


**PURCHASING POLICIES
AND PROCEDURES MANUAL**


State Board Policy 8200


OFFICE OF SCHOOL FINANCE
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Purpose


- Establishes the minimum requirements and procedures to be followed in the purchasing, receiving, safeguarding, and disposal of goods and services
- Summarizes the statutory requirements
- Defines penalties for failure to comply





Applicability


- Applies to:
 - County boards of education
 - Regional education service agencies
 - Multi-county vocational centers





Organization


- Policy
 - Revised policy was effective **August 13, 2012**
 - Very few changes to the previous version
 - Incorporates the purchasing manual by reference
- Issued as a manual
 - Greater latitude in format
 - User friendly
 - Table of Contents outlines the 34 separate sections and the 4 appendices





Key Provisions

- Adopts state purchasing requirements with appropriate revisions
- Defines purchasing responsibilities for LEAs
 - Code requirements (11-8-26, 18-9B-10)
 - Purchasing Director
 - Chief School Business Official (CSBO)
- Discusses acquisition planning
- Delineates differences between:
 - Purchase of commodities
 - Purchase of services




Key Provisions

- Summarizes requirements for:
 - Construction projects
 - Architectural and engineering services
 - Textbooks and instructional materials
- Establishes threshold limits for bidding and for approval of purchases
- Explains when non-competitive purchases may be used
- Establishes procedures for use of credit cards



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Key Provisions

- Details emergency purchasing procedures:
 - Declared by the Governor
 - Local Emergencies
- Describes disposal procedures for surplus property:
 - Real property
 - Personal property (equipment)
- Vendors' rights and duties
- Remedies and suspensions
- Protests

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Acquisition Planning (Section 3)

The following steps should be taken when preparing for a purchase:

- Define need
- Consider acquisition and delivery lead time
- Develop specifications
- Explore alternative sources
- Prepare the requisition
- Identify possible vendors

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Specifications

- A specification is a concise statement explaining the type of product or service, the quality level, special requirements in design, performance, delivery and usage.
- Specifications must not be **restrictive** (locking in a specific vendor and limiting competition) or be **vague** (allowing a vendor to provide a lower than acceptable quality level product or service).

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Specification Types

There are 3 types of specifications:

1. "Brand Name(s) or Equal" Specification
2. Performance Specification
3. Design Specification

A combination of the types may be used to communicate clear specifications to vendors.

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Purchase of Commodities

- Commodities must be purchased in accordance with the competitive bid procedures specified in the manual (Section 7)
- The competitive method used is determined by the threshold levels specified in Section 7.11 of the manual
- The threshold level to be used is determined by the total estimated cost of the **item** being purchased, which is the unit cost multiplied by the quantity

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Bidding Thresholds

- Purchase of commodities:
 - Less than \$5,000 – Competitive bids encouraged but not required
 - \$5,000 or greater – Competitive bids required
 - \$5,000 - \$10,000 – A minimum of 3 verbal quotes required, when practical
 - \$10,000 - \$25,000 – A minimum of 3 written bids required, when practical – Bids may be solicited by various means (telephone, internet)
 - \$25,000 - \$50,000 – A minimum of 3 written bids required, when practical – Good faith effort must be made to solicit as many bids as practical – by public notice or use of bidder list
 - Greater than \$50,000 – Public notice required –sealed bids

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Purchase of Commodities

- The bid method selected will be considered the appropriate method unless the lowest bid received exceeds the maximum dollar threshold of the method selected by 10% (Section 7.4)
- If it exceeds 10%, the bidding process must be repeated
- Purchases cannot be split into a series of separate requisitions or purchase orders for the purpose of circumventing the applicable threshold limits of competitive bidding – this is called Stringing.

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Membership Outlets

- Commodities may be purchased from a retail outlet that charges a membership fee (Section 7.6)
 - Membership fees cannot be paid for employees to become members
 - Cards cannot be used for personal purchases of employees

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Open Ended Contracts, Blanket Purchase Orders (Section 5)

- Open ended contracts (price agreements) - Used only in situations where the commodity and price are known, but quantity is not (ex: child nutrition commodities, office paper)
- Blanket purchase orders – Used in situations where there is high volume of small dollar items but the commodity is not known (ex: facility or vehicle maintenance activities). Should be issued on a periodic basis throughout the year, such as monthly or quarterly.

