of extension.**
 - **3. Notice is required for change orders if the value of the particular change order exceeds \$2 million.**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
ROLES AND RESPONSIBILITIES
LEAD AGENCY – COOPERATIVE PRICING SYSTEM
CONTRACT VALUATION**

Prior to advertisement, Lead agency should value the contract by applying the following formula:

- ***(Lead agency definite contract requirements + Registered member estimated contract requirements) × (base number of contract years)***

If a re-procurement, review use by Lead agency and Registered members under current contract taking price increases and potential usage changes into consideration

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
PROCUREMENT: OSC CONTRACT REVIEW THRESHOLDS
N.J.S.A. 52:15C-10**

**Contracts valued at
\$12.5 million or
more**

**Submit to OSC for
review at least 30
days prior to
proposed
advertisement date**

**Contracts valued at
\$2.5 million but less
than \$12.5 million**

**Submit to OSC 20
business days after
the award**

**Emergency contracts
valued at \$2.5
million or more**

**Submit to OSC 30
business days after
the award**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES REGISTERED MEMBERS – COOPERATIVE PRICING SYSTEM

Resolution to Join

Formal agreement with Lead agency

May withdraw membership at any time

Respond to survey for participation in a solicitation by Lead agency with estimated quantities of goods and services

If Registered member does not have estimates included in solicitation, obtain prior written approval from Lead agency and contractor to use contract

- **If not registered, must first register with the CPS and then obtain prior written approval from Lead agency to use contract**

Right to review bid specifications prior to advertisement

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES REGISTERED MEMBERS – COOPERATIVE PRICING SYSTEM

Fiscally responsible for own purchases

Responsible for own change orders

If purchase is:

- **Under the bid threshold, may issue purchase order without resolution**
- **Over the bid threshold, must award by resolution with certification of funds**

Include CPS identifier on all purchase orders or contracts awarded

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
ROLES AND RESPONSIBILITIES
REGISTERED MEMBERS – COOPERATIVE PRICING SYSTEM**

Must adhere to specifications and pricing of the Master Contract

Must provide use or expenditure reports to Lead agency if required

Must submit to OSC:

- **for prior review if purchase is greater than \$12.5 million; or**
- **post award if purchase is \$2.5 million or more, but less than \$12.5 million**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING JOINT PURCHASING - N.J.S.A. 40A:11-10

LPCL Authorization for Joint Purchasing System:

- **Sewerage services under the**
 - **Sewerage Authorities Law (N.J.S.A. 40:14A-1 et seq.)**
 - **Municipal and County Utilities Authorities Law (N.J.S.A. 40:14B-1 et seq.)**
- **Electrical distributions services (N.J.S.A. 40:62-12)**
- **Cooperative marketing of recyclable materials recovered through a recycling program**
- **Cable television through a private aggregator**
- **Purchase of fire equipment**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – JOINT PURCHASING SYSTEM

Creation must be authorized by resolution

Formal Agreement with Registered members

Submit CP-2001 to DCA for approval

Lead agency may rotate

Duration is not to exceed 5 years

Responsible for renewal

Publish in newspaper “Notice of Cooperative Purchasing” upon approval and annually on anniversary date of creation

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – JOINT PURCHASING SYSTEM

Prior to advertisement of Invitation to Bidders, Lead agency must:

- **Obtain exact quantity of goods and services for Registered members**
- **Value the proposed procurement to determine whether OSC pre-advertisement or post-award review is required**
- **Submit to OSC for pre-ad or post-award review, as appropriate**

Must develop specifications that include:

- **definite quantities of Lead agency**
- **definite quantities of Registered members**
- **delivery details**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES LEAD AGENCY – JOINT PURCHASING SYSTEM

Include system identifier on all Invitations to Bids, Master Contracts, purchase orders

Responsible for change orders for both Lead agency and Registered members

Responsible for certification of funds for the full amount of the contract

- **Both Lead agency's and Registered members' needs**

**Prior to handling funds of Registered members, request Director approval of Dedication by Rider.
*See N.J.A.C. 5:34-7.14***

