



## Sourcewell Cooperative Purchasing Program

Approved by the Sourcewell Board of Directors

Updated July 1, 2022

### Authority:

Minn. Stat. § 123A.21

Minn. Stat. § 471.59

Sourcewell Bylaws

### Related Policies:

Rebate Policy for Region 5 Members

Records Retention

Data Practices

### Program Description:

The Sourcewell Board of Directors authorizes a Cooperative Purchasing Program acting pursuant to the Sourcewell Bylaws, and consistent with specific authority of Minn. Stat. § 123A.21, Subd. 7(23).

The Program establishes Sourcewell's authority to offer cooperative purchasing master agreements for use by eligible participating entities. This Program includes all current Sourcewell cooperative purchasing contracts, and the term "master agreement" includes these contracts. Each Participating Entity, as defined herein, may access master agreements in accordance with the laws and requirements of its respective jurisdiction.

Sourcewell Board of Directors retains the right to amend any element of this Program or to create supplemental programs related to cooperative purchasing as duly permitted within its authority.

### Program Purpose:

Sourcewell's Cooperative Purchasing Program is designed to provide participating entities with access to competitively awarded cooperative purchasing solutions. To facilitate the Program, Sourcewell awards cooperative purchasing master agreements following a competitive procurement process intended to meet compliance standards in accordance with Minnesota law and the requirements contained herein. Benefits of the Program include:

- Competitively solicited and awarded agreements
- Administrative time and money efficiencies
- Cost savings based on volume purchasing

### Program Eligibility:

Sourcewell's Cooperative Purchasing Program is available to participating entities. A Participating Entity is any government unit, including a state, city, county, town, school district, political subdivision of any state, federally recognized Indian tribe, any agency of the United States, any instrumentality of a governmental unit, any other entity as defined in Minn. Stat. § 471.59, subd. 1(b), and any entity as defined in Art. VI of the Sourcewell Bylaws.

Awarded suppliers may expressly agree to extend master agreement terms to additional categories of entities, including nonprofits or public agencies in foreign jurisdictions. Extension of Sourcewell master agreement eligibility will be determined by each respective supplier within its respective solicitation response prior to award, or upon execution of an amendment after award. Additionally, Sourcewell may also enter partnership agreements to further expand availability of master agreements.

### Program Registration:

Each Participating Entity will complete a Participation Agreement detailing the terms and conditions of Program participation and master agreement use. Entities will register with Sourcewell to create an account and to receive a Client Number. Registration will include acceptance of the terms of use as evidenced in a form approved by the Sourcewell Board of Directors. Alternatively, an entity may request to enter a joint powers, interlocal, or similar agreement with Sourcewell to establish access to the Program.

Sourcewell will maintain and continue to recognize any eligible entity that has joined, utilized, or accessed Sourcewell programs prior to July 1, 2022. Each such entity will retain its status and access to Sourcewell programs. After July 1, 2022, entities will be encouraged to re-register with Sourcewell.

### Program Duties:

#### **A. Chief Procurement Officer (CPO) Authorization**

Pursuant to the Sourcewell Bylaws, the Board of Directors designates a Chief Procurement Officer to administer components of Sourcewell's Cooperative Purchasing Program. The Chief Procurement Officer is authorized to award all competitively solicited cooperative purchasing master agreements. The Board delegates to the Chief Procurement Officer the authority to execute all cooperative purchasing master agreements, and amendments thereto, on behalf of Sourcewell. The Board will subsequently ratify cooperative purchasing master agreement awards.

#### **B. Director of Enterprise Solutions (DES)**

After award, the Director of Enterprise Solutions develops Sourcewell's cooperative purchasing program. This includes direction of Sourcewell's Category Development, Supplier Development, and Client Relations divisions and coordination with Sourcewell's central services functions.

Functions include participating agency and supplier awareness training activities, promotional and educational activities relating to the Program, market analysis, category development, day to day support of master agreements, customer service, and related functions focused on training, educating, and facilitation of Program use between Sourcewell, awarded suppliers, and Participating Entities.

### Program Requirements:

#### I. PURPOSE

Sourcewell's Cooperative Purchasing Program is conducted in a manner that ensures cooperative purchasing master agreements are awarded pursuant to a competitive public procurement process consistent with the legal principles of open access, competition, fairness, and transparency.

#### II. SCOPE

These requirements apply to Sourcewell's Cooperative Purchasing Program master agreements awarded by Sourcewell on behalf of, and intended for use by, eligible Participating Entities.

#### III. PROCUREMENT OBJECTIVES

##### A. Compliance

Sourcewell cooperative purchasing procurements must comply with all applicable State of Minnesota and United States federal laws.

