

BUYBOARD ADVISORY: PURCHASING WITH FEDERAL FUNDS

(Updated November 2021)

Purchasing through a cooperative or “interlocal contract” satisfies the Texas state law requirement of local governments to seek competitive procurement for the purchase of goods or services.ⁱ Therefore, you may purchase goods and services from a vendor through BuyBoard under Texas law without having to conduct your own competitive procurement. If, however, you are procuring goods or services through a BuyBoard contract using federal funds, including ESSER, ARP/CARES Act, and HEERF fundsⁱⁱ or other federal grant funds, you may have additional requirements under federal law, as explained in this Advisory. These requirements may include, but are not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the “Uniform Guidance” or, when related to federal grants administered by the U.S. Department of Education, “EDGAR”).

To assist BuyBoard members (“Members”) considering making cooperative purchases using federal funds, BuyBoard is providing this Advisory which contains general information on the federal procurement standards in the Uniform Guidance (“Federal Procurement Standards”) and information on BuyBoard’s procurement process. For general information for Texas school districts on purchasing cooperatives, check out TASB Legal Services’ Texas School Law eSource article, “[Purchasing Cooperatives](#)”.

Because of the variety of potentially applicable laws, regulations and local or individual grant requirements and the potential risk of exposure, you are well-advised to consult with your entity’s legal counsel, advisor or granting agency when making purchases using federal award funds under any procurement method, including a purchasing cooperative.

What are the Uniform Guidance/Federal Procurement Standards? Uniform Guidance refers to Office of Management and Budget (OMB) regulations found under 2 CFR 200ⁱⁱⁱ and covers the entire life-cycle of the federal award, from pre-award to post-award, cost principles, and audit requirements. Included within 2 CFR 200 are procurement standards which may apply to federal award recipients making purchases with federal award funds.^{iv}

Generally, the Uniform Guidance will apply to any federal award, including federal grants, to states, local governments (counties, municipalities, cities, townships, parishes, school districts, local public authorities, special districts, etc.), Indian tribes, institutions of higher education, or nonprofit organizations that carry out a federal award as a recipient or subrecipient (“non-Federal entities”).^v For simplicity, we refer to the 2 CFR 200 regulations generally in this Advisory as the “Uniform Guidance” and the procurement standards within the Uniform Guidance as the “Federal Procurement Standards.”

Will state or federal procurement laws, rules, and regulations apply when using federal funds? Generally, the stricter requirement will need to be followed. Entities must have and use documented procurement procedures, consistent with state, local, and tribal laws and regulations and the Federal Procurement Standards.^{vi} Whether state or federal procurement rules are more restrictive may depend on the value of the purchase and the type of entity, as different governmental entities may be subject to different procurement rules under state law.

Do the Federal Procurement Standards allow for the use of purchasing cooperatives? Generally, yes. In fact, the Federal Procurement Standards state non-Federal entities are *encouraged* to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods or services to foster greater economy and efficiency.^{vii} However, while use of intergovernmental agreements is encouraged, Members must still ensure all procurements using federal grant funds meet any other requirements of the Uniform Guidance and are appropriately documented. Members should consider and consult with their advisor and/or granting agency regarding applicability of any other requirements in the Uniform Guidance to a Member purchase using federal award funds, whether through a purchasing cooperative or other procurement method.

Why am I hearing different things about using purchasing cooperatives from different state and federal agencies? As the name implies, the Uniform Guidance provides a level of uniformity across federal awards. However, different agencies are administering different programs under these rules, and each may have its own guidance for procuring good and services using federal funds administered by that agency, including procurement through a purchasing cooperative. Members are cautioned to always check with the specific federal granting agency from which the entity is using funds to make purchases for any information, guidance, or requirements it may have in regard to the Federal Procurement Standards and use of purchasing cooperatives and, in particular, when making higher dollar purchases that may exceed the Simplified Acquisition Threshold and require formal procurement methods as outlined in Appendix A to this Advisory. The following are links to just a few of the resources available online, including on use of purchasing cooperatives, from agencies administering federal awards^{viii}:

Department of Education: The Uniform Guidance as administered by the U.S. Department of Education (USDE) is commonly referred to as “EDGAR” – short for Education Department General Administrative Regulations. General information is available on USDE’s [EDGAR page](#). For Texas school districts, the Texas Education Agency (TEA) also has resources available on its [EDGAR Materials and Resources](#) page, including an [EDGAR FAQ](#) which contains several Q&A’s on purchasing cooperatives.

