



## Travis County Commissioners Court Agenda Request

**Meeting Date:** December 27, 2011

**Prepared By/Phone Number:** Elizabeth Corey (854-9853); Bonnie Floyd

**Elected/Appointed Official/Dept. Head:** Cyd Grimes

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** Approve Interlocal Agreement No. IL120078EC, Harris County Department of Education, to participate in the purchasing cooperative entitled Choice Facility Partners.

Ø **Purchasing Recommendation and Comments:** Purchasing recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.

This Interlocal agreement will afford Travis County an opportunity to purchase certain commodities and services efficiently and economically through Choice Facility Partners, a purchasing cooperative operated by the Harris County Department of Education. Choice Facility Partners offers contracts for such categories as construction, energy services, furniture, and building infrastructure.

Harris County Department of Education requests that we sign the agreement first.

Ø **Contract-Related Information:**

Award Amount: Not Applicable – estimated quantity

Contract Type: Interlocal Agreement

Contract Period: Begins on December 27, 2011; no expiration

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, [Cheryl.Aker@co.travis.tx.us](mailto:Cheryl.Aker@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

# **County Master Service Interlocal Contract Between Harris County Department of Education & Travis County**

Pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 271, Subchapter F of the Texas Local Government Code, this Interlocal and Cooperative Purchasing Program Contract (“Contract”) is made and entered into by and between the Harris County Department of Education (“HCDE”), located in Houston, Texas, and COUNTY of TRAVIS (“COUNTY”), located in Austin, Texas, for the purpose of providing services.

## **Preamble**

HCDE is a local governmental entity established to promote education in Harris County, Texas and is also duly authorized to provide programs and services in the State of Texas. Both HCDE and COUNTY desire to set forth, in writing, the terms and conditions of their agreement.

## **General Terms and Conditions**

In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be legally bound agree as follows:

1. Term. This Contract is effective from the date of the last signature and shall automatically renew unless either party gives thirty (30) days prior written notice of non-renewal. This Contract may be terminated by either party with or without cause with thirty (30) days written notice. See other means of terminating the contract in Article 11, below. Any such notice shall be sent according to Article 8.
2. Agreement. The terms of this Contract shall apply and will be considered a part of any Addendum for programs and services delivered by HCDE. This Contract and the attached and incorporated Addendum, purchase orders, or exhibits, if any, contain the entire agreement of the parties and there are no representations, agreements, arrangements, or undertakings, oral or written, between the parties to this Contract other than those set forth in this Contract and duly executed in writing.
3. Purpose and Scope of Work.
  - A. HCDE agrees to:**
    - Provide COUNTY with subsequent independent contracts and/or descriptive offerings of each of the programs and services that HCDE provides through its respective divisions.
    - Provide services upon the submission of independent contracts or purchase orders within the HCDE divisions.
    - Conduct, as a minimum, an annual audit or survey, as appropriate, for each of the programs.
  - B. COUNTY agrees to:**
    - Participate in any or all of the services that HCDE has to offer.
    - Submit purchase order(s) or independent contract(s) for each of the programs it wishes to purchase and/or collaborate.
    - Agree to follow the terms and conditions of each independent contract or purchase orders for each of the programs.
    - Assign the appropriate person to act as representative to each respective program delivered.

4. As is. HCDE makes this Contract available to HCDE participating entities “as is” and are under no obligation to revise the terms, conditions, scope, prices, and/or any requirements of the Contract for the benefit of COUNTY.
5. Assignment. Neither this Contract nor any duties or obligations entered in subsequent contracts because of this agreement shall be assignable by either party without the prior written acknowledgment and authorization of both parties.
6. Conflict of Interest. During the Term of HCDE’s service to COUNTY, COUNTY, its personnel and agents, shall not, directly or indirectly, whether for COUNTY’s own account or with any other person or entity whatsoever, employ, solicit or endeavor to entice away any person who is employed by HCDE.
7. Contract Amendment. This Contract may be amended only by the mutual agreement of all parties in writing to be attached to and incorporated into this Contract. IT IS EXPRESSLY ACKNOWLEDGED THAT NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF TRAVIS COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THE TERMS OF THIS CONTRACT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT OF TRAVIS COUNTY.
8. Notice. Any notice provided under the terms of this Contract by either party to the other shall be in writing and shall be sent by **certified mail, return receipt requested**. Notice to shall be sufficient if made or addressed as follows:

