

Procurement Update

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Topics:

Prompt Payment Law -
LFN 2019-02

National Cooperative Contracts -
LFN 2012-10

Procurement Cards

Competitive Contracting

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Prompt Payment Law LFN 2019-02

Key Factors to Know:

- ▶ Effective February 1, 2019
- ▶ For goods and services
- ▶ Any dollar amount
- ▶ Doesn't change prompt payment for construction contracts - LFN 2006-21
- ▶ Most goods and services vendors covered, even nonprofits
- ▶ Doesn't apply to public utilities, government entities or national co-op contracts
- ▶ Goods or services received, then payment 60 days from receipt of properly executed invoice for municipal; 90 days for school districts
- ▶ Interest rate set by State Treasurer - 2% in SFY 2019
- ▶ **All Governing Body meetings must allow for approval of bills**

Prompt Payment Law - “Properly executed invoice”

An invoice containing sufficient detail for payment to be made

Includes bills, vouchers, warrants or whatever term is used to describe vendor request for payment

Includes a claimant certification (typically on a purchase order) IF the contracting unit requires this

Prompt Payment Law - Deadlines Table

<i>Contracting Unit</i>	<i>If Payment Date Is Specified in the Contract</i>	<i>If Payment Date Is Not Specified in the Contract¹</i>	<i>Deadline for Separate Payment of Interest to Vendor (Late Payment)</i>
Local Public Contracts Law	60 calendar days from date specified in the contract.	The later of: <ul style="list-style-type: none"> • 60 calendar days from receipt of properly executed invoice; or • 60 calendar days from the date the goods or services were received (as certified by an officer or duly designated employee) 	within 30 calendar days of the date the contracting unit made the late payment
Public School Contracts Law	90 calendar days from date specified in the contract.	The later of: <ul style="list-style-type: none"> • 90 calendar days from receipt of properly executed invoice; or • 90 calendar days from the date the goods or services were received (as certified by an officer or duly designated employee) 	within 30 calendar days of the date the contracting unit made the late payment

Prompt Payment Law - Tips

- “Unless otherwise specified in the contract”
 - If no payment date in contract, 60 days from receipt of goods or services
 - If a payment date in the contract, payment is due 60 days from the relevant contract event - e.g. receipt of goods and properly executed invoice, acceptance of product, acceptance of report, acceptance of project, payment milestone event etc.
 - A purchase order is a contract
- You can put a difference date in the contract other than 60 or 90. Must be in the contract so contractor is aware of terms before accepting the job.
- “Date goods and services are received”
 - Date received should be certified by a duly designated employee - put a process in place
- Look for a revision to the Local Finance Notice soon to clarify!



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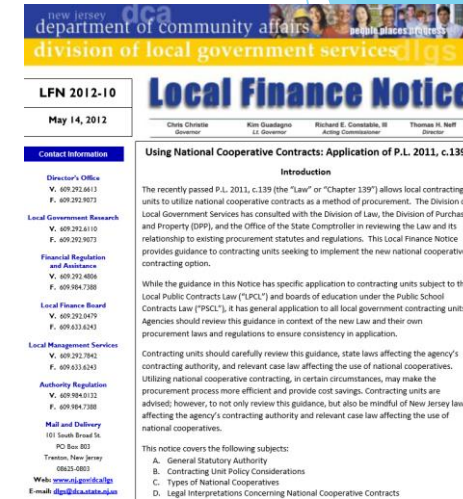
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National Cooperative Contracts LFN 2012-10

Key Reminders:

- **READ the LFN - and the attached User's Guide to Using National Cooperative Contracts**
- **Check with Division of Purchase and Property to determine if the contract was awarded as a state contract and is open to local governments.**
 - If so, don't have to use provisions of National Cooperative Contracts, just use as a state contract



Purchasing Agent's Guide to Using National Cooperative Contracts

Once a decision is reached to utilize a national cooperative contract where the amount is over the contracting unit's bid threshold, the purchasing agent should take the following steps: (Refer to Local Finance Notice 2012-10 for guidance and forms).