Department of Agriculture: The United States Department of Agriculture (USDA) administers multiple programs that Members may participate in, including child nutrition programs such as the National School Lunch Program. In October 2016, the USDA issued its [Q&A on Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services](#). For entities in Texas, the Texas Department of Agriculture (TDA) Food and Nutrition Division has multiple resources available including a [Purchasing Cooperative Guidelines](#) brochure and its [Administrator’s Reference Manual](#), including [Section 17c \(Cooperative Purchasing\)](#). Also available from the TDA is a [Procurement with Cooperatives](#) webinar.

FEMA: The Federal Emergency Management Agency (FEMA) issued its Fact Sheet, [Public Assistance: Buying Through Cooperative Purchasing Programs](#), which provides certain information and cautions on use of purchasing cooperatives using FEMA funds.

There is only one BuyBoard®! Just like local governmental entities, purchasing cooperatives come in all shapes and sizes, but there is only one BuyBoard®. When a state or federal agency refers to purchasing cooperatives in guidance or other documents, it might speak to purchasing cooperatives generally as a group and use different terms to describe them. Terms like “state buy boards,” “buy boards,” or similar terms used in agency guidance should not be assumed to refer specifically to *the* BuyBoard®. If you have questions about the requirements of a state or federal agency as they might apply to use of specific cooperatives, consult with the agency. If you have questions about BuyBoard contracts, documents, processes, and procedures not answered in this Advisory, just reach out to BuyBoard at 800.695.2919 or info@buyboard.com for assistance.

How do I know if a purchasing cooperative is compliant with Federal Procurement Standards?

Cooperative purchasing is a team effort between the purchasing cooperative and the cooperative participant. While a purchasing cooperative may take certain procurement steps that can assist a participant in complying with the participant's procurement requirements, including the Federal Procurement Standards, a purchasing cooperative will not know at the time vendors are awarded cooperative contracts the value or funding source to be used for any individual participant purchases, the requirements of any participant's particular federal grant or award, or the participant's own local procurement procedures. Therefore, a governmental entity making purchases using federal grants or contracts is well-advised to conduct its own procurement process review before relying on any general statement that a purchasing cooperative, contract, or vendor is "compliant" with Federal Procurement Standards and is well-advised to consider all of the factors related to the entity's purchase(s) and consult with its own advisors and/or granting agency.

What is BuyBoard doing to assist Members in complying with the Federal Procurement Standards?

In addition to working to provide Members a mechanism for pooling their collective purchasing power, one of the main goals of BuyBoard is to ease administrative burdens for BuyBoard Members. Simply put, BuyBoard does some of the legwork in the procurement process so that our Members won't have to. BuyBoard has long used an open, competitive process intended to provide best value to members in awarding its contracts. This process was specifically formulated to comply with Texas law.

While responsibility for compliance with federal regulations will ultimately fall to the entity receiving the federal award, Appendix A to this Advisory, "Federal Procurement Standards under the Uniform Guidance: A Summary of BuyBoard Processes and Member Requirements," contains a list of some of the Federal Procurement Standards and information on how current BuyBoard procurement processes may assist Members with compliance with such requirements. This information is provided both to assist Members in understanding potentially applicable requirements as well as to provide Members with a document that may help Members seeking to document their purchasing processes under the Federal Procurement Standards.

In addition, BuyBoard developed an EDGAR Vendor Certification Form where vendors may certify their agreement and ability to comply with certain contract provision requirements under the Federal Procurement Standards. This form is included in all proposal invitations.

