



HOUSTON-GALVESTON AREA COUNCIL COOPERATIVE PURCHASING PROGRAM

CONTRACTOR AND CUSTOMER HANDBOOK

About The Cooperative

H-GAC is a government agency which provides a Cooperative Purchasing Program as part of its service to other government agencies. The Program currently makes blanket type contracts covering products and services for the use of its membership of more than 4500 local government participants in Texas and other States which include cities, counties, emergency services districts, school districts, and non-profit organizations. Any local government or non-profit organization may participate in the Program if their state law allows. There is no cost to join and become a member of the H-GAC Cooperative Purchasing Program.

H-GAC's Cooperative Purchasing Program, known as HGACBuy, was established pursuant to Texas Interlocal Cooperation Act [Texas Local Government Code, Title 7, Chapter 791]. The Act allows local governments and certain non-profits to contract or agree under the terms of the Act to make purchases or provide purchasing services and other administrative functions appropriately established by another government entity. The Interlocal Contract (ILC) is the required legal document that establishes a link between the Customer (local governments and certain non-profits) and HGACBuy and gives the Customer access to HGACBuy contracts.

HGACBuy contracts are established based on the requirements of Texas Local Government Code, Chapter 252 and/or other applicable State of Texas or Federal procurement requirements. Products and services are contracted after having been subjected to either a competitive bid (IFB); competitive proposal (RFP); or Request for Qualification and Pre-Qualification (RFQ) depending on the category type.

Contracts are blanket type, usually for a term of two (2) or three (3) years. Use of HGACBuy for purchases by any Customer is strictly at the discretion of that entity. issue purchase orders and pay the HGACBuy Contractor directly. The Customer also sends HGACBuy a copy of the purchase order and the Contractor is responsible for reporting the sale to HGACBuy as a contract requirement.

PART I – CONTRACTOR HANDBOOK

Contractor Expectations and Requirements

Contractor must be compliant with all licensing, permitting, registration or other applicable legal or regulatory requirements imposed by any governmental authority. It is Contractor's responsibility to ensure that this requirement is met. H-GAC reserves the right to request copies of any license, permit or other compliance related documentation at any time.

1. **Contractor Orientation and Training**

H-GAC believes that Contractor's familiarity with the operational policies and requirements of the Cooperative Purchasing Program is a key factor in achieving Customer satisfaction. The Contact Person listed on Form A (Contractor Information Contact Sheet), or an alternate, will be required to participate in an H-GAC vendor orientation and training as soon as possible after contract award. In addition, other Contractor's staff who will be involved in any way with the HGACBuy Program should participate in orientation. The orientation may be presented as a teleconference or webinar or may be held in H-GAC's offices as determined by H-GAC and Contractor to be the most efficient and effective form of delivery. Please visit <https://www.hgacbuy.org/events/event-details.aspx?eventid=167> for more information. The orientation and training contain such topics as the ones listed below:

- a. Our cooperative environment
- b. Requirements for Member participation
- c. Preparing Contract Pricing Worksheets
- d. Purchase orders and Order Confirmations
- e. Quarterly Activity Reporting

2. **Nationwide Sales Opportunity**

HGACBuy contracts provide various products and services to local governments and qualifying non-profits throughout the nation, and desires to make established contracts available to Customer wherever and whenever practicable. Once a contract is awarded, Contractor is expected to expand the scope of its marketing effort to include sales to in all areas of the United States. Please also view important guidelines and additional information regarding marketing the program at: <https://www.hgacbuy.org/marketing/default.aspx>

3. **Corporate/Sales Commitment**

Contractor is required to make some basic commitments to ensure the overall success of the HGACBuy program. By submission of a response, Respondent agrees that HGACBuy has the support of senior management and HGACBuy will be the primary government contracting vehicle when offering services/products awarded from this solicitation to eligible nationwide. A further commitment to aggressively market the program, both independently as well in partnership with HGACBuy.

4. Manufacturer as Contractor

If the Contractor is a manufacturer or wholesale distributor, the response received will be evaluated on the basis of a response made in conjunction with that manufacturer's authorized dealer network. Unless stated otherwise, a manufacturer or wholesale distributor Contractor is assumed to have a documented relationship with their dealer network where that dealer network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this Solicitation on behalf of the manufacturer or wholesale distributor Contractor. Any listed dealer will be considered a sub-contractor of the Contractor. The relationship between the manufacturer and wholesale distributor Contractor and its dealer network must be indicated at the time of the solicitation submission.

