



November 10, 2018

Action Required

Re: Membership and Participation in the Region 10 Multi-Region Purchasing Cooperative

Dear Food Service Director Addressed:

NEW! Beginning SY 2019-2020, Multi-Region Purchasing Cooperative is changing how they offer memberships. MRPC membership will be automatically renewing annually with a participation agreement to be completed each year. This newly designed packet, with this cover letter, includes two (2) documents: 1.) "General Interlocal Membership Agreement," (Membership Agreement), and 2.) "SY19-20 Interlocal Participation Agreement" (Participation Agreement) for the Region 10 Education Service Center Multi-Region Purchasing Cooperative (hereinafter the "R10MRPC").

The **General Interlocal Membership Agreement** (pages 3-9) is a one-time "membership" agreement ongoing and commences on July 1st and extends through June 30th of each calendar year. The Membership Agreement will automatically renew each subsequent year for a single year term unless otherwise terminated by either party. The Membership Agreement is simply a "membership" and not a commitment to purchase off any of the R10MRPC procured bids. By signing the Membership Agreement, you are agreeing to the General Provisions and Roles and Responsibilities of being a member and will receive the option each year to sign a single-page "Participation Agreement" that indicates your purchasing commitment. ***Please complete the General Interlocal Membership Agreement for your district and return the original signed document via mail to the Region 10 Education Service Center, 400 E. Spring Valley Rd., Richardson, Texas 75081, attention Keri Warnick or by fax: 972-348-1449, or scan and email: keri.warnick@region10.org.***

The **"Interlocal Participation Agreement"** is an annual, single-page, "participation commitment" form that will need to be completed for each school year during which the district plans to purchase off of a R10MRPC formally procured bid. The Participation Agreement will be emailed to each "member" in the month of November for all participation commitments planned for the upcoming school year. The signed Participation Agreement information will be used for bid procurement purposes and "scope of bid." If you plan to purchase off any procured and awarded bid during the SY 2019-2020, ***please complete the enclosed Interlocal Participation Agreement (separate attachment) for your district and return the original signed document via mail to the Region 10 Education Service Center, 400 E. Spring Valley Rd., Richardson, Texas 75081, attention Keri Warnick or by fax: 972-348-1449, or scan and email: keri.warnick@region10.org.***

The R10MRPC is a totally self-funded entity through a Vendor Participation Fee. This fee is collected directly from the awarded vendors. Fees are used to cover expenses related to the administration and operation of R10MRPC. Studies indicate that school districts benefit through cooperative participation with a considerable cost savings. While the purchasing power of the R10MRPC is significant; the costs of goods and services continues to rise annually. Even while industry costs have increased approximately 15 percent over the past two years, the MRPC has experienced only a 9 percent or less increase for the same time period. Additional benefits of participating in the MRPC include reduced costs associated with advertising, paperwork, reduced time and worry spent on the bidding process, as well as Industry-specific workshops and training. MRPC members also benefit from the buying power of the Cooperative.

If I can be of further assistance in this matter, please call me at 972.348.1448. I am available to talk to your school board if needed. Thank you for your consideration for participation in the SY 2019-2020 R10MRPC.

Sincerely,

Keri Warnick
Program Coordinator

Enclosures

GENERAL INTERLOCAL MEMBERSHIP AGREEMENT

The following General Interlocal Membership Agreement is to be completed by all contracting entities (CE) that wish to enter into a general membership agreement with Region 10 ESC Multi-Region Purchasing Cooperative (R10MRPC).

This Membership Agreement is not a purchasing commitment. It is a one-time agreement that will renew automatically each subsequent year for a single-year term unless terminated by either party.

The Membership Agreement will be kept on file with R10MRPC indefinitely. Each school year, an “Interlocal Participation Agreement” will be sent to all “members.” This Participation Agreement will be a single-page “purchasing commitment” form for each specific school year. This purchasing commitment holds members responsible for purchasing from the bids chosen in order to allow for accurate bidding by R10MRPC and more competitive pricing by vendors.

If you wish to purchase from any formally procured bid by R10MRPC, you must complete and submit this Membership Agreement along with the attached Participation Agreement.