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Exemptions from Competitive Bidding (Section 9)

- The following items or services may be purchased directly without advertisement or obtaining competitive bids:
 - Accounting services and audits (exclusive of the annual financial statement audit)
 - Advertising directly with newspapers, trade magazines, etc.
 - Artwork and Historical Items
 - Attorneys and Law Firms
 - Auditing Contracts between Government Agencies

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Exemptions from Competitive Bidding (Section 9)

- Entertainers
- Facilities Rentals
- Medical Fees for individual students
- Postage
- Software maintenance
- Student activities
- Investigative services
- Subscriptions and Publications
- Training activities


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Exemptions from Competitive Bidding (Section 9)


- Tuition, stipends, accreditation and registration fees
- **Utilities – Regulated by the Public Service Commission**
- Livestock and fish stock for vocational programs
- Fees imposed by Other Government Entities (licenses, permits, etc.)
- Court Ordered Payments
- Court Ordered Placements

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Are basic telephone services exempt?


It recently came to WVDE's attention that basic telephone services were de-regulated by the Public Service Commission (PSC). Since they are no longer regulated by the PSC, they technically do not meet the exemption contained in Section 9.1.16 of Policy 8200. Therefore, the competitive bidding requirements in Section 7 must be followed. Form 470 can serve as the RFP except when the annual amount of telephone services are expected to be greater than \$50,000 since sealed bids are required at that level of procurement.





Alternative Procurement (Section 8.1)


LEAs may purchase equipment, commodities, or services directly from a vendor without competitive bidding if any of the following conditions exist:


- Item cannot be purchased through normal bidding procedures (no responses to RFP/RFQ)
- Item is unique or not available from any other source (sole source)
- Item is available from the State, a RESA or another LEA
- Item is available from a statewide contract





Alternative Procurement (Section 8.1)


- Available from a GSA schedule
- Available from a sheltered workshop
- Available from a local purchasing cooperative, such as a RESA or group of county boards working together
- Available from a legitimate government purchasing cooperative that has already obtained competitive bids that meet the requirements of Policy 8200
- Item is a used vehicle or piece of equipment





Procurement of Services


- Services may be procured without basing the vendor's selection on lowest price:
 - Negotiation
 - Request for Proposals (RFP)/Expression of interest (EOI) (for architectural or engineering services) recommended





Service Agreement (Section 12)


- Must be in writing and the total cost must be stated either:
 - As a sum certain, or
 - At a fixed rate (if hours are not known)
- Total must include travel being paid
 - Room and travel cannot be paid directly by LEA due to tax implications
- If using agreement provided by vendor, review carefully to ensure that it does not contain provisions that violate state law
(Use addendum in Appendix C)





Contract Length (Section 3.2.5)


- Contracts generally cover a 12-month period or cite a specific time for completion of the project or service.
- A solicitation for a contract that includes an option on the part of the LEA to extend or renew the contract for an additional period may be advantageous.
- Renewals shall be in accordance with the terms and conditions of the original contract and are limited to two successive one year periods.
- A letter of justification for each renewal should be maintained on file stating pertinent reasons for renewal.





Agreement Addendum


- The universal Agreement Addendum form is included in Appendix C. It was updated with the latest manual revision.
- It should be completed and included as part of the final contract/agreement any time a vendor requires the LEA to sign the vendor's contract/agreement or the vendor submits alternate language with its bid or contract.
- LEAs are urged to execute it for all contracts, agreements, or leases where equipment with maintenance is included.




Contract Documents


- A contract is defined by Policy 8200 as a written, legally binding agreement between two (2) or more parties in which is specified the terms and conditions to which the parties have agreed.
- A purchase order is defined by Policy 8200 as a written or electronic document issued by the LEA to a vendor authorizing or executing a purchase transaction.





Contract Documents


All contracts (including purchase orders intended to serve as contracts) must contain the following:


- A reference to the RFP/RFQ
- A reference to the successful vendor's bid documents
- The signature of an authorized representative of both the LEA and the successful vendor. Please note that the authorized representative must have the authority to legally bind the organization to the contract.
- Basic contract terms and conditions. If the vendor has provided an agreement with terms and conditions, the agreement addendum from Appendix C of State Board Policy 8200 must be attached.
- No debt affidavit indicating that the vendor does not owe any debt to the State in excess of \$1,000.
- Any required bonds (ex: performance and payment bonds for construction contracts in excess of \$25,000)





Leases and Lease Purchase Agreements (Section 13)


- Competitive bids encouraged but not required
- The collateral for the agreement must be the property being acquired (it cannot be property already owned by the LEA)
- Because LEAs are prohibited from expending funds or incurring obligations from future levies, all lease purchase agreements must contain a non-binding cancellation clause where the contract can be terminated at the end of fiscal year.