5. Dealer/Reseller as Contractor

If the Contractor is a dealer or reseller of the products and/or services being proposed, the Contract will be awarded based on the Contractor's authorization to provide those products and services from their manufacturer.

6. Approval by Manufacturer

Any awarded contractor must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Contractors must submit an approval letter from each manufacturer; authorization letters must include the regions in which equipment may be sold or serviced.

7. Administrative Fee

For each purchase order processed under an awarded contract, H GAC will directly invoice contractor an Order Processing Charge as defined by the awarded contract and applicable to the price of all equipment/services provided.

8. Final Contract Deliverables

Contractor must submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

- Customer Name
- Product/Service purchased, including Product Code if applicable
- Customer Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- HGACBuy Order Processing Charge amount

Reports must be provided to H-GAC in Excel or other acceptable electronic format by the 30th day of the month following the quarter being reported. If Contractor defaults in providing Products or Services reporting as required by this Solicitation and the contract, recourse may be exercised through cancellation of the contract and other legal remedies as appropriate.

9. Deliveries/Shipping

The Contractor agrees to make deliveries only upon receipt of authorized Customer Purchase Order acknowledged by H-GAC. Delivery made without such Purchase Order will be at Contractor's risk and will leave H-GAC the option of canceling any contract awarded to the Contractor. The Contractor must secure and deliver any item within five (5) working days or in conformance with any terms alternately established with the Customer.

Shipping must be F.O.B. Destination to the delivery location designated on the Customer purchase order. The Contractor will retain title and control of all goods until delivery is completed and the Customer has accepted the delivery. All risk of transportation and all related charges are the responsibility of the Contractor. The Customer will notify the Contractor and H-GAC promptly of any damaged goods and will assist the Contractor in arranging for inspection. The Contractor must file all claims for visible or concealed damage. Unless otherwise stated in the Bid Form or Specifications, deliveries must consist only of new and unused merchandise.

10. Change Orders

Customers have the right to issue a change order to any purchase orders issued to the Contractor for the purposes of clarification or inclusion of additional specifications, qualifications, conditions, etc. The change order must be in writing and agreed upon by Contractor and the Customer agency prior to issuance of any Change Order. A copy of the Change Order must be provided by the Contractor to, and acknowledged by, H-GAC.

11. Restocking (Exchanges and Returns)

There will be no restocking charge to the Customer for return or exchange of any item purchased under the terms of any award. If the Customer wishes to return items purchased under an awarded contract, the Contractor agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Contractor within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Contractor must notify H-GAC and invoice Customer for increase price or provide the Customer with a credit or refund for any decrease in price per Customer's preference. On items returned, a credit or cash refund will be issued by the Contractor to Customer. This return and exchange option will extend for thirty (30) days following the expiration date of the contract award. All items returned by the Customer must be unused and in the same merchantable condition as when received. Items that are special ordered may be returned only upon approval of the Contractor.

12. Out of Stock/Product Recalls/Discontinued Products

H-GAC is NOT the owner of Products sold pursuant to this Solicitation. Contractor is responsible for ensuring that notices and mailings, such as Out of Stock or Discontinued Notices, Safety Alerts, Safety Recall Notices and Customer Surveys, are sent directly to the Customer with a copy sent to H-GAC. Customer will have the option of accepting any equivalent or canceling the item from order. Contractor is not authorized to make substitutions without prior approval.

13. Tax Exempt Status

H-GAC and Customer members are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. Contractor must not include taxes. It is the responsibility of Contractor to determine the applicability of any taxes to an order and act accordingly. Exemption certificates will be provided upon request.

14. Payment for Work

The H-GAC Customer is responsible for making payment to the Contractor upon delivery and acceptance of the goods or completion of the services and submission of the subsequent invoice.

15. Payment Terms/Pre-payment/Quantity Discounts

If discounts for accelerated payment, pre-payment, progress payment, or quantity discounts are offered, the Contractor must make the Customer aware. The applicability or acceptance of these terms is at the discretion of the Customer.