Region 10 Education Service Center
Multi-Region Purchasing Cooperative
GENERAL INTERLOCAL MEMBERSHIP AGREEMENT

This General Membership Agreement is entered into by and between the agencies shown below as contracting parties for an initial term, and will be automatically renewed each subsequent year for a single year term unless otherwise notified by either party.

Contracting Parties

<u>April 15, 2020</u> Date Entered into Agreement	<u>Region 10 Education Service Center</u> Fiscal Agent	<u>057-950</u> County District Number
	<u>Denton Independent School District</u> Contracting Entity (CE)	<u>CE County District Number</u>

STATEMENT OF SERVICES TO BE PERFORMED

The Region 10 Multi Region Purchasing Cooperative (R10MRPC) organizes and administers the child nutrition cooperative purchasing and commodity processing program for Member Contracting Entities (CEs) located in the state of Texas. Authority for such service is granted by Section 8.053 of the Texas Education Code, Chapter 791 of the Texas Government Code, and Chapter 271, Subchapter F, of the Texas Local Government Code. The goal of the cooperative is to obtain substantial savings on food service items through volume purchasing. The R10MRPC does not charge a membership fee.

GENERAL MEMBERSHIP:

General Membership is a multi-year membership in the R10MRPC. Each program year, every member will receive the Interlocal Participation Agreement, which if signed, allows you to participate in any or all of the following bids. R10MRPC procures a variety of formal, competitive sealed proposals (RFP's) to best help CE's with their fiscal budgetary needs. Each member CE has the option each year to commit to any and all bids that best fit the needs of the CE. The selection of bid participation is seen as a commitment to purchase from an R10MRPC awarded vendor and will be used in the scope of bid for each appropriate RFP. Prior to the release of any bid, each participating CE will be asked for their anticipated quantities, although R10MRPC makes no guarantees in regard to quantities to any vendor.

1. Commodity Processing
2. Commercial/Full-Line Grocery Purchasing
3. Manufacturer Direct-to-District Delivery
4. Small-wares
5. Kitchen Chemicals & Cleaning Products (products)
6. Safety Training and Sanitation Systems (services)
7. Fresh Meats and Produce
8. Fresh Bread
9. Milk/Dairy Products
10. Ice Cream Novelties
11. Chips and Snacks
12. Beverages (dispensed, canned, and plastic container)

Region 10 Education Service Center
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GENERAL INTERLOCAL MEMBERSHIP AGREEMENT

LIMITATION OF AGREEMENT: R10MRPC reviews its' General Interlocal Membership Agreement each year to ensure full compliance with all United States Department of Agriculture (USDA) and Texas Department of Agriculture (TDA) regulations. If any provision is not in accordance with USDA and TDA regulation, R10MRPC will have 30 days to make all necessary updates and require that each participating member sign a new Agreement. If R10MRPC does not amend the provision within the given timeframe, members reserve the right to terminate this agreement.

GENERAL PROVISIONS:

1. The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations in connection with the procurement activities and programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing such programs.
2. This Agreement shall be governed by the law of the State of Texas and venue for any dispute resolution shall be in the county in which the administrative offices of Region 10 ESC are located, which is currently Dallas County, Texas.
3. The R10MRPC reserves the right, but is not obligated, to add additional members and allow participation, because if adding a Participating Member "materially changes the existing contract(s)" and, therefore, requires rebidding of said contract(s), the Participating Member may not be permitted to participate in those affected contracts to avoid rebidding and possibly negatively affecting the membership in place at the time of the current contract(s) award. The Member may become effective upon any new bids or rebids being awarded or as permitted at the sole discretion of the R10MRPC.
4. This Agreement and any addenda executed by the parties contains the entire agreement of the Parties hereto with respect to the matters covered by its terms, and it may not be modified in any manner without the express written consent of the Parties. Modifications may be required by law or regulation which shall require action by the R10MRPC and the Member. Failure to act by either party, within a reasonable period of time, on legally required modifications shall terminate the General Interlocal Membership Agreement.
5. If any term(s) or provision(s) of this Membership Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Membership Agreement shall remain in full force and effect.
6. Before any Party may resort to litigation, any claims, disputes or other matters in question between the Parties to this Membership Agreement shall be submitted to nonbinding mediation. The selection of the mediator shall be mutually agreed upon.
7. No Party to this Membership Agreement waives or relinquishes any immunity or defense on behalf of themselves, their directors, officers, employees, and agents as a result of its execution of this Membership Agreement and performance of the functions and obligations described herein.
8. All parts of this Membership Agreement, when executed by both Parties, are binding upon the Parties and may be changed only by written agreement of the Parties.
9. Membership Agreement must be physically signed using a "wet signature." Electronic or typed signatures will not be accepted. This Membership Agreement can be negotiated and transmitted electronically via fax or scanned email.

