

SUBJECT: PURCHASING POLICY

Purchasing is an important function in support of the education of students enrolled in BOCES programs, and an important function in support of related services provided to school districts by the BOCES. The purchasing role is to provide the necessary equipment, supplies and services in the correct quantity and quality, in the correct place, at the time needed, at the lowest cost to the BOCES.

The purchasing process should be performed within budgetary appropriations by the BOCES appointed Purchasing Agent, following existing laws, regulations, and BOCES procedures. The Purchasing Agent has the sole authority for the BOCES to contract for necessary supplies, equipment, and services.

It shall be the policy of the BOCES that all qualified suppliers shall have equal opportunity to bid on the requirements of the BOCES.

The policy will be reviewed annually by the BOCES.

Purchasing Procedures

The procurement of goods and services for the BOCES is subject to competitive bidding based upon the following:

- a) Public works contracts (labor and materials) involving an expenditure of over \$20,000 are subject to the bid laws. The term "public works contract" would apply to those items or projects involving labor or both material and labor. Included in this category would be construction, paving, painting, repair contracts, etc.
- b) Purchase contracts (material only) of over \$10,000 are subject to the bid laws and therefore must be advertised for competitive bidding and a contract (if any) awarded to the lowest responsible bidder.
- c) If in excess of the above limits, the following are also subject to the bid laws:
 1. Lease or rental of personal property;
 2. Lease purchasing agreement for instructional equipment;
 3. Installment purchase of equipment, machinery and apparatus;
 4. Cooperative bid arrangements.

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- d) Purchase of standardized equipment and material standardization makes it possible for the BOCES to standardize a particular type of material or equipment. This does not eliminate the necessity to conform to competitive bidding requirements.
- e) Transportation contracts covered by Education Law are subject to the same limits as Purchase Contracts under Sections 103 and 104 of the General Municipal Law.

Items Not Subject to Competitive Bidding

The following procedures shall be used for purchases or contracts below the bid limits of Sections 103 and 104 of the General Municipal Law for all non-bid items:

- a) State Contracts, County Contracts, Municipal Agreements, BOCES Cooperative Purchasing Agreements, Correctional Institutions, Industries for the Blind, or Industries for the Disabled may be used whenever feasible for purchases below the state bid limit.
- b) BOCES may elect to bid items even though they fall below the bid limit.
- c) When it is not possible to purchase under a) Above, the following will apply:
 - 1. Items/Like Items under \$300: No quotes required.
 - 2. Items/Like Items \$300 - \$999: 3 verbal quotes are required.
 - 3. Items/Like Items \$1000 - \$9999: A minimum of 3 written quotes are required.

Competitive bidding is not required by law for the following:

- a) Emergency Purchase. Emergency purchase is the need for procurement of goods or services arising out of an accident or other unforeseen occurrence or condition whereby circumstances affect buildings, property, life, health, safety or property of the inhabitants of BOCES owned or leased property. This does not include lack of planning on the part of the requisitioner. The BOCES should pass a resolution declaring an emergency, prior to the purchase if feasible. Purchases made in an emergency situation will need to be faxed to the Business Office for the approval of the Purchasing Agent prior to purchase. Purchases made in an emergency situation should be substantiated by appropriate documentation -- memo, notation on the purchase order.

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- b) Purchase from government contracts.
 - 1. NYS Contracts
 - 2. County Contracts
 - 3. BOCES Services
 - 4. Municipal Agreements
 - 5. Surplus and second-hand supplies, material or equipment purchased from the federal government, the State of New York, or any other political subdivision with the State of New York.
- c) Purchases from preferred sources
 - 1. Industries for the Blind of NYS
 - 2. NYS Industries for the Disabled
 - 3. Correctional Institutions

- d) Purchases from Monopolies

Sole Source. Competitive bidding is not required under Sections 103 and 104 of General Municipal Law where the object of the contract is controlled by a monopoly, such as in the case of natural gas and electric utilities.

Should particular supplies or materials be obtainable only directly from a specific manufacturer, then a true monopoly would exist and the purchase would not be subject to bidding requirements. However, should there be a possibility of purchasing the item from two or more vendors, the purchase would fall under the bid requirements. A call to the Cooperative Purchasing Office would help to determine the vendors from which specific items may be available. A memo stating how the sole source determination was made should be attached to the file copy of the purchase order.

Sole source may also include standardized equipment (ie., Xerox), matching existing equipment requirements, contractors to work on equipment that they have installed, etc.

- e) Insurance

Competitive quotations (not bids) for BOCES insurance coverages should be obtained in five-year intervals or sooner if it is deemed that the most cost effective coverage is not being provided by the insurance agent. Quotations obtained should be summarized and provided to the Board for their review.