16. Inspection/Testing

All Products sold pursuant to the Contract is subject to inspection/testing by or at the direction of H-GAC and/or the ordering Customer, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements and unless otherwise agreed in advance, the cost of any inspection and/or testing, is the responsibility of the Contractor.

17. Background Checks

Customers may request background checks on any awarded contractor's employees who will have direct contact with students, or for any other reason they so choose, any may require contractor to pay the cost of obtaining any background information requested by the Customer.

18. Architecture and Engineering Services

The HGACBuy Cooperative Purchasing program is prohibited from offering Architecture and Engineering or other Independent testing services via a cooperative contract. Contractors may not offer any such services under and HGACBuy contract. Texas law requires Architectural and Engineering Services be obtained in accordance with the Professional Services Procurement Act, Texas Local Government Code, Chapter 2254.

19. Distributors, Vendors, Resellers, etc.

Contractor accepts that any designations of distributors, vendors, resellers or the like are for convenience only and the awarded Contractor will remain responsible and liable for all obligations under the Contract and the performance of any designated distributor, vendor, reseller, etc. Contractor is responsible to receive and process any Customer purchase order in accordance with the Contract and forwarding of the Purchase Order to the designated distributor, vendor, reseller, etc. to complete the sale or service. H-GAC reserves the right to reject any entity acting on the Contractor's behalf or refuse to add entities after a contract is awarded.

PART II – CUSTOMER HANDBOOK

Customer Expectations and Requirements

1. Customer Orientation

The HGACBuy Customer Orientation objective is to introduce the HGACBuy program. The orientation may be presented as a teleconference or webinar or may be held in H-GAC's offices as determined by H-GAC and Contractor to be the most efficient and effective form of delivery. Please visit <https://www.hgacbuy.org/events/event-details.aspx?eventid=147> for more information. The orientation contains topics such as the ones listed below:

- a. Who is HGACBuy?
- b. Discuss what HGACBuy Cooperative does
- c. The advantages of using HGACBuy
- d. Discuss the purchasing process
- e. HGACBuy Website

View Frequently Asked Questions here: <https://www.hgacbuy.org/about/frequently-asked-questions.aspx>

2. Procurement Standards

As a general rule, where a direct conflict exists between a Federal procurement standard and a local, state, and/or tribal procurement standard or regulation, the Federal agency expects the more restrictive procurement standard to be used. Additionally, all members utilizing the HGACBuy services should consult with their state, local, and/or procurement office or legal counsel to ensure compliance. Disclosure: Where a Customer uses the HGACBuy program, the responsibility to ensure compliance with 2 C.F.R. 200 and individual state procurement laws and regulations rests on the Customer.

3. Utilizing the Available Contractor Pool/List and Ensure Compliance with Federal Requirements

Some HGACBuy contracts are established as pre-qualified contractor pool/lists through a formal sealed competitive Request for Proposal or Request for Qualifications process to establish pre-qualified contractor(s) with ceiling rates for their services. When engaging these pre-qualified contractor pool/lists, please note that an additional competitive step is required among the pool of qualified HGACBuy Contractors. Customers must conduct their own competition to finalize the procurement process by obtaining price quotes from an adequate number of contractors from the available pre-qualified list, and when utilizing FEMA or other Federal funding, if not in a public emergency or exigency situation, members must also allow other interested contractors not on the pre-qualified list to submit a bid prior to entering into a contract/service agreement with a selected contractor.

4. OMB Uniform Guidance – Section 2 CFR 200

OMB Uniform Guidance Section 2 C.F.R. §200.318(e) encourages non-federal entities to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services in order to foster greater economy and efficiency.

Further, 2 C.F.R. 200 requires that a grantee or sub-grantee follow the most restrictive rule applicable to it, whether it be its own state procurement laws, or the procurement requirements set out in the federal rules.

HGACBuy uses a public competitive bid/proposal process which complies with the State of Texas procurement laws and federal rules for all threshold levels.

For purchases below the micro-purchase level, the federal rules do not require the solicitation of competitive quotations, but the Member must determine the price to be reasonable. HGACBuy's public competitive bid/proposal process is a good indication that a price is reasonable.