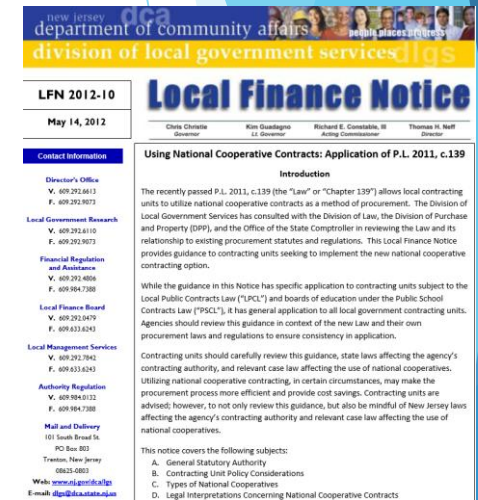
1. Conduct due diligence on a national contract to determine if the contract will result in cost savings after all factors, including charges for service, material and delivery, have been considered. Ensure there is documentation backing up this determination.
Considerations to use a national contract can include:
 - Economy versus efficiency
 - Comparison of the national contract pricing to the current State contract price, to other national cooperative contracts, to comparable goods in other cooperatives, and any existing contracting unit contract
 - Savings of time in avoiding the time and cost of a separate procurement
 - Any record of satisfactory vendor performance
 - Administrative cost factors required to participate in the national cooperative agreement
 - Other factors such as rebates offered and unique needs to a particular situation
2. Review any national contract under consideration to determine if it meets New Jersey standards:

National Cooperative Contracts

LFN 2012-10

Key Reminders:

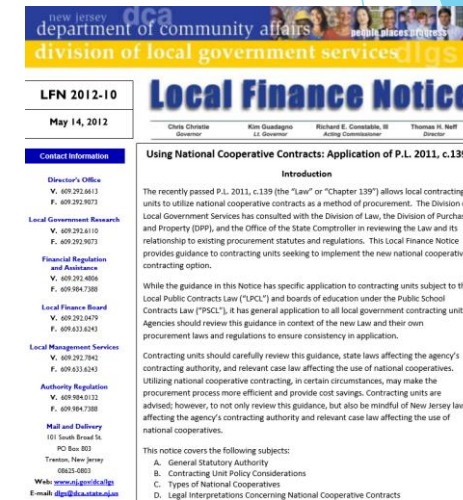
- **National cooperative contracts are still subject to procurement laws and rules that apply to other contracts**
 - Governing body approval over pay-to-play or bid thresholds
 - Affirmative action, statement of ownership, BRC, political disclosure, etc.
 - National co-op contract must have been awarded through a competitive process
 - Can only use national co-op contracts that were solicited by another “contracting unit” not a non-profit or private organization
 - Original bid must have been advertised as a national contract and not a local contract for the issuing agency
 - Publish a notice of intent to award - sample ad in LFN



National Cooperative Contracts LFN 2012-10

Key Reminders:

- **Cost savings determination**
 - Compare to state contract pricing
 - Compare to local co-op contract pricing
 - Compare to recent contracts from other public entities
 - Cost avoidance of doing your own procurement
 - Lower minimum purchase amounts at a lower price - no storage
 - Are there administrative costs to participate?
 - Shipping costs
 - Rebates



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Repeal of previous LFN and updates in LFN 2018-13

Key information:



- ▶ A QPA must be the program manager for P-cards in any amount
- ▶ CFO is responsible for proper internal controls for P-card usage
- ▶ All P-card usage must be in compliance with LPCL
- ▶ P-cards may not be used by Boards of Education

What are P-cards?

Electronic procurement systems incorporating access restrictions determined by the contracting unit in accordance with an agreement with an issuer which incorporates the following:

Control limits & review current activity online and in real-time

Establish, change or delete limits on each card individually

Restrict the use of each card to certain individuals & categories of items

Establish a cumulative limit for a specified period

Receive sortable detailed reports of activity by authorized card user

Interface with accounting software

P-Card usage:

- ▶ **Similar to a credit card:**
 - ▶ Vendor is paid by issuer
 - ▶ Issuer bills monthly to contracting unit
 - ▶ Bill may be formatted by card user, vendor or other parameters
 - ▶ Internal control system to verify purchases
 - ▶ Contracting unit pays issuer
- ▶ **Can't be used for:**
 - ▶ Items or services of a personal nature
 - ▶ Travel, dining or room and board

Acquiring a P-card system

- ▶ Agreement with local government banking institution
 - ▶ Must be chartered by State or federal agency
 - ▶ Sometimes fees can be covered through compensating balances!
- ▶ State contract
- ▶ Other legally operating cooperative purchasing agreement
- ▶ Competitive contracting (by requesting permission of Director of LGS)

P-card Implementation



Governing Body

Governing Body

- Adopt resolution or ordinance setting policies
- Appoint program manager who is a QPA



CAO, CFO and program manager

- Receive training
- Identify who in org benefits from P-card usage & set limits



Program Manager - QPA

- Day-to-day oversight and management of P-card system
- Organize training for staff who will use, supervise or reconcile P-card program
- Only trained staff can use a P-card and staff must sign a statement (see LFN for sample)
- Ensure cards printed correctly, accurate merchant code, bid docs tell vendor payment by P-card
- Compare user receipts to usage reports