MEMBERSHIP TERM: This Membership Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Membership Agreement. The conditions set forth shall apply to the initial term and all renewals. The membership year for each purchasing cooperative program commences on July 1st and will extend through June 30th of each calendar year.

MEMBERSHIP FEES: R10MRPC does not charge any “membership fees” or “service fees” to the CE. Program operation costs and project maintenance fees are funded through a “Vendor Participation Fee” that is collected directly by R10MRPC from each vendor on a quarterly basis.

AUTHORIZATION TO PARTICIPATE. R10MRPC and each Member represents and warrants, by the execution and delivery of the General Interlocal Membership Agreement, that they have obtained all requisite authority through governing board action to enter into and perform the terms of this Membership Agreement.

COOPERATION AND ACCESS. Each party agrees that it will cooperate with any reasonable requests for information and/or records made by the other party. Each party reserves the right to audit the relevant records of the other party during normal working hours. Any breach of this Article shall be considered material and shall make the Membership Agreement subject to termination on ten (10) days written notice to the Member.

PRIMARY AND SECONDARY CONTACT. The Member agrees to appoint a primary and secondary contact who shall have express authority to represent and bind the Member, and R10MRPC will not be required to contact any other individual regarding program matters. Any notice to a primary or secondary contact shall be binding upon the Member. The Member reserves the right to change the contacts as needed by giving written notice to R10MRPC. Such notice is not effective until actually received by R10MRPC.

DEFENSE AND PROSECUTION OF CLAIMS. The Member authorizes R10MRPC, only with respect to matters arising out of or contemplated by this Membership Agreement: (1) to control the commencement, defense, intervention or participation in a judicial, administrative or other governmental proceeding; (2) to represent the R10MRPC in an arbitration, mediation, or any other form of alternative dispute resolution; (3) to represent the R10MRPC in any other appearance necessary to protect the rights of the R10MRPC relating to actions concerning any past or current Member, including any appearances and actions in litigation, claim or dispute; and (4) to engage legal counsel and appropriate experts that, in R10MRPC’s sole discretion, will assist with such defense or prosecution of any action or claim in matters arising out of this Membership Agreement. The Member does hereby agree that any suit brought against R10MRPC or a R10MRPC employee or agent may be defended in the name of R10MRPC, Region 10 Education Service Center, or the Member by the counsel selected by R10MRPC, in its sole discretion, or its designee, on behalf of and at the expense of R10MRPC as necessary for the prosecution or defense of any litigation or claim. Full cooperation by the Member shall be extended to supply any information needed or requested in such prosecution or defense. Subject to specific revocation, the Member hereby designates R10MRPC to act as a class representative on its behalf in matters arising out of this Membership Agreement.

GOVERNANCE. R10MRPC shall be governed by the Region 10 Education Service Center Board of Directors (“Board”) in accordance with the applicable law and regulation. Procurement processes and procedures are governed by all applicable law and regulation.

LIMITATIONS OF LIABILITY. R10MRPC, its’ endorers and servicing contractors, do not warrant that the operation or use of R10MRPC services will be uninterrupted or error free. R10MRPC, its’ endorers and servicing contractors, hereby disclaim any and all warranties, express or implied, in regard to any information, product or service furnished under this Membership Agreement, including without limitation, any and all implied warranties of merchantability or fitness for a particular purpose. The Parties agree that in regard to any and all causes of action arising out of or relating to this Membership Agreement, neither Party shall be liable to the other under any circumstances for special, incidental, consequential, or exemplary damages, even if it has been advised of the possibility of such damages.