The federal rules state that purchases between the micro-purchase level and the simplified acquisition threshold require "price or rate quotations to be obtained from an adequate number of qualified sources." HGACBuy provides multiple contract awards through its bid/proposal process.

When using HGACBuy, purchasers should obtain price or rate quotations from an adequate number of qualified sources. Purchases above the simplified acquisition threshold can use either sealed bids, competitive proposals, or non-competitive proposals depending on the circumstances. HGACBuy uses sealed bids and competitive proposals as required by the federal rules. For more information click here: <https://www.hgacbuy.org/resources/documents/HGACBuy-Procurement-Guidance-Sheet.pdf>

5. Additional Requirements for Customer utilizing Federal Funding

While HGACBuy complies with 2 CFR 200, there are additional requirements that the individual Customer must comply with to ensure a fully competitive process has been completed to ensure compliance with state and Federal procurement rules. HGACBuy recommends that the individual Customer:

- Perform a cost or price analysis for all purchases above the simplified acquisition threshold. At a minimum, the member should make independent estimates before receiving bids or proposals.
- To the extent possible, distribute micro-purchases equitably among suppliers. ▪
- Review the entirety of 2 CFR §200.318-326 to determine other requirements that may apply to the Member directly.
- Review its individual state procurement laws and regulations to determine if they are more restrictive than the federal regulations.
- Consider the procurement requirements of the funding source to ensure all rules are fulfilled, (those listed here, as well as others).
- Recognize that pricing offered on HGACBuy can be used to negotiate with established contractors to attain best value.
- Members using the HGACBuy program must also endeavor to take the steps listed 2 C.F.R. §200.321, particularly the requirements that cannot be met until vendors are solicited for specific scopes of services and contracts are actually awarded, such as setting delivery schedules and dividing requirements to permit maximum participation by disadvantaged firms.

PART III – HANDLING OF ORDERS AND PAYMENTS

These specific instructions and information regarding orders and payments are being provided for the benefit of both the Contractor and the Customer. Established procedures may be changed at any time by H-GAC. Any sale, e.g. specific products, pricing, delivery, warranty, etc., must be in strict accordance with the terms and conditions of contract awarded to Contractor. In general, orders and payments are handled as described below:

- a. For any purchase made under an H-GAC Cooperative contract, Customer and Contractor will agree to requirements of the purchase
- b. Contractor will prepare a Contract Pricing Worksheet and provide it to Customer. The Worksheet will list everything being purchased including the base bid item(s), all published and unpublished options and the delivery date. All pricing shall be per the current contract.
- c. Customer will send a purchase order to Contractor, which Contractor will send to H-GAC together with the Contract Pricing Worksheet. NOTE: Contractor agrees not to offer, agree to or accept from Customer any terms or conditions that conflict with those in Contractor's H-GAC contract, except for pricing discounts.
- d. H-GAC will prepare an "Order Confirmation" and send it to Customer and Contractor. The Order Confirmation verifies that Contractor has a valid H-GAC contract and that the order complies with the requirements of the HGACBuy Cooperative Purchasing Program. Contractor will not ship any goods before receipt of both Customer's purchase document and H-GAC's Order Confirmation.
- e. On notification that Contractor has received an order, H-GAC will invoice Contractor for the applicable Order Processing Charge. NOTE: The Order Processing Charge is charged to Contractor, EXCEPT in the case of motor vehicles. For all sales of motor vehicles, the Order Processing Charge is levied on the Customer, collected by Contractor, and remitted to H-GAC by Contractor.
- f. Contractor will deliver products/services ordered and will invoice Customer for products/services accepted by Customer. Contractor will not invoice before shipment has been made.
- g. Customer will pay Contractor for those products and/or services ordered which have been received and accepted. Under no circumstances shall any check be made payable to a representative or agent. Should a representative or agent submit an invoice to Customer for any cost related to a purchase order issued to Contractor for products/services covered by an H-GAC contract, such invoice will be forwarded to Contractor and Contractor will take action to correct the error.
- h. Upon delivery of any product/service by Contractor and acceptance by Customer, Contractor must remit the full amount of the applicable Order Processing Charge as established in the H-GAC contract. Note, the Order Processing Charge is due whether or not H-GAC send an invoice for payment to Contractor. Sales the Contractor's H-GAC contract, without payment of the Order Processing Charge, may constitute fraud.