Members are also reminded to consider using ancillary agreements, in addition to the BuyBoard contract's general terms and conditions, to address any of the Member's specific contractual needs, including contract requirements for a procurement using federal grants or awards.

Finally, it is important to note that these federal rules should not impact Member purchases using state and local funds.

Legal advice. Because of the variety of laws that relate to purchasing with federal funds and the potential risk of exposure, you are well-advised to consult with your entity's legal counsel before procuring goods and services using federal funds under any procurement method, including a purchasing cooperative.

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For more information about BuyBoard, contact us at 800-695-2919.

ⁱ *See*, Tex. Gov't Code §791.025 and Tex. Local Gov't Code §271.102. Members from states other than Texas should consult your state laws.

ⁱⁱ Elementary and Secondary School Emergency Relief (ESSER), American Rescue Plan Act of 2021 (ARPA), Coronavirus Aid, Relief, and Economic Security (CARES) Act, Higher Education Emergency Relief Fund (HEERF)

ⁱⁱⁱ *See generally*, 2 CFR §200.0 *et seq.*

^{iv} *See*, 2 CFR §§200.317-200.327.

^v *See*, 2 CFR §§ 200.101, 200.1.

^{vi} *See*, 2 CFR. §200.318(a).

^{vii} *See*, 2 CFR §200.318(e).

^{viii} Current as of the date of issuance of this Advisory. Members should check with the applicable agency for the latest information.

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APPENDIX A

FEDERAL PROCUREMENT STANDARDS UNDER THE UNIFORM GUIDANCE **A Summary of BuyBoard Processes and Member Requirements**

Set out below is a chart containing information on some of the Federal Procurement Standards under the Uniform Guidance, 2 CFR §§200.317-200.327, current as of the date of this Advisory, that may apply to certain purchases made with federal funds. Also included is information on processes utilized by The Local Government Purchasing Cooperative (Cooperative), d/b/a BuyBoard®. BuyBoard Members (“Members”) may use the information in the chart to determine whether the BuyBoard process satisfies the Federal Procurement Standards applicable to the Member’s purchase or whether further action is required by the Member. This Appendix should be read in conjunction with the BuyBoard Advisory: Purchasing with Federal Funds. Applicability of various Federal Procurement Standards requirements may depend on the nature and value of purchases. While certain monetary thresholds current as of the date of this Advisory are listed herein for reference, Members are cautioned to confirm all requirements and applicable thresholds at the time of purchase, as the threshold amounts may change and may vary by Member. Members are also cautioned to check with their specific granting agency for any additional guidance or requirements which may apply, whether in regard to use of a purchasing cooperative or otherwise.

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FEDERAL PROCUREMENT STANDARD	BUYBOARD PROCESS	BUYBOARD MEMBER
<p>Micro-Purchase Requirements: Micro-purchases are purchases below the micro-purchase threshold. Under 48 CFR §2.101, the micro-purchase threshold is \$10,000. However, the Federal Procurement Standards allow variances to this threshold under certain conditions.ⁱ Therefore, the threshold may vary for Members, and Members should review their documented procurement procedures to confirm the applicable threshold.</p> <p>Under the Federal Procurement Standards, micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents its files accordingly.ⁱⁱ</p> <p>Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.ⁱⁱⁱ</p> <p>To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.^{iv}</p>	<p>With such a wide variety of goods and services available on BuyBoard from a large number of vendors, we believe Members will find BuyBoard a highly valuable resource to locate and distribute micro-purchases among vendors at a reasonable price. Furthermore, even though competitive quotations may not be required by federal law for micro-purchases, Members making micro-purchases through BuyBoard will still receive all of the benefits and pricing from BuyBoard's competitive proposal invitation process.</p>	<p>Consult your local, documented procurement procedures to determine applicable micro-purchase threshold.</p> <p>Determine if price considered is reasonable based on research, experience, purchase history, or other information. Document files accordingly.</p> <p>If practicable, distribute micro-purchases equitably among qualified suppliers.</p> <p>Consult state law and your local policies or regulations to confirm that no further process is required.</p>
<p>Small Purchase Requirements: Small purchases are purchases where the aggregate dollar amount is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. Under 48 CFR §2.101, the simplified acquisition threshold is currently \$250,000, although individual non-Federal entities are responsible for determining an appropriate simplified acquisition threshold which must not exceed this amount.^v Therefore, the threshold may vary for Members, and Members should review their documented procurement procedures to confirm the applicable threshold.</p> <p>For small purchases, the Federal Procurement Standards require entities to obtain price or rate quotations from an adequate number of qualified sources as determined appropriate by the non-Federal entity.^{vi}</p>	<p>When quotes are required, BuyBoard's request for quotes (RFQ) feature may serve as a convenient resource for Members seeking price and rate quotations from BuyBoard vendors.</p>	<p>Consult your local, documented procurement procedures to determine applicable simplified acquisition threshold.</p> <p>Solicit adequate number of quotes from qualified sources (whether through BuyBoard or other sources).</p> <p>** To the extent your entity's applicable simplified acquisition threshold for small purchases is greater than \$50,000, remember that state law is more restrictive for Texas school districts for purchases of \$50,000 or more. Other entities should consider if their applicable state or local requirements are more restrictive as well.</p>

