



Purchasing Frequently Asked Questions

What is the purchasing function? It involves all the steps that are necessary to ensure that the person requesting materials, services or equipment receives the proper materials or service within a reasonable length of time at a reasonable cost based on competitive pricing.

What are the objectives of the purchasing function? The fundamental objectives of the purchasing function are to achieve cost reduction, service from vendors, maintain control of the BOCES purchasing function and see that bid laws are followed. Controls may include: vendor selection or bidding, delivery, receiving and payment.

Why do we have a Purchasing Office? To provide for the prudent expenditure of BOCES funds. To provide efficient and accurate reporting of all BOCES purchases and resulting payments to vendors which in turn will provide details necessary for the control of Division budgets. To provide uniformity in the acquisition of supplies, equipment and services needed to support the education of BOCES students. To provide a method to meet the regulations and legal statutes established by the State of New York, the Commissioner of Education and BOCES Board. To provide services and information to the BOCES staff members relative to new products, new suppliers, information on product availability and cost.

Who is responsible for meeting the legal statutes? The Board appoints the Purchasing Agent to act on their behalf and it is one of his/her primary responsibilities to ensure that the BOCES meets all purchasing related legislation. This legislation is very precise and if followed correctly will be an aid to both BOCES and prospective vendors. These laws were created to protect the BOCES and its employees, and the suppliers and their employees. The BOCES is considered to be a “public agency” using public (taxpayers) funds and thus is subjected to strict controls.

Can other administrators legally purchase supplies, materials or services for the BOCES? No. Only the person(s) designated by the Board can legally purchase supplies, materials or services. The Board appoints the Purchasing Agent. This individual is responsible for approving all Purchase Orders and maintaining the appropriate records.

Who determines if supplies or equipment should be procured through bidding or purchased on the open market? It is the sole responsibility of the Purchasing Agent to determine which of the purchasing techniques is most appropriate to acquire supplies or equipment.

What are the typical steps in the process of requesting compass supplies or equipment? The first step is for the requestor to enter a Purchasing Requisition into Compass being sure to provide all necessary details required on the form and to follow Policies and Administrative Regulations 4310 and 4311 relative to price quotes or bidding. Where applicable, all supporting documentation should be attached to the requisition and forwarded with the Purchase Order for approval. Should the item or group of items require

bidding, complete and detailed specifications must be developed by the program office with assistance from the Purchasing Office.

Why do I need to fill out a Purchase Requisition for my program needs? This form is used to indicate the specific requirements to fill your program needs. The form will indicate the quantity, when it is needed, where it is needed, an estimated cost and possible source for the item. The most important part of any requisition is the description section; the more detailed the description the greater your assurance that the correct item will be purchased. Detailed specifications allow the vendor to provide the exact or "or equal" product that will meet your needs. There is seldom a problem of too much information given on a requisition.

Can the description or specification of an item include a brand name? Yes. However, in addition to the brand name, a complete description of the item indicating size, color, complete common name, model number, how packaged, weight and manufacturer's name should be included when possible. The more detailed the description the less chance for error on the part of the suppliers.

If I don't have complete details, is there a quick and easy source for this information? Yes. The Purchasing Office maintains several resource units. One is a Vendor Catalogue File which includes hundreds of catalogs and descriptive literature on thousands of items. Many vendors maintain web sites that can be good source of product information. Also, there is a section of this web site that links to the N.Y.S.-O.G.S. Purchase Contracts, Specifications for like items may be available from this web site.

If I intend to only lease the equipment, do I have to go through the same steps? Yes. A requisition is needed and after review by the Purchasing Office, a Purchase Order will be issued or if required a bid will be issued. These steps must be followed for acquisition of any BOCES needs whether it is for supplies, equipment or professional services.

Do we have to deal with more than one vendor? Yes. As a political subdivision of the State of New York we are required by law to seek several sources of supplies/services. The details for obtaining competitive prices are outlined in the Board Policies and Administrative Regulations 4310 and 4311.

Can I determine who the vendor is for my supply/equipment/service needs? Staff members have the opportunity to indicate possible sources (vendors) in the space provided on requisition form. However, as indicated above, many vendors may be interested in our requirements and, in the case of bidding, the selection of qualified vendors is the primary responsibility of the Purchasing Agent.

