

BUYBOARD QUESTIONS AND ANSWERS

What is the BuyBoard Program? The BuyBoard® program is an intergovernmental purchasing cooperative created in order to obtain member benefits and efficiencies in purchasing through compliance with state bid laws, identifying qualified vendors and realizing potential economies of scale that can be achieved from volume purchasing on a national scale.

Who operates the BuyBoard Program? The national BuyBoard is the trade name used by the National Purchasing Cooperative (Cooperative), an entity initially formed by four public school districts (two in Maryland and two in Rhode Island), and which now boasts over 375 school districts and other governmental entity members. The Cooperative is administered and endorsed by the National School Boards Association (NSBA), in conjunction with the Texas Association of School Boards (TASB) serving as procurement administrator, and is sponsored in South Dakota by Associated School Boards of South Dakota (ASBSD),

Who can be Cooperative members? ASBSD members are eligible to join the Cooperative. The Cooperative is open to any school district or other governmental entity authorized to be party to an interlocal, intergovernmental or joint powers agreement.

How does the Cooperative work? The Cooperative is governed by an eight-member board of directors. Only the board is authorized to award contracts to vendors for goods and services for the Cooperative. TASB, as the procurement administrator, prepares the bid specifications (Notice of Invitation Proposals), advertises the bid opportunities (including in USA Today as of 2014), receives and tabulates the bid responses, and makes recommendations of award to the Cooperative's board of directors. The Cooperative has a reciprocity agreement with another purchasing cooperative administered by TASB, which enables the Cooperative to piggy-back on a wide variety of goods and services.

Vendors that have been awarded contracts for specified goods and services pay the Cooperative an administrative fee of generally two percent of the purchase fees they receive from the buying or procuring Cooperative member. The Cooperative, in turn, pays its obligations to third parties, which includes service fees to TASB, NSBA, ASBSD, etc.

What are BuyBoard benefits? There are multiple benefits for Cooperative members, including: (1) the Cooperative member is always in control – subject to the requirements of state law, members only buy what and when they want, (2) leveraging the power of a nationwide network of governmental entity purchasers to reduce the cost of goods and services purchased, (3) goods and services are selected based on an open and fair competitive procurement process (e.g., notice of bid opportunity and selection based on best value criteria); (4) savings in internal administrative time and costs for the staff of a governmental entity; (5) access to many commodity groups and services which are competitively procured, ranging from pencils to school buses; and (6) immediate access to competitively procured goods and services when needed.

Who are the vendors? The BuyBoard's success relies on the participation of local/regional vendors. Other national coops tend to focus on large national vendors. Outreach and focused

efforts to encourage local/regional vendors to participate in upcoming bid opportunities on the BuyBoard are ongoing. BuyBoard contracts are awarded by the Cooperative to vendors offering competitive pricing and terms. Vendors are required to provide BuyBoard members with the same or better discounts/pricing than they give their best governmental clients. The Cooperative awards indefinite quantity contracts to multiple vendors supplying comparable products and items, also known as a multiple award schedule based on the competitive nature of the vendor's pricing.

BuyBoard bid notices and specs allow vendors to identify if they are a historically under-utilized business, e.g., minority-owned, woman-owned, veteran-owned. Most professional services requiring public licenses are not available on the BuyBoard (e.g., architecture and engineering). General contractor services for major construction projects are also not available on BuyBoard.

What is the BuyBoard “Request for Quote” Function? The “Request for Quote” function allows Cooperative members to submit electronic RFQs in an effort to obtain additional savings based on quantity purchases. In other words, awarded BuyBoard vendors are asked to compete with each other for even lower or more advantageous pricing and terms than what the vendors are required to offer under their awarded BuyBoard contract. A RFO can be created, submitted to the vendors, received, and finalized in as few as 3-5 days, rather than weeks for a typical formal bid by an individual governmental entity. Thus, the RFO feature provides a very efficient and cost effective process for both the Cooperative member and the vendor community.

What about South Dakota bid laws? Multiple SD statutes were reviewed before ASBSD chose to become a state sponsor for BuyBoard. SDCL Ch. 5-18A (Public Agency Procurement--General Provisions), SDCL Ch. 18B (Procurement of Public Improvements), and SDCL 5-18C (Procurement by Local Government Units) were all reviewed.

SDCL 5-18A-3 states that each contract for supplies, services, and construction must be awarded, “unless otherwise authorized by law” by (1) competitive sealed bids, (2) competitive sealed proposals, (3) small purchases, (4) sole source procurement, or (5) emergency procurement.

Schools may but are not required to let bids or request proposals for purchases less than \$25,000, SDCL 5-18A-11. If the school intends to enter into a contract for the purchase of supplies or services, other than professional services, that involves the expenditure of \$25,000 or more, or intends to contract for any public improvement that involves the expenditure of \$50,000 or more, the school must advertise for bids or proposals. SDCL 5-18A-14.

