

# NASPO Cooperative Contracting 101

## Cooperative Contracting Basics

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Coordinator  
And  
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WSCA/NASPO Cooperative Development Analyst

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## WSCA/NASPO Cooperative Development Team

– Contractors to WSCA (through AMR) who support WSCA and NASPO cooperative contracting

- Kathryn Offerdahl (worked for Minnesota’s Materials Management Division) full-time WSCA/NASPO Cooperative Development Analyst
- Paul Stembler (former assistant director from Minnesota – involved in cooperative contracting since 1985 (MMCAP)) full-time WSCA/NASPO Cooperative Development Coordinator

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## Overview

- The NASPO Procurement Cooperative was established through a Memorandum of Agreement among the member states
- There are currently 51 members of the NASPO Procurement Cooperative
- Processes for conducting cooperative solicitations and establishing contracts have been established consistent with WSCA and other NASPO cooperative contracts
- Provide a vehicle for all NASPO states to participate in cooperative purchasing, but does not commit states to expenditure of any funds

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- NASPO Regions act as formal workgroups to consider and recommend potential cooperative contract opportunities
- States may work outside their region to recommend a potential cooperative contract opportunity
- All members of the cooperative are eligible to participate in any cooperative contract, if practical
- The NASPO Cooperative Purchasing Committee reviews and approves potential cooperative contracts

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### 13 Steps to Cooperative Contracting

1. Get an idea (might include a survey of interest)
2. Analyze options and alternatives
3. Create a proposal (idea and budget)
4. Get "directors" support
5. Finalize proposal (idea and budget)
6. Gather initial participants (a survey &/or intent to participate)
7. Create solicitation
8. Publish solicitation
9. Evaluate solicitations
10. Get award approved
11. Issue master price agreement(s)
12. Announce contracts to participants
13. Manage contracts (use, amendments and extensions)

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### How Long Will This All Take?

- How long does it take you to do a contract for your biggest, most complex agency?
- Additional time will come in stepping slowly through the normal steps of creating, publishing, soliciting, awarding and negotiating a contract for your biggest, most complex agency
- The most critical factor is that you be meticulous in following your statutory and rule requirements – if that requires 14.5 days of public notice, then do 21 days for a cooperative contract

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## What Extra Steps?

- Creating proposal forms (idea and budget)
  - Not a bad idea, even for non-cooperative opportunities
- Getting “director” approval
  - Can happen by email or at a monthly call
- Gathering initial participation
  - Can happen as things are going forward
- Including others in both creating and evaluating the solicitation
  - Extra hands, brains and levels of expertise, can include travel, but lots can be done on the phone
- Getting “director” approval for awards
  - Again, can happen by email or at a monthly call
- Using the Master Price Agreement as the basis for your own Participating Addenda
  - Simply signing one more set of documents

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## Or, 4 Clusters

### Annual Conference/On-going Phoncons

- Get an idea (might include a survey of interest)
- Analyze options and alternatives
- Create a proposal (idea and budget)
- Get “directors” support

### Monthly Phoncons

- Get “directors” support
- Finalize proposal (idea and budget)
- Gather initial participants (a survey &/or intent to participate)

### Your Usual Process - with some outside expertise and assistance

- Create solicitation
- Publish solicitation
- Evaluate solicitations

### Monthly Phoncons and Negotiations Process

- Get award approved
- Issue Master Price Agreements
- Announce contracts to participants
- Manage contracts (use, amendments and extensions)

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## Participation ?

- Intent to Participate (may be three rounds)
  - During initial survey (not binding, depending on how the solicitation is finally developed)
  - During initial steps of getting the solicitation ready
  - During the final steps of getting the solicitation ready
  - Listed in the solicitation
- Participating Addendum
  - Between participating entity and manufacturer
  - DOES NOT over-ride master price agreement
  - Allows local requirements and additions

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## Terms and Conditions

- “NASPO Cooperative”
  - NASPO has created a cooperative based on execution of a “memorandum of understanding” between ALL the signatory states
  - A NASPO Cooperative Committee, made up of two representatives from each of the NASPO regions and some other individuals with cooperative contracting experience, has been created and is setting in place guidelines and acting as a clearing house for cooperative contracting
    - If a contract wants to be “branded” with the NASPO label, this committee must be involved and its processes followed
  - Here are some of the key pieces of the NASPO T’s & C’s