##### B. Fair and Open Competition

As a Minnesota local government unit and service cooperative, Sourcewell requires fair and open competition in its master agreement process. Solicitations will be written so that they are able to be met by more than one supplier, notice of the opportunity is posted so that it receives broad publication, and all responsible suppliers are permitted to compete in the solicitation process. Sourcewell will provide equal opportunity to access information to promote competition.

##### C. Awards

Awards will be made to the proposers whose proposal conforms to all conditions and requirements of a solicitation, and consistent with the award criteria defined in the solicitation. Proposal evaluation will be based on scoring criteria defined in the solicitation and the Sourcewell Evaluator Scoring Guide.

Social and economic preferences will be implemented to the extent practicable and when required by Minnesota law. Participating entities accessing master agreements are subject to their own specific legal requirements.

## **D. Conflicts of Interest**

### **1. Individual Conflicts of Interest.**

No employee of or individual associated with Sourcewell may participate in the development, selection, award, or administration of a contract or master agreement if they have a real or potential conflict of interest. Conflicts of interest arise when the employee, any member of their immediate family, or an organization which employs or is about to employ, or an organization with which any of the parties indicated herein are affiliated, has a financial or other interest in or receives a tangible personal benefit from a potential supplier. Employees of Sourcewell may not solicit or accept gifts, gratuities, or favors creating a tangible personal benefit from any current or potential supplier.

### **2. Organizational Conflicts of Interest.**

Sourcewell will take affirmative action to identify, avoid, or mitigate organizational conflicts of interest in all procurement transactions. An organizational conflict of interest is created when a current or prospective supplier is unable to render impartial service to Sourcewell due to the supplier's:

- a. Creation of evaluation criteria during performance of a prior contract which potentially influences future competitive opportunities to its favor;
- b. Access to nonpublic and material information that may provide for a competitive advantage in a later procurement competition;
- c. Impaired objectivity in providing advice to Sourcewell.

### **3. Procedures for Mitigating Conflicts of Interest**

Employees must disclose any actual or potential conflict of interest immediately upon discovery to the Chief Procurement Officer or the General Counsel. Failure to provide notice may subject an employee to discipline. Employees participating in the response evaluation process must sign the Evaluation Committee Member Agreement.

Upon notification or discovery of any an actual or potential conflict of interest, the General Counsel will review the circumstances and determine whether a legal conflict of interest exists. A legal conflict of interest includes any violation of applicable statues, rules, regulations, and the requirements of this Program. Upon a determination a legal conflict exists, the General Counsel will advise the Executive Director, Chief Procurement Officer, or Board of Directors as may be appropriate on remedial and mitigation actions.

If no legal conflict of interest is determined to exist, but the appearance of a potential conflict of interest exists, the CPO, in consultation with appropriate Senior Leaders, must then review the circumstances and exercise common sense, good judgment, and sound discretion in determining an appropriate means for resolving. Employees may be subject to discipline for conduct creating a conflict of interest or the reasonable perception of a conflict of interest or failure to follow these requirements.

#### 4. Silent Period

To avoid the appearance of any actual or potential conflict of interest, all discussions with currently awarded or prospective suppliers specifically relating to any upcoming solicitation which the supplier is likely to respond will stop 14 days prior to the issuance of any solicitation (Silent Period). During this Silent Period, all questions relating to the solicitation must be directed to Sourcewell's Procurement Department until the solicitation is officially completed resulting in issuance of award(s) or upon cancellation of competitive process by the CPO.

This section does not prohibit discussions with industry partners and suppliers which are not relating specifically to any open solicitation, including ongoing administration of an existing and current contract. During this Silent Period and any open solicitation period, Sourcewell employees will make affirmative efforts to limit or avoid contact with prospective suppliers which may create the appearance of any actual or potential conflict of interest. All travel activity relating or potentially relating to a prospective supplier during this time must be approved by the employee's Director.

### IV. AUTHORITY

#### A. Statutory Authority

1. Sourcewell is expressly authorized to provide a cooperative purchasing program pursuant Minnesota Statutes § 123A.21, Subdivision 7 (23) and the Sourcewell Bylaws.

2. Sourcewell is governed by Minnesota Statutes § 471.345 when awarding contracts.

#### B. Chief Procurement Officer Authority

As delegated by the Sourcewell Bylaws (Article XV. Section 2) the Chief Procurement Officer is authorized to award all competitively solicited cooperative purchasing master agreements, without limitation. The Sourcewell Board will subsequently ratify of all cooperative purchasing awards made by the CPO.