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SUBJECT: PURCHASING POLICY (Cont'd.)Procedures for Non-Acceptance of Low Bid

Bids must be awarded to the lowest responsible bidder whose product or service meets or exceeds bid specifications. The person or persons participating in the decision determining if a bidder is or is not responsible should provide written justification for their decision(s). This information should become part of the bid file. The following should be considered in awarding to non-low bidders:

- a) Inability to provide items as specified and awarded in previous bids.
- b) Inability or failure to deliver materials or services in a timely fashion as required by bid documents.
- c) The substitution of alternate items to those bid without informing the BOCES, whether or not substitutions are equal to or better than the item specified.
- d) Varying in any way from prescribed procedure and/or specifications for the performance of the service or contract without the expressed permission of the BOCES.
- e) Products which do not meet the BOCES standards as determined through testing and evaluation of the products with appropriate documentation of inferior quality.
- f) The past performance and/or reliability of the bidder providing the offer.
- g) Failure or difficulty in providing proper certificates of insurance, performance bonds or written warranties where required or specified.
- h) Use by vendors of subcontractors that provide inferior products or services.
- i) Failure to provide adequate references. Loss of certification from material suppliers as a qualified installation contractor.
- j) Failure to provide samples of alternate bid items when requested.

If the bid amount is significant, consultation with legal counsel of the BOCES is recommended if the lowest bidder is not selected, prior to award.

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Contracts for Professional Services

Under Sections 103 and 104 of the General Municipal Law the following professional service contracts are exempt from competitive bidding requirements:

- a) Legal Services;
- b) Medical Services;
- c) Property Appraisals;
- d) Architectural Services;
- e) Engineering Services;
- f) Investment Management;
- g) Claims Management;
- h) Pharmaceutical Services;
- i) Auditing Services.

The awarding of professional service contracts without solicitation of alternate proposals or quotations would be in the best interest of the subject defined based on some of the following criteria:

- a) Continuity of service;
- b) Confidentiality of service;
- c) Cost effectiveness of the service;
- d) Confidence of the expertise of the provider of the services being rendered;
- e) Knowledge of the BOCES needs;
- f) Ability to meet the BOCES needs in a timely manner.

It is within the Board's right to award professional service contracts based on the above.

The BOCES may determine from time to time that it may be in the best interest of the BOCES to solicit requests for some or all of the above services.

Annual Review

The St. Lawrence-Lewis Board of Cooperative Educational Services shall review the purchasing policy and procedures on an annual basis.

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SUBJECT: PURCHASING POLICY (Cont'd.)**Administrative Guidelines**

An administrative guidelines manual shall accompany the Board approved purchasing policy and procedures. The manual is to be used by Accounts Payable staff and BOCES department staff responsible for purchasing and bill payment. The administrative guidelines manual will describe specific procedures not covered in detail by the approved policy and procedures. The administrative procedures manual will be provided to the Board annually for their information and review.

Alternative Formats for Instructional Materials

Preference in the purchase of instructional materials will be given to vendors who agree to provide materials in a usable alternative format (i.e., any medium or format, other than a traditional print textbook, for presentation of instructional materials that is needed as an accommodation for each student with a disability, including students requiring Section 504 Accommodation Plans, enrolled in the BOCES program. Alternative formats include, but are not limited to, Braille, large print, open and closed captioned, audio, or an electronic file in an approved format as defined in Commissioner's Regulations.

District Plan

The BOCES will develop a plan by July 1, 2002, to ensure that all instructional materials to be used in the BOCES programs are available in a usable alternative format for each student with a disability, including students requiring Section 504 Accommodation Plans, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. The Plan shall include those provisions mandated by Education Law and Commissioner's Regulations.

Apparel PurchasesCompetitive Bidding Purchases

The St. Lawrence-Lewis Board of Cooperative Educational Services will only accept bids from "responsible bidders." A determination that a bidder on a contract for the purchase of apparel is not a "responsible bidder" shall be based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel, including but not limited to employee compensation, working conditions, employee rights to form unions, and the use of child labor; or

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- b) The bidder's failure to provide information sufficient for the Board to determine the labor standards applicable to the manufacture of the apparel.

Non-Competitive Bidding Purchases

The BOCES has authorized that its internal policies and procedures governing procurement of apparel, where such procurement is not required to be made pursuant to competitive bidding requirements, shall prohibit the purchase of apparel from any vendor based upon either or both of the following considerations:

- a) The labor standards applicable to the manufacture of the apparel, including but not limited to employee compensation, working conditions, employee rights to form unions, and the use of child labor; or
- b) The bidder's failure to provide information sufficient for the Board to determine the labor standards applicable to the manufacture of the apparel.

Education Law Sections 305(14), 1950, 2503,
2554,
and 3602
General Municipal Law, Articles 5-A and 18
8 New York Code of Rules and Regulations
(NYCRR) Sections 170.2 and 200.2(b)(10),
(c)(2), and (i)

Adopted: 7/10/02