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## Basic NASPO T’s & C’s

### DEFINITIONS:

- “**Lead State**” means the State conducting this cooperative solicitation and centrally administering any resulting master price agreement with the permission of the Signatory States.
- “**Master Price Agreement**” means this cooperative solicitation and contract, between the designated Lead State and the awarded contractors.
- “**Offer**” or “**Bid**” or “**Proposal**” refers to the offer submitted in response to a solicitation, whether denominated as an invitation to bid, invitation for bid, request for proposal, or otherwise. “**Bidder**” or “**Offeror**” similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.
- “**Permissive Price Agreement**” means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the master price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the master price agreement so long as applicable procurement statutes and rules are followed.

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## Basic NASPO T’s & C’s

- “**Participating Addendum**” means a bilateral agreement executed by a contractor and a Participating State (or a political subdivision with the consent of its state’s chief procurement officer) that clarifies the operation of the master price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.
- “**Participating State**” means a Signatory State that has indicated its intent to participate in a specific cooperative procurement/master price agreement by executing an Intent to Participate, or who has subsequently executed a Participating Addendum where required.
- “**Purchasing Entity**” means a Participating State, or other legal entity, properly authorized by a Participating State to enter into a contract for the purchase of goods and/or services described in the cooperative procurement. Unless otherwise limited in the cooperative procurement or in a Participating Addendum, political subdivisions of Participating States are deemed Purchasing Entities.
- “**Signatory State**” means any State who is a member of NASPO that has executed the Memorandum of Agreement (MOA) required to become a member of the NASPO Procurement Cooperative.

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## Basic NASPO T's & C's

- **POLITICAL SUBDIVISION PARTICIPATION:** Participation under this master price agreement by political subdivisions (i.e., statutorily eligible colleges, school districts, counties, cities, etc.,) of the NASPO participating states shall be voluntarily determined by the political subdivision.
- After the solicitation has closed, and an award has been made, additional non-NASPO purchasing entities in non-Participating States may be added with the consent of the chief procurement official in the non-Participating State, the contractor and the Lead State (on behalf of the NASPO Participating States) through the execution of an agreement as required by the lead state, and the execution of a Participating Addendum.
- The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

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## Basic NASPO T's & C's

- **PRICES AS CEILING:**
- Master Price Agreement prices represent ceiling prices for the supplies and services priced in the master price agreement
- The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity
- In instances NOT related to the established standards, committed volumes or volume bulk purchases of a participating state or states, the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders

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## Basic NASPO T's & C's

- **STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS:**
- Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their initial intent to participate in a Master Price Agreement resulting from this Solicitation. Attachment A of the Solicitation includes any significant modifications to these terms and conditions or State-specific provisions required by the laws, regulations, or procurement practices of the State(s). Final participation in the Master Price Agreement by the State(s) shall be signified through the execution of a Participating Addendum.

- After the solicitation has closed and an award has been made, additional NASPO Procurement Cooperative member States may be added with the consent of the contractor and the Lead State (on behalf of the NASPO Participating States) through execution of a Participating Addendum.

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## Small Business/Special Programs

- Cooperative contracts exist on two levels
    - Cooperative level – multiple award, focus on manufacturer or largest players
    - Local level – based on local choices and options
  - Local Choices are very open
    - Require use of local sources, development of local options
    - Use as a basis for local competition
- Choices and options are really dependent on local decisions

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## Pricing & Admin Fees

- Two different “points” at which admin fees impact pricing
  - State includes state admin fee requirement in original solicitation
  - State decides to participate in a cooperative contract after it has been awarded
- WSCA/NASPO fee ALWAYS included in the “offered price” by respondents
- Our position is that ANY state admin fee requirement included in special terms and conditions of the original solicitation is, if no objection is made by responder, also included in the “offered price”.
- State admin fees AFTER the original solicitation are subject to negotiations between a potential participating state and a contractor.