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING ROLES AND RESPONSIBILITIES REGISTERED MEMBER – JOINT PURCHASING SYSTEM

Join by resolution

Enter into formal agreement with Lead agency

Retains membership until formal withdrawal or termination of Joint Purchasing System

May renew membership

Must use assigned system identifier on all contracts, purchase orders, records

Right to review bid specifications before advertisement

Must provide exact quantities/services needed

Not responsible for change orders

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COUNTY – ROLES AND RESPONSIBILITIES
COUNTY COOPERATIVE CONTRACT PURCHASING SYSTEM**

**ONLY FOR COUNTIES
AND CONTRACTING UNITS WITHIN ITS GEOGRAPHIC BORDERS!!!**

Creation authorized by resolution

Submits application to Director for approval –CCCP-1917

May not exceed 5 years

Responsible for renewal

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COUNTY – ROLES AND RESPONSIBILITIES COUNTY COOPERATIVE CONTRACT PURCHASING SYSTEM

Publish in newspaper “Notice of County Cooperative Contract Purchasing System” upon approval and annually on anniversary date of creation that includes:

- **Description of County Cooperative Contract Purchasing system**
- **That the County will make the contract available to any contracting unit within the County**
- **Specifications shall include County’s definite requirements**
- **County shall identify contracting units that may purchase under the Master Contract**

Must use system identifier on all notices, invitations to bidders, contracts, purchase orders

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING COUNTY – ROLES AND RESPONSIBILITIES COUNTY COOPERATIVE CONTRACT PURCHASING SYSTEM

County must include the following language in each invitation for bids:

- **Accommodation of Local Contracting Units within the County:**
- **Are bidders willing to extend prices to contracting units within the County?; or**
- **Are bidders not willing to extend prices to contacting units within the County?**
- **Procedure to be followed if lowest responsible bidder declines to extend prices to contracting units within the County**

Must submit to OSC:

- **for prior review if purchase is greater than \$12.5 million, or**
- **post award if purchase is \$2.5 million or more, but less than \$12.5 million**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING PARTICIPANTS – ROLES AND RESPONSIBILITIES COUNTY COOPERATIVE CONTRACT PURCHASING SYSTEM

At the discretion of the County, report its own use and expenditures under County Cooperative Contract Purchasing System

Include system identifier on all notices, invitations to bidders, contracts, purchase orders

Fiscally responsible for own purchases

Certification of funds for purchases

Must adhere to specifications and pricing of Master Contract

Must submit to OSC:

- for prior review if purchase is greater than \$12.5 million; or
- post award if purchase is \$2.5 million or more, but less than \$12.5 million

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING STATE CONTRACTS COOPERATIVE PURCHASING: ACRONYMS AND TERMS

DPP = Division of Purchase and Property within the Department of the Treasury

NJ START = DPP's portal for state contracts

Blanket = contract awarded by DPP

Cooperative Purchasing Partner = may include local governments, school boards, county colleges, as indicated in the MOO

Bid Solicitation = Request for Proposals

Method of Operation (MOO) = document within the State's RFP summarizing how to contract off of the Blanket

Using Agency = Cooperative Purchasing Partner

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING STATE CONTRACTS COOPERATIVE PURCHASING

DPP authorization in N.J.S.A. 52:25-16.1

- **Intrastate program open to local governments, boards of education, State and County colleges and independent instrumentalities of the State**

No formal agreement required with the State

If purchase is over the bid threshold, contract award shall be made by resolution

Purchase order may serve as contract and shall include:

- **System Identifier – 1 NJCP**
- **State contract number**

Search NJ Start for Blankets open to Cooperative Purchasing Partners

- **Cover page of RFP will state if open to Cooperative Purchasing Partners**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING STATE CONTRACTS COOPERATIVE PURCHASING

CCCL, NJSA 18A:64A-25.9(a), PSCL, NJSA 18A:18A-10(a), and LPCL, NJSA 40A:11-12(a)

All have language stating that the applicable contracting units may purchase "pursuant to a contract or contracts for such materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property."