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<p>Other Procurement Methods (purchases above the simplified acquisition threshold): For purchases that do not qualify for the micro-purchase or small purchase methods, the methods of procurement under the Federal Procurement Standards include formal procurement methods by sealed bids, proposals, and noncompetitive procurement.^{vii}</p>	<p>As described further herein, BuyBoard utilizes a competitive proposal invitation process for awarding BuyBoard contracts.</p>	<p>The Federal Procurement Standards contain additional requirements for purchases above the simplified acquisition threshold, some of which are discussed below. Members considering purchases using federal funds above this amount are well-advised to consult your entity’s legal counsel or advisor, as well as the granting agency, for specific guidance and requirements that may apply to your purchase.</p> <p>Federal Procurement Standards which are specific to formal procurement by proposals are noted “Proposals” below.</p>
<p>General Procurement Standard: Documented procurement procedures and standards consistent with State, local, and tribal laws and regulations and the Federal Procurement Standards (all purchases).^{viii}</p>	<p>N/A – Member Requirement.</p>	<p>Members must have and use their own documented procurement procedures.</p>
<p>General Procurement Standard: Contract oversight to ensure contractors perform in accordance with terms, conditions, and specifications of contracts or purchase orders (all purchases).^{ix}</p>	<p>BuyBoard oversees vendor compliance with BuyBoard contract terms and conditions at the cooperative level.</p>	<p>Members oversee performance by contractors for their specific purchase orders.</p>
<p>General Procurement Standard: Written standards of conduct covering conflicts of interest and governing actions of employees engaged in the selection, award and administration of contracts (all purchases).^x</p>	<p>The Cooperative’s Board of Trustees has adopted a conflicts of interest policy for its board members and BuyBoard Administrator staff governing the identification, disclosure and management of actual or potential financial or other conflicting interests.</p>	<p>Member will need to comply with and maintain its own written standards of conduct covering conflicts of interest in accordance with the Federal Procurement Standards.</p>
<p>General Procurement Standards: Avoidance of acquisition of unnecessary or duplicative items, consideration of consolidation or breaking out procurements to obtain more economical purchase, analysis of lease versus purchase alternatives, and any other appropriate analysis to determine most economical approach (all purchases).^{xi}</p>	<p>N/A – Requirement relates to individual purchase considerations and, therefore, a Member requirement.</p>	<p>Consider and conduct appropriate analysis as needed and as per requirement.</p>