As just noted, SDCL 5-18A-3 states that “unless otherwise authorized by law” each contract for supplies, services, and construction must be awarded by (1) competitive sealed bids, (2) competitive sealed proposals, (3) small purchases, (4) sole source procurement, or (5) emergency procurement. SDCL 5-18A-37 is an “otherwise authorized by law” statute. It states “[a]ny purchasing agency may enter into agreements with purchasing agents in this or any other state or the United States government under which any of the parties may agree to participate in, administer, sponsor, or conduct purchasing transactions under a joint agreement

or contract for the purchase of supplies or contractual services. A purchasing agency may cooperate with purchasing agencies and other interested parties in any other state or the United States government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions.” (Emphasis added).

ASBSD contacted the South Dakota Attorney General regarding compliance with South Dakota bid laws and asked (1) would the National Purchasing Cooperative be a joint agreement as contemplated by SDCL 5-18A-37, and (2) whether a South Dakota political subdivision, including but not limited to a South Dakota public school district, which is a member of an intergovernmental agreement among purchasing agents as contemplated by SDCL 5-18-37, comply with South Dakota bid law requirements, including but not limited to advertising bids, if the purchase amount exceeded \$25,000? The SD Attorney General respectfully declined to answer the first question, but on March 28, 2014, Assistant Attorney General Jeffrey P. Hallem responded in writing to the second question by stating

In response to your second question, consistent with these joint powers provisions [SDCL 1-24-2, SDCL 1-24-4 and SDCL 1-24-9], it is my opinion that if an intergovernmental purchasing cooperative is utilizing a procurement process authorized under South Dakota law, member local governmental entities may enter into contracts with vendors selected by the purchasing cooperative without violating the state’s procurement laws....If an intergovernmental purchasing cooperative utilizes an authorized type of procurement process, participating South Dakota governmental entities may enter into contracts with qualified vendors.

Any vendor contract would need to be in general compliance with state law. Such compliance, however, does not mean strict adherence to the advertising and other requirements in SDCL ch. 5-18A through SDCL ch. 5-18D, as long as the procurement process is in compliance with the provisions of another governmental body that is participating in the cooperative procurement. In my opinion, it would defeat legislative intent behind the enactment of SDCL 5-18A-37 to require strict adherence to all provisions. (Emphasis added).

Based on the research done by ASBSD, it is the opinion of ASBSD that a school becoming a member of the National Purchasing Cooperative would be consistent with a school participating in a joint agreement as contemplated by SDCL 5-18A-37. However, ASBSD does recommend that prior to a school becoming a BuyBoard member that schools contact their own local school district attorney for his or her opinion as to whether the National Purchasing Cooperative would be participation in a joint agreement contemplated by SDCL 5-18-37. It is evident, however, based upon what the Assistant Attorney General wrote, that strict compliance of SD bid law advertising and other requirements would not be required of member schools.

How does a school district become a cooperative member? For K-12 public schools only, it is required that you provide either a signed resolution or a copy of the minutes in which the

board acted to join the Cooperative. ASBSD has a sample resolution form. A completed Interlocal Participation Agreement form must be faxed or emailed to NSBA. The form can be faxed to 703-519-6497 or emailed to buyboard@nsba.org. NSBA will send login information to the school contact and the school may begin purchasing through the BuyBoard National Purchasing Cooperative program.

Is there training and reference materials provided by NASB and BuyBoard on how to use BuyBoard? Yes. Resources listed below contain step-by-step instructions, complete with screen shots, to make using BuyBoard easy and efficient.

A. Videos

1. **"Getting Started" training video:** A brief overview to help the member get started using the BuyBoard National Purchase Cooperative.
2. **"The Search Function" training video:** This training video will highlight all aspects of searching for items and/or vendors on BuyBoard.
3. **"Purchase" Video:** This training video will provide easy to follow instructions on making a purchase through BuyBoard.

B. Resources which can be downloaded

1. **Request for Quote PowerPoint:** Simplify your purchasing and save time and money by using the Request for Quote. This short powerpoint explains the power of the Request for Quote "RFQ" feature.
2. **Sample Request for Quote for projector lamps:** An actual tabulation sheet from a Request for Quote to purchase projector lamps. The RFQ was submitted to various vendors on January 6, 2012. The discounted prices for the purchase of multiple lamps is shown in this document.
3. **Quick Reference Guide:** 15 page guide with step-by-step instructions including screen shots for using BuyBoard.
4. **Mini Desk Reference guide:** This 2 sided guide is a condensed version of the 15 page Quick Reference Guide.

C. Take a Test Drive: Visit the NSBA website at NSBA.org. Link to Services, then State Association Services, the Service Partnerships, then scroll own to BuyBoard. In the "Become a Member" link you will be Use the following information: user ID: nsbademo, and password: Demo4you.

Is there a help-line if I have questions or need assistance when trying to use BuyBoard?

Yes. Schools can call BuyBoard at 800-695-9219 for assistance.