Terms and conditions of Blankets awarded by DPP shall be binding on the contracting unit and vendor. N.J.A.C. 5:34-7.29(d)

Review the Bid Solicitation/RFP - If open to Cooperative Purchasing Partners, the Bid Solicitation will include terms and conditions regarding use

Review Method of Operation

- Short hand version of directions on how to use the Blanket
- What steps must be followed?
- Does the Blanket require a mini-bid process?

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING STATE CONTRACT EXAMPLE – RADIO COMMUNICATION T0109

T0109 – Radio Communication Equipment and Services

```
graph TD; A[T0109 – Radio Communication Equipment and Services] --> B[Method of Operation:]; B --> C[Cooperative Purchasing Partners may obtain quotes from awarded Contractors and verify equipment and price quotes with the State Contract Manager]; C --> D[Contractor must provide a written proposal with a Priceline for each item quoted]; D --> E[State Contract Manager validates all price quotes];
```

Method of Operation:

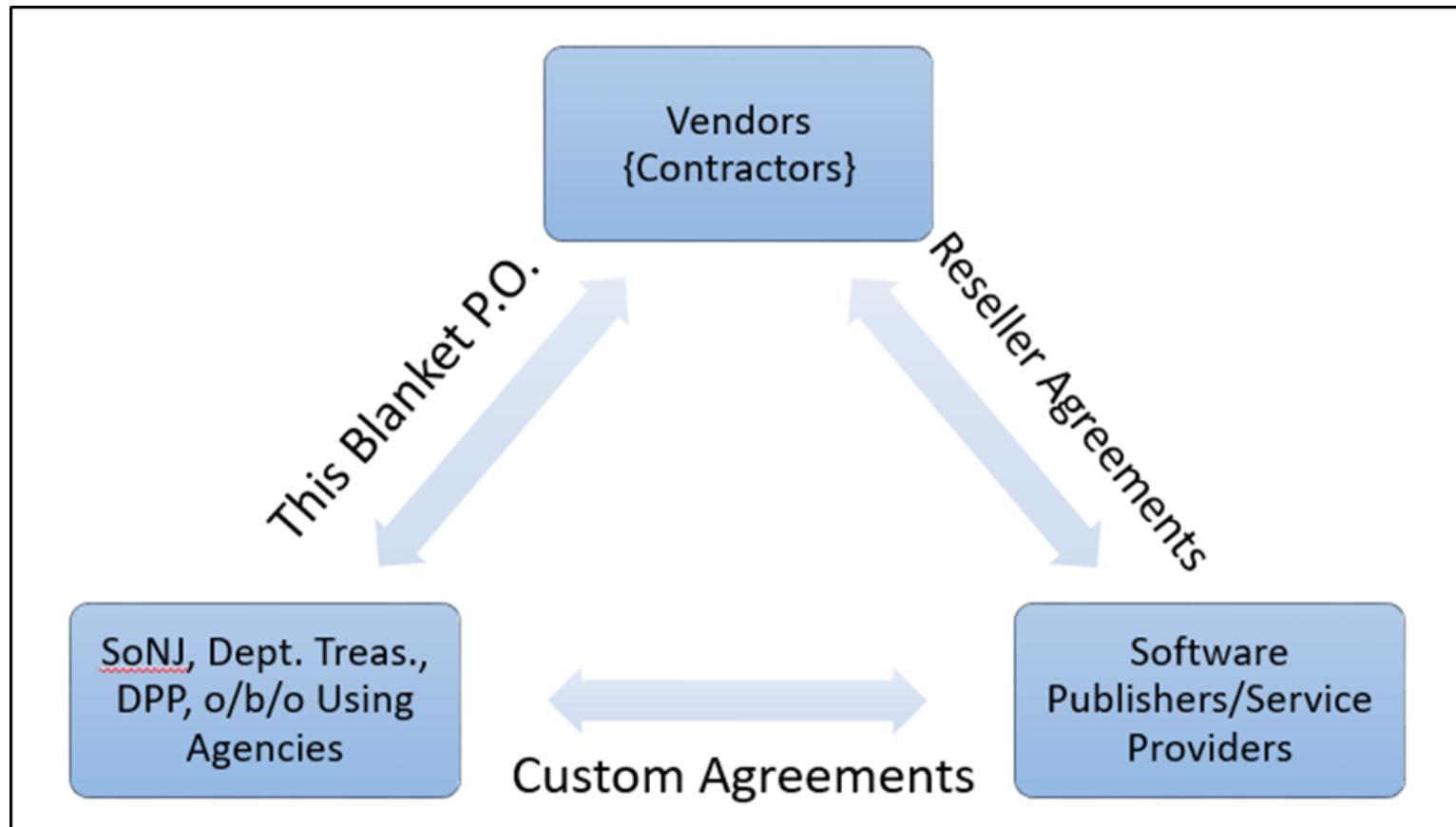
Cooperative Purchasing Partners may obtain quotes from awarded Contractors and verify equipment and price quotes with the State Contract Manager

