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§13–110.

(a) (1) In this section the following words have the meanings indicated.

(2) "Cooperative entity" means one or more State or local entities that enter into an agreement for the cooperative or joint administration of programs.

(3) "Governmental entity" means:

(i) the federal government or an agency or other instrumentality of the federal government;

(ii) another state or an agency or other instrumentality of another state;

(iii) a bistate or multistate agency;

(iv) a county, municipal corporation, or other political subdivision of the State or of another state, or an agency or other instrumentality of the political subdivision;

(v) a bicounty or multicounty agency;

(vi) a primary procurement unit; or

(vii) an affiliation, alliance, consortium, or group composed solely of governmental entities that is established for purposes of promoting intergovernmental cooperative purchasing.

(4) "Intergovernmental cooperative purchasing agreement" means a contract:

(i) 1. entered into by at least one governmental entity and a person selected in a manner that is consistent with the purposes set forth under § 11–201 of this article;

2. that is available for use by the governmental entity entering the contract and at least one additional governmental entity which may, but need not be, an original party to the contract; and

3. that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing; or

(ii) between a primary procurement unit and a person who, at the time the intergovernmental cooperative purchasing agreement is awarded, has a contract with the federal government or an agency or other instrumentality of the federal government, and who agrees to provide the unit with identical prices, terms, and conditions as stipulated in the federal contract.

(5) (i) "Local entity" means a county, municipal corporation, bicounty or multicounty agency, public authority, special taxing district, or other political subdivision or unit of a political subdivision of this State.

(ii) "Local entity" includes boards of education and library boards that receive funding from the State.

(6) "Nonprofit entity" means a corporation incorporated in the State, or otherwise qualified to do business in the State that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code.

(7) "State entity" means a department, board, commission, agency, or a subunit in the Executive branch of State government.

(b) (1) Subject to § 12–107 of this article, a primary procurement unit procurement officer shall make a determination, in accordance with paragraph (2) or (3) of this subsection, before the primary procurement unit may:

(i) initially sponsor or participate in an intergovernmental cooperative purchasing agreement;

(ii) renew an intergovernmental cooperative purchasing agreement; or

(iii) modify an intergovernmental cooperative purchasing agreement.

(2) A determination under paragraph (1)(i) of this subsection shall be in writing and include:

(i) sufficient evidence that the intergovernmental cooperative purchasing agreement:

1. will provide cost benefits to the State; or

2. will promote administrative efficiencies or promote intergovernmental cooperation; and

(ii) a statement that the intergovernmental cooperative purchasing agreement:

1. is in the best interest of the State; and

2. is not intended to evade the purposes of this Division II.

(3) A determination under paragraph (1)(ii) or (iii) of this subsection shall be in writing and include:

(i) sufficient evidence that the intergovernmental cooperative purchasing agreement:

1. will provide cost benefits to the State; and

2. will promote administrative efficiencies or promote intergovernmental cooperation; and

(ii) a statement that the intergovernmental cooperative purchasing agreement:

1. is in the best interest of the State; and

2. is not intended to evade the purposes of this Division II.

(4) A primary procurement unit shall post each determination required under this subsection on the primary procurement unit's website.

(5) If a primary procurement unit sponsors an intergovernmental cooperative purchasing agreement:

(i) the contract shall be awarded in the same manner as the contract would be awarded under this Division II if the unit was the sole participant under the contract, including compliance with all notice requirements; and

(ii) all procedures under this Division II, including procedures governing contract claims and protests, shall apply.

(6) If a primary procurement unit participates in an intergovernmental cooperative purchasing agreement, any protest or contract claim involving the agreement shall be handled in accordance with the terms of the agreement.

(7) If a primary procurement unit sponsors or participates in an intergovernmental cooperative purchasing agreement, the intergovernmental cooperative purchasing agreement shall be:

(i) approved by:

1. the head of the primary procurement unit or the head of the primary procurement unit's designee; or

2. the Chief Procurement Officer or the Chief Procurement Officer's designee; and

(ii) subject to any other approval required by law.

(c) (1) Except as provided in paragraph (2) of this subsection, each procurement contract for supplies or services entered into by a State or local entity shall include a provision that facilitates other State and local entities and nonprofit entities to participate in the contract.

(2) (i) This subsection does not apply to:

1. a procurement for a capital facility, improvement, or other unique purchase; or

2. a procurement with a projected value of less than $100,000.

(ii) This subsection does not apply if the State or local entity determines that including the provision would:

1. undermine the desired timing or effect of the procurement;

2. interfere with the State or local entity's ability to meet:

A. the minority business enterprise goals provided under § 14–302 of this article or any other minority business enterprise program sponsored by the local entity; or

B. the Small Business Reserve Program requirements under § 14–502 of this article or any other small business procurement program sponsored by the local entity; or

3. not be in the best interest of the entity.

(d) (1) A State or local entity may enter into an agreement for the cooperative or joint administration of programs with one or more other State or local entities.

(2) A cooperative entity established under this section may administer the programs and exercise the powers and duties specifically delegated to the cooperative entity by the agreement that established the cooperative entity.

(3) An agreement described under this subsection does not relieve a State or local entity or other participant of the agreement from any obligation or responsibility imposed on the entity by law.

(e) Notwithstanding any other law, a local entity may participate in an existing State or local contract drafted in accordance with this section, if the governing body of the entity determines that participation would:

(1) provide a cost savings in purchase price or administrative burden; or

(2) further other policy goals including operational and energy–efficiency goals related to the purchase, operation, or maintenance of the supply or service.

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