How do I know that I am getting the right item at the best possible cost? The selection of several qualified vendors and requesting bids or quotations from these vendors should result in the correct items being supplied at competitive cost, based on the specifications provided.

How will I know if, when and to what supplier my request has been issued? When the requisition is approved by purchasing see if requisition has been approved. A purchase order created can view the item in compass too. All BOCES purchase orders also contain a copy specifically designated as the requisitioner's copy. The receipt of this copy is additional confirmation of the completion of your request. This form will indicate the supplier's name, the final cost of the item and to whom the delivery is to be made.

What is involved in the receipt of supply or equipment orders? The material should be delivered with a packing slip which will indicate what items are being delivered and reference a purchase order number. The receiving clerk shall check their copy of the purchase against the items and quantity delivered and against what the packing slip indicates. If all is correct, then sign the green copy of the purchase order indicating acceptable receipt of the material. The green purchase order copy along with packing slip is then sent to the Accounts Payable Office, for use in the payment process.

How long should it take for my supplies to arrive after a purchase order is issued?

After receipt of a purchase order, the supplier should be able to make delivery of the supplies within two to three weeks. Many items, such as paper, are delivered in two to three days. However, there will or may be exceptions to the rule: equipment or furniture items may take six to ten weeks to be delivered. Special order items may take up to twelve to fourteen weeks for delivery. During the heavy school district ordering period of June through August, there may be unusual delays due to shortages of the more popular school items.

Are there any instances under which supplies or equipment can be ordered and delivered without the assignments of a purchase order? No. All supplies, equipment or services must be covered by the issuance of a Purchase Order and approved by the Purchasing Office. In the case of an emergency, the purchasing office must be contacted and you will be given instructions.

If supplies are not received after a reasonable length of time, what action should be taken? The requestor should submit the Purchase Order number and vendor's name to the designated support staff member in his/her Division/Department/Building office. The support staff should then contact the vendor and determine when delivery will be made. If they do not offer a reasonable response or it is determined that there is going to be a long delay, the Purchasing Office should be contacted.

Does New York State Law cover the need and process for competitive bidding in school districts and BOCES? Yes. Specifically, Section 103, Subdivision 1 of Article 5-A of General Municipal Law states as follows:

All contracts for public work involving an expenditure of more than thirty five thousand dollars and all purchase contracts involving an expenditure of more than ten thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision, BOCES or of any district therein, to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section.

In addition, the following statutes apply to the bidding process: The Board must advertise in a newspaper which has been designated as the official paper of the BOCES. At least five days shall elapse between the first publication and the date specified for the opening of bids (Art. 5-A of General Municipal Law). The Board may not restrict bids only to residents of the school district or BOCES (Ch. 287, Laws of 1978).

What are the procedures to be followed when purchasing supplies and services involving expenditures under the \$10,000 and \$35,000 limits? Section 104-b of the General Municipal Law requires the BOCES Board to adopt internal policies and procedures governing all purchases of supplies and services not required to be competitively bid under General Municipal Law Section 103. These procedures are found in Board Policy 4310 and 4311.

Under circumstances of a “public emergency” can supplies or equipment be purchased without competitive bidding? Yes. However, the laws determining a “public emergency” are very specific. The “public emergency” must arise out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property, or the life, health or safety of the children or staff therein require immediate action which cannot await competitive bidding (General Municipal Law, Section 103, subdivision 4).

Is there a clear distinction made between the terms “purchase contract” and “public works”? Yes. The 1962 Opinion of the State Comptroller, No. 442, clearly states that a purchase contract pertains to purchases of materials, supplies, equipment or apparatus, while the term “public works contract” encompasses contracts for services, labor and/or construction.

Are there any services which would be exempt from competitive bidding? Most “professional services” performed by engineers, architects, attorneys, insurance advisors, accounts and other services that require a special or technical skills or high level of expertise would be exempt under GML Section 103b. However, GML Section 104b requires that internal guidelines be established by the governing Board for this type of procurement. Therefore, the Board under BOCES Policy 4311 requires Contracts for professional services requiring specialized expertise, use of professional judgment, and/or a high degree of creativity, such as, but not limited to, legal services, medical services, property appraisals, engineers, architects, investment management, IT consultants, and experts in specific educational areas, are exempt from bidding. However, the Purchasing Agent may decide if the solicitation of request for proposals or formal request for quotations (a quotation submitted by a proposer in a sealed envelope, similar to a competitively sealed bid) is the best interest of BOCES.