Contractor must provide a written proposal with a Priceline for each item quoted

State Contract Manager validates all price quotes

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
STATE CONTRACTS
EXAMPLE SOFTWARE T3121**

T3121 – Software Reseller Services



**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
STATE CONTRACTS
EXAMPLE SOFTWARE T3121 MOO**

T3121 – Software Reseller Services

- **Method of Operation:**
 - **For the purchase of Commercial Off the Shelf Software**
 - **Software as a Service**
 - **Maintenance and tech support**
 - **Appliances – necessary hardware for the software**
 - **Cooperative Purchasing Partners may purchase products and services awarded under this Contract from the listed Contractors. Cooperative Purchasing Partners should ensure that their purchases comply with their purchasing statutes and appropriate regulations for using State contracts.**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
STATE CONTRACTS
EXAMPLE SOFTWARE T3121 MOO**

T3121 – Software Reseller Services

- **Method of Operation:**
 - **Using Agency must request a mini-bid from all contractors (special instructions for Microsoft)**
 - **Check if there is an existing Custom Agreement with the Software Publisher**
 - **Custom Agreement Report**
 - **Must accept the lowest priced mini-bid and issue a purchase order to Reseller offering the lowest price**
 - **Retain all mini-bid responses and quotes**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
NATIONAL COOPERATIVE CONTRACTS
N.J.S.A. 52:34-6.2**

**N.J.S.A. 52:34-6.2, as amended by P.L. 2011, c. 139 allows
local governments to use national cooperative contracts**

(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.

Under the law, “contracting unit” includes any county, municipality, school district, fire district and county college

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING NATIONAL COOPERATIVE CONTRACTS N.J.S.A. 52:34-6.2 AND LFN 2012-10

ONLY APPLIES TO GOODS AND SERVICES

DOES NOT APPLY TO PUBLIC WORKS OR CONSTRUCTION CONTRACTS

National cooperative contract standards:

Awarded through a competitive bidding process

- **Open competition through the public solicitation of bids/proposals**
- **Awarded to lowest responsible bidders or based on price and other factors**
- **Does not include negotiated contracts by invitation only or sole source**

Awarded by another government entity

- **Not a non-profit or private organization**

Advertised as a cooperative contract

- **Not as a local contract opened up for cooperative purchasing later**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING NATIONAL COOPERATIVE CONTRACTS CONTRACT COMPLIANCE CONCERNS

Local government must:

Require vendors are in compliance with legal requirements:

- **Business Registration Certificate requirement**
- **Statement of Corporate Ownership**
- **Public Contracting EEO Compliance**
- **Disclosure regarding Investment Activities in Iran**
- **Certification regarding Prohibited Activities in Russia/Belarus**
- **Political Contribution Disclosure**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING NATIONAL COOPERATIVE CONTRACTS LOCAL UNITS AND PAY TO PLAY

Local governments must:

Determine whether the “competitive bidding process” met the requirements of “fair and open”:

- **Publicly advertised in a newspaper or on the public entity’s website**
- **Awarded under a process that provides for public solicitation of proposals or qualifications**
- **Awarded and disclosed under criteria established in writing by the public entity prior to solicitation**
- **Publicly opened and announced when awarded**

