



Texas Association of School Boards

Legal Services

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Serving Texas Schools Since 1949

Operation Connectivity Bulk Order Program

What is Operation Connectivity?

Operation Connectivity is a joint effort among Governor Greg Abbott, the Texas Legislature, and the Texas Education Agency (TEA) to connect Texas's 5.5 million public school students with a device and reliable internet connection. On July 17, 2020, the Governor [announced](#) the allocation of \$200 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act funding to TEA for the purchase of eLearning devices and home internet solutions to enable remote learning during the COVID-19 pandemic for Texas students who lack connectivity. The program will provide matching funds for districts to facilitate purchases of necessary devices and hotspots. TEA, through Region 4 Education Service Center, has worked with vendors to secure reduced prices and timely delivery to Texas school districts through a bulk order program. Matching funds will be based on the number of economically disadvantaged students in a district. Districts may purchase necessary devices and hotspots through a new interlocal agreement with Region 4. More information about Operation Connectivity is available on the [TEA Website](#).

Why does the school board need to act quickly?

To take advantage of the Operation Connectivity bulk order program and the matching funds, a district must take certain actions and execute required documents in the next two weeks. For example, to place an order, a school district must sign the interlocal agreement by August 4. Thus, if your district wants to take advantage of this funding, the school board must meet soon.

What options does the school board have for calling a meeting on short notice?

- **Special meeting via videoconference or teleconference:** In accordance with your policy on board meetings at TASB Policy BE(LOCAL), your board can call a special meeting on 72 hours' notice. In accordance with the Governor's [order suspending portions of the Open Meetings Act](#), this meeting can be conducted by videoconference or teleconference. To facilitate the prompt posting of a meeting for this purpose, TASB Legal Services has prepared a [sample meeting agenda](#).
- **Emergency meeting or emergency addition to existing meeting agenda:** As described in TASB Legal Services' memo [Open Meetings Act – Meeting Notice](#), a board may call an emergency meeting or add an emergency item to a previously posted agenda with only one hour's notice in an emergency or when there is an urgent public necessity. An emergency or urgent public necessity exists only if the board must take immediate

action “because of: (1) an imminent threat to public health and safety, including a threat described by Subdivision (2) if imminent; or (2) a reasonably unforeseeable situation, including . . . (c) epidemic . . .” Tex. Gov’t Code § 551.045(b). If your board wishes to rely on the emergency exception, confirm this decision with your school attorney. Remember that you must clearly identify the emergency or urgent public necessity on the meeting notice or supplemental notice. Tex. Gov’t Code § 551.045(c).

Must we allow public participation at the meeting?

Yes, but you can limit public comment to the items on the posted agenda. See TASB Policy BED(LOCAL) and TASB Legal Services’ memo [Open Meetings Act – Public Comment](#).

What if the school board cannot call a meeting in time for the purchase order deadline?

If at all possible, a board should attempt to meet and take the necessary action to approve the interlocal agreement *before* the district places an order with Operation Connectivity. That said, if a superintendent takes the necessary steps on the board’s behalf and the board promptly ratifies the superintendent’s actions, the board’s ratification should be valid.

What actions must the school board take to participate in Operation Connectivity?

To participate in Operation Connectivity, school boards must approve the required interlocal agreement with Region 4.

To do this, the board may pass a motion such as, “I move that the board approve and enter into the Operation Connectivity Interlocal Acquisition Agreement and authorize the superintendent and other appropriate district personnel to take all necessary actions under such agreement.”

How does a school district enter an interlocal agreement?

Interlocal contracts (sometimes referred to as interlocal participation agreements) are governed by the Interlocal Cooperation Act, Texas Government Code Chapter 791, which serves to increase the efficiency and effectiveness of local governments by authorizing them to contract with other local governments or state agencies to perform governmental services or functions, including *administrative functions* such as purchasing. Tex. Gov’t Code §§ 791.001, .003(1), (3), .011, .025.

Under the Interlocal Cooperation Act, an interlocal contract must be **authorized by the governing body** of each party to the contract; state the purpose, terms, rights, and duties of the contracting parties; and specify that payments under the contract will be made from current revenues. Tex. Gov’t Code § 791.011(d) (emphasis added).

At the board's meeting, a board that wishes to place an order should vote to authorize the superintendent or appropriate designee to sign the interlocal agreement with Region 4 for technology purchases under Operation Connectivity. The Operation Connectivity interlocal contract is a new interlocal agreement, managed separately from Region 4's purchasing cooperative, known to many as TCPN. Prior participation in Region 4's purchasing cooperative does not satisfy the need to join the Operation Connectivity agreement.

Are the purchases subject to additional competitive purchasing requirements?

- **Interlocal contracts satisfy state law:** An interlocal contract is listed in Texas Education Code section 44.031(a) as a method by which a school district may procure goods and services valued at \$50,000 or more in the aggregate for each 12-month period. A local government that purchases goods or services under an interlocal contract satisfies the requirement to seek competitive bids for the purchase. Tex. Gov't Code § 791.025(c).
- **TEA has waived requirements under federal law:** Generally, procurement with federal funds is governed by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards at 2 C.F.R. 200 (often referred to as the Uniform Guidance). For federal funds administered by TEA, the Uniform Guidance is often referred to as EDGAR (Education Department General Administrative Regulations). Even where state procurement requirements have been satisfied, EDGAR sometimes imposes additional requirements beyond state law. As the state agency that administers this funding (often called the pass-through entity), TEA has expressly authorized a non-competitive procurement by districts for Region 4's products and services as permitted by 2 CFR 200.320(f)(3). Under 2 CFR 200.318(i), districts are permitted to enter into interlocal agreements for the procurement of goods and services. Additional steps have been taken by Region 4 to incorporate necessary contract provisions into the interlocal agreement and agreements with the participating vendors to ensure EDGAR compliance. Notwithstanding TEA's authorization, districts must take steps consistent with their normal cooperative purchasing practices to comply with additional EDGAR requirements.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.