Are supplies or services provided by monopolies regulated by the competitive bidding law? In the past, most utilities were controlled by a monopoly, such as telephone, natural gas or electric service since there was no possibility of competition. Therefore, the courts did not require the formality of inviting bids (1954 Ops. St. Compt. File No. 6899). However, since the deregulation of utilities, opportunities for competition have been made available, dependent on the area and the type service required. Therefore, these types of service must be evaluated on a case by case basis to determine the feasibility of obtaining competition.

Is it possible to purchase used surplus supplies and equipment without competitive bidding? Yes, if the items are to be purchased from the Federal Property Assistance Distribution Center administered by the Office of General Services, another political subdivision, school district or another BOCES. If the purchase is not from one of these agencies, the competitive bidding procedures must be followed.

Is it necessary to follow bid requirements for textbooks or library books? In most instances, competitive bidding is not required due to the fact that there is normally only one source, the publisher, and/or the subject matter is copyrighted. Some library books can be secured via the bidding process and can also be purchased under New York state contracts. Items in this category are generally classified as proprietary supplies in which case there would be no advantage to the BOCES in going through the competitive bidding process. If there is a question concerning the fact of copyright, etc., a letter will be sent to the publisher requesting clarification.

If I am going to use both Federal Grant funds and BOCES General Funds to purchase similar items, when each fund will contribute less than the statutory limit

of \$10,000, is it necessary to go to competitive bidding? Yes. Regardless of their initial source, if the aggregate expenditure of public funds exceeds the bid limit the purchase is subject to the competitive bidding laws (1968 Ops. 51 Compt. File No. 946).

Can bid specifications include brand names in the description of items? Yes. The use of brand names can be very helpful in conveying a particular need to prospective vendors. The use of brand names will not, however, ensure that the low bid will be for that particular brand. In specifications, the phrases “or equal” or “equivalent” are understood to be part of the specifications, as required by law. When a bidder offers an alternate or substitute, the Purchasing Agent determines whether the item offered is, in fact, equal to that specified. The Board is to make awards to the lowest responsible bidder meeting the specifications, therefore, or “equal items” must be considered for award.

Who determines if a vendor is a responsible bidder? The Board has the sole responsibility to determine this. They will take into consideration the experience, financial condition and bidder’s ability to complete the contract in an accountable or reliable manner. If, upon recommendation of the Purchasing Agent, the Board determines that a bidder is non-responsible, their decision would not be overturned by the courts unless the decision were judged to be arbitrary or capricious.

If only one bid is received, must it be rejected for lack of competition? Yes and No. Our practice is to contact the vendors who did not bid and find out why. If the Purchasing Agent determines that there may be more bids submitted by bidding again, the bid will be re-issued. The Purchasing Agent may determine that all possible sources of supply have been exhausted, and the bid is reasonable and responsible, in which case the bid is recommended to the Board for award.

If there are identical low bids, must all bids be rejected and re-advertised? Not necessarily. If the Purchasing Agent is satisfied that both bidders are responsible and meet the specifications, lots will be drawn to determine the awarded vendor. The bid award may not be divided among the identical bidders.

What are some of the most common causes for rejecting bids? The most common are bids exceed the amount of budget sums, failure of bidder’s products to meet Specifications or General Conditions, collusion, or improper execution of bid documents.

If a bid proposal list consists of a long list of items, must the award be based on a total bid? No. The contract may be awarded by item, item classification, or in total. However, the provisions for award should be stated in the bid documents.

If the expenditure for single items such as pens, pencils or staples does not exceed \$10,000 can the BOCES purchase these items without competitive bids? No. The law has been interpreted to cover a group of materials, supplies or equipment. It does not refer to individual items or to any one type of writing instrument. In this case, the interpretation is that these single “like items” should be included in the grouping called “office supplies” and if the BOCES requires more than \$10,000 in office supplies during a given fiscal year (7/1-6/30), all requirements must be bid as an annual requirement.