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<p>General Procurement Standards: Award contracts only to responsible contractors possessing ability to perform successfully under the terms and conditions of proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources (all purchases).^{xii}</p>	<p>The Cooperative's Board awards contracts on the basis of best value based on the criteria outlined in the proposal invitation. Criteria generally includes factors such as price competitiveness, vendor past performance, vendor reputation for goods and services, financial and technical resources, and capability of servicing Cooperative members, as well as any other factor or requirement listed in the proposal invitation. (See a specific proposal invitation for applicable criteria.)</p>	<p>To expand on BuyBoard's initial review at the time of the proposal invitation, a Member may choose at the time of purchase to further review awarded vendors' ability to perform successfully under the terms and conditions of the Member's purchase, including consideration of contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.</p>
<p>General Procurement Standards: Maintenance of records sufficient to detail history of procurement, including rationale for method of procurement, selection of contract type, contractor selection or rejection, and basis for contract price (all purchases).^{xiii}</p>	<p>BuyBoard's Administrator maintains records of proposal invitations and vendor awards in accordance with the Administrator's internal records retention schedules. (Note: Many documents, including proposal invitations and vendor proposals for active contracts, are available for Members to conveniently search, view, and download when signed into the Member's account on the BuyBoard website. Copies can also be provided to Members upon request to maintain with the Member's records.)</p>	<p>Member will need to maintain purchase records as may be required under both state and federal laws, rules and regulations, including the Federal Procurement Standards and the Member's own internal policies and procedures.</p>
<p>Competition: Procurement transactions conducted in manner providing full and open competition.^{xiv}</p>	<p>BuyBoard places strong emphasis on using an open, competitive process for the award of vendor goods and services. BuyBoard uses a proposal invitation process to award contracts to vendors for goods and services that BuyBoard determines, based on a review of all vendor-submitted proposals and an evaluation of multiple published criteria, represent the best value. BuyBoard gives broad notice of opportunity to vendors to encourage vendor participation and increase competition. Proposal invitations are publicly advertised in multiple newspapers and on BuyBoard vendor website.</p>	<p>Member can use BuyBoard's Request for Quotes feature, where appropriate, to add an additional layer of competition among BuyBoard awarded vendors.</p>

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<p>Competition: Excluding contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements.^{xv}</p>	<p>BuyBoard does not allow potential vendors to develop or draft any part of BuyBoard proposal invitations, including specifications and requirements.</p>	
<p>Competition: No restriction of competition – placing unreasonable requirements on firms in order to qualify to do business, requiring unnecessary experience and excessive bonding, specifying only a “brand name” product, etc.^{xvi}</p>	<p>BuyBoard uses best efforts to avoid any unreasonable requirements on firms in order to qualify to do business or requiring unnecessary experience. Further, with the limited exception of certain vehicle contract specifications, BuyBoard avoids specifying “brand names” in its specifications or, in circumstances where it is deemed advantageous to include “brand names” in order to provide best value to Members, vendors are permitted to propose “equal” products.</p>	
<p>Competition: Conducting procurement in a manner that prohibits use of statutorily or administratively imposed state, local, or tribal geographical preferences in evaluation of bids or proposal except where applicable federal statutes expressly mandate or encourage.^{xvii}</p>	<p>BuyBoard does not consider a vendor’s principal place of business or resident status in evaluation of proposals. (Note: BuyBoard may consider a vendor’s ability to serve Member regions and states.)</p> <p>BuyBoard’s proposal invitations require proposing vendors to provide information on whether the vendor is a Texas resident or non-resident business and whether vendor or its ultimate parent/majority owner has in principal place of business in Texas or employs at least 500 persons in Texas. However, this information is not used in the evaluation process and is collected solely for the Member’s information in the event it is relevant to the Member’s federal, state or local procurement laws or requirements.</p>	<p>Member will need to consider if any state, local, or tribal geographical preferences are applicable or prohibited for the Member’s specific purchase(s) and proceed accordingly.</p>
<p>Competition: Solicitation incorporating clear and accurate description of technical requirements for item/service to be procured which do not contain features unduly restricting competition and identifying all requirements which offerors must fulfill.^{xviii}</p>	<p>BuyBoard’s proposal invitations incorporate full, detailed descriptions of the contract requirements for vendors, including specifications for product and service categories, requirements vendors must fulfill, and all other factors to be used in evaluating proposals.</p>	