Resident Vendor Preference (Section 17)


- LEAs may establish by local policy procedures for granting resident vendor preference for State residents
- No statutory authority for granting resident vendor preference for residents of a county or community
- Resident vendor preference cannot exceed 5% of the lowest bid received





Approval (Section 18)


- Approval Thresholds – Commodities and Services:
 - Less than \$5,000 – Supervisor
 - \$5,000 - \$25,000 – Purchasing director or designee
 - \$25,000 - \$100,000 – Superintendent (or RESA/MCVC Director)
 - Greater than \$100,000 – Governing Board





Signature Authority


- Local policy should designate who has signature authority for:
 - Agreements
 - Contracts
 - Purchase orders
- Schools are not legal entities (Section 29):
 - School principals cannot enter into contracts obligating board funds
 - All contracts must be approved and signed by county board, or superintendent (if approval authority has been delegated)





Payment for Commodities or Services (Section 26)

- According to WVC 12-3-18, it is unlawful for any board to pay a claim for services rendered or materials furnished unless an itemized claim is filed by the claimant
 - Payments must be made from an itemized **invoice** – not a summarized statement
 - Payments **cannot** be made in advance




Release of Final Settlement (Section 26)

- According to WVC 11-10-11(d), LEAs must withhold payment in the final settlement of any contract until a release is obtained from the state tax commissioner
- According to WVC 23-1-1(c), LEAs must withhold payment in the final settlement of any contractor until the receipt of a certificate from the WV Insurance Commissioner to the effect that the contractor's Workers Compensation coverage is up to date.
- According to WVC 21A-2-6c, LEAs must withhold payment in the final settlement of any contract until receipt of a certificate from the Executive Director of Workforce West Virginia to the effect that the contractor's Unemployment Compensation coverage is up to date.



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Methods of Payment

- Order (check) signed by the president of the board, superintendent and treasurer (WVC 18-9-3, 18A-4-9)
- Wire transfer (WVC 12-3-20,21-5-3)
- Credit cards (WVC 12-3-10a)
- In all cases, goods or services being purchased must be received prior to or at the same time that payment is made

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Credit Cards (Section 27)

- Types of Credit Cards:
 - Purchasing cards
 - Credit cards (bank or vendor issued)
 - Corporate credit card for the payment of travel expenses


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Purchasing Cards


- Used for the purchase of commodities & services
- Commonly used for repetitive purchases of small dollar items (maintenance items)
- Must be issued in the name of the **individual** (cannot be generic in the name of the LEA or a school)
- May be issued only to regular full-time employees

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Purchasing Cards


- Each cardholder must complete and sign a purchasing card application
- Cardholders cannot delegate card to another individual
- Card cannot be used to obtain cash advances or cash credits
- Each cardholder is responsible for reconciling his/her statement each month





**Credit Cards
(Bank or Vendor Issued)**


- Used in the same manner as a purchasing card:
 - May be issued in the name of the LEA, or in the name of both the individual and the LEA
- Cannot be used for travel
- LEA must establish board policy procedures for:
 - Controlling and safeguarding the card
 - Reconciling charges
- If the card is issued only in the name of the LEA, the LEA must maintain a log for each card where employees are required to sign-out the card for usage





Corporate Credit Card for Travel


- Used for travel expenses only:
 - Card must be issued in the name of the LEA and the individual
 - LEA may elect to have **statements** issued to each individual cardholder or to the LEA for payment
- All travel authorization and reimbursement procedures must be followed
- Cardholders cannot charge travel for other LEA employees to their cards.





Purchases by Schools (Section 29)


- Purchases by schools are to be made in accordance with Policy 1224.1
- Except for faculty senate funds, schools can only expend quasi-public funds raised by school
- **LEAs cannot distribute public funds to schools for expenditure (limited exceptions)**
- Schools are not separate legal entities – all contracts must be approved and signed by county board or superintendent if approval authority has been delegated




Disposal of Surplus Personal Property (Section 31)

- Property must be declared surplus by the purchasing director and CSBO and disposed of in the most economical method for the benefit of the LEA.
- May be disposed of in several ways:
 - Discarded or junked if determined to have no salvageable value
 - Traded towards the purchase of a replacement item
 - Sold at public auction, by competitive bid to the highest bidder, or by fixed price
 - Contributed to:
 - The state or political subdivisions, including county commissions
 - A private, nonprofit, tax-exempt organization (as determined by the IRS) for nominal consideration, provided that the property is for charitable, economic development or other community use.




Violations (Section 34)

- Cites various code sections
- Any person who authorizes or approves a purchase or contract in violation of code or policy may be held personally liable
- Vendors may be suspended from bidding for up to one year for violating policy

