



Who What & How of Cooperative Procurement

Navigating Group Purchasing: Buying-In with Your Cooperative

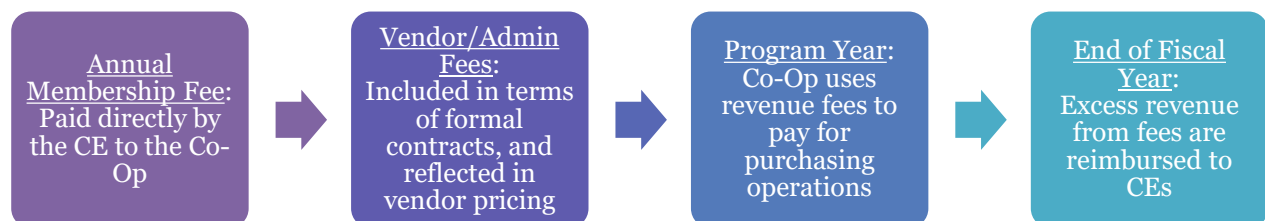
Understanding the Cooperative and Contracting Entity Relationship

When a Contracting Entity (CE) signs an Interlocal Agreement with a cooperative (or other third-party purchasing agency), a contract is established between the two entities. The cooperative is providing the CE with a service; the CE is the *customer*.

It is important for CEs to fully their understand roles and responsibilities when using a co-op:

Interlocal Agreement (ILA)	Contract Management: ILAs	Contract Management: Formal Contracts
<ul style="list-style-type: none"> • Co-Op and member roles and responsibilities • Fees: membership and/or vendor/admin fees + schedule • Reimbursement process and methodology • Co-Op bylaws, including membership with other co-ops • ILA duration and frequency • Member access to co-op benefits, contracts, documentation, reports, etc. • Type of co-op (e.g., Third Party) • Communication (who to contact; Co-Op vs. ESC) 	<ul style="list-style-type: none"> • The co-op <i>must</i> adhere to the terms of the ILA • Retain signed, current ILA • Consistent and timely receipt of documentation • Vendor/admin fee reimbursements in excess of co-op operating costs • Know how to access documentation, reports, and communication through the co-op (e.g., website, Sharepoint) • Co-op <i>must</i> be responsive for member requests for assistance, documentation, and information 	<ul style="list-style-type: none"> • Retain <i>all</i> procurement documentation for 5 years • Receive and retain contract renewals, price sheets/adjustments, amendments, etc. • Report vendor issues to co-op coordinators, including supply chain-related problems • Track off-bid and additional items, and piggybacking • Purchases are allowable, allocable, and necessary • Active member participation (e.g., scoring committee membership) • Findings are cited to the CE in Procurement Reviews

Whether your co-op charges annual membership fees or vendor/administrative fees (See Q10), CEs are entitled to receive documentation that tracks the allowable use of program funds:



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Cooperatives and the Procurement Review

Although TDA’s annual Cooperative Review is designed to streamline findings and eliminate duplicative work and documentation requests for both the co-op and CE during a Procurement Review (PR), **CEs are still required to retain all documentation related to the history of procurement and co-op membership** (e.g., signed ILA, reimbursements received). Likewise, co-ops cannot withhold or refuse to provide information to the CE, when requested in a PR.

This is how Co-Op and CE-level questions are broken down in the Formal Contract form set:

		Co-Op-Level Questions	CE-Level Questions	Co-Op or CE-Level Questions
General Solicitation Process	Q.1	✓		
	Q.2-3	Always N/A		
	Q.4			✓
	Q.5	✓		
Solicitation: IFBs and RFPs	Q.6-9	✓		
Solicitation: Competitive Proposals	Q.10-11	✓		
Solicitation: Noncompetitive Proposals	Q.12			
Evaluation and Award	Q.13-16	✓		
	Q.17			✓
	Q.18-21	✓		
	Q.22		✓	
Contract Management Process	Q.23		✓	
	Q.24-27			
	Q.28		✓	

Findings will only be assessed to CEs for formal contracts selected for review in a PR. For findings that occur at the Co-Op-level, contact your cooperative coordinator to complete the Corrective Action Document (CAD).

For a list of documents used to assess compliance for Formal Contracts in PRs, see sections 17 and 17a of the *Administrative Review Manual (ARM)* on SquareMeals.org.

Reminder: TDA has most or all documentation on file to detail the history of Cooperative-procured contracts, and the assigned Administrative Review Specialist (ARS) to the PR will upload these documents into TX-UNPS for you. **This does not abdicate the CE of responsibility to furnish additional documents to assess compliance, as required by federal and state regulations.**

Frequently Asked Questions

- 1. Can I join a cooperative outside of my Education Service Center (ESC) region?**

Yes. CEs have a choice of which Co-Ops and Group Purchasing Organizations (GPO) they contract with, based on program needs.
- 2. If my Co-Op is affiliated with an ESC, do I contact the ESC if I have questions?**

No. Co-Ops and ESCs are different entities, and Co-Op staff work exclusively for the Co-Op. Part of contract management with your Co-Op/GPO is understanding *who* your contacts are. These individuals typically carry titles, like Purchasing Coordinator, Purchasing Specialist, Lead Buyer, or Contract Manager.
- 3. Can I join more than one cooperative/GPO?**

