**Participating Addendum with an External Procurement Activity**

**Participating Addendum with an External Procurement Activity.** Section 1902 of the *Commonwealth Procurement Code,* 62 Pa.C.S. § 1902, permits external procurement activities to participate in cooperative purchasing agreements for the procurement of services, supplies or construction.

* 1. **Definitions.** The following words and phrases have the meanings set forth in this provision:

1. *External procurement activity*: The term, as defined in 62 Pa. C. S. § 1901, means a “buying organization not located in the Commonwealth [of Pennsylvania] which if located in this Commonwealth would qualify as a public procurement unit [under 62 Pa. C.S. §1901]. An agency of the United States is an external procurement activity.”
2. *Participating addendum*: A bilateral agreement executed by the Contractor and an external procurement activity that clarifies the operation of the Contract for the external procurement activity concerned. The terms and conditions in any participating addendum shall affect only the procurements of the purchasing entities under the jurisdiction of the external procurement activity signing the participating addendum.
3. *Public procurement unit*: The term, as defined in 62 Pa. C. S. § 1901, means a “local public procurement unit or purchasing agency.”
4. *Purchasing agency*: The term, as defined in 62 Pa. C. S. § 103, means a “Commonwealth agency authorized by this part or any other law to enter into contracts for itself or as the agent of another Commonwealth agency.”
   1. **General.** A participating addendum shall incorporate the terms and conditions of the Contract resulting from this RFP. The Contractor shall not be required to enter into any participating addendum.
   2. **Additional Terms.**
      1. A participating addendum may include additional terms that are required by the law governing the external procurement activity.
      2. A participating addendum may include new, mutually agreed upon terms that clarify ordering procedures specific to a participating external procurement activity.
      3. The construction and effect of any participating addendum shall be governed by and construed in accordance with the laws governing the external procurement activity.
      4. If an additional term requested by the external procurement activity will result in an increased cost to the Contractor, the Contractor shall adjust its pricing up or down accordingly.
   3. **Prices.**
      1. **Price adjustment.** For any costs affecting the percent markup that the Contractor will or will not incur or that differ from costs incurred or not incurred in the fulfillment of this Contract, the Contractor shall adjust its pricing up or down accordingly. These costs may include, but not be limited to:
         * 1. State and local taxes;
           2. Unemployment and workers compensation fees;
           3. E-commerce transaction fees; and
           4. Costs associated with additional terms, established pursuant to this **Part I, Section I-32**.
      2. The Contractor’s pricing for an external procurement activity shall be firm and fixed for the duration of the initial term of the Contract. After the initial term of the Contract, if the Contract is renewed, the Contractor’s pricing may be adjusted up or down based on market conditions only with the mutual agreement of both the Contractor and any external procurement activity.
   4. **Usage Reports on External Procurement Activities.** The Contractor shall furnish to the Contracting Officer an electronic quarterly usage report, preferably in spreadsheet format no later than the fifteenth calendar day of the succeeding calendar quarter. Reports shall be e-mailed to the Contracting Officer for the Contract. Each report shall indicate the name and address of the Contractor, contract number, period covered by the report, the name of the external procurement activity that has used the Contract and the total volume of sales to the external procurement activity for the reporting period.
   5. **Electronic Copy of Participating Addendum.** The Contractor, upon request of the Contracting Officer, shall submit **one** electronic copy of the participating addendum to the Contracting Officer within **ten** days after request.