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING NATIONAL COOPERATIVE CONTRACTS COST SAVING DETERMINATION

Local contracting units must:

Conduct a “cost savings” determination:

- **Will the use of a national cooperative purchasing agreement result in cost savings after all factors, including charges for services, material and delivery have been considered?**
- **Price comparison to:**
 - **Other public entities**
 - **Your own current contracts**
- **Other factors to consider:**
 - **Cost and time of a separate procurement**
 - **Lower minimum purchase requirements and potential savings on storage costs**
 - **Shipping costs**
 - **Fees to join the national coop**
 - **Potential vendor rebates**

Submit the proposed purchase to OSC:

- **If greater than \$12.5 million, before contract is awarded**
- **If \$2.5 million or more but less than \$12.5 million, after contract is awarded**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
NATIONAL COOPERATIVE CONTRACTS
NOTICE OF INTENT TO AWARD**

**Best Practice:
Notice of
Intent to
Award
National
Cooperative
Agreement**

- **Print in official newspaper**
- **Post on website**
- **Name of entity that awarded contract**
- **Title of contract**
- **Link to where contract may be viewed online**
- **Contract duration**
- **Name of vendor intended to be awarded contract**
- **Reference to N.J.S.A. 52:34-6.2(b)(3) as authority to award contract**
- **Notice of when comments related to award will close**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEM
PENDING LEGISLATION 2024 A2821 & S1291**

**Amendment to LPCL, PSCL, and Title 52 Initially
Introduced June 30, 2023**

Carried to 2024 and Still Pending

**Proposes to add a definition of “Cooperative
Purchasing System” – same as definition found in
N.J.A.C. 5:34-7.2**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEM
PENDING LEGISLATION 2024 A2821 & S1291**

Proposes to add a new section (d) to N.J.S.A. 40A:11-3 that requires contracting units to ensure that any cooperative contractor and any of its subcontractor are compliant with:

- **Antidiscrimination provisions of N.J.S.A. 10:2-1 through 2-4**
- **Law Against Discrimination – N.J.S.A. 10:5-31**
- **Business Registration Certificate requirements of N.J.S.A. 52:32-44**
- **Contribution restriction provisions of N.J.S.A. 19:44A-20.13 et seq.**
- **Prevailing wage requirements of N.J.S.A. 34:11-56.25 et seq.**
- **Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq.**
- **“Buy American” provisions of N.J.S.A. 40A:11-18**
- **Division of Property Management and Construction trade classifications**
- **Submission of a sworn contractor certification pursuant to N.J.S.A. 18A:7G-37**
- **Compliance by local government officers and employees pursuant to N.J.S.A. 40A:9-22.5**
- **Compliance with disclosure of investment activities in Iran pursuant to N.J.S.A. 52: 32-55 et al.**
- **Compliance with provisions concerning prohibited activities in Russia and Belarus pursuant to N.J.S.A. 52:32-60.2**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEM
PENDING LEGISLATION 2024 A2821 & S1291**

Proposes to amend N.J.S.A. 40A:11-4 to require a purchasing agent to make a determination whether entering into a cooperative purchasing system for the procurement of goods or services will result in cost savings.

Proposed amendment would require a purchasing agent to use a cooperative purchasing system if there is a cost savings.

Proposes to assign LGS the responsibility of developing a cost savings analysis taking such factors into consideration as:

- **Charges for service, delivery, soft costs, costs of acquisition**
- **Other costs of traditional bidding – cost overruns, protest, rework, and change orders**

**OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
COOPERATIVE PRICING SYSTEM
PENDING LEGISLATION 2024 A2821 & S1291**

Proposes to amend N.J.S.A. 40A:11-4.1 (competitive contracting) to require the purchasing agent to perform a cost savings analysis and utilize a cooperative contract if it will result in cost savings

Proposed to add a new section to require LGS to develop harmonized guidelines for local governments and school districts to use cooperative purchasing systems

OSC'S ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING RESOURCES

Resources:

Division of Local Government Services Local Finance Notice & Guidance

- [LFN 2012-10 Using National Cooperative Contracts: Application of P.L. 2011, c.139](#)
- [DCA/LGS website: Cooperative Purchasing: A Guide for Local Officials](#)

QUESTIONS? PLEASE CONTACT US!

