

TIPS
The Interlocal Purchasing System

INTERLOCAL PARTICIPATION AGREEMENT
OKLAHOMA
Region 8 Education Service Center
Pittsburg, TX 75686

Public Agency		CD #: _____ (To be assigned by TIPS)
State of Oklahoma	§	
	§	
County of _____	§	
Region 8 Education Service Center		
State of Texas	§	
	§	
County of Camp	§	

This Interlocal Agreement (the "Agreement") is entered into by and between the undersigned local public procurement unit or school district or technology school district of the State of Oklahoma (the "Cooperative Member"), pursuant to the Okla. Stat. Title. 61, §139, *et seq.*, (The Act) and the Region 8 Education Service Center ("ESC 8"), a political subdivision of the State of Texas, pursuant to the Texas Interlocal Cooperation Act. TEX. GOVT CODE "791.001 *et seq.*

WITNESSETH:

WHEREAS, any school district, including a technology school district, or any local public procurement unit, as defined by the Act may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one or more public agencies in accordance with an agreement entered into between the participants; and

WHEREAS, the Cooperative Member has determined that it is in its best interest to enter into the Agreement;

NOW, THEREFORE, in consideration of the mutual promises and conditions contained herein, the undersigned Cooperative Member and ESC 8 hereby promise and agree as follows:

TERMS AND CONDITIONS

- 1. ESC 8 and TIPS.** ESC 8 is located in Pittsburg, Camp County, Texas. ESC 8 is governed by a board of directors composed of seven members and employs an executive director who serves as the chief executive officer of the service center. The executive director employs personnel as necessary to carry out the functions of the service center. TEX. EDUC. CODE § 8.003. The Interlocal Purchasing System ("TIPS"), a purchasing cooperative operated by ESC 8, is one branch of the service center that assists public agencies in Texas and other States by competitively procuring, according to applicable Texas statutes, various products and services for public agencies in the United States.

- 2. Statutory Authority.** The Okla. Stat. title. 61, §139, *et seq.*, authorizes a local public procurement unit or school district or technology school district in Oklahoma to participate in, sponsor, conduct or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one or more public agencies in accordance with an agreement entered into between the participants.

3. Texas Education Code, Chapter 8, provides for the establishment and operation of regional education service centers, which are charged in part with enabling school districts to operate more efficiently and economically. TEX. EDUC. CODE §8.001, *et seq.* The Texas Interlocal Cooperation Act authorizes local governments, such as regional education service centers, to agree with one another and with local governments of other states, to increase the efficiency and effectiveness of local governments. TEX. GOV'T CODE §§791.001, *et seq.*

4. Governance of TIPS. TIPS, will hire an administrator who will represent both ESC 8 and cooperative members in the governance and joint administration of TIPS.

5. Term of Agreement; Termination. This Agreement is effective as of the TIPS Membership activation date provided herein, for an initial term of one (1) year from the activation date. The Agreement shall be automatically renewed for successive calendar years unless either party gives written notice of non-renewal or termination. This Agreement may be terminated immediately, for convenience, and without cause by either party upon thirty (30) days prior written notice. The Agreement may also be terminated for cause at any time upon written notice stating the reason for and effective date of such termination and after giving the affected party a thirty (30) day period to cure any breach. Upon termination of the Agreement, there shall be no mutually owned property of which to dispose.

6. Services Performed. ESC8, by this Agreement, agrees to provide cooperative purchasing services to the above-named public agency through TIPS, its administrative entity. TIPS's purpose is to obtain substantial value for participating public agencies through volume purchasing.

7. Financing of the Agreement. The cooperative undertaking in this Agreement shall be financed by requiring vendors to pay a fee, which is determined by TIPS with each solicitation, based upon the total volume of goods sold and provided by said participating vendor to Cooperative Members. No costs shall be incurred by Cooperative Members.

8. Role of TIPS.

- A. Provide for the organizational structure of the program.
- B. Provide staff for efficient operation of the program.
- C. Promote marketing of the TIPS Program.
- D. Coordinate the Competitive Procurement Process for all Vendor Awarded Agreements.
- E. Provide members with procedures for placing orders through TIPS PO System.
- F. Maintain filing system for Due Diligence Documentation.
- G. Collect fees from vendors to support the costs of operations of TIPS.

