

Larry Hogan
Governor

Boyd K. Rutherford
Lt Governor



Ellington E. Churchill, Jr.
Secretary

Nelson E. Reichart
Deputy Secretary

OFFICE OF THE SECRETARY

Intergovernmental Cooperative Purchasing Agreement

Procurement Officer Determination

COMAR 21.05.09.04

Per COMAR 21.05.09.02, as a Primary Procurement Unit, the DGS Office of State Procurement (OSP) may initially sponsor or participate in, renew, modify, or administer an Intergovernmental Cooperative Purchasing Agreement (ICPA) on its own behalf or on behalf of another agency when a determination is made under SFP §13-110 and COMAR 21.05.09.04.

Based upon the information received in the attached Procurement Officer's Determination from Maryland Department of Education, I have determined that it is in the best interest of the State to participate in this intergovernmental cooperative purchasing agreement, that doing so will provide cost benefits to the State, promote administrative efficiencies or promote intergovernmental cooperation, and is not intended as a means to evade the purposes set forth under COMAR 21.01.01.03.

Tyler Russell

Jan 11, 2023

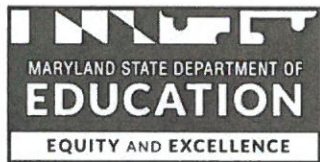
Tyler Russell, Procurement Officer, DGS OSP / Date

1/12/2023

Ellington Churchill, Secretary, DGS / Date

Attachment





Mohammed Choudhury
State Superintendent of Schools

To: Michael Zimmerman, Chief Procurement Officer, Office of State Procurement, DGS

From: Jenna Meini, Business Services Partner

Date: October 20, 2022

Subject: Procurement Officer's Determination for the Use of Intergovernmental Cooperative Purchasing Agreement
Per COMAR 21.05.09.04 – EANS Program – Newsela – Contract # R00B2600112

Introduction

The Maryland State Department of Education (MSDE) requests approval to use The Interlocal Purchasing System (TIPS) contract to purchase instructional content for students for English Language Arts, Social Studies, and Science courses for nonpublic schools through an Intergovernmental Cooperative Purchasing Agreement (ICPA).

Newsela is an instructional content tool that allows teachers to find articles with appropriate reading levels for their students. Newsela articles also feature questions and writing prompts that align with common core standards. Newsela will help nonpublic school students to build their reading comprehension by providing high-quality news articles and real-time assessments for students in grades 2–12. The news articles span a wide array of content, including science, money, law, health, arts, sports, and opinion. An added benefit of nonpublic school students using the site is that not only students can practice reading, but they can also stay current with what is happening locally and globally.

Background and Purpose

The MSDE received grant funding through the Emergency Assistance for Nonpublic Schools (EANS) program through the United States Department of Education. The EANS program is authorized in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021, signed into law on December 27, 2020, as part of the Governor's Emergency Education Relief (GEER II) fund. Maryland's EANS program allocation is \$35,878,533, including \$200,000 for administration.

The MSDE cannot pass funds to Local Education Agencies (LEAs) to administer for this program. By federal law, the Department must provide services and assistance to nonpublic schools but retain all title and ownership thereof. EANS is not a grant program. Instead, the law requires that the MSDE directly provide services or assistance to nonpublic schools.

The Maryland State Department of Education proceeded as follows to procure requested services and assistance:

1. The Department collected requests for services and assistance;
2. The Department explored existing State contracts with the Department of General Services and utilized those where able (e.g., for many of the technology and PPE requests);
3. The Department then sought vendors available to the Department via intergovernmental purchasing agreements, which is where the Department identified the particular vendor for tutoring assistance; and

4. The Department will next execute contracts with those identified vendors upon approval from the Board of Public Works

At no time was the Department planning to initiate an open solicitation for this process. The typical turnaround time for this process, once initiated, is nearly 12 to 18 months. That process would begin after the application and aggregation process. That means nonpublic schools would receive access to services and assistance in spring/summer 2023 at the earliest. Aside from being counter to the goal of the program to provide emergency services and assistance as expediently as possible, this timeline would have run afoul of federal expectations to act swiftly and revert unused funding. However, the Department also sought to balance providing customer service to nonpublic schools while maintaining its fiduciary responsibilities to the taxpayers and avoid utilizing retroactive or emergency procurement. Therefore, the Department identified intergovernmental purchasing consortia, as allowed in the State Finance and Procurement article, to access competitively-bid contracts that could provide the requested emergency services and assistance for nonpublic schools. The EANS Program funding will help to support nonpublic school students and educators and will potentially help to address the educational disruptions caused by the COVID-19 pandemic.