### V. GENERAL REQUIREMENTS

#### A. Solicitations

Solicitations will be issued as a Request for Proposals (RFP), Invitation for Bids (IFB), or other method approved by the Chief Procurement Officer. The CPO may exercise lawful discretion in determining the selection method, scope, evaluation criteria, award standards, and any other elements which are compliant with applicable legal standards and intended to achieve the desired solicitation-specific results to serve the needs of Sourcewell and its participating entities.

To ensure compliance, all solicitation forms, templates, master agreements, Participation Agreements, and all other legal documents related to the cooperative purchasing program

will be subject to review, at least annually, by the CPO (or designee) in consultation with the General Counsel (or designee) and the Director of Enterprise Services (or designee).

**B. Public Notice**

Public notice of all cooperative purchasing master agreement solicitations will be posted for a minimum of 30 days on the Sourcewell website. Additional notification of solicitations may occur through alternative media locations as determined to be reasonable or necessary by the Chief Procurement Officer.

**C. Receipt of Responses**

Sourcewell will not evaluate any proposal, bid, or any other form of response to a solicitation, that was not received by the due date and time specified in the solicitation document.

**D. Evaluation**

All proposals that are received timely will be evaluated for responsiveness and compliance with the evaluation criteria that have been clearly defined in the solicitation.

**VI. COOPERATIVE PURCHASING PROCUREMENT REQUIREMENTS****A. Board Approval**

The Board must approve all categories of products and services prior to posting public notice of a solicitation.

**B. Awards****1. Responsible Suppliers**

Master agreement awards may only be made to responsible suppliers as defined by Minnesota law, federal requirements, and the specific solicitation.

**2. Multiple Awards**

Sourcewell intends to award one or more master agreements to responsive and responsible supplies to meet the needs of Sourcewell participating entities. Factors to be considered in determining the number of awards in any category may include the following:

- a. The number and geographic location of suppliers necessary to offer a comprehensive selection of products for use by participating entities.
- b. The number and geographic locations of suppliers, and their sales and service network, to assure availability of product supply and coverage to meet participating entities' anticipated needs.
- c. The attributes of suppliers' products and services that are necessary to assist Sourcewell participating entities with achieving environmental, sustainability, supplier diversity, and technological goals and objectives.

### 3. Debarment Status Updates

All cooperative purchasing master agreements must contain a provision requiring the supplier to notify Sourcewell if its status changes regarding debarment and suspension in any jurisdiction.

### 4. Term

The Board of Directors will establish the maximum term of any cooperative purchasing master agreement upon request of the CPO when approving the opening of a solicitation. The CPO may exercise lawful discretion in defining any combination of term and extensions not exceeding the maximum term established by the Board. The Board may approve, upon written request of the CPO, an extension of any existing master agreement beyond the established maximum term only in exceptional situations and to be determined on a case-by-case basis.

### 5. Ratification

Upon completion of the procurement process and award, and as soon as practicable, the Chief Procurement Officer will present a resolution to the Board for ratification of awards.

### **C. Administrative Fees**

Suppliers awarded a master agreement must pay Sourcewell an administrative fee in consideration for the support and services provided by Sourcewell. The fee will be determined and negotiated within the master agreement award process, upon advice of the Director of Enterprise Solutions, by the CPO. Fees will be determined based upon total sales to Participating Entities for all contracted equipment, products, or services made during the term of, and pursuant to the requirements of, the master agreement. Suppliers may not charge Participating Entities more than the contracted price to offset the Administrative Fee. In the event the Supplier is delinquent in any administrative fees, Sourcewell reserves the right to cancel a master agreement and reject any proposal submitted by the supplier in any subsequent solicitation.

### **VII. PROCUREMENTS THAT MAY CONTAIN FEDERAL FUNDING**

As required under certain United States federal rules regarding procurements (2 C.F.R.200.317 – 200.326 and Appendix II to Part 200) all Sourcewell cooperative purchasing master agreements will contain language to assist participating entities in meeting federal requirements and procurement standards.

### **VIII. DATA PRACTICES AND RECORDS RETENTION**

All data created and maintained during the procurement process is subject to the Minnesota Data Practices Act (Minnesota Statutes Chapter 13) and Sourcewell's Records Retention Policy.


**IX. APPROVAL**

The Sourcewell Board of Director has approved the Program effective July 1, 2022.

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By   
Authorized Signature – Signed  
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By Greg Zylka  
Name – Printed

Title Sourcewell Board of Directors Chair  
Date 8/19/2022 | 9:59 AM CDT

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By   
Authorized Signature – Signed  
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By Sara Nagel  
Name – Printed

Title Sourcewell Board of Directors Clerk  
Date 8/19/2022 | 10:35 AM CDT