NOTICE. Any written notice to the R10MRPC shall be made by: first class mail, postage prepaid and delivered to the Multi-Region Purchasing Cooperative, Region 10 Education Service Center, 400 E Spring Valley Rd, Richardson, TX 75081-1300; faxed to 972 348-1449, Keri Warnick (contact person); or emailed to keri.warnick@region10.org

ACCEPTANCE OF USDA FOODS SENT FOR FURTHER PROCESSING

R10MRPC is granted the right to issue a cooperative bid/proposal for the processing of selected commodity foods donated by Members. R10MRPC is further granted the right to enter into a Contract for Services with the processor(s) receiving the processing award(s) for agreed upon processed end products, for the purpose of executing a service agreement on behalf of participating Members. Members will have the right and responsibility to accept the processed end product(s) for the life of the contract between R10MRPC and the processor for all commodity foods donated to, and for which processing was subsequently procured through, the R10MRPC. Excess commodities may be distributed according to USDA or TDA regulation and guidance.

CERTIFICATE OF AUTHORITY/FND-101 FORM

The Texas Department of Agriculture (TDA) now requires each participating Contracting Entity (CE)/School District that plans to commit entitlement to the USDA processed commodity program, to submit an FND-101 form to allow their purchasing co-op access to view and enter commodity pounds into the CE's TX-UNPS Food Distribution Program (FDP) account. An FND-101 form must be signed by the Superintendent of CE for each employee of the co-op. An FND-101 form for each R10MRPC employee will be included with the Interlocal Participation Agreement.

PAYMENT FOR GOODS

Each party, paying for any goods or services under this agreement or related to this agreement, must pay from available current revenues only. (Tex. Govt. Code 791.011(d))

Region 10 Education Service Center
Multi-Region Purchasing Cooperative
General Interlocal Membership Agreement
MEMBERSHIP ROLES AND RESPONSIBILITIES

Role of the Region 10 Education Service Center:

1. Provide for the organizational and administrative structure of the program.
2. Provide staff time necessary for efficient operation of the program.
3. The R10MRPC shall coordinate the Competitive Procurement Process for all Awarded Contracts.
4. The R10MRPC shall follow all local, state, and federal procurement guidelines as listed below but not limited to as changes or adjustments are made to guidelines with all USDA and/or TDA regulations, including but not limited to, Roles and Responsibilities for Further Processing of USDA Foods or any other Annual Agreement per USDA or TDA:
 - a. Region 10 Education Service Center requires Board of Directors' approval on all R10MRPC bid award recommendations.
 - b. State of Texas Education Code 44.031 Purchasing contracts.
 - c. The Code of Federal Regulations, 2 CFR 200.218-200.326
 - d. Education Department General Administrative Regulations (EDGAR) as the guidelines pertain to Purchasing Cooperatives' procuring on behalf of its' Members. Currently EDGAR refers and requires CN Food Purchasing Cooperatives to adhere to the, 2 CFR 200.218-200.326
 - e. Form 1295 will be required to be filled out and filed with the Texas Ethics Commission by all awarded vendors and will be managed by the Region 10 ESC Business Office.
5. The R10MRPC shall send solicitations for the Further Processing of USDA foods to all companies found on the Texas Department of Agriculture's (TDA) "Approved List of Vendors" without limitations.
6. The R10MRPC shall enter into a detailed agreement with distributors that provide the distribution of processed end products containing USDA Foods that includes language to ensure proper resolution of errors such as data, pricing, product, reports, etc.
7. The R10MRPC shall do the following in regard to USDA Foods:
 - a. Track and assist Participating Members with management of their USDA Foods inventory balances to ensure compliance with TDA and USDA Foods inventory requirements.
 - b. Assist Participating Members with Sales Verifications of end products sold through a distributor, including but not limited to verification of rebates, discounts and credits.
 - c. Assist Participating Members with the utilization of carryover pounds to avoid swept inventory on November 30th.
 - d. The R10MRPC shall provide Participating Members with information on commodity processing, including, but not limited to, anticipated delivery dates, product recalls or production issues, discontinued products and replacement recommendations.
 - e. The R10MRPC shall make all surveys open to the Participating Members as surveys are opened by TDA.
 - f. Provide the list of commodity items to Participating Members for purposes of obtaining quantity requests. This is done using an online software program.
 - g. Receive quantity requests from Participating Members for commodity processing through district entries into the online software and prepare appropriate quantity totals by item.
 - h. Provide a delivery schedule, on behalf of each participating member, for all selected USDA Foods for Further Processing to each processor and distributor based on information collected from each participating member.
8. R10MRPC assumes no responsibility for failure of delivery by vendors, however, R10MRPC will assist all members with service and product quality issues to ensure all vendors adhere to the terms and conditions of the awarded contract.
9. Initiate and implement activities related to the bidding and vendor selection process. Competitive bidding procedures for Texas public schools using Child Nutrition federal funds will be strictly followed.
10. Provide Participating Members with procedures for ordering, delivery, and billing.
11. Mediate any problems/concerns between vendors and Participating Members.
12. Provide Participating Members access to all records, reports, and documents to ensure rebates, discounts and other applicable credits will accrue to the School Food Authority (SFA).
13. Make available or provide easy access to all procurement documents created and received for each awarded RFP and vendor, as required and in compliance with State Agency Administrative and Procurement Reviews.
14. Act ethically at all times and in accordance with all federal, state, and local guidelines.