9. Role of the Cooperative Member.

- 1. Commit to participate in the program by an authorized signature in the appropriate space below.
- 2. Designate a primary and secondary contact person.
- 3. Commit to purchase products and services that become part of the official products and services list when it is in the best interest of the Cooperative Member.
- 4. Prepare purchase orders or equivalent issued to the appropriate vendor, which includes the TIPS Contract number, from the official award list provided by the Purchasing Cooperative.
- 5. Accept shipments of products ordered from vendors in accordance with your standard purchasing procedures and in accordance with the TIPS Vendor agreement utilized.
- 6. Pay vendors in a timely manner for all goods and services received.

8. General Provisions. The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing such programs.

This Agreement shall be governed by the law of the State of Texas and venue for any disputes arising from the Agreement shall be in the county in which the administrative offices of ESC8 are located, which is Camp County, Texas. Notwithstanding the foregoing governing law of Texas, nothing herein shall allow the Cooperative Member or its participation in the Cooperative’s purchasing program (known as TIPS) to avoid compliance with or to violate the applicable laws of Oklahoma, as required, with respect to this agreement.

This Agreement 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.

If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect

The Parties to this Agreement expressly acknowledge and agree that all monies paid pursuant to this Agreement shall be paid from budgeted available funds for the current fiscal year of each such entity.

Before any party may resort to litigation, any claims, disputes or other matters in question between the Parties to this Agreement shall be submitted to nonbinding mediation, with each party bearing their own costs and fees.

No Party to this 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 Agreement and performance of the functions and obligations described herein. This Agreement may be negotiated and transmitted between the Parties by electronic means and the terms and conditions agreed to are binding upon the Parties.

Oklahoma Public Agency Purchasing Contacts:

Primary Contact: _____	Secondary Contact: _____
Title: _____	Title: _____
Mailing Address: _____ _____	Mailing Address: _____ _____
Telephone: () _____ - _____	Telephone: () _____ - _____
Fax Number: () _____ - _____	Fax Number: () _____ - _____

AUTHORIZATION

This Agreement was approved by the governing boards of ESC Region 8- TIPS and the Oklahoma entity, if required by the laws or other controlling regulations of the Oklahoma entity, at meetings that were posted and held in accordance with applicable Open Meetings laws. Upon completion of all these this district will be a TIPS Member.

The individuals signing below are authorized to do so by the respective parties to this Agreement.

APPROVAL SIGNATURES:
(Blue Ink Required)

PUBLIC AGENCY NAME and NUMBER:

REGION 8 EDUCATION SERVICE CENTER

By: _____

By: _____

Printed Name: _____

Authorized Signature

Title: _____

Executive Director

Date: _____

Date: _____

TIPS MEMBERSHIP ACTIVATION DATE: _____

THE FOLLOWING IS NOT PART OF AGREEMENT

Instructions:

NEW EASIER APPROVAL PROCESS:

See the attached letter from the Oklahoma Attorney General's Office. Only the Oklahoma entity and ESC Region 8 /TIPS is required to approve this agreement. According to the attached letter from the Oklahoma Attorney General, the Oklahoma governmental entity that enters into this interlocal cooperative agreement pursuant to Okla. Stat. title. 61, §139, *et seq.* is **not required** to follow the rules for approval provided in Okla. Stat. title. 74 §§ 1004 (F) and 1005. This means **no** Attorney general approval, **no** filing with the County Clerk or the Secretary of State. A special thank you to Senators Bergstrom, Loveless and Brecheen of the Senate and Representative Murphey of the House for filing SB 563 and which initiated this new statute.

No legal advice or counsel is provided by TIPS or ESC Region 8 in this document or agreement and TIPS recommends prospective members consult their legal counsel if there are any questions on the process.

If any additional information is needed please contact TIPS at **(866) 839-8477**.