Instead of competitively bidding the requirement to buy supply items costing over \$10,000.00, may BOCES split the order in two lots during the school year, part in July and part in January? This may be a realistic situation due to the fact that perhaps storage space is not available to hold a complete year’s requirements. Other situations may exist which could also justify dividing the purchase. However, it is still necessary to advertise for bids if the total annual estimated expenditure will exceed \$10,000 regardless

of the storage space available or the number of deliveries needed during the school year. It is possible that the requirements can be bid with specifications calling for multiple data deliveries, with bidders required to submit cost figures fixed during the entire life of the contract. For example, many School Districts bid their paper supply needs once a year with the bid specifications requiring deliveries three or four times during the year. In this situation, only one bid process is needed, the Board makes one award, the Purchasing Office issues the Purchase Order(s) and the bidder makes several deliveries at the price stated on the bid.

How detailed should a bid specification be? This varies from situation to situation. If the materials or equipment are of specialized design or highly critical in nature, then the description/specification will have to be extensive with as many details as possible. Specifications should include the manufacturer's name, and/or current stock/model number. In addition to this information, a complete description of the item is necessary, including physical size, color, product packaging, weight, motor H.P., speeds, voltage and type of construction. Along with this information, it is to be understood that an "or equal" product can be offered by interested bidders. In general the more information supplied at the time the specifications are being developed, the fewer questions on the part of the prospective bidders and the better chance you have of receiving the correct item at the right cost.

Is it possible for several districts to enter into agreements for the joint purchase of supplies, equipment and services? Yes. Section 119-0 of the General Municipal Law allows for joint purchases and Section 119-0 (1) requires that action to participate in this cooperative purchase be approved by each district's Board by a majority vote. The same bidding laws under which a local district operates would apply to joint purchases. The participating districts can appoint one Board, and its Purchasing Department, to seek and award bids. After the award is made, then each district will issue their own Purchase Order and make their own payments.

Do reimbursable supplies required in a BOCES Career and Technical Education Program have to be competitively bid? Yes, in most cases, unless the items are not typical supply items, which cannot be pre-planned for purchase, when used in the daily instructional activities. Some of these items are available on State Contract and can be ordered as needed through these contracts. If during the year, a teacher anticipates a large purchase of any of these "reimbursable" items, the need should be brought to the attention of the Purchasing Office and a decision will be made as to the need for quotations or public bidding.

Can a BOCES enter into Installment Purchase contracts for the procurement of equipment? Yes. This concept was authorized by an addition to Section 109 (b) of the General Municipal Law in October, 1979. However, this law contains several restrictions and procedures. Also, the contract is not exempt from competitive bidding. The Board must pass a resolution approving the installment concept if the financing is coming from the general fund budget over more than one year and must be approved by the Commissioner of Education. A down payment cannot be more than ten percent of the full price; payments are to be substantially equal, month to month, year to year; the bid specifications and resulting contract must contain a "non-funding clause" and the payments under this contract are not to be made from bonds or notes. The amount financed also cannot include any cost for maintenance/support and cannot exceed the probable useful life of the equipment or five years, whichever is less.

What are the guidelines used by the Purchasing Office in processing requirements for supplies, equipment and services? Required guidelines are contained in Section

1950 of the State Education Law, Sections 103, 103-d, 104, 104b and 109b of the State General Municipal Law, Section 163 of the State Finance Law, Section 184 of the State Correction Law and Commissioner's Regulation NYCRR 170.3, as well as the guidelines contained in Board Policy 3019.

Other than in times of true emergency, are there legal exceptions to competitive bidding? Yes. School districts and BOCES may make purchases through the State Office of General Services (OGS), Division of Purchasing, in accordance with the procedures set forth by OGS. Section 104 of the General Municipal Laws permits this action. BOCES may also purchase goods from the New York State Department of Correctional Services, Division of Industries, better known as "Corcraft," and from New York State Industries for the Handicapped, without competitive bidding.

What are State Contracts and how can BOCES make use of them? They are "purchase contracts" on which competitive bids have already been taken and awards made to the lowest responsible bidders through the Office of General Services, State Division of Purchasing. Most purchases made from State Contracts do not have to go through the BOCES quotation, bidding or Board award process. However, there are some exceptions to this rule for those state contracts that require that a "mini-bid process" be used in conjunction with the state contract.