R10MRPC Purchasing Specialist Signature: _____

Keri Warwick

Date: 11/01/2018

Region 10 Education Service Center
Multi-Region Purchasing Cooperative
GENERAL INTERLOCAL MEMBERSHIP AGREEMENT

ANNUAL MEMBERSHIP: Role of the Participating Member:

1. Commit to the General Provisions and Roles and Responsibilities by authorization of the governing body and by execution by an approved official in the appropriate space on the attached form.
2. Designate a primary and secondary contact.

If an Interlocal Participation Agreement is signed for any given single-year term:

3. Commit to purchasing on each and all bid categories selected on the Interlocal Participation Agreement on an as needed basis.
4. Provide an estimated quantity request for each of the products desired through use of the online required software or as requested by the Program Coordinator during any single-year term of Participation.
5. Comply with all USDA and/or TDA regulations, including, but not limited to, Roles and Responsibilities for Further Processing of USDA Foods or any other Annual Agreement per USDA or TDA.
6. Prepare purchase orders issued to the appropriate vendor from the official award list provided by Region 10 Education Service Center
7. Accept shipments of products ordered from vendors in accordance with standard purchasing procedures.
8. Address product warranties and product qualities with manufacturer.
9. Pay vendors net amount due within agreed upon terms after receipt of a correct monthly statement.
10. Participation is recommended in all bid evaluation committees for each RFP that the district is utilizing. Evaluation committee meetings will include, but not be limited to, face-to-face group meetings, online voting, or any other form of participation as requested by the R10MRPC.
11. Act ethically at all times and in accordance with all federal, state, and local guidelines, as well as R10MRPC Member Roles. The Co-op shares information with the Participating Members that at times is considered confidential and proprietary. Members may be asked to sign Non-disclosure statements and agree to the terms set forth in the agreement. Future membership in the co-op may be jeopardized based on unethical handling of sensitive cooperative information.
12. The following roles will apply to Participating Members who commit entitlement dollars for the USDA processed commodity foods:
 - a. The Participating Member shall access the Texas Unified Nutrition Program System (TX-UNPS) Food Distribution Program (FDP) Module on a regular basis to effectively manage USDA Foods entitlement, food requests, allocations, and as applicable, storage and delivery of USDA Foods from assigned state-contracted warehouse.
 - b. The Participating Member shall track and manage USDA Foods inventory balances to ensure compliance with TDA and USDA Foods inventory requirements, i.e., inventory levels shall not exceed a six (6) month supply at any given time; access processor tracking systems (K12 and ProcessorLink) on a regular basis; and report inventory issues to R10MRPC.
 - c. The Participating Member shall conduct Sales Verifications of end products sold through a distributor, including but not limited to verification of rebates, discounts and credits.
 - d. The Participating Member shall maintain copies of the original Child Nutrition ("CN") Label from the product, carton; or a photograph of the CN Label as it appears on the original product carton if available.
 - e. The Participating Member shall attend and/or access online trainings provided by TDA on the management of the USDA Foods program to obtain the latest information on the program.

By signing below, the joining district agrees to adhere to all of the above stated "roles and responsibilities:"

District's Authorized Representative Signature: _____

Date Signed: _____

Interlocal Agreement
Region 10 Education Service Center
Multi-Region Purchasing Cooperative