Harris County Department of Education  
 Attn: John E. Sawyer, Ed.D.  
 County School Superintendent  
 6300 Irvington Blvd.  
 Houston, Texas 77022  
 713-694-6300

County of Travis  
 Attn: Cyd V. Grimes, C.P.M.  
 Purchasing Agent  
 700 Lavaca, Suite 800  
 Austin, Texas 78701  
 512-854-9700

9. Relation of Parties. It is the intention of the parties that COUNTY is independent of HCDE and not an employee, agent, joint venturer, or partner of HCDE and nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between HCDE and COUNTY or HCDE and any of COUNTY’s agents.
10. Non-Exclusivity of Services. Nothing in this Contract may be construed to imply that HCDE has exclusive right to provide COUNTY these services. During the Term of Contract, COUNTY reserves the right to use all available resources to procure other professional services as needed and, in doing so, will not violate any rights of HCDE.
11. Termination. This Contract may be terminated prior to the expiration of the Term hereof as follows:
  - By COUNTY upon 30 days notice if the work/service is not provided in a satisfactory and proper manner after a remedy has been reported and discussed;
  - By mutual written agreement of the parties, upon thirty (30) days prior notice; or

- By either party immediately if the other party commits a material breach any of the terms of this Contract and no remedial action can be agreed upon by the parties.

12. Master Contract. This Contract can be utilized as the Master Contract. The general terms and conditions in this Contract will serve to outline the working relationship between HCDE and the COUNTY. Both parties agree to allow the COUNTY to use any or all of the following programs and/or services with no charge from HCDE: Choice Facility Partners (CFP), Gulf Coast Food Cooperative, Purchasing Cooperative, Drug Testing Services and Fuel Cooperative.

The COUNTY agrees to adhere to the terms and conditions set forth for the programs and/or services as contracted under these programs. All other programs and/or services provided by HCDE requiring a fee will need an addendum to the approved Master Interlocal Contract. The specific terms and conditions of the addendum will govern that individual contract. In the case of a conflict between the Master Contract and any addendum, the provisions of the addendum will govern.

13. Severability. In the event that any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegality, or unenforceable provision had never been contained in it.

14. Governing Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Contract shall be in Harris County, Texas.

15. Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this Contract, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

16. Authorization. Each party acknowledges that the governing body of each party to the Contract has authorized this Contract.

17. Benefit for Signatory Parties Only. Neither this Contract, nor any term or provisions hereof, not any inclusion by reference, shall be construed as being for the benefit of any party not in signatory hereto.

18. Current Revenue. The parties represent that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Contract, which shall include any exhibit, attachment, addendum or associated document, shall be paid from current revenues available to the paying party. The parties hereby warrant that no debt is created by this Contract and that any debt created through a

purchase shall be the sole obligation of the purchasing party and no obligation or liability for such debt shall be a liability or obligation of the other parties.

19. Fiscal Funding. The financial obligations of the parties, if any, under this Contract are contingent upon the availability and appropriation of sufficient funding. Any party may withdraw from this Contract without penalty in the event funds are not available or appropriated. However, no party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding.

In witness whereof, HCDE and COUNTY have executed this Contract to be effective on the date specified in Article 1. Term above:

County of Travis

Harris County Department of Education

\_\_\_\_\_  
Samuel T. Biscoe  
County Judge

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John E. Sawyer, Ed.D.  
County School Superintendent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date