The TIPS Consortium pricing provided through the State of Texas, Educational Service Center Region 8 on a contract that was competitively bid and entered into with hundreds of vendors. This contract allows MSDE to obtain pricing for these requested goods and services from the nonpublic schools at a very competitive rate. For governmental agencies such as public education organizations, higher education entities, and city or county governments, membership in a purchasing cooperative offers access to competitively procured contracts; savings of time and financial resources necessary to fulfill the procurement requirements; access to fair and reasonable pricing offered by the awarded vendors. Being able to purchase a majority of the requested goods and services from the nonpublic schools under the TIPS consortium has helped MSDE to decrease the overall cost of administration and promoted cost savings than if the Department chosen to solicit for all of these items individually. This provides both cost and administrative efficiencies to the state.

MSDE has exercised due diligence in an attempt to utilize one consortium that has multiple vendors and offers competitive pricing for all of the products that the nonpublic schools have requested MSDE to purchase for them. MSDE is also utilizing several Maryland statewide contracts in addition to this ICPA in order to fulfill the requests from the nonpublic schools for furniture, COVID supplies, cleaning supplies, and PPE supplies. MSDE shall contact DGS OSP Chief Procurement Officer (or designee) if there will be any further purchases off the TIPS contracts in the future.

MSDE will be controlling the items that each nonpublic school requests and received. MSDE will keep track of all of the items as well. If the items are consumable, then they will not need to add to our inventory management system since they are a one-time use. For all IT equipment and hardware, an MSDE tag will be added to the individual item and inventoried in the inventory management system.

Pricing Justification

Seventy nonpublic schools requested a reading instructional support site for students. The Maryland State Department of Education conducted research to see which vendors on the TIPS consortium would be able to provide these digital resources that the nonpublic schools requested. Newsela provides instructional support to students through the various activities and assignments that are interesting and engaging for the students. Newsela is a digital learning platform that is intended for easing the process of distance learning. It helps in reading engagements for the students by making digital classrooms more interactive and even apt for learning. It presents a database of recent

incidents as stories rendered for the classroom use. All of the content is aligned with the national and state standard, keeping quality into consideration. Newsela is flexible to suit the needs as per each nonpublic school's curriculum. Newsela understands the different learning abilities of all learners by introducing five reading levels.

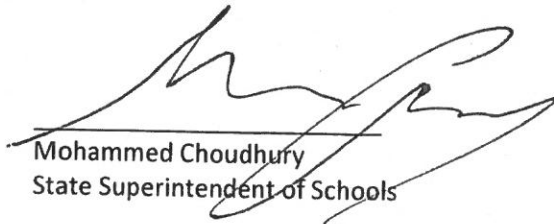
The Newsela pricing provided will cost \$35.49 per student license per year. Another competitor, Actively Learn charges \$79.95 per student license per year but they only offer digital content for English Language Arts, Social Studies, and Science. Mackin is another competitor of Newsela's and they offer a variety of resources and digital content. The annual price per student for Mackin is priced at \$110 per student per year. Again, this does not cover the amount of content that Newsela provides to students all in one digital subscription, such Social Studies, Science, English Language Arts, Social-Emotional content.

MSDE also reached out to McGraw Hill for a quote for their digital content. McGraw Hill only offers an annual student subscription price per subject. It costs \$23.94 for an annual student subscription for Science resources; \$30 for an annual student subscription for Social Studies resources; and \$28 for an annual student subscription for Math resources (all subjects will be digital content). It will cost almost three times as much to go with McGraw Hill since MSDE would have to pay for each subject's digital content separately. MSDE feels that the Newsela pricing is fair and reasonable and is in line with the industry standard rates due to the number of articles and digital materials that are offered by Newsela.

The use of this ICPA procurement method is determined to be in the best interest of the State. It will facilitate a more efficient and effective delivery of goods, services and/or solutions, greatly reduce the time period between the purchase and delivery of the goods and solutions to nonpublic schools, provide cost saving to the State, reduce the administrative burden on the State, and promote Intergovernmental Cooperation by using the TIPS consortium. The use of the Intergovernmental Cooperative Procurement method is not intended as a means to evade the purposes set forth under COMAR21.01.01.03 or State Finance and Procurement, Section 13-110. No other procurement method contemplated in regulation would suffice as an alternative, due to the tight timeline of the EANS Program and the hardship that the nonpublic schools would endure if the Department had to solicit for these goods and services. This ICPA is in the best interest of the State and is not intended to evade the purposes set forth under COMAR 21.01.01.03 or State Finance and Procurement, Section 13-110.



Jenna Meini
Business Services Partner

10/20/2022
Date


Mohammed Choudhury
State Superintendent of Schools

10/20/22
Date

APPROVED:


Michael Zimmerman
Chief Procurement Officer

Nov 1, 2022
Date