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<p>Competition: Ensuring all prequalified lists of persons, firms, or products used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition and do not preclude potential bidders for qualifying during solicitation period.^{xxix}</p>	<p>BuyBoard has a system for vendors to easily register to receive e-mail notifications of proposal invitations for any of the commodities/services the vendor selects. This system, along with public advertisement of proposal invitations, helps ensure notification of enough qualified sources to ensure robust and open and free competition.</p> <p>All vendors are welcome to register at any time, although they are not required to register. Registration is not a condition for consideration.</p> <p>As additional outreach, BuyBoard emails historically underutilized business (HUB) vendors identified through the Texas Centralized Master Bidders List (CMBL) regarding proposal invitation opportunities.</p>	
<p>Proposals: Publicized.^{xx}</p>	<p>All BuyBoard proposal invitations are publicly advertised in numerous newspapers in Texas once a week for two weeks, as well as posted on BuyBoard vendor website.</p>	
<p>Proposals: Identification of evaluation factors and their relative importance.^{xxi}</p>	<p>All BuyBoard proposal invitations set out the evaluation criteria which will be used in evaluating vendor proposals. All proposals are scored based on the published evaluation criteria.</p>	
<p>Proposals: Consideration of all proposals to maximum extent practical and solicitation from adequate number of qualified sources.^{xxii}</p>	<p>All BuyBoard proposal invitations are publicly advertised in numerous newspapers and on BuyBoard's vendor website to help maximize vendor awareness and participation. Further, as additional outreach, , BuyBoard emails HUB vendors identified through the Texas CMBL regarding proposal invitation opportunities.</p> <p>All responsive vendor proposals (i.e. timely submitted in accordance with instructions and containing required information) are fully considered and evaluated for possible award.</p>	

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<p>Proposals: Written method for conducting technical evaluations of proposals received and making selections.^{xxiii}</p>	<p>Proposals are reviewed, analyzed, and scored based on the criteria outlined in the proposal terms and conditions. Recommendations are prepared and presented to the Cooperative Board for consideration of award.</p>	
<p>Proposals: Awarding contracts to responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered.^{xxiv}</p>	<p>The Cooperative Board awards contracts on the basis of best value to BuyBoard Members based on the criteria outlined in the proposal invitation, helping to ensure awards are made that may be most advantageous to members, with price competitiveness and other factors considered.</p>	<p>Where multiple vendors are awarded by BuyBoard, Members may conduct an additional review and consideration of which awarded vendor may be most advantageous to the Member.</p>
<p>HUBs: Taking all necessary affirmative steps to assure minority businesses, women’s business enterprises, and labor surplus area firms are used when possible (all purchases).^{xxv}</p>	<p>BuyBoard requests information in every proposal invitation from proposing vendors regarding any Historically Underutilized Business (HUB) certifications. This information is not used by BuyBoard for evaluation purposes, but rather is made available to Members for Member consideration and use in complying with any applicable HUB requirements or goals.</p> <p>BuyBoard’s vendor list is easily accessible and available to all vendors, including HUB businesses, and all are encouraged to register to receive notice of proposal invitations.</p> <p>As an additional outreach, BuyBoard emails HUB vendors identified through the Texas Centralized Master Bidders List (CMBL) regarding proposal invitation opportunities.</p>	<p>Member, as the entity making the purchase, will need to determine any requirements applicable to the Member’s purchase(s) and take any affirmative steps to comply, such as dividing total requirements into small tasks or quantities to permit maximum participation, establishing delivery schedules which encourage participation, etc. (See Uniform Guidance regulations for full requirements.)</p>
<p>Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment: Comply with prohibition on obligating or expending loan or grant funds to procure or obtain certain telecommunications and video surveillance services or equipment from certain entities as set forth in 2 CFR §200.216.^{xxvi}</p>	<p>N/A – Member requirement.</p>	<p>Consider whether items being considered for purchase with federal funds may be subject to this provision. Make inquiries about products to awarded vendors as needed.</p>