Does the use of State Contracts require advance notice of a BOCES' intent to purchase supplies? In most cases, the answer is no, due to the fact that the majority of the contracts available for our use are for estimated quantities or are "open ended" within a reasonable limit. However, certain supply items are contracted for on the basis of estimated "requirements" and in order for our BOCES to make use of these contracts the Purchasing Office must submit a written request annually to OGS for inclusion in the contract commodity award. Once BOCES submits a quantity requirement to OGS for a "requirement contract" and the state makes an award, the BOCES is obligated to purchase through this State Contract.

What other items are available under State Contracts? The number of supply and equipment items available is extensive. It includes a variety of items such as paper, books, software, vehicles, school buses, tires, power tools, furniture, computers, etc. A list by category as well as the individual contracts are available for your viewing on the New York State OGS web site www.ogs.state.ny.us. This site is updated regularly as new contracts are issued, changed or extended by OGS.

What are the benefits from purchasing through State Contracts? There are many. The major one is a general savings of twenty to fifty percent from the list price. This is a result of the large volume purchases made through OGS. Another advantage is found in the well-defined terms and conditions under which OGS seeks bids and makes awards. The purchasing agency is well protected against fraud or inferior products. Many of the items sought through OGS bidding are thoroughly tested prior to the acceptance. Also, less time is involved from the issuance of a request to the receipt of supplies, as the BOCES bidding requirement and process is eliminated.

Are there any drawbacks to ordering through State Contracts? Yes. Many of the vendors that hold state awards are not located in the immediate area; some are even located out of state. Thus delivery time may be longer than expected in some cases. Several contracts are limited, to certain models or makes and our choice of products may be limited or the items may be superior to what we need such as a larger or more expensive models. Another drawback is that most contracts require ordering in "standard packages" which in some cases would require that we modify our requirements. Many of

the newer state contracts however, do allow for many additional options that can be added to the purchase under the state contract.

Are there other sources of supplies which can be obtained without competitive bidding? Yes. Supplies ordered from the New York State Department of Correctional services, Division of Industries, are not required to go to bid. As a matter of fact, Section 184 of the State Correction Law, as well as an opinion by the Attorney General, state that it is mandatory for all subdivisions of the state, including school districts and BOCES, to procure whatever items are needed in the lines produced by the Division of Industries, from the Department of Correction. If the goods are not readily available in the same form and function, a "Certificate of Release" is to be obtained by the BOCES from the Division of Industries.

What products are available through the NYS department of Correctional Services, Division of Industries? There are many, many items produced and made available to BOCES, such as office furniture, seating for classrooms, lockers, work tables, storage cabinets, bookcases, library furniture, steel shelving, soap, floor wax, mops, metal signs, etc.

What is the typical delivery time for items purchased from the NYS Department of Correctional Services – Division of Industries? It can vary from two to several weeks. Delivery on the more popular items such as desks, file cabinets and classroom furniture is normally ten to twelve weeks; however, if there is a legitimate need for better delivery, the Department of Correctional Services has been very cooperative in "releasing" our agency from ordering the item from their division.

Where can I get a complete catalog and price information on these products? This information is available to you on their web site www.corcraft.org, or you can access the web site link through the Purchasing Services home page in the section called "Purchasing Resources".

Are products purchased from the Industries for the Blind of New York State, Inc. (IBNYS) governed by the competitive bidding laws? No. Section 175-b of the State Finance Law requires that certain products be purchased from this agency without competitive bids (1963, Op. of Counsel Education Dept. File No. 110, May 8).

What products are available from the Industries for the Blind? There are a variety of items produced by this agency: vinyl gloves, sponges, sponge mops, dust mops, brooms, brushes, broom handles, pillow cases, bedspreads, sheets, towels, sterile goods, hospital wraps, paint rollers, etc. You can access their web site www.ibnys.org or link through the Purchasing Services home page in the section called "Purchasing Resources".

Are items purchased from New York Industries for the Disabled (NYSID) governed by competitive bidding? No. Sections 175a and 175b of the State Finance Law established the agency in 1976 and its prices are set by the Commissioner of General Services. Under the law, all state agencies, political subdivisions, BOCES and school districts are required to procure any goods and services produced by NYSID members where applicable.

What supply items are available from (NYSID)? NYSID produces various supply items: wooden pallets, desk and table lamps, three ring binders, paper clips, staple removers, examination booklets, etc. These products are available through rehabilitation agencies

that have been approved by the OVR section of the Department of Education. You can access their web site www.nysid.org.

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