OSC Procurement Division:

- **Email:** contracts@osc.nj.gov
- **Website page with Contract Submission Information:**
<https://www.nj.gov/comptroller/about/work/procurement/contracts.shtml>

OSC Reports

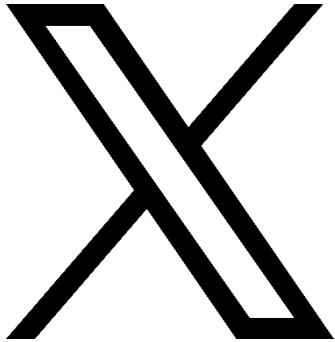
- **Website:**
https://www.nj.gov/comptroller/reports/2023/approved/2023_reports.shtml

REPORTING FRAUD, WASTE, AND ABUSE

If you have any information about the fraud, waste, or abuse of state funds, you can contact the New Jersey Office of the State Comptroller through:

- **Online complaint form found at www.nj.gov/comptroller**
- **By email at ComptrollerTips@osc.nj.gov**
- **By calling the toll-free hotline, **1-855-OSC-TIPS****

KEEP IN TOUCH



[@NJComptroller](#)



**New Jersey
Office of the
State Comptroller**



**New Jersey
Office of the
State Comptroller**



[@NewJerseyComptroller](#)



[@NJComptroller](#)



contracts@osc.nj.gov

STAY UP-TO-DATE



Sign up for our newsletter!



nj.gov/comptroller



KEVIN D. WALSH
ACTING STATE COMPTROLLER

Rutgers Public Purchasing Forum
TOP PROCUREMENT UPDATES OF 2023-2024 &
ROADMAP TO COMPLIANCE WITH COOPERATIVE CONTRACTING
 April 25, 2024

Cooperative Purchasing

DCA Oversight	Joint Purchasing System	Cooperative Pricing System	County Cooperative Contract Purchasing System
Registration Subject to DCA Approval	N.J.A.C. 5:34-7.5	N.J.A.C. 5:34-7.5	N.J.A.C. 5:34-7.22
DCA Registration Form	N.J.A.C. 5:34-7.5(c)	N.J.A.C. 5:34-7.5(c)	N.J.A.C. 5:34-7.22(b)
Criteria for Director Approval	N.J.A.C. 5:34-7.5(e)	N.J.A.C. 5:34-7.5(e)	N.J.A.C. 5:34-7.22(d)
DCA Assigns Alpha Numeric Number	N.J.A.C. 5:34-7.7(a)	N.J.A.C. 5:34-7.7(a)	N.J.A.C. 5:34-7.23(a)
Director time frame for approval - 45 days	N.J.A.C. 5:34-7.5(d) and 7.28	N.J.A.C. 5:34-7.5(d) and 7.28	N.J.A.C. 5:34-7.22(c) and 7.28
System Renewal	N.J.A.C. 5:34-7.8(c)	N.J.A.C. 5:34-7.8(c)	N.J.A.C. 5:34-7.26(c)
Authority of the Director	N.J.A.C. 5:34-7.31	N.J.A.C. 5:34-7.31	N.J.A.C. 5:34-7.31
Enforcement authority/determination of non-compliance	N.J.A.C. 5:34-7.32	N.J.A.C. 5:34-7.32	N.J.A.C. 5:34-7.32
Application to DCA	Form CP-2001	Form CP-2001	Form CP-1917

Resources:

Division of Local Government Services Local Finance Notices

- [LFN 2012-10 Using National Cooperative Contracts: Application of P.L. 2011, c.139](#)
- DCA/LGS website: [Cooperative Purchasing](#)