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<p>Domestic Preferences for Procurements: Provide preference for purchase, acquisition, or use of goods, products, or materials produced in the United States as appropriate and to extent consistent with law.^{xxvii}</p>	<p>N/A – Member requirement.</p>	<p>Consider any requirements for preferences for goods, products, or materials produced in the United States and select products accordingly. Make inquiries about production to awarded vendors as needed.</p>
<p>Recovered Materials: Compliance with any federal procurement of recovered materials requirements for EPA designated items where purchase price exceeds \$10,000 or value of quantity acquired prior fiscal year exceeded \$10,000.^{xxviii}</p>	<p>BuyBoard’s EDGAR Vendor Certificaton Form requires vendors to indicate whether they agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, where applicable, and provide such information and certifications as a Member may require to confirm estimates and otherwise comply.</p>	<p>Consider the applicability of and confirm compliance with any federal requirements regarding recovered material content for designated items.</p>
<p>Cost Analysis: Conducting cost and price analysis for every procurement action in excess of the federal simplified acquisition threshold.^{xxix}</p>	<p>N/A – Member Requirement.</p> <p>While BuyBoard reviews proposals for price competitiveness as part of the evaluation process, in regard to conducting cost and price analyses, the Federal Procurement Standards state the method and degree of analysis required is dependent on the facts surrounding the particular procurement situation. Therefore, the Member procuring the goods or services would be in the best position to conduct any cost or price analysis when required for a specific purchase, and this is not done at the cooperative level.</p>	<p>Member should consider whether any cost or price analysis is required and, if so, perform an appropriate analysis prior to purchasing, whether through a cooperative or any other procurement method.</p>

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<p>Determining Profit: In cases where cost analysis is performed, negotiating profit as separate element of price.^{xxx}</p>	<p>Most BuyBoard contracts are generally awarded based on discount off catalog pricing and may also contain unit pricing, not-to-exceed hourly labor rates or, for some construction-related items, a coefficient to be applied to a unit price book. Profit is <u>not</u> included as a separate element of the price. However, BuyBoard's General Terms and Conditions allow for Members to negotiate with vendors to obtain lower prices for awarded products or services based on volume or other factors.</p> <p>BuyBoard's EDGAR Vendor Certification Form asks whether the Vendor will agree, when required by a BuyBoard Member, to provide information and negotiate with the Member regarding profit as a separate element of the price.</p>	<p>Member should consider whether negotiation of profit as a separate element of price is required for the Member's purchase(s) and negotiate with vendors accordingly, giving consideration to the factors listed in the Federal Procurement Standards. (Note: For purchases made through BuyBoard, the total price, including profit, may be less than, but may not exceed, BuyBoard awarded pricing.)</p>
<p>Bonding: Compliance with applicable bonding requirements for construction or facility improvement contracts exceeding simplified acquisition threshold.^{xxxii}</p>	<p>N/A – Member Requirement.</p> <p>Because bonding requirements may vary based on particular purchases and particular grant requirements, this is not addressed at the cooperative level but may be addressed by the Member.</p>	<p>In addition to any state law bonding requirements, Members will need to consider and ensure vendor compliance with all bonding requirements as determined by the federal awarding agency or otherwise required by the Federal Procurement Standards. Consider use of ancillary agreements as needed.</p> <p>(Note: If the applicable requirements include bid bonds, Member may wish to check with the granting agency regarding whether required and how to apply requirement when purchasing through a cooperative.)</p>