CFO

- Supervise program manager's oversight of P-card program
- Reconciliation of activity (can be delegated to someone under CFO supervision)

Topics to be covered in Procurement Card User Training by Program Manager

1. Short explanation of N.J.A.C. 5:30-9A and the benefits of using P-Cards
2. The policies and procedures established by the local unit's governing body concerning P-Card usage
3. Expedient submittal of receipts to the program manager.
4. Expedient handling of returns to ensure the local unit receives credit or is not billed.
5. Explanation that users may only use cards at pre-approved vendors for pre-approved merchant codes which you will provide, and that use for travel/dining/room and board is prohibited except for the limited circumstances applicable to counties.
6. Prohibition on cash advances from P-Cards.
7. Immediate reporting of lost or stolen cards to the program manager, who will in turn cancel them immediately.
8. Relinquishing the procurement card upon termination of employment or other circumstance where the employee's P-Card privileges are terminated.
9. Users must not permit vendors to retain the card or otherwise institute a "running total" for the card.
10. Notifying the program manager of suspected fraudulent acts.
11. Explanation that improper use of a card will result in the employee being personally responsible for any such payment, and that improper use of the card could result in the termination of the employee's privilege to use a card and additional personnel actions up to and including termination.
12. All employees shall sign a statement incorporating the substance of Appendix B.

Acknowledgement of Procurement Card Training and Agreement to Abide by Policies and Procedures for Procurement Card Usage

I, _____, hereby certify that I have been trained in the permitted
(Name of cardholder)
use of procurement cards for the _____, and that topics as per attached
(Name of local contracting unit)
have been explained. (Attach Appendix A prior to cardholder signing).

I hereby agree to follow the provisions of the Procurement Card Program, its policies and procedures. I understand that violators of these rules may result in revocation of privilege of use and/or disciplinary action up to and including termination of employment. I also understand that inappropriate use may require that I reimburse all costs associated with such improper use.

Cardholder Signature

Cardholder- Print Name

Date

Assigned Card Number

Signature of Program Manager

Signature of Chief Financial Officer

Signature of Chief Administrative Officer

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Purposes for which competitive contracting may be used - original:

- ▶ Purchase or licensing of proprietary computer software
- ▶ Hiring a for-profit or not-for-profit entity for:
 - ▶ Operation and management of wastewater treatment system or water supply or distribution facility
 - ▶ Operation, management or administration of recreation or social service facilities or programs
- ▶ Homemaker, home health services
- ▶ Laboratory testing services
- ▶ Emergency medical services
- ▶ Contracted food services
- ▶ Performance of patient care services
- ▶ Any good or service that is exempt from bidding
- ▶ Concessions

Purposes for which competitive contracting may be used - amended:

- ▶ Maintenance, custodial and groundskeeping services
- ▶ Consulting services
- ▶ Emergency medical billing services
- ▶ Property appraisal services
- ▶ Reassessment or revaluation services
- ▶ Grant writing services
- ▶ Animal control services

**These amendments were not made to 18A!

k. The operation, management or administration of other services, with the approval of the Director of the Division of Local Government Services.

Considering additional guidance through an LFN - would this be helpful?

- ▶ What does “k” mean or what doesn’t it mean?
 - ▶ It doesn’t mean goods. Only services.
- ▶ What do the approved services have in common?
 - ▶ Hard to define what the end product looks like
 - ▶ How clean is the office or bathroom? What is the best method to clean the office or bathroom?
 - ▶ What does a successful recreation program look like?
 - ▶ # of participants? How much fun they had? No one injured or left out?
 - ▶ How do you take into account the nuances of property revaluation and judgement of staff person based on their years of experience?

Examples of Director approved services for competitive contracting:

- ▶ Wellness clinic services
- ▶ Management, operations and staffing of school district substitute teachers, paraprofessionals and clerical staff.
- ▶ Management and operations of security services
- ▶ 9-1-1 emergency dispatch services
- ▶ Community branding program

What to include in request for Director approval?

- ▶ Letter to Director
- ▶ Thorough description of services
- ▶ How using competitive contracting for your service meets the intent of the law?
 - ▶ Why “specialized”?
- ▶ Examples of selection criteria and weighting you will use to evaluate proposals - insure criteria doesn't “unfairly or illegally discriminate against or exclude otherwise capable vendors
- ▶ Commitment to “full and free competition among vendors”

- ▶ Changed site conditions
 - ▶ What may be included in the upcoming regulations
- ▶ E-Procurement
- ▶ Public - Private Partnerships - P3 law

See you at
Rutgers
Purchasing
Forum!

Procurement Support

- ▶ Resources:
<https://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html>
- ▶ Email: LPCL@dca.nj.gov
- ▶ Phone: 609-292-6613