Yes. This is allowable and fosters full and open competition. Select third-party membership, based on the needs of your CE and program(s) operated. Consider factors, such as geographic location, vendors contracted, and additional services provided.
- 4. Why was my CE assessed a finding for a noncompliance from the Co-Op?**

It is the sole responsibility of the CE to ensure full compliance with federal and state regulations. TDA *does not* have contracts with purchasing cooperatives and GPOs. We are able to oversee compliance through the lens of the PR on behalf of CEs with whom we have contracts to operate USDA Child Nutrition Programs. *Findings are only assessed for vendors selected for review in a PR.*
- 5. When I requested documentation from my Co-Op for my PR, they said TDA “already has this documentation.” What should I do?**

Members have the right to request documentation from their Co-Op/GPO at any time. Most or all documents pertaining to the history of procurement from Co-Ops are likely already on file with TDA. However, the ARS may request additional documentation, as necessary, to assess compliance in a PR. Some documents, such as ILAs signed between the Co-Op and CE, are *not* kept on file by TDA. If your CE does not already have a current and signed ILA, you must request one from your Co-Op.

If you continue to experience issues related to the receipt of requested documentation from your Co-Op/GPO during a PR, or any other time, contact TDA.
- 6. How long are Interlocal Agreements (ILAs) valid for?**

This is dependent on the bylaws of the Co-Op, and/or if there have been changes made to the Co-Op’s process and procedures, or other written methodologies. No guidance has been provided in the Code of Federal Regulations or by USDA to address this.
- 7. I just received a check from my Co-Op. What is it, and what should I do with it?**

This is a reimbursement check for excess membership or vendor/admin fees identified at the end of the fiscal year. CEs *must* deposit reimbursement checks into their Nonprofit School Food Service Account.
- 8. Some CEs participate in vendor evaluations and scoring. How can I get involved?**

TDA strongly encourages active CE participation with Co-Op and group purchasing activities. Contact your Co-Op coordinator to find out how you can get involved in this process. Different contracts have different evaluations processes. Formal contract solicitations contain verbiage description who is on the Evaluation Committee, which may or may not include broad member participation.

9. **Does TDA review cooperative fees?**

Yes. However, TDA *only* has the authority to oversee the compliant use of fees collected as they relate to USDA Foods. This includes NOIs from distributors, such as Labatt and SYSCO for processed commodities.

10. **Can my CE purchase from non-Child Nutrition Program (CNP) Co-Op contracts using CNP funds?**

Yes. As long as these purchases meet the definitions of allocable, allowable, and necessary for the operation of your CNP(s) and are compliant with USDA program regulations (not just EDGAR). Examples of these contracts often include Temperature Monitoring Systems, Sanitation Systems, Paper and Janitorial Supplies, and Cleaning Chemicals.

Compliance Resources

Administrative Review Manual (ARM) for National School Lunch Program (NSLP)
<https://squaremeals.org/Programs/National-School-Lunch-Program/Policy-ARM>

➤ Section 16a. Contract Management

- Section 17. Procurement
 - Section 17a. Procurement Procedures
 - Section 17b. Buy American
 - Section 17c. Cooperative Purchasing
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Codes of Federal Regulations (CFRs)

- 2 CFR Part 200 (Uniform Administrative Requirements for Federal Awards)
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>
 - 7 CFR Part 210 (NSLP)
<https://www.fns.usda.gov/part-210%E2%80%94national-school-lunch-program>
 - 7 CFR Part 220 (SBP)
<https://www.fns.usda.gov/part-220%E2%80%94school-breakfast-program>
 - 7 CFR Part 225 (SFSP)
<https://www.fns.usda.gov/part-225%E2%80%94summer-food-service-program>
 - 7 CFR Part 226 (CACFP)
<https://www.fns.usda.gov/part-226%E2%80%94child-and-adult-care-food-program>
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USDA Policy Memorandums, Q&As

- Q&A: *Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services*
<https://www.fns.usda.gov/cn/qa-purchasing-goods-and-services-using-cooperative-agreements-agents-and-third-party-services>
 - Policy Memo SP 38-2017: *Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program*
<https://www.fns.usda.gov/nslp/compliance-enforcement-buy-american>
 - Policy Memo FD-144, SP04 SFSP01 CACFP04-2018: *Market Basket Analysis when Procuring Program Goods and Modifying Contracted-For Product Lists*
<https://www.fns.usda.gov/usda-fis/market-basket-analysis-when-procuring-program-goods-and-modifying-contracted-product-lists>
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State of Texas Procurement and Contract Management Guide*

<https://comptroller.texas.gov/purchasing/docs/96-1809.pdf>

- Appendix 14: *Sample Evaluation Criteria and Scoring Strategies*

**The linked guide is available through the State Comptroller's Office and is an optional resource for Evaluation Criteria and Scoring formal contracts. CEs must always refer to TDA and USDA (CFR) regulations for procurements and purchases using Child Nutrition Program Funds. Resources obtained through the State Comptroller may not meet program compliance.*

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To file a program discrimination complaint, a Complainant should complete a Form AD-3027,

USDA Program Discrimination Complaint Form which can be obtained online at:

<https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

2. fax:

(833) 256-1665 or (202) 690-7442; or

3. email:

program.intake@usda.gov

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