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<p>Appendix II Contract Provisions – Contracts must contain applicable provisions^{xxxii}</p> <p>(Note: Different provisions may apply at different purchase value thresholds. See Uniform Guidance regulations.)</p>	<p>BuyBoard has developed an EDGAR Vendor Certification Form where vendors may certify their agreement and ability to comply with certain contract provision requirements under Appendix II in the Uniform Guidance. Completed forms are uploaded with vendor proposals for Members to conveniently see on the BuyBoard website. Copies of completed vendor forms can also be provided to Members upon request.</p>	<p>Confirm vendor has completed the EDGAR Certification Form and agreed to the provisions applicable to the Member's purchase. Consider use of ancillary agreements, including Member Construction Contracts as applicable, for any contract provisions required for the Member but not otherwise included in the BuyBoard contract.</p>
<p>Debarment and Suspension.^{xxxiii}</p>	<p>Under all BuyBoard proposal invitations, vendors must complete and submit with their proposal a Debarment Certification form certifying that neither the person certifying, their company, or owner or principal of their company has been debarred, suspended or otherwise made ineligible for participation in federal assistance programs.</p> <p>BuyBoard's EDGAR Vendor Certification Form requests vendors to both certify that they are not currently listed on the government-wide exclusions in SAM or otherwise excluded or declared ineligible and to immediately notify BuyBoard and Members with pending purchases or seeking to purchase if Vendor is later listed, debarred or suspended.</p>	<p>Vendor certifications are made at the time of proposal submission. Members should consider any additional or updated review or certification required or otherwise desirable at the time of any specific purchase.</p>
<p>Specific Terms of Federal Award and Requirements of Awarding Agency (all purchases).</p>		<p>In addition to any requirements in the Federal Procurement Standards, Members will need to consider and comply with any specific requirements of the Member's federal award and the awarding agency.</p>

ⁱ \$10,000 is the micro-threshold amount listed in 48 CFR §2.101. The amount is current as of the date of this Advisory. Federal rules may adjust this amount in the future. Further, Section 200.320 of the Federal Procurement Standards may permit individual non-Federal entities to self-certify a threshold up to \$50,000 on an annual basis, as well as request approval by the cognizant agency for indirect costs for amounts above \$50,000. (The threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.) As

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such, the micro-threshold for an individual Member may vary, and Members should review their own local procurement procedures to determine the applicable threshold. *See*, 2 CFR §200.1, 2 CFR 200.320(a)(1), 48 CFR §2.101.

ii *See*, 2 CFR §200.320(a)(1)(ii).

iii *Id.*

iv *See*, 2 CFR §200.320(a)(1)(i)

v The amount listed is the simplified acquisition threshold amount listed in 48 C.F.R. §2.101. This amount is current as of the date of this Advisory. Federal rules may adjust this amount in the future. Further, under Section 200.320 of the Federal Procurement Standards, the non-Federal entity is responsible for determining an appropriate simplified acquisition threshold that does not exceed this amount. (The threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.) As such, the simplified acquisition threshold for an individual Member may vary, and Members should review their own local procurement procedures to determine the applicable threshold. *See*, 2 CFR §200.1, 2 CFR §200.320(a)(2), 48 CFR 2.101.

vi *See*, 2 CFR §200.320(a)(2)(i).

vii *See*, 2 CFR §200.320(b)-(c).

viii *See*, 2 CFR §200.318(a).

ix *See*, 2 CFR §200.318(b).

x *See*, 2 CFR §200.318(c)(1).

xi *See*, 2 CFR §200.318(d).

xii *See*, 2 CFR §200.318(h).

xiii *See*, 2 CFR §200.318(i).

xiv *See*, 2 CFR §200.319(a).

xv *See*, 2 CFR §200.319(b).

xvi *Id.*

xvii *See*, 2 CFR §200.319(c).

xviii *See*, 2 CFR §200.319(d).

xix *See*, 2 CFR §200.319(e).

xx *See*, 2 CFR §200.320(b)(2)(i).

xxi *Id.*

xxii *Id.*

xxiii *See*, 2 CFR §200.320(b)(2)(ii).

xxiv *See*, 2 CFR §200.320(b)(2)(iii).

xxv *See*, 2 CFR §200.321.

xxvi *See*, 2 CFR §200.216.

xxvii *See*, 2 CFR §200.322, 2 CFR 200 Appendix II(L).

xxviii *See*, 2 CFR §200.323, 2 CFR 200 Appendix II(J).

xxix *See*, 2 CFR §200.324(a).

xxx *See*, 2 CFR §200.324(b).

xxxi *See*, 2 CFR §200.326.

xxxii *See*, 2 CFR §200.327, 2 CFR 200 Appendix II.

xxxiii *See*, 2 CFR 200 Appendix II(H).

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