Joint Purchasing System	Regulation Reference
Lead Agency - Creation, Termination and Renewal	
Create by resolution	N.J.A.C. 5:34-7.3(b)
Formal Agreement with Registered Member	N.J.A.C. 5:34-7.4
Lead Agency may rotate	N.J.A.C. 5:34-7.4 (b)(8)
Lead Agency submits application to Director	N.J.A.C. 5:34-7.5
DCA Approval Form	CP-2001
Duration - not to exceed 5 years	N.J.A.C. 5:34-7.5(f)
Lead Agency responsible for notifying DCA of member withdrawal within 5 days	N.J.A.C. 5:34-7.6(e)
Lead Agency shall notify Director of decision to terminate	N.J.A.C. 5:34-7.5(g)
Lead Agency shall renew system by resolution	N.J.A.C. 5:34-7.8(b)
Lead Agency shall submit renewal application to Director	N.J.A.C. 5:34-7.8
Renewal Form	CP-2001
Renewal must include current membership lists	N.J.A.C. 5:34-7.8(d)

Lead Agency - Administrative Responsibilities	
Newspaper Notice - upon approval	N.J.A.C. 5:34-7.9(a)
Newspaper Notice annually on anniversary date of system creation	N.J.A.C. 5:34-7.9(a)
Certification of funds for own needs	N.J.A.C. 5:34-7.14 (b)
Certification of funds for Registered Members	N.J.A.C. 5:34-7.14 (b)
Certification of funds - Dedication by Rider (N.J.S.A. 40A:4-39)	N.J.A.C. 5:34-7.14 (d)

Lead Agency - Specifications and Bidding	
System Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34-7.7(b) and 7.4(b)(9)
Lead Agency must include its own definite requirements	N.J.A.C. 5:34-7.9(c)(1)
Must include exact quantity of goods/services from Registered Members	N.J.A.C. 5:34-7.9(c)(1)
Change order requirements for both Lead Agency and Registered Members	N.J.A.C. 5:34-7.9(f)

Participating Members	
Participating Member joins by resolution	N.J.A.C. 5:34-7.6(a)
Enters into Formal Agreement with Registered Member	N.J.A.C. 5:34-7.4(a)
Retains membership until formal withdrawal	N.J.A.C. 5:34-7.6(g)
May renew membership after withdrawal	N.J.A.C. 5:34-7.6(f)
Right to review bid specs before advertisement	N.J.A.C. 5:34-7.9(b)
Not responsible for change order requirements	N.J.A.C. 5:34-7.9(f)
System Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34-7.4(b)(9)

Cooperative Pricing System	Regulation Reference
Lead Agency - Creation, Termination and Renewal	
Create by resolution	N.J.A.C. 5:34-7.3(b)
Formal Agreement with Registered Member	N.J.A.C. 5:34-7.4(a)
Lead Agency may rotate	N.J.A.C. 5:34-7.4 (b)(8)
Lead Agency submits application to Director	N.J.A.C. 5:34-7.5
DCA Approval Form	CP-2001
Duration - not to exceed 5 years	N.J.A.C. 5:34-7.5(f)
Lead Agency responsible for notifying DCA of member withdrawal within 5 days	N.J.A.C. 5:34-7.6(e)
Lead Agency shall notify the Director of decision to terminate	N.J.A.C. 5:34-7.5(g)
Lead Agency shall renew system by resolution	N.J.A.C. 5:34-7.8(b)
Lead Agency shall submit renewal application to the Director	N.J.A.C. 5:34-7.8
Renewal Form	CP-2001
Renewal must include current membership list	N.J.A.C. 5:34-7.8(d)

Lead Agency - Administrative Responsibilities	
Newspaper Notice upon approval	N.J.A.C. 5:34-7.9(a)
Newspaper Notice Annually on anniversary date of system creation	N.J.A.C. 5:34-7.9(a)
Certification of funds for own needs	N.J.A.C. 5:34-7.11(a)
Provide contract details to Registered Member	N.J.A.C. 5:34-7.11(c)