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## Local Participation – PC Contracts

- **“Servicing Subcontractor”** means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor’s Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor’s providing warranty service and maintenance for equipment on a Master Price Agreement as well as the Takeback Program.**

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## Pricing – PC Contracts.

- Contract awardees should assume that the pricing accepted reflects individual or small quantity purchases. If a Participating State, or a group of Participating States or entities within a state(s), chooses to focus purchases on a “state configuration,” this configuration will be defined and then competed within the pool of contract awardees for specific pricing.

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## What ?

- PC Contracts
  - Both “manufacturer direct” and “distributor distribution” models (designed from the outset to attract both kinds – choices made as the parameters are set)
  - Participating Addenda can then customize the situation in Georgia, or even Atlanta
  - Get the best of both, because the existence of the option keeps both models competitive
  - Participating entity can dictate reseller(s) to be used, even define internal geographic boundaries

The options are really dependent on local choices and the availability of local options

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## Why Do Cooperatives Work?

- We are committed to taking the time (and talking) to find opportunities
- We know we save effort (and money) – 300 hours x 15 (4,500 hours) is a lot more effort than 500 x 5 (2,500 hours) [at \$50 – savings of \$10,000 each for not being involved]
- While not the only lever, sheer volume is a really good one (16 state’s purchasing power compared to “just little old me”)
- Structure leaves each state loads of options, within the broader framework

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## Reporting

- **Admin Fees**

- WSCA or NASPO Admin Fees are included in your price offer
  - Checks are sent to AMR quarterly (using calendar quarters)
  - Simply send form and the check, no other reporting is required
  
- State admin fees need to be addressed as you are entering into Participating Addenda with each state
  - If state admin fees were identified in the RFP and if responder did not take exception to them, they are considered to be included in the price offered, just like the WSCA/NASPO admin fee
  - Payment cycles are based on the Participating Addenda

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Contract No:		Contract Title:	WSCA/NASPO PCs						
Manufacturer Name:		Contact Person:							
Contract Term: [with possible extensions]	Sept 1, 2009 to Aug 31, 2014	Contractor Signature:							
Reporting Period: (Please circle one)	Qtr 1 Qtr 3	Qtr 2 Qtr 4	Calendar Year: (Please circle one) <table style="display: inline-table; vertical-align: middle;"> <tr> <td>2009</td> <td>2010</td> <td>2011</td> </tr> <tr> <td>2012</td> <td>2013</td> <td>2014</td> </tr> </table>	2009	2010	2011	2012	2013	2014
2009	2010	2011							
2012	2013	2014							

  

TOTAL SALES THIS QUARTER:	\$
[multiply sales by this number]	X 0.05% (0.0005)
WSCA Administrative Fee:	\$

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## Reporting

- **Sales Reporting**

- Required in contract
- Expected monthly
  - this is not the admin fee report, it is a sales activity report
- Can email or send on CD or flash drive
  - Working on FTP site for contractor to park reports directly
- Our intent is to relieve you of some of the “state” reporting requirements by WSCA/ NASPO providing them with detailed reports, based on the format we are requiring

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## Sales Audit

- Not doing anything IS NOT AN OPTION
- Do not want to create a massive effort
- Want to be able to say "we (manufacturers and WSCA/NASPO) did something"
- Proposal:
  - Quarterly - one tenth of one percent (.001) of orders - at least one if any sales, no more than 100 audits
    - Up to 1,000 sales = 1 audit
    - 10,000 sales = 10 audits
    - Up to 100,000 sales = 100 audits
  - Random sample of orders-invoices
    - Can offer several different statistical methods for such small samples
    - Include documentation of pricing
  - Test them and keep them internally
  - Report findings to WSCA or NASPO as summary numbers ONLY
  - Document actions to correct

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## Questions ?

Email either of us

[pstembler@amrms.com](mailto:pstembler@amrms.com)

Or

[kofferdahl@amrms.com](mailto:kofferdahl@amrms.com)

if you have any questions.

Part of our responsibilities as the WSCA/NASPO Cooperative Development Team is to assist potential lead states in creating and managing cooperative contracts, so we might useful contacts.

We hope this has helped.

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