1. Statutory Authority. The Okla. Stat. title. 61, §139, *et seq.*, authorizes a local public procurement unit or school district or technology school district in Oklahoma to participate in, sponsor, conduct or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one or more public agencies in accordance with an agreement entered into between the participants. (See enrolled language of the Bill below and a letter from the Oklahoma Attorney General's office regarding approvals)

2. Texas Education Code, Chapter 8, provides for the establishment and operation of regional education service centers, which are charged in part with enabling school districts to operate more efficiently and economically. TEX. EDUC. CODE §8.001, *et seq.* The Texas Interlocal Cooperation Act authorizes local governments, such as regional education service centers, to agree with one another and with local governments of other states, to increase the efficiency and effectiveness of local governments. TEX. GOV'T CODE §§791.001, *et seq.*

ENROLLED SENATE

BILL NO. 563

By: Bergstrom, Loveless and Brecheen
of the Senate and Murphey of the
House

An Act relating to public buildings and public works; establishing certain purchasing provisions for school districts; clarifying types of purchasing; establishing that certain purchasing practices are available to local public procurement units; providing definitions; construing act; providing for codification; and providing an effective date.

SUBJECT: State purchasing procedures

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 139 of Title 61, unless there is created a duplication in numbering, reads as follows:

A. In addition to any authority to enter an agreement pursuant to the Interlocal Cooperation Act, any school district, including a technology school district, may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one or more public agencies in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public agencies and open-ended state public procurement contracts.

B. Any local public procurement unit may either participate in, sponsor, conduct or administer a cooperative or piggybacking purchasing agreement for the acquisition of any commodities or services, including construction services, with one (1) or more public

procurement units or external procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units. Purchases made in accordance with this subsection by a local public procurement unit shall be required to satisfy any procurement regulation, including The Central Purchasing Act, the Public Competitive Bidding Act, the Finance Act, related administrative rules and federal regulations that may apply due to the federal source of the funding for the anticipated purchase.

C. For purposes of this section, the following definitions apply:

1. "Local public procurement unit" shall mean, inter alia, any county, city, town, state agency, and any other subdivision of the state or public unit or agency thereof;

2. "External procurement unit" shall mean any buying organization in the United States not located in this state which, if located in this state, would qualify as a public procurement unit; and

3. "Cooperative or piggybacking purchasing agreement" shall mean an agreement between a local public procurement unit and another local public procurement unit or an external procurement unit to authorize the use of a contract procured by one of the parties to the agreement to benefit the other party to the agreement. This term shall also mean an agreement that provides access to a product or service that is lower in price than a comparable product or service that is available through the usage of a statewide, multistate or multigovernmental contract issued by the state Purchasing Division.

D. Nothing in this section shall supersede the obligation of a state agency to adhere to rules regarding statewide contracts issued by the state Purchasing Division. Neither shall any provision of this section be construed to waive the obligation of a state agency to utilize a mandatory purchasing contract as designated by the State Purchasing Director.

SECTION 2. This act shall become effective November 1, 2017.



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

February 15, 2018

Rick Powell
Attorney at Law/General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX 75686

Re: The Oklahoma Interlocal Cooperation Act, 74 O.S. § 1001, et seq., and Section 139 of Title 61 of the Oklahoma statutes

I am assigned to handle the review of interlocal cooperation agreements for the Oklahoma Attorney General, and I have been asked to address your questions relating to Section 139 of Title 61 of the Oklahoma statutes and the Oklahoma Interlocal Cooperation Act, 74 O.S. § 1001, et seq. ("the ICA Act").

It is my opinion that agreements that qualify under Section 139 of Title 61 need not receive approval of the Oklahoma Attorney General as required by ICA Act, due, in part, to the fact that the wording of Section 139 of Title 61 takes this type of agreement out of the requirements of the ICA Act through the wording in Section 139 that provides that the authority created by Section 139 is in addition to the authority to enter into an agreement pursuant to the ICA Act. See 61 O.S. § 139(A). It is my opinion that Section 139 of Title 61 creates contracting authority independent of the ICA Act.

In addition, it is my opinion that agreements entered into pursuant to Section 139 of Title 61 of the Oklahoma statutes need not be filed with the Secretary of State or the applicable county clerk(s) for the same reasons that AG approval is not required. See 74 O.S. § 1005.

Note that this reply to your questions is not an official opinion of the Oklahoma Attorney General. Rather, it represents my legal opinion only.

Sincerely,

A handwritten signature in blue ink, appearing to read "Karl F. Kramer".

Karl F. Kramer
Assistant Attorney General
Office of the Oklahoma Attorney General