Lead Agency - Specifications and Bidding	
System Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34- 7.4(b)(9) and 7.7(b)
Prior to bid solicitation, Lead Agency may determine if estimates are firm and binding	N.J.A.C. 5:34-7.20
Lead agency must include its own definite requirements	N.J.A.C. 5:34-7.9(e)
Must include estimated quantity of goods/services from Registered Members	N.J.A.C. 5:34-7.9(c)(2)
Required Bid Language for Specifications	N.J.A.C. 5:34-7.10(a)
Master Contract shall state bid prices may be extended to Registered Members who have not submitted estimates with Lead Agency written approval and contractor	N.J.A.C. 5:34-7.10(b)
Contract shall contain - Lead Agency needs and estimated member needs	N.J.A.C. 5:34-7.11(b)

Cooperative Pricing System	Regulation Reference
Participating Members	
Participating Member Joins by resolution	N.J.A.C. 5:34-7.6(a)
Provide estimates of use/expenditure to Lead Agency	N.J.A.C. 5:34-7.9(e)
Enters into formal agreement with Lead Agency	N.J.A.C. 5:34-7.6(a)
Retains membership until formal withdrawal	N.J.A.C. 5:34-7.6(g)
May renew membership after withdrawal	N.J.A.C. 5:34-7.6(f)
Right to review bid specs before advertisement	N.J.A.C. 5:34-7.9(b)
Responsible for change order requirements of own contracts	N.J.A.C. 5:34-7.9(f)
If under bid threshold, issue P.O. without resolution	N.J.A.C. 5:34-7.11(c)
If purchase is over the bid threshold, award by resolution	N.J.A.C. 5:34-7.11(c)
Must adhere to specifications and pricing of Master Contract	N.J.A.C. 5:34-7.11(d)
If didn't submit estimates, need prior written approval from Lead Agency and contractor to use contract	N.J.A.C. 5:34-7.12(a)
If not registered and want to use the contract, must become a Registered Member and need prior written approval from Lead Agency and contractor to use Master Contract	N.J.A.C. 5:34-7.12(b)
Must Include Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34-7.4(b)(9)
At discretion of Lead Agency, report use/expenditure of Master Contracts	N.J.A.C. 5:34-7.27

County Cooperative Purchasing System	Regulation Reference
Lead Agency - Creation, Termination and Renewal	
Create by resolution	N.J.A.C. 5:34-7.21(b)
Lead Agency submits application to Director	N.J.A.C. 5:34-7.22
DCA Approval Form	CCCP-1917
Duration - not to exceed 5 years	N.J.A.C. 5:34-7.22(e)
Lead Agency shall notify the Director of decision to terminate	N.J.A.C. 5:34-7.22(f)
Lead Agency shall renew system by resolution	N.J.A.C. 5:34-7.26(b)
Lead Agency shall submit renewal application to the Director	N.J.A.C. 5:34-7.26
Renewal Form	CCCP-1917

Lead Agency - Administrative Responsibilities	
Newspaper Notice upon approval	N.J.A.C. 5:34-7.24
Newspaper Notice Annually on anniversary date of system creation	N.J.A.C. 5:34-7.24

Lead Agency - Specifications and Bidding	
System Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34-7.23(b)
Lead agency must include its own definite requirements	N.J.A.C. 5:34-7.24(c)
County shall identify contracting units that can purchase under the contract	N.J.A.C. 5:34-7.24(c)
Required Bid Language for Specifications	N.J.A.C. 5:34-7.25

Participating Members	
Must Include Identifier on all bidding documents, purchase orders, vouchers, contracts and records	N.J.A.C. 5:34-7.23(b)
At discretion of Lead Agency, report use/expenditure of Master Contracts	N.J.A.C. 5:34-7.27

[OSC Homepage](#)

Office of the State Comptroller Submission Forms

Pre-advertisement Notification for contracts valued at \$12.5 million or more (Forms B1 and B2)	Pre-Advertisement Notification (Form B1)
	Post-Award Notification (Form B2)
Post-award Notification for contracts valued at \$2.5 million or more but less than \$12.5 million (Form A)	Post-award Notification (Form A)
Post-award Notification for emergency contracts valued at \$2.5 million or more (Form D)	Post-award Notification for